

CITY OF GREELEY, COLORADO

ORDINANCE NO. ___, 2022

**AN ORDINANCE AMENDING TITLE 20 OF THE MUNICIPAL CODE OF THE CITY OF GREELEY
(CONCERNING THE USE OF NON-POTABLE WATER SUPPLIES FOR IRRIGATION)**

WHEREAS, the City of Greeley, Colorado ("City") is a home rule municipality empowered pursuant to Sections 1 and 6 of Article XX of the Colorado Constitution to, inter alia, construct, purchase, acquire, lease, add to, maintain, conduct, and operate water works and everything required therefor, within or without its territorial limits, for the use of the City; and

WHEREAS, Section 17-1 of the Greeley City Charter authorizes the Greeley Water and Sewer Board ("Board") to qualify the Water and Sewer functions and operations as an "enterprise" as that term is contained in Article X, Section 20 of the Colorado Constitution, and to provide for every function and operation of an enterprise, including but not limited to, bond issuance and all other necessary and ordinary functions of the Water and Sewer operations; and

WHEREAS, Section 17-4(c) of the Greeley City Charter and Section 20-30 of the Greeley Municipal Code authorize the Board to acquire, develop, convey, lease and protect the water and sewer assets, supplies and facilities needed to fully use the water supplies decreed, adjudicated or contracted for the City; and

WHEREAS, various Sections within Title 20 of the Greeley Municipal Code set forth the requirements and regulations related to the initiation and use of water and sewer services from the City; and

WHEREAS, the City Council previously adopted Ordinance No. 04, 2022 to implement a policy concerning the expanded use of non-potable water supplies for irrigation throughout the City, in the interest of more strategically and efficiently managing the City's water resources portfolio; and

WHEREAS, City Water and Sewer staff and legal counsel subsequently developed additional revisions to Title 20 of the Greeley Municipal Code to clarify certain provisions of this policy;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. That Section 20-254 be amended to read as shown on Appendix A, attached hereto and incorporated herein.

Section 2. That Section 20-262 be amended to read as shown on Appendix A.

Section 3. Except as explicitly modified on Exhibit A, all other provisions of Title 20 of the Greeley Municipal Code shall remain in full force and effect.

Section 4. This Ordinance shall take effect on the fifth day following its final publication, as provided by Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF _____ 2022.

ATTEST

CITY OF GREELEY, COLORADO

Interim City Clerk

Mayor

APPENDIX A
ORDINANCE AMENDING TITLE 20
GREELEY MUNICIPAL CODE

Section 1. Section 20-254 shall be amended to read as follows:

Sec. 20-254. Water rights dedication; amounts and criteria.

- (a) All applicants for water service within the city limits shall (i) dedicate to the city water rights, if any, that the city, in its sole discretion, can use in its potable water supply system or non-potable irrigation system and (ii) if the applicant cannot satisfy the raw water dedication requirements through the dedication of water rights, shall furnish to the city a cash-in-lieu fee (or satisfy the same pursuant to subsection (e)) to fulfill all or the remainder of the dedication requirement associated with a request for water service as a prerequisite to and as part of the consideration for city water service to the subject lot. All water rights approved for dedication shall be conveyed to the city on or before the date the final plat for the development is approved. All cash-in-lieu fees shall be due and payable to the city no later than the date on which the building permit is issued.
- (b) The city has determined (i) that the water rights represented by shares of stock in the Greeley and Loveland Irrigation Company and the Seven Lakes Reservoir Company, and rights in the Loveland and Greeley Reservoir Company (Lake Loveland) can be used within its potable water supply system and non-potable irrigation system and (ii) that the water rights represented by units of Colorado-Big Thompson Project Water can be used within its potable water supply system. The water rights represented by shares of stock in the Greeley Irrigation Company can only be used within non-potable irrigation systems. Therefore, the city will accept such water rights only in satisfaction of the raw water dedication requirements associated with non-potable water service on property historically irrigated by the subject water rights. The city shall use the following yield values to determine the amount of raw water transferred by an applicant toward the satisfaction of any raw water dedication requirement:

Company	Yield/Share
The Greeley & Loveland Irrigation Company	8 acre-feet/share
The Seven Lakes Reservoir Company	8 acre-feet/share
The Loveland and Greeley Reservoir Company (Lake Loveland)	20 acre-feet/right
Colorado-Big Thompson Project Water (C-BT)	0.75 acre-feet/unit
Greeley Irrigation Company (Greeley No. 3 Canal)	10.3 acre-feet/share

- (c) Except for water rights represented by units of Colorado-Big Thompson Project Water, the city will not accept the dedication of any water rights under subsection (b) for use within its potable water supply system or non-potable irrigation system unless the director of water and sewer determines that the subject water rights meet the requisite criteria under Colorado law for conversion of the water to municipal use by the city,

including, without limitation, that: (i) the water rights have a history of use on the property being developed; (ii) the property being developed was historically and consistently irrigated under the ditch system from which such water rights are being dedicated; (iii) the owner and all lienholders of the property being developed execute a restrictive covenant in a form acceptable to the city requiring the cessation of irrigation on the historically irrigated property with the subject water rights except under conditions authorized by the city; and (iv) the applicant provides any documents and materials reasonably required by the city to ensure consistency with any prior decrees, including but not limited to, decrees adjudicating changes of the Greeley and Loveland Irrigation Company, the Seven Lakes Reservoir Company, the Loveland and Greeley Reservoir Company (Lake Loveland), and the Greeley Irrigation Company water rights.

- (d) An applicant for water service may dedicate any water rights identified in subsection (b) as usable within the city non-potable irrigation system, including water rights that satisfy the requirements of subsection (c), in satisfaction of the applicant's raw water dedication requirement associated with non-potable service. An applicant for water service may request that the city accept or permit the use of (i) water rights other than the water rights identified in subsection (b) or (ii) water rights that do not satisfy the requirements of subsection (c) in partial satisfaction or reduction of the applicant's raw water dedication requirement associated with non-potable service. The city, in its sole discretion, may accept or permit the use of such water rights based on certain terms and conditions set by the director of water and sewer but only in partial satisfaction or reduction of the raw water dedication requirement associated with non-potable water service on property that has been historically irrigated by the subject water rights.
- (e) On or before December 31, 2099, an applicant for water service, who is also the registered owner of a certificate issued by the department to evidence one or more raw water dedication credits, may redeem such credit(s) in whole or in part (but only in whole numbers) toward the satisfaction of any cash-in-lieu fee obligation associated with the applicant's request for water service in accordance with sections 20-255, 20-256, 20-257, and 20-260. One raw water dedication credit represents the equivalent of, but not an interest in, one acre-foot of raw water that an applicant would otherwise have to satisfy by furnishing to the city a cash-in-lieu fee.
- (f) Applicants for water service to single-family residential and multi-family residential lots with four units or less within the city limits shall dedicate raw water and, if the applicant cannot dedicate raw water, furnish to the city any applicable cash-in-lieu fee in accordance with section 20-255 in the amount of three acre-feet per acre, or fraction thereof, of property to which water service will be provided. Streets, rights-of-way, driveways, sidewalks, outbuildings, and any other part of the lot that has been or will be developed shall be included in the calculation of the total gross acreage of the property, regardless of whether such areas have been dedicated to public use. The city may, in its sole discretion, exclude area(s) from the total gross acreage, provided that irrigating such area is legally prohibited by plat or deed.
- (g) Applicants for water service to nonresidential lots and multi-family residential lots with more than four units within the city limits, including, without limitation, commercial,

industrial, and group housing (apartment buildings, condominiums, nursing homes, hotels, and motels), shall dedicate raw water and, if the applicant cannot dedicate raw water, furnish to the city the applicable cash-in-lieu fee in accordance with section 20-256 in the amount of the water service demand for the subject lot. The potable water service demand for nonresidential lots and large multi-family residential lots with more than four units shall be determined by multiplying the total units proposed by the applicant by the average unit use, as set forth in the business category and water use table below. The potable water service demand for industrial lots and commercial lots of a type not specifically identified in the business category and water use table below shall be determined by the director of water and sewer on a case-by-case basis, utilizing the projected volume of total water use by the subject lot.

Business Category and Water Use		
Category	Units	Average Unit Use (Gallons Per Unit Per Year)
Auto service and repair	SF	12
Car wash	Bay	1,350,000
Childcare	SF	47
Church	SF	4.5
Grocery store	SF	20
Gas station without car wash	SF	93
Hospital	SF	21
Hotel/motel	Room	30,300
Medical office	SF	25
Multi-family Residential (greater than 4 units)	Unit	35,500
Office	SF	14
Recreation with pool	SF	122
Recreation without pool	SF	25
Restaurant (outdoor seating areas 50%)	SF	188
Retail	SF	16
School	SF	11
Warehouse	SF	5
Industrial and other commercial	Demand determined on case-by-case basis	
"SF" = Square feet of gross floor space within the building area		

- (h) Applicants for water service to nonresidential lots and multi-family residential lots with more than four units within the city limits, including, without limitation, commercial, industrial, and group housing (apartment buildings, condominiums, nursing homes,

hotels, and motels), for which a separate and additional landscape irrigation tap and service line is required in accordance with section 20-252, shall also dedicate raw water and, if the applicant cannot dedicate raw water, furnish to the city the applicable cash-in-lieu fee in accordance with section 20-256 in the amount of the landscape irrigation demand for the subject lot. Landscape irrigation demand shall be determined based on (i) the total gross acreage of property to which water service will be provided and (ii) the type of landscape as set forth in the landscape water use table below. Landscape plans with more than 75 percent high water use vegetation are assumed to be entirely high water use and shall be calculated as such. Streets, rights-of-way, driveways, sidewalks, outbuildings and any other impervious part of the lot that has been or will be developed shall be included in the calculation of the total gross acreage of property, regardless of whether such areas have been dedicated to public use. The city may, in its sole discretion, exclude area(s) from the total gross acreage, provided that irrigating such area(s) is legally prohibited by plat or deed.

Landscape Water Use	
Water Use	Dedication Requirement
High water use (>14 gals/sf annual use)	3 acre-feet/acre
Medium water use (10-14 gal/sf annual use)	2.33 acre-feet/acre
Low water use (<10 gals/sf annual use)	1.67 acre-feet/acre
No irrigation	No raw water requirement for landscape

- (i) **Any owner of a privately owned non-potable irrigation system that seeks to connect such system to the city non-potable system shall be considered an applicant for water service under this title 20. All such applicants shall dedicate raw water and, if the applicant cannot dedicate raw water, furnish to the city the applicable cash-in-lieu fee, in the amount of the landscape irrigation demand for the subject lot(s), as determined in accordance with the methodology in section 254(h). The acceptance and connection of any such system to the city non-potable system is subject to approval by the director of water and sewer, and to any terms and conditions deemed appropriate by the director or his designee in their sole discretion.**

Section 2. Section 20-262 shall be amended to read as follows:

Sec. 20-262. Plant investment fees for water service; inside and outside the city.

- (a) All applicants for water service, whether inside or outside the city limits, shall furnish to the city a water plant investment fee based on the diameter of the potable water tap as a prerequisite to, and as a part of the consideration for, city water service to the subject property. The water plant investment fee shall be the minimum amount set by resolution of the water and sewer board, unless subsequently increased by resolution of the city council. The diameter of a service line water tap installed for fire suppression purposes shall not be considered when calculating plant investment fees due pursuant to this section.

- (b) Upon approval of the director of water and sewer, plant investment fees may be based on the volume of a customer's annual allotment rather than the diameter of the potable water tap. When the director of water and sewer authorizes a plant investment fee based on the volume of a customer's annual allotment, then the schedule of tap fees set by resolution of the water and sewer board shall be applied in accordance with the size of service line.
- (c) The plant investment fee associated with a request for water service shall be reduced by up to fifty (50) percent for the following residential lot types to which separate and additional landscape irrigation taps and service lines are installed and **connected to the city non-potable system** ~~water service is provided~~. Reductions are not aggregated for the installation **of taps and service lines for** ~~of~~ both common space and house-to-house non-potable water service.

Plant Investment Fee Reduction Percentages			
Residential Building Type	Lot Size	Common Space Non-Potable	House to House Non-Potable
Row House	>1,000 s.f.	50%	N/A
Detached House (Small Format)	1,500-3,000 s.f.	50%	50%
Detached or Multi-Unit House (Small Lot)	3,000-4,500 s.f.	40%	50%
Detached or Multi-Unit House (Medium Lot)	4,500-6,000 s.f.	30%	50%
Detached or Multi-Unit House (Standard Lot)	6,000-13,000 s.f.	25%	50%
Detached House (Estate Lot)	>13,000 s.f.	N/A	50%