

ORDINANCE NO.116, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
TO MAKE VARIOUS CHANGES RELATED TO THE RAW WATER REQUIREMENTS,
TO HEREINAFTER BE KNOWN AS THE "WATER SUPPLY REQUIREMENTS"

WHEREAS, the City Council is empowered and directed by Article XII, Section 6, of the City Charter to fix, establish, maintain, and provide for the collection of such rates, fees, or charges for utility services furnished by the City as will produce revenues sufficient to pay the costs, expenses, and other obligations of the water utility, as set forth therein; and

WHEREAS, the City owns and operates a water utility that provides treated water service to customers with its service area; and

WHEREAS, through various water supply furnishing or development programs, the City has historically required that persons desiring new or increased water service from the water utility, among other things, furnish or otherwise provide to the City certain rights to use water or payments of cash-in-lieu thereof in order to offset the impacts of the requested water service, which requirements are currently set forth in Sections 26-129, 26-147, 26-148, 26-149; and 26-150 of the Code of the City of Fort Collins as the raw water requirements ("RWR"), and referenced in Sections 2-436, 26-74, 26-94, 26-207, 26-632, 26-651 and 26-653; and

WHEREAS, City staff has historically reviewed the water supply furnishing or development requirements periodically to ensure that the rights to use water and cash payments received by the City are sufficient; and

WHEREAS, City staff has completed a comprehensive and thorough review of the RWR and has determined that various changes thereto are necessary to ensure that, among other things, the impacts of new and increased water service are offset and that the water utility has sufficient water supplies and infrastructure to serve customers of the water utility with an adequate level of service; and

WHEREAS, the City Manager and City staff have recommended to the City Council that the following changes be made, which include, but are not limited to, renaming the RWR as the "Water Supply Requirements" and changing the functions of the Water Board to no longer include determination of raw water conservation factors; and

WHEREAS, the City Manager and City staff have recommended to the City Council that the following changes go into effect as of January 1, 2018, among other reasons, in order to provide adequate time for staff and the public to prepare for the changes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS, as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-436 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-436. - Creation and purposes.

...

(b) The purposes of the Board shall be to advise the City Council in matters pertaining to water, wastewater and stormwater utility policy issues and to act as a quasi-judicial body relating to certain matters. These matters shall include, without limitation, the following:

(2) To act as a quasi-judicial body relating to floodplain regulation variances, stormwater fee disputes, and storm drainage design criteria variances;

...

Section 3. That Section 26-74 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-74. - Conditions for granting permits.

A permit will be granted if all of the following conditions are met:

...

(3) The new or additional use of water will not adversely impact water users within the City limits and the applicant has satisfied all water supply requirements imposed by this Article;

...

Section 4. That Section 26-94 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-94. - Individual service lines for each building required.

...

(4) Plant investment fees, water supply requirements and any other applicable charges required in connection with the additional building to which service is to be provided shall be remitted as provided in this Article. For a carriage house, additional plant investment fees and water supply requirements, as well as monthly meter rates and any other water-related charges, shall be determined based on the addition of a new dwelling unit on the property; and

Section 5. That Section 26-129 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-129. - Schedule D, miscellaneous fees and charges.

The following fees and service charges shall be paid by water users, whether inside or outside the City limits:

(a) Connection fees and service charges shall be as set forth in Subsection 26-712(b).		
(b) The fire hydrant fees and charges shall be as follows:		
(1) For installation of meter	Per meter	\$43.00
(2) For removal of meter	Per meter	\$43.00
(3) For daily rental for meter and fittings	Per meter	\$8.60
(4) For water service	Per 1,000 gallons	\$10.72
A deposit may be required in the amount of the charges for the anticipated water usage and rental.		
(c) The fees and requirements for water supply shall be as follows		
(1) To satisfy Water Supply Requirement (WSR) with cash payments	Per acre-foot of WSR	\$17,300
(2) Excess water use surcharge assessed on commercial and irrigation taps when water use is in excess of the applicable annual allotment	Per 1,000 gallons	\$8.14
(3) The annual water allotment, based on the minimum WSR shall be as follows:		
<i>Meter Size (inches)</i>		<i>Annual Allotment (gallons/year)</i>

¾	293,270
1	739,680
1½	1,538,020
2	2,577,480
Above 2	325,851 gallons per acre foot of WSR

Section 6. That Section 26-147 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-147. - Grant of water rights; required.

All owners of premises requesting original water service from the City shall, before being granted a water service permit, satisfy the assessed Water Supply Requirements (WSR) as determined in this Division without cost to the City. The WSR is as provided in this Division.

Section 7. That Section 26-148 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-148. - Water Supply Requirement (WSR); residential service.

(a) Residential service for WSR shall include single-family, duplex, mobile home, and multi-family dwelling units.

(1) For residential service to single family, duplex, and mobile home dwelling units, the formula to calculate the WSR shall be:

WSR	=	$1.92 \times [(7.048 \times \text{Lot Size}) + (12,216.9 \times \text{Bedrooms})] / 325,851$
Where:		
WSR	=	Water Supply Requirement in acre-feet.
Lot Size	=	Area of the parcel for which water service is requested, in square feet, excluding public street rights-of-way, City-maintained tracts and rights-of-way, ditches, railways or other areas typically maintained by persons other than the owner of the premises or an agent of the owner.
Bedrooms		Number of bedrooms on the parcel for which water service is requested, as determined by the City.

(2) For residential service to multi-family dwelling units (greater than 2 dwelling units), the formula to calculate the WSR shall be:

WSR	=	$1.92 \times [(9.636 \times \text{Lot Size}) + (13,592.8 \times \text{Bedrooms})] / 325,851$
Where:		
WSR	=	Water Supply Requirement in acre-feet.
Lot Size	=	Area of the parcel for which water service is requested, in square feet, excluding public street rights-of-way, City-maintained tracts and rights-of-way, ditches, railways or other areas typically maintained by persons other than the owner of the premises or an agent of the owner.
Bedrooms		Number of bedrooms on the parcel for which water service is requested.

(b) In the event an applicant applying for a residential water service permit has, prior to March 1, 1984, surrendered water rights or otherwise satisfied the requirements of the City under an earlier water supply furnishing or development program, then the WSR for that property will be considered satisfied under this Section.

Section 8. That Section 26-149 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-149. - Water Supply Requirement (WSR); nonresidential service.

(a) Nonresidential service for WSR shall apply to all services not included in the residential category and shall include, without limitation, all service to customers for: commercial; industrial; public entity; group housing, such as nursing homes, fraternities; hotels and motels; and mixed-use purposes:

(b) The minimum WSR for water meters up to two and zero tenths (2.0) inches in diameter are as follows:

Meter Size (inches)	RWR (acre-feet)
¾	.90
1.0	2.27
1.5	4.72
2.0	7.91

(c) The WSR for customers requiring a meter larger than two and zero tenths (2.0) inches, and for customers requiring two (2) or more meters, shall be determined by multiplying the applicant's estimate of peak annual use, or the total annual allotment for the meter or meters, whichever is greater, by one and ninety-two one-hundredths (1.92), provided that such estimate is first approved and accepted by the Utilities Executive Director.

(d) Upon application for a water service permit after March 1, 1984, each applicant who is a nonresidential user shall be assigned an annual allotment of water equal to the greater of: the WSR as determined pursuant to this Section; any WSR that was satisfied at the time of application for nonresidential water service; any increased annual allotment pursuant to Subsection (g) below; and the volume of the water furnishing requirement of the City under an earlier water supply furnishing or development program, as determined by the City. When a user uses more water than the annual allotment, as determined by monthly billing records in a given calendar year, an Excess Water Use Surcharge in the amount prescribed in § 26-129 will be assessed on the volume of water used in excess of the annual allotment.

(e) In the case where existing water service to a property is being changed or a new water service permit is being issued, the utility shall assign an annual allotment and credit the nonresidential user towards the new water service permit as follows. If an annual allotment has been assigned, the credit towards the new water service shall be for the amount of the annual allotment for the property. If the existing credit towards the new water service is greater than the annual allotment to be assigned for the new water service permit, no cash refund or water certificates issued by the City shall be provided to the applicant. If no annual allotment has been assigned, the credit towards the new water service shall be the amount prescribed in § 26-129 for the existing meters serving the property. The credit authorized under this subsection is not transferrable.

(f) In the event an applicant applying for a nonresidential water service permit has, prior to March 1, 1984, surrendered water rights or otherwise satisfied the requirements of the City under an earlier water supply furnishing or development program, then the minimum WSR for that property shall be considered satisfied under this Section. However, such nonresidential user shall be subject to the Excess Water Use Surcharge when the annual allotment is exceeded.

(g) A nonresidential user may increase said user's annual allotment by submitting, in addition to the minimum required, water rights, water certificates issued by the City, or cash in the amount prescribed in § 26-129 for each acre-foot of WSR. Such submission shall raise the user's annual allotment by the amount of equivalent water rights submitted in acre-feet divided by one and ninety-two one-hundredths (1.92). Any increase of a user's annual allotment will be applied to subsequent billing and other matters and shall not be applied retroactively.

(h) Notwithstanding any other provisions of this Division, water certificates issued by the City under the Agreement, dated May 10, 1971, between the City and the Josh Ames Ditch Company, shall be subject to the following:

(1) If such certificates are used to meet the WSR upon the annexation of land into the City, each certificate shall be accepted by the City as fulfilling the WSR in the ratio of one certificate for each one-eighth (1/8) acre of land annexed, and if nonresidential service to the annexed land is requested, an annual allotment shall be imposed that is equal to the applicant's estimate of peak annual use on the

annexed land, provided that such estimate does not exceed the amount of water, as determined by the Utilities Executive Director, that can reasonably be delivered through the number and size of taps in the water service permit issued for the annexed land, that such estimate is based on the applicant's documented intended use(s) of the annexed land, and that such estimate is first approved and accepted by the Utilities Executive Director. For the purposes of this subsection, "upon the annexation of land into the City" refers to the one hundred (100) day period beginning on the day the ordinance of annexation is approved by Council on second reading.

(i) Applicants seeking a temporary water connection under Subsection 26-120(e)(1) shall meet the modified WSR as set forth in this Subsection and Subsection 26-150(a)(4) and shall be assigned an annual allotment as set forth in this Subsection. The RWR modified WSR for such applicants shall be three times the maximum estimated amount of water that would be applied to the subject native vegetation during one irrigation season, as determined by the Utilities Executive Director. The annual allotment shall for such applicants shall be the maximum estimated amount of water that would be applied to the subject native vegetation during one irrigation season, as determined by the Utilities Executive Director.

Section 9. That Section 26-150 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-150. - Water Supply Requirement (WSR); satisfaction.

(a) The WSR imposed pursuant to this Division may be satisfied by one (1) or more of the following methods:

(1) Transfer to the City the following rights to be accepted at the following rates:

Colorado-Big Thompson units	1.0 acre foot per unit
North Poudre Irrigation Company shares	4.0 acre feet per share

(2) Submittal to the City water certificates issued by the City. The value of each certificate shall be as stated on the face of the certificate and pursuant to § 26-149(h), if and to the extent applicable.

(3) Payment of cash in the amount prescribed in §26-129 for each acre-foot of WSR.

(4) For applicants seeking a temporary water connection under Subsection 26-120(e)(1), payment of cash to Utilities in the amount stated for water service in §26-129(b)(4).

(5) Transfer to the City of the rights identified in this Subsection (5), provided that the applicant meets the requirements of this Subsection (5). On or before January 1, 2019, the applicant must submit an application for a water service permit together with a request to submit rights to meet the WSR pursuant to this Subsection (5), which shall include proof, to the satisfaction of the Utilities Executive Director, that the applicant: has owned the rights intended to be transferred to the City since February 14, 2017; has been pursuing plans to develop property in the Utilities water service area as evidenced a complete application for an overall development plan, project development plan, change of use, or major amendment submitted to the City on or before February 14, 2017; and acquired said rights for the purpose of meeting the City's water furnishing requirements for said property as set forth in an affidavit. If such a request is approved, the rights approved to satisfy the WSR for said property shall not be transferred to another property. The water rights that may be transferred to the City pursuant to Subsection (5) and the conversion factors are as follows:

Arthur Irrigation Company shares	3.442 acre feet per share
Colorado-Big Thompson units	1.0 acre foot per unit
Larimer County Canal No. 2 Irrigating Company shares	42.687 acre feet per shares
New Mercer Ditch Company shares	30.326 acre feet per share
North Poudre Irrigation Company shares	4.0 acre feet per share
Pleasant Valley and Lake Canal Company shares	39.74 acre feet per share
Warren Lake Reservoir Company shares	10 acre feet per share

(b) If there is a change in the WSR between the date on which a completed application for a water service permit is received by the City and the date on which the WSR is satisfied and paid in full, the WSR in effect at the time of full satisfaction and payment shall apply. The satisfaction of the minimum WSR shall be made no later than the time of issuance of the water service permit. An owner of water rights or water certificates issued by the City may submit them to the City, together with an application for a water service permit, and will be credited accordingly in whole or in part, on the assessed WSR on such application for a water service permit. Once the water certificate issued by the City and water right have been designated to satisfy the WSR, or the requirements of the City under an earlier water supply furnishing or development program for water service, for a particular premises, they shall not be transferred to another property.

(c) In no case shall the fact that a portion of a property was previously served with City water excuse the WSR when new water service is requested for other portions of the same property. In the event that a water user is required to apply for an additional water service permit under the provisions of this Article for premises already connected to the water utility, the user shall also be required to satisfy any increase in the assessment of WSR that results from the change in use or status, prior to the issuance of the new permit.

Section 10. That Section 26-207 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-207. - Terms and abbreviations.

The following terms and abbreviations when used in this Article shall have the meanings ascribed to them in this Section:

...

(2) *Abbreviations :*

...

- m. *SIC* shall mean standard industrial classification;
- n. *SPIF* shall mean sewer plant investment fee;
- o. *SWDA* shall mean Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.;
- p. *TOC* shall mean total organic carbon;
- q. *TSS* shall mean total suspended solids;
- r. *TTO* shall mean total toxic organics; and
- s. *U.S.C.* shall mean United States Code.
- t. *WSR* shall mean water supply requirements;

Section 11. That Section 26-632 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-632. - Deferral of fees.

With respect to any dwelling unit which is contained within or which constitutes an *affordable housing project* as defined in § 26-631, the Water Plant Investment Fee ("WPIF"), Sewer Plant Investment Fee ("SPIF"), Stormwater Plant Investment Fee, the Water Supply Requirement Cash Payment, and the Electric Development Fees and Charges, as established in this Chapter, shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit(s) or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Notwithstanding any provision in this Chapter to the contrary, in the event that, during the period of deferral, the amount of the deferred fee is increased by ordinance of the City Council, the fee rate in effect at the time of the issuance of the building permit shall apply. At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.00) to partially defray the cost of administration. No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

Section 12. That Section 26-651 of the Code of the City of Fort Collins is hereby amended to read follows:

Sec. 26-651. - Conditions for furnishing service within growth management area.

...

(b) New utility service may be furnished to property which is outside of the City limits and within the Growth Management Area if the Utilities Executive Director determines that the provision of such service is consistent with the relevant utility master plan documents and is in the best interests of the City, the City's utilities and the relevant utility, and if the following conditions are met:

(1) The utility concerned has surplus capacity over the immediate requirements for service within the City and the applicant has satisfied any water supply requirement assessed against property to be served with City water;

...

Section 13. That Section 26-653 of the Code of the City of Fort Collins is hereby amended to read as follows:

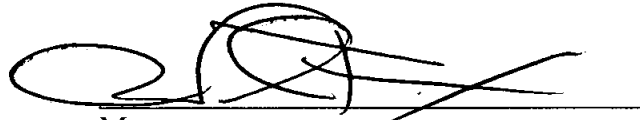
Sec. 26-653. - Permit is revocable; agreement of user.

(a) So long as a property served is outside the City, any permit for utility services issued under this Article is revocable and the utility concerned will supply service only to the extent that it has surplus capacity over the requirements for service within the City and only so long as the permittee is in compliance with and abides by the conditions of the permit, including but not limited to all requirements of this Code applicable to utility service. The use of City water under this Article does not constitute a relinquishment of any water or water rights by the City. The City reserves and retains full dominion and control over its water and water rights and their use. Upon revocation of a water service permit for water use outside the City and the permanent disconnection of water service, the City shall remit such water supply as has been previously surrendered to the City by the outside-City user.


...

Section 14. That this Ordinance and all of the fees, rates, charges and other requirements set forth herein, shall go into effect on January 1, 2018, and shall apply to all applications for a water service permit for which full satisfaction and payment of the WSR occurs on or after January 1, 2018.

Introduced, considered favorably on first reading, and ordered published this 22nd day of August, A.D. 2017, and to be presented for final passage on the 5th day of September, A.D. 2017.


Mayor

ATTEST:



Chief Deputy City Clerk



Passed and adopted on final reading on the 5th day of September, A.D. 2017.


Mayor

ATTEST:


Chief Deputy City Clerk

