

ORDINANCE NO. 050, 2019  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING AN ANNUAL WATER ALLOTMENT MANAGEMENT  
PROGRAM BY AMENDING SECTION 26-129 OF THE CODE OF THE CITY OF  
FORT COLLINS TO AUTHORIZE THE UTILITIES EXECUTIVE DIRECTOR  
TO WAIVE ALL OR PART OF THE EXCESS WATER USE SURCHARGE FOR  
CERTAIN QUALIFYING CUSTOMERS IN LIMITED CIRCUMSTANCES

WHEREAS, the City owns and operates Fort Collins Utilities, including a water utility that provides treated water service to customers pursuant to the City Code and other applicable law, rules, and regulations; and

WHEREAS, water service permits are issued to customers of the water utility for either residential service or nonresidential service, which nonresidential service includes water service for commercial, irrigation, and other purposes, as indicated in City Code Section 26-149(a); and

WHEREAS, water service permits applied for since March 1, 1984 by nonresidential users are to have received an annual allotment, as set forth in City Code Section 26-149(d); and

WHEREAS, as set forth in City Code Section 26-149(d), when a nonresidential user uses more water than its annual allotment, as determined by monthly billing records in a given calendar year, an excess water use surcharge in the amount prescribed in City Code Section 26-129 will be assessed on the volume of water used in excess of the annual allotment; and

WHEREAS, funds acquired from the excess water use surcharge are used to acquire and develop water supplies, an underlying policy goal of which is to manage and equalize the supplies and demands for treated water from the water utility; and

WHEREAS, certain customers of the water utility for nonresidential service for irrigation purposes with annual allotments have experienced challenges with the excess water use surcharge, in particular, being customers who have and are anticipated to exceed their annual allotments for current uses and landscaping when employing practices to efficiently use water for irrigation purposes; and

WHEREAS, some of these customers may be able to reduce the amount of water they use for irrigation purposes, including by modifying landscapes, but require adequate time to plan and budget for such projects in their annual planning and budgetary processes, and would benefit from being able to fund such projects with money that would otherwise be spent on paying excess water use surcharges; and

WHEREAS, water conservation and efficiency are tools that are used by the water utility to manage and reduce the demand for treated water, which is beneficial to the water utility and its ratepayers by, among other reasons, helping to ensure that the demand for treated water does not exceed supplies, which could result in more shortages and other adverse impacts; and

WHEREAS, a temporary waiver of the excess water use surcharge for certain such customers will be beneficial to the water utility and its ratepayers by managing and reducing the long-term demand for treated water by such customers through allowing such customers to spend the money that would have been spent on the excess water use surcharge on other means to reduce their demand for treated water out into the indefinite future, thus achieving the same underlying policy goal of the excess water use surcharge of balancing the supplies and demands for treated water from the water utility; and

WHEREAS, such long-term benefits to the water utility and its ratepayers outweigh any short-term reductions in foregone excess water use surcharge revenues; and

WHEREAS, staff of the water utility and the City Manager have recommended to the City Council that the City Code be amended as described below in order to address the issues described above.

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 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.**

[...]

(h) Notwithstanding the provisions of this Section or § 26-149, the Utilities Executive Director may waive payment of all or portions of the excess water use surcharge of Subsection (c)(2) pursuant to this Subsection (h).

- (1) A customer of the water utility with nonresidential water service seeking such a waiver shall, on or before December 31, 2022, complete and file with the Utilities Executive Director an application accompanied by any required filing fee as determined by the Utilities Executive Director. The Utilities Executive Director shall prepare a form of such application identifying for the applicant all of the necessary information for the Utilities Executive Director to evaluate the requested waiver.
- (2) The Utilities Executive Director may, following any appropriate investigations including requests for additional information from the applicant, waive payment of the excess water use surcharge by the applicant if the Utilities Executive Director finds that the following conditions are met:
  - a. The application was timely filed and complete;

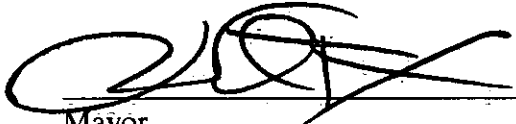
- b. The applicant is expected to exceed its annual allotment for its current uses and landscaping when employing practices to efficiently use water for irrigation purposes without waste;
  - c. The applicant has an adequate and detailed plan to reduce the use of water for irrigation purposes for the indefinite future as determined by the Utilities Executive Director;
  - d. The applicant and the Utilities Executive Director have executed a written agreement consistent with this Subsection (h) setting forth such plan and other related matters, with such agreement being approved as to form by the City Attorney.
- (3) Any such waiver shall be set forth in the written agreement and shall be subject to the following:
- a. A finding by the Utilities Executive Director that the waiver will be beneficial to the water utility and its ratepayers by implementing the applicant's approved plan to manage and reduce the demand for treated water by the applicant through allowing the applicant to spend the money that would have been spent on the excess water use surcharge on the actions set forth in the approved plan to reduce the applicant's demand for treated water out into the indefinite future.
  - b. Such a waiver may only waive all or part of the excess water use surcharges for up to three (3) years. A one (1) year agreement shall waive one hundred (100) percent of the excess water use surcharges. A two-year agreement shall waive one hundred (100) percent of the excess water use surcharges in year one (1) and fifty (50) percent of the excess water use surcharges in year two (2). A three (3) year agreement shall waive one hundred (100) percent of the excess water use surcharges in year one (1), sixty-six (66) percent of the excess water use surcharges in year two (2), and thirty-three (33) percent of the excess water use surcharges in year three (3).
  - c. Such a waiver shall include a detailed plan to reduce the use of water for irrigation purposes for an indefinite period as determined by the Utilities Executive Director.
  - d. Such a waiver shall be revocable, in whole or in part, by the Utilities Executive Director at any time due to: a failure of the applicant to comply with the terms of the waiver; customer agreement; or other good cause as determined by the Utilities Executive Director. Such a revocation shall be in writing and set forth the reasons for the revocation and, if the waiver is revoked in part, any new or modified terms. Upon such revocation, the

Utilities Executive Director may bill the applicant for any excess water use surcharges that were to be waived.

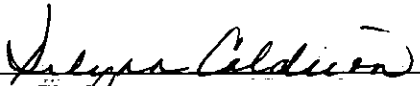
e. Such a waiver shall have no effect on the annual allotment or Water Supply Requirement for the subject premises.

(4) If an application for such a waiver is denied, the Utilities Executive Director shall notify the applicant in writing of the denial and state the reasons therefor.

Introduced, considered favorably on first reading, and ordered published this 19th day of March, A.D. 2019, and to be presented for final passage on the 16th day of April, A.D. 2019.

  
\_\_\_\_\_  
Mayor

ATTEST:

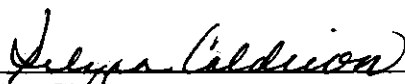
  
\_\_\_\_\_  
City Clerk



Passed and adopted on final reading on the 16th day of April, A.D. 2019.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

