

ORDINANCE NO. 047, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ESTABLISHING RENTAL RATES AND DELIVERY CHARGES
FOR USE OF WATER AVAILABLE UNDER FORT COLLINS UTILITIES'
RAW WATER INTERESTS FOR 2024 THROUGH MARCH 2027

A. The City holds title to or otherwise has ownership interests in various water rights, water right decrees, shares in ditch and reservoir companies ("shares"), and contractual rights to the delivery of water that are sources of supply of raw and untreated water (together, "Raw Water Interests"), many of which pertain to Fort Collins Utilities ("Utilities").

B. The amount of water available under Utilities' Raw Water Interests, at certain times, may be greater than the immediate needs of Utilities and its ratepayers, and is thus potentially available for use by persons outside of Utilities as a rental.

C. The City, through Utilities, has various agreements and understandings pursuant to which Utilities allows persons outside the City and certain City departments to use water available under Utilities' Raw Water Interests, provided that a charge for the delivery of such water is paid.

D. Pursuant to Article XII, Section 4 of the City Charter, if at any time the water supply is greater than the immediate needs of the City and its inhabitants, the City Council may authorize the City Manager to permit the use of such surplus water by consumers outside the City at such rates as the City Council may prescribe, provided that no vested right shall accrue under such permits.

E. Pursuant to Article XII, Section 6 of the City Charter, the City Council shall by ordinance from time to time fix, establish, maintain, and provide for the collection of such rates, fees, or charges for water furnished by the City as will produce revenues sufficient to pay the cost of operation and maintenance of the City's utilities in good repair and working order and to provide and maintain an adequate working capital fund for the day-to-day business operations of the utilities.

F. On February 15, 2024, Utilities staff presented recommendations for rental rates and delivery charges for the use of water available under Utilities' Raw Water Interests for a period of approximately three years, through March 2027, to the Water Commission, and the Water Commission recommended City Council approve the rates and charges as recommended by staff.

G. City Council finds that the rental rates and delivery charges set forth herein are appropriate and will provide revenues that offset the cost of operation and maintenance of Utilities' Raw Water Interests and associated infrastructures and to keep the City's utilities in good repair and working order, and to provide and maintain an adequate working capital fund for the day-to-day business operations of the utilities.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The City Manager and the Utilities Executive Director are authorized to make water available under Utilities Raw Water Interests available for use by persons outside of the City and certain City departments, provided that:

- such rentals shall not exceed one year in duration;
- such water can be rented or delivered without adversely affecting the City or Utilities and its ratepayers;
- no vested right shall accrue under such use;
- the appropriate rental rate or delivery charge set forth herein is applied, which may be adjusted as the City Manager or the Utilities Executive Director determine necessary to reflect the remaining yield for the prevalent market price of the water or shares being rented in order to prevent undue economic loss to the City; and
- the final price may be rounded up to the nearest dollar.

Section 2. The City Manager and the Utilities Executive Director are authorized:

- to impose on such rentals and deliveries such additional terms and conditions as they deem appropriate to protect the interests of the City and Utilities in and to Utilities' Raw Water Interests; and
- to deny any request for a rental or delivery, to the extent allowed by law, as they deem appropriate to further the interests, policies, and values of the City.

Section 3. All previous authorizations to make water available under Utilities' Raw Water Interests are repealed in their entirety.

Section 4. The rental rates set forth in the table below are hereby approved as the City's rental rates for 2024 through March 2027 for Utilities' Raw Water Interests, provided that the rental rate for fully consumable water shall apply through March 2027.

| RATES FOR RENTALS OF SURPLUS RAW WATER | |
|--|--|
| Type of Water | Rate Per Acre Foot |
| Arthur Irrigation Company | 120% of Annual Assessment |
| Colorado-Big Thompson Water from the Northern Colorado Water Conservancy District (Northern) associated with Shares in the North Poudre Irrigation Company | Rental Rate for North Poudre Irrigation Company (Seasonal Agricultural and Multiple Use Water) + any Northern transfer fees calculated at the time of transfer |
| Larimer County Canal No. 2 Irrigating Company | 120% of Annual Assessment |

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|---|--|
| New Mercer Ditch Company | 120% of Annual Assessment |
| North Poudre Irrigation Company: Early Agricultural Use Water | \$15.00 per acre foot |
| North Poudre Irrigation Company: Seasonal Agricultural and Multiple Use Water | (Annual Assessment / (Sum of Allocation of Seasonal Agricultural Use and Multiple Use Water per share)) + \$2.00 per acre foot* |
| Pleasant Valley and Lake Canal Company | 120% of Annual Assessment |
| Fully Consumable Sources | \$800.00 per acre foot |
| Sherwood Reservoir Company | 120% of Annual Assessment |
| Sherwood Irrigation Company | 120% of Annual Assessment |
| Warren Lake Reservoir Company | 120% of Annual Assessment |
| Type of Water | Rate Per Share |
| Water Supply and Storage Company | 130% of Annual Assessment ** |

* The City Manager and the Utilities Executive Director may reduce this \$2.00 per acre-foot fee to reflect actual administrative burdens on Utilities staff.

** The City Manager and the Utilities Executive Director may reduce this fee to no less than 100% of Annual Assessment to reflect actual administrative burdens on Utilities staff.

Section 5. The delivery charges set forth in the table below are hereby approved as the City's delivery charges for 2024 through March 2027 for Utilities' Raw Water Interests.

| RAW WATER DELIVERY CHARGES | |
|---|--|
| Type of Water | Rate Per Share |
| Arthur Irrigation Company | 110% of Annual Assessment |
| Colorado-Big Thompson Water from the Northern Colorado Water Conservancy District | Rental Rate for North Poudre Irrigation Company (Seasonal Agricultural and Multiple Use Water) + any Northern transfer fees calculated at the time of transfer |
| Larimer County Canal No. 2 Irrigating Company | 110% of Annual Assessment |
| New Mercer Ditch Company | 110% of Annual Assessment |
| Pleasant Valley and Lake Canal Company | 110% of Annual Assessment |
| Sherwood Reservoir Company | 110% of Annual Assessment |

| | |
|-------------------------------|---------------------------|
| Sherwood Irrigation Company | 110% of Annual Assessment |
| Warren Lake Reservoir Company | 110% of Annual Assessment |
| Type of Water | Rate Per Acre Foot |
| Fully Consumable Sources | \$200.00 per acre foot |

Introduced, considered favorably on first reading on March 19, 2024, and approved on second reading for final passage on April 2, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: April 12, 2024

Approving Attorney: Eric Potyondy