

FIRST READING: February 16, 2021

SECOND READING: March 2, 2021

ORDINANCE NO. 6458

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT
CHAPTER 19.04 CONCERNING WATER RIGHTS IN ACCORDANCE
WITH THE 2020 RAW WATER MASTER PLAN**

WHEREAS, on February 16, 2021, the City Council adopted Resolution #R-10-2021 approving and adopting the 2020 City of Loveland Raw Water Master Plan; and

WHEREAS, the City Council desires to amend the Loveland Municipal Code at Chapter 19.04 in accordance with the recommendations of the 2020 Raw Water Master Plan.

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

Section 1. That Section 19.04.018 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.018 - Value of water bank credit.

- A. The value of water bank credit received in exchange for water rights transferred to the City shall be determined at the time such water bank credit is applied to satisfy the City's water rights requirements.
- B. The current value of ditch water rights shall be as follows:

Ditch/Ditch Company	Value	
	With Payment of the Native Water Storage Fee	Without Payment of the Native Water Storage Fee
Barnes*	3.31 acre-feet of water per inch	0.66 acre-feet of water per inch
Big Thompson Ditch & Manufacturing Company	189.11 acre-feet of water per share	68.08 acre-feet of water per share
Buckingham Irrigation Company (George Rist Ditch)	5.76 acre-feet of water per share	0.35 acre-feet of water per share
Chubbuck Ditch*	2.90 acre-feet of water per inch	0.29 acre-feet of water per inch
Louden Irrigating Canal and Reservoir Company	11.92 acre-feet of water per share	2.14 acre-feet of water per share
South Side Ditch Company	4.97 acre-feet of water per	1.49 acre-feet of water per share

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*The values for the Barnes Ditch and Chubbuck Ditch are described above for those existing holdings in the City of Loveland Water Bank. The City will not accept any new deposits of Barnes Ditch or Chubbuck Ditch inches. The values set forth in the table above represent the historical average yield of each ditch as stated in Spronk Water Engineers Raw Water Supply Yield Analysis Update dated October 2020. These values are subject to change at any time by ordinance of council. The value of water bank credit received in exchange for transferring to the City ditch water rights not set forth in the table above shall be determined by council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the City's water rights requirements. The native water storage fee applicable to each ditch or ditch company is described in Section 19.04.045.

C. The current value of Colorado-Big Thompson Project units shall be 0.9 acre-foot per unit.

Section 2. That Section 19.04.040 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.040 - Satisfying water rights requirements.

To satisfy the City's water rights requirements, the applicant must apply water bank credit and/or pay the cash-in-lieu price in an amount sufficient to satisfy the City's water rights requirements. Unless otherwise required based on the timing of satisfaction of water rights requirements as provided in section 19.04.020.D, a minimum of 50 percent of every transaction to satisfy such requirement must include water bank credits received in exchange for Colorado-Big Thompson Project units transferred to the City or water bank credits acquired from the City by cash purchase, or by paying the cash-in-lieu price ("50% Rule"). If the total acre-feet requirement is less than or equal to 1.0 acre-foot, the 50% Rule shall not apply. All applications of the 50% Rule shall be rounded to the nearest two decimals. .

Section 3. That Section 19.04.045 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.045 - Native water storage fee.

A. When credit in the City's water bank received in exchange for the transfer of ditch water rights to the City is applied to satisfy the City's water rights requirements, the credit shall be subject to the native water storage fee unless exempted under Subsections B or C, below. Said fee shall be calculated and due at the time such water bank credit is applied to satisfy the City's water rights requirements as provided in Sections 13.04.245.C and 19.04.020. The current native water storage fees applicable to each ditch or ditch company shall be in an amount as established by resolution of the City Council adopted after two readings and are subject to change at any time by resolution of council adopted after two readings. The native water storage fee applicable to water bank credit received in exchange for transferring to the City water rights from ditches not included in the table above shall be determined by the utilities commission by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the City's water rights requirements. The native water storage fee shall not apply to water bank credits received in exchange for the transfer

of Colorado-Big Thompson Project units to the City or water bank credits acquired from the City by cash payment or to payments of the cash-in-lieu price.

- B. The native water storage fee shall not apply to credits in the City's water bank received in exchange for the transfer of ditch water rights to the City on or before July 20, 1995.
- C. When water bank credit is applied to satisfy the City's water rights requirements, the person or entity applying the credit may elect not to pay the native water storage fee set forth above, in which case the value of the credit shall be decreased in accordance with the table set forth in Section 19.04.018.B.

Section 4. That Section 19.04.080 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.080 - Requirements for acceptance of ditch water.

- A. Applications to transfer ditch water rights to the City shall be filed with the Water and Power Department. No ditch water rights shall be accepted by the City unless first approved by the Loveland Utilities Commission. Said approval shall not be given without satisfaction of each of the following requirements:
 - 1. Evidence of the applicant's ownership of the ditch water rights in a form satisfactory to the City Attorney;
 - 2. Documentation evidencing the historical beneficial consumptive use of the ditch water rights in a form satisfactory to the City Attorney, including, but not limited to, statements of historical use, aerial imagery of historically irrigated areas, and a dry up covenant.
 - 3. A water bank agreement executed by the applicant in a form approved by the City attorney; and
 - 4. A finding by the Loveland Utilities Commission that acceptance of the ditch water rights is in the City's best interests.
- B. The Loveland Utilities Commission may place conditions or restrictions on the City's acceptance of the ditch water rights or the applicant's use of the corresponding water bank credit as necessary to protect the City's interests. Applicants who do not wish to transfer their ditch water rights to the City subject to such conditions or restrictions may withdraw their application prior to execution of the water bank agreement by the City.
- C. As used herein, "ditch water rights" shall refer to and mean water rights from the following ditches or ditch companies commonly referred to as: Big Thompson Ditch & Manufacturing Company; Buckingham Irrigation Company (George Rist Ditch); Loudon Irrigating Canal and Reservoir Company; and South Side Ditch Company. The City will not accept ditch water rights from the Chubbuck Ditch or the Barnes Ditch.

Section 5. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or

the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 2nd day of March, 2021.

Jacki Marsh, Mayor

ATTEST:

Hannah Hill, Acting City Clerk



Ordinance 6458

I, Hannah Hill, Acting City Clerk of the City of Loveland, Colorado, hereby certify that the above and foregoing Ordinance was introduced at a regular (or special) meeting of the City Council, held on February 16, 2021 and was initially published in the Loveland Daily Reporter-Herald, a newspaper published within the city limits, in full on February 21, 2021 and by title except for parts thereof which were amended after such initial publication which parts were published in full in said newspaper on March 6, 2021

City Clerk

Effective Date: March 16, 2021