

ORDINANCE NO. 011, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS TO AUTHORIZE AND
IMPLEMENT THE CITY'S PROVISION OF TELECOMMUNICATION FACILITIES AND
SERVICES AS PROVIDED IN CITY CHARTER ARTICLE XII, SECTION 7

WHEREAS, at a special election on November 3, 2015, City voters authorized the City to provide high-speed internet services, including, without limitation, high-bandwidth broadband services; telecommunications services, and/or cable television services within the City's growth management area; and)

WHEREAS, at a special election on November 7, 2017, City voters approved an amendment to the City Charter, which has added a new Section 7 to Charter Article XII ("Section 7"); and

WHEREAS, paragraph (a) of Section 7 grants to the City Council certain powers related to the City providing "telecommunications facilities and services," including, without limitation, "broadband Internet facilities and services," as both these terms are defined in paragraph (f) of Section 7 ("Telecommunication Facilities and Services"); and

WHEREAS, on July 20, 1993, the City Council adopted Ordinance No. 60, 1993 establishing the City's Electric Utility as an enterprise of the City under Section 20 of Article X of the Colorado Constitution (the "Electric Utility Enterprise") by adding Section 26-392 to the City Code; and

WHEREAS, this Ordinance adds a new Section 26-398 to Code Chapter 26 to implement this authority granted in Section 7 by authorizing the Electric Utility to acquire, construct, provide, fund and contract for Telecommunication Facilities and Services and by authorizing the Electric Utility Enterprise to exercise the power to issue revenue bonds to fund the provision of Telecommunication Facilities and Services as provided in paragraph (b) of Section 7; and

WHEREAS, this Ordinance also amends Code Sections 2-504 and 26-21 to delegate to the City Manager the direct responsibility to administer and supervise the Electric Utility's provision of Telecommunication Facilities and Services and to make other changes to the administration of Utility Services in light of this new assignment of direct responsibility to the City Manager, and amends the definition of *service area* in Code Section 1-2 in order to reflect that some service area directors do not report directly to the City Manager; and

WHEREAS, because the Council has adopted on the same date as this Ordinance its Ordinance No. 010, 2018, to appropriate \$1.8 million from the City's General Fund as a loan to the City's Light and Power Fund to be used by the Electricity Utility for its start-up costs related to providing Telecommunication Facilities and Services, this Ordinance also amends Code Section 8-77 to provide that the Electric Utility's revenues, debt issuance proceeds and expenditures related to Telecommunication Facilities and Services shall be deposited, expended and administered through the City's Light and Power Fund; and

WHEREAS, the City Council hereby finds that this Ordinance is necessary for the public's health, safety and welfare and is in the best interests of the City and its residents, businesses, and public and private organizations and of the Electric Utility's ratepayers.

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 the definition of "Service area" in Section 1-2 of the Code of the City of Fort Collins is hereby amended to read as follows:

Service area means a major City administrative unit designated as a service area in this Code and headed by a director who, regardless of title, is directly responsible to the City Manager or his or her designee.

Section 3. That Section 2-504 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-504. - Utility Services; duties of Director and City Manager.

- (a) Utility Services shall be and is hereby created as a service area of the City.
- (b) Except as provided in paragraph (c) below, Utility Services shall be in the charge of a Director who shall be directly responsible to the Deputy City Manager for the functions and duties of Utility Services, including, without limitation, the functions and duties necessary to provide for the design, construction, reconstruction, addition, repair, replacement, operation and maintenance of the City's electric, water, wastewater and stormwater utility services, and who shall have control and supervision over such agencies, service units, departments, divisions, offices or persons assigned by the Deputy City Manager.
- (c) The City Manager shall have the direct responsibility and authority to administer and supervise all functions and activities related to the electric utility's provision of "telecommunication facilities and services," as this term is defined in Section 7(f) of Charter Article XII. In exercising this authority, the City Manager may assign to other employees such duties, assignments and functions as the City Manager determines necessary for the proper and efficient administration of the electric utility in providing telecommunication facilities and services.

Section 4. That Section 8-77 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 8-77. - Light and power fund.

There is hereby created a fund to account for the City's municipal electric utility known as the light and power fund. Revenues for the fund shall include bond and other debt issuance proceeds and

receipts from charges for electric facilities and services and from telecommunication facilities and services. Expenditures shall be made for approved purposes in connection with furnishing electric facilities and services and furnishing telecommunication facilities and services. For purposes of this section, the term "telecommunication facilities and services" shall have the meaning given to it in Section 7(f) of Charter Article XII.

Section 5. That Section 26-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-1. - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

.....
Electric utility shall mean those departments of Utility Services which are in charge of the distribution and sale of electricity and the provision of telecommunication facilities and services in the City.

Telecommunication facilities and services shall have the meaning given to it in Section 7(f) of Charter Article XII.

Section 6. That Section 26-21 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-21. - Organization.

....
(b) Except as provided in § 2-504 of this Code, Utilities Services shall be headed by the Utilities Executive Director.


Section 7. That a new Section 26-398 is hereby added to the Code of the City of Fort Collins to read as follows:

Sec. 26-398. – Telecommunication facilities and services.

(a) To the full extent authorized in Section 7 of Charter Article XII, the electric utility is authorized to acquire, construct, provide, fund and contract as necessary to provide telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services. The City's electric utility enterprise is also authorized to issue revenue and refunding securities and other debt obligations in the manner and to the full extent authorized in Section 7(b) of Charter Article XII and in Code § 26-392 to fund the electric utility's provision of telecommunication facilities and services.

(b) The provisions of this § 26-398 shall supersede any contrary or conflicting provisions of the Code, including, without limitation, provisions of this Chapter 26 specifying the authority, funding, operation and supervision of the electric utility.

Introduced, considered favorably on first reading, and ordered published this 2nd day of January, A.D. 2018, and to be presented for final passage on the 16th day of January, A.D. 2018.

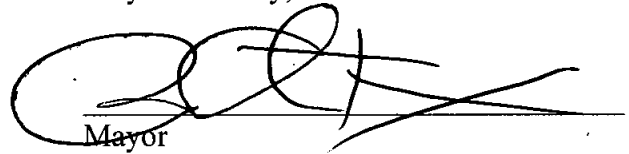

Mayor

ATTEST:


City Clerk



Passed and adopted on final reading on the 16th day of January, A.D. 2018.


Mayor

ATTEST:


City Clerk

