

ORDINANCE NO. 051, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF
FORT COLLINS REGARDING REIMBURSEMENT AGREEMENTS
FOR THE CONSTRUCTION OF WATER AND SEWER MAINS

WHEREAS, the City owns and operates a water utility and a wastewater utility; and

WHEREAS, City Code has historically provided for the City to enter into reimbursement agreements with developers for the construction of water and/or sewer mains under City Code Sections 26-121, 26-285, 26-369, and 26-372; and

WHEREAS, the term “developer” is defined in Chapter 26 of City Code as “any person who plats and improves undeveloped land for industrial, commercial, residential or mixed use thereby creating a demand for City utility services”; and

WHEREAS, under such reimbursement agreements, the developer would construct and pay for a water and/or sewer main located either through undeveloped areas to reach and serve the developer’s property, or along the perimeter of the developer’s property; and

WHEREAS, such reimbursement agreements have acted as a useful mechanism in certain circumstances by which water and/or wastewater service may be extended; and

WHEREAS, the current sections of City Code regarding such reimbursement agreements are tailored to the extension of water and/or wastewater service by developers to undeveloped property to be platted; and

WHEREAS, there are certain properties and groupings of properties within Fort Collins that are within the water and wastewater utilities’ respective service areas, but which are not currently served by the water and/or wastewater utility, and which would require the construction of water and/or sewer mains to serve such properties; and

WHEREAS, it would be preferable for the City and to the benefit of the health, safety, and welfare of the citizens of Fort Collins to extend water and wastewater service to such properties; and

WHEREAS, allowing reimbursement agreements to potentially be used to extend water and wastewater service to such properties would further and provide an additional mechanism for reaching this goal; and

WHEREAS, it would be beneficial to the water and/or wastewater utility to extend water and/or sewer mains to be able to serve all properties within the water and wastewater utilities’ respective service areas in order to advance the general purposes of those utilities, and it also would, among other things, expand the customer base and increase revenues for these utilities; and

WHEREAS, it would be beneficial to the water and wastewater utilities' respective ratepayers to provide additional mechanisms to construct water and/or sewer mains using private funds; and

WHEREAS, the Water Board has recommended that the Council approve the changes made herein; and

WHEREAS, the City Manager and City staff have recommended to the City Council that City Code Sections 26-121, 26-285, 26-369 and 26-372 be amended as set forth below.

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 26-121 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-121. - Reimbursement assessments.

- (a) Any applicant desiring to take and use City water for the first time on premises subject to a reimbursement agreement with the City, as provided in § 26-372, shall pay any charges and adjustments assessed to the property pursuant to such agreement on account of the installing person's extension of the City water main adjacent to the premises if the applicant's service line will be connected directly and not through an ancillary distribution line to such main and the applicant did not participate in the original cost of such extension. This fee shall be paid at the time the water service permit is issued in addition to all other connection charges. The applicant may not avoid payment of this charge by requesting connection to another water main if the proposed service line is, in the opinion of the Utilities Executive Director, best capable of being connected to the main which is the subject of the reimbursement agreement.

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Section 3. That Section 26-285 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-285. - Reimbursement assessments.

- (a) An applicant desiring an original connection to the wastewater utility for premises subject to a reimbursement agreement with the City, as provided in § 26-372, shall pay any charges and adjustments assessed to the property pursuant to such agreement on account of the installing person's extension of the public sewer adjacent to the premises, if the applicant's service line will be connected to such main directly, and not through an ancillary collection

line, and the applicant did not participate in the original cost of its construction. This fee shall be paid at the time the sewer connection permit is issued in addition to all other connection charges. The applicant may not avoid payment of this charge by requesting connection to another sewer main if in the opinion of the Utilities Executive Director the proposed service line is best capable of being connected to the main which is the subject of the reimbursement agreement.

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Section 4. That Section 26-369 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-369. - Subdivisions and developments.

...

- (b) A developer shall install at self-expense all mains, service lines and other appurtenances to, in and through the development. The City shall participate in the developer's cost of installing oversized mains as provided in § 26-371. The City may also accommodate the developer and other eligible persons by attempting to collect reimbursement fees as provided in § 26-372.

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Section 5. That Section 26-372 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-372. - Reimbursement agreements.

- (a) When a developer or any other person constructs a water or sewer main to reach and serve such installing person's property or constructs such a main on the perimeter of the property, the entire cost of the main shall be the responsibility of such person. If such installing person enters into a reimbursement agreement with the City in the time and manner prescribed by this Section, then the City may assess a charge per connection or per frontage to each adjacent property connecting to the affected water or sewer main at the time a connection permit is issued for that property. If per connection, the charge shall be calculated as the cost of the water or sewer main divided by the number of potential connections to adjacent properties. If per frontage, the charge shall be calculated as the cost of the water or sewer main multiplied by the length of the frontage of the property to be charged (in feet) divided by the total length of the water or sewer main (in feet). It shall be in the Utilities Executive Director's discretion to determine whether to base the charge on connections or frontage, based on an equitable distribution of costs and other relevant considerations. If the charge is collected, the City shall reimburse the installing person to the extent of such collection after deducting a service charge of three (3) percent to cover administrative costs. All costs for the construction of the water and sewer mains must be

fully paid by the installing person before such person is entitled to reimbursement under any agreement established hereunder.

- (b) The amount of the reimbursement assessed by the City for each adjacent property as it connects to the affected water or sewer main may be based on the original cost of design and construction of the mains plus an adjustment for inflation based on the construction cost index for Denver, Colorado, as published monthly by "Engineering News-Record." In no case shall the charge reflect less than the original cost of installation. The costs of design and construction of the improvements may include engineering fees and any costs incurred by the installing person for the formation or administration of a special improvement district. Reimbursement of the installing person is contingent on actual collection of the charge by the City.
- (c) In order to obtain approval of a reimbursement agreement from the City, the installing person shall provide the utility with copies of the following within ninety (90) days from acceptance of the water or sewer main by the City Engineer:
 - (1) Completed bid forms from at least three (3) qualified contractors with an indication of which contractor was awarded the project. The bid forms must contain the description, estimated quantity, and unit price for each item included in the project. Each bid must be genuine and not a collusive or sham bid;
 - (2) Any invoice from the installing person's engineer for any fees assessed on the project;
 - (3) The contractor's application for final payment approved by the installing person's engineer;
 - (4) A letter from the installing person and/or contractor certifying that final payment has been received by the contractor;
 - (5) A letter from the installing person and/or engineer certifying that final payment of engineering fees has been made;
 - (6) A map prepared by a licensed engineer or surveyor which shows:
 - a. The location of the water or sewer mains constructed;
 - b. The name of the owner of each property which has frontage along the water or sewer main;
 - c. The amount of frontage each property has along the water or sewer main;
 - d. The number of connections anticipated to be made to the water or sewer main from the properties along the main;

- e. The location of stubs from the water or sewer main to each property along the main, if such stubs have been required by the Utilities Executive Director;
 - f. The acreage and parcel number of each property along the water or sewer main; and
 - g. A reference to the book and page and/or reception number from the county records where the information for each property was obtained.
- (7) Any other information deemed necessary by the Utilities Executive Director.
- (d) If the foregoing information is not submitted by the installing person within the ninety-day period provided, then reimbursement shall be denied. If the information is timely submitted, the City will review it and prepare a reimbursement agreement to be signed by both the installing person and the City Manager. All reimbursement agreements shall be recorded with the county clerk and the installing person shall be responsible for such recording costs.
- (e) The term of any reimbursement agreement established hereunder shall not exceed a period of ten (10) years from the date of its execution regardless of whether or not the original costs have been fully reimbursed. The City Council may approve one (1) extension of the agreement by resolution, not to exceed an additional ten (10) years, if City Council approves such a resolution for an extension prior to the expiration of the original ten-year period. The City is not liable for any portion of the uncollected balance.
- (f) The books and records of the installing person relating to the costs of the water and sewer mains for which the installing person seeks reimbursement shall be open to the City at all reasonable times for the purpose of auditing and verifying the installing person's costs.

Introduced, considered favorably on first reading, and ordered published this 3rd day of April, A.D. 2018, and to be presented for final passage on the 17th day of April, A.D. 2018.



Mayor


ATTEST:



City Clerk




Passed and adopted on final reading on the 17th day of April, A.D. 2018.



Mayor

ATTEST:



City Clerk

