

ORDINANCE NO. 006, 2021  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS  
TO UPDATE PROVISIONS REGARDING THE CITY'S UTILITY ENTERPRISE BOARDS

WHEREAS, City Code Sections 26-43(a), 26-209(a), 26-392(a), and 26-493(a) each provide that the City's water, wastewater, electric, and stormwater utilities, respectively, constitute an enterprise of the City and authorize the City Council, acting ex officio as the board of each enterprise, to issue revenue bonds or other obligations (including refunding securities) payable solely from the net revenues derived from the enterprise, and provide for each enterprise board to adopt its ordinances issuing those bonds and other obligations in the same manner as City Council adopts its ordinances; and

WHEREAS, the City Council, acting ex officio as the board of each enterprise, has historically interpreted and implemented City Code Sections 26-43(a), 26-209(a), 26-392(a), and 26-493(a) by the Mayor acting as the president of each enterprise board, the Mayor Pro Tem acting as the vice president of each enterprise board, the Financial Officer acting as the treasurer of each enterprise board, and the City Clerk acting as the secretary of each enterprise board; and

WHEREAS, City Code Sections 26-43(c), 26-209(c), 26-392(c), and 26-493(c) authorize each enterprise to exercise certain powers in furtherance of its purposes, including the power to hold meetings concurrently with regular or special meetings of the City Council; and

WHEREAS, the City Council, acting ex officio as the board of each enterprise, has historically interpreted and implemented City Code Sections 26-43(c), 26-209(c), 26-392(c), and 26-493(c) calling for meetings concurrently with regular or special meetings of the City Council by noticing and holding enterprise board meetings on the same date and immediately following a regular or special meeting of the City Council; and

WHEREAS, in response to repeated citizen objections to the manner in which the City Council, acting ex officio as the board of each enterprise, has historically interpreted and implemented these Code provisions, the City Council desires to clarify and confirm, by amending City Code Sections 26-43(a), 26-209(a), 26-392(a), and 26-493(a) to expressly so state, that the officers of each enterprise are the City's Mayor (as board president), Mayor Pro Tem (as board vice-president), Financial Officer (as board treasurer), and City Clerk (as board secretary), and that such officers have the same authority to execute each enterprise's ordinances, debt obligations, and other instruments as they have when acting in their City offices under applicable law; and

WHEREAS, the City Council also desires to amend City Code Sections 26-43(c), 26-209(c), 26-392(c), and 26-493(c) to provide that enterprise board meetings may be held at any time upon the provision of public notice as required for meetings of the City Council as part of a regular or special Council meeting.

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 26-43 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-43. - Utility considered a City-owned enterprise.**

(a) The utility shall constitute an enterprise of the City which may, by ordinance of the City Council, acting ex officio as the board of such enterprise, issue its own revenue bonds or other obligations (including refunding securities) on behalf of the City, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the City used in the operation of the enterprise. The ordinance issuing any such revenue bonds or other obligations shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the City Council. The officers of the enterprise shall be the mayor as president, the mayor pro tem as vice president, the financial officer as treasurer and the city clerk as secretary. These officers shall have the same authority and duties with respect to the enterprise as they have when acting as officers of the City, including without limitation, the authority to sign the enterprise's ordinances, resolutions, revenue bonds or other obligations, and other instruments.

...

(c) The enterprise shall also be authorized to have and exercise the following powers in furtherance of its purposes: to hold meetings upon the call of the mayor as president (or the mayor pro tem as vice president in the case of incapacity or unavailability of the mayor) or the City Manager, after public notice provided in the manner required for and as part of a regular or special meeting of the City Council, to have and use a seal, to issue its revenue bonds for water purposes in the manner in which City revenue bonds may be issued, to pledge any revenues of the City's water system to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the water system in the manner in which City contracts may be entered into, to make representations, warranties and covenants relating to the water system on behalf of the City, to exercise rights and privileges of the City relating to the water system and to bind the City to perform any obligation relating to the water system other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years.

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Section 3. That Section 26-209 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-209. - Utility considered a City-owned enterprise.**

(a) The utility shall constitute an enterprise of the City which may, by ordinance of the City Council, acting ex officio as the board of such enterprise, issue its own revenue bonds or other obligations (including refunding securities) on behalf of the City, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the City used in the operation of the enterprise. The ordinance issuing any such revenue bonds or other obligations shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the City Council. The officers of the enterprise shall be the mayor as president, the mayor pro tem as vice president, the financial officer as treasurer and the city clerk as secretary. These officers shall have the same authority and duties with respect to the enterprise as they have when acting as officers of the City, including without limitation, the authority to sign the enterprise's ordinances, resolutions, revenue bonds or other obligations, and other instruments.

...

(c) The enterprise shall also be authorized to have and exercise the following powers in furtherance of its purposes: to hold meetings upon the call of the mayor as president (or the mayor pro tem as vice president in the case of incapacity or unavailability of the mayor) or the City Manager, after public notice provided in the manner required for and as part of a regular or special meeting of the City Council, to have and use a seal, to issue its revenue bonds for wastewater purposes in the manner in which City revenue bonds may be issued, to pledge any revenues of the City's wastewater system to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the wastewater system in the manner in which City contracts may be entered into, to make representations, warranties and covenants relating to the wastewater system on behalf of the City, to exercise rights and privileges of the City relating to the wastewater system and to bind the City to perform any obligation relating to the wastewater system other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years.

...

Section 4. That Section 26-392 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-392. - Electric utility and telecommunication services division considered a single city-owned enterprise.**

(a) The electric utility, including the telecommunication services division, shall constitute a single enterprise of the City, to be known as the electric utility enterprise, which may, by ordinance of the City Council, acting ex officio as the board of such enterprise, issue its own revenue bonds or other obligations (including refunding securities) on behalf of the City, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived from the operation of the electric utility enterprise. Such revenue bonds or other obligations may

be additionally secured by mortgages on or security interests in any real or personal property of the City used in the operation of the electric utility enterprise. The ordinance issuing any such revenue bonds or approving any such other obligations shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the City Council. The officers of the enterprise shall be the mayor as president, the mayor pro tem as vice president, the financial officer as treasurer and the city clerk as secretary. These officers shall have the same authority and duties with respect to the enterprise as they have when acting as officers of the City, including without limitation, the authority to sign the enterprise's ordinances, resolutions, revenue bonds or other obligations, and other instruments.

...

(c) The electric utility enterprise shall also be authorized to have and exercise the following powers in furtherance of its purposes: to hold meetings upon the call of the mayor as president (or the mayor pro tem as vice president in the case of incapacity or unavailability of the mayor) or the City Manager, after public notice provided in the manner required for and as part of a regular or special meeting of the City Council; to have and use a seal; to issue its revenue bonds for purposes related to the electric utility enterprise, including the electric utility system and the telecommunication system, in the manner in which City revenue bonds may be issued; to pledge any revenues of the electric utility enterprise, including the City's electric utility and the telecommunication services division to the payment of such revenue bonds and to pay such revenue bonds therefrom; to enter into contracts relating to the electric utility and the telecommunication services division in the manner in which City contracts may be entered into; to make representations, warranties and covenants relating to the electric utility and the telecommunication services division on behalf of the City; to exercise rights and privileges of the City relating to the electric utility and the telecommunication services division; and to bind the City to perform any obligation relating to the electric utility and the telecommunication services division other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years.

...

Section 5. That Section 26-493 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-493. - Utility considered a City-owned enterprise.**

(a) The utility shall constitute an enterprise of the City which may, by ordinance of the City Council, acting ex officio as the board of such enterprise, issue its own revenue bonds or other obligations (including refunding securities) on behalf of the City, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the City used in the operation of the enterprise. The ordinance issuing any such revenue bonds or

other obligations shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the City Council. The officers of the enterprise shall be the mayor as president, the mayor pro tem as vice president, the financial officer as treasurer and the city clerk as secretary. These officers shall have the same authority and duties with respect to the enterprise as they have when acting as officers of the City, including without limitation, the authority to sign the enterprise's ordinances, resolutions, revenue bonds or other obligations, and other instruments.

...

(c) The enterprise shall also be authorized to have and exercise the following powers in furtherance of its purposes: (1) to hold meetings upon the call of the mayor as president (or the mayor pro tem as vice president in the case of incapacity or unavailability of the mayor) or the City Manager, after public notice provided in the manner required for and as part of a regular or special meeting of the City Council; (2) to have and use a seal; (3) to issue its revenue bonds for stormwater purposes in the manner in which the City revenue bonds may be issued; (4) to pledge any revenues of the City's stormwater system to the payment of such revenue bonds and to pay such revenue bonds therefrom; (5) to enter into contracts relating to the stormwater system in the manner in which City contracts may be entered into; (6) to make representations, warranties and covenants relating to the stormwater system on behalf of the City; (7) to exercise rights and privileges of the City relating to the stormwater system; and (8) to bind the City to perform any obligation relating to the stormwater system other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years.

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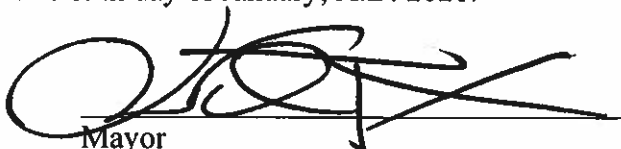
Introduced, considered favorably on first reading, and ordered published this 5th day of January, A.D. 2021, and to be presented for final passage on the 19th day of January, A.D. 2021.

ATTEST:

  
City Clerk


Passed and adopted on final reading on this 19th day of January, A.D. 2021.

  
Mayor

ATTEST:

  
City Clerk

