

ORDINANCE NO. 016, 2021
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
TO CLARIFY UTILITIES' RIGHT OF ENTRY INTO BUILDINGS AND ONTO PREMISES
TO ACCESS UTILITIES EQUIPMENT, FACILITIES, AND APPURTENANCES FOR
UTILITIES PURPOSES

WHEREAS, the City owns and operates Fort Collins Utilities ("Utilities"), which provides various utility services, including water, wastewater, stormwater, electric, and broadband services; and

WHEREAS, City of Fort Collins Charter Article XII, Section 2 sets forth a right of entry, such that the directors and employees of city-owned utilities shall have authority in the necessary discharge of their duties to enter upon any lands, properties or premises, within or without the city limits, for the examination or survey thereof, or for the purpose of repairing, inspecting, removing, or connecting the service, reading meters, or any other purpose whatever in connection with the water, wastewater, electric, and other utilities; and

WHEREAS, for Utilities to operate and administer the systems for these services, and to bill customers for these services, authorized Utilities personnel require clear, safe, and reliable access to Utilities equipment, facilities, and appurtenances; and

WHEREAS, some of these Utilities equipment, facilities, and appurtenances, including meters and curb stops, are located on or in private buildings and premises served by Utilities; and

WHEREAS, Utilities personnel therefore require and have historically had, as a condition of service and pursuant to the City's authority as a home rule municipality and utility provider, a right of entry and similar access rights into buildings and onto premises served by Utilities for purposes of discharging their duties and enforcing provisions of City Code that are related to Utilities; and

WHEREAS, Utilities requires clear rules related to these Utilities equipment, facilities, and appurtenances located on or in private buildings and premises served by Utilities, which also benefit customers by clarifying the rights of Utilities, customers, and the owners/occupants of such buildings and premises; and

WHEREAS, these rules related to such Utilities equipment, facilities, and appurtenances are current found in various sections of the City Code, including Sections 26-22, 26-98, 26-99, 26-219, 26-399, and 26-577; and

WHEREAS, Utilities staff has identified various aspects of these relevant City Code sections that call for clarification and modification to more clearly articulate Utilities' historical right of entry and the corresponding rights of customers and the owners/occupants of such buildings and premises, including the addition of procedures for disputes to be resolved by the Municipal Court when necessary; and

WHEREAS, this Ordinance amends the relevant City Code sections to accomplish these purposes.

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 26-22 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-22. Right of entry.

(a) Utilities personnel must have clear, safe, and reliable access to utilities equipment, facilities, and appurtenances, including meters, curb stops, fire hydrants, lines, and manholes, located on or in private buildings and premises for utilities' operation, administration, and billing of service. Such access is hereby provided as a right of entry pursuant to this Section.

(b) In connection with the necessary discharge of their duties and the enforcement of the provisions of this Chapter, authorized utility personnel shall, at all reasonable times, have the right to enter any private building or premises within or without the City served by one (1) or more of the utilities for any purpose directly related or incidental to: supplying a utility service; examinations or surveys related to a service; inspections, installations, maintenance, repair, and replacement of equipment, facilities, and appurtenances; connection and disconnection of services; reading and replacing meters; replacing curb stops; inspections to enforce any of the provisions of this Chapter; and performing any of their duties. The right of entry includes the right to enter whenever authorized utility personnel have reasonable cause to believe that there exists in any building or upon any premises any condition or violation which makes such building or premises unsafe, dangerous, or hazardous, or presents a significant, immediate danger to human health or the environment. This provision is not intended to modify the right of access described elsewhere in this Chapter.

(c) It is unlawful for any person to interfere with the reasonable access of authorized utility personnel to utilities-owned equipment, facilities, and appurtenances located on or in buildings and premises. Such unlawful interference includes constructing or placing covers on or allowing vegetation to interfere with meters or other utilities equipment, facilities, and appurtenances and any other interference with the ability of utilities personnel to discharge their duties.

(d) If such building or premises is occupied at the time entry is required, the authorized utility personnel shall first present proper credentials and request entry. If such building or premises is unoccupied, the authorized utility personnel shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(e) If such entry is not granted, the authorized utility personnel shall have recourse to every remedy provided by law to secure entry and access. Such recourse shall include the right to petition the Municipal Court for an order, injunction, inspection warrant, and/or other relief confirming and securing the right to enter the specific buildings and premises, subject to any terms and conditions that may be necessary to protect persons and property, including reimbursement to utilities for associated costs that may be billed to the customer's account when appropriate. When authorized utility personnel have obtained a remedy provided by law to confirm and secure entry, no owner or occupant or any other persons having charge, care, or control of any building or premises shall fail or neglect, after a request is made, to promptly permit entry therein by the authorized utility personnel for proper purposes. Any such failure to permit entry upon request pursuant to a valid order, injunction, inspection warrant, and/or other relief shall be a misdemeanor punishable as set forth in § 1-15 of this Code.

(f) If any person interferes with the right of entry under this section, authorized utility personnel shall have recourse to every remedy provided by law to secure entry and access and to remove any impediments. Such recourse shall include the right to petition the Municipal Court for an order confirming the right to enter the specific buildings and premises, to remove any impediments, and to impose terms and conditions that may be necessary to protect persons and property, including reimbursement to utilities for associated costs that may be billed to the customer's account when appropriate.

(g) Regardless of whether authorized utilities personnel have sought any other remedy, if access to utilities equipment, facilities, and appurtenances located on or in private buildings and premises is not provided or if a meter cannot be read for three (3) consecutive months, utilities shall be entitled to discontinue utilities services until access to such equipment, facilities, and appurtenances is provided or the meter is read by utilities personnel, provided that the customer and owner/occupant premise has been notified by first class mail that this conditions must be corrected at least fourteen (14) days before the discontinuation of service.

(h) An appropriate property owner or representative shall permit the utilities to trim the limbs and branches of trees, shrubs, or other vegetation to the extent that utilities personnel determine is reasonably necessary to avoid interference with utilities equipment, facilities, and appurtenances, or to allow access to the utilities equipment, facilities, and appurtenances on said owner's premises or in the public right-of-way.

(i) The property owner shall be responsible for such trimming of trees, shrubs, or other vegetation as may be necessary to avoid interference with, and allow access to, the utilities' meter, underground service wires, or other utilities-owned equipment, facilities, and appurtenances on said owner's premises. Nothing in this Section shall be construed as requiring the owner of a private property to trim or remove any trees or shrubs when such trimming or removing is required to prevent interference with City-owned overhead electric utility lines. It shall be the duty of the City to do any cutting, trimming, pruning or removing of trees or shrubs necessary for the safe use of such lines.

Section 3. That Section 26-98 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-98. Water meter requirements and installation.

...

(d) If, during the inspection, installation, maintenance, repair, or replacement of a water meter outside of a user's residential or nonresidential unit, it is determined that the water service line does not conform to the provisions of §§ 26-94, 26-95, and 26-97, the entire cost of repairing or replacing such water service line shall be borne by the user.

(e) All water meters and setting devices shall be of a type, size and design approved by the Utilities Executive Director and furnished by the utility.

(f) The water meter is the property of the water utility. The utility shall inspect, install, maintain, repair, and replace all meters as necessary. Such work may be performed at any reasonable time by the utility.

...

Section 4. That Section 26-99(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-99. Meter interference; damages.

...

(b) The utility will discontinue water service immediately to any user who violates the provisions of this Section until the user has paid for all water used and all repairs to the meter, including the replacement cost if applicable.

...

Section 5. That Section 26-219 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-219. Inspections; right of access.

(a) The Utilities Executive Director may inspect the equipment and facilities of any user at any reasonable time to ascertain compliance with applicable ordinances, rules and regulations. Persons or occupants of premises where wastewater is created or discharged shall allow utility personnel ready access to the premises for the purposes of inspection, sampling, records examination and copying, and performance of any of their duties. The utility shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance-monitoring and/or metering operations, including meters, water communications modules and water meter touchpads. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make the

necessary arrangements so that, upon presentation of suitable identification, utility personnel will be permitted to enter without delay for the purposes of performing their specific responsibilities. While performing the necessary work on private property, utility personnel shall observe all security and safety rules applicable to the premises as established by the user.

(b) If a duly authorized representative of the utility is refused admission to a user's premises or any City owned facilities thereon, including meters, communications modules and water meter touchpads, the Utilities Executive Director may discontinue water or wastewater service to the premises until utility representatives have been afforded reasonable access to the premises and private sewer system to accomplish the inspection or sampling. The Utilities Executive Director may also petition the Municipal Court for an order, injunction, inspection warrant, and/or other relief confirming and securing the right to enter the specific buildings and premises as described in §26-22.

Section 6. That Section 26-399(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-399. Inspections; right of access.

...

(b) If a duly authorized representative of the utility is refused admission to a user's premises, or any City owned facilities thereon, including meters, communications modules and meter touchpads, the Utilities Executive Director may discontinue electric service to the premises until utility representatives have been afforded reasonable access to the premises and the building electrical system to accomplish inspection and/or monitoring. The Utilities Executive Director may also petition the Municipal Court for an order, injunction, inspection warrant, and/or other relief confirming and securing the right to enter the specific buildings and premises as described in §26-22.

Section 7. That Section 26-577 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-577. Inspection; right of access.

(a) The City Manager or his or her designee, including the Broadband Executive Director, may inspect any portion of the telecommunication services system and any equipment and facilities of any telecommunication subscriber at any reasonable time to ascertain compliance with applicable ordinances, terms and conditions of service and rules and regulations. Persons or occupants of premises receiving telecommunication facilities and services shall allow telecommunication services personnel ready access to the premises, including the interior thereof, for the purposes of such inspection and performance of any of their duties and any such persons or occupants shall, by granting such access, represent and warrant to the City and the telecommunication services division that they have the legal right and authority to grant that access. The telecommunication services division shall have the right to set up on the subscriber's property such devices as are necessary to conduct inspection, compliance-monitoring and/or


maintenance operations. Where a telecommunication subscriber has security measures in place that would require proper identification and clearance before entry into a served premises, the subscriber shall make the necessary arrangements so that, upon presentation of suitable identification, telecommunication utility personnel will be permitted to enter without delay for the purposes of performing specific responsibilities. While performing necessary work on private property, telecommunication services division personnel shall observe all security and safety rules applicable to the premises as established by the telecommunication subscriber.

(b) If a duly authorized representative of the telecommunication services division is refused admission to a subscriber's premises, or any City owned facilities, including communications modules and equipment, the City Manager or his or her designee, including the Broadband Executive Director, may discontinue telecommunication services until telecommunication services division representatives are afforded access to the premises and the telecommunication facilities and equipment located thereon to accomplish inspection and/or monitoring. The Utilities Executive Director may also petition the Municipal Court for an order, injunction, inspection warrant, and/or other relief confirming and securing the right to enter the specific buildings and premises as described in §26-22.

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.

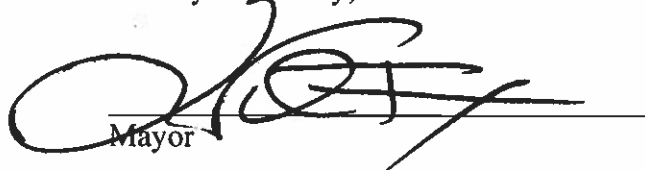


ATTEST:


City Clerk



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


Mayor

ATTEST:


City Clerk

