

**DATE:** November 3, 2009  
**STAFF:** Ellen Switzer

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**16**

**SUBJECT**

Public Hearing and First Reading of Ordinance No. 121, 2009, Amending Chapter 26 Article XII of the City Code Relating to Utility Billing Errors.

**EXECUTIVE SUMMARY**

This Ordinance codifies the Utilities' current administrative policy which addresses utility billing errors. When a customer is overcharged, the Utilities will refund the customer the overcharge for a period not to exceed six years from the time the error is discovered. If a customer is undercharged for services received, the Utility will back bill the customer only if the undercharges occurred less than six years before the date the error is discovered and either the undercharges are for a minimal amount or the customer could not have discovered the error with reasonable inquiry. No interest will be paid or collected.

**BACKGROUND / DISCUSSION**

Utilities staff endeavors to accurately compute all electric, water, wastewater and stormwater billings, but misreporting, data errors and equipment failures do occur. When customer billing errors are discovered, corrections are made based on an administrative policy approved in 2000. Essentially, overpayments are reimbursed for a period not to exceed 6 years and under-billings are forgiven when it is reasonable to presume that customer was unaware of the billing error. The administrative policy has functioned well in the vast majority of circumstances; however, it lacks the authority of City Code. The proposed language incorporates the existing billing error policies as a new section in Chapter 26 of the City Code.

The proposed new section also stipulates that it is a punishable Code violation for a customer to make any attempt or action to mislead the utility related to a billing error. It further states that the customer is responsible for due diligence in reviewing their billing statements and for reporting errors to the Utilities.

In addition to the new Code Section 26-721 titled *Billing errors*, the Ordinance makes clarifications in Section 26-119 *Charges in event of meter failure*. The Ordinance also retitles Section 26-720 from "*Administrative procedures*" to "*Administrative rules and regulations*".

**FINANCIAL IMPACTS**

No financial impacts are anticipated since this proposed ordinance codifies existing practice for correcting billing errors.

**STAFF RECOMMENDATION**

Staff recommends adoption of the Ordinance on First Reading.

**BOARD / COMMISSION RECOMMENDATIONS**

Both the Water Board and the Electric Board reviewed the billing error codification as part of their individual 2010-2011 budget and rates and fees discussions before final language was developed. Both Boards voted unanimously to recommend to Council to approve the codification of existing policy related to billing errors.

**PUBLIC OUTREACH**

A notice to out-of-city electric customers related to the billing error code changes was published in the *Coloradoan* on October 11, 2009. A similar notice was also mailed by postcard to out-of-city customers. The proposed Code changes have been posted on the City's website at [www.fcgov.com/publicnotices](http://www.fcgov.com/publicnotices) since October 9, 2009.

**ATTACHMENTS**

1. Water Board Meeting minutes, August 27, 2009
2. Electric Board Meeting minutes, September 14, 2009
3. PowerPoint slides from Board presentations

**Excerpt from Approved Water Board August 27, 2009, Minutes**

Recorded by Meagan Peil, Customer Service Representative, Utilities

**2010-2011 Budget Presentation**

Utilities Finance Manager Terri Bryant presented the water, wastewater, stormwater, and customer service and administration budgets for 2010-2011. The budget assumptions are based on three percent inflation, no salary increases in 2010 with a two percent increase in 2011, and conservative growth projections.

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*Customer Service and Administration:*

The proposed customer service and administration budget for 2010-2011 is \$16 million per year and includes Light and Power and water utilities. This fund area covers customer services, meter reading, locates, education and safety. The \$2.1 million increase goes to fund critical new positions, payments for MIS services, space planning and relocating the customer service division in March 2010. Also, code language is being changed to address billing errors (under and over billing).

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**Motion:**

Recommendation to Council to approve codification language of existing policy related to billing errors.

Board Member Waskom moved to approve the motion, and Board Member Brown seconded the motion.

*Discussion on the motion:*

*Why don't we see the final language?*

The language will be written at a later time; we are looking for a motion on the concept of the language.

A friendly amendment was proposed to remove the word "language" from the original motion.

Board Member Waskom accepted the friendly amendment, and it was seconded by Board Member Brown.

The amended motion reads:

Recommendation to Council to approve codification of existing policy related to billing errors.

Vote on the motion was unanimous. Motion passed.

**Excerpt from Approved Electric Board September 14, 2009, Minutes**

Recorded by Meagan Peil, Customer Service Representative, Utilities

**2010-2011 Budget Presentation**

(Presentation available upon request)

Utilities Finance and Budget Manager Terri Bryant introduced Utilities Financial Operations Manager Ellen Switzer to present the proposed 2010-2011 Light and Power Budget.

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**Summary**

In summary, the 2010 budget is \$115, 985, 597, and the 2011 budget is \$115,343, 797. There is a proposed monthly rate increase of 9.5 percent in 2010 and 8.6 percent in 2011 which can be offset by conservation. The electric development fees will increase 1.2 percent for residential and 1.8 percent for commercial. Also, staff are exploring codification for the billing error policy.

**Motion:**

**Board Member Barnish moved that the Board recommend that City Council approve the codification of the billing error policy.**

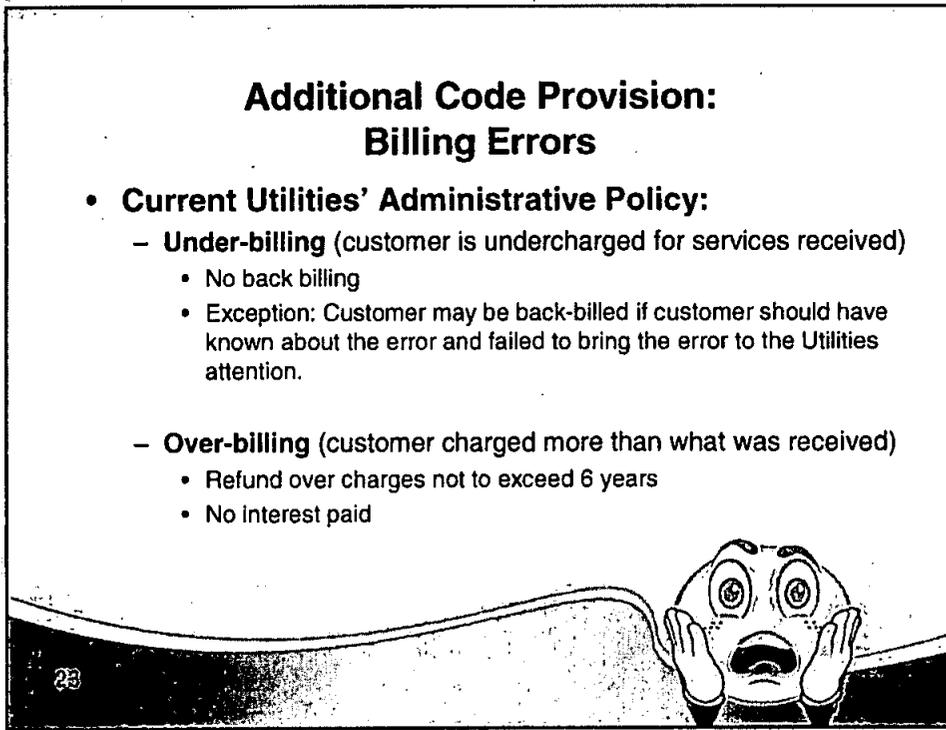
Board Member Harris seconded the motion.

The vote on the motion was unanimous. Motion passed.

## ELECTRIC &amp; WATER BOARD PRESENTATION SLIDE / BILLING ERROR POLICY

### Additional Code Provision: Billing Errors

- **Current Utilities' Administrative Policy:**
  - **Under-billing** (customer is undercharged for services received)
    - No back billing
    - Exception: Customer may be back-billed if customer should have known about the error and failed to bring the error to the Utilities attention.
  - **Over-billing** (customer charged more than what was received)
    - Refund over charges not to exceed 6 years
    - No interest paid

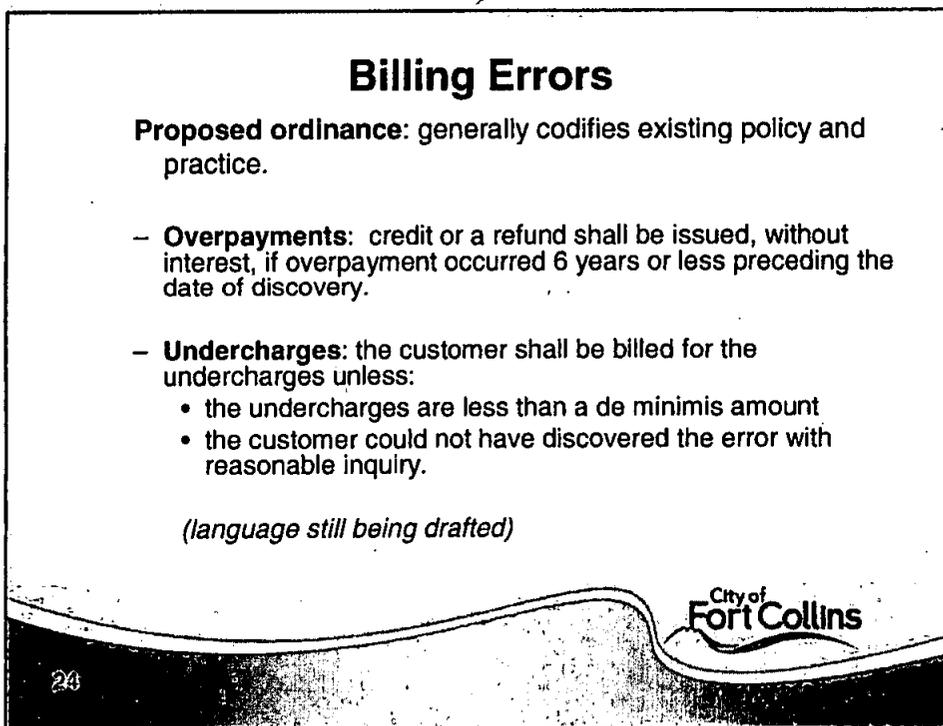


### Billing Errors

**Proposed ordinance:** generally codifies existing policy and practice.

- **Overpayments:** credit or a refund shall be issued, without interest, if overpayment occurred 6 years or less preceding the date of discovery.
- **Undercharges:** the customer shall be billed for the undercharges unless:
  - the undercharges are less than a de minimis amount
  - the customer could not have discovered the error with reasonable inquiry.

*(language still being drafted)*



ORDINANCE NO. 121, 2009  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 26 ARTICLE XII OF THE CODE OF THE CITY OF FORT  
COLLINS RELATING TO BILLING ERRORS

WHEREAS, the City maintains water, wastewater, stormwater and electric utilities, each with several thousand customers; and

WHEREAS, while City staff endeavors to accurately compute all billings to the City's utility customers, data errors and equipment failures do occur; and

WHEREAS, in 2000, City staff adopted an administrative policy to address billing errors; and

WHEREAS, City staff believes that formalizing the utility's administrative billing errors policy in the City Code will provide clarity with regard to the limitations and requirements associated with utility billing errors; and

WHEREAS, the City Council has determined that the amendments accomplished by this Ordinance are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 26-119 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-119. Charges in event of meter failure.**

If any meter should fail to properly register a customer's water use in any billing period, the user shall be charged according to the average quantity of water used by such customer in a similar period as shown by the meter when performing properly. In the case of a discrepancy between the readings at the remote readout and the head of the meter, the amount of water registered at the head of the meter governs. Additional charges or customer refunds related to a meter or meter readout malfunction ~~may~~**will** be made in accordance with ~~§26-721 and~~ the administrative ~~policies~~**rules and regulations** adopted by the ~~Utilities~~**Financial Officer pursuant to §26-720.**

Section 2. That the title of Section 26-720 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 26-720. Administrative procedures**~~rules and regulations~~

Section 3. That Chapter 26, Article XII of the Code of the City of Fort Collins is hereby amended by the addition of a new section 26-721 which reads in its entirety as follows:

**Sec. 26-721 Billing errors.**

(a) When an error has been made in an account, the following shall apply:

(1) When the utility determines that a utility customer has overpaid for utility service and the overpayment occurred no more than six (6) years before the date the error is made known to the utility, the utility will issue to the customer a credit or a refund, without interest, as reimbursement for the overpayment if each of the following conditions is met:

- (i) the customer could not have discovered the error with reasonable inquiry prior to the date of discovery;
- (ii) documentation evidencing the overpayment is available in utility records or has been provided to the utility; and
- (iii) the utility confirms the accuracy and sufficiency of the documentation based on utility records.

(2) When the utility determines that a current utility customer has been undercharged and has underpaid for utility service, the customer shall be billed for the undercharges unless the undercharges occurred more than six (6) years before the date the error is discovered and either of the following conditions is met:

- (i) the undercharges are for a minimal amount based on a threshold established by the administrative rules and regulations adopted by the Financial Officer pursuant to 26-720; or
- (ii) the customer could not have discovered the error with reasonable inquiry.

(b) Any attempt or action by a utility customer to mislead the utility with regard to a billing error shall be a violation of the Code, punishable as provided in §1-15. Each day upon which any violation shall continue shall constitute a separate offense, punishable as such.

(c) Each utility customer is responsible for using reasonable diligence to review billing statements and for immediately notifying the utility of a billing error.

Introduced, considered favorably on first reading, and ordered published this 3rd day of November, A.D. 2009, and to be presented for final passage on the 17th day of November, A.D. 2009.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 17th day of November, A.D. 2009.

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Mayor

ATTEST:

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City Clerk