

AGENDA ITEM SUMMARY

June 1, 2021

City Council

STAFF

Lance Smith, Utilities Strategic Finance Director
Cyril Vidergar, Legal

SUBJECT

First Reading of Ordinance No. 078, 2021, Approving Emergency Rule and Regulation No. 2021-01 Permitting Utility Billing Payment Plans for Past Due Amounts on Terms Other Than Those Set Forth in the Fort Collins Municipal Code and Enacted by the City Manager Pursuant to the Local COVID-19 Emergency.

EXECUTIVE SUMMARY

The purpose of this item is to approve Emergency Rule and Regulation No. 2021-01 enacted by the City Manager in response to resuming normal utility business operations after the COVID-19 pandemic. Emergency Rule and Regulation No. 2021-01 suspends the “full-payment” of outstanding balances requirement of City Code Section 26-713(e) and will allow customers to enter a payment plan to have utility services restored immediately upon payment of a portion of their outstanding balances. The Ordinance also expressly suspends that Code Section.

Section 2-671(a)(6)(a) of the City Code provides that emergency rules and regulations must be confirmed at the earliest practical time by the Council. This Ordinance seeks Council’s approval and ratification of Emergency Rule and Regulation No. 2021-01. By enacting this Ordinance ratifying Regulation No. 2021-01, the City’s Utility billing will begin a transition back to normal business practices, as defined by Section 26-713(e) of the Municipal Code which requires that any outstanding balance be paid in full before utility services are restored.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Fort Collins Utilities has not disconnected delinquent utility service accounts since March 2020, when Governor Polis’ office issued initial executive orders directing public utilities to suspend: 1) utility service disconnections; and 2) imposing fees for utility customers who were late on monthly bill payments. Though the Governor’s order suspending disconnections expired in June 2020, Utilities continued to pause disconnects and late fees as the City dispensed federal financial assistance, including CARES Act funding, to help customers struggling to pay their utility bills. Governor Polis’ executive order directing suspension of late or reconnection fees on past-due accounts also recently expired in April 2021.

While CARES federal assistance allowed some customers to become current on their utility accounts, extended suspension of late fees and disconnects has resulted in some customers potentially having up to 12 months of past due utility charges. To assist customers in managing those balances, Utilities staff began contacting customers in late 2020 to create payment plans, and as discussed with Council on March 16, 2021, resuming service disconnects for delinquent utility accounts in May 2021.

To offer time for customers and staff to respond to this latest process adjustment, Utilities will delay imposing late and reconnection fees until July 2021. Recent disconnect notices reflect this information, as well as outlining Utilities' continued efforts to present financial assistance. Disconnect notices will continue to be revised as new financial assistance becomes available.

City Code Section 26-713(e) requires that all past due balances be paid in full before utility services are restored after disconnection due to late payment. This requirement may create an additional hurdle for customers who desire to resume services but still lack the financial resources to bring their accounts current. As such, this Ordinance seeks to suspend the "full-payment" of outstanding balances required by City Code Section 26-713(e) and will allow customers to enter a payment plan to address their past due balance and have utility services restored immediately upon payment of a portion of their outstanding balances.

Regular monthly payment collection for utility services is essential to ensure the Utilities' financial integrity as required by the City Charter, and their ability to continue delivering reliable and high-quality electric, water, wastewater, and stormwater services.

Delinquent Account Status, Including Revenue:

The number of delinquent accounts fluctuates each month, and Utilities typically writes off \$300,000-\$600,000 annually in uncollected revenue as bad debt. If it becomes necessary to write off the current outstanding balance of more than \$2 million, Utilities intends to use reserves rather than bring a rate increase to Council.

Outreach and Financial Assistance Provided to Customers with Delinquent Accounts:

Disconnect notices (but not actual disconnections) resumed in November 2020 to remind customers with past due bills that a balance was still owed, providing them with options and financial assistance programs available. Since that time, customers with delinquent accounts have regularly received monthly notices encouraging them to contact Utilities immediately and informing them of their options, which include:

- Paying your bill;
- Setting up a payment arrangement;
- Contacting an agency partner for assistance;
- Applying for income-qualified utility/rent assistance; and/or
- Attending a free webinar to learn about payment assistance options.

Utilities has nine billing cycles scheduled throughout the month. Notices are sent by cycle to customers whose accounts have a past-due balance. Seven to ten days after a notice of disconnection is sent, the account is eligible to be disconnected (most are disconnected remotely). Per the cycle schedule, actual disconnects resumed May 12, 2021.

Utilities has provided financial assistance to customers struggling to pay their Utilities bill to decrease the likelihood that they will be disconnected. In 2020 and 2021, Utilities distributed \$575,910 in CARES Act funding to 1,423 residential and commercial customers and \$439,590 in Payment Assistance Fund (PAF) support to 1,152 residential customers. Outreach has included mailings, emails, and phone calls directly to impacted customers to advise them of the available funding, as well as webinars to help customers navigate options available to them.

In 2021, Utilities partnered with Neighbor to Neighbor (N2N) to provide Utilities assistance to customers who are unable to pay their utility bill due to impacts from COVID-19, are renters, and are making 80% or less of Area Median Income. Since the launch of the program in mid-April, 42 residential customers have received \$17.362 in assistance.

Financial Assistance Being Considered

Currently, Utilities is waiting for crucial decisions to be made regarding state and federal stimulus packages. The biggest unknown at this time is President Biden's American Rescue Plan and the specifics of financial

assistance that will be available for utility assistance. Below is a summary of financial assistance currently being considered for distribution to delinquent accounts.

Utility-Led Financial Assistance

The appropriation of \$468,941 from the 2020 Platte River Power Authority gift/donation was approved by Council on April 20, 2021 for utility customer assistance. The program is similar to the CARES Act application process in 2020, with the initial focus on commercial customers since financial assistance is less available for this customer class. Each delinquent commercial customer was contacted on the details of their utility bill by a staff member from the Utilities Customer Accounts team, who assisted each customer with the application. The funds will be distributed on a first-come, first-served basis, and customers must demonstrate economic hardship due to the COVID-19 pandemic. Since we launched the program in May 2021, 37 customers have received \$76,185 in assistance.

Third party, non-profit led financial assistance includes:

- Payment Assistance Fund - Energy Outreach Colorado \$371,650
- Consolidated Appropriations Act funds for Larimer County \$10.7M

CITY FINANCIAL IMPACTS

The loss of revenues from late fees and reconnection charges is not expected to have a significant ongoing financial impact on the utility enterprise funds. Historically, late fees and reconnection charges have provided around \$500,000 annually to cover the administrative costs of additional billing and disconnections/reconnections. These costs were minimized in 2020 with the suspension of these business practices.

BOARD / COMMISSION RECOMMENDATION

Because of the urgency of the need for this Ordinance to ratify the City Manager's Emergency Rules and Regulations (No. 2021-01), this item has not been presented to the Energy Board or Water Commission before being presented to Council for your consideration.

ORDINANCE NO. 078, 2021
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING EMERGENCY RULE AND REGULATION NO. 2021-01 PERMITTING
UTILITY BILLING PAYMENT PLANS FOR PAST DUE AMOUNTS ON TERMS OTHER
THAN THOSE SET FORTH IN THE FORT COLLINS MUNICIPAL CODE AND
ENACTED BY THE CITY MANAGER PURSUANT TO THE
LOCAL COVID-19 EMERGENCY AND TEMPORARILY SUSPENDING IN PART THE
APPLICATION OF CITY CODE SECTION 26-713(e)

WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19); and

WHEREAS, in early March 2020 declarations of emergency regarding COVID-19 were issued by then-President Trump, Governor Polis and the Larimer County Department of Public Health and Environment; and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and in order to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City's Office of Emergency Management, proclaimed a "local emergency" in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the City Council extended the local emergency until such time as the City Manager determines in writing that the conditions justifying the local emergency no longer exist, with the adoption of Resolution 2020-030 on March 20, 2020; and

WHEREAS, having proclaimed a local emergency, the City Manager has issued emergency rules and regulations to protect the health and safety of City residents and visitors; and

WHEREAS, at its adjourned meeting on March 31, 2020, the City Council adopted Resolution 2020-032, approving the Emergency Rules and Regulations that the City Manager had issued as of that date, including the following:

- a. Emergency Regulation No. 2020-01, dated March 17, 2020;
- b. Emergency Regulation No. 2020-02, dated March 19, 2020;
- c. Emergency Regulation No. 2020-03, dated March 19, 2020;
- d. Emergency Regulation No. 2020-04, dated March 20, 2020; and
- e. Amended Emergency Regulation No. 2020-05A, dated March 30, 2020 (terminated on May 24, 2021);

and

WHEREAS, at its regular meeting on April 7, 2020, the City Council adopted Resolution 2020-036, approving the Emergency Rules and Regulations that the City Manager had issued as of that date, including the following:

- a. Emergency Regulation No. 2020-06, dated April 1, 2020;
- b. Emergency Regulation No. 2020-07, dated April 1, 2020 (terminated on June 14, 2020); and
- c. Emergency Regulation No. 2020-08, dated April 4, 2020;

and

WHEREAS, at its regular meeting on April 21, 2020, the City Council adopted Resolution 2020-038 approving the Emergency Rules and Regulations that the City Manager had issued as of that date, including the following:

- a. Emergency Regulation No. 2020-09 (suspended on April 28, 2020);
- b. Emergency Regulation No. 2020-010;
- c. Emergency Regulation No. 2020-011; and
- d. Emergency Regulation No. 2020-012 ;

and

WHEREAS, at its regular meeting on May 5, 2020, the City Council adopted Emergency Ordinance No. 070, 2020, approving the Emergency Rules and Regulations that that the City Manager had issued as of that date, including the following:

- a. Emergency Regulation No. 2020-013 ;
- b. Emergency Regulation No. 2020-014; and
- c. Amended Emergency Regulation No. 2020-015A;

and

WHEREAS, at its regular meeting on May 19, 2020, the City Council adopted Emergency Ordinance No. 073, 2020, approving the Emergency Rules and Regulations that that the City Manager had issued as of that date, including Emergency Regulation No. 2020-016; and

WHEREAS, at its regular meeting on June 20, 2020, the City Council adopted Emergency Ordinance No. 080, 2020, approving the Emergency Rules and Regulations that the City Manager had issued as of that date, including the following:

- a. Emergency Regulation No. 2020-017; and
- b. Emergency Regulation No. 2020-018 (terminated on May 17, 2021);

and

WHEREAS, at its regular meeting on October 6, 2020, the City Council adopted Emergency Ordinance No. 124, 2020, approving the Emergency Rules and Regulations that the City Manager had issued as of that date, including updated Amended Emergency Regulation No. 2020-17A; and

WHEREAS, the declared local emergency and Emergency Rules and Regulations No. 2020-01 through 2020-018, except those expressly terminated and expressly amended (the "Existing Emergency Rules and Regulations") remain in full force and effect; and

WHEREAS, since the Council's adoption of Emergency Ordinance No. 124, 2020, the City Manager has issued Emergency Rule and Regulation No. 2021-01 (referred to as the "New Emergency Rule and Regulation"), relating to resuming certain Utility customer billing practices suspending under Emergency Regulation No. 2020-004 (subsequently terminated on July 2, 2020) and permitting customer payment plans for past due utility billings without payment of all outstanding amounts as otherwise required by the City Code in light of the continued economic emergency resulting from the pandemic; and

WHEREAS, Section 2-671(a)(6)(a) of the City Code provides that the emergency rules and regulations must be confirmed at the earliest practical time by the City Council; and

WHEREAS, the Council has determined that the New Emergency Regulation (No. 2021-01) described above is reasonably necessary to the protection of life, health, safety and property of the residents of and visitors to Fort Collins; and

WHEREAS, approval of the New Emergency Rule and Regulation by ordinance will ensure it is enforceable to the fullest extent of the law and express waiver and temporary partial suspension of Section 26-713(e) of the City Code, and Council therefore wishes to approve the New Emergency Rule and Regulation by the adoption of this Ordinance.

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

Section 1. That the City Council hereby makes the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the City Manager's establishment of the New Emergency Rule and Regulation attached hereto as Exhibit "A", and incorporated herein by this reference, was necessary in the interest of protecting the life, health, safety and property of the citizens of Fort Collins.

Section 3. That the City Council hereby confirms, ratifies and approves the New Emergency Rule and Regulation as of the date of its establishment by the City Manager.

Section 4. That the City Council hereby expressly waives and temporarily suspends the application of Section 26-713(e) of the City Code, to the extent necessary to effectuate the provisions of the New Emergency Rule and Regulation through December 31, 2021.

Section 5. That the City Council hereby approves the recommencement of Utilities customer billing practices described in the New Emergency Rule and Regulation (Emergency Regulation No. 2021-001) as necessary and proper for the operation of the City's utilities, consistent with the Article XII of the City Charter.

Introduced, considered favorably on first reading, and ordered published this 1st day of June, A.D. 2021, and to be presented for final passage on the 15th day of June, A.D. 2021.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 15th day of June, A.D. 2021.

Mayor

ATTEST:

City Clerk



City Manager's Office
 300 Laporte Avenue
 PO Box 580
 Fort Collins, CO 80522
970.221.6505
 970.224.6107
 fcgov.com

UPDATED EMERGENCY RULES AND REGULATIONS No. 2021-01

Regarding Resumption of Utility Disconnection and Payment Plans for Delinquent Non-Telecommunications Utility Accounts

To all persons take notice:

That for the protection of life, health, safety and property as affected by reason of the Novel Coronavirus 2019 (COVID-19), which resulted in my declaration of a "local emergency" under the authority of Chapter 2, Article IX of the Code of the City of Fort Collins, (the "City") and which declaration of local emergency was filed with the City Clerk and with the Colorado Division of Emergency Management on March 13, 2020, and extended by City Council adoption of Resolution 2020-030 on March 20, 2020, I have hereby established, under the authority of City Code §2-671(a)(6)a, the following rules and regulations:

- 1) **Waiver of Late and Reconnection Fees for Delinquent Non-Telecommunications Utility Accounts:** As presented to City Council on March 16, 2021, in accordance with the Governor's executive order D 2021 074 (extending D 2020 098), Fort Collins Utility Services will continue to waive late and reconnection fees for delinquent non-telecommunications utility accounts until July 1, 2021.
- 2) **Disconnection for Delinquent Utility Accounts:** Commencing on May 12, 2021, and until further notice, Utility Services will resume service disconnections for delinquent utility accounts, including telecommunications utility accounts.
- 3) **Notice of Disconnection Per City Code:** Utility Services will adhere to the notice procedures set forth in the City Code regarding disconnecting utility services, based on residential and commercial customer account payment delinquency.
- 4) **Waiver of Code Requirement for Payment in Full to Reconnect:** Reconnecting non-telecommunications utility services will occur as set forth below, conditioned on partial customer payment, notwithstanding that City Code §26-713(e) otherwise requires payment in full before reconnection. Reconnection of telecommunication services shall occur as set forth in City Code Article VIII, Chapter 26.
- 5) **Process to Prevent Disconnection or Reconnect Utility Services:**
 - a) To prevent disconnection or to reconnect non-telecommunication utility services, a customer may:
 - 1) Pay account balance in full; or
 - 2) Begin a payment plan for past due amounts, approved by the applicable property owner, landlord, or property manager, to be completed in calendar year 2021, under which the customer shall:

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- a) Pay
 - i) the current month's account charges in full, and stay current on monthly charges during the payment plan period; and
 - ii) a portion of the past due balance, based on the number of months left in 2021, e.g., plans beginning in May require payment of 13% of due balance, those started in August require 20%, etc.; and
 - b) Agree to pay in full all account balances by December 31, 2021; and
 - c) Be subject to disconnection and becoming ineligible for a further payment arrangement under this Emergency Rule, if the customer fails to make a payment when due under a payment plan, unless otherwise provided in City Code.
- b) Utility Services Customer Service Representatives will provide affected customers with information about available financial assistance programs and payment options.
- 6) **Duration of Emergency Rule:** This Emergency Rule waiving the City Code requirement for payment in full to prevent disconnection or permit reconnect of non-telecommunication utility services is intended to continue notwithstanding any expiration or termination of the declared local emergency, and shall expire on December 31, 2021, unless extended and such extension is ratified by City Council.
 - 7) **Dissemination of Emergency Rule:** Pursuant to City Code §2-671(e), the rules and regulations set forth herein shall be disseminated to local radio and television stations and to a newspaper having a general circulation within the City. A knowing violation of these rules and regulations shall be a misdemeanor punishable under City Code §1-15.
 - 8) **Purpose of Emergency Rule and Finding:** I find that this Emergency Rule is reasonable and necessary to promote public safety and support economic recovery in light of the COVID-19 Pandemic. This Emergency Rule and Regulation promotes the health, safety and welfare of the public because it will provide a way for the City's utility services customers to pay delinquent utility accounts, assisting in the economic recover of the City by bolstering the physical and economic health of residents.

DATED this 24 day of May, A.D. 2021.

DocuSigned by:


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Darin Atteberry, City Manager