

CHAPTER 12 UTILITIES

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12.1.101: DEFINITIONS:

Unless the context specifically indicates otherwise, the following terms, as used in this chapter, shall have the meanings hereinafter designated:

BUSINESS CONTRACTS: All contracts or agreements by Utilities for purchase or sale of goods and services except contracts or agreements involving purchase or sale of any interest in real estate.

BYPASS OR BYPASSING: Any wire, cord, socket, motor or other instrument, device or contrivance connected to the electric supply system or any part thereof or to any other customer's or user's electric system in such a manner as to transmit, supply or use any electricity, natural gas, water or wastewater without passing through the authorized meter for measuring or registering the amount of electricity consumed at the receiving premises.

CHAPTER OR THIS CHAPTER: Chapter 12 of this Code of the City of Colorado Springs.

CHIEF EXECUTIVE OFFICER: The Chief Executive Officer of Colorado Springs Utilities employed by the Utilities Board pursuant to City Charter section 6-10, or the Chief Executive Officer's designee.

CITY: The City of Colorado Springs, County of El Paso, State of Colorado.

COLORADO SPRINGS UTILITIES OR CSU: The Utilities of the City of Colorado Springs created and operated as an enterprise pursuant to article VI of the City Charter.

CUSTOMER: The person or authorized agent of the person designated on the records of the Utilities as the person responsible for payment of charges incurred for the use of the utility supply system of the City at the premises being served.

ELECTRIC SUPPLY SYSTEM OR ELECTRIC SYSTEM:

A. Any and all devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the production, generation, transmission, distribution or regulation of electricity, including, but not limited to, electric lines, service lines, transformers, electric poles, meters, electric generation plants and substations;

B. Any and all rights, property and obligations of the City or Utilities concerning electricity and electric production, transmission and distribution facilities;

C. Any and all standby or contingency equipment, facilities, devices or materials which may be necessary to provide reliable electric service;

D. Any and all land or sites owned by the City or used by Utilities for the purpose of generating electricity and/or providing electric service to users, including any and all substations, easements and rights-of-way; and

E. Any and all appurtenances, extensions, improvements, additions, alterations or replacements thereof.

ENTERPRISE: A government owned business authorized to issue its own revenue bonds and receiving under ten percent (10%) of annual revenue in grants from all Colorado State and local governments combined (Colorado Constitution article X, section 20). A City owned business receiving over seventy five percent (75%) of annual nondebt revenue from nongovernmental sources ¹.

HAZARDOUS CONDITION: A condition which, in the judgment of Utilities, poses a threat to life, health or safety of any person, or which may result in damage to property. Hazardous condition includes any unsafe condition or dangerous condition.

NATURAL GAS SUPPLY SYSTEM OR NATURAL GAS SYSTEM:

A. Any and all devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the production, distribution or regulation of natural gas, including, but not limited to, natural gas main lines, service lines, regulators, meter set, valves and associated appurtenances;

B. Any and all rights, property and obligations of the City or Utilities concerning natural gas distribution facilities;

C. Any and all standby or contingency equipment, facilities, devices or materials which may be necessary to provide reliable natural gas service including the propane air plant;

D. Any and all land or sites owned by the City or used by Utilities for the purpose of measuring and regulating natural gas and/or providing natural gas service to users, including any and all other facilities, easements and rights-of-way used by Utilities to provide natural gas utility service; and

E. Any and all appurtenances, extensions, improvements, additions, alterations or replacements thereof.

PUC: The Public Utilities Commission of the State of Colorado as established by and organized and operated pursuant to title 40 of the Colorado Revised Statutes, as the same may be now or hereafter amended.

PERSON: Any individual, firm, company, partnership, corporation, association, group or society and includes the United States and the State of Colorado and agencies, districts, commissions and political subdivisions created by or pursuant to State or Federal law.

PREMISES: A lot, parcel of land, building or establishment. For the purpose of this chapter, premises shall also include the point of connection between the water supply system and another public water supply system.

SERVICE STANDARDS AND SPECIFICATIONS: A regulation promulgated by the Chief Executive Officer or the Chief Executive Officer's designee as authorized by subsection 12.1.110B of this article.

SUBTERFUGE: Any means by which service is attained or liability escaped by deception or concealment.

TAMPER OR TAMPERING: Damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter provided for measuring or registering the amount of electricity, natural gas, water or wastewater passing through the meter.

UNAUTHORIZED METERING: Removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for electric, natural gas, water or wastewater service by a person other than an authorized employee of the Utilities.

USER: Any person who uses, takes service from, receives benefit of service supplied, or is connected to the utility supply system. User includes commercial users, residential users, and public users as defined below.

Commercial User: Any person whose use of the utility supply system is in connection with the operation of a business, trade or occupation, whether or not for profit, or any other non- single-family residential purpose. The persons shall include but shall not be limited to homeowners' associations, clubs, fraternities, sororities, lodges, hotels, apartment and rooming houses, tourist camps and cottages, multi-family dwellings where more than one dwelling unit is served through one meter, all common areas of multi-family dwellings when separately metered, schools, military facilities, industrial facilities, governmental buildings and churches.

Public User: The owner or operator of a public water supply system that is connected to the water supply system.

Residential User: Any person whose use of the utility supply system is exclusively for domestic purposes in a private home or individual dwelling unit where not more than one dwelling unit is served through one meter. Each person of full legal age who resides at the premises shall be deemed to have received benefit of utility services supplied and shall be liable to Utilities for payment, whether or not service is listed in that person's name.

UTILITIES: The Utilities of the City of Colorado Springs created and operated as an enterprise pursuant to article VI of the City Charter, hereinafter sometimes referred to as "Colorado Springs Utilities" or "CSU".

UTILITIES BOARD: The City Council serving as the Board of Directors for Utilities pursuant to City Charter section 6-40.

UTILITIES ENTERPRISE POLICIES: Regulations promulgated by the Chief Executive Officer for internal administration of Utilities as authorized by subsection 12.1.110A of this article.

UTILITY: Electrical systems, natural gas systems, water systems, wastewater systems and the other systems designated by Council, including the acquisition, erection, construction, operation or maintenance by CSU.

UTILITY SERVICE: The provision of regulated electric, natural gas, water or wastewater service by Colorado Springs Utilities to users or customers.

UTILITY SUPPLY SYSTEM OR UTILITY SYSTEM:

- A. Any and all rights, property and obligations of the City concerning Utilities;
- B. Any and all devices, facilities, structures, equipment or works owned by the City or used by CSU for the purpose of supplying utility service;
- C. Any and all standby or contingency equipment, facilities or material which may be necessary to provide reliable utility service;
- D. Any and all land or sites owned by the City or used by CSU for the purpose of providing utility services to user; and
- E. Any and all extensions, improvements, additions, alterations or remodeling thereof.

WASTEWATER TREATMENT SYSTEM OR WASTEWATER SYSTEM:

- A. Any devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines;

- B. Extensions, improvements, additions, alterations or any remodeling thereof;
- C. Elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and
- D. Any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment.
- E. It does not include the stormwater drainage system, a separate Municipal operation which is not part of Utilities.

WATER SUPPLY SYSTEM OR WATER SYSTEM:

- A. Any and all rights, property and obligations of the City concerning water and water supply facilities, including nonpotable water and nonpotable water supply facilities;
 - B. Any and all devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the collection, storage, transmission, treatment, regulation or distribution of potable and nonpotable water, including distribution mains, pumping facilities, metering facilities, pressure regulations facilities and their appurtenances and excluding service lines;
 - C. Any and all standby or contingency equipment, facilities or material which may be necessary to provide reliable water service;
 - D. Any and all devices, facilities, structures, equipment or works owned by the City or used by Utilities for the purpose of the transmission, storage, treatment or distribution of potable and nonpotable water, including treatment plants, pumping facilities, reservoirs, transmission lines and their appurtenances;
 - E. Any and all land or sites owned by the City or used by Utilities, for the purpose of providing potable or nonpotable water to users including streams or other waters which contribute to the water supply of the City and any area in or along the waters or within five (5) miles upgrade of any point from which water is taken by the City, and any and all watershed areas; and
 - F. Any and all extensions, improvements, additions, alterations or remodeling thereof. (Ord. 98-173; Ord. 01-42; Ord. 08-44; Ord. 17-42; Ord. 18-42)
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Notes

- ¹ 1. See City Charter subsection 7-90(b)(5).

12.1.102: LEGISLATIVE FINDINGS:

- A. Article XX of the Colorado Constitution establishes the process for creating home rule cities and provides that home rule cities may own and operate utilities within and without territorial limits.
- B. Colorado Springs is a home rule City created pursuant to article XX of the Colorado Constitution. The Charter authorizes the City to own and operate utilities inside and outside the City limits ¹, and also establishes utilities as a citizen owned enterprise for the purpose of owning and operating utility systems designated by Council ².
- C. The City Charter directs that Utilities funds be kept separate from the Municipal General Fund of the City and from other City enterprises. It is intended that Utilities' revenues will come from the rates and prices it charges for goods and services rather than from taxes.
- D. The City Charter directs the City Council to sit as the Board of Directors for Utilities. Council recognizes that in its capacity as Utilities Board it conducts all business in full compliance with applicable legal, statutory, and regulatory requirements. Further, in this capacity, it must govern Colorado Springs Utilities in accord with sound business principles, in a manner that supports long-term sustainability of the enterprise and maximizes value to the citizens.
- E. Council further finds that it will best be able to carry out its fiduciary responsibilities for exercising its power and authority for the governance of Utilities by directing the adoption of a governance manual for Utilities

as provided in this chapter. The governance manual requires the Utilities Board to excel at the primary obligations of governance for the organization to meet its Board-directed mission and customer- focused performance expectations.

F. In adopting this approach, the Council intends that as the Utilities Board it will work with the Chief Executive Officer in partnership to achieve excellence in governance to attain long- term organizational sustainability. The Utilities Board and the Chief Executive Officer work jointly to set the strategic direction and vision for the enterprise. The Utilities Board shall establish a clear distinction between its duties, responsibilities and authorities and the Chief Executive Officer's responsibilities and authorities through formal, written governance policies. The Utilities Board shall respect the exclusive authority of the Chief Executive Officer to lead the enterprise. To the maximum extent legally possible and guided by the Utilities Board governance policies, the Chief Executive Officer is authorized to make decisions, take actions, establish processes and procedures, implement plans and work on behalf of the enterprise with customers, elected officials, government agencies, stakeholders and the public to meet the Utilities Board's strategic focus and Board Expected Results. The Chief Executive Officer shall support the Utilities Board by implementing its direction and decisions and assisting the Utilities Board in obtaining sufficient information and knowledge to meet their joint responsibilities. (Ord. 98-173; Ord. 01-42; Ord. 18-42; Ord. 18-48)

Notes

1. See City Charter article I, subsection 1-20(d).
2. See City Charter article VI.

12.1.103: ENTERPRISE STATUS:

The Utilities Board shall govern and the Chief Executive Officer shall manage and operate Utilities consistent with the requirements of the City Charter and the Colorado Constitution for an enterprise. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.104: DELEGATION OF AUTHORITY:

Except for the matters expressly provided herein, Council hereby delegates all of its authority over the management and operation of the Utilities to the Utilities Board with the intent that the Utilities Board be empowered to exercise authority, judgment and discretion over Utilities to the fullest extent legally possible. This delegation of authority does not include authority to pass ordinances, issue revenue bonds, institute eminent domain proceedings, appropriate funds or adopt annual budgets, approve intergovernmental agreements, adopt or change tariffs for regulated products and services, create advisory boards in accordance with the City Charter, approve the sale, conveyance or lease of a substantial part of Utilities systems and water rights with an affirmative vote of a supermajority of sixty percent (60%) of the electors of the City voting upon that question in accordance with the City Charter, or to take any action expressly required of the Council in its legislative capacity by the Colorado Constitution, the City Charter, or other controlling law. Without limiting the foregoing general delegation of authority, this delegation specifically includes administrative authority for the Utilities Board to hire, evaluate and terminate services of a Chief Executive Officer and set the salary of the Chief Executive Officer by motion, appoint Utilities Policy Advisory Committee members and customer advisory group members, approve the sale, conveyance or lease of Utilities property and water rights that are not a substantial part of a Utilities system consistent with Charter Section 6-80, and appoint directors and representatives to authorities, partnerships, joint ventures, and similar entities in which Utilities participates. Within all areas of this delegated authority, any action, decision or determination of the Utilities Board shall carry the same legal authority, weight and effect as if that action, decision or determination had been made by City Council in its legislative capacity. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.105: UTILITIES GOVERNANCE:

The Utilities Board shall govern by adopting written governance policies, including policies on Utilities Board duties, responsibilities, authorities, commitments and practices, Utilities Board/Chief Executive Officer partnership expectations, Chief Executive Officer responsibilities and authorities, Board expected results, and Board instructions to the Chief Executive Officer, and guidelines for the Chief Executive Officer. The intent of the policies shall be to reserve to the Utilities Board the functions of establishing overall governance policies. The Utilities Board may adopt and revise the Utilities Board policies they determine are necessary or prudent to

carry out their fiduciary duties and the intent expressed. Further, the Utilities Board may adopt bylaws governing its meeting and agenda procedures and other pertinent matters. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.106: DELEGATION OF AUTHORITY TO THE CHIEF EXECUTIVE OFFICER AND STAFF:

To the maximum extent legally possible, the Utilities Board, in its discretion, is empowered to delegate its authority for the management and operation of Utilities as an enterprise to the Chief Executive Officer through the adoption of written Utilities Board governance policies. In turn, the Chief Executive Officer is authorized, in the Chief Executive Officer's discretion, to provide for the management and operation of Utilities by creating divisions or other operational units and to delegate the Chief Executive Officer's authority to staff reporting to the Chief Executive Officer by Utilities Enterprise Policies. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.107: AUTHORITIES, POWERS AND DUTIES OF UTILITIES CHIEF EXECUTIVE OFFICER:

In addition to any other powers or duties conferred by the City Charter, this Code, other statutes, Utilities Board governance policies, ordinances, rules or regulations, the Utilities Chief Executive Officer shall have the authority to:

- A. Execute all business contracts entered into by Utilities and all other contracts and agreements.
- B. Delegate signature authority to staff reporting to the Chief Executive Officer by Utilities Enterprise Policy, and may provide for further delegation of this signatory authority as appropriate.
- C. Adopt or promulgate Utilities Enterprise Policies and service standards and specifications consistent with the provisions of the Charter or this Code concerning matters that are applicable to all operations and finances of the Utilities including all operational units.
- D. Delegate authority to staff reporting to the Chief Executive Officer by Utilities Enterprise Policy, to adopt service standards and specifications for each respective division.
- E. Make and enforce rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges for utility services and/or for Stormwater service fees collected by Utilities as provided by section 14.8.109 of this Code.
- F. Identify and certify an imminent hazard condition exists and abate the hazard in accord with the provisions of this chapter.
- G. Interrupt or curtail utility services or to provide for the interruption or curtailment of utility services whenever emergency circumstances, including, without limitation, supply limitations or restrictions, treatment restrictions or limitations, transmission or distribution system restrictions or failures, or operational problems, require immediate interruption or curtailment of utility services for operational or safety reasons. The Chief Executive Officer's authority under this section may be delegated by Utilities Enterprise Policy.
- H. Issue revocable permits for the use of public property primarily used by Colorado Springs Utilities, including watershed areas, for any purpose not inconsistent with this Code, regulations established by the Chief Executive Officer, or other laws and ordinances regulating the use and occupancy of public property.
- I. Establish regulations governing the issuance or denial of a revocable permit and setting insurance requirements, fees and permit terms and conditions necessary to protect the public health, safety and welfare and the safety and welfare of Colorado Springs Utilities operations, equipment and facilities. (Ord. 18-42; Ord. 18-48; Ord. 19-80)

12.1.108: REGULATION OF ELECTRIC, STREETLIGHT, NATURAL GAS, WATER AND WASTEWATER RATES, CHARGES AND REGULATIONS:

- A. Determined By City Council: The rates, charges and regulations, including conditions, for all classes of regulated electric, streetlight, natural gas, water and wastewater services shall be determined by the City Council for customers and users inside and outside of the corporate limits of the City and shall be set forth in tariff sheets to be adopted by resolution as provided in this section.
- B. Tariff Sheets On File: One copy of the currently effective tariff sheets for each regulated utility service shall be kept on file with the City Clerk and shall be open for public inspection during regular business hours. Copies hereof may be purchased by any person upon payment of the cost of reproduction.
- C. Adopted By Resolution; Hearing: Base rates or regulations or any change shall be adopted by resolution, which shall adopt by reference the appropriate tariff sheet or sheets to be established or revised.

1. Preliminary Information For The City Auditor And City Attorney: When Utilities proposes to change base rates, and the proposed change will result in the determination of a new revenue requirement supported by a cost of service study, Utilities will provide a draft of the proposal and cost of service study to the City Auditor and the City Attorney at least thirty (30) days prior to filing the proposed resolution with City Council. When changes to base rates are proposed, but do not involve a cost of service study, a draft of the proposal will be provided to the City Auditor and the City Attorney seven (7) days prior to the filing of a proposed resolution. Any request for additional information by the City Auditor and any response by Utilities, will be in writing. Drafts of the proposed resolution and tariff sheets will be provided to the City Attorney seven (7) days prior to filing of the final proposed resolution with City Council.

2. Notice And Order For Hearing: Upon presentation of a proposed resolution regarding adoption or change in base rates or regulations, the City Council shall set a hearing not less than thirty (30) days nor more than sixty (60) days from the date of the notice of the proposed resolution and shall order notice of the proposed resolution to be made as follows:

a. One copy of the proposed resolution, including the proposed change in the base rates or regulations, and one copy of any written documents which Utilities has provided to City Council to explain the proposed resolution, shall be filed and kept open for public inspection in the Office of the City Clerk.

b. Notice shall be given by publishing a summary of the proposed resolution at least once in at least one newspaper of general circulation within the City at least thirty (30) days and no more than sixty (60) days prior to the date set for the public hearing. The notice shall include: 1) an explanation of the proposed changes in rates or regulations, or new base rates or regulations; 2) the time when the same shall go into effect; and 3) a statement that one copy of the resolution and one copy of any written documents which the Utilities has provided to City Council to explain the proposed resolution are on file and open for public inspection in the Office of the City Clerk.

c. If it is impractical due to the size or bulk of the proposed resolution to publish the same in a newspaper, a summary thereof prepared by Utilities shall be published and notice shall be given of the availability of the proposed resolution for public inspection, including any new schedules stating plainly the changes to be made in the schedules then in force, at least once in at least one newspaper of general circulation in the authorized service area at least thirty (30) days and no more than sixty (60) days prior to the date set for public hearing.

d. Notice of any change in base rates or regulations for electric and/or natural gas service shall be mailed to affected customers served outside the City's corporate boundaries. The notice shall state the date and time of public hearing and that one copy of the proposed ordinance or resolution, including the proposed change in base rates or regulations, and one copy of any written documents which the Utilities has provided the City Council to explain the proposed resolution and changes are on file and open for public inspection in the Office of the City Clerk.

e. If a City Council Member discusses a proposed rate resolution with staff or members of the public outside a public hearing, the City Council Member shall place the substance of the discussions on the public record during the subsequent public hearing.

3. Public Hearing: The City Council shall conduct a public hearing to consider the proposed resolution. The procedures to be followed concerning the hearing shall include the following:

a. The City Council shall not delegate hearing on the proposed resolution to any other person, board or commission.

b. The City Council may question witnesses and may be assisted by legal, technical or other professional personnel or advice, as it deems necessary. All discussions and presentations by staff concerning the proposed resolution shall occur during a public hearing.

c. The Utilities shall make a presentation, including a presentation of exhibits to explain the proposed base rates or regulations, and the need therefor.

d. Any users or customers of the Utilities, their representatives or their attorneys, shall be allowed to present testimony and/or exhibits relevant to the proposed resolution during that portion of the public hearing when public comment is allowed.

e. Any users or customers may represent themselves, may select a representative or be represented by legal counsel.

f. Customers or users, their representatives or attorneys, who desire to present witnesses other than themselves concerning the proposed resolution may request an opportunity to present testimony and/or exhibits by filing with the City Clerk and Utilities' Chief Executive Officer a notice of intent to present witnesses, which shall contain a list of the names of witnesses which the user or customer proposes to present at the public hearing and a short summary of testimony of each witness, including a copy of all exhibits and other documentation that the user or customer proposes to present to City Council for its consideration, not less than seven (7) working days prior to the public hearing.

g. Testimony must be relevant to the issues being heard before the City Council, and not be repetitious. If the testimony or exhibits to be offered by a customer or user appear to be unduly repetitious, Council may require all similarly interested customers or users to designate a spokesman, or may appoint a spokesman for them, who alone shall be allowed to present testimony or exhibits.

h. City Council shall have discretion to limit the time for presentation by the Utilities and customers or users, their representatives or attorneys, desiring to present testimony or exhibits. The hearing shall be legislative in nature, but the City Council may allow the questioning, rebuttal or argument by Utilities, customers or users, their attorneys or representatives, as it considers appropriate.

4. Amendments And Revisions: The City Council may amend the proposed resolution and revise any proposed base rate or regulation as a result of information presented at the public hearing.

D. Procedure To Change Certain Rates Or Charges And Authorize Refunds By Resolution Without Notice And Public Hearing:

1. When Utilities proposes changes for electric cost adjustments or gas cost adjustments, the drafts of the proposal, the proposed resolution and tariffs will be provided to the City Auditor and City Attorney seven (7) days before filing the final proposed resolution with City Council.

2. The City Council, for good cause shown, may by resolution:

a. Authorize a refund of costs or charges to Utilities' customers; or

b. Change rates or charges of the electric utility to reflect electric cost adjustments (increased or decreased costs of fuel and/or purchased power) in the rates of the electric utility; or

c. Change rates or charges of the gas utility to reflect increased or decreased gas costs from the gas supplier; or

d. Change any other fees, rates or charges that are not within the control or discretion of the City or the Utilities; or

e. Change any other rates or charges of the water utility necessary to avoid a water shortage; or

f. Change any other tariff provision which City Council, in its discretion, deems to be appropriate; provided, the change has no adverse impact on customers.

3. In the cases noted above, Council may authorize the changes without requiring notice and public hearing. The resolution adopting the changes will be considered an order of City Council and shall specify the changes to be made and shall state: a) the circumstances necessitating the change without notice and public hearing, b) the effective date of the changes, and c) the manner in which the changes shall be published. Furthermore, whenever City Council authorizes a refund of costs or charges to customers of the Utilities, the resolution authorizing the refund shall provide for the disposition of refunds due to customers which cannot be located.

E. Standards For Setting Electric, Streetlight And Natural Gas Rates: All rates, as established by City Council for electric, streetlight and natural gas service, shall be just, reasonable, sufficient and not unduly discriminatory. All rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by City Council.

F. Authority For Water And Wastewater Setting Rates: City Council shall set water and wastewater rates for customers inside and outside the corporate limits of the City and for all classes of water service at the amount as Council, in its discretion, determines to be reasonable and appropriate in light of all circumstances. All water rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by the City Council. (Ord. 98-173; Ord. 01-42; Ord. 02-60; Ord. 03-50; Ord. 04-198; Ord. 18-42)

12.1.109: UTILITIES CONTRACTS:

A. Utilities is authorized to execute its business contracts in the name "Colorado Springs Utilities". Utilities' business contracts executed in the name "Colorado Springs Utilities" shall be deemed to have been executed by the City of Colorado Springs on behalf of its Utilities enterprise and shall be legally enforceable by the City or Utilities against third parties and by third parties against the City or Utilities to the same extent that would occur if the business contracts had been executed by the City of Colorado Springs on behalf of its Utilities enterprise. Furthermore, all contracts executed in the name of "Colorado Springs Utilities" shall be interpreted or construed by any reviewing court as having been executed by the City of Colorado Springs on behalf of its Utilities.

B. The Chief Executive Officer is authorized to execute all business contracts entered into by Utilities and all other contracts and agreements. The Chief Executive Officer may delegate this signatory authority by Utilities Enterprise Policy to staff reporting to the Chief Executive Officer and may provide by Utilities Enterprise Policy for the further delegation of this signatory authority. The Chief Executive Officer shall not have the authority to execute contracts or financial instruments that encumber or pledge the funds or other assets of the City of Colorado Springs, other than those of the Utilities, or otherwise affect the full faith and credit, of the City of Colorado Springs.

C. Notwithstanding the provisions of section 1.2.313 of this Code, related to the Mayor's powers and duties with respect to City contracts, the Mayor shall not have the duty or power to execute or sign business contracts entered into by Utilities, provided, however, that the Mayor may sign bonds, financial contracts and related documents entered into by Utilities as a ministerial function pursuant to section 4-10 of the City Charter. (Ord. 98-173; Ord. 01-42; Ord. 14-21; Ord. 18-42)

12.1.110: ADOPTION OF UTILITIES ENTERPRISE POLICIES AND SERVICE STANDARDS:

The Chief Executive Officer shall have the power and authority to adopt and promulgate Utilities Enterprise Policies and service standards and specifications consistent with the provisions of the City Charter or this Code concerning matters that are applicable to all operations and finances of the Utilities.

A. Utilities Enterprise Policies:

1. The Chief Executive Officer shall have the power and authority to adopt Utilities Enterprise Policies consistent with the provisions of the City Charter and this Code concerning matters that are applicable to all operations, personnel and finances of the Utilities, and all operational units.

2. The Chief Executive Officer, by Utilities Enterprise Policies, may delegate authority to staff reporting to the Chief Executive Officer to adopt Utilities Enterprise Policies concerning matters applicable to each respective operational unit.

3. Public notice and comment is not required for the adoption of Utilities Enterprise Policies.

B. Service Standards And Specifications:

1. **Power And Authority:** The Chief Executive Officer shall have the power and authority to promulgate service standards and specifications consistent with the Charter and this Code, subject to the following guidelines:

a. **Electric Generation, Transmission And Distribution:** Service standards and specifications relevant to electric generation, transmission and distribution shall pertain to, but shall not be limited to, the following: 1) planning, design, construction, operation and maintenance of Utilities' electric generation plants, transmission and distribution systems and appurtenant facilities; and 2) regulation of the transmission, distribution and use of electricity supplied by Utilities. In establishing the service standards and specifications, the Chief Executive Officer shall seek to assure the safe and efficient operation of the electric production, transmission and distribution systems, and the protection of the systems, processes, equipment and facilities appurtenant thereto.

b. **Gas Supply:** Service standards and specifications relevant to gas supply shall pertain to, but shall not be limited to: 1) installation, construction, operation and maintenance of Utilities' natural gas distribution system; and 2) regulation of the distribution and use of natural gas supplied by Utilities. In establishing the service standards and specifications, the Chief Executive Officer shall seek to assure the safe and efficient operation of the natural gas distribution system, and the protection of the system, process, equipment and facilities appurtenant thereto.

c. **Water Supply:** Service standards and specifications relevant to water supply shall pertain to, but shall not be limited to, the following: 1) installation, construction, maintenance, repair or replacement of property

appertaining to the water system; 2) provision of water service to the public; and 3) assurance of potable and palatable quality of water. In establishing the standards and specifications, the Chief Executive Officer shall seek to assure the safe and efficient operation of the water supply system, for a water supply sufficient to satisfy the public needs, and for water quality, by protecting the water supply and the public from polluting or unsanitary substances and conditions.

d. Wastewater Treatment: Service standards and specifications relevant to wastewater treatment shall pertain to, but shall not be limited to, the following: 1) discharge limitations, pretreatment requirements, wastewater lines and services; and 2) implementation of standards promulgated pursuant to the Federal Water Pollution Control Act amendments of 1972, PL 92-500, and subsequent amendments. In establishing the service standards and specifications, the Chief Executive Officer shall seek to assure safe, efficient operation of the wastewater system, that will limit wastewater discharges to the system in concentrations and quantities which will not harm either the wastewater system, wastewater treatment process or equipment, that will not have an adverse effect on the receiving water, or will not otherwise endanger persons or property or constitute a nuisance.

e. Computer Services: Reserved.

f. Telecommunications Activities: Reserved.

g. Nonregulated Products And Services: Reserved.

2. Delegation Of Authority: The Chief Executive Officer by Utilities Enterprise Policies may delegate authority to staff reporting to the Chief Executive Officer to adopt service standards and specifications for each respective department and other operational units.

3. Public Notice, Comment And Hearing:

a. Application: Except when public notice, comment, or hearing is otherwise required by law, this subsection B3 applies to the adoption of service standards and specifications.

b. List Of Interested Persons: The Chief Executive Officer shall maintain a list(s) of all persons who request notification of proposed adoption of service standards and specifications. A person may only request notification on his or her own behalf.

c. Preproposal: When promulgation of service standards and specifications is contemplated, the Chief Executive Officer is encouraged, but not required, to provide an opportunity to interested persons to participate informally in conferences on proposals under consideration.

d. Notice: Notice of proposed adoption of service standards and specifications proposed by the Chief Executive Officer shall be published in at least one newspaper of general circulation within the City at least fifteen (15) days and no more than thirty (30) days prior to the date set for final adoption of the proposed service standards and specifications. The notice shall include: 1) an explanation of the proposed service standards and specifications; 2) the proposed adoption and effective dates; 3) a statement that a copy of the proposed service standards and specifications are on file and open for public inspection in the Office of the Chief Executive Officer; 4) designation of the public comment period and the means to provide the comment; and 5) opportunity and manner to request a public hearing. If any material is to be incorporated by reference in the proposed service standards and specifications, the material shall be identified in the notice by date, title and citation. On or before the day the notice of proposed adoption is published, the Chief Executive Officer shall mail the notice to all persons on the list.

e. Public Comment: The Chief Executive Officer must give full consideration to all comments received as provided in the notice.

f. Public Hearing: The Chief Executive Officer may grant a public hearing if requested by a member of the public if a significant controversy of public import has arisen regarding the proposed service standards and specifications.

4. Adoption Of Proposed Service Standards And Specifications: The Chief Executive Officer or the Chief Executive Officer's designee shall adopt proposed service standards and specifications after a hearing or after conclusion of the public comment period. Adoption shall be by signature on the approved service standards and specifications of the Chief Executive Officer or the Chief Executive Officer's designee. If no hearing is held, the adopted service standards and specifications shall be similar in substance and form to the proposed service standards and specifications referenced in the public notice.

5. Open To Inspection: Upon adoption, the service standards and specifications shall be available for inspection at the Office of the Chief Executive Officer by any person at any time during regular business hours, and copies thereof may be purchased by any person upon payment of the cost of reproduction and postage.

C. Rulemaking Provisions: The rulemaking provisions of this section shall be prospective only. All previously existing Utilities Enterprise Policies and service standards and specifications shall remain in full force and effect until amended, withdrawn or adopted. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.111: EXCLUSIVITY:

A. The Utilities shall, to the maximum extent of its capabilities and consistent with its purposes, be the sole and exclusive provider of electric, natural gas, water and wastewater utility services within the corporate limits of the City.

B. Except as otherwise provided in this chapter, it shall be unlawful to furnish or offer to furnish to any property in the City any electrical, natural gas, water or wastewater service, or to accept the service from any entity other than the City.

C. Each day that any violation of these provisions continues shall constitute a separate offense.

D. Electric utility service may be provided within the corporate limits of the City:

1. By an owner or operator of solar generating equipment: a) that is located on the property of the consumer of the electric service, and b) that is sized to supply no more than one hundred twenty percent (120%) of the average annual electric consumption of the consumer at that site. The measurement of the average annual consumption of the consumer of electricity at the site of the solar generating equipment may include any electric consumption utilized in alternative fuel vehicle recharging at the time of the installation of the solar generating equipment.

2. By the seller of electricity for use as fuel in alternative fuel vehicles so long as the electricity was initially purchased from Utilities and the seller has given notice to Utilities of the resale. An "alternative fuel vehicle" for purposes of this subsection means any automobile, truck, motor bus, boat, airplane, train, tractor, or other type of motorized off highway equipment or other self-propelled device or vessel that is capable of moving itself or being moved from place to place utilizing electricity, or a combination of electricity and natural gas or other fossil fuel, as transportation fuel whether or not the vehicle is used in agricultural, commercial, domestic, or industrial operations.

E. Natural gas utility service may be provided within the corporate limits of the City by the seller of natural gas for use as fuel in alternative fuel vehicles so long as the natural gas was initially purchased from Utilities or transported by Utilities, and the seller has given notice to Utilities of the resale or transport activity. An "alternative fuel vehicle" for purposes of this subsection means any automobile, truck, motor bus, boat, airplane, train, tractor, or other type of motorized off highway equipment or other self-propelled device or vessel that is capable of moving itself or being moved from place to place utilizing natural gas, or a combination of natural gas and electricity or other fossil fuel, as transportation fuel whether or not the vehicle is used in agricultural, commercial, domestic, or industrial operations. (Ord. 98-173; Ord. 01-42; Ord. 12-26; Ord. 18-42)

12.1.112: USER CHARGES FOR UTILITY SERVICES:

A. The City Council hereby finds, determines and declares that it is necessary and conducive to the protection of the public health, safety, welfare and convenience to impose and collect user charges for the use of the utility supply system.

B. The Chief Executive Officer shall make and enforce the rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges for utility services and/or for Stormwater service fees collected by Utilities as provided by section 14.8.109 of this Code. (Ord. 98-173; Ord. 01-42; Ord. 18-42; Ord. 18-48; Ord. 19-80)

12.1.113: COLLECTION OF CHARGES AND REMEDIES:

A. Unpaid Charges; Lien; Collection:

1. Until paid, all charges imposed by Utilities for water and wastewater utility services, including connection fees, shall constitute a perpetual lien on and against the property connected to or served by the water system and the wastewater treatment system, respectively, which may be recorded against the property at any time thereafter, and shall be chargeable against the owner of the property at the time of use of the service or the owner's successors in interest to the property. In the event that any charge imposed by this chapter shall not be

paid when due, the Chief Executive Officer may issue a notice to the owner of the property or the user or both, setting forth the amount of the charge due and payable, identifying the property connected to the water or wastewater system for which the charge is delinquent and stating that the City, on behalf of Utilities, claims a perpetual lien on and against the property for the unpaid charge. The notice shall be verified by the Chief Executive Officer and filed with the Clerk and Recorder of the County in which the property is located. Until paid, the charge shall constitute a perpetual lien on and against the property served, and the lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens.

2. In the event that any user charge imposed by this chapter for water or wastewater service shall not be paid when due, the Chief Executive Officer may issue a notice to the owner of the property or the user or both, setting forth the amount of the charge due and payable and identifying the property connected to or using the water or wastewater system for which the charge is delinquent. The notice shall be verified by the Chief Executive Officer and filed with the City Clerk. The City Clerk shall certify the charge to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as taxes with a ten percent (10%) penalty thereon to defray the costs of collection. All laws of the State of Colorado for the assessment and collection of general taxes and the redemption of same shall apply to the charges.

B. Remedies: The remedies of the City as set forth in this section shall be cumulative and not alternative and the Utilities or the City may pursue any remedy either singly or in combination as it may deem necessary and appropriate. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.114: UTILITIES DIVERSION:

A. Unlawful Acts:

1. It shall be unlawful for any person to install a bypass for any utility service without the express written authorization of the Chief Executive Officer.

2. It shall be unlawful for any customer or the user at any premises knowingly to receive utility service by means of a bypass which has not been authorized in writing by the Chief Executive Officer.

3. It shall be unlawful for any person to tamper with a utility meter or other utility equipment without the express written authorization of the Chief Executive Officer.

4. It shall be unlawful for any customer or the user at any premises knowingly to receive utility service by means of tampering.

5. It shall be unlawful for any person to engage in unauthorized metering which has not been authorized in writing by the Chief Executive Officer.

6. It shall be unlawful for any customer or the user at any premises knowingly to receive utility service by means of unauthorized metering which has not been expressly authorized in writing by the Chief Executive Officer.

7. It shall be unlawful for any customer, person or user to intentionally distort the electric wave shape to cause the meter to register inaccurately.

B. Restitution: As a condition of granting probation, deferred prosecution, deferred sentence or suspended sentence, the court may order any person who is charged with or found guilty of, as the case may be, violating any of the provisions of subsection A of this section to pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the City related to the violation including, but not limited to, costs of investigation, disconnection, reconnection and service calls.

C. Evidence Of Violations:

1. Proof of the existence of any bypass, tampering or unauthorized metering, as prohibited in this section, shall be deemed prima facie evidence that the user at the premises where bypass, tampering or unauthorized metering is proved to exist had knowledge of the bypass, tampering or unauthorized metering if it is proved that the user is an occupant of the premises and that the user had access to the meter or other utility equipment where the bypass, tampering or unauthorized metering is proved to exist.

2. Proof of the existence of any bypass, tampering or unauthorized metering, as prohibited by this section, shall be deemed prima facie evidence that the customer had knowledge of the bypass, tampering or

unauthorized metering if it is proved that the customer controlled access to the utility meter or other utility equipment where the bypass, tampering or unauthorized metering is proved to exist.

D. Termination Of Service: A violation of any of the provisions of subsection A of this section constitutes a serious safety hazard. Any such violation is grounds for immediate disconnection of service without notice to the customer or user. Service will not be reconnected until all violations of this section have been remedied.

E. Violations And Charges:

1. In the event a violation of subsection A of this section occurs for one or more services on a customer's premises, the customer is subject to imposition of the following charges:

a. For a first violation, Utilities will notify the customer in writing of the violation and may add a charge of up to one hundred dollars (\$100.00) to the customer's utility bill for the premises.

b. For a second violation, Utilities will notify the customer in writing of the violation and may add a charge of up to two hundred fifty dollars (\$250.00) to the customer's utility bill for the premises.

c. For a third violation, Utilities will notify the customer in writing of the violation and may add a charge of up to five hundred dollars (\$500.00) to the customer's utility bill for the premises.

d. For a fourth or any subsequent violation, Utilities will notify the customer in writing of the violation and may add a charge of up to one thousand dollars (\$1,000.00) to the customer's utility bill for the premises.

e. Escalation of charges will follow Utilities' customer record history. Subsequent violations will accumulate over the life of the customer's service with Utilities and will follow the customer from one premises to another premises.

2. The notice of violation may be personally served upon the customer or served by posting the notice on the premises of the customer in a conspicuous place, by personal delivery or by U.S. mail, first class. If by mail, service shall be deemed complete upon mailing.

3. Any charges assessed pursuant to this subsection will be due prior to the restoration of services.

4. Charges assessed pursuant to this subsection are in addition to any fees or charges authorized by Utilities' tariff including, but not limited to, restitution, reconnection fees and charges incurred for utility services.

5. Utilities' Chief Executive Officer or the Officer's designee is authorized to enforce this section.

F. Dispute Resolution: Customer disputes with Utilities concerning subsection E of this section shall be resolved in accord with the dispute resolution procedures set forth in Utilities' tariffs. Requests for informal review or mediation must be received by Utilities within thirty (30) days from the date of the notice of violation.

G. Criminal Charges: In addition to the remedies described above, criminal charges may also be filed against any person who violates subsection A of this section. (Ord. 98-173; Ord. 01-42; Ord. 05-157; Ord. 18-42)

Notes

1. See chapter 11, "Municipal Court" of this Code.

12.1.115: ABATEMENT OF IMMINENT HAZARDS:

A. Legal Action:

1. Any use of or connection to the utility supply system in violation of any provision of this chapter, or any act or condition which damages, injures or threatens to damage or injure the utility system shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Court in and for the County of El Paso or in any other appropriate court. In any such action the City may recover reasonable attorney fees, costs, court reporter fees and other expenses of litigation.

2. Any discharge in violation of the provisions of this chapter or an order of the Chief Executive Officer issued pursuant to this article or any discharge of wastewater, industrial wastes or other wastes into the

wastewater treatment system contrary to the provisions of this chapter or any order of the Chief Executive Officer shall be considered a public nuisance and the City Attorney may commence an action for appropriate legal and/or equitable relief in conformance with the provisions of this subsection A.

B. Penalty: Any person who performs or fails to perform an act where the performance or failure to perform is declared in any provision of this chapter to be unlawful, shall be fined and/or imprisoned as provided in section 1.1.201 of this Code. A separate and distinct offense shall be deemed to have been committed for each day on which violation shall occur or continue.

C. Abatement Of Imminent Hazards:

1. Notwithstanding any other provisions of this chapter to the contrary, if the Chief Executive Officer certifies in writing that an imminent hazard exists, and which requires immediate action in order to protect the public health, safety and welfare, he/she may issue an order to the owner, agency of the owner or occupant of property upon which the imminent hazard exists, stating that the imminent hazard exists and requiring that the actions as deemed necessary be taken in order to abate the imminent hazard. The order issued by the Chief Executive Officer shall, if appropriate, set forth the maximum time within which the owner, agent of the owner or occupant must abate the imminent hazard.

2. Whenever the Chief Executive Officer shall issue the imminent hazard order, the order shall: a) be in writing; b) be personally served whenever feasible on the owner, or agent of the owner and occupant of the premises or, when the personal service is not feasible, either post it conspicuously at the premises or mail to the person by certified mail, return receipt requested, to his last known address; c) describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the imminent hazard order; d) specify, if applicable, the maximum time period within which the imminent hazard must be abated or otherwise corrected; e) state that an appeal is available provided the provisions of this section are followed; f) have a copy of this section attached; and g) state that, in the event the property owner, agent of the owner or occupant fails to comply with the imminent hazard order, the City or Utilities may take the steps as are necessary to correct the imminent hazard, bill the property owner therefor, and if unpaid, to initiate assessment proceedings against the property pursuant to the City's Zoning Code.

3. In the event the person to whom the imminent hazard order is issued fails or refuses to comply therewith, the Chief Executive Officer is hereby empowered to cause the imminent hazard to be summarily abated in such manner or methods as are necessary and appropriate under the circumstances of each given case.

4. In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the costs and expenses for the abatement of the imminent hazard, a lien may be assessed against the property upon which the imminent hazard exists for the costs of abatement in accord with chapter 2, article 6 of this Code. The lien created hereby shall be superior and prior to all other liens excepting liens for general and special taxes.

5. With respect to enforcing the imminent hazard order, the Chief Executive Officer or the Chief Executive Officer's designees, and their agents, may enter upon any premises or property for the purpose of inspecting, abating, repairing or removing or otherwise preventing the condition which is an imminent hazard to the public health, safety and welfare. In the event that the owner, agent of the owner or occupant of the premises subject to the imminent hazard refuses entry to the Chief Executive Officer or the Chief Executive Officer's designees or agents when entry is sought pursuant to this section, the Chief Executive Officer or the Chief Executive Officer's designees or agents may make application to any Judge of the Municipal Court of the City for the issuance of an inspection warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired, and shall state facts giving rise to the belief that a condition exists at the premises which is an imminent hazard to the public health, safety and welfare. Any warrant issued pursuant to the application shall command the owner, agent of the owner or occupant to permit inspection and entry by the Chief Executive Officer or the Chief Executive Officer's designees or agents for the purpose stated therein.

6. Any person aggrieved by the imminent hazard order of the Chief Executive Officer may appeal the order to the Hearing Officer, who shall be appointed by the Chief Executive Officer, provided written application therefor upon the Chief Executive Officer is made within five (5) days of service of the imminent hazard order. In no event, however, shall the appeal of the imminent hazard order in any way stay or suspend the same. If a timely appeal is made, a hearing concerning the propriety of the order shall be granted to the owner or agent of the owner of the premises, and, after notice thereof to the appellant, the hearing shall be held no more than ten (10) days after the filing of the notice of appeal. At the hearing, the appellant and the City or Utilities may be

represented by an attorney, may present evidence, and may cross examine witnesses. A verbatim transcript of the hearing shall be made. The decision of the Hearing Officer shall be based upon competent evidence.

7. The remedies provided in this section shall be cumulative and in addition to any other remedies which may be available to the Chief Executive Officer. Nothing contained herein shall be construed to preclude the Chief Executive Officer from seeking other remedies in addition to, or in lieu of, the remedies granted herein.

8. The phrase "imminent hazard" shall include, but not be limited to, a violation of any of the provisions of this chapter, or the existence of a public nuisance or any other condition or occurrence which is a menace to the public health, safety and welfare, and which interferes with, or arises out of, the provision of utility services pursuant to this chapter. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.116: SPECIAL CONTRACT SERVICE:

The Utilities may provide by special contract for the use of or connection to the utility supply system by institutions, plants, districts, governments, Municipal corporations or other similar users. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.117: EMERGENCY CURTAILMENT OF UTILITY SERVICE:

The Chief Executive Officer, without prior notice to affected customers, is authorized to interrupt or curtail utility services or to provide for the interruption or curtailment of utility services whenever emergency circumstances, including, without limitation, supply limitations or restrictions, treatment restrictions or limitations, transmission or distribution system restrictions or failures, or operational problems, require immediate interruption or curtailment of the utility services for operational or safety reasons. The Chief Executive Officer's authority under this section may be delegated by Utilities Enterprise Policy. (Ord. 98-173; Ord. 01-42; Ord. 18-42)

12.1.118: REVOCABLE PERMITS:

A. The space below the surface, upon the surface, and above the surface of public property primarily used by Utilities, including watershed areas, may be used and occupied for any purpose not inconsistent with this chapter, other provisions of this Code, regulations established by the Utilities Chief Executive Officer, or other laws and ordinances regulating the use and occupancy of the public property; provided, however, it shall be unlawful for any person to use or occupy the space, whether below, upon or above the surface of the public property, or to construct any device or structure thereupon as hereinafter set forth except by and under the authority of a revocable permit granted and issued by the Utilities Chief Executive Officer.

B. The Utilities Chief Executive Officer, pursuant to section 12.1.107 of this article, shall have the authority to establish regulations governing the issuance or denial of the permits, insurance requirements, fees, and permit terms and conditions necessary to protect the public health, safety and welfare, and the safety and welfare of Utilities operations, equipment and facilities. (Ord. 01-42; Ord. 18-42)

12.1.119: ESTABLISHMENT OF EXCLUSIVE WATER AND WASTEWATER SERVICE TERRITORIES OUTSIDE CITY LIMITS:

A. Upon application by Utilities, City Council by ordinance may establish service territories, regarding the provision of water and wastewater services, exclusive to Utilities outside the City limits in areas which have been provided water or wastewater services on or before June 15, 1999. Water and wastewater services may include water supply and other necessary collection, treatment, transmission, distribution and operational services.

B. In determining whether Utilities should be the exclusive service provider for water and/or wastewater services within an area outside the City limits, City Council shall review information such as the description of the area to be served, the extent of service provided (if any), feasibility information, proposed tariffs, the effect of the proposed service upon Municipal customers and the public benefits to be provided by such service.

C. City Council shall establish such exclusive service territories if it determines that such service territories are reasonable and appropriate in light of all circumstances.

D. The description of any exclusive service territories established by City Council shall be included in tariffs. (Ord. 02-175; Ord. 18-42)

12.1.120: STORMWATER SERVICE FEE BILLING:

Utilities has been authorized by the electors of the City to contract with the City, on behalf of its Stormwater Enterprise, to invoice, bill, and collect Stormwater service fees directly to the owners or occupants of property. In the context of this provision, "bill" includes invoice, bill, and collect. Upon such an agreement, for the billing of properties, Utilities will bill Utilities' applicable customers and those customers will constitute the owners or

occupants of properties as established in section 14.8.109 of this Code. Utilities will bill the established fee in each applicable Utilities bill period to each applicable customer through Utilities standard billing practices. Utilities' bill periods may not align with calendar months, but customers will be billed the appropriate Stormwater service fees over time. Utilities may prorate Stormwater service fees when an applicable customer is billed for a partial bill period. Upon termination of utility service, no partial Stormwater service fee refunds will be granted, as the Stormwater service fee is incurred in full upon billing.

Except for refunds processed through Utilities' standard operating procedures, in the event that any Stormwater service fees collected by Utilities and paid to the Stormwater Enterprise are required to be refunded, the Stormwater Enterprise will be responsible to make such refunds and to comply with any applicable requirements. In accordance with Colorado Springs City Charter section 13-80, the City Attorney will defend any claim brought against Utilities related to Stormwater billing. Subject to recovery from other parties, the Stormwater Enterprise will be responsible for costs and legal expenses associated with such defense.

In the event billing and collection of Stormwater service fees, or any component portion of such fees, is handled by Utilities, such charges will be deemed to constitute "user charges" and be subject to the collection procedures and remedies provided in sections 12.1.112 and 12.1.113 of this article, in the same manner as for utility service. In such case, Utilities employees designated by the Chief Executive Officer will have the same powers and authority granted herein to City employees designated by the Stormwater Enterprise Manager to take actions for collection of Stormwater service fees and enforcement. (Ord. 18-48; Ord. 19-80)