

ORDINANCE NO. 001, 2025
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTERS 15 AND 23 OF THE CODE OF THE CITY
OF FORT COLLINS RELATING TO SMALL CELL
CONTRACTORS AND PROVIDER BOND REQUIREMENTS FOR
OPERATING IN THE PUBLIC RIGHT-OF-WAY

A. The City of Fort Collins, as a home-rule municipality, is authorized by Article XX, Section 6 of the Colorado Constitution, the provisions of state statutes, and its City Charter to develop and implement policies and ordinances regulating the development of land within the City.

B. The City Council is empowered and directed by Article II, Section 5(b) and Section 14, of the City Charter to provide for all essential administrative functions and public services related to street maintenance and provide for all licenses and permits for regulatory purposes.

C. On October 20, 1998, the City Council adopted Ordinance No. 180, 1998, which created an overall license to be known as a "Right-of-Way Contractors License," which license must be supplemented with an endorsement for the specific type of construction work proposed to be performed by the contractor.

D. The Right-of-Way Contractors License was designed to fully cover the City's administrative costs in processing the applications and includes a bonding requirement to adequately protect the City in City Code Section 15-363 Bond required.

E. In 2017 in response to Federal Communications Commission ("FCC") rulemaking and state statutory revisions affecting local control over wireless communication facilities, the City Council adopted Ordinance No. 143, 2017 adding Chapter 23, Article VII of the City Code to create a permitting process for small cell telecommunications facilities located in public highways.

F. The number of telecommunications companies working in the City right-of-way is increasing and the risk of unresolved damages and necessary repairs to City property is likely.

G. The bond requirements for a contractor performing work in the City right-of-way has not been updated to address repairs to City property since 1998 and the current bond requirement is insufficient to adequately protect the City.

H. The proposed code changes will help decrease the City's exposure to a significant financial risk to repair damaged infrastructure caused by contractors.

I. Based on the foregoing, it is the desire of the City Council to amend Chapters 15 and 23 of the Code of the City of Fort Collins Relating to Small Cell Contractors and Provider Bond Requirements for Operating in the Public Right-of-Way.

J. The proposed City Code amendments are the best interest of the citizens of Fort Collins.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 15-363 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-363. – Bond required.

All license applications shall be accompanied by a license and permit bond executed by a reliable surety company with a rating of "A-" or better. The bond certificate provided to the City shall be an original (not a copy) or an electronic file electronically sealed by the surety. Except for applications to bore in the public right-of-way, the bond shall be in the amount of one hundred thousand dollars (\$100,000) or as otherwise set forth in a Supplemental Site License as provided in § 23-177(d). Applicants applying to bore for utilities in the public right-of-way shall provide a bond of two hundred fifty thousand dollars (\$250,000). All bonds shall be continuous, with a minimum cancellation notice of sixty (60) days. In the event a bond is canceled, the license and any related permitting will be immediately revoked and no further work will be allowed to occur; however, the bond, even though canceled, must remain effective through the warranty period associated with all previously completed work items.

Section 2. Section 23-172 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-172. - Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings below:

...

Supplemental Site License (SSL) shall mean a site-specific sub-license issued under the general authority granted in the MLA, containing authorization for installation and operation of an identified SCF at a specific address.

...

Section 3. Section 23-175 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-175 - Operational standards.

...

(d) *Legal access.* The applicant shall warrant and represent for all SCF permit applications that the applicant has entered into a master license agreement for any public highway affected by the application providing legal access to/from the SCF and the utilities necessary to operate and maintain the facility, and, where applicable, permission to attach the SCF from the owner of the pole.

(e) *Operation and maintenance.*

...

(7) In the event of conflict between the requirements of this subsection (e), a master license agreement, and/or an SSL, the master license agreement shall have priority.

...

Section 4. Section 23-177 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-177- Application, review procedures and requirements for small cell facilities in the public highways.

...

(d) *Submittal requirements and review procedures for SCFs* permit applications shall be reviewed pursuant to the following procedures:

(1) Elements

...

h. Proof of bonding and insurance satisfying the requirements of § 23-19 for any SCF installation that entails excavation of a public highway, in an amount determined in the Engineer's judgment under § 23-175(g); and

...

Section 5. Section 23-178 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-178. - Standards for approval.

- (a) *Administrative approval.* An applicant for a SCF permit shall be subject to administrative review as set forth in § 23-177.
- (b) Notwithstanding the approval of an application for collocation or a new non-city-owned structure as described herein, all work performed on SCFs must be completed in accordance with applicable building and safety requirements of the City.
- (c) As required in the Engineer's judgment under § 6-175(g), any application for an SCF permit and at the time of requesting an SSL, an applicant shall be required to carry adequate insurance and establish performance bond(s) for the entire scope of make-ready work it will perform, including work it will perform on facilities owned by existing cellular providers, as required in the same manner for other right-of-way, utility, and excavation projects under this Code.

Introduced, considered favorably on first reading on January 7, 2025, and approved on second reading for final passage on January 21, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: January 31, 2025

Approving Attorney: Yvette Lewis-Molock