

AGENDA ITEM SUMMARY

City Council



STAFF

Katherine Bailey, Energy Services Program Manager
Brian Tholl, Energy Services Manager

SUBJECT

Second Reading of Ordinance No. 117, 2024, Amending Chapters 12 and 19 of the Code of the City of Fort Collins Regarding the Requirements for the Building Energy and Water Scoring Program.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on August 20, 2024, amends City Code Chapters 12 and 19 relating to the Building Energy and Water Scoring (BEWS) program. This amendment would modify service requirements for municipal court citations issued under City Code Section 12-207. This item does not add any new requirements for building owners.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

BEWS Overview

Adopted December 4, 2018, the BEWS reporting program increases transparency and access to energy efficiency data for commercial and multi-family buildings 5,000 square feet and larger. The program enhances consumer (tenant) choice and access to information in the real estate market, providing insight about energy use to aid in sales and lease decisions. BEWS also aligns with Fort Collins Utilities (Utilities) incentives to provide additional benefits to covered building owners, who have access to program benchmarking information to guide their decisions relating to efficiency upgrades and energy conservation investments.

Building owners must comply with annual BEWS reporting requirements. In 2023, 96% of covered building owners complied with annual program requirements. As of July 2024, 94.7% of building owners have already complied for the current year. The City of Fort Collins issues municipal court citations to non-compliant building owners beginning August 1, 60 days after the annual June 1 reporting deadline, pursuant to Section 12-207 of the City Code.

Building owners receive multiple annual notifications through the following mechanisms and schedule before citations issue. Additional communications occur throughout the year as needed to address specific circumstances and questions.

Topic	Mechanism	Date
Notice of open data set for year	Email	March 1
Reporting reminder	Email and physical mail	April 1
Reporting reminders	Email, physical mail if no email available	May 1, May 15
Reporting reminder	Email	May 23
Reporting reminders	Phone call	Mid-May, mid-June
Notices of non-compliance	Email and physical mail	June 5, July 5
Citation	Physical certified mail	Aug. 5
Scorecard	Email	October 15

Proposed Code Change

City Code Section 12-207 directs that BEWS citations are served through the municipal court process in City Code Section 19-65(4). That Section requires officers to attempt to serve citations on a responsible party (building owner or agent) at the site of the violation (building address) or to post citations at that location. Based on feedback from property owners, however this requirement proves impractical for multi-tenant buildings and properties that are not managed by on-site personnel.

All program communications prior to citations are conducted by email or surface mail to the property owner’s address in their Utilities service account or Larimer County property records. To ensure effective service of citations and timely ability for building owners to bring properties into compliance and appear on municipal court dates, staff is proposing to update City Code to allow BEWS citations to be effective when served on the responsible party by certified mail at their last known physical address, as stated in the records of the City, Larimer County, or State. A copy may also be posted in a conspicuous place on the property.

This change is proposed acknowledging that building owners are typically not accessible at their building’s physical location. Building owners may not reside in Colorado or near the physical location and are more reliably reached by mail. BEWS citations delivered to the site of the violation per Section 19-65(4) may not fully meet due process requirements in instances when citations are received by businesses and tenants, who are not responsible for complying with BEWS requirements. Delivering citations directly to owners, rather than hand-serving or posting them at the property, avoids disruption to ongoing business onsite and tenant confusion, and aligns with building owners’ due process interests.

CITY FINANCIAL IMPACTS

Though there would be no direct impact on City finances from this proposed code change, there would be associated costs for staff time should a physical posting be required. In 2023, more than 180 building owners received citations, which would translate into several days of staff time and additional fuel costs to deliver citations by hand. In 2024, there will be fewer citations issued, but the numbers of citations in future years are hard to anticipate. Additional staff time would also likely be necessary to address concerns and questions raised by businesses and tenants upon receipt of citations.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

First Reading attachments not included.

- 1. Ordinance for Consideration