

ORDINANCE NO. 24-_____

AN ORDINANCE AMENDING SECTION 111 (EXCLUSIVITY) OF ARTICLE 1 (GENERAL PROVISIONS) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO EXCLUSIVE PROVIDER EXCEPTIONS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 111 (Exclusivity) of Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

12.1.111: EXCLUSIVITY:

A. * * *

1. Exceptions:

a. Strategic Exception: An exception to this section may be granted for a property if Utilities Board determines it is in the best interest of Utilities to grant such an exception.

b. Legal Exception: An exception to this section may be granted for a property if Utilities Board determines that providing one or more utility service(s) may result in (1) potential breach of contract; (2) violation of federal, state or local law by Utilities or the City; or (3) the provision of such service(s) is inconsistent with the terms of existing contracts or the federal, state or local law.

2. Criteria: An exception under subsection A.1. may only be granted if:

a. The Chief Executive Officer recommends approval of the proposed exception based on the following evaluations demonstrating a net benefit to Utilities:

(1) Financial analysis of the proposed exception conducted by or under the direction of Utilities' staff.

(2) Risk analysis of the proposed exception conducted by or under the direction of Utilities' staff with support from the City Attorney's Office.

(3) Demonstration from the property owner that the property can receive or does not have a need for the excluded utility service(s) independent of Utilities.

b. Additionally for an exception granted under subsection A.1.a, the proposed exception must support one or more current Utilities Board directives or instructions.

3. Approval of an exception under this subsection shall be subject to the following conditions:

a. Notice of the exception will be recorded against the property in the real property records of the El Paso County, Colorado, Clerk and Recorder.

b. The property owner must enter into an agreement with Utilities that sets out the terms and conditions of the exception, including the following:

(1) Whether the property must connect to Utilities' system(s) and terminate service by the other utility service provider(s) if (i) Utilities determines that it is in the best interest of Utilities to serve the property; and (ii) Utilities has the ability to provide service to the property.

(2) Whether the property must design and install new utility infrastructure in accordance with the then-existing Utilities Rules and Regulations and Line Extension and Service Standards.

(3) If the property must connect to Utilities' system(s), whether the property must comply with all requirements of the Utilities Rules and Regulations and Line Extension and Service Standards to connect to Utilities' system(s), including payment of any applicable development charges before building permits may be issued or the applicable utility service may be provided to the property by Utilities.

c. Utilities may require an agreement with the other utility service provider(s) providing service to a property prior to granting an exception under this subsection.

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Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 202__.

Finally passed: _____

Randy Helms, Council President

ATTEST:

Sarah B. Johnson, City Clerk