

ORDINANCE NO. 019, 2016
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADDING A NEW SECTION 1-23 TO THE CODE OF THE CITY OF FORT
COLLINS TO ESTABLISH A ONE-YEAR LIMITATION FOR THE PROSECUTION
OF CITY CODE VIOLATIONS IN FORT COLLINS MUNICIPAL COURT

WHEREAS, in Section 16 of Article IV of the City Charter, the prosecution of a violation of the Charter must be commenced in the Fort Collins Municipal Court ("Municipal Court") within one year of the date of the violation; and

WHEREAS, neither the City Charter nor the City Code currently establishes a similar time limitation for the prosecution of violations of the Code in Municipal Court; and

WHEREAS, since there is no such time limitation for the prosecution of Code violations in the City Charter or Code, the City's current controlling time limitation is found in C.R.S. Section 31-16-111, which statute imposes a one-year time limitation on such prosecutions in the municipal courts of all municipalities except for those home rule municipalities which have set such a time limitation in their charter or code; and

WHEREAS, as a home rule municipality, the City can therefore establish its own time limitation for City Code violations prosecuted in Municipal Court; and

WHEREAS, by not expressly stating in the Code a time limitation for the prosecution of Code violations, but instead having to refer a state statute, this has sometimes caused confusion for citizens reporting Code violations and for those charged with them; and

WHEREAS, clearly stating this time limitation in the City Code will help to eliminate this confusion; and

WHEREAS, the one-year time limitation proposed here will also be subject to tolling provisions which will stop the running of the one-year time limitation for any period of time the accused is absent from the City, for up to one year, and during the time the accused is being prosecuted in another case for the same conduct, which tolling provisions are not in the controlling state statute applicable to municipalities (Section 31-16-111), but are in the state's statutes of limitations for its criminal offenses.

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

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

Section 2. That the Code of the City of Fort Collins is hereby amended by adding a new section, to be numbered 1-23, which section reads as follows:

Sec. 1-23. Time to initiate a prosecution

(a) Except as provided in paragraph (b) of this Section or as provided otherwise in this Code for a particular violation, no person shall be prosecuted, tried or punished for any violation of this Code unless within one (1) year of the date of the violation the prosecution is initiated in Municipal Court as provided in Rule 204(a) of the Colorado Municipal Court Rules of Procedure or the person is served with a summons and complaint as provided in paragraph (e) of Rule 204.

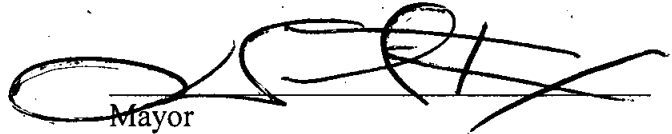
(b) The time limitation imposed by paragraph (a) of this Section shall be tolled with respect to the person prosecuted for: (1) any time period, not to exceed one (1) year, during which the person is absent from the City; and (2) any time period during which a prosecution is pending against the person for the same conduct, even if that prosecution is dismissed or reversed on appeal.

(c) When any violation of this Code is based on a series of acts performed at different times, the period of limitations set by this Section shall start at the time when the last act in the series of acts is committed.

Introduced, considered favorably on first reading, and ordered published this 9th day of February, A.D. 2016, and to be presented for final passage on the 16th day of February, A.D. 2016.

ATTEST:





Mayor


City Clerk

Passed and adopted on final reading on the 16th day of February, A.D. 2016.

ATTEST:




Mayor


City Clerk