

ORDINANCE NO. 021, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 4, ARTICLE II AND CHAPTER 19, ARTICLE V
OF THE CODE OF THE CITY OF FORT COLLINS SO AS TO DECRIMINALIZE
CERTAIN OFFENSES RELATED TO THE CARE AND KEEPING OF ANIMALS

WHEREAS, over the years, animal control officers have received numerous citizen complaints related to the enforcement and prosecution of animal violations such as animal at large, animal disturbance of peace and quiet, and failure to license, which violations adversely affect the livability of neighborhoods; and

WHEREAS, in response to those complaints, city staff has developed recommendations for more effectively dealing with such violations; and

WHEREAS, all animal code violations in Chapter 4, Article II, are currently criminal misdemeanors subject to a fine not exceeding one thousand dollars (\$1,000) and/or imprisonment not exceeding one hundred eighty (180) days, in addition to any costs that may be assessed; and

WHEREAS, City staff believes that decriminalizing these kinds of violations will result in a more efficient and effective enforcement of the Code provisions, including the prosecution of violations; and

WHEREAS, a civil infraction violation is subject to a civil penalty of not more than one thousand dollars (\$1,000), plus costs, damages, and expenses; and

WHEREAS, proving that a civil infraction has occurred requires a lower burden of proof and entails a simpler, more efficient citation procedure than proving a criminal misdemeanor violation; and

WHEREAS, City staff anticipates that changing the nature of these violations from a criminal misdemeanor to a civil infraction will result in increased compliance with provisions of Chapter 4 dealing with animal control; and

WHEREAS, City staff is recommending decriminalizing all of the provisions in Chapter 4, Article II of the Code with the exception of those provisions related to vicious and dangerous dogs, public nuisance, and cruelty sections; and

WHEREAS, City staff recommends that these civil infractions be processed through Municipal Court, which is equipped to handle a high volume caseload, because of the anticipated increase in the number of cases; and

WHEREAS, City staff has identified some minor amendments that need to be made to Article V, Section 19 of the City Code to allow for Municipal Court to handle these types of civil infractions; and

WHEREAS, the City Council believes that it would be in the best interests of the City to approve all of the above recommended amendments to the City Code.

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

Section 1. That Section 4-196 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 4-196. Generally.

Any person found guilty of violating any provision of this Chapter, except Sections 4-70, 4-74, 4-95, 4-96, 4-97, 4-119, and 4-157, whether by acting in a manner declared to be unlawful or by failing to act as required, commits a civil infraction and is subject to the penalty provisions of subsection 1-15(f). Any person who violates Sections 4-70, 4-74, 4-95, 4-96, 4-97, 4-119, or 4-157 commits a misdemeanor criminal offense and is subject to a penalty or imprisonment, costs and fees and any other orders imposed in accordance with §1-15.

Section 2. That Section 19-66 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-66. Payment without appearance.

(a) The Neighborhood Services Manager or, in the case of a forestry code violation, the City Forester, shall accept payment in full of the amount due for a civil infraction from a defendant or make a payment plan arrangement with a defendant if such payment or payment plan arrangement is made within ten (10) days following service of the citation for the violation. Such payment shall be separately accounted for and deposited into the City's general fund in accordance with rules and procedures of the Finance Department.

(b) In the case of a violation of Chapter 4, Article II of the Code, the Municipal Court Clerk shall accept payment of a penalty assessment notice by a defendant without an appearance before the Municipal Court if payment is made after the issuance of the charging document and prior to the date and time scheduled for the first hearing, provided that the Municipal Court Clerk has a copy of the charging document. Such payment shall be separately accounted for and deposited into the City's general fund in accordance with rules and procedures of the Finance Department.

(c) Payment of the total penalty, costs and fees shall constitute a waiver by the responsible party of rights and acknowledgment of liability.

(d) Such payment shall constitute an entry and satisfaction of judgment.

(e) Payment of the penalty and costs shall not excuse the failure to correct violations nor shall it bar further enforcement by the City.

Section 3. That Section 19-67 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-67. Hearing procedures.

(a) If a defendant wishes to contest a citation, other than a violation of Chapter 4, Article II of the Code, he or she, within ten (10) days following service of the citation, shall file a written request with the Neighborhood Services Manager for a hearing before the Referee.

(b) If a defendant wishes to contest a citation for a violation of Chapter 4, Article II of the Code, he or she shall appear before the Municipal Court at the time scheduled for first hearing.

(c) The hearing of all civil infractions shall be conducted pursuant to the Colorado Rules of Evidence and the order of proceedings shall be those followed by the Municipal Court in offenses tried to the Municipal Judge, except as otherwise specifically stated herein.

(d) The City and the defendant may be represented by counsel.

Section 4. That Section 19-69(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-69. Judgment and procedures after hearing.

...

(c) The judgment shall be satisfied upon payment to Neighborhood Services, Municipal Court, with respect to a violation of Chapter 4, Article II of the Code, or the City Forester, with respect to forestry code violations, in the total amount of penalty, costs and fees assessed.

...

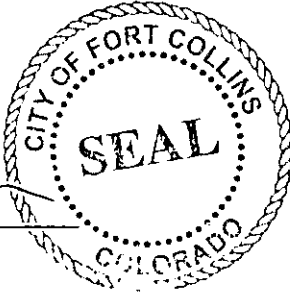
Section 5. That the amendments to Chapter 4 and Chapter 19 of the City Code contained herein shall go into effect on May 1, 2013.

Introduced, considered favorably on first reading, and ordered published this 5th day of February, A.D. 2013, and to be presented for final passage on the 19th day of February, A.D. 2013.

ATTEST:

Wanda Nelson

City Clerk



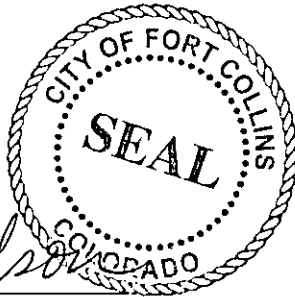
Karen Weickert
Mayor

Passed and adopted on final reading on the 19th day of February, A.D. 2013.

ATTEST:

Wanda Nelson

City Clerk



Karen Weickert
Mayor