

ORDINANCE NO. 108, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 12, ARTICLE X, OF THE CODE OF THE CITY
OF FORT COLLINS TO REMOVE THE SMALL SCALE SOURCE
DEFINITION AND WARNING REQUIREMENTS FOR FUGITIVE DUST

WHEREAS, on May 3, 2017 City Council adopted Ordinance 044, 2016 enacting a new Article X in Chapter 12 of the City Code (the “Dust Control provisions”), regulating particular matter emissions, sometimes referred to as “fugitive dust,” and adopting the Dust Prevention and Control Manual to protect the health, safety, and general welfare of the public; and

WHEREAS, following the first year of implementation of the Dust Control Provisions, which concluded on November 1, 2017, staff reviewed the effectiveness of the Dust Control Provisions and provided the *1-Year Impacts Report* (the “Impacts Report”) to Council on March 28-2018; and

WHEREAS, a key recommendation in the Impacts Report was removal of the definition of “small scale source” and associated warning requirements for violation by a small scale source in order to simplify understanding and application of the Dust Control Provisions by removing the distinction between a “small scale source” and any other “dust generating activity or source;” and

WHEREAS, the only distinction related to a “small scale source” and any other dust generating activity or source is a requirement that two written warnings be issued prior to issuance of a citation; and

WHEREAS, in practice, all complaints received since the Dust Control Provisions were adopted have been resolved with voluntary compliance and in light of this record of effective compliance, the addition of two written warnings prior to citing a small scale source appears to be unnecessary; and

WHEREAS, removal of the distinction between small scale sources and other dust generating activities or sources would not alter the enforcement practice of outreach, education and written warnings, but would provide consistent requirements for any citation from all such activities or sources; and

WHEREAS, for the foregoing reasons, staff recommends adoption of this Ordinance and believes that modification of the Dust Control Provisions to eliminate distinctions based on a small scale source will continue to effectively protect the health, safety, and general welfare of the public in connection with fugitive dust.

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 Section 12-151 of the Code of the City of Fort Collins is hereby amended by the deletion of the definition “*Small scale source.*”

Section 3. That Section 12-153 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-153. - Prevention of fugitive dust emissions.

(a) Any person who conducts, or is an owner or operator of, a dust generating activity or source shall comply with the provisions of the dust control manual.

(b) Violation: It shall not be considered a violation of this section if off-property transport of fugitive dust emissions occurs while dust control measures are being implemented consistent with the dust control manual.

(c) Best management practices: Educational materials regarding best management practices for dust control shall be made available by the City to owners and operators of dust generating activities, including but not limited to, a checklist or other descriptive material.

Section 4. That Section 12-160 of the Code of the City of Fort Collins is hereby deleted in its entirety.

Section 5. Notwithstanding any provision of the Dust Control Provisions to the contrary, the City Manager is hereby authorized to adopt conforming changes to the Dust Control Manual to implement the changes approved in this Ordinance and, after such adoption, shall deliver an updated copy of the Dust Control Manual to the City Clerk and the City Clerk shall keep the updated Dust Control Manual on file in accordance with City Code Section 12-152.

Introduced, considered favorably on first reading, and ordered published this 21st day of August, A.D. 2018, and to be presented for final passage on the 4th day of September, A.D. 2018.

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Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 4th day of September, A.D. 2018.

Mayor

ATTEST:

City Clerk