

ORDINANCE NO. 042, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 20 OF THE CODE OF THE CITY OF
FORT COLLINS PERTAINING TO NUISANCES

WHEREAS, on December 1, 1987, the City Council adopted Ordinance No. 180, 1987, amending the City Code to include as a public nuisance certain types of air pollutants; and

WHEREAS, since the adoption of those Code provisions, as scientific knowledge has grown and citizen concerns have changed, subsequent City Councils have amended the Code to regulate different types of public nuisances with regard to air pollution; and

WHEREAS, in recent years, concerns have been reported to City Staff regarding nuisance impacts from wood fires in residential neighborhoods; and

WHEREAS, in May 2017, Council identified backyard fire pits as a priority issue, prompting efforts to explore policy options to help mitigate potential smoke impacts on air quality and public health, as well as improve neighborhood livability; and

WHEREAS, wood smoke is considered an air pollutant because it is made up of gases and particles, both of which can cause health concerns; and

WHEREAS, on December 19, 2006, City Council adopted Ordinance No. 198, 2006, which decriminalized certain provisions of the Code, including several provisions of Chapter 20, related to public nuisances, and designated many offenses against property as civil infractions; and

WHEREAS, on further review of Chapter 20, City Council believes violations of the air pollution nuisance Code should be civil rather than criminal in nature; and

WHEREAS, City Council believes adding requirements to the air pollution nuisance provision of the Code would help mitigate nuisance effects of wood burning in neighborhoods; and

WHEREAS, the Council finds and determines that the adoption of this Ordinance is in the best interest of the City and necessary for the public's health, safety and welfare.

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 20-1 of the Code of the City of Fort Collins is hereby amended as follows:

Sec. 20-1. Air pollution nuisances prohibited.

...

(e) No person being the owner, occupant, tenant, or otherwise having any possessory control, individually or jointly with others, of any property shall cause or allow the burning of solid fuel outdoors on such property between the hours of 10:00 p.m. and 7:00 a.m.

(f) No person being the owner, occupant, tenant, or otherwise having any possessory control, individually or jointly with others, of any property shall cause or allow the burning of solid fuel outdoors on such property less than fifteen feet from any abutting property line.

(g) The provisions of 20-1(e) and 20-1(f) shall not apply to any of the following:

- (1) Solid fuel-burning appliances specifically designed and used exclusively for outdoor noncommercial cooking of food for human consumption, such as barbecue grills and smokers;
- (2) Fires, where written approval has been granted by the Fire Code Official;
- (3) Smoking, as defined in City Code 12-56, "smoke or smoking."

(h) Any person who violates any provision of Section 20-1 commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f).

Introduced, considered favorably on first reading, and ordered published this 5th day of March, A.D. 2019, and to be presented for final passage on the 19th day of March, A.D. 2019.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 19th day of March, A.D. 2019.

ATTEST:

Mayor

City Clerk