

ORDINANCE NO. 172, 2017  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING ARTICLE III OF CHAPTER 12 OF THE CODE OF THE  
CITY OF FORT COLLINS REGARDING SMOKING IN PUBLIC AREAS

WHEREAS, on February 17, 2015, the City Council adopted Ordinance No. 015, 2015, establishing a Downtown Smoke-free Zone (the "Zone"); and

WHEREAS, the Zone was created to prohibit smoking in outdoor areas in the downtown area; and

WHEREAS, in March of this year, enforcement of the Zone began in full force; and

WHEREAS, since enforcement began, many visitors and employees in the downtown area have complained that a misdemeanor offense results in a penalty that is too severe for smoking violations; and

WHEREAS, City staff does not recommend reclassifying smoking violations as civil infractions, as the Municipal Court cannot issue a warrant for failure to appear in court on a civil infraction, making such offenses harder to enforce; and

WHEREAS, City staff believes a petty offense, which carries a lower fine than a misdemeanor and no possibility of jail time, is an appropriate classification for a smoking offense; and

WHEREAS, the City Council is also considering on first reading Ordinance No. 171, 2017 which, if approved, would create a petty offense category of violations within the City Code; and

WHEREAS, the City Council has determined that the proposed amendments are in the best interests of the City and are necessary for the health, safety, and welfare of the City's citizens.

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 12-59.5 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 12-59.5. Smoking prohibited in the Downtown Smoke-Free Zone.**

Smoking shall be prohibited in the Downtown Smoke-Free Zone. Unless otherwise prohibited by City Code, this Section shall not apply to any person smoking:

- (a) in a privately-owned residence;

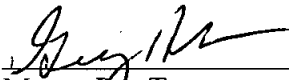
- (b) entirely within an enclosed privately-owned motor vehicle; or
- (c) in a retail tobacco business.

Section 3. That Section 12-67 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 12-67. Violations and penalties.**

- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this Article to fail to comply with any of its provisions.
- (b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.
- (c) Any person who violates any provision of this Article shall be guilty of a petty offense, punishable by a fine in accordance with § 1-15(h).
- (d) Each day of continuing violation shall be deemed to be a separate violation.

Introduced, considered favorably on first reading, and ordered published this 5th day of December, A.D. 2017, and to be presented for final passage on the 19th day of December, A.D. 2017.

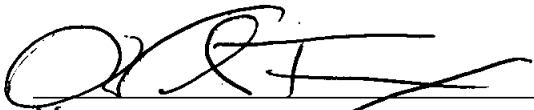
  
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Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
City Clerk



Passed and adopted on final reading on the 19th day of December, A.D. 2017.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

