

ORDINANCE NO. 171, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 1 AND OTHER RELATED PROVISIONS OF THE CODE
OF THE CITY OF FORT COLLINS TO CREATE A PETTY OFFENSE
CLASSIFICATION AND PENALTIES FOR PETTY OFFENSE VIOLATIONS

WHEREAS, under Section 1-15 of the City Code, all violations of the City Code constitute either misdemeanor criminal offenses or civil infractions; and

WHEREAS, misdemeanor offenses carry possible penalties of jail of up to 180 days and a \$2,830 fine, and civil infractions carry a penalty of up to \$2,830; and

WHEREAS, some state laws require local jurisdictions, when enacting local provisions similar to state laws, to be no less restrictive than state laws; and

WHEREAS, if a state law violation is classified as a petty offense, the only option under the current City Code is to charge the equivalent municipal violation as a criminal misdemeanor; and

WHEREAS, City staff believes certain minor offenses, while appropriately classified as criminal rather than as civil infractions, should not have jail as a possible penalty; and

WHEREAS, classifying these minor offenses as civil infractions is also not a satisfactory solution because the Municipal Court cannot issue warrants for failure to appear in court on civil infractions, making them harder to enforce; and

WHEREAS, warrants may be issued when defendants fail to appear to court on petty offenses; and

WHEREAS, if this Ordinance is approved by the City Council, City staff plans to review certain civil infractions and misdemeanors in the City Code to determine whether they should be more appropriately classified as petty offenses, and bring before the City Council for consideration any resulting amendments to 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 1-15 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 1-15. General penalty and surcharges for misdemeanor offenses, petty offenses, traffic offenses and traffic and civil infractions.

(a) Except as to petty offenses, traffic infractions described in Subsection (b) below, and any other civil infraction specified as such in this Code, any person who shall violate any provision of this Code, the Charter or any provision of any code or other regulation adopted by reference by this Code, by doing any act prohibited or declared to be unlawful thereby, or who shall engage in any business, occupation or activity for which a license or permit is required without having a valid license or permit therefor, or who shall fail to do any act required by any such provision, or who shall fail to do any act when such provision declares such failure to be unlawful or to be an offense or misdemeanor, shall be guilty of a misdemeanor and, upon conviction, shall be punished by the penalty specifically provided for such violation or, if none, then by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.) or by imprisonment not exceeding one hundred eighty (180) days, or by both such fine and imprisonment, in addition to any costs which may be assessed. No person under the age of eighteen (18) years as of the date of the offense shall be subject to imprisonment except in the case of failure to comply with a lawful order of the court, including an order to pay a fine, and then only in the manner provided in Section 13-10-113, C.R.S., and the Colorado Children's Code, Section 19-1-101 et seq., C.R.S. Each day upon which a violation continues shall constitute a separate misdemeanor offense unless some other specific time period is provided for any particular offense. The maximum fine set forth above shall be adjusted for inflation on January 1 of each calendar year. For the purpose of this provision, *inflation* shall mean the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, consumer price index for Denver-Boulder, all items, all urban consumers, or its successor index.

...

(h) Any person who shall violate any provision of this Code designated as a petty offense shall pay a penalty for such offense of not more than five hundred dollars (\$500). Jail shall not be a possible penalty for petty offenses.

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

Sec. 19-3. Rules of Procedure.

(a) The Colorado Municipal Court Rules of Procedure, as amended, the rules for traffic infractions contained in Article IV of this Chapter, the provisions of this Chapter, and the procedures adopted by the Municipal Judge which are not inconsistent therewith, are adopted herein by reference and shall govern the procedures in the Municipal Court in all cases arising from misdemeanor, petty, traffic, parking and civil violations, offenses and infractions under the Charter, Code and City ordinances.

...

Section 4. That Section 19-45 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-45. Application.

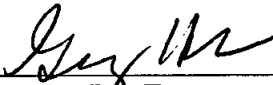
These rules apply to actions in which only the commission of traffic infractions are charged. In any action in which the commission of a traffic infraction and a misdemeanor or petty offense are alleged in one (1) complaint, the action shall be treated as one (1) proceeding governed by the rules and statutes applicable to the alleged misdemeanor or petty offense.

Section 5. That Section 19-62 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-62. Rules of Procedure.

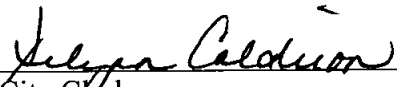
(b) In any action in which the commission of a civil infraction and a misdemeanor or petty offense are alleged in one (1) complaint, the action shall be treated as one (1) proceeding governed by the rules and statutes applicable to the alleged misdemeanor or petty offense.

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.



Mayor Po Tem

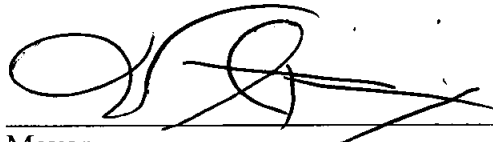
ATTEST:



City Clerk



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



Mayor

ATTEST:



City Clerk

