

**AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 14

DATE: January 16, 2007

STAFF: Steve Roy

SUBJECT

First Reading of Ordinance No. 004, 2007, Amending Chapter 23 of the City Code by Changing Certain References therein From "Public" Property to "City" Property.

RECOMMENDATION

Staff recommends adoption of this Ordinance on First Reading.

EXECUTIVE SUMMARY

Chapter 23 of the City Code contains many references to "public" property. The term "public" is, in some instances, subject to an interpretation that is too broad for lawful application because it might imply that the City has the power and jurisdiction to regulate property owned by the United States or the State of Colorado or other public entities which may be outside of the jurisdiction of the City. Therefore, staff is recommending that the Council change certain references in Chapter 23 so that the language will read "City" property rather than "public" property.

ORDINANCE NO. 004, 2007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 23 OF THE CODE OF THE CITY OF FORT COLLINS
BY CHANGING CERTAIN REFERENCES THEREIN FROM
“PUBLIC” PROPERTY TO “CITY” PROPERTY

WHEREAS, Chapter 23 of the City Code contains numerous references to “public” property;
and

WHEREAS, the term “public” is, in some instances, subject to an interpretation that is too broad for lawful application because it might imply that the City has the power and jurisdiction to regulate property owned by the United States or the State of Colorado or other public entities which may be outside of the jurisdiction of the City; and

WHEREAS, the Council has determined that certain references to “public” property in Chapter 23 of the City Code should be changed to “City” property.

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

Section 1. That the title of Article II of the Code of the City of Fort Collins is hereby amended to read as follows:

ARTICLE II.

EXCAVATIONS ON ~~PUBLIC~~CITY PROPERTY*

Section 2. That Section 23-16(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-16. Permit required; exception in case of emergency.

(a) It shall be unlawful for any person to make or cause or permit to be made any excavation or opening in or under the surface or pavement of any **City-owned property or any** street, alley, **or** sidewalk ~~or other public place~~ within the City without first having obtained and having in force a permit.

...

Section 3. That Section 23-46 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-46. Limitations.

No encroachment or obstruction whatever other than that provided for by law or by this Article or some other City ordinance shall be made or placed upon any **City property or any** street, alley, **or** sidewalk ~~or other public place~~ within the City.

Section 4. That Section 23-61 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-61. Permit required; application.

Any person desiring to occupy any ~~portion of a~~ **City property or any portion of** a street, alley, **or** sidewalk ~~other public place~~ **in the City** in connection with the erection, construction, remodeling or demolition of any building or improvement on property abutting or adjacent thereto shall make written application to the Director of Transportation Services for a permit on a form prepared and provided by the City.

Section 5. That Section 23-62(2) of the Code of the City of Fort Collins is hereby amended to read as follows:

(a) The application shall contain the following information:

- (1) The applicant's name, address and telephone number;
- (2) The **City property**, street, alley, **or** sidewalk ~~or other public place~~ affected and the extent affected;

...

Section 6. That Section 23-65 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-65. Surety bond required; conditions.

Any person applying for a permit under this Article shall file with the City an acceptable corporate surety bond in the amount of ten thousand dollars (\$10,000.) conditioned on the faithful performance of the work in accordance with the rules and regulations of the City and the Code; and the terms of the permit and indemnifying and holding harmless the City against and from all damages or claims for damages, loss, costs and charges or expenses that may be brought against it by any person on account of injury to persons or property resulting from or occasioned by ~~reason of~~ the occupation of the **City property or the** street, alley, **or** sidewalk ~~or public place~~ **that is the subject of the permit.**

Section 7. That Section 23-66 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-66. Protection of pedestrian and vehicular traffic; walkways and markings.

The holder of any permit issued under this Article shall provide the fencing the Director of Transportation Services requires to protect pedestrian and vehicular traffic ~~on the abutting public property~~. If required, the permit holder shall build and maintain a good and substantial protected walkway around the obstruction. The permit holder shall adequately light and mark the obstruction to protect pedestrian and vehicular traffic.

Section 8. That Section 23-91 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-91. Permits.

Any qualified neighborhood organization desiring to erect a neighborhood entry sign upon any **City property or any** street, ~~avenue, alley, or sidewalk, highway, public right-of-way or other public ground~~ within the City shall file a written application for a permit upon a form prepared and provided by the City. Only established, qualified neighborhood organizations may apply for and obtain a permit for neighborhood entry signs. Permits shall not be issued under this Division to residential developments that are being processed for development review and approval under the Land Use Code or the Transitional Land Use Regulations.

Section 9. That Section 23-94(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-94. Investigation of application; permit fee; revocation.

(a) The application for a permit for a neighborhood entry shall be made to the City Engineer. The City Engineer shall make or cause to be made an investigation of the information contained in the application and prior to the issuance of a permit shall determine that the applicant is a qualified neighborhood organization and that the proposed neighborhood sign does not constitute a nuisance or destroy or impair the use of the right-of-way **or any City property** by the public or constitute a traffic hazard and complies with all standards and criteria of this Division. In investigating whether the application for a neighborhood entry sign conforms to the standards and criteria of this Division, the City Engineer shall consult with the Traffic Engineer, the Director of Current Planning and the City Neighborhood Resources office.

...

Section 10. That Section 23-115(a) and (b) of the Code of the City of Fort Collins is

hereby amended to read as follows:

Sec. 23-115. Vacating publicCity right-of-way.

(a) The City Council is authorized to vacate publicCity right-of-way, provided that the City Council first finds, by ordinance, that the right-of-way being considered for vacation is no longer needed for any public purpose, and that it is in the public's interest to vacate the same.

(b) Any person desiring the vacation of publicCity right-of-way shall make written application therefor to the City Engineer on the form prepared and provided by the City Engineer's office. Supporting documentation such as land surveys, legal descriptions, maps and other materials as determined necessary by the City Engineer to properly describe the property to be vacated, or to explain or provide justification for the request, shall be provided with the application.

...

Section 11. That the title of Article IV, Division 3 of the Code of the City of Fort Collins is hereby amended to read as follows:

DIVISION 3. REAL AND PERSONAL PROPERTY

Section 12. That Section 23-140(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-140. Rules and regulations.

(a) The City Manager is hereby authorized to establish such rules and regulations governing the conduct of the general public's use of facilities owned or operated by the City, excluding streets, sidewalks and other publicCity rights-of-way, as the City Manager may determine are necessary and appropriate to serve one (1) or more of the following purposes:

- (1) The protection of such facilities, or any other City or public property or facility;

...

Section 13. That Section 23-193(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

(c) It shall be unlawful to engage in any activity within or upon a natural area when a sign has been posted by the Service Area that the particular area or a portion of the area is closed for such use, based upon a determination by the Service Area that such prohibition is appropriate to protect the safety or well-being of persons or

animals; the natural area, related facilities or any other City ~~or public~~ property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

...

Section 14. That Section 23-194(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

(b) The Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection, and the Director's action and the basis therefor shall be stated in a written notice to the applicant, no later than five (5) business days after receipt of a fully completed application. The Director may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons or animals; the natural area, related facilities or any other City ~~or public~~ property or facility; the use and enjoyment of said areas or facilities by the general public; the needs and objectives of the City in maintaining and operating the same; and/or the natural environment in general.

...

Section 15. That Section 23-203(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

(c) No person shall engage in any conduct or activity within or upon a recreation area when a sign has been posted by the Service Area that such conduct or activity is not allowed in the recreation area or a portion of the area, based on a determination by the Service Area that such prohibition is appropriate to protect the safety or well-being of persons, or animals, or to protect or preserve the recreation area and related facilities, or any other City ~~or public~~ property or facility, the use and enjoyment of the same by the general public, or the needs and objectives of the City in maintaining and operating the same.

...

Section 16. That Section 23-204(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

(b) The Director shall approve, conditionally approve or deny an application on the grounds set forth in this Subsection. The Director may condition the issuance of any permit by imposing reasonable requirements concerning the time, place and manner in which the proposed activity shall be permitted, and may deny any application or impose any reasonable permit conditions or requirements upon the approval of the same in order to protect the safety or well-being of persons, or

animals, or to protect or preserve the recreation area and related facilities, or any other City or public property or facility, the use and enjoyment of the same by the general public or the needs and objectives of the City in maintaining and operating the same.

...

Introduced, considered favorably on first reading, and ordered published this 16th day of January, A.D. 2007, and to be presented for final passage on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 005, 2007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 2, ARTICLE V, DIVISION 3
OF THE CODE OF THE CITY OF FORT COLLINS
PERTAINING TO CITY SERVICE AREAS

WHEREAS, under Article II, Section 5 of the City Charter, the City Council has the power to establish, change, consolidate or abolish administrative offices, service areas or agencies of the City by ordinance, upon report and recommendation of the City Manager, so long as the administrative functions and public services established by the Charter are not abolished in any such reorganization; and

WHEREAS, the organizational structure of the City is contained in Chapter 2, Article V of the City Code;

WHEREAS, Division 3 of Article V establishes the service areas of the City; and

WHEREAS, the City Manager recently retained the services of an outside consultant to review the organizational structure of the City and make recommendations as to any changes that might enhance the efficiency and cost effectiveness of City operations; and

WHEREAS, after considering the consultant's report and recommendations, the City Manager is proposing that the number of persons directly reporting to the City Manager be reduced, that the operations of certain service areas be consolidated, that certain organizational changes be made in the area of financial management and Utility Services; and

WHEREAS, the City Manager has further recommended that the proposed changes be implemented throughout the upcoming fiscal year, as finances and personnel permit, so as to allow for an orderly and effective transition from the existing structure; and

WHEREAS, the Council believes that the organizational changes recommended by the City Manager and the phased implementation of those changes are in the best interests of the City and will further enhance the efficiency and cost effectiveness of City operations.

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

Section 1. That Chapter 2, Article V, Division 3 of the Code of the City of Fort Collins is hereby amended so as to read in its entirety as follows:

DIVISION 3. SERVICE AREAS

Sec. 2-500. ~~Community Planning and Environmental Services; duties of Director~~ ~~Community Services; duties of Director.~~

~~Community Planning and Environmental Services is hereby created. Community Planning and Environmental Services shall be in the charge of a Director who shall be directly responsible to the City Manager for the functions and duties necessary to provide community planning, development review, and environmental and building and zoning services required by the City, and who shall have control and supervision over such other departments, offices or persons assigned by the City Manager.~~
Community Services is hereby created. Community Services shall be in the charge of a Director who shall be directly responsible to the City Manager for the functions and duties most directly involved in the provision of external services to the community and who shall have control and supervision over such other departments, offices or persons as may be assigned by the City Manager.

Sec. 2-501. ~~Cultural, Library and Recreation Services; duties of Director~~ ~~Financial Services; duties of Director.~~

~~Cultural, Library and Recreation Services is hereby created. Cultural, Library and Recreation Services shall be in the charge of a Director who shall be directly responsible to the City Manager for the functions and duties of the Department of Parks and Recreation and such other departments, offices or persons assigned by the City Manager.~~
Financial Services is hereby created. Financial Services shall be in the charge of a Chief Financial Officer who shall be directly responsible to the City Manager for the functions and duties of the Financial Officer as provided in Article V, Part III, Section 22 if the Charter and such other departments, offices or persons as may be assigned by the City Manager.

Sec. 2-502. ~~Internal Services; duties of Director.~~

Internal Services is hereby created. Internal Services shall be in the charge of a Director who shall be directly responsible to the City Manager for the functions and duties necessary to provide internal services to the City organization, and who shall have control and supervision over such other departments, offices or persons as may be assigned by the City Manager.

Sec. 2-503. ~~Transportation Services; duties of Director.~~

~~Transportation Services is hereby created. Transportation Services shall be in the charge of a Director who shall be directly responsible to the City Manager for the functions and duties of the Departments of Engineering, Transportation, Streets,~~

~~Transport and such other departments, offices or persons assigned by the City Manager.~~

Sec. 2-5023. Police Services.

(a) *Chief; duties.* Police Services is hereby created. Police Services shall be under the immediate supervision and control of the Chief of Police, who shall be directly responsible to the City Manager for the functions and duties necessary to preserve the public peace, prevent crime, apprehend criminals and protect the rights of persons and property through the enforcement of the penal laws of the State, all ordinances and regulations of the City, and the provisions of the Charter. The Chief of Police shall also perform such other duties as the City Manager may prescribe for the public peace and safety and the protection of property, including the property of the City within and without the corporate limits, and shall cooperate with local, state and federal law enforcement officials.

(b) *Police officers.*

- (1) All police officers shall be authorized to enforce the provisions of this Code and may be assigned to such positions or special duties as the Chief of Police and the City Manager may deem to be in the best interests of Police Services. Such special assignments may or may not limit the enforcement authority of such officers. Any such limitation shall be specified in writing within the commissions of the officers by the Chief of Police.
- (2) For the purposes of the enforcement of this Code and the preservation of public peace, certain individuals, whether or not employed by the City, may be appointed by the Chief of Police as special police officers to enforce particular provisions of this Code, and as peace officers to enforce particular provisions of the state law; provided, however, that such officers shall be given only such limited authority with respect to enforcement as is set forth in the administrative regulations relative thereto, which shall be adopted by the Chief of Police. Such appointment, in and of itself, shall not constitute employment with the City.

(c) *Issuance of concealed weapons permits.*

- (1) The Chief of Police is authorized to issue permits to persons for the carrying of concealed weapons. Such permits shall be conditioned upon reasonable terms for the protection of the public safety and welfare.
- (2) The Chief of Police shall promulgate rules and regulations to implement the issuance of concealed weapons permits, providing for, among other things, a background check of each applicant, a determination of the need of each applicant to be issued a concealed weapons permit and a determination of the

proficiency of each applicant in the care and use of any weapon the applicant may carry.

- (3) Each person issued a concealed weapons permit shall sign an agreement to indemnify and to hold the City, its officers, agents and employees harmless from any loss or damage legally imposed upon them as a result of the act or omission of the permit holder. Such indemnification shall include any judgment rendered against the City, its officers, agents and employees or any of them, together with costs of suit and cost of defense.
- (4) Each permit issued shall be valid for a period of one (1) year from the date of issuance unless a lesser period of time is specified on such permit.
- (5) Each permit issued shall be subject to revocation by the Chief of Police for violation of any state statute, City ordinance or rule and regulation pertaining thereto promulgated by the Chief of Police.
- (6) Each applicant for a concealed weapons permit shall pay an application fee of one hundred dollars (\$100.) which shall be nonrefundable. A fee of sixty dollars (\$60.) shall be charged for the annual renewal of any permit.

Sec. 2-504. Utility Services; duties of Director.

Utility Services shall be and is hereby created. Utility Services shall be in the charge of a ~~General Manager~~ **Director** who shall be directly responsible to the City Manager for the functions and duties of Utility Services, including, without limitation, the functions and duties necessary to provide for the design, construction, reconstruction, addition, repair, replacement, operation and maintenance of the City's electric, water, wastewater and stormwater utility services, and shall have control and supervision over such other departments, divisions, offices or persons as may be assigned by the City Manager.

Secs. 2-505 - 2-514. Reserved.

Section 2. That the City Manager is hereby authorized and directed to implement the foregoing organizational structure, at such time and in such manner and order as he deems appropriate, but no later than December 31, 2007.

Introduced, considered favorably on first reading, and ordered published this 16th day of January, A.D. 2007, and to be presented for final passage on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 6th day of February, A.D. 2007.

Mayor

ATTEST:

City Clerk