

AGENDA ITEM SUMMARY

March 28, 2017

City Council

STAFF

Judge Kathleen M. Lane, Municipal Judge
Carrie Daggett, City Attorney

SUBJECT

First Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties.

EXECUTIVE SUMMARY

The purpose of this item is to adopt for Municipal Court the Colorado Rules of Civil Procedure to be used to govern the procedures for civil actions filed in Municipal Court that do not arise from violations of the City Charter or Code.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

As a home rule municipality, the City is granted in Article XX, Section 6.c. of the Colorado Constitution the home rule power to create a municipal court and to define and regulate its "jurisdiction, powers and duties". In City Charter Article VII, Section 1, the City has created its Municipal Court and vested it "with original jurisdiction of all causes arising under the City's Charter and ordinances," and further provides that the Court's "[r]ules of procedure . . . shall be enacted by the Council upon recommendation of the Municipal Judge".

The City Council has previously adopted in Code Section 19-3 the "Colorado Municipal Court Rules of Procedure" promulgated by the Colorado Supreme Court, which govern the procedures in municipal courts in "municipal charter and ordinance violation cases," and Council has also adopted various other rules of procedure in Chapter 19, all related to governing the procedures in Municipal Court for the City's prosecution of misdemeanor, traffic, parking and civil violations, offenses and infractions under the City Charter, Code and ordinances (collectively "Current Rules of Procedure"). In granting the Municipal Court "original jurisdiction of all causes arising under the City's Charter and ordinances," the Court also has jurisdiction over causes arising under the City Code that are unrelated to violations of the Charter or Code, for example this can include jurisdiction to consider civil actions filed with the Municipal Court to challenge quasi-judicial decisions made by City Council and other City officials.

The Current Rules of Procedure do not provide the necessary rules of procedure needed by the Municipal Court to adequately, properly and expeditiously consider a civil action filed with it that does not involve a violation of the Charter or Code and needed by the litigants in that civil action to guide them in presenting their cases to the Court. The rules of procedure that would provide such adequate, proper and expeditious procedures for the Municipal Court and the needed guidance to litigants are found in the Colorado Rules of Civil Procedure adopted by the Colorado Supreme Court to govern the procedures in all civil actions filed in Colorado's district courts. Pursuant to Charter Article VII, Section 1, Municipal Judge Kathleen Lane has

recommended to the Council that it adopt the Colorado Rules of Civil Procedure for the Municipal Court to use, as applicable, to govern the procedures for civil actions filed with it.

A civil action has recently been filed in Municipal Court to challenge a quasi-judicial decision Council rendered in February denying an appeal from a decision of the Planning and Zoning Board granting a land use application, so this Ordinance's adoption of the Colorado Rules of Civil Procedures is being made retroactive to January 1, 2017, so this newly filed civil action can proceed under these rules.

This Ordinance also adds a Section 1-24 to the Code to clarify that with respect to those civil actions filed in Municipal Court over which it has jurisdiction, that the provisions of the Code are not intended to create by implication for the benefit of any person not the City, a cause of action for monetary damages or amounts unless made expressly clear in such provisions.

ORDINANCE NO. 052, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF FORT COLLINS
TO ADOPT THE COLORADO RULES OF CIVIL PROCEDURE TO GOVERN
THE PROCEDURES AND TO ADD CITY CODE SECTION 1-24 TO CLARIFY
THAT CIVIL ACTIONS ARISING UNDER THE CITY'S ORDINANCES ARE NOT
INTENDED TO CREATE BY IMPLICATION CLAIMS FOR MONETARY
DAMAGES FOR THE BENEFIT OF THIRD PARTIES

WHEREAS, as a home rule municipality, the City is granted in Article XX, Section 6.c. of the Colorado Constitution the home rule power to create a municipal court and to define and regulate its "jurisdiction, powers and duties"; and

WHEREAS, in City Charter Article VII, Section 1, the City has created its Municipal Court and vested it "with original jurisdiction of all causes arising under the City's Charter and ordinances," and further provides that the Court's "[r]ules of procedure . . . shall be enacted by the Council upon recommendation of the Municipal Judge"; and

WHEREAS, the City Council has previously adopted in Code Section 19-3 the "Colorado Municipal Court Rules of Procedure" promulgated by the Colorado Supreme Court, which govern the procedures in municipal courts in "municipal charter and ordinance violation cases," and Council has also adopted various other rules of procedure in Chapter 19, all related to governing the procedures in Municipal Court for the City's prosecution of misdemeanor, traffic, parking and civil violations, offenses and infractions under the City Charter, Code and ordinances (collectively "Current Rules of Procedure"); and

WHEREAS, in granting the Municipal Court "original jurisdiction of all causes arising under the City's Charter and ordinances," the Court also has jurisdiction over causes arising under the City Code that are unrelated to violations of the Charter or Code, for example this can include jurisdiction to consider civil actions filed with the Municipal Court to challenge quasi-judicial decisions made by City Council and other City officials; and

WHEREAS, the Current Rules of Procedure do not provide the necessary rules of procedure needed by the Municipal Court to adequately, properly and expeditiously consider a civil action filed with it that does not involve a violation of the Charter or Code and needed by the litigants in that civil action to guide them in presenting their cases to the Court; and

WHEREAS, the rules of procedure that would provide such adequate, proper and expeditious procedures for the Municipal Court and the needed guidance to litigants are found in the Colorado Rules of Civil Procedure adopted by the Colorado Supreme Court to govern the procedures in all civil actions filed in Colorado's district courts: and

WHEREAS, pursuant to Charter Article VII, Section 1, Municipal Judge Kathleen Lane has recommended to the Council that it adopt the Colorado Rules of Civil Procedure for the Municipal Court to use, as applicable, to govern the procedures for civil actions filed with it; and

WHEREAS, a civil action has recently been filed in Municipal Court to challenge a quasi-judicial decision Council rendered in February denying an appeal from a decision of the Planning and Zoning Board granting a land use application, so this Ordinance's adoption of the Colorado Rules of Civil Procedures is being made retroactive to January 1, 2017, so this newly filed civil action can proceed under these rules; and

WHEREAS, this Ordinance also adds a Section 1-24 to the Code to clarify that with respect to those civil actions filed in Municipal Court over which it has jurisdiction, that the provisions of the Code are not intended to create by implication for the benefit of any person not the City, a cause of action for monetary damages or amounts unless made expressly clear in such provisions; and

WHEREAS, the City Council hereby finds and determines, in the exercise of the City's home rule authority, that adoption of this Ordinance is necessary for the just, orderly and expeditious resolution of civil actions filed in Municipal Court.

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 Chapter 1 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 1-24 which reads in its entirety as follows:

Sec. 1-24. - No implied civil causes of action for damages.

The provisions of this Code and other City ordinances are not intended to create by implication for the benefit of any person not the City any civil cause of action, right of action, chose in action or any other kind of civil action or legal claim of liability for monetary damages or amounts. Any such civil action or legal claim for monetary damages or amounts created in this Code or any City ordinance must be expressly stated and clearly intended in the Code provision creating it.

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, shall govern the procedures in the Municipal Court in all cases arising from misdemeanor, traffic, parking and civil violations, offenses and infractions under the Charter and Code.

(b) The Colorado Rules of Civil Procedure, as amended, shall govern the procedures in Municipal Court in all civil actions for a cause arising under the Charter or Code and as needed

for the Municipal Court to determine whether it has jurisdiction over a cause in a civil action, but not for actions for violations, offenses and infractions of the Charter or Code which are to be governed by the procedures established in Subsection (a) of this Section. References to the district court in the Colorado Rules of Civil Procedure shall be deemed to refer to the Municipal Court. In addition, the Municipal Court shall liberally construe, administer and apply these rules as applicable in each civil action to secure the just, speedy and inexpensive determination of that civil action. In these civil actions, the Municipal Court shall be vested with the full authority to provide civil remedies, including, without limitation, equitable, injunctive and declaratory relief and to award costs and attorney fees to the full extent permitted by law. It shall also have the power in those actions to compel the attendance of witnesses, to punish for contempt of court and to enforce any award of equitable, declaratory or injunctive relief through its contempt power in accordance with the applicable provisions of the Colorado Rules of Civil Procedure, as amended.

Section 4. That the rules of procedure adopted in Code Section 19-3(b) of this Ordinance shall be applicable to all civil actions filed in Municipal Court on or after January 1, 2017.

Introduced, considered favorably on first reading, and ordered published this 28th day of March, A.D. 2017, and to be presented for final passage on the 18th day of April, A.D. 2017.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of April, A.D. 2017.

Mayor

ATTEST:

City Clerk