

AGENDA ITEM SUMMARY

November 20, 2018

City Council

STAFF

Eric Keselburg, Compliance Supervisor
Jody Hurst, Legal

SUBJECT

Second Reading of Ordinance No. 131, 2018, Amending Chapter 20 of the Code of the City of Fort Collins Regarding Abatement of Nuisances.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on November 6, 2018, clarifies possible ambiguity under the current Code. Section 20-44 will be amended to clarify that the notification requirements of that section apply only to the *abatement* of nuisance properties. Without the change, the current Code could be interpreted to mean Code Enforcement Officers must provide a violation notice before issuing a citation *and* before abating a property. This change will clarify that providing notice to property owners applies only to abatement, and not to the issuing of citations.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, November 6, 2018 (w/o attachments) (PDF)
2. Ordinance No. 131, 2018 (PDF)

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City Council

November 6, 2018

STAFF

Eric Keselburg, Compliance Supervisor
Jody Hurst, Legal

SUBJECT

First Reading of Ordinance No. 131, 2018, Amending Chapter 20 of the Code of the City of Fort Collins Regarding Abatement of Nuisances.

EXECUTIVE SUMMARY

The purpose of this item is to clarify a possible ambiguity under the current Code. Section 20-44 will be amended to clarify that the notification requirements of that section apply only to the *abatement* of nuisance properties. Without the change, the current Code could be interpreted to mean Code Enforcement Officers must provide a violation notice before issuing a citation *and* before abating a property. This change will clarify that providing notice to property owners applies only to abatement, and not to the issuing of citations.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Section 20-44 could be read to require Code Enforcement Officials to provide a five-day notice before issuing citations. That conflicts with the changes made by the City Council in June, providing for immediate citations to be issued for nuisance violations. Although 20-44 is intended to be only for when the City wishes to abate a nuisance property, the language should be clarified to ensure immediate citations can issue, regardless of the abatement provisions.

ORDINANCE NO. 131, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 20 OF THE CODE OF THE CITY
OF FORT COLLINS REGARDING ABATEMENT OF NUISANCES

WHEREAS, on December 19, 2006, the City Council adopted Ordinance No. 198, 2006, (the “Original Ordinance”) amending Chapter 20 of the City Code to establish a civil infraction for many violations of City Code previously considered misdemeanors; and

WHEREAS, the Original Ordinance made mandatory the issuance of a notice of violation before a civil citation could be issued, with a single exception that allowed for the immediate issuance of a citation for “a threat to the public health, safety, or welfare”; and

WHEREAS, since the adoption of the Original Ordinance, many exceptions have been added to the Code, permitting Code Enforcement Officers to immediately issue civil citations for various offenses; and

WHEREAS, those exceptions have provided flexibility and have proven effective for Code Enforcement Officers; and

WHEREAS, on June 19, 2018, the City Council adopted Ordinance No. 072, 2018, which gave Code Enforcement Officers the ability to issue citations immediately, without having to provide notice; and

WHEREAS, City Code Section 20-44 requires notice to nuisance property owners when the City wishes to abate certain nuisances; and

WHEREAS, the City Council desires to clarify that the notice provision in City Code Section 20-44 only applies to the abatement of nuisances, not to issuing citations; 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 20-44 of the Code of the City of Fort Collins is hereby amended as follows:

Sec. 20-44. Notice of violation; removal authority and procedure; assessment lien on property.

(a) In addition to any other provision in this Code pertaining to the issuances of civil citations or summonses for violations of this Chapter, the Neighborhood Services Manager and any officer, as such is defined in § 19-63, are authorized to give notice to any owner and occupant whose property, open area, ditch or right-of-way is being kept or maintained in violation of the provisions of this Article.

(1) Such notice may be personally served upon such person or, if not personally served, shall be deposited in the United States mail, addressed to the occupant and owner of record at the address on the assessment roll of the County Assessor or at such other, more recent address as may be available to the City, or with respect to notice to occupants, at the address of the property so occupied.

(2) The notice shall state that, if the property, open area, ditch or right-of-way has not been brought into compliance with this Article on or before five (5) days from the date of such notice, the abatement of the nuisance will be done by the City and any costs of abatement, including the cost of inspection, the cost of any grading or sloping necessary to protect the public safety and other incidental costs in connection therewith and the costs for carrying charges and costs of administration will be charged against the property, open area, ditch or right-of-way, in addition to any other penalty and costs, or orders that may be imposed.

(3) With respect to rubbish only, the notice shall also state that, if said owner desires a hearing before the Referee to contest the declaration of nuisance and/or the removal, such owner shall request such hearing in writing to the Neighborhood Services Manager within five (5) days of mailing of the notice and shall further state that, if a request for such hearing is made, the City will remove the rubbish in accordance with Subsection (b) below and will store the material pending the holding of the hearing and the determination therefrom.

(4) The notice shall further state that if no request for such hearing is timely filed, the City will remove the rubbish in accordance with Subsection (b) below and shall destroy or otherwise dispose of the rubbish.

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Introduced, considered favorably on first reading, and ordered published this 6th day of November, A.D. 2018, and to be presented for final passage on the 20th day of November, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 20th day of November, A.D. 2018.

Mayor

ATTEST:

City Clerk