

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 8

DATE: March 1, 2005

STAFF: Darin Atteberry
Steve Roy
Tess Heffernan

SUBJECT

Second Reading of Ordinance No. 019, 2005, Amending Chapter 20 of the City Code to Add a New Article Relating to Nuisance Gatherings.

RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

EXECUTIVE SUMMARY

The Nuisance Gatherings provision creates a new misdemeanor criminal offense directed at social gatherings or parties that result in nuisance behaviors occurring on neighboring properties. These amendments would be in conjunction with continued efforts to more effectively and proactively enforce current nuisance laws, including loud parties, code compliance issues and the Public Nuisance Ordinance. Ordinance No. 019, 2005, was adopted 6-0 (Councilmember Bertschy was absent) on First Reading on February 15, 2005. The motion included direction to incorporate on Second Reading an amendment regarding party guest responsibility for costs of abatement. Staff has drafted a separate Ordinance (see Item #27) to specifically address that issue.

ORDINANCE NO. 019, 2005
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 20 OF THE CODE OF THE CITY OF FORT COLLINS
TO ADD A NEW ARTICLE RELATING TO NUISANCE GATHERINGS

WHEREAS, the City has experienced over the years periodic social gatherings on private property in the City that have resulted in riotous behavior on the part of those attending these gatherings; and

WHEREAS, the City Council wishes to address those social gatherings which result in nuisance behaviors occurring on neighboring public and private properties and to enable police to better cope with such gatherings; and.

WHEREAS, the control of large parties, gathering or events on private property is necessary when such activity is a threat to the peace, health, safety or general welfare of the public and neighboring property owners; and

WHEREAS, police are often called to make return trips to the location of a social gathering in response to complaints of unreasonable noise or other disruptive or dangerous behavior, in order to disperse uncooperative or disorderly participants or to enforce criminal laws, and the return of officers to such a location drains city resources, leaving other areas of the city with minimal levels of police and other City services, all of which poses a significant hazard to the safety of officers and to the public in general; and

WHEREAS, the City's cost in responding to such gatherings and in cleaning up the debris left by such gatherings is appropriately borne by the persons hosting, participating or otherwise knowingly allowing the same; and

WHEREAS, the City Council believes that this proposed ordinance will provide City law enforcement personnel with another tool to more effectively and proactively address the nuisance behaviors resulting from such gatherings and to enforce compliance against those hosting, participating or otherwise knowingly allowing such gatherings.

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

Section 1. That a new Article III, titled "Nuisance Gatherings" is hereby added to Chapter 20 and the remaining Articles renumbered accordingly.

Section 2. That a new Section 20-30 is hereby added to the Code of the City of Fort Collins to read in its entirety as follows:

Sec. 20-30. Definitions.

Social gathering shall mean a party, gathering or event of five (5) or more persons who have assembled or are assembling for a social activity or for a special occasion.

Cost of abatement shall mean the costs incurred by the city or the Poudre Fire Authority to respond to and/or abate the public nuisance defined in § 20-30. Such costs of abatement may include, without limitation, the cost of paying police officers or any other city or Poudre Fire Authority employees; any equipment expense incurred by the city or the Poudre Fire Authority; any appropriate overhead; the cost of any medical treatment to injured police officers or other personnel dispatched to the scene of the nuisance; any loss or damage incurred by any city department or the Poudre Fire Authority, and the cost of repairing any damaged equipment or property. If the responsible person cleans up any trash and litter from the social gathering on public or private property within twelve (12) hours of contact by police, the cost of abatement will not include any city clean up costs.

Offending property owner shall mean the record owner of the property where the social gathering or party which has been determined to be a public nuisance under § 20-31 took place.

Responsible person shall mean any person convicted of a violation of § 20-32(a). If such a person is under the age of eighteen (18) years, the term "responsible person" includes, in addition, the person's parent(s) or guardian(s).

Section 3. That a new Section 20-31 is hereby added to the Code of the City of Fort Collins to read in its entirety as follows:

Sec. 20-31. Nuisance gatherings.

A social gathering or party which is conducted on residential premises within the city and which, by reason of the conduct of those persons in attendance, results in the occurrence of any one or more of the following conditions or events on neighboring public or private property: rioting, the unlawful carrying or possessing an open container of alcohol or fermented malt beverage in public; public urination or defecation; the unlawful sale, furnishing, possession or consumption of alcohol or fermented malt beverages; the deposit of trash or litter; the destruction of property; the generation of pedestrian or vehicular traffic, standing, or parking which obstructs the flow of traffic or interferes with the ability to render emergency services; excessive, unnecessary, or unreasonable noise which disturbs the comfort, quiet, or repose of the neighborhood, including public disturbances, brawls, fights, or quarrels; or conduct or condition which injures, or endangers the safety or health of the neighborhood, or results in any indecent or obscene conduct, or results in any

indecent exposure by persons attending the social gathering or party, is hereby declared to be an unlawful public nuisance.

Section 4. That a new Section 20-32 is hereby added to the Code of the City of Fort Collins and reads in its entirety as follows:

Sec. 20-32. Prohibited; penalty.

(a) Any person being the owner, occupant, tenant, or otherwise having any possessory control, individually or jointly with others, of any premises who either sponsors, conducts or hosts a social gathering or party and knowingly permits such social gathering or party to become a public nuisance as defined by § 20-31 is hereby deemed to have committed a misdemeanor, and upon conviction shall be subject to the penalties as provided by §1-15 of this Code, and may further be ordered as a condition of any sentence, to pay the costs of abatement pursuant to §20-33. In any prosecution for a violation of this section, proof that the owner or tenant of the premises upon which the nuisance party occurred was present at the time of the violation shall constitute prima facie evidence that such person was in control of the premises, and sponsored, conducted or hosted the social gathering or party and knowingly permitted the violation to occur.

(b) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating and immediately disperse upon order of a police officer, and all persons not domiciled at the site of such social gathering or party shall leave the property immediately. Any person failing or refusing to obey and abide by such order commits a misdemeanor criminal offense, and any person convicted of a violation of this section shall be subject to the penalties provided by § 1-15 of this Code.

(c) Proof that a person convicted of a violation of this Section had attempted to disperse the participants at the social gathering or party and had initiated contact with Fort Collins Police Services for assistance shall be a mitigating factor in determining an appropriate penalty and apportionment of the cost of abatement.

Section 5. That a new Section 20-33 is hereby added to the Code of the City of Fort Collins and reads in its entirety as follows:

Sec. 20-33. Payment of costs of abatement; assessment; appeal.

(a) The cost of abating a public nuisance defined by § 20-30 shall be assessed against the responsible person(s) according to such apportionment as the Municipal Judge may deem appropriate. Any unpaid costs assessed against an offending property owner shall be a lien upon the property until such assessment is paid.

(b) The City Manager or his designee shall cause the Financial Officer to bill the responsible persons for the cost of abatement, which bill shall include the name

and address of the responsible persons, the date and time of the incident and the expenses incurred by specific city departments in responding to or abating the public nuisance.

(c) Any responsible person who wishes to dispute the determination that he or she is liable for the cost of abatement may do so by submitting a request to the City Manager for an administrative review hearing in writing no more than ten (10) days after the assessment of the cost of abatement. The city and the responsible person disputing the fee shall be given notice of the hearing and an opportunity to be heard.


(d) If any such assessment against an offending property owner is not paid within thirty (30) days after billed by the Financial Officer to the owner by deposit in the United States mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the city, and any agents, representatives or other responsible persons as may be known, or after administrative review, the Financial Officer is authorized to certify to the county Treasurer the delinquent assessment, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification is to be the same in substance and in form as required for the certification of other taxes. The county Treasurer, upon receipt of such certification, is authorized to place it upon the tax list for the current year and to collect the assessment in the same manner as general property taxes are collected, together with any charges as may by law be made by the county Treasurer and all laws of the state for the assessment and collection of general taxes, including the laws for the sale of property for taxes, and the redemption thereof shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property is not subject to taxation, the Financial Officer may elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

Section 5. That a new Section 20-34 is hereby added to the Code of the City of Fort Collins and reads in its entirety as follows:

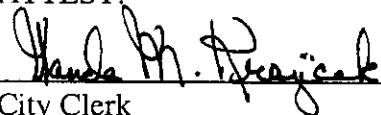
Sec. 20-34. Other remedies.

Nothing in this Article shall be construed as affecting the ability of the city to initiate or continue concurrent or subsequent criminal prosecution or civil proceeding for any violation of the provisions of the city code or state law arising out of the circumstances necessitating the application of this article.

Introduced and considered favorably on first reading and ordered published in summary form this 15th day of February, A.D. 2005, and to be presented for final passage on the 1st day of March, A.D. 2005.



Mayor

ATTEST:


City Clerk

Passed and adopted on final reading this 1st day of March, A.D. 2005.

Mayor

ATTEST:

City Clerk

**AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 32 A-C

DATE: February 15, 2005

STAFF: Darin Atteberry
Steve Roy
Tess Heffernan

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SUBJECT

Items Relating to Nuisance Gatherings, Public Nuisance Amendments and Rental Registrations.

RECOMMENDATION

Staff recommends adoption of these Ordinances on First Reading.

FINANCIAL IMPACT

Within the Fort Collins city limits, there are approximately 10,500 rental units in boarding houses, and in single-family, two-family and multi-family dwelling units up to and including four-plexes. The total cost to administer the proposed rental registration program for the first two years is estimated at \$459,000 which includes the following direct and indirect costs:

Personnel	\$ 297,000
.3 Systems Analyst	
.5 Administrative Aide	
1.0 Housing Inspector	
Hourly temporary staff	
Equipment and software	\$ 148,000
Enables online registration and payment	
<u>Miscellaneous fees, postage, etc.</u>	<u>\$ 14,000</u>
Total for first two years	\$ 459,000

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 019, 2005, Amending Chapter 20 of the City Code to Add a New Article Relating to Nuisance Gatherings.

The Nuisance Gatherings provision creates a new misdemeanor criminal offense directed at social gatherings or parties that result in nuisance behaviors occurring on neighboring

properties. These amendments would be in conjunction with continued efforts to more effectively and proactively enforce current nuisance laws, including loud parties, code compliance issues and the Public Nuisance Ordinance.

- B. First Reading of Ordinance No. 020, 2005, Amending Chapter 20, Article VIII of the City Code Relating to Abatement of Public Nuisances.

The Public Nuisance Ordinance (PNO) has proven to be an effective tool in reducing repeat violations at specific properties. These amendments are intended to improve current processes and strengthen the enforcement provisions of the ordinance.

- C. First Reading of Ordinance No. 021, 2005, Amending Article VI, Division 2 of the City Code Relating to Residential Rental Registration.

The Residential Rental Registration Ordinance establishes procedures for identifying ALL rental units within the city limits of Fort Collins, excluding only multi-family units larger than four-plexes. The purpose of the Rental Registration Program is to identify rental units, educate all parties about Rental Housing Standards and other City codes, and increase the efficacy of nuisance code enforcement through a local contact and better information sharing.

BACKGROUND

City Council discussed these three ordinances at its study session on January 25, 2005 and directed staff to bring these forward for formal consideration by the Council with certain changes. These changes, as well as other staff-initiated changes, are shown in bold faced type.

Item A - Nuisance Gatherings

This proposed ordinance will add another tool to more effectively and proactively address the nuisance behaviors resulting from such gatherings and enforce compliance against those hosting, participating or otherwise knowingly allowing such gatherings. The Nuisance Gatherings provision includes the following:

- a. Declares social gatherings of five or more people assembled for a social activity or special occasion that result in the occurrence of unlawful and harmful behavior and conditions on neighboring public or private property by person attending such gatherings to be a public nuisance;
- b. Requires participants in the nuisance gathering to cease and requires all persons not domiciled at the premises to immediately disperse;

- c. Provides a procedure by which the City can recover the costs of abating the nuisance such as overtime, equipment use or damage, overhead, medical expenses, etc for any city department employee (including Poudre Fire Authority) called to respond to, and abate the nuisance party. The cost of abatement can be included as court-ordered restitution. It can also be collected as a separate assessment against the property if the property owner has been convicted of a violation of the ordinance.

A variety of methods will be used to inform and educate stakeholders (property owners, property managers, tenants and neighbors) and all community members about this change to the Code.

Item B - Public Nuisance Ordinance Amendments

The Code Compliance Case Manager responsible for the PNO notes that the majority of landlords and property managers are very willing to take action to avoid recurring problems at their property. Most problems are resolved after a 1st violation notice. However, in some cases the owner and/or property manager is not responsive, even after a notice has been sent out about a 2nd or 3rd violation. The proposed changes are designed to give staff the flexibility to work effectively with responsive property owners and managers and to increase the potential sanctions of the PNO in those cases where responsible parties do not respond. The following summarizes the proposed amendments:

- a. Deletes the provision requiring posting of notice that a civil public nuisance action will be filed in 10 days; instead, requires that the posting on the property occur at the time the civil action is filed;
- b. Amends the provision requiring a 45-day waiting period after a second (or fourth) violation to apply only if the property owner or manager has actually filed an eviction proceeding after notice of the second (or fourth) violation. The purpose of this change is to ensure staff can work with those owners or managers who have instituted eviction proceedings, but still maintain the ability to pursue PNO action against those who do not respond to notices;
- c. Adds provisions clarifying when property managers are subject to the ordinance;
- d. Adds a provision allowing the city to send Public Nuisance Ordinance notices to any address known to the city through utility, registration or other records rather than be constrained only to records of the Larimer County Clerk and Recorder;
- e. Adds a provision stating that a plea or verdict of guilty to the underlying violation(s) proves the public nuisance, thereby alleviating the need to again prove the existence of the public nuisance in the PNO action;

- f. Adds a provision clarifying that a party's abatement efforts taken only after the final notice of violation does not constitute a defense under the ordinance;
- g. Adds a provision allowing for stipulations between the City and any party to be accepted by the Court or Hearing Officer;
- h. Adds a provision allowing abatement orders to include a restriction on the number of occupants or guests or the types of activities on the premises, as well as revocation or suspension of any license or permit pertaining to the use of the parcel.
- i. Offers for Council's consideration a provision (Option A) which authorizes an order prohibiting the rental of a parcel, but only if the owner of the property has failed to abide by a previous abatement order pertaining to the same parcel.

Staff members will undertake a concerted effort to educate property owners and managers about these changes in the coming months via direct mail, stakeholder meetings, the media and other venues.

Item C - Rental Registration

The goal of the Residential Rental Registration program is to accomplish the following:

- a. Identify all rental units within the city limits of Fort Collins;
- b. Educate all parties about Rental Housing Standards and other City Code provisions; and
- c. Increase the efficacy of nuisance code enforcement through a local contact and better information sharing.

Work is underway to develop a user-friendly registration system that is easily accessible and meets the needs of all stakeholders. The initial registration process will use methods such as mail-in forms and registration "clinics" where staff will be on hand to assist with data entry and face-to-face registration. Ultimately, users will be able to register and make payments totally independently using an online system. Project team members hope to have this capability ready no later than September 2005.

Registration Information Required

The following basic information will be asked of rental property owners at the time of registration:

- Address of rental property
- Name of and contact information for property owner

- Name of and contact information for local agent
- Acknowledgment of having read and understood the City Rental Housing Standards
- Acknowledgment of having provided tenants the City Lease Addendum and accompanying brochure

The information on the rental registration form, once completed, will be compiled into a database, a portion of which will be available to the public via an online search engine. Thus, a neighbor of a rental property could search the database by address to determine if the property is a registered rental and, if so, learn the contact information of the local agent and/or property owner. Tenant names will *not* be held on file by the City or available to the general public. However, the lease addendum must be provided to the City by the property owner or local agent upon request of the City.

Term and Fees

Registration will be required on a biennial basis (every two years) or within 30 days after any change of ownership. The fee will be \$65.00 per dwelling unit for the initial two-year registration period, with renewal required every two years. There is no charge for updating information (e.g. a new local contact is designated or owners address changes) as long as the update is accomplished within 30 days of the change. Property owners who do not comply with the registration requirement or registration updates after notice from the Director of Building and Zoning would be subject to the penalties imposed under Section 1-15 (up to \$1,000 fine and/or six (6) months in jail).

Prior to the end of the first two years of operation the registration program costs and fees will be reassessed. Staff anticipates that the ongoing costs will be lower once the system is up and running and the majority of property owners have registered their rental properties.

Outreach, Education and Implementation

Assuming Council wishes to move ahead with registration, staff members are preparing to conduct a thorough outreach and education campaign. The most basic tool will be that of a direct mailing to those properties where the County Assessor's records list an owner at an address different from the property. At the same time staff will conduct Registration "clinics" and use other outreach methods to reach property owners, property managers, tenants and others with an interest in this issue.

The online self-registration program will not be fully functional in the beginning, however staff members are prepared to use mail-in, fax-in, workshops/clinics and other such methods to ensure that registration can be implemented as simply as possible. Current plans are to implement the Registration Program on April 1, 2005 with the goal of reaching and registering as many properties as possible by August 1, 2005, allowing for a five month "grace period". August 1, 2005 will be the official start of each unit's registration term. After that date, properties that are not registered would be subject to penalties.

All of the forms, instructions and links to applicable codes will be available on the City's website at fcgov.com/rental prior to the implementation of the Registration program.

ATTACHMENTS

COPY

1. Lease Addendum and Acknowledgment Form
2. Residential Rental Housing Registration Form

COPY

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