

ORDINANCE NO. 085, 2008
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CERTAIN SECTIONS OF THE CODE OF THE
CITY OF FORT COLLINS AND THE LAND USE CODE
PERTAINING THE PENALTIES FOR CIVIL INFRACTION VIOLATIONS

WHEREAS, the violation of certain provisions of the City Code are designated as civil infractions; and

WHEREAS, the City Council has previously approved language which elevates the violation of civil infractions to a criminal misdemeanor after a second violation in twelve months in order to provide motivation to reduce recidivism; and

WHEREAS, Council desires to clarify these penalty provisions to be consistent throughout the City Code; and

WHEREAS, the proposed amendments will provide more efficient and effective enforcement by providing clarification; and

WHEREAS, Council believes that the proposed amendments will promote the health, safety and welfare of the citizens of the City.

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

Section 1. 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, traffic offenses and traffic and civil infractions.

...

(f) Except as provided in subsection (4) below, any person found responsible for a violation of this Code designated as a civil infraction shall pay a civil penalty for such infraction of not more than one thousand dollars (\$1,000.) plus costs, damages and expenses as follows:

- (1) Each act of violation and every day upon which a violation occurs shall constitute a separate violation.
- (2) A person found responsible by the Municipal Court or Referee for any violation of this Code charged as a civil infraction shall pay the penalty and costs assessed, which may include all costs, direct and indirect, which the

City has incurred in connection with the civil infraction. In addition, the Municipal Judge or referee may issue any orders necessary to abate a nuisance.

- (3) If a defendant fails to answer a citation for a civil infraction or notice to appear in court or before a referee for such infraction, a default judgment shall enter in the amount of the civil penalty plus all costs, expenses and damages. In the event a defendant fails to pay a civil penalty, costs, damages or expenses within thirty (30) days after the payment is due or fails to pay a default judgment, the City may pursue any legal means for collection and, in addition, may obtain an assessment lien against the property that was the subject of the violation if the Code violation is designated as a nuisance in Chapter 20, is a violation of any civil infraction contained in Chapter 5, 12, 20, 24 or 27, or is a violation of Land Use Code Section 3.18.16 and was committed by an owner or tenant of the property, as defined in Land Use Code Section 5.1.2.
- (4) If a person who is alleged to have committed a violation of any provision of this Code that is classified as a civil infraction has been found liable for two (2) or more such violations within the twelve (12) month period immediately preceding the new alleged violation, then, whether or not the previous violations were committed at the same premises as the new alleged violation, the new alleged violation may be charged as a misdemeanor criminal offense that is subject to a penalty or imprisonment, costs, fees and any other orders imposed in accordance with this Section.

...

Section 2. That Section 5-265 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 5-265. Violation; minimum penalties.

An owner, property manager or occupant commits a civil infraction by violating any provision of §§ 5-263 and 5-264. A finding that such civil infraction exists shall subject the offender(s) to any or all of the following actions:

- (1) The imposition of the penalty provisions of § 1-15(f);

...

Section 3. That Section 12-26 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-26. Violations and penalties.

Any person who violates § 12-18 of this Article commits a civil infraction and is subject to the penalty provisions of § 1-15(f). Any person who violates any other provision of this Article also commits a misdemeanor. All such misdemeanor violations are subject to a fine or imprisonment in accordance with § 1-15.

Section 4. That Section 20-45 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 20-45. Violations and penalties.

Any person who violates any provision of this Article, except Subsections 20-42(f) and 20-42(j), commits a civil infraction and is subject to the penalty provisions of § 1-15(f). Any person who violates Subsections 20-42(f) or 20-42(j) commits a misdemeanor criminal offense and is subject to a penalty or imprisonment, costs and fees and any other orders imposed in accordance with § 1-15.

Section 5. That Section 20-96 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 20-96. Violations and penalties.

Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of § 1-15(f). If a person commits three (3) or more violations in twelve (12) consecutive months of any provision of this Code classified as a civil infraction, the third such violation and any subsequent violations within said twelve-month period shall constitute a misdemeanor criminal offense and shall be subject to a penalty or imprisonment, costs and fees and any other orders imposed in accordance with § 1-15.

Section 6. That Section 20-100 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 20-100. Nuisance declared and prohibited; penalty.

The placement, moving or transporting of snow by any person from privately owned property that is not used for residential purposes onto any street or right-of-way (as that term is defined in § 20-61 of this Chapter) is hereby declared to constitute a nuisance as a snow obstruction, and a hazard to the public health and safety. No person shall place, move or transport, or cause any other person to place, move or transport, snow from privately owned property that is not used for residential purposes onto any street or right-of-way (as that term is defined in § 20-61 of this Chapter). Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of § 1-15(f).

Section 7. That Section 20-107 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 20-107. Violations and penalties.

Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of § 1-15(f).

Section 8. That Section 27-62 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 27-62. Violations and penalties.

Any person who violates §§ 27-18, 27-18(a)(1—4) or 27-58 commits a civil infraction and is subject to the penalty provisions of § 1-15(f).

Section 9. That Section 2.14.4 of the Land Use Code of the City of Fort Collins is hereby amended to read as follows:

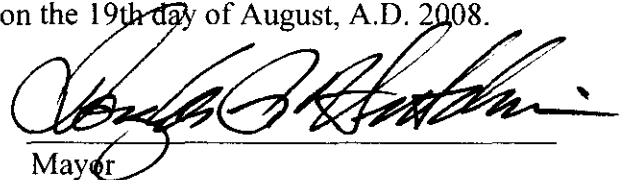
2.14.4 Criminal and Civil Liability; Penalties

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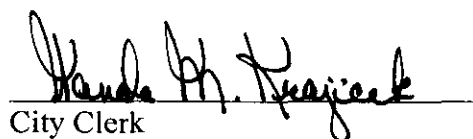
(B) An owner, property manager, or occupant commits a civil infraction by violating any provision of Section 3.8.16 of this Land Use Code. Each day during which the limitation on the number of occupants is exceeded shall constitute a separate violation. A finding that such civil infraction has occurred shall subject the offender(s) to the penalty provisions of § 1-15(f) of the Code of the City of Fort Collins and, any or all of the following actions:

...

Introduced, considered favorably on first reading, and ordered published this 15th day of July, A.D. 2008, and to be presented for final passage on the 19th day of August, A.D. 2008.


Mayor

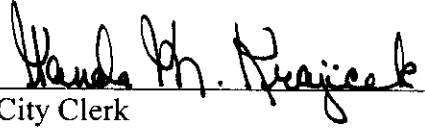
ATTEST:


City Clerk

Passed and adopted on final reading on the 19th day of August, A.D. 2008.


Mayor

ATTEST:


City Clerk