

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 32

DATE: January 19, 2006

**STAFF: Darin Atteberry
Steve Roy**

SUBJECT

First Reading of Ordinance No. 018, 2007, Amending Certain Provisions of the City Code Pertaining to Signs in the Right-of-Way.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

EXECUTIVE SUMMARY

This Ordinance deals with the City's ability to remove illegally placed signs from public property and right-of-way and the circumstances under which the signs may be removed and destroyed without notice.

BACKGROUND

This Ordinance combines two sections of the Code dealing with the placement of signs on public property in the public right-of-way. Such signs are prohibited by Section 24-1 of the Code, subject to several exceptions. There is another section of the Code (Section 17-42) that also deals with the posting of signs on publicly owned property.

These two provisions of the Code differ as to the way in which signs and handbills that violate these provisions may be removed by the City and subsequently destroyed. Section 24-1 states that notice must be sent to the sign owner, if known, and the owner has ten days to retrieve the sign. If the owner cannot be ascertained or if he or she fails to collect the sign after notice, the City may dispose of the sign in addition to issuing a citation.

Section 17-42 establishes a more expeditious process for removing and disposing of signs. Under that provision, the person whose business, interests or activities are advertised, furthered or promoted by a sign posted in violation of the section must, within 24 hours after being notified by the City, remove the sign or else it will be summarily removed and destroyed without further notice. The person who illegally posted the sign and/or failed to remove it after notice can be cited for violation of this Code section.

Staff believes that the more summary process contained in Section 17-42 is preferable for these kinds of violations because it does not require the City to remove and keep the illegal signs pending a response by the responsible party. Therefore, staff is recommending that this process be consistently used for the removal of all signs illegally posted on public property and this Ordinance would make that change. In addition, the Ordinance would provide that, if an illegally posted handbill or illegally placed sign is found on public property and the person responsible for the handbill or sign has been contacted within the preceding ten days for a similar violation, the City may summarily remove and dispose of the handbill or sign without further notice.

The Ordinance would also clarify that Section 17-42(d) prohibits the placement of advertising fliers on motor vehicles without the owner's consent, and it would also prohibit the fastening of advertising materials to residences if the owner or occupant of the residence has instructed a particular company to discontinue such practice.

In response to Council direction, staff has added a provision whereby the City can summarily remove and destroy illegally placed signs without any notice, but only under limited circumstances when the placement and number of signs create a safety hazard or when the 24 hour notice is rendered meaningless due to the timing of the placement of the sign in relation to the advertised event or promoted occurrence.

ORDINANCE NO. 018, 2007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CERTAIN PROVISIONS OF THE CODE OF THE
CITY OF FORT COLLINS PERTAINING TO SIGNS IN THE RIGHT-OF-WAY

WHEREAS, Section 24-1 of the Code of the City prohibits the placement of signs on public streets, sidewalks or other areas owned by the City; and

WHEREAS, similarly, Section 17-42 of the Code prohibits the attachment of signs to publicly owned fixtures in the public right-of-way or elsewhere, and

WHEREAS, Section 17-42 of the Code also prohibits the placement of signs on private property without the permission of the property owner; and

WHEREAS, only one such Code provision is needed to address these subjects; and

WHEREAS, Section 17-42 of the Code should be reworded so that it addresses more clearly signs installed or otherwise placed in the ground in the public right-of-way as well as handbills or fliers attached to publicly owned fixtures; and

WHEREAS, Section 17-42 should also be revised with regard to the manner in which the City may dispose of signs left unclaimed on public property or within the public right-of-way; and

WHEREAS, those persons or entities who illegally place signs in the right-of-way should not benefit from placing signs in the right-of-way in such a manner as to circumvent the intent and purpose of the 24-hour notice requirement; and

WHEREAS, certain additional changes should also be made to Section 17-42 to more clearly prohibit the placement of advertising materials on motor vehicles and residences without the consent of the owners of such property.

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

Section 1. That Section 17-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 17-42. Posting notices and handbills on premises.

(a) The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Subsection (a):

Commercial or business sign shall mean any sign, flier, notice or poster intended to advertise, direct or attract the attention of the public to a business, or intended to

induce the purchase of goods, services, property or entertainment, or to promote business or employment opportunities.

Noncommercial sign shall mean any sign, flier, notice or poster which is not intended to advertise, direct or attract the attention of the public to a business, or intended to induce the purchase of goods, services, property or entertainment, or to promote business or employment opportunities, including but not limited to signs conveying a political, ideological or personal message.

Public property shall mean any **portion of** real property, pole, post, tree, barricade, bridge, fence, railing, utility box, curb, sidewalk, wall, bench, building or structure of any kind which is either publicly owned or located in the public right-of-way.

Public right-of-way shall mean the entire area between property boundaries which is owned by a government, dedicated to public use, or impressed with an easement for public use, which is primarily used for pedestrian or vehicular travel, and which is publicly maintained, in whole or in part, ~~for such use,~~ and includes, but is not limited to the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, **median** and any public way.

(b) No person, firm or corporation shall **fasten or affix to public property, or place or install on or within a public right-of-way or other public property,** ~~fasten, affix or attach to public property, in any way,~~ any of the following; without the direct authorization of the owner of such property:

- (1) Any commercial or business sign.
- (2) Any noncommercial sign.

(c) Any signs authorized by the City for placement on City property within the meaning of this Section must comply with all other applicable provisions of the Code.

~~(d)~~ No person, firm or corporation shall ~~fasten;~~ **or** affix ~~or~~ to private property, including **motor vehicles and other** personal property, in any way, any of the following, without the permission of the owner or occupants of such property:

- (1) Any commercial or business sign.
- (2) Any noncommercial sign.

~~(d)~~ Permission to fasten ~~such materials~~ **or affix signs** to the ~~entrances to~~ **front door of** private residences shall be implied from the presence of an improved walkway connecting such residence directly to a public right-of-way unless:

- (1) Access to such walkway is physically restricted by a fence, gate or other permanent structure, or
- (2) A "No Trespassing" or "No Solicitation" sign or a sign prohibiting posting is posted at or near the entrance to such residence, or
- (3) The owner or occupant of a particular residence has notified the person or entity intending to fasten or affix the sign(s) that such signs may not be fastened or otherwise affixed to the residence.

~~(e) Any person or entity whose business, interests or activities are advertised, furthered or promoted by any commercial business signs or noncommercial signs posted in violation of this Section shall, within twenty-four (24) hours of delivery of notice by the City, remove from the public right-of-way any such signs. If the person or entity cannot be ascertained or the sign is not removed after notice, the City may remove and dispose of the sign without further notice, notwithstanding the provisions of § 23-130, in addition to issuing a citation for violation of this Section.~~

~~(f) Except as provided in subparagraph (g) below, if the City Engineer determines that a commercial or business sign or noncommercial sign has been fastened, affixed, placed or installed in or on public property in violation of this section, the City shall attempt to contact by telephone the person or entity whose business, interests or activities are advertised, furthered or promoted by such sign and notify said person or entity that the sign will be removed by the City and summarily destroyed if not previously removed by said person or entity within twenty-four (24) hours of the notice. If such person or entity cannot reasonably be ascertained or if the sign is not removed within twenty-four (24) hours after notice is given by the City, the City may remove and destroy the sign without further notice, notwithstanding the provisions of § 23-130.~~

~~(g) The notice required under paragraph (f) above need not be given prior to removal and destruction by the City if: (i) the circumstances under which a sign has been fastened, affixed, placed or installed are such that, in the judgment of the City Engineer, the sign creates a safety hazard; or (ii) the sign is discovered by the City within the twenty-four (24) hour period immediately preceding a Saturday, Sunday, City holiday, or an election day to which the sign relates.~~

~~(h) If, within ten (10) days after the delivery of any notice given by the City under paragraph (f) above, any sign advertising the same business, interests or activities is subsequently found in violation of this Section, the City may summarily remove and dispose of the sign without additional notice, notwithstanding the provisions of § 23-130.~~

(i) Failure to remove a sign after notice has been given pursuant to subsection (e) is a violation of this Section.

Section 2. That Section 23-127 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-127. Disposition of ~~lost, stolen or abandoned~~ property.

(a) The provisions in this Division shall control the disposition of all ~~lost, stolen or abandoned~~ property found, seized or otherwise delivered into the possession of the City and remaining unclaimed by the lawful owner.

(b) Such property shall immediately, upon coming into the possession of the City or as soon thereafter as is practicable, be delivered to the Chief of Police as custodian, who shall keep a record of all such property together with the date when and the place from which the property was obtained ~~which shall be a permanent record open to the inspection of the public.~~

Section 3. That Section 23-129 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-129. Disposition of perishable or hazardous property.

(a) If any property seized or otherwise obtained by the City is of a perishable nature or of such nature as to make it inadvisable in the opinion of the Chief of Police to retain possession, such property shall be forthwith advertised for sale at public auction with public notice to be published in a newspaper of general circulation throughout the City not less than three (3) days prior to such sale which notice shall contain the date, time and place of such sale and the reason for the immediate sale.

(b) Notwithstanding the foregoing, nothing herein shall preclude the immediate ~~disposal or~~ destruction of ~~hazardous~~ property which in the judgment of the Chief of Police, ~~or in the judgment of such other City service director whose service area has obtained the property,~~ presents an immediate ~~and substantial~~ danger to the health, safety or welfare of the community if otherwise retained in the possession of the City for the period of time provided for herein or which by reason of its nature, ~~condition~~ or substance is not properly the subject of a sale.

(c) Nothing contained in this Section shall be construed to refer to any impounded animals as may be provided for in any other City ordinance.

Section 4. That Section 23-130 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-130. Disposition of ~~lost, abandoned or~~ other unclaimed property.

~~Except as otherwise specifically provided for by law or ordinance,~~ Any property seized or otherwise obtained by the City and not sold or destroyed as perishable, hazardous or illegal property and which property has not been claimed by or surrendered to the rightful owner ~~shall~~ **may** be disposed of in the following manner:

- (1) All such property ~~shall~~ **must first** be retained for a period of no less than ~~two (2) months~~ **thirty (30) days** from the date that possession was acquired by the City;
- (2) After the expiration of such period of time and as soon thereafter as is practicable, the purchasing agent ~~shall~~ **must** cause to be published once in a newspaper of general circulation in the City a general description of the articles of property to be disposed of, which notice ~~shall~~ **must** contain the following information:
 - a. The fact that a detailed list of each and all articles of such property is ~~immediately~~ available and may be obtained from ~~Police Services~~ **Purchasing**, including the address and the hours during which such list may be obtained;
 - b. The fact that if such property is not claimed by the rightful owner within ten (10) calendar days from the date of the publication, such property will become the property of the City to be disposed of by public auction or otherwise with the date, place and location of any such public auction to be described therein.

...

Section 5. That Section 24-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 24-1. Signs on streets, sidewalks and public rights-of-way prohibited; removal; exceptions; permit.

(a) ~~Except as otherwise provided in Subsection (b) of this Section, no person shall erect any sign upon any street, sidewalk or public right-of-way as defined in § 17-42, or other area owned by the City.~~

(b) ~~If at any time the City Engineer finds a sign placed or erected in violation of Subsection (a), the City Engineer may remove the sign. The City Engineer shall notify the sign owner that the sign will be disposed of if not collected by the sign owner within ten (10) days. If the sign owner cannot be ascertained or the sign owner~~

~~fails to collect the sign after notice, the City Engineer may dispose of the sign in any manner, notwithstanding the provisions of § 23-130, in addition to issuing a citation for violation of this Section.~~

~~(e)~~ Notwithstanding the provisions of ~~Subsection (a) of this Section~~ § 17-42, the following signs ~~shall~~ may be permitted on streets, sidewalks and other **public property or public right-of-way** areas owned by the City:

...

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