

**AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 15

DATE: April 17, 2007

STAFF: Teresa Ablao

SUBJECT

First Reading of Ordinance No. 056, 2007, Amending Certain Sections of the City Code Relating to Corporate Liability and Individual Liability for Corporate Conduct.

RECOMMENDATION

Staff recommends adoption of this Ordinance on First Reading.

EXECUTIVE SUMMARY

Under the current provisions of the City Code, a business entity's accountability for behavior which is in violation of the Code is dependent upon whether the entity is a "corporation". The term "corporation" is not defined in the City Code. Staff recommends that the Code be amended to clarify that what is presently referred to as "corporate" liability should actually apply to liability on the part of any kind of business entity.

ORDINANCE NO. 056, 2007
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CERTAIN SECTIONS OF THE CODE OF THE CITY OF FORT COLLINS
RELATING TO CORPORATE LIABILITY AND INDIVIDUAL LIABILITY
FOR CORPORATE CONDUCT

WHEREAS, under the current provisions of Section 1-20 of the City Code, a business entity's accountability for behavior that violates the Code is dependent upon whether the entity is a "corporation"; and

WHEREAS, the term "corporation" is not defined in the Code; and

WHEREAS, City staff believes that Section 1-20 of the Code should be amended to clarify that when the requisite criteria contained in Section 1-20 have been satisfied, a business entity should be held accountable for the conduct of its officers, employees and agents, whether or not the entity is a corporation; and

WHEREAS, Council finds the proposed amendments to the Code on this subject are in the best interest of the City and promote the public health, safety and welfare of the citizens of the City of Fort Collins.

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

Section 1. That Section 1-20 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 1-20. Liability of ~~corporation~~business entity.

(a) A ~~corporation~~business entity is guilty of an offense or liable for an infraction described in this Code if:

- (1) The conduct constituting the offense or infraction consists of ~~an omission~~a failure to discharge a specific duty of affirmative performance imposed on ~~corporations~~such entity by law; or
- (2) The conduct constituting the offense or infraction is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a managerial agent acting within the scope of his or her employment or on behalf of ~~the corporation~~such entity.

(b) As used in this Section, *agent* means any partner, director, officer or employee of a ~~corporation~~business entity, or any other person who is authorized to act on behalf of the ~~corporation~~entity. *Managerial agent* means an ~~officer of a corporation or any other agent~~ who is in a position of comparable authority with

~~respect to the formulation of corporate~~to formulate policy for the entity or the supervision in a managerial capacity of subordinate~~who supervises any~~ employees or contractors of the entity.

(c) *Business entity or entity* means any corporation, association, firm, joint venture, estate, trust, business trust, syndicate, partnership, body politic and corporate or any other group or combination of persons or entities.

Section 3. That Section 1-21 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 1-21. Liability of an individual for corporate conduct.

A person is guilty of conduct constituting an offense or liable for conduct constituting an infraction described in this Code if he or she engages in such conduct or causes such conduct to occur in the name of or in behalf of a ~~corporation~~business entity to the same extent as if that conduct were performed or caused by him or her in his or her own name or on his or her own behalf.

Introduced, considered favorably on first reading, and ordered published this 17th day of April, A.D. 2007, and to be presented for final passage on the 1st day of May, A.D. 2007.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 1st day of May, A.D. 2007.

Mayor

ATTEST:

City Clerk