

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 26

DATE: August 19, 2003

FROM: John Fischbach

SUBJECT:

First Reading of Ordinance No. 118, 2003, Amending Article III of Chapter 12 of the City Code, Regarding Smoking in Public Places and Places of Employment, to Authorize Administrative Regulations.

RECOMMENDATION:

Staff recommends adoption of the Ordinance on First Reading.

EXECUTIVE SUMMARY:

On December 17, 2002, the City Council adopted on Second Reading Ordinance No. 181, 2002, repealing and reenacting Article III of Chapter 12 of the City Code, regarding smoking in public places and places of employment. The new City Code provisions enacted in Ordinance No. 181, 2002, go into effect on October 1, 2003.

Since the adoption of Ordinance No. 181, 2002, City staff has been working with business establishments and employers to provide assistance in understanding and planning for compliance with the new smoking restrictions. In addition, City staff has been working to inform members of the general public about the upcoming effective date of the new restrictions, and to respond to questions.

In the course of these outreach efforts, it has become apparent to staff that the adoption of administrative regulations to address specific questions of interpretation and enforcement will enable staff to provide more consistency and certainty both to regulated establishments and employers and to the general public. Consequently, staff is proposing that the City Council modify the City Code language that will go into effect on October 1 so as to specifically authorize the City Manager to establish administrative regulations. The proposed language requires that notice of the regulations be published and further requires that any regulations be placed on file with the City Clerk so as to be available to the public.

The Ordinance also eliminates an existing provision from Ordinance No. 181, 2002, authorizing the establishment of administrative regulations but only to interpret the terms "independently ventilated" and "physically separated".

ORDINANCE NO. 118, 2003
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III OF
CHAPTER 12 OF THE CITY CODE, REGARDING
SMOKING IN PUBLIC PLACES AND PLACES
OF EMPLOYMENT, TO AUTHORIZE
ADMINISTRATIVE REGULATIONS

WHEREAS, on December 17, 2002, the City Council adopted on second reading Ordinance No. 181, 2002, which repealed and reenacted City Code provisions regulation smoking in public places and places of employment; and

WHEREAS, the new smoking provisions, codified in Article III of Chapter 12 of the City Code, go into effect on October 1, 2003; and

WHEREAS, City staff has been working with the general public and establishments and employers subject to the restrictions in order to educate and assist with compliance efforts; and

WHEREAS, as a result of these public outreach efforts, City staff has determined that the establishment of administrative regulations as a basis for resolving new and ongoing questions of interpretation and enforcement of the smoking restrictions would be enhance the public's ability to anticipate and comply with the restrictions; and

WHEREAS, administrative regulations interpreting the smoking restrictions would also facilitate fair and consistent treatment of the regulated public, would make the application of the smoking restrictions to specific circumstances more predictable, and would make this information more available to the public; and

WHEREAS, the City Council has determined that the authority to adopt administrative regulations for the interpretation and enforcement of Article III of Chapter 12 of the City Code shall be vested in the City Manager, subject to publication of notice of their adoption and their availability in the office of the City Clerk.

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

Section 1. That Section 12-63 of the City Code, as enacted in Ordinance No. 181, 2002, shall be amended to eliminate subsection 12-63(c), and to renumber all subsequent subsections accordingly, as follows:

Sec. 12-63. Designated smoking areas.

...

~~(c) The City Manager may make reasonable rules interpreting the terms "independently ventilated" and "physically separated" and specifying ventilating and construction measures that will accomplish these goals.~~

~~(d) No owner, lessee, principal manager, or person in control of an establishment that designates a smoking area shall fail to maintain, post signage for, and otherwise operate such designated smoking area in accordance with the requirements of this Article.~~

~~(e) If the seating or admission of patrons at an establishment with a designated smoking area is directed by an employee, no owner, lessee, principal manager, or other person in control of the establishment shall fail to ensure that such employee asks each patron for the patron's preference for seating in or use of a no-smoking or a smoking area. If the seating or admission of patrons at an establishment with a designated smoking area is not directed by an employee, no owner, lessee, principal manager, or other person in control of the establishment shall fail to post a conspicuous sign on all public entrances or in a position clearly visible on entry into the establishment advising patrons that such a no-smoking area is available and where it is located.~~

Section 2. That Section 12-65 of the City Code, as enacted in Ordinance No. 181, 2002, shall be amended to add a new subsection 12-65(f), to read as follows:

(f) The City Manager may make such rules and regulations as he deems necessary and beneficial for the interpretation and enforcement of the terms of this Article. Any such rules and regulations shall become effective upon the filing of the same with the office of the City Clerk and the publication in a newspaper of general circulation published in the city of a notice stating the general subject matter and the availability of the same in the office of the City Clerk.

Section 3. That the foregoing amended City Code sections shall take effect, as amended, as of midnight, October 1, 2003.

Introduced and considered favorably on first reading and ordered published this 19th day of August, A.D. 2003, and to be presented for final passage on the 2nd day of September, A.D. 2003.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 2nd day of September, A.D. 2003.

Mayor

ATTEST:

City Clerk