

DATE: June 4, 2013
STAFF: Beth Sowder

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

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SUBJECT

Second Reading of Ordinance No. 071, 2013, Amending Section 19-65 of the City Code Related to the Service of a Civil Citation.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on May 21, 2013, is an effort to correct an inadvertent change that occurred with a previous Code change. This amendment will provide the ability for a civil citation to be issued immediately for repeated civil infractions. This will apply to a second or subsequent violation within a twelve (12) month period for the same violation. This process already applies for Land Use Code Section 3.8.16 pertaining to occupancy limits, so this change would make the process consistent for civil infractions. Additionally, this Code change specifies that a civil citation may be issued immediately for animal code violations.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary without attachments - May 21, 2013

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FORT COLLINS CITY COUNCIL

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EXECUTIVE SUMMARY

In an effort to correct an inadvertent change that occurred with a previous Code change, this amendment will provide the ability for a civil citation to be issued immediately for repeated civil infractions. This will apply to a second or subsequent violation within a twelve (12) month period for the same violation. This process already applies for Land Use Code Section 3.8.16 pertaining to occupancy limits, so this change would make the process consistent for civil infractions. Additionally, this Code change specifies that a civil citation may be issued immediately for animal code violations.

BACKGROUND / DISCUSSION

In 2006, the City decriminalized many of the nuisance codes and included the ability to issue civil citations immediately for repeat violations. Adoption of Ordinance No. 051, 2009 allowed an officer to immediately serve a civil citation to a responsible party specifically for violations of the Land Use Code Section 3.8.16 pertaining to occupancy limits. At that time, the change inadvertently removed the ability to issue civil citations for any repeat civil infractions. This error was not immediately identified.

Staff recommends amending City Code to provide the ability for a civil citation to be issued immediately for repeated civil infractions. This would apply to any repeat civil infraction within a twelve (12) month period, with the fines becoming progressively higher for each additional repeated violation. This makes the process consistent for all civil infractions, not just for occupancy limit violations. Additionally, as staff has worked with residents about potential improvements regarding exterior property maintenance codes, it was identified that this change would be beneficial for more effective enforcement.

Additionally, this Code change adds a provision to allow officers to immediately serve a civil citation of any civil infraction of the animal codes in Chapter 4 of the City Code.

FINANCIAL / ECONOMIC IMPACTS

There will not be any financial/economic impacts to the City. There could potentially be a financial/economic impact to anyone with repeat civil infractions because they may be issued a civil infraction which would assess a fine.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

PUBLIC OUTREACH

This item was discussed as part of the outreach conducted regarding Exterior Property Maintenance Code changes. Feedback included general agreement with the ability to issue civil citations immediately for repeat civil infractions.

ORDINANCE NO. 071 , 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 19-65 OF THE CODE OF THE CITY OF FORT COLLINS
RELATED TO THE SERVICE OF A CIVIL CITATION

WHEREAS, certain violations of the City Code are punishable as criminal misdemeanor offenses and others as civil infractions; and

WHEREAS, criminal misdemeanors are subject to a fine not exceeding one thousand dollars (\$1,000) and/or imprisonment not exceeding one hundred eighty (180) days, in addition to any costs that may be assessed; and

WHEREAS, a civil infraction violation is subject to a civil penalty of not more than one thousand dollars (\$1,000), plus costs, damages, and expenses; and

WHEREAS, Section 19-65 of the City Code establishes the process for issuing citations for civil infractions; and

WHEREAS, the citation procedures for civil infractions generally require that an officer who has reasonable grounds to believe that a responsible party has committed a civil infraction must serve a notice of violation, and set a reasonable period of time within which the responsible party may correct the violation before being issued a citation; and

WHEREAS, the citation procedures set forth exceptions to this notice requirement and opportunity to correct the violation in the event that the violation presents a threat to the public health, safety or welfare, or the damage done by the violation is irreparable or irreversible, or the violation is of Land Use Code Section 3.8.16 pertaining to occupancy limits; and

WHEREAS, on May 19, 2009, City Council adopted Ordinance No. 051, 2009, which allowed for the current exception to the notice requirement regarding occupancy limit violations; and

WHEREAS, Ordinance No. 51, 2009 unintentionally deleted another exception to the notice requirement for second or subsequent violations by the responsible party; and

WHEREAS, City staff recommends adding such exception back into the City Code along with an additional requirement that the exception only apply in the event that a second or subsequent violation occurs within a twelve month period; and

WHEREAS, in February of 2013, by the adoption of Ordinance No. 021, 2013, the City Council decriminalized certain offenses related to the care and keeping of animals, and amended Section 19 of the City Code to allow for Municipal Court to handle such civil infractions; and

WHEREAS, City staff believes that there are code violations related to the care and keeping of animals such as animal at large wherein an officer should have the ability to immediately serve a civil infraction citation in the event of a first violation without prior warning or notice; and

WHEREAS, City staff therefore recommends adding another exception to the notice requirement in Section 19-65 that would allow officers to immediately serve a civil citation to a responsible party, without prior notice, for any civil infraction violation in Chapter 4, Article II related to the care and keeping of animals; and

WHEREAS, the City Council has determined that the recommended City Code amendments are in the best interest of the City and its citizens.

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

Section 1. That Section 19-65 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-65. Commencement of action; citation procedure.

(a) Officers shall have the authority to initiate enforcement proceedings as provided below.

(1) An officer who has reasonable grounds to believe that a responsible party has committed a civil infraction under this Code is authorized to serve a notice of violation to the responsible party. Except as otherwise provided in this Code, the officer shall set a reasonable time period within which the responsible party must correct the violation. This determination shall be based on considerations of fairness, practicality, ease of correction, the nature, extent and probability of danger or damage to the public or property, and any other relevant factor relating to the reasonableness of the time period prescribed. An officer may immediately serve a civil citation to a responsible party, without prior notice, in the case of a civil infraction violation of Chapter 4, Article II of the Code, if there is reason to believe that the violation presents a threat to the public health, safety or welfare, or the damage done by the violation is irreparable or irreversible, or if the violation is a second or subsequent violation by the responsible party that occurred within the twelve (12) months immediately following a previous violation, or the violation is of Land Use Code Section 3.8.16 pertaining to occupancy limits.

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Introduced, considered favorably on first reading, and ordered published this 21st day of May, A.D. 2013, and to be presented for final passage on the 4th day of June, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 4th day of June, A.D. 2013.

Mayor

ATTEST:

City Clerk