

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 11 A-C

DATE: November 4, 2003

STAFF: John Fischbach
Steve Roy

SUBJECT

Items Relating to Various Code Changes.

RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

EXECUTIVE SUMMARY

Following the blizzard of March, 2003, City and Poudre Fire Authority staff reviewed the need for any City Code amendments that would be helpful in effectively dealing with future emergency situations. The three proposed Ordinances are intended to clarify the authority of the City and PFA to take emergency actions, provide for the publication of emergency rules and regulations adopted by the City Manager, and provide a penalty for a knowing violation of such emergency rules and regulations.

More specifically, each proposed Ordinance makes the following substantive changes:

- A. First Reading of Ordinance No. 144, 2003, Amending Sections 20-2 and 20-3 of the City Code Pertaining to the Abatement of Unsanitary or Dangerous Premises.

Amends the abatement provisions of the **City Code** to (1) expand the category of persons who may issue orders regarding unsanitary or dangerous premises, and (2) authorize such person to order the evacuation of such buildings.

- B. First Reading of Ordinance No. 145, 2003, Amending Section 9-2 of the City Code Pertaining to the Uniform Fire Code.

Amends the **Uniform Fire Code** to clarify that PFA personnel are authorized to enforce ordinances when a building or premise is a danger to the health, safety and welfare of persons or property. Authorizes the fire chief to order the evacuation of persons from dangerous buildings and the surrounding area until the danger is abated. Authorizes PFA personnel to participate and assist in emergency management operations. The new sections are patterned after language contained in the 2003 Edition of the International Fire Code. The PFA Board of Directors has reviewed and approved the amendments contained herein.

- C. First Reading of Ordinance No. 146, 2003, Amending Section 2-671 of the City Code Pertaining to the Powers and Duties of the Director of the Office of Emergency Management.

Amends the Emergency Management article of the City Code to provide that emergency rules and regulations adopted by the City Manager following a proclamation of local emergency shall be disseminated to local radio and television stations and to a general circulation newspaper. Provides that a knowing violation of such emergency rules and regulations shall be a misdemeanor punishable as provided at Section 1-15 of the Code.

ORDINANCE NO. 144, 2003
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTIONS 20-2 AND 20-3 OF THE CODE
OF THE CITY OF FORT COLLINS PERTAINING TO THE
ABATEMENT OF UNSANITARY OR DANGEROUS PREMISES

WHEREAS, Sections 20-2 and 20-3 of the City Code presently provide for the abatement of unsanitary or dangerous premises by order of the City Council, or, in emergency situations, by the City Engineer, Director of Building and Zoning or Fire Chief, and these code sections expressly authorize ordering the premises to be "remedied, repaired or abated," but do not include an express provision authorizing the issuance of an order that the premises be vacated; and

WHEREAS, as a result of the blizzard of March, 2003, the City Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City that authority also be included in Sections 20-2 and 20-3 to order the vacation of such premises.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Sections 20-2 and 20-3 of the Code of the City of Fort Collins are hereby amended to read as follows:

Sec. 20-2. Abatement of unsanitary or dangerous premises.

(a) ~~If it shall be made to appear to either the City Manager, the City Engineer, the Director of Building and Zoning or the Fire Chief determines that any premises within the city are in an unsanitary, as determined by the Larimer County Department of Health and Environment, or dangerous condition or that the premises are filthy, offensive or are dangerous to the life or property of persons or may cause an unnecessary~~ constitute a fire hazard, ~~they shall forthwith cause~~ a written notice of such condition shall ~~to be given by the City to the owner, agent or occupant of the property and ordering the premises to be put in proper condition within such period as is set out in the notice and order. they may deem necessary.~~ Such period shall not be less than twenty-four (24) hours.

(b) If the owner, agent or occupant of the premises shall fail or refuse to comply with the order of any of the officers within the time given in the order, then the matter of the failure or refusal to comply with the order shall be heard before the next meeting of the City Council without further notice to the owner, agent or occupant of the premises. At the meeting the owner, agent or occupant of the premises or any other person interested may appear and be heard.

(c) After the hearing, the City Council shall make such order concerning remedying the condition complained of as may be deemed necessary and may declare the premises to be a nuisance and cause the premises to be remedied, repaired, or abated or evacuated and shall assess the expense against the lot or premises upon which the condition or nuisance may be found as provided by law.

Sec. 20-3. Abatement by city in cases of emergency.

Nothing herein shall be deemed to limit the power of the City Manager, City Engineer, Director of Building and Zoning or Fire Chief, in case of an emergency for the preservation of the public health or safety, to summarily remedy, change, repair, ~~or~~ abate or order the evacuation of any dangerous or unhealthy condition found to exist without any notice to any person.

Introduced and considered favorably on first reading and ordered published this 4th day of November, A.D. 2003, and to be presented for final passage on the 18th day of November, A.D. 2003.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 18th day of November, A.D. 2003.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 145, 2003
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 9-2 OF THE CITY CODE PERTAINING
TO THE UNIFORM FIRE CODE

WHEREAS, the Uniform Fire Code, 1997 Edition, as adopted by Fort Collins in Section 9-1, et seq. of the City Code, presently provides for the authority and procedures for inspection, entry and the abatement of unsanitary or dangerous premises by the Fire Chief; and

WHEREAS, the Uniform Fire code expressly authorizes the Fire Chief to order premises to be "remedied, repaired or abated," but does not clearly provide for the Fire Chief to authorize the issuance of an order that the premises be vacated; and

WHEREAS, as a result of the blizzard of March, 2003, the City Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City that authority be included in Sections 9-2 to order the vacation of such premises when an emergency arises.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 9-2 of the Code of the City of Fort Collins is hereby amended by the addition of the following subsections, to be added to Section 9-2 in numerical order by Uniform Fire Code section number as follows:

Section 1. That Section 103.3.1.1 is hereby amended to read as follows:

"103.3.1.1 Inspection Authority. The fire code official is authorized to enter and examine any building, structure, marine vessel, vehicle, or premises in accordance with Section 104.3 for the purpose of enforcing this code and of any other ordinance, law, or standard affecting fire safety, and the health, safety, and welfare of occupants or the public."

Section 2. That a new Section 103.3.1.1.1 is hereby added to reads in its entirety as follows:

"103.3.1.1.1 Inspections. The fire code official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals. All reports of such inspections shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The fire code official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues subject to the approval of the governing body."

Section 3. That Section 103.3.1.2 is hereby deleted in its entirety and reenacted as follows:

"103.3.1.2 Right of entry. Whenever it is necessary to make an inspection to enforce the provisions of this code or any other ordinance, law, or standard affecting fire safety, and the health, safety, and welfare of occupants or the public or whenever the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous to the health and safety of occupants or the public, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the fire code official by this code. If such building or premises is occupied, the fire code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the fire code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the fire code official has recourse to every remedy provided by law to secure entry.

Owners, occupants or any other persons having charge, care or control of any building or premises shall, after proper request is made as herein provided, promptly permit entry therein by the chief for the purpose of inspection and examination pursuant to this code.

For the purpose of Section 103.3.1.2, the term "chief" shall include the chief officer of the fire department serving the jurisdiction and the officers named in Sections 103.2.1.2 and 103.2.2.2."

Section 4. That Section 103.4.3 is hereby repealed in its entirety and reenacted to read as follows:

"103.4.3 Violations"

Section 5. That the following new sections are added to read as follows:

"103.4.3.1 Unlawful acts. It shall be unlawful for a person, firm, or corporation to erect, construct, alter, repair, remove, demolish, or utilize a building, occupancy, premises or system regulated by this code, or causing to be done, in conflict with or in violation of any of the provisions of this code.

103.4.3.2 Notice of violation. When the fire code official finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation describing the conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection.

103.4.3.3 Service. A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service, mail, or by delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address or the owner, occupant or both.

103.4.3.4 Compliance with orders and notices. A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

103.4.3.5 Prosecution of violations. If the notice of violation is not complied with promptly, the fire code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violations or to require removal or termination of the unlawful occupancy of the structure that are in violation of the provisions of this code or of any order or direction made pursuant here too.

103.4.3.6 Unauthorized tampering. Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

103.4.3.7 Violation penalties. Persons who violate a provision of this code or who shall fail to comply with any of the requirements thereof or who shall construct, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or a certificate used under the provisions of this code, shall be guilty of a misdemeanor, punishable pursuant to Section 1-15 of the City Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

103.4.3.7.1 Abatement of violation. In addition to the imposition of the penalties herein described, the fire code official is authorized to institute an action to prevent the unlawful construction or to restrain, correct, order, or abate a violation; or to prevent illegal occupancy of the structure or premises; or to stop an illegal act, conduct of business or Occupancy of a Structure on or about any premises."

Section 6. That the existing sections 103.4.3.2 and 103.4.3.3 shall be renumbered as Sections 103.4.3.8 and 103.4.3.9 respectively.

Section 7. That a Section 103.4.5 shall be repealed and reenacted to read as follows:

103.4.5 Unsafe Buildings

103.4.5.1. General . If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

103.4.5.2 Unsafe conditions . Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

103.4.5.3 Structural hazards . When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 110.1.

103.4.5.4 Evacuation . The fire code official or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to the health and safety of the building occupants. Persons so notified shall immediately leave the structure or premises and surrounding area and shall not enter or re-enter until authorized to do so by the fire code official or the fire department official in charge of the incident.

103.4.5.5 Summary abatement . Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.

103.4.5.6 Abatement . The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

Section 8. That Section 104.1.1 is hereby amended to read as follows:

"104.1.1 General . The chief or officer of the fire department in charge at the scene of a fire or other emergency involving the protection of life or property or any part thereof, shall have the authority to direct such operation as necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of duty. In the

