

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 27

DATE: June 1, 2004

STAFF: Darin Atteberry
Steve Roy

SUBJECT

Second Reading of Ordinance No. 075, 2004, Amending Article III of Chapter 20 of the City Code Pertaining to the Outdoor Storage of Materials.

RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

EXECUTIVE SUMMARY

This Ordinance, which was adopted 6-1, (Councilmember Kastein opposed) on First Reading on May 4, 2004, amends the Code adding a provision addressing outdoor storage of materials in residential neighborhoods.

ORDINANCE NO. 075, 2004
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III OF CHAPTER 20 OF
THE CODE OF THE CITY OF FORT COLLINS PERTAINING TO
THE OUTDOOR STORAGE OF MATERIALS

WHEREAS, City staff receives complaints from neighbors and other citizens regarding the unsightliness and hazards of outdoor storage of materials in residential neighborhoods; and

WHEREAS, commonly, the types of materials complained about do not constitute rubbish or refuse, but are materials that the property owners or occupants are storing for possible future use; and

WHEREAS, Council believes that the visible, outdoor storage of such materials **whether or not sheltered or covered** constitutes a nuisance and should be prohibited.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that a new Section 20-42.6 is hereby added to the Code of the City of Fort Collins and reads in its entirety as follows:

Sec. 20-42.6. Outdoor storage of materials.

No owner or occupant of any residential premises shall permit the outdoor storage on such premises of materials not customarily stored outdoors in residential neighborhoods, such as, but not limited to, construction materials, tires, and household appliances, if such materials, **whether or not sheltered or covered or within a carport or other partially enclosed structure**, are visible from any public street, sidewalk, alley or from the ground level of abutting properties. **The storage of materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision.** Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed nine (9) months, or for such longer period of time as may have been approved by the City Manager, if such materials are being used in the construction of a structure for which a building permit has been issued by the city.

Introduced and considered favorably on first reading and ordered published this 4th day of May, A.D. 2004, and to be presented for final passage on the 1st day of June, A.D. 2004.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 1st day of June, A.D. 2004.

Mayor

ATTEST:

City Clerk

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 22 A-E

DATE: May 4, 2004

STAFF: Darin Atteberry
Steve Roy

SUBJECT

Items Relating to the Enforcement of the Nuisance Provisions of the City Code.

RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

FINANCIAL IMPACT

The adoption of these Ordinances is not expected to have a significant financial impact on departmental operating budgets.

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 071, 2004, Amending Sections 20-21 and 20-22 of the City Code Pertaining to Unreasonable Noise.
- B. First Reading of Ordinance No. 072, 2004, Amending Article VIII of Chapter 20 of the City Code Pertaining to the Abatement of Public Nuisances.
- C. First Reading of Ordinance No. 073, 2004, Amending Section 4-94 of the City Code Pertaining to the Disturbance of Peace and Quiet.
- D. First Reading of Ordinance No. 074, 2004, Amending Article III of Chapter 20 of the City Code Pertaining to Weeds, Brush Piles and Rubbish.
- E. First Reading of Ordinance No. 075, 2004, Amending Article III of Chapter 20 of the City Code Pertaining to the Outdoor Storage of Materials.

These Ordinances are being presented for Council's consideration as a result of the ongoing efforts of the Neighborhood Quality of Life Task Force. This task force has been formed to address quality of life issues in the City's residential neighborhoods. The Ordinances would:

- Revise the definition of "unreasonable noise" and provide standards for more objectively determining when such noise exists and who may be responsible for the noise;

- Amend the public nuisance ordinance to allow staff to file a civil action seeking injunctive relief against a property owner after two separate violations within six months, as an alternative to awaiting further separate violations;
- Amend the animal disturbance provisions of the City Code to eliminate a mandatory warning provision and to add additional circumstances under which a citation can be issued;
- Amend the weed and rubbish provisions of the Code to allow for the recovery of additional costs and to clarify when violations exist; and
- Add a provision to the Code dealing with the outdoor storage of materials in residential neighborhoods.

BACKGROUND

For the past several months, a Neighborhood Quality of Life Task Force, consisting of representatives from various departments of the City, has been meeting regularly to discuss ways in which to improve the City's ability to effectively deal with nuisance violations in residential neighborhoods of the City. As a result of this effort, several ordinances have already been presented to the Council, and various other measures have been undertaken by City staff to enhance the City's enforcement of existing Code provisions. The ordinances previously presented to the Council as part of this effort have dealt with vehicle noise, the parking of vehicles on lawns, and the use or storage of indoor furniture in outdoor locations. Enhanced enforcement efforts have included the augmentation of police resources to combat the problem of noisy parties, increased marketing of the City's "nuisance hotline", and other system improvements which are described in more detail in the materials attached to this Agenda Item Summary.

In addition to the foregoing Code changes and systems improvements, staff is recommending the Ordinances described below. In addition, staff will be presenting for Council's consideration at a study session on April 27th more information explaining two options for regulating rental properties in residential neighborhoods: rental registration and rental licensing.

Unreasonable Noise Ordinance

Ordinance No. 071, 2004, will amend the definition of "unreasonable noise" and will make certain other changes to Sections 20-21 and 20-22 of the Code as follows:

- The definition of "unreasonable noise" would be revised to eliminate the phrase "throughout the City or in any portions thereof." This phrase is unnecessary and could potentially be used to argue that the City must prove beyond a reasonable doubt the particular portions of the City that are affected by the unreasonable noise.
- Additional criteria would be added to Section 20-22(b) to provide further guidance to police officers in determining whether unreasonable noise exists.

- A new subsection (c) would be added to this Code section stating that, if the owner or tenant or a premises upon which unreasonable noise occurs was present at the time of the violation, then that fact shall constitute *prima facie* evidence that such person was in control of the premises and knowingly permitted the violation to occur.

Public Nuisance Ordinance

The public nuisance ordinance provisions of the Code allow the City to file a civil action against the owner, occupant or property manager of a particular parcel of property in order to obtain an order from the Municipal Court to help deal with a recurring nuisance problem on the premises. At present, the Code requires that three separate violations occur within a period of one year or five within a period of two years before such an action can be commenced. (However, each violation can result in the issuance of a citation to the person actually committing the violation). Occasionally, having to await a third violation can result in an unnecessary delay in dealing with a "problem property" if the owner or property manager has failed to respond to the first notices of violations. Ordinance No. 072, 2004, will allow the nuisance enforcement officer, in particular situations, to request a hearing before the City Manager or his designee in order to seek authorization to commence a public nuisance action against a property after only two separate violations within a period of six months. The new Code language would require that the property owner, property manager and occupant of the premises be given notice of such hearing and an opportunity to appear and respond. If none of the responsible parties appear at the hearing or, if, upon appearing, they fail to demonstrate to the satisfaction of the City Manager that they are genuinely undertaking good faith efforts to deal with the nuisance problems, then the City Manager could authorize the commencement of a public nuisance court action without further delay.

Animal Disturbance Ordinance

Section 4-94 of the City Code states that no owner or keeper of an animal shall permit such animal to disturb the peace and quiet of any person by barking, whining, howling, yowling, squawking or making any other noise in an excessive, continuous or untimely fashion. That Code provision then goes on to require that, before a citation can be issued for a violation, a member of the household over the age of 18 years must have received a warning from the City of a previous complaint at least once within the preceding 12 months.

Ordinance No. 073, 2004, would make two changes to this section. First, it would amend the substantive language of the section to add a prohibition against allowing any animal to make "unreasonable noise," that is, noise of such level and duration as to be injurious to human health or welfare or unreasonably interfere with the enjoyment of life or property. This amendment would allow animal enforcement officers to make a determination as to whether unreasonable noise exists in a particular situation without having to prove that the noise actually disturbed the peace and quiet of a particular neighbor. Staff believes this is a helpful amendment because neighbors disturbed by such noise are sometimes reluctant to serve as complaining witnesses and appear and testify in court, for fear of retaliation or further eroding neighborhood relations.

The second change to this section would be to eliminate the mandatory warning so that the animal enforcement officer would have the discretion, in aggravated situations, to issue a citation on a first offense without a warning if he or she believes that to be in the best interest of the community.

Weeds and Rubbish Ordinance

Ordinance No. 074, 2004, will amend Section 20-44 of the City Code so as to allow the City, in abating weeds and rubbish, to recover up to 100% of its administrative costs in performing the abatement, in addition to the actual amounts paid to the contractor who provides the abatement services. Secondly, this provision would be revised to clarify that either the owner or the occupant of the premises in question can be issued a citation for allowing the weeds or rubbish to accumulate on the property.

Outdoor Storage Ordinance

Ordinance No. 075, 2004, will add a new Section 20-42.6 to the City Code prohibiting the storage of building materials, household appliances and other kinds of materials not normally kept on residential premises unless such materials are effectively screened from view from the public right-of-way or from the ground level of adjoining properties.

In summary, staff believes that this combination of ordinances is consistent with the direction received by the City Council to not only step up the City's enforcement efforts of existing ordinances but to provide new legislation which will enable the City to more effectively deal with nuisance violations that threaten the tranquility and quality of life in the City's residential neighborhoods.

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