

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17

DATE: February 7, 2006

STAFF: John Stokes

### SUBJECT

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First Reading of Ordinance No. 018, 2006, Amending Chapter 17, Article IV (Offenses Against Public Authority) and Chapter 23, Article IX (Natural Areas) of the City Code to Clarify and Update Certain Enforcement Authority and Natural Areas Restrictions.

### RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading. In January 2005, the Natural Resources Advisory Board considered the proposed changes (pertaining to Section 23) and recommended adoption of the changes (see attached). City Council considered the proposed changes at its January 25, 2005 work session and was generally supportive. The Parks and Recreation Board also considered the changes and was supportive. In addition to the changes reviewed by the Boards and City Council, several additional changes are proposed to clarify and improve existing Natural Area provision.

### FINANCIAL IMPACT

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It is not anticipated that these City Code changes will have any significant impact on expenditures or revenues to the Natural Resource Department or the City of Fort Collins.

### EXECUTIVE SUMMARY

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The Natural Resources Department is proposing revisions and amendments to portions of Article IV of Chapter 17 of the City Code (Offenses Against Public Authority) and Article IX of Chapter 23 (Natural Areas) of the City Code.

The proposed modifications to Chapter 17 of the Code will ensure that Natural Areas Rangers, as "specially commissioned officer[s] of the city," will have the necessary authority and protection under the Code, by clarifying that the Rangers are legally entitled to require the cooperation of members of the general public.

Proposed amendments and revisions to Chapter 23 of the Code reflect specific code changes necessary to implement new Natural Areas General Management Guidelines that have previously been presented to the Council in 2005, and to clarify and improve other existing Natural Areas provisions. These changes include provisions that would:

- define camping and allow camping only where permitted;
- require boaters to carry a personal floatation device in the boat at time of operation;
- require pedestrian, cyclists, and horseback riders to comply with yield postings;
- prohibit rock climbing outside of designated areas;
- allow use of natural areas between the hours of 11pm and 5am for sponsored or permitted events;
- prohibit the possession of firearms in natural areas except as permitted by a city-issued or other lawfully issued permit (exceptions include hunting permitted by the City, concealed carry permits, and law enforcement personnel);
- authorize the use of a routine permit process for certain activities such as camping.

## **BACKGROUND**

Amendments to Chapter 17 of the City Code are intended to clarify that “specially commissioned officers of the city” (including Natural Areas Rangers) are considered public authorities and are protected by the provisions of Chapter 17 in a manner similar to peace officers, firefighters and other similarly commissioned public officials.

Amendments and revisions to Chapter 23 of the Code reflect specific changes necessary to implement new Natural Areas General Management Guidelines (presented to and supported by Council in 2005) and to clarify other provisions. Below is background related to the proposed changes.

### **23-192 – Amendment to define “camping”:**

The proposed Code changes will allow the Natural Resources Department to provide camping by permit in designated areas. A definition of camping is required to make it clear what is allowed.

### **23-193(a)2 – Amendment to clarify scope of container restrictions:**

This amendment is intended to make clear that possession of glass containers is allowed only City sponsored or permitted clean up activities.

### **23-193(a)15 – Amendment to promote boating safety:**

In order to promote boating safety, a requirement that boaters carry personal floatation device (PFD) for each member in the boat is proposed. Natural Areas Rangers have encountered at least one instance in which a toddler (under the age of 3) was found in a canoe with adults who had no PFDs.

### **23-193(a)18 – Amendment to promote trail user safety:**

This amendment is intended to require pedestrian, cyclists, and horseback riders to comply with yield postings. Each year the number of citizens using recreational trails increases. Encouraging this form of trail etiquette helps manage “traffic” flow and maintain safety.

**23-193(a)19** – Amendment to clarify legal force of permit conditions:

This added provision is intended to clarify that violation of a permit condition or requirement may be subject to enforcement as a violation of the Code.

**23-193(b)2** – Amendment to swimming restriction:

This amendment is intended to clarify that allowing a pet, or other riding or pack animal, to enter into waters on a natural area is prohibited except as posted.

**23-193(b)5** – Amendment to manage rock climbing:

There are no current guidelines in the Code that address rock climbing. This language prohibits rock climbing and bouldering except in designated areas.

**23-193(c)1** – Revision to allow limited use of a natural area between 11pm and 5am:

This revision allows use of natural areas during normally closed hours for a sponsored or permitted event. In the past this has included overnight scout outings, access for academic research, and other sanctioned events. This revision also will allow the Natural Areas Program to designate open and closing times (such as a dawn to dusk) that may be more appropriate for regional natural areas.

**23-193(d)19** – Revision to camping regulations:

Camping in natural areas is currently prohibited by Municipal Code Sec.23-193(a) (15). By moving this prohibition into part (d), the Service Area is able to prohibit camping unless otherwise permitted. It is anticipated that new regional natural areas like Bobcat and Soapstone may feature backcountry style, primitive camping.

**23-193(d)20** – Amendment to promote Ranger safety and to make possible the potential for managed hunting by prohibiting the possession of firearms in a natural area except as lawfully permitted:

The Code currently prohibits the discharge of firearms. This amendment prohibits the possession of firearms except as lawfully permitted. Possession of a firearm pursuant to a concealed carry permit, or other possible type of permit such as for hunting sanctioned by the Natural Resources Department, is excepted from the prohibition. In addition to the potential for permitted hunting, this amendment is intended to promote the safety of the rangers in the areas they patrol.

**23-195** – Natural areas routine permit processes:

The proposed changes to this section of the Code are to allow streamlining of the permit process for various activities that may take place on Natural Areas. For example, camping permits could be issued at the location where camping is permitted rather than the Department's offices.

**MEMORANDUM  
FROM THE CITY OF FORT COLLINS  
NATURAL RESOURCES ADVISORY BOARD**

DATE: January 25, 2005  
TO: Mayor and Council Members  
FROM: Nate Donovan on behalf of the Natural Resources Advisory Board  
SUBJECT: Natural Areas General Management Guidelines

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The Natural Resources Advisory Board (NRAB) recently considered proposed changes to the Natural Areas General Management Guidelines. The NRAB voted 9-0 to recommend Council approval of the staff proposal relating to camping, rock climbing and shelters. The Board stresses that backcountry camping should occur in specific sites that are permitted, to minimize impact on natural resources. With regard to installation of shelters, if picnicking is a use that is encouraged, the Natural Areas program should address the impacts of trash that may accumulate and the cost of removal. On all of the proposed changes, the Board notes that staff should carefully assess impacts before allowing an activity, because it is more difficult to cease the activity after it is allowed.

On a split 5-4 vote, the Board recommends Council approval of staff's recommendation regarding hunting in Natural Areas outside the city limits. The majority of the Board is supportive of limited hunting for purposes of wildlife and ecosystem management and recreation, including changes to the Code relating to firearms to accomplish those purposes. The Board appreciates the fact that much work needs to be done to determine when, where and how hunting may occur and the possible user conflicts that need to be considered.

Concerns expressed by the Board regarding hunting include allowing use of high-powered rifles, the possible need to close all or part of areas to other users during periods of hunting, the need for hunting on natural areas in light of the availability of hunting on other public lands in the region, fears of non-hunting users, and possible uneasiness of hikers witnessing the realities of hunting, including removal of animal carcasses.

Please feel free to contact me regarding the Board's recommendations on this issue.

Yours truly,  
Nate Donovan, Chair  
Natural Resources Advisory Board  
tel: 472-1599  
e-mail: [ndonovanlaw@earthlink.net](mailto:ndonovanlaw@earthlink.net)  
cc: Darin Atteberry, Interim City Manager

ORDINANCE NO. 018, 2006  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 17, ARTICLE IV (OFFENSES AGAINST PUBLIC AUTHORITY)  
AND CHAPTER 23, ARTICLE IX (NATURAL AREAS)  
OF THE CODE OF THE CITY OF FORT COLLINS  
TO CLARIFY AND UPDATE CERTAIN ENFORCEMENT AUTHORITY  
AND NATURAL AREAS RESTRICTIONS

WHEREAS, Article of IV of Chapter 17 of the City Code currently provides for certain offenses against public authority, and prohibits such specific offenses as false alarm or false reporting of a crime, failure to follow orders of a peace officer, and failure to assist a peace officer; and

WHEREAS, pursuant to Section 2-504(b)(2) of the City Code, the Chief of Police has the authority to specially commission officers of the City to assist in the enforcement of specified laws of the City, and has exercised this authority to commission Natural Areas Rangers; and

WHEREAS, City staff has recommended that the grant of additional authority for specially commissioned officers of the City, including the Natural Areas Rangers, to issue citations for false alarm, false reporting of a crime, failure to follow orders and failure to assist will aid the Natural Areas Rangers and other specially commissioned officers in carrying out their duties; and

WHEREAS, Natural Areas Program staff presented to the City Council in 2005 proposed revisions to the Natural Areas General Management Guidelines, which have since been administratively adopted; and

WHEREAS, in order to implement that Natural Areas General Management Guidelines, staff recommends that certain clarification and updating of the City Code provisions related to Natural Areas is necessary; and

WHEREAS, based on the foregoing, it is the desire of the City Council to amend Chapter 17 and Chapter 23 of the City Code as set forth herein.

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

Section 1. That Section 17-61 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 17-61. False alarm.**

No person shall intentionally make, turn in or give a false alarm of fire or ~~need~~ **make a false or needless request** for police or ambulance assistance **or for the assistance of any specially commissioned officer of the city appointed by the Chief**

of Police pursuant to § 2-504(b)(2), ~~or~~ nor shall any person aid or abet in the commission of such act.

Section 2. That Section 17-62 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 17-62. False report of crime.**

No person shall make to or file with a member of Police Services, **Poudre Fire Authority** or the Colorado State University Police Department, **or with any specially commissioned officer of the city appointed by the Chief of Police pursuant to § 2-504(b)(2)**, any false or misleading statement or report concerning the commission or alleged commission of any crime occurring within the city.

Section 3. That Section 17-63 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 17-63. Interference with public officers.**

(a) No person shall ~~use or threaten to use violence, force, physical interference, or obstacle to~~ knowingly obstruct, impair or hinder any peace officer, firefighter, **specially commissioned officer of the city**, city employee or other public official acting under the color of his or her official authority to enforce the law or perform an official duty **by the use or threat of violence, force, physical interference, or obstacle, or by knowingly providing false or misleading information to any such officer, employee or official.**

(b) When a peace officer **or specially commissioned officer of the city**, acting under the color of his or her official authority, is enforcing the law or performing an official duty, no person shall, after having been ordered by ~~the peace~~ **said** officer to move on and away from the scene of the officer's activity, knowingly remain in the officer's presence or engage in conduct that disrupts, obstructs, impairs or hinders the officer's enforcement of the law or the performance of his or her official duty.

...

(d) It is no defense to a prosecution under this Section that a peace officer **or specially commissioned officer of the city** was acting in an illegal manner if the officer was acting under the color of his or her official authority. ~~An~~ **peace** officer acts *under the color of his or her official authority* when, in the regular course of assigned duties, such officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances.

...

(f) The term *specially commissioned officer of the city* when used in this Section shall mean a specially commissioned officer of the city appointed by the Chief of Police pursuant to § 2-504(b)(2) who has identified himself or herself by exhibiting official credentials to the person charged under this Section.

Section 4. That Section 23-192 of the Code of the City of Fort Collins is hereby amended to add a definition of the term *camping*, to read as follows:

**Sec. 23-192. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

*Camping* shall mean to sleep or spend the night or reside or dwell temporarily in a natural area, with or without bedding or other camping gear, and with or without shelter, or to conduct activities of daily living, such as eating or sleeping, in such place. *Camping* shall not include incidental napping or picnicking.

Section 5. That subsections (a), (b) and (d) of Section 23-193 of the Code of the City of Fort Collins are hereby amended to read as follows:

**Sec. 23-193. Prohibited acts; permits.**

(a) It shall be unlawful to:

. . .

(2) Bring any glass container into a natural area or possess the same while in any natural area except when removing containers during site clean-up activities *sponsored or permitted by the city*.

. . .

(15) ~~Camp in a natural area~~ *Operate any boat in waters within a natural area unless the boat contains at least one (1) personal floatation device that is in good and serviceable condition and of a type approved for recreational use by the United State Coast Guard for each person on board. Any such use must also be consistent with subsection (d)(2), below.*

. . .

(18) *Fail to comply with any posted yield, right-of-way or other trail use requirement on a trail subject to the provisions of this Article.*

(19) Violate any term, condition or requirement of any permit issued pursuant to this Article.

(b) Unless a sign has been posted by the Service Area that the particular natural area or a portion thereof is open for such use, it shall be unlawful to:

...

(2) Swim, wade or otherwise enter into in any waters of a natural area, or allow any pet animal or any riding or pack animal to do so.

...

(5) Climb rocks or boulders with or without ropes, fixtures, or other apparatus.

...

(d) Except as authorized by a permit obtained for such use from the Service Area, it shall be unlawful to:

(1) Enter a natural area during the hours of 11:00 p.m. to 5:00 a.m., except:

- a. as otherwise permitted by a sign posted by the Service Area opening or closing the particular area or a portion of the area for public use for a specified time or during specified hours; or
- b. as necessary to participate as a registered or otherwise officially recognized participant in a city-sponsored or permitted event in a natural area.

(2) Operate a motorized boat, other than one with a wakeless, electric trolling motor in a natural area.

...

(4) Remove, disturb, or damage any archaeological, geological or paleontological materials from a natural area.

(5) Remove from a natural area, or rearrange in a natural area, downed trees, logs or groupings of branches or sticks, or disturb or damage any of the same.

...

(15) Deposit rocks, wood, or dirt or any other material in a natural area.

. . .

(19) Camp in a natural area.

(20) Possess in a natural area any gun, pistol, crossbow, bow and arrow, slingshot or other firearm or weapon whatsoever, including BB guns, or pellet, or paintball guns except as permitted by a city-issued or other lawfully issued permit.

Section 6. That Section 23-194(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-194. Natural areas permit process.**

(a) Any person or organization seeking a permit for the purposes set forth in this Article shall apply for a natural area permit by filing a verified application with the Service Area on a form supplied by the Service Area, **except that permit applications for which a routine permit process has been established by the Director under § 23-195 shall be governed by and processed in accordance with the routine permit process.** A fully completed application must be filed with the Director not less than seven (7) business days nor more than ninety (90) business days before the date on which a permitted activity is to commence; provided, however, that the Service Area may accept and process an application that is filed after the filing deadline if, in the judgment of the Director, there are sufficient time and sufficient resources for the Service Area to process and investigate the application and make any preparations necessary for the activity.

Section 7. That a new Section 23-195 is hereby added to Article IX of Chapter 23 of the Code of the City of Fort Collins, as follows:

**Sec. 23-195. Routine permit processes.**

The Director may establish an alternative permit process for any activity specified in § 23-193(d) that is subject to standardized requirements and conditions. Issuance of a permit under any such routine permit process shall be on a first-come, first-served basis. A routine permit process for an activity such as camping may utilize an on-site system located at the permitted camping area. In connection with and as a condition of any routine permit process the payment of an administrative fee may be required by the City Manager pursuant to Chapter 7.5.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, A.D. 2006, and to be presented for final passage on the 21st day of February, A.D. 2006.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 21st day of February, A.D. 2006.

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Mayor

ATTEST:

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City Clerk