

ORDINANCE NO. 091, 2026
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING PORTIONS OF CHAPTER 9 OF THE CODE OF THE CITY OF FORT
COLLINS TO ALIGN WITH STATE LAW AND MAKING OTHER RELATED UPDATES
AND CORRECTIONS

A. The updates in this Ordinance pertain to changes in Chapter 9 of the Fort Collins City Code which governs fire prevention and protection.

B. On December 22, 2025, the Colorado Supreme Court issued decisions in In re People v. Camp and In re People v. Simons.

C. These decisions hold that municipal sentencing provisions that impose penalties exceeding those authorized under state law for identical or substantially similar conduct are preempted by state law.

D. City Code contains numerous provisions establishing municipal offenses without clearly identifying the level of offense applicable to each violation.

E. City Council desires to amend these provisions to identify the appropriate level of offense for each violation consistent with state law and the City's updated penalty framework.

F. These amendments are intended to improve clarity, provide clear notice to the public, and ensure consistency in charging and sentencing. Also, the amendments contained herein are intended to align City Code with the City's general penalty provisions and applicable state law.

G. The amendments set forth in this Ordinance are part of a broader review and update of the City Code to ensure consistency with state law and improve clarity and usability.

H. City Council determines that the amendments contained herein are necessary to provide clarity and consistency in the classification and enforcement of municipal offenses.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. Section 9-4 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 9-4. Violations and penalties.

Any person who shall violate any of the provisions of this chapter or the International Fire Code, as amended, or who shall fail to comply with any of the provisions or who shall violate or fail to comply with any orders made thereunder or who shall act in any way in violation of any permits issued thereunder shall, severally and for each and every violation in noncompliance respectively, be guilty of an unclassified misdemeanor punishable by the penalty set forth in § 1-15 of this Code. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue, and all persons shall be required to correct or remedy the violations or defects within a reasonable time, and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of any penalty pursuant hereto shall not be held to prevent the forced removal of prohibited conditions nor the suspension or removal of a permit or license issued thereunder.

Section 2. Section 9-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 9-23. Prohibited open fires and open burning.

(a) The following types of open fires and open burning are prohibited in the City at all times:

. . .

(b) A violation of the Section is a petty offense (PO1), unless a fire restriction is in place at the time of the offense, then it is a class 2 misdemeanor. A fine of not less than two hundred fifty dollars (\$250) shall be assessed. This fine shall be mandatory and not subject to suspension. Nothing in this Subsection (b) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

Section 3. Section 9-25 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 9-25. Stage 1 fire restrictions/prohibited and permitted acts.

(a) When Stage 1 fire restrictions are in place it shall be unlawful for any person to start, build, maintain, attend, or use an open fire or conduct open burning on public, private, state or federal lands within the City, except for the following activities:

. . .

(b) This provision does not apply to any person who, without lawful authority and knowingly, recklessly, or with criminal negligence, sets on fire, or causes to be set on fire, any woods, prairie, or grounds of any description, other than his or her own, or who, knowingly, recklessly, or with criminal negligence, permits a fire, set or caused to be set by such person, to pass from his or her own grounds to the injury of any other person

during a fire restriction or any other conduct that is otherwise felonious. The conduct described in this Subsection (b) is a felony and cannot be prosecuted in Municipal Court.

(c) A violation of a Stage 1 fire restriction is a class 2 misdemeanor. A fine of not less than two hundred fifty dollars (\$250) shall be assessed. This fine shall be mandatory and not subject to suspension. Nothing in this Subsection (c) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

Section 4. Section 9-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 9-27. Stage 2 fire restrictions/prohibited and permitted acts.

(a) When Stage 2 fire restrictions are in place it shall be unlawful for any person to start, build, maintain, attend or use any open fire or conduct open burning of any kind on public, private, state or federal lands within the City, with or without a permit, including fires in outdoor, solid-fuel burning fireplaces, fire pits, chimineas or other solid-fuel burning containers (approved or unapproved), except for the following activities:

...

(b) This provision does not apply to any person who, without lawful authority and knowingly, recklessly, or with criminal negligence, sets on fire, or causes to be set on fire, any woods, prairie, or grounds of any description, other than his or her own, or who, knowingly, recklessly, or with criminal negligence, permits a fire, set or caused to be set by such person, to pass from his or her own grounds to the injury of any other person during a fire restriction or any other conduct that is otherwise felonious. The conduct described in this Subsection (b) is a felony and cannot be prosecuted in Municipal Court.

(c) A violation of a Stage 2 fire restriction is a class 2 misdemeanor. A fine of not less than two hundred fifty dollars (\$250) shall be assessed. This fine shall be mandatory and not subject to suspension. Nothing in this Subsection (c) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

Section 5. Section 9-29 of the Code of the City of Fort Collins is hereby amended by the addition of a new Subsection (e) which reads in its entirety as follows:

Sec. 9-29. Temporary suspension of permitted open burns.

...

(e) A violation of Subsection (d) is a class 2 misdemeanor. A fine of not less than two hundred fifty dollars (\$250) shall be assessed. This fine shall be mandatory and not subject to suspension. Nothing in this Subsection (e) shall be construed to limit the court's

discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

Introduced, considered favorably on first reading on July 21, 2026, and approved on second reading for final passage on August 18, 2026.

Mayor

ATTEST:

City Clerk

Effective Date: August 28, 2026
Approving Attorney: Alyssa Bamonti

Exhibit: None