



Legislation Text

File #: Pres 21-03, **Version:** 1

Administrative Rulemaking Authority

The City Attorney and staff have identified a need for an ordinance to clarify the authority of the City Manager to create rules and regulations for, among other things, the use and operation of City property (such as parks, recreation centers, etc.) and City programs and services.

Need for Ordinance:

The ordinance is recommended to clarify ambiguities and to ensure consistency and awareness of rules. The City Charter and City Code imply the authority of the City Manager to establish rules. For example, the Charter vests the authority to administer City operations and departments in the City Manager (Charter 7.2, 7.4). The Charter also provides that the City Manager is responsible "for the operation and functioning" of City parks (Charter 16.2). The City Code does not include a general, explicit authorization to create rules to perform those functions. In some circumstances, the City Code specifically authorizes the City Manager or another official to make administrative regulations, such as designating parking areas in parks (Code 7-1003(d)). Despite the lack of explicit authorization, the City Code contemplates the enforcement of such regulations (like Code 12-2010, which creates a misdemeanor for failing to follow rules on public property).

Effect of Ordinance:

The ordinance simply provides an express general authorization of the City Manager, with approval of the City Attorney, to create rules for:

- (i) the implementation and conduct of any function assigned to the city manager by the charter or ordinance or state law;
- (ii) the management, operation, and use and control of city-owned or operated buildings, parks, parkways, recreation areas, trails, open space, and other properties and all structures, facilities, and land on which such are located, consistent with the intended use of the property and the public's right to exercise any rights guaranteed by the United States and Colorado Constitutions; and
- (iii) the operation and use of city programs and services.

The ordinance requires posting of rules concerning public property. The ordinance does not affect Council authority or any previously adopted rules.

Requested Input:

The City Attorney and staff desire input from Council on the proposed ordinance and presenting the ordinance for formal consideration.

Staff Responsible: Robert Sheesley, City Attorney

Staff Presenting: Robert Sheesley, City Attorney