

ORDINANCE NO. 022, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 19 OF THE CODE OF THE CITY
OF FORT COLLINS REGARDING MUNICIPAL COURT

WHEREAS, Chapter 19 of the City Code governs procedures for criminal and civil cases in Municipal Court; and

WHEREAS, many provisions in Chapter 19 have not been updated in over a decade; and

WHEREAS, in 2019 Municipal Court staff and the City Attorney's Office began a systematic review of Chapter 19 to determine whether any amendments are needed to bring the City Code into alignment with current Court practices and legal requirements; and

WHEREAS, based on that review, City staff is recommending the following changes:

- Updates to reflect the 2017 amendment to the City Charter creating the title of "Chief Judge";
- Clarification that the Court's adoption of the Colorado Rules of Civil Procedure is not meant to create any new civil causes of action in Municipal Court;
- Deletion of references to a person's being imprisoned for failing to pay fines, as this is no longer accepted practice, and the Court does not do so; and
- Other minor changes that reflect the Municipal Court's preferred practice; and

WHEREAS, the City Council finds that the proposed changes are in the best interest of the City and its citizens.

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

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the definition of "*Municipal Judge*" in Section 19-1 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-1. - Definitions.

...

Municipal Judge shall mean and include the Chief Judge, Assistant Municipal Judge(s), and Temporary Judge(s), unless the context requires otherwise.

Section 3. That Section 19-3 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-3. - Rules of procedure.

...

(b) The Colorado Rules of Civil Procedure, as amended, shall govern the procedures in Municipal Court in all civil actions for a cause arising under the Charter, Code and City ordinances and as needed for the Municipal Court to determine whether it has jurisdiction over a cause in a civil action, but not for actions for violations, offenses and infractions of the Charter, Code and City ordinances which are to be governed by the procedures established in Subsection (a) of this Section. References to the district court in the Colorado Rules of Civil Procedure shall be deemed to refer to the Municipal Court. In addition, the Municipal Court shall liberally construe, administer and apply these rules as applicable in each civil action to secure the just, speedy and inexpensive determination of that civil action. In these civil actions, the Municipal Court shall be vested with the full authority to provide civil remedies, including, without limitation, equitable, injunctive and declaratory relief and to award costs and attorney fees to the full extent permitted by law. It shall also have the power in those actions to compel the attendance of witnesses, to punish for contempt of court and to enforce any award of equitable, declaratory or injunctive relief through its contempt power in accordance with the applicable provisions of the Colorado Rules of Civil Procedure, as amended. This Section is not intended to create any new causes of action in the Municipal Court, nor to provide procedures or relief beyond those contemplated by Rule 106(a)(4) of the Colorado Rules of Civil Procedure to actions undertaken strictly within the sphere of matters that are of the City's local or municipal concern.

Section 4. That Section 19-4 of the Code of the City of Fort Collins is hereby amended by deleting it in its entirety.

Section 5. That Section 19-5 of the Code of the City of Fort Collins is hereby renumbered as Section 19-4 and amended to read as follows:

Sec. 19-4. - Contempt of court.

...

(c) *Out of presence of Court.* When it appears to the Municipal Court by motion supported by affidavit that a contempt has been committed out of the presence of the Municipal Court, the Municipal Court may *ex parte* order a citation to issue to the person so charged to appear and show cause at a time designated why he or she should not be punished for contempt. The citation and a copy of the motion and affidavit shall be served upon such person within a reasonable time before the time designated. If such person fails to appear at the time so designated, or if the Municipal Court so orders when the citation is issued or thereafter, a warrant for his or her arrest may be issued. Such warrant shall fix the time for the production of such person in Court. The Municipal Court shall direct by endorsement thereon the amount of the bail required. If such person is arrested under the warrant issued by the Municipal Court, makes bond and fails to appear at the time designated in the warrant, or at any time to which the hearing may be

continued, the bond may be forfeited, and the amount thereof, to the extent of the damages suffered by the contempt, shall be paid to the person damaged thereby, which person may include the Municipal Court but shall not include the Municipal Judge of the Municipal Court. If the person arrested fails to make bond, he or she shall be kept in custody, subject to the order of the Municipal Court. The Municipal Court shall hear the evidence for and against the person charged, and it may find him or her guilty of contempt and by order prescribe the punishment therefor. A fine may be imposed not exceeding the damages suffered by the contempt, plus costs of the contempt proceeding, plus reasonable attorney's fees in connection with the contempt proceeding, payable to the person damaged thereby, which person may include the Municipal Court but shall not include the Municipal Judge of the Municipal Court. If the contempt consists of the failure to perform an act in the power of the person to perform, he or she may be imprisoned until its performance. In addition thereto, to vindicate the dignity of the Municipal Court, if the citation so states, a fine or imprisonment may be imposed.

Section 6. That Section 19-36 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-36. - Creation; jurisdiction; qualifications.

(a) The Chief Judge is authorized and empowered to appoint one (1) or more Referees to hear certain municipal ordinance violations relating to parking or Municipal Code violations designated as civil infractions, and to review any costs of abatement or removal assessed pursuant to civil infraction provisions of this Code, as the Chief Judge may from time to time designate. Such alleged violations may include any offense or infraction which may now or in the future be included in the schedule of payable fines established by the Chief Judge pursuant to law except any offense which might result in the assessment of points by the State Department of Revenue against the responsible party's driving license or privilege.

...

(c) The Chief Judge shall appoint a Referee to hear civil infractions from a list of candidates chosen by a staff committee representing each of the following: Municipal Court, Neighborhood Services, and the City Attorney's Office.

...

Section 7. That Section 19-38 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-38. - Procedures for hearings before referee.

(a) The Referee is authorized to adopt rules and procedures governing conduct of hearings in accordance with the provisions of this Article. The Chief Judge shall approve all such rules and procedures prior to their adoption by the Referee.

Section 8. That Section 19-39 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-39. - Order of the referee.

...

(b) If a defendant fails to answer a citation or notice to appear before a Referee, a default judgment will enter in the amount of the civil penalty plus all costs, expenses and damages. In the event a defendant fails to pay a civil penalty, costs, damages and expenses within seven (7) days after the payment is due or fails to pay a default judgment, the City may pursue any legal means for collection and, in addition, may obtain an assessment against the property that is the subject of the violation if the Code violation is designated as a civil infraction.

Section 9. That Section 19-40 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-40. - Record of proceedings and hearings.

A written record of all proceedings shall be made by the Referee and maintained by the Municipal Court. The record shall contain the name of the alleged responsible party, the date of the appearance before the Referee, the complaint number, the date, place and type of violation and any order of the Referee. All hearings and evidence presented at the hearing shall be recorded verbatim, by either electronic devices or stenographic means.

Section 10. That Section 19-66 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-66. - Payment without appearance.

(a) Except for those violations that require an appearance before the Municipal Court, the Municipal Court Clerk shall accept payment in full of the amount due for a civil infraction citation by a defendant without an appearance before the Municipal Court if payment is made after the issuance of the charging document and prior to the date and time scheduled for the first hearing, provided that the Municipal Court Clerk has a copy of the charging document. Such payment shall be separately accounted for and deposited into the City's general fund in accordance with the rules and procedures of the Finance Department.

...

Section 11. That Section 19-69 of the Code of the City of Fort Collins is hereby amended by deleting subparagraph (d) in its entirety.

Sec. 19-69. - Judgment and procedures after hearing.

...

Introduced, considered favorably on first reading, and ordered published this 4th day of February, A.D. 2020, and to be presented for final passage on the 18th day of February, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of February, A.D. 2020.

Mayor

ATTEST:

City Clerk