

**CITY OF CENTENNIAL,
COLORADO**

ORDINANCE NO. 2023-O-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CENTENNIAL, COLORADO AMENDING SECTIONS OF ARTICLE 3,
TITLED MUNICIPAL COURT, OF CHAPTER 2
OF THE CENTENNIAL MUNICIPAL CODE**

WHEREAS, the City of Centennial (“City”) is a home rule municipal corporation created pursuant to Article XX of the Colorado Constitution; and

WHEREAS, Article XX § 6 of the Colorado Constitution confers upon a home rule municipality the authority to regulate the jurisdiction, powers, and duties of the municipality’s municipal court; and

WHEREAS, Article IX Section 9.1(a) of the City’s Home Rule Charter provides that the powers of and the procedure in the City’s Municipal Court and the manner of enforcement of its orders and judgments shall be provided by the Ordinances of the City; and

WHEREAS; C.R.S. § 31-15-401(c) provides that under its general police power, the City may declare what is a nuisance and abate the same; and

WHEREAS, in August 2018, the City Council adopted a civil enforcement tool, or civil abatement process, for the enforcement of nuisances, the Land Development Code, and building code violations; and

WHEREAS, since the adoption of the civil abatement process, City Code Compliance and Building Services have continued to use a progressive enforcement for code violations to include requesting voluntary compliance, issuance of a notice and demand, and, where compliance is not achieved, issuing a request for an abatement order in the Centennial Municipal Court; and

WHEREAS, through this progressive enforcement process, City Code Compliance and Building Services have obtained compliance in nearly all code enforcement matters; and

WHEREAS, through working this civil abatement process, City Code Compliance, City Building Services, and the City Attorney’s Office have recognized that several amendments are needed to the City of Centennial Municipal Code (the “Code”) concerning these processes and have recommended these amendments to City Council; and

WHEREAS, the City Council desires to implement the recommend amendments to the Centennial Municipal Code to clarify the Municipal Court’s authority; and

WHEREAS, City Council has determined that the adoption of this Ordinance is legislative in nature and will further the public health, safety and welfare of the residents of the City.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, ORDAINS:

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

Section 2. Amendment of Section 2-3-90(4), entitled “Powers”. Section 2-3-90(4) entitled Powers, of the Centennial Municipal Code is amended to read as follows:

Sec. 2-3-90. - Powers.

Unless otherwise limited by this Article, the Municipal Judge shall have all legal and equitable powers necessary and appropriate to enforce the Court's orders, judgments and decrees, and to supervise the operation of the Municipal Court, including but not limited to the power to:

- (1) Enforce subpoenas issued by any board, commission, officer or other body of the City authorized by law or ordinances to issue subpoenas, by imposing fines and penalties for failure to comply with any such subpoena;
- (2) Assess and collect penalties;
- (3) Order and enforce the abatement of nuisances, violation of zoning regulations, and building code regulations;
- (4) Issue criminal, civil, and administrative search warrants;
- (5) Summon and compel the attendance of jurors;
- (6) Punish violations of this Code and contempt of the Municipal Court by a fine and/or imprisonment in conformity with Subsection 1-4-10(a) of this Code;
- (7) Make procedures for conducting the business of the Municipal Court, subject to the requirement that such procedures shall be reduced to writing, must be consistent and conform with this Article and must be approved by the City Council before becoming effective; and
- (8) Perform other responsibilities prescribed by this Code and ordinances of the City.

Section 3. Amendment of Section 2-3-660(c), entitled “Application for abatement order and notice of hearing”. Section 2-3-660(c) is amended to read as follows:

Sec. 2-3-660. - Application for abatement order and notice of hearing.

Upon the expiration of the period of notice in Section 2-3-650 of this Code where such notice is required, or any time thereafter, or expiration of the period for compliance given in a voluntary compliance agreement, if the violation continues to exist as described in such notice, a Code Officer may apply to the Municipal Court for an abatement order as follows:

- (a) The application for abatement shall be accompanied by an affidavit affirming that the Code Officer has complied with the notice requirements as set forth in Section 2-3-650 of this Code, or that notice is excused, and that the owner has failed to abate the identified code violation upon the property.

- (b) The application for abatement shall also contain the following information:
 - (1) Date and time of issuance;
 - (2) Name and address of the responsible party;
 - (3) Code section for the violation;
 - (4) Description of the violation, including location, and date(s) of violation; and
 - (5) Scope of work to correct the violation.
- (c) The application for abatement shall be filed with the Municipal Court and a hearing date shall be set. The hearing date shall not be less than nine (9) days from the date of service of the application for abatement. The notice requirement set forth herein does not apply when the Code Officer determines that the public health, safety, or welfare requires emergency action.
- (d) A notice of the date of the hearing shall be served with the application for abatement.

Section 4. Amendment of Section 2-3-690(c)(5), entitled *Abatement orders and remedies, of the Centennial Municipal Code.* Section 2-3-690(c)(5) is amended to read as follows:

Sec. 2-3-690. - Abatement orders and remedies.

- (a) If the Municipal Judge determines, after a hearing, that the City has established a violation, the Municipal Judge shall issue an abatement order.
- (b) Every order under this Division shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required, or prohibited; and shall be binding upon the subject property and the parties to the action. An order to abate shall also contain a description of the real property, by street address or otherwise, on which the violation exists and the date of the order.
- (c) Substance of the orders. Abatement orders shall be narrowly tailored so as to address the particular kinds of separate violations that form the basis of the alleged code violation. Such orders may include:
 - (1) Orders requiring any responsible party to take steps to abate the violation and/or to remedy the violation;
 - (2) Orders authorizing City personnel to take reasonable steps to abate the violation and/or to remedy the violation and prevent it from recurring, considering the nature and extent of the violation;
 - (3) Orders prohibiting certain named individuals from entering the property;

- (4) Orders reasonably necessary to access, maintain, or safeguard the property;
- (5) Orders reasonably necessary for the purposes of abating the violation or preventing the violation from occurring or recurring. For example, orders may include:
 - (a) Permission of the city or its contractor to enter property and remove, seize, store, or destroy property which is in violation of the code, such as, but not limited to, stockpiled material, junk/inoperable vehicles, trees, or weeds; or
 - (b) Revocation of a permit which is being used on or for property that is in violation of the code; and/or
- (6) Orders assessing the costs and expenses of abatement, such costs and expenses shall include all costs actually incurred by the City and reasonably related to the abatement, including but not limited to an hourly rate for each hour of City staff time employed in administering this Division in the abatement of the violation, attorney fees and legal costs, equipment charges, contractors and other service personnel expenses charged to the City, transportation and storage charges, trash disposal charges and fees, insurance, equipment and services necessary to protect the property and the general public from harm, and a five percent (5%) fee for inspection.
- (d) The Municipal Court is empowered, in its discretion, to assess court costs against the responsible party upon a determination that the City established a violation of an applicable section. The Municipal Court is guided by Section 2-3-260 of this Code in determining the costs.
- (e) The Municipal Court may award civil penalties to be paid in an amount not to exceed the maximum penalty amount set forth in Subsection 1-4-10(b) of this Code per violation. The Municipal Court shall follow the minimum and maximum penalty amounts as set forth in the applicable sections.
- (f) The order shall be mailed by first class or certified mail to the last known address of the responsible party. The order shall also be posted on the property if the responsible party or the responsible party's representative did not appear in court.
- (g) Upon completion of mailing and posting, the persons mailing and posting shall execute and file certificates stating the date and place of the mailing and posting, respectively.
- (h) An error in the address or name of the responsible party shall not make the order to abate void, and in such case the posted notice shall be sufficient.

Section 5. Amendment of Section 2-3-700(g), entitled "Failure to appear".
Section 2-3-700(g) is amended to read as follows:

Sec. 2-3-700. - Failure to appear.

- (a) If any responsible party fails to appear for any hearing or court appearance, the Municipal Judge must enter a default against the responsible party.
- (b) Upon the entry of default, the Municipal Judge shall set a default judgment hearing for at least ten (10) days after the default order. The court shall mail the default order and notice of hearing date to the responsible party. If the City will seek remedies as set forth in Section 2-3-690 at the default judgment hearing, the City must provide notice to the responsible party of the remedies that will be requested. Any remedies identified in the application for abatement order shall constitute sufficient notice for purposes of the default judgment hearing.
- (c) At the default judgment hearing, the City may request:
 - (1) An abatement order;
 - (2) A civil penalty; and/or
 - (3) Other remedies as set forth in Section 2-3-690 of this Code.
- (d) The Municipal Judge may enter judgment for the City for the relief requested.
- (e) The order shall be mailed by first class or certified mail to the last known address of the responsible party. The order shall also be posted on the property.
- (f) Upon completion of mailing and/or posting, the persons mailing or posting shall execute and file certificates stating the date and place of the mailing and posting, respectively.
- (g) Enforcement of the default judgment is stayed for fifteen (15) days after entry of judgment.
- (h) The Municipal Judge may set aside a default judgment entered under this rule on a showing of good cause or excusable neglect by the responsible party. A motion to set aside the judgment shall be filed with the court not more than fourteen (14) days after entry of judgment.
- (i) No warrant shall issue for the arrest of any responsible party who fails to appear at a hearing or fails to satisfy a judgment entered pursuant to this Article.

Section 6. Codification Amendments. The codifier of the City's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance with the Centennial Municipal Code.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed by this Ordinance, or any just or legal right or remedy of any character be lots, impaired, or affected by this Ordinance.

Section 8. Minor Edits, Corrections, and Additions. The Community Development Director shall be authorized to make minor typographical, immaterial, or grammatical corrections or additions to the Ordinance, including but not limited to correcting spelling errors and adding, removing, or supplementing materials that do not materially change the meaning or intent of the Ordinance, without City Council approval, provided that the Community Development Department shall maintain full and complete records of all such edits, additions, and corrections made to the Ordinance.

Section 9. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause, or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 10. Effective Date. Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 14th DAY OF February, 2023.

CITY OF CENTENNIAL

By: 
Stephanie Piko, Mayor

Approved as to Form:


For City Attorney's Office

I hereby certify that the above Ordinance was introduced to the City Council of the City of Centennial at its meeting of Feb 14th, 2023 and ordered published one time by title only in *The Centennial Citizen* newspaper on Feb 16, 2023, and in full on the City website in accordance with Section 2-1-110 of the Municipal Code.

SEAL

ATTEST:

By: 

City Clerk or Deputy City Clerk

FINALLY ADOPTED, PASSED, APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED PUBLISHED BY TITLE ONLY, IN *THE CENTENNIAL CITIZEN* NEWSPAPER AND IN FULL ON THE CITY WEBSITE IN ACCORDANCE WITH SECTION 2-1-110 OF THE MUNICIPAL CODE BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD ON THE 7th DAY OF March, 2023, BY A VOTE OF 9 IN FAVOR AND 0 AGAINST.

CITY OF CENTENNIAL

By: 

Stephanie Piko, Mayor

I hereby certify that the above Ordinance was finally adopted by the City Council of the City of Centennial at its meeting of March 7, 2023, and ordered published by title only, one time by *The Centennial Citizen* newspaper on March 9, 2023 and in full on the City website in accordance with Section 2-1-110 of the Municipal Code.

ATTEST:

SEAL

By: 

City Clerk or Deputy City Clerk