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Chapter 2.04

City Council

Sections:

- 2.04.010 Regular meetings
- 2.04.020 Special meetings

2.04.010 Regular meetings.

Regular meetings of the city council shall be held on the second and fourth Tuesdays of each month at the City Hall at the hour of 7:30 p.m. (Ord. 564 §1, 1980)

2.04.020 Special meetings.

Special meetings of the city council shall be called by the mayor or, in his or her absence, the assistant mayor or special meetings shall be called by a quorum of the members of the city council as the same is defined by Section 6 of Article II of the Charter of the city. If a quorum of the city council is not present at such meeting no business shall be transacted, but a majority of those members present shall be authorized to adjourn the meeting. Special meetings shall be held upon notice as required by the provisions of Section 6 Article II of the Charter of the city. (Ord. 564 §2, 1980)

Chapter 2.08

Elections

Sections:

- 2.08.010 Voting machines authorized

2.08.010 Voting machines authorized.

The city council has determined that voting machines may be used, in accordance with the principles set forth in Article VI of the Charter of the city, for all general and special elections to be held in the city. Said voting machines are to be used in accordance with the provisions of Article 6 of Title 1, C.R.S., and Article 10 of Title 31, C.R.S. (Ord. 528, 1979)

Chapter 2.12

Municipal Court

Sections:

- 2.12.010 Legislative intent

- 2.12.020 Definitions and interpretation
- 2.12.030 Creation, jurisdiction and powers
- 2.12.040 Court administration
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- 2.12.360 Contempt
- 2.12.370 Civil action to abate a public nuisance
- 2.12.380 Civil action to enforce code provisions

2.12.010 Legislative intent.

The purpose of this chapter is to protect the public health, safety and welfare by establishing the municipal court, prescribing its responsibilities and authority, and adopting

procedures for its administration and appearances before it. It is also the purpose of this chapter to prescribe a system of confinement for persons sentenced upon conviction of violation of the Charter, this code or any other ordinance of the city. (Ord. 812 §3(part), 1995)

2.12.020 Definitions and interpretation.

The following terms have the following meanings unless the context clearly indicates otherwise:

A. *Book* or *booking* means the administrative procedure of photographing a defendant and obtaining fingerprints following arrest.

B. *Municipal court* means the municipal court prescribed by Article IV of the Charter and by Article XX, Sections 6(b) and (c), of the state constitution.

C. *Municipal judge* means the presiding judge of the court appointed by the city council under Article IV, Section 1 of the Charter or, in his or her absence or as a result of his or her disqualification, any deputy municipal judge appointed by the city council.

D. *Plea of guilty* includes pleas of guilty, acknowledgments of guilt and no contest pleas.

E. *Summons*, unless the context clearly indicates otherwise, includes a summons, a summons and complaint, and a penalty assessment.

F. *Violation* means any act or omission declared to be a violation or to be unlawful or required or prohibited by the phrase *no person shall*, or similar mandatory language in or by this code or any ordinance of the city or any rule promulgated thereunder. The terms *crime*, *offense*, *misdemeanor* and *violation* as used in this code or any ordinance of the city are synonymous. Unless otherwise specifically provided in this code or an ordinance of the city or a rule promulgated thereunder, every day of a violation of the code, ordinance or rule constitutes a separate violation. (Ord. 812 §3(part), 1995)

2.12.030 Creation, jurisdiction and powers.

A. Pursuant to Article IV of the Charter there exists a municipal court in and for the city.

B. The municipal court has original jurisdiction of all criminal cases arising under the Charter, this code and other ordinances of the city, with power to punish violations thereof by imposing fines and penalties as authorized by this code or any ordinance.

C. The municipal court has original jurisdiction of all civil cases arising under the Charter, this code and other ordinances of the city, with power to assess and collect civil penalties, order and enforce by contempt abatement of nuisances, enforce subpoenas issued by the city council and perform other responsibilities prescribed by the Charter, code and other ordinances of the city.

D. The municipal court has the jurisdiction and powers of an administrative hearing officer, where so provided by this code or other ordinance of the city. The court also has such jurisdiction and powers with respect to any hearing concerning the legality of the towing of an abandoned motor vehicle, as required by Section 42-4-1804(4), C.R.S.

E. The municipal judge is authorized to issue search warrants for the inspection of premises or property by municipal or city-county officials or inspectors in accordance with the Colorado Municipal Court Rules as promulgated and from time to time amended by the state supreme court. The municipal court may also issue such audit warrants for the audit and examination of books and records required to be maintained by vendors who are required to collect and periodically transmit sales, use or other excise taxes. The municipal court may further issue such inspection warrants for the inspection and examination of any structure or property if it satisfactorily appears that the applicant for the warrant is required to make the inspection by any provision of this code or other ordinance of the city or any regulation or routine policy of inspection and enforcement and that for the purpose of making a complete inspection the applicant is required to go upon privately owned premises or enter a privately owned structure. But nothing in this subsection shall be deemed to require the issuance of a warrant for emergency inspections or in any other case where warrants are not required by law.

F. For purposes of hearing cases involving persons accused of violating any provision of the Charter, this code or other ordinances of the city, the municipal court is a qualified municipal court of record and shall comply with requirements of state law and regulations for courts of record. The municipal court shall furnish the record to any party wishing to appeal from a judgment of the municipal court acting as a court of record for transcription at such party's expense.

G. In all cases where a judge acts as an administrative hearing officer under this code or other ordinance of the city, the judge shall conduct hearings under the procedures prescribed by ordinance or state law for the conduct of administrative hearings.

H. Except as otherwise provided in this code, the municipal court shall be conducted under the procedures prescribed by the Colorado Municipal Court Rules and Section 13-1-101 *et seq.*, C.R.S. (Ord. 933 §1, 2004; Ord. 812 §3(part), 1995)

2.12.040 Court administration.

A. The municipal judge shall supervise and direct the operation and schedule the sessions of the municipal court.

B. The municipal judge may adopt written rules for the conduct of the court in the manner prescribed by the Colorado Municipal Court Rules.

C. The city manager shall appoint a person to serve as clerk of the municipal court.

D. The municipal court clerk shall keep a register of the actions in the court, including all fees and money collected and disbursed; promptly deliver to the city manager all money received as fees, fines and penalties, which the manager shall deposit into the general fund of the city; prepare and keep a docket for the court noting the judgments made; prepare all writs and other papers pertaining to the business of the court; and make and maintain all necessary court records.

E. The municipal court clerk is not required to post the bond required by Section 13-10-109, C.R.S. (Ord. 812 §3(part), 1995)

2.12.050 Violations bureau.

A. The city manager shall establish a violations bureau under the supervision of the municipal court clerk to assist the judge with clerical work relating to violations, to be operated during the hours that the city manager determines.

B. The municipal judge shall designate the provisions of the Charter, this code or other ordinances of the city for violations of which payments of fines and costs may be accepted by the violations bureau and which classes of defendants may satisfy their obligations by paying such fines and costs. The judge shall establish a schedule setting forth the fine and costs to be paid for each such violation.

C. Any person eligible to pay a fine under the provisions of subsection B of this section to the violations bureau may pay the fine and costs before the arraignment date specified in the summons at the violations bureau upon entering a written plea of guilty. The receipt of a fine by the violations bureau without a written plea of guilty shall be deemed to be an admission of guilt authorizing the municipal judge to enter a judgment of guilty. The bureau, upon accepting the prescribed fine and costs, shall issue a receipt to the person acknowledging payment thereof. Such payment discharges the obligation of the defendant to appear before the municipal court for arraignment.

D. The violations bureau shall send records of pleas of guilty on which judgment is entered to the state division of motor vehicles and follow such other procedures as prescribed by this code, other ordinances of the city, the Colorado Municipal Court Rules or state law. (Ord. 812 §3(part), 1995)

2.12.060 Parking infraction office.

A. The city manager shall establish a parking infraction office under the supervision of the municipal court clerk to assist the judge with clerical work relating to parking infractions, to be operated during the hours that the manager determines.

B. The municipal judge shall establish a schedule setting forth the fine and costs to be paid for each parking infraction.

C. Any person wishing to pay a fine for a parking infraction may pay the fine and costs to the parking infraction office before the date specified in the parking ticket at the parking infraction office. The office, upon accepting the prescribed fine and costs, shall issue a receipt to the person acknowledging payment thereof. Such payment discharges the obligation of the defendant to appear before the municipal court on the date specified in the parking ticket. (Ord. 812 §3(part), 1995)

2.12.070 Misconduct in office.

No officer of the municipal court or any city employee or agent receiving or having custody of any court bond, court cost, fine, penalty or forfeiture shall fail forthwith to remit it in accordance with the direction of the city manager. Violation of this section constitutes misconduct in office and is a ground for removal therefrom. (Ord. 812 §3(part), 1995)

2.12.080 City attorney is prosecutor.

The city attorney shall act as the prosecutor and represent the city in all municipal court proceedings as appropriate, with all privileges, immunities, powers and duties of such office. (Ord. 812 §3(part), 1995)

2.12.090 Cases to be public.

Except as provided in Section 9.04.100 (Juvenile Court Procedures), all cases in the municipal court are open to the public. (Ord. 812 §3(part), 1995)

2.12.100 Initiation of proceedings.

A. A proceeding in the municipal court is initiated by the filing of a complaint or the service of a summons and complaint by any means provided in this code, the statutes of this state or the Colorado Municipal Court Rules, or in any manner that provides due process of law.

B. A parking ticket and a penalty assessment are forms of a summons and complaint.

C. In a municipal court action it is sufficient in a complaint or summons and complaint to charge a violation of the Charter, this code or any ordinance of the city alleged to have been violated by referring to the section describing such violation, without referring to any subsection under the section violated.

D. A peace officer may serve any process issued by the municipal court anywhere within the county. (Ord. 812 §3(part), 1995)

2.12.110 Penalty assessment.

A. The municipal judge may designate offenses under this code that are subject to the penalty assessment procedure and the amount of the assessment for each violation. But no violation for which provision for a plea of guilty at the violations bureau is not made may be designated as subject to the penalty assessment procedure.

B. When a peace officer is authorized to serve a summons and complaint on any person, the officer may issue a penalty assessment notice if:

1. The offense has been designated by the municipal judge;
2. Only one (1) offense has arisen out of the same episode of violation;
3. No significant hazard to life or property was involved;
4. The offense does not appear to be an intentional or reckless violation;

5. The peace officer would not be entitled to incarcerate the defendant on this chapter;

6. The circumstances reasonably persuade the officer that the person is likely to comply with the terms of the penalty assessment notice. Such circumstances may include the officer accompanying the person to a post office box or mailbox and witnessing the deposit in the mail of the notice with payment of the fine attached.

C. Service of a penalty assessment notice upon the recipient is complete upon signature by the person on the penalty assessment's "acknowledgement of guilt or promise to appear." At that point, the person is obligated either to pay the specified fine or penalty by mail at the place and within the time specified on the notice or to appear at the place and time specified on the notice to be arraigned by the municipal judge.

D. Payment of the penalty assessment by mail or at the violations bureau after signature on the penalty assessment's "acknowledgement of guilt or promise to appear" constitutes:

1. A plea of guilty;

2. A conviction for the purposes of any penalty enhancement provisions on future offenses; and

3. If driving a motor vehicle is involved, a conviction within the meaning of Sections 42-2-111, 42-2-123 and 42-4-1510, C.R.S.

E. If a person served with a penalty assessment notice chooses not to plead guilty, such person shall appear as required in the notice. If the person withdraws a plea of not guilty and enters a guilty plea to the judge or, upon trial, if the person is found guilty, the fine imposed shall be that specified on the penalty assessment notice. Court costs shall also be imposed.

F. If a person who has paid a penalty assessment by mail appears at the time and place specified in the notice and petitions the judge to withdraw the plea of guilty, the petition may be granted, and the person may be arraigned, within the sole discretion of the court. In such instance the amount paid shall be considered the bond. If such person appears and petitions the judge after the time for appearance has passed, the petition shall be entertained only upon a showing of excusable neglect, and granted only upon a prima facie showing of a meritorious defense, and then only if the appearance is made within thirty (30) days after the time for appearance specified in the notice of penalty assessment. (Ord. 812 §3(part), 1995)

2.12.120 Form of summons, summons and complaint, complaint, penalty assessment notice and parking ticket.

A. The municipal judge shall approve a standard summons and complaint form for routine use by peace officers that meets all of the legal requisites of a summons and complaint and contains a place for the defendant to sign a promise to appear. The city

manager shall print and distribute the form to peace officers and may combine it with a penalty assessment notice.

B. The municipal judge shall approve a standard penalty assessment notice that meets all the requirements of a summons and complaint except that it contains a place for the defendant to sign and acknowledgement of guilt or promise to appear; specifies the requirement that the defendant plead guilty by paying the fine or appear to answer the charge at the specified time; and contains a place to record the license number of the defendant's vehicle, if involved, the defendant's driver's license number, if any, and the points to be assessed, if any, in accordance with Section 42-2-123, C.R.S. The city manager shall print and distribute the form to peace officers. Failure of a peace officer to record any or all of the additional information correctly or at all is not grounds for dismissal, but failure to indicate points or the indication of too few points for the offense may not be corrected by amendment or otherwise after a record of conviction by acknowledgment of guilt and payment of fine under the penalty assessment procedure has been sent to the state division of motor vehicles.

C. The municipal judge shall approve a parking ticket that meets all of the requirements of a summons and complaint. The city manager shall print and distribute the form to peace officers.

D. Nothing in this chapter shall be construed to invalidate the use of any other form or type of summons, summons and complaint or complaint that provides due process of law. (Ord. 812 §3(part), 1995)

2.12.130 Authority to detain temporarily.

A. A police officer may stop any person who the officer reasonably suspects is committing, has committed or is about to commit a violation of the Charter, this code or any ordinance of the city and may require that person to give his or her name, address, identification if available and an explanation of his or her actions.

B. When a police officer has stopped a person for questioning pursuant to this section and reasonably suspects that the officer's personal safety requires it, the officer may conduct a patdown search of that person for weapons.

C. A police officer may stop and temporarily detain a person for the purpose of issuing or serving a summons and complaint.

D. A stop and temporary detention under the authority of this section constitutes an arrest for the purpose of resisting arrest under Section 9.10.020, but not otherwise. (Ord. 812 §3(part), 1995)

2.12.140 Authority to charge.

A peace officer may issue a summons and complaint or sign a complaint against any person for the violation of the Charter, this code or any ordinance of the city, if:

A. The violation has been or is being committed by a person in the officer's presence; or

B. The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it. (Ord. 812 §3(part), 1995)

2.12.150 Authority to arrest and incarcerate.

A. A police officer may arrest a person for a violation of the Charter, this code or any ordinance of the city if:

1. The violation has been or is being committed by a person in the officer's presence;
or

2. The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

B. Whenever any police officer is authorized by this code to arrest any person, the officer has the authority to incarcerate that person if the officer has probable cause to believe that one (1) or more of the following conditions exists:

1. The person is not likely to desist from the conduct alleged to constitute a violation after issuance of a summons;

2. The person is unlikely to appear in municipal court in response to a summons, but the fact that the defendant does not reside in the city is not alone such probable cause;

3. The person refuses or is unable to post the bond required by this chapter;

4. The person refuses service of a summons;

5. The person refuses to sign the promise of appearance, if any, on the summons;

6. The person refuses to identify himself or herself by giving complete name and address verifiable by reasonable supporting data; or

7. The person falsely identifies himself or herself.

C. A police officer shall incarcerate any person when the officer has a warrant or writ commanding that such person be arrested or has received information, which the officer reasonably believes to be reliable, that such warrant or writ exists. (Ord. 812 §3(part), 1995)

2.12.160 Release.

A. Except when arresting on a warrant or writ, at any stage of the process from stopping to charging to incarceration up to the booking stage a police officer, at the officer's discretion, may:

1. Issue the person a summons without arrest or incarceration;
2. Detain the person and subsequently release with or without the issuance of a summons; or
3. Arrest the person and subsequently release with or without booking or incarceration or issuance of a summons.

B. At and after booking, officers are governed by the provisions of Section 2.12.210. (Ord. 812 §3(part), 1995)

2.12.170 Booking.

A. Any person incarcerated solely because of inability to verify identity by reasonable supporting data shall be released by the booking officer after the booking procedure if the person signs a promise to appear.

B. The booking officer shall release any person not arrested on a warrant or writ upon posting of the bond according to the schedule specified by the municipal judge or upon order of any judge or upon a personal recognizance bond in the amount specified in the bond schedule if the person meets the criteria established by the municipal judge for release upon personal recognizance.

C. Persons arrested on a warrant or writ shall be disposed of according to the command of the warrant or writ. (Ord. 812 §3(part), 1995)

2.12.180 Protective custody.

Nothing in this code shall be construed to lessen the authority of a police officer to take a person into protective custody in compliance with state law, or to assist any person to obtain medical care who, in the opinion of the police officer, is in need of medical care by reason of injury or physical or mental condition. (Ord. 812 §3(part), 1995)

2.12.190 Time of arrest; use of force; entry on property to make arrest.

An arrest may be made on any day and at any time of the day or night. All necessary and reasonable force may be used in making an arrest. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest. (Ord. 812 §3(part), 1995)

2.12.200 Court-issued warrants and summons.

A. If a person fails to appear in court as required by a summons, fails to appear at any post-arraignment proceeding or fails to comply with an order of the municipal judge or a condition of release on bond, the judge may issue a warrant for the person's arrest.

B. If a person fails to appear in municipal court as required by a subpoena or fails to comply with any subsequent order of the judge premised upon such subpoena, the judge may issue a warrant for the person's arrest.

C. Upon the filing of a properly executed complaint by any person and with the agreement of the city attorney, the judge may issue a warrant for the arrest of an individual if the complaint is accompanied by an affidavit that sets forth facts sufficient to show probable cause to believe the alleged violation has been committed, that the individual accused has committed it and that the offense and conditions are such that the defendant could be incarcerated as provided in Section 2.12.150. If the individual may not be incarcerated, the municipal judge shall issue a summons.

D. Each municipal court warrant shall state the name of the person to be arrested and the bond set for release on bail after arrest. (Ord. 812 §3(part), 1995)

2.12.210 Posting bond.

A. Each person served with a summons who has signed a promise to appear is deemed to have given a personal recognizance in the amount of the bond set for the violation of the bond schedule of the municipal judge.

B. Each person served with a summons for a moving traffic violation whose driver's license or other identification does not show residence in the state of Colorado and the counties of Moffat, Rio Blanco and Routt, shall post a cash bond to secure appearance at arraignment.

1. Such bonds may be posted at the municipal court if the municipal court is in session, at the police department if the municipal court is not in session or by the defendant mailing a cash deposit to the municipal court in an envelope furnished by the citing officer with the citing officer as witness to the deposit of the funds in a mailbox.

2. The cash bond may be waived and a personal recognizance bond in the amount specified in the bond schedule may be substituted if the person meets the criteria established by the municipal judge for release upon personal recognizance.

C. In order to secure appearance at trial, all cash bonds posted prior to arraignment shall be continued for all cases not disposed of at arraignment. Persons setting cases for trial who have not previously posted a cash bond shall post a cash bond in an amount established by

the judge. The judge may accept personal recognizance bonds in a sum certain from indigent persons or in the case of hardship in lieu of cash bonds.

D. The municipal judge shall establish a bond schedule of amounts that must be deposited to qualify for bail.

E. If a person does not post a required bond, the person shall be brought before the judge to establish conditions of release (including without limitation, a bond) pending arraignment before a judge. Personal appearance before the judge is not necessary, and such hearings may be held by telephone, provided that a record is made of the date, time and place of the person's appearance before the judge and the conditions set by the judge for release.

F. The judge may accept one (1) or a combination of the following bonds:

1. A personal recognizance consisting of the person's promise to appear in court for all proceedings and agreement to forfeit a sum certain for failure to appear;

2. A cash or security bond secured by the undertakings of a corporate or private surety acceptable to the judge or by the deposit of an equal amount of cash or any other property in lieu thereof.

G. In addition to the bonds set forth in this section, the judge may impose conditions of release, including without limitation:

1. Releasing the person into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant to appear in court;

2. Imposing reasonable restrictions on the person's activities, movements, associations and residences;

3. Releasing the person during working hours but requiring the person to return to custody at specified times; or

4. Imposing any other reasonable restrictions and conditions designed to ensure the person's appearance before the municipal court.

H. Any bond that may be posted or fine that may be paid in cash may also be paid by check, if the police or municipal court officer receiving such bond is satisfied that the check will be honored. (Ord. 812 §3(part), 1995)

.12.220 Forfeiture of bond.

A. If a defendant in any case before the municipal court fails to appear according to the terms and requirements and conditions of the appearance bond or appears and departs the court without leave, the bond shall be forfeited. If the bond was a personal recognizance bond, the judge shall issue a writ of execution in the amount of the bond.

B. If a surety bond is forfeited in a municipal court action, the surety shall pay the bond amount into the court within fourteen (14) days of the forfeiture.

C. The surety upon a bond forfeited in a municipal court action may apply to the judge for a return of the whole or part of the bond paid to the court by application in writing supported by an affidavit setting forth the grounds for the return of the whole or a part of the bond amount. The judge shall order the municipal court clerk to pay the amount determined by the judge to be due to the surety. The court shall make a verbatim record of all such proceedings.

D. If a surety for a defendant in a municipal court action fails to pay a bond, the municipal court may enforce its order of forfeiture by contempt proceedings or the city attorney may institute civil proceedings in the municipal court or other court of competent jurisdiction to recover the amount of the bond forfeiture plus the costs of collection. (Ord. 812 §3(part), 1995)

2.12.230 Deferred sentences.

A. In a case in which the defendant has entered a plea of guilty, the judge accepting the pleas has the power, with the written consent of the defendant and the defendant's attorney of record, if any, and the city attorney, to continue the case for a period not to exceed two (2) years from the date of entry of such pleas for the purpose of deferring judgment and sentence upon such plea.

B. Prior to entrance of a plea to be followed by a deferred judgment and sentence, the city attorney is authorized to enter into a written stipulation, to be signed by the defendant, the defendant's attorney of record, if any, and one (1) of the defendant's parents or guardians, if the defendant is under the age of eighteen (18), under which the defendant is obligated to adhere to such stipulation. The stipulation may contain any conditions listed in Section 2.12.340, and every such stipulation shall have as one (1) condition the payment of administrative costs equal to the amount of the assessed fine plus court costs for that particular violation for which the deferred sentence is granted. The stipulation shall specifically provide that, upon a breach by the defendant of any condition, the judge shall enter judgment and impose sentence upon the previously entered plea of guilty. Whether a breach has occurred shall be determined by the municipal judge upon application of the city attorney and upon notice of hearing thereon of not less than five (5) days to the defendant or the defendant's attorney of record, if any, at the address given by the defendant on the stipulation. The burden of proof at such hearing is on the city attorney by a preponderance of the evidence, and the judge shall apply the rules of evidence for civil nonjury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

C. Upon full compliance with such conditions by the defendant, the pleas previously entered shall be withdrawn and the action against the defendant dismissed with prejudice.

D. In signing a stipulation by which it is provided that judgment and sentence shall be deferred for a time certain, a defendant thereby waives all rights to a speedy trial and a prompt sentence. (Ord. 851 §2, 1997; Ord. 812 §3(part), 1995)

2.12.240 Deferred prosecution.

A. In any case the judge may, prior to trial or entry of plea of guilty and with the consent of the defendant, the defendant's attorney of record, if any, one (1) of the defendant's parents or guardians, if the defendant is under the age of eighteen (18), and the city attorney, order the prosecution of the offense to be deferred for a period not to exceed two (2) years. Such deferral may be conditioned by written stipulation in the manner provided in Section 2.12.230.

B. Upon the defendant's full compliance with such conditions, the charge against the defendant shall be dismissed with prejudice. If any condition is violated, the defendant shall be tried for the offense for which the defendant is charged. Whether a breach of condition has occurred shall be determined by the court upon application of the city attorney and upon notice of hearing thereon of not less than five (5) days to the defendant or the defendant's attorney of record, if any, at the address given by the defendant on the stipulation. The burden of proof at such hearing is on the city attorney by a preponderance of the evidence, and the judge shall apply the rules of evidence for civil nonjury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

C. Upon consenting to a deferred prosecution as provided in this section, the defendant shall execute a written waiver of the defendant's right to a speedy trial. Consent to a deferred prosecution under this section shall not be construed as an admission of guilt, nor shall such consent be admitted in evidence in a trial for the offense for which the defendant is charged. (Ord. 812 §3(part), 1995)

2.12.250 Jury trial.

A. In proceedings where the defendant has a right under the Colorado Municipal Court Rules for trial by jury, the defendant may request a jury trial upon the payment of the jury fee set forth within such rules, but in all other proceedings all questions of fact and law shall be decided by the municipal judge.

B. The city attorney may demand a trial by jury of any defendant in any case in which the defendant has a right to trial by jury, in which event no jury fees are required to be paid by any party. (Ord. 812 §3(part), 1995)

2.12.260 Jurors and jury list.

A. Qualifications and exemptions of jurors in municipal court are those provided by state law.

B. Upon a request for trial by jury, the municipal court clerk shall prepare a list of persons who are qualified to serve as jurors and not exempt from jury service and shall draw jurors under the procedures prescribed by the Colorado Uniform Jury Selection and Service Act (Section 13-71-101 *et seq.*, C.R.S.). (Ord. 812 §3(part), 1995)

2.12.270 Juror fees.

Jurors called before the municipal court under this chapter shall receive a fee of six dollars (\$6.00) per day for actual jury service and three dollars (\$3.00) for service on the panel only. (Ord. 812 §3(part), 1995)

2.12.280 Juror violations.

A. No person shall refuse or neglect to obey a lawful mandate, order or direction of the municipal court clerk, shall hinder, delay or obstruct the service of any process issued by the clerk, shall refuse or neglect to appear, or shall refuse to answer any question touching upon the person's qualifications or the qualifications of any other person to serve as a juror.

B. No person shall perform any act for the purpose of placing upon the jury list or omitting from the jury list such person's own name or the name of any other person. (Ord. 812 §3(part), 1995)

2.12.290 Fee for service of subpoenas.

A. The municipal court shall issue subpoenas for witnesses at a defendant's request without charge to the defendant.

B. A defendant may have subpoenas served upon witnesses by using a private process server, by requesting service of the county sheriff and paying the appropriate fee, or by requesting that service be made by the police department if the service is to be made within the city by depositing with the clerk service fees of ten dollars (\$10.00) per subpoena, but if a defendant demonstrates by affidavit an inability to pay such fees and an inability to obtain assistance from another proper person to serve such subpoenas, the municipal court shall issue and serve the subpoenas without charge to the defendant. (Ord. 812 §3(part), 1995)

2.12.300 Witness fees.

Every witness subpoenaed and every witness who appears voluntarily at the written request of the city attorney who makes claim therefor at the time of appearance may receive a witness fee of five dollars (\$5.00) for each session of court attended under such subpoena or request. But no city officer or employee may receive such witness fee. (Ord. 812 §3(part), 1995)

2.12.310 Witness immunity.

When in the judgment of the city attorney the testimony of any witness or the production of any books, papers or other evidence by any witness in any case or proceeding before the municipal court involving any violation of the laws of the city is necessary in the public interest, the city attorney may request that the judge instruct the witness to testify or produce evidence subject to the provisions of this section concerning witness immunity. Upon order of the judge, the witness shall not be excused from testifying or from producing books, papers or other evidence on the grounds that the testimony required of the witness may tend to incriminate the witness or subject the witness to a penalty or forfeiture; but no such witness may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the witness is compelled, after having claimed his or her privilege against self-incrimination to testify or produce evidence, nor may testimony so compelled be used as evidence in any criminal proceeding against the witness in any court, except a prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section. (Ord. 812 §3(part), 1995)

2.12.320 Court costs.

A. In any prosecution for violation of the Charter, this code or any municipal ordinance based upon the complaint of any person other than a police officer or other employee of the city, if the complaining witness who signed a complaint fails or refuses to testify at time of trial or if it appears to the judge in a hearing that there is no reasonable ground for such complaint or that it was maliciously or imprudently entered, the judge, in the judge's discretion, may assess costs and penalties against such complaining witness in an amount not exceeding three hundred dollars (\$300.00).

B. The judge shall assess court costs in the amount of fifteen dollars (\$15.00), which shall be assessed against all defendants upon entry of a conviction at or subsequent to arraignment, but the judge may suspend the costs in the interest of justice. No costs shall be assessed when conviction is by a plea of guilty by mail pursuant to the penalty assessment procedure prescribed by Section 2.12.110 or at the violations bureau before arraignment pursuant to the procedure prescribed by Section 2.12.050.

C. Costs for persons convicted after trial to the court are fifteen dollars (\$15.00), and after trial to a jury are forty-five dollars (\$45.00), instead of fifteen dollars (\$15.00) prescribed by subsection B of this section.

D. The judge shall assess against a convicted defendant all witness fees prescribed by Section 2.12.300 and any other costs authorized by state law for proceedings in state courts, but may suspend these costs in the interests of justice. (Ord. 812 §3(part), 1995)

2.12.330 Sentencing, consideration of presentence confinement.

In sentencing a defendant to imprisonment, the municipal judge shall take into consideration any presentence confinement that the defendant has undergone with respect to the violation for which the defendant is to be sentenced. The judge shall state in pronouncing sentence, and the judgment shall recite, what consideration has been given, but no sentence shall be set aside or modified on review because of alleged failure to give such consideration unless the sentence imposed is longer than the maximum permitted under this code for the offense, less the amount of allowable presentence confinement, and the judgment fails to recite that consideration has been given. (Ord. 812 §3(part), 1995)

2.12.340 Sentence, execution and writ of commitment, suspension, probation and default.

A. The judge may sentence any person found guilty of violation of the Charter, this code or any ordinance of the city to a fine, imprisonment or both such fine and imprisonment as provided for such violation, together with allowable costs.

B. If a defendant against whom any fine or penalty is assessed upon conviction fails to pay or satisfy it as directed by the judge, the judge may issue a writ of execution to provide for the satisfaction of such sentence.

C. If the defendant is sentenced to imprisonment, the judge shall issue a writ of commitment directing the county sheriff to take the defendant into custody and keep the defendant safely until the sentence is satisfied.

D. The judge may suspend, upon condition, in whole or in part, for two (2) years or such stated shorter time as the judge deems appropriate, any fine, penalty or imprisonment imposed against a defendant for a violation of the Charter, this code or any ordinance of the city, except a required minimum fine, penalty or imprisonment. If no specific fine, penalty or imprisonment is imposed, such sentence shall be considered to be a probation.

E. The judge may sentence a defendant to probation for two (2) years or such stated shorter time as the judge deems appropriate, under such terms and conditions as deemed appropriate, except that any required minimum fine, penalty or imprisonment shall be paid or served as a condition of probation.

F. The judge may impose any of the following conditions for a suspended sentence or probation:

1. Refraining from violating any federal, state or city law within the probation period following the conviction; unless specifically provided otherwise by the municipal judge, this is a condition of every suspended sentence or probation;

2. Restitution for damage or injury caused during the commission of the violation for which the defendant was convicted;
3. Attendance at one (1) or more sessions of a driver training school;
4. Participation in a mental health, drug or alcohol evaluation and treatment program;
5. Performance of a specified number of hours, not exceeding one hundred twenty (120), of community service tasks that will not injure the defendant's health or welfare;
6. Any other lawful condition reasonably related to the violation.

G. Upon proof by a preponderance of the evidence of breach of any condition of a suspended sentence or probation after appropriate notice and hearing thereon, the judge may forthwith execute any suspended sentence or, in the case of a breach of probation, impose any sentence that could have been imposed at the time of entry of judgment. Upon any hearing to determine if a condition has been breached, the judge shall apply the rules of evidence for civil nonjury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

H. The judge may stay execution to enable a defendant to pay a fine or penalty at a later date or in installments. If a defendant fails to meet the terms of the stay of execution allowed under this subsection, the judge shall issue a writ of execution and place the defendant in jail until such sentence is paid or satisfied.

I. Every person against whom any fine or penalty is assessed under the Charter, this code or any ordinance of the city who refuses or neglects to pay it when demanded or violates any condition placed thereon by a judge may be committed to jail until such fine or penalty is paid or satisfied.

J. A defendant imprisoned for refusing to pay a fine or penalty satisfies such fine at a rate set by the judge, but in no event at less than six dollars (\$6.00) per day of twenty-four (24) hours, which is the rate if no rate of satisfaction is set forth.

K. No person shall be imprisoned under the terms of this section for failure to pay a fine or penalty or satisfy the terms of the stay of execution or installment payment if such person satisfactorily demonstrates to the judge that the person has no estate whatsoever from which to pay such fine or part thereof, in which case the judge shall discharge the person from such fine or penalty. (Ord. 812 §3(part), 1995)

2.12.350 Confinement.

The city shall use the jail of the county for confinement of any person taken into custody for violation of the Charter, this code or any ordinance of the city or imprisoned by order of

the judge. In an emergency or civil disorder or if the city manager determines that there is insufficient room in the county jail or other places where prisoners are confined, the manager may designate temporary places of detention or confinement. (Ord. 812 §3(part), 1995)

2.12.360 Contempt.

The municipal judge has the power and authority to regulate the conduct of attorneys, witnesses, jurors, defendants and others within the courtroom and to enforce the orders of the court, by civil or criminal contempt. When an individual disrupts the court proceedings or fails to abide by an order of the court, and such action occurs within the presence of the judge, the judge may, without notice and hearing, impose a fine of not more than three hundred dollars (\$300.00), or confinement of not more than ninety (90) days, or both, for each such separate act. If such action occurs outside of the presence of the judge, the judge shall issue an order requiring the individual to appear and show cause, if any, why he or she should not be found in contempt of court. Upon proof by a preponderance of the evidence of a violation of an order of the court after appropriate notice and hearing thereon, the judge may impose any sentence that could have been imposed if the action had occurred within the presence of the judge. Upon any such hearing to determine if an order has been violated, the judge shall apply the rules of evidence for civil nonjury cases, but may receive and consider evidence not admissible under such rules if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. (Ord. 812 §3(part), 1995)

2.12.370 Civil action to abate a public nuisance.

A. Unless a specific provision of this code states otherwise, when a public nuisance does not require summary abatement, the city manager may prepare and serve a notice to abate on the owner, manager, occupant or possessor of any property which constitutes a public nuisance or the person conducting or maintaining the business, occupation, operation or activity which constitutes the public nuisance. Such notice shall:

1. State that if the nuisance is not abated within seven (7) days an action may be brought in the municipal court to abate the nuisance and that the costs of abatement, plus ten percent (10%) of such costs for inspection, and other administrative costs, may be assessed against the person found by the court to have caused or allowed to continue the public nuisance and may become a lien upon any property on which the abatement was performed;

2. Be served either personally or by means of posting on the premises upon which the nuisance exists. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property at the address shown in the records of the county assessor.

B. When a public nuisance has not been voluntarily abated within the time specified in the notice to abate, the following procedure shall apply:

1. The city attorney may bring an action in the municipal court to have the nuisance declared as such by the court and for an order enjoining the public nuisance or authorizing its restraint, removal, termination or abatement by the owner or the person who caused the nuisance or the person who allowed the nuisance to be caused or to continue, or the city manager, his or her authorized representative or any person employed by him or her to perform such services.

2. The action to declare and abate a public nuisance shall be brought by the city attorney in the name of the people of the city, by the filing of a complaint, which shall be verified or supported by an affidavit. A summons shall be issued and served as in civil cases, and any employee of the city who is over the age of eighteen (18) may serve the summons and verified complaint upon the respondent. Trial shall be to the court.

a. A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than twenty-one (21) days from the date of service of the summons and complaint. The trial shall be held upon the appearance date, unless the municipal judge grants a continuance for good cause.

b. The respondent shall file a response on or before the appearance date set forth in the notice of appearance.

c. Upon the date and at the time set for appearance and trial, if the respondent has filed no response or fails to appear and if the city proves that proper service was made on the respondent at least twenty-one (21) days prior to the appearance date, the municipal judge may grant such orders as are requested by the city attorney in the complaint; except that the municipal judge shall order that enforcement by the city be stayed for ten (10) days and that a copy of the municipal judge's order be mailed to the respondent at his or her last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a nonappearing party. For good cause shown, and prior to enforcement, the municipal judge may set aside an entry of default and judgment entered thereon.

3. The judgment of the municipal court may be appealed to the district court.

C. The remedies and action specified in this section shall be in addition to all other remedies and actions provided by law.

D. A person found by the municipal judge to have caused a public nuisance or allowed the nuisance to be caused or to continue shall be liable for the costs specified in subsection A of this section. Such costs may be collected by the city in a civil action or assessed and filed as a lien against any property on which the abatement was performed. (Ord. 812 §3(part), 1995)

2.12.380 Civil action to enforce code provisions.

A. Unless a specific provision of this code states otherwise, the city manager may prepare and serve a notice of code violation on the owner, manager, occupant or possessor of any property which is in violation of the Charter, this code or any ordinance of the city, or the person conducting or maintaining the business, occupation, operation or activity in violation of the Charter, this code or any ordinance of the city. Such notice shall:

1. State that if the code violation is not discontinued within seven (7) days, an action may be brought in the municipal court to enforce the code and that the costs of abatement or other enforcement, plus ten percent (10%) of such costs for inspection, and other administrative costs, may be assessed against the person found by the court to have caused or allowed to continue the code violation and may become a lien upon any property on which the abatement or other enforcement was performed.

2. Be served either personally or by means of posting on the premises upon which the code violation occurred. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property at the address shown in the records of the county assessor.

B. When a code violation has not been voluntarily abated or otherwise ceased within the time specified in the notice, the following procedure shall apply:

1. The city attorney may bring an action in the municipal court to have the matter declared a code violation by the court and for an order enjoining the code violation or authorizing its restraint, removal, termination or abatement by the owner or the person who caused the code violation or the person who allowed the violation to be caused or to continue, or the city manager, his or her authorized representative or any person employed by him or her to perform such services.

2. The action to declare and abate a code violation shall be brought by the city attorney in the name of the people of the city, by the filing of a complaint, which shall be verified or supported by an affidavit. A summons shall be issued and served as in civil cases, and any employee of the city who is over the age of eighteen (18) may serve the summons and verified complaint upon the respondent. Trial shall be to the court.

- a. A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than twenty-one (21) days from the date of service of the summons and complaint. The trial shall be held upon the appearance date, unless the municipal judge grants a continuance for good cause.

- b. The respondent shall file a response on or before the appearance date set forth in the notice of appearance.

c. Upon the date and at the time set for appearance and trial, if the respondent has filed no response or fails to appear and if the city proves that proper service was made on the respondent at least twenty-one (21) days prior to the appearance date, the municipal judge may grant such orders as are requested by the city attorney in the complaint; except that the municipal judge shall order that enforcement by the city be stayed for ten (10) days and that a copy of the municipal judge's order be mailed to the respondent at his or her last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a nonappearing party. For good cause shown, and prior to enforcement, the municipal judge may set aside an entry of default and judgment entered thereon.

3. The judgment of the municipal court may be appealed to the district court.

C. The remedies and action specified in this section shall be in addition to all other remedies and actions provided by law.

D. A person found by the municipal judge to have caused a code violation or allowed the code violation to be caused or to continue shall be liable for the costs specified in subsection A of this section. Such costs may be collected by the city in a civil action or assessed and filed as a lien against any property on which the abatement was performed. (Ord. 812 §3(part), 1995)

Chapter 2.15

Police Administration

Sections:

- 2.15.010 Abandoned, lost or stolen property
- 2.15.015 Return of property
- 2.15.020 Sale of unclaimed property
- 2.15.025 Deposit of proceeds
- 2.15.030 Recovery of property; limitation
- 2.15.035 No damages

2.15.010 Abandoned, lost or stolen property.

All personal property acquired or held by the Craig police department in the course of law enforcement and under circumstances supporting a reasonable belief that such property was abandoned, lost, stolen or otherwise illegally possessed, including property left in abandoned vehicles or at vehicle accident locations, unclaimed property obtained by search and seizure, and unclaimed property used as evidence in any criminal trial shall be held or disposed of as set forth in Sections 2.15.015 and 2.15.020 herein. (Ord. 767 §3(part), 1990)

2.15.015 Return of property.

After any necessary legal proceedings have been concluded, personal property acquired or held by the police department and believed to be abandoned, lost, stolen or otherwise illegally possessed shall be retained in custody by the chief of police, or by his or her designated representative, who shall make reasonable inquiry and effort to identify and notify the owner or person entitled to possession thereof and shall return the property after such owner or person provides reasonable and satisfactory proof of ownership or right to possession. (Ord. 767 §3(part), 1990)

2.15.020 Sale of unclaimed property.

If the identity or location of the owner or person entitled to possession of the property has not been ascertained within three (3) months after necessary legal proceedings have been concluded, the chief of police, or his or her designated representative, shall sell such property for cash to the highest bidder at a public auction, notice of which (including time, place and a brief description of such property) shall be published at least once in a newspaper of general circulation in Moffat County, Colorado at least ten (10) days prior to such auction. (Ord. 767 §3(part), 1990)

2.15.025 Deposit of proceeds.

Proceeds from the sale of such property at public auction, less reimbursement of the police department for the reasonable expenses of custody and handling thereof, shall be deposited in the city treasury. (Ord. 767 §3(part), 1990)

2.15.030 Recovery of property; limitation.

The owner or person entitled to possession of the property described in Section 2.15.010 may claim and recover possession of the property at any time before its sale at public auction upon providing reasonable and satisfactory proof of ownership or right to possession. (Ord. 767 §3(part), 1990)

2.15.035 No damages.

Neither the city nor any employee of the city shall be liable for damages to another occasioned by an act or omission in compliance with this chapter. (Ord. 767 §3(part), 1990)

Chapter 2.20

Salaries

Sections:

- 2.20.010 Purpose
- 2.20.040 Salary steps

2.20.050 Cost-of-living

2.20.010 Purpose.

The city council finds, determines and declares that the determination of a formal salary schedule is in the best interest of the city and its employees and in proper personnel management. (Ord. 710 §1, 1988)

2.20.040 Salary steps.

There shall be five (5) steps beyond entry level which an employee may advance to, upon completion of a successful evaluation. There shall be a five-percent difference between each step. Upon reaching the fifth step, there shall be no further increase in salary except cost-of-living increases. (Ord. 748 §6, 1989; Ord. 710 §4, 1988)

2.20.050 Cost-of-living.

A cost-of-living increase shall be recommended to the city council by the city administrator whenever the Accumulative Colorado Consumer Price Index reaches or exceeds seven percent (7%) of any consecutive five-year period. This recommendation shall be in August of the preceding year so that it can be incorporated in the forthcoming budget. The city council shall act on the city administrator's recommendation within thirty (30) working days. Cost-of-living increases shall apply to all employees of the city. (Ord. 710 §5, 1988)