

# AGENDA ITEM SUMMARY

April 15, 2014

City Council

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## STAFF

Kathleen Lane, Municipal Judge

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## SUBJECT

Items Relating to Municipal Court Fines and Penalties.

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## EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 055, 2014, Amending Section 19-4 of the City Code Regarding the Failure to Pay Fine or Penalty.
- B. Second Reading of Ordinance No. 056, 2014, Amending Section 19-62 of the City Code Pertaining to the Handling of Civil Infractions and Misdemeanor Offenses.

Ordinance No. 055, 2014, amends the City Code to remove the specific dollar amount of credit a prisoner receives for jail served on failure to pay cases and, instead, specifies that said amount will be listed in the Schedule of Fines established by the Municipal Judge. This allows the Municipal Judge to periodically adjust that amount as appropriate.

Ordinance No. 056, 2014, amends the City Code to indicate that if an incident gives rise to charges which would normally be filed as a civil infraction and a misdemeanor, the charges are to be handled together as a misdemeanor case. This avoids the time and confusion of having two separate tickets filed with the Court, with separate procedures and costs relating to each. These Ordinances were unanimously adopted on First Reading on April 1, 2014.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

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## ATTACHMENTS

- 1. Copy of First Reading Agenda Item Summary, April 1, 2014 (PDF)
- 2. Ordinance No. 055, 2014 (PDF)
- 3. Ordinance No. 056, 2014 (PDF)

# AGENDA ITEM SUMMARY

April 1, 2014

City Council

## STAFF

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Kathleen Lane, Municipal Judge

## SUBJECT

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Items Relating to the Fort Collins Municipal Court.

## EXECUTIVE SUMMARY

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- A. First Reading of Ordinance No. 055, 2014, Amending Section 19-4 of the City Code Regarding the Failure to Pay Fine or Penalty.
- B. First Reading of Ordinance No. 056, 2014, Amending Section 19-62 of the City Code Pertaining to the Handling of Civil Infractions and Misdemeanor Offenses.

The purpose of this item is to codify certain changes in the judicial process to improve fairness and efficiency. Ordinance No. 055, 2014, amends the City Code to remove the specific dollar amount of credit a prisoner receives for jail served on failure to pay cases and, instead, specifies that said amount will be listed in the Schedule of Fines established by the Municipal Judge. This allows the Municipal Judge to periodically adjust that amount as appropriate. Ordinance No. 056, 2014, amends the City Code to indicate that if an incident gives rise to charges which would normally be filed as a civil infraction and a misdemeanor, the charges are to be handled together as a misdemeanor case. This avoids the time and confusion of having two separate tickets filed with the Court, with separate procedures and costs relating to each.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinances on First Reading.

## BACKGROUND / DISCUSSION

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- A. First Reading of Ordinance No. 055, 2014, Amending Section 19-4 of the City Code Regarding the Failure to Pay Fine or Penalty.**

This item amends the City Code to remove the specific dollar amount of credit a prisoner receives for jail served on failure to pay cases. This amount had been listed in the Code as \$6.00 per day and had not been adjusted for years. Out of fairness, the Judge has been giving defendants credit for more than that amount; \$50 credit for each day of jail served has been given for the last several years. In order to provide flexibility in adjusting this credited amount as appropriate, the proposed ordinance removes the dollar amount and, instead, specifies that said amount will be listed in the Schedule of Fines established by the Municipal Judge.

- B. First Reading of Ordinance No. 056, 2014, Amending Section 19-62 of the City Code Pertaining to the Handling of Civil Infractions and Misdemeanor Offenses.**

This item amends the City Code to indicate that if an incident gives rise to two (or more) charges which would normally be filed separately as a civil infraction and a misdemeanor, the charges are to be handled together as a misdemeanor case. This changes the current practice of enforcement officers having to issue two separate tickets in cases such as those involving an Animal at Large charge, as well as a Dangerous Animal charge. In those cases, defendants are currently faced with the potential of paying two sets of costs and having separate

hearings if they choose. The current practice has also increased the time spent by the Court to administer and hear these cases. This change will streamline the process for all involved and avoid the confusion which often arises from having two separate tickets relating to the same incident. The proposed change is consistent with how traffic cases are handled under City Code Section 19-45.

**FINANCIAL / ECONOMIC IMPACT**

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There is no financial impact from the first item. As to the second item, there is a minimal impact since there are very few cases that will be affected. For those few cases, enforcement officers will only have to issue one ticket instead of two, defendants who plead or are found guilty will pay costs on one case instead of two, and the Court will have one trial on contested cases instead of potentially a referee hearing as well as a trial relating to the same incident.

**ATTACHMENTS**

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1. Powerpoint presentation (PDF)

COPY

ORDINANCE NO. 055, 2014  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 19-4 OF THE CODE OF THE CITY OF FORT COLLINS  
REGARDING THE FAILURE TO PAY FINE OR PENALTY

WHEREAS, under Section 19-4(a) of the City Code, any person against whom a fine or penalty is assessed by the Municipal Court for a violation of a misdemeanor offense who refuses or neglects to pay the fine or penalty or who violates any condition placed thereon by the Municipal Judge may be imprisoned for such refusal, neglect or violation; and

WHEREAS, Section 19-4(b) of the City Code currently sets the rate at which such person would be credited for time served, which rate is currently six dollars per day served; and

WHEREAS, such rate has not been adjusted over the years to take into consideration the increased amount of fines and penalties imposed for misdemeanor violations; and

WHEREAS, entrusting the Municipal Judge to periodically determine the rate based on the fine amounts for various offenses provides the discretion to efficiently and fairly establish the rate and provides for publication of the rate through the Municipal Court schedule of fines.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 19-4 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 19-4. Failure to pay fine or penalty.**

- (a) Any person against whom a fine or penalty is assessed by the Municipal Court for a violation of a misdemeanor offense who refuses or neglects to pay the fine or penalty or who violates any condition placed thereon by the Municipal Judge may be imprisoned for such refusal, neglect or violation.
  
- (b) A person imprisoned for refusing or neglecting to pay such fine or penalty shall be credited at a rate established by the Municipal Judge in the Municipal Court Schedule of Fines.

Introduced, considered favorably on first reading, and ordered published this 1st day of April, A.D. 2014, and to be presented for final passage on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

ORDINANCE NO. 056, 2014  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 19-62 OF THE CODE OF THE CITY OF FORT  
COLLINS PERTAINING TO THE HANDLING OF CIVIL INFRACTIONS AND  
MISDEMEANOR OFFENSES

WHEREAS, on February 19, 2013, the City Council adopted Ordinance No. 021, 2013, amending Chapter 4 of the City Code, which decriminalized certain minor offenses related to the care and keeping of animals, making those offenses civil infractions instead of criminal misdemeanors; and

WHEREAS, the more serious offenses relating to the care and keeping of animals remained misdemeanors; and

WHEREAS, under the current City Code, when one incident involves offenses constituting both a misdemeanor and a civil infraction, officers must write two separate citations, potentially subjecting the defendant and the City to two separate judicial proceedings; and

WHEREAS, City staff has recommended, and the City Council agrees, that civil infractions and misdemeanors arising out of one incident should be governed by the rules and statutes applicable to misdemeanor offenses.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 19-62 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 19-62. Scope, purpose, and application.**

a. These rules are promulgated pursuant to Article VII of the Charter to govern practice and procedures for the handling of civil infractions. The purpose of these rules is to provide for the orderly, expeditious and fair disposition of such infractions.

b. In any action in which the commission of a civil infraction and a misdemeanor offense are alleged in one (1) complaint, the action shall be treated as one (1) proceeding governed by the rules and statutes applicable to the alleged misdemeanor offense.

Introduced, considered favorably on first reading, and ordered published this 1st day of April, A.D. 2014, and to be presented for final passage on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk