

ORDINANCE NO. 019, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III OF CHAPTER 19 OF THE CODE OF THE CITY
OF FORT COLLINS REGARDING MUNICIPAL COURT REFEREES

A. Section 19-36(a) of the City Code states that the Chief Judge of the Municipal Court may appoint referees “to hear certain municipal ordinance violations relating to parking or Municipal Code violations designated as civil infractions,” and that “[s]uch 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.”

B. There are other municipal violations, including camera radar and red-light photo citations, that are on the Court’s schedule of payable fines, which means they can be paid without a court appearance, although the defendant can request a hearing, and do not result in the assessment of points on one’s driving license, but are not civil infractions or parking violations; therefore the Code is somewhat ambiguous as to whether the Chief Judge could authorize a referee to hear such cases instead of a municipal court judge.

C. Many individuals prefer to have their case heard before a referee because it is a less formal (and thus less intimidating) setting, although defendants are advised both in writing and on the record by the referee prior to the hearing that they may choose to have a judge hear their case instead. Additionally, the rules of evidence are relaxed in a referee hearing, allowing individuals who may not have legal training to better present their cases.

D. As the use of camera radar, red-light cameras, and similar technologies increases in Fort Collins, the Court’s caseload will continue to increase. Therefore, the Chief Judge has recommended that the City Code provisions regarding Municipal Court referees be amended to allow referees to hear camera radar and red-light photo citation cases, as well as any other minor violations that the Chief Judge may designate in the future that do not require a court appearance and do not potentially result in points being assessed against the defendant’s driving license.

E. The proposed City Code amendments would also make other minor updates to Code language.

F. The City Council finds that it is in the best interests of the City and the community, and will facilitate the efficient operation of the Municipal Court, to amend the City Code as described in this Ordinance.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. 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~~ **such** municipal ordinance violations **as the Chief Judge may from time to time designate** relating to parking, **camera-radar speed enforcement, red-light cameras,** ~~or~~ Municipal Code violations designated as civil infractions, **and any other 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, and except as otherwise specifically provided in the Code. Referees may also** ~~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 **any** Referee ~~to~~ **who** will 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.

(d) The City Manager is authorized to appoint a designee to represent the City's interest, with the advice and consent of the City Attorney's Office, in ~~parking and civil infraction~~ proceedings heard by the Referee.

Section 2. Section 19-37 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-37. Defendant's right to hearing before judge.

Prior to conducting a hearing on ~~a civil infraction or parking citation~~ **any matter**, the Referee shall inform the defendant that ~~he or she has~~ **they have** the right to a trial before the Municipal Judge. If **the defendant makes** such **a** request ~~is made~~, the Referee shall terminate the hearing and refer the matter to the Municipal Court for trial.

Section 3 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.

(a) ~~At the completion of a hearing on a civil infraction or parking citation held under the provisions of this Article, the Referee shall enter an order either:~~

...

(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 **or fine** plus all costs, expenses and damages. In the event a defendant fails to pay a civil penalty **or fine**, 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 4 Section 19-42(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 19-42. Appeal of decisions.

(a) Any defendant affected by a final order or judgment of a Referee ~~with respect to parking and civil infraction citations,~~ under the authority of this Article, may appeal the Referee's final order or judgment to the Municipal Court by filing a written notice of appeal with the Municipal Court Clerk within ten (10) days after the entry of the final order or judgment and depositing with the Municipal Court a fee for preparing the record, or portions thereof designated. Upon the filing of the notice of appeal, no stay of execution of the Referee's order or action shall be granted until the appellant has deposited with the Municipal Court a cash bond in the amount of any fines and costs imposed by the Referee.

Introduced, considered favorably on first reading on February 6, 2024, and approved on second reading for final passage on February 20, 2024.

Mayor

ATTEST:

Interim City Clerk

Effective Date: March 1, 2024
Approving Attorney: Ingrid Decker