



Town of Johnstown

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: March 20, 2023

SUBJECT: Ordinance 2023-243 An Ordinance concerning Municipal Court procedures; Amending Sections 2-74 And 8-26 of the Johnstown Municipal Code concerning respectively Fines, Court Costs and Surcharges and Judgments of Liability by Default; Adding Sections 2-75 and 2-76 to the Johnstown Municipal Code concerning respectively Alternatives in Sentencing and Collection Of Unpaid Monetary Sentences; Omitting Sections 8-46, 8-81 and 8-82 from the Johnstown Municipal Code

ATTACHMENTS: 1. Ordinance No. 2023-243

PRESENTED BY: Avi Rocklin, Town Attorney
Hannah Hill, Town Clerk

AGENDA ITEM DESCRIPTION: Town staff recommends that the Town Council adopt amendments to the Johnstown Municipal Code (“Code”) concerning municipal court procedures, including authorization for the municipal court judge to impose alternative sentencing and enter judgments of liability by default, allowing the Town to retain a collection agency to collect unpaid municipal court monetary sentences, omitting certain sections of the Code that are duplicative of provisions contained in the Town-adopted Model Traffic Code for Colorado and clarifying that surcharges shall be a set amount rather than a percentage of the fine. The rationale is as follows.

Alternatives in Sentencing. While the municipal court judge has sentencing authority, the addition of Section 2-75 regarding alternatives in sentencing would explicitly set out that the municipal judge’s authority to: suspend all or part of a defendant’s sentence; defer the entry of judgment; order restitution; require the defendant to attend a class, perform community service or participate in drug or alcohol evaluations and/or classes; and allow a defendant to participate in restorative justice. Restorative justice is a program being implemented by the Johnstown Police Department with the purpose of rehabilitating a defendant by classes or mediation rather than engaging in the municipal court process.

Default Judgments. The addition of Section 8-26(3) would explicitly recognize the municipal judge’s authority to enter judgments by default for traffic infractions. Thus, if a defendant with a traffic ticket fails to appear or fails to perform the obligations contained in a plea agreement, the municipal court judge would be entitled to enter judgment on the traffic violation, report the points to Colorado Department of Motor Vehicles and send the fine and fees to collections.

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Collection Agency. In recent years, the Colorado General Assembly has amended the law to prohibit a municipal court judge from issuing warrants for a defendant's "failure to pay." The result is that, if a defendant fails to pay or fails to appear to pay, the municipal court has limited recourse to collect unpaid monetary sentences. As such, many municipal courts have opted to utilize a collection agency or private counsel to collect such funds. The collection agency or private counsel may add collection costs to the amount due to the Town in an amount that does not exceed twenty-five percent (25%) of the total amount assigned for collection.

Section 8-81 and 8-82. Town staff is recommending the omission of Sections 8-81 (Compulsory Proof of Insurance) and 8-82 (Mandatory Use of Seat Belt) because the Colorado Model Traffic Code, adopted in Article II of Chapter 8 of the Code, contains provisions for those traffic violations and Sections 8-81 and 8-82 are duplicative.

Surcharge. To provide more predictability and consistency, Town staff recommends amending Section 2-74(a)(3) to clarify that surcharges shall be a set amount set forth in the Town fee schedule and not be a percentage of the fine.

LEGAL ADVICE:

The Town Attorney prepared Ordinance No. 2023-243

FINANCIAL ADVICE:

N/A

RECOMMENDED ACTION: Approve Ordinance No. 2023-243 on second reading.

Reviewed and Approved for Presentation,



Town Manager

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