

Title 4
JUDICIARY

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Chapter 4.10**MUNICIPAL COURT**

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4.10.010 Jurisdiction.

The municipal court shall have jurisdiction to hear and determine all suits and actions for violation of any of the provisions of this code or other municipal ordinances or for violations of the City Charter. (Code 1997 § 4-1-1).

4.10.020 Governing procedures.

Actions for violations of the provisions of this code or any other municipal ordinance or City Charter shall be governed by the requirements of the Municipal Court Rules of Procedure, as the same have been promulgated or may hereafter be amended by the Colorado Supreme Court, and by those statutes* of the state of Colorado not in conflict with the terms of this chapter. (Code 1997 § 4-1-2).

* See § 13-10-101, C.R.S., et seq.

4.10.030 Verbatim record of proceedings.

The municipal court judge and municipal court clerk are hereby charged with the responsibility and duty of keeping a verbatim record of the proceedings and evidence at trials or other proceedings of the city by means of electric recording devices. The city council shall provide all materials and facilities necessary for the keeping of such verbatim record. (Code 1997 § 4-1-3).

4.10.040 Municipal court clerk.

The city council hereby establishes the position of municipal court clerk, who shall be appointed by the municipal court judge. The municipal court clerk shall have such duties as are delegated by law, court ruling, or the municipal judge. The municipal court clerk may serve without posting any bond whatsoever. (Code 1997 § 4-1-4).

4.10.050 Court costs.

The municipal court judge is empowered and directed to assess court costs, in the amount of \$20.00, against any defendant who is found guilty of an ordinance violation, or City Charter violation, either after a plea of guilty or nolo contendere, or who enters into a plea agreement, or who after trial is found guilty of an ordinance or Charter violation. In addition to any other court costs and fees, the municipal court judge is empowered and directed to impose a \$50.00 administration fee for each deferred judgment or deferred prosecution agreement approved by the municipal court for an ordinance or City Charter violation. In addition to any costs and fees ordered, the municipal court judge may assess costs of incarceration, to include charges by the jail facility to the city of Gunnison for the housing, care or treatment of the defendant while incarcerated. Costs shall be limited to those amounts actually incurred by the city. (Ord. 1-2011 § 1; Ord. 6-2007 § 1; Code 1997 § 4-1-5).

4.10.060 Payment of funds.

All fines, forfeitures, penalties, and costs collected for violations of any of the provisions of this code, other municipal ordinances, or the City Charter shall, as soon as collected, be paid to the treasurer by the

municipal court clerk or municipal court judge. The treasurer shall make and deliver to the person paying said sums to them a receipt therefor. (Code 1997 § 4-1-6).

4.10.070 Deferred judgments and deferred prosecutions.

In addition to all other powers vested in the municipal court by Colorado state law and the Colorado Supreme Court, the municipal court shall have the authority to grant deferred prosecutions and deferred judgments in all cases within the jurisdiction of the municipal court in those circumstances and upon such terms as the municipal court deems appropriate. (Ord. 6-2007 § 2).

4.10.080 Restitution.

Any order of a conviction of any offense set forth in the Gunnison Municipal Code may include consideration of restitution.

A. Any such restitution order shall include:

1. An order of a specific amount of restitution be paid by the defendant; or
2. An order that the defendant is obligated to pay restitution but that the specific amount of restitution shall be determined within 90 days immediately following the order of conviction, unless good cause is shown for extending the time period by which the restitution amount shall be determined.

B. "Conviction" means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court for a violation of any provision of the Gunnison Municipal Code. "Conviction" also includes having received a deferred judgment and sentence or deferred adjudication, except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence or deferred adjudication.

C. "Restitution" means any quantifiable pecuniary loss suffered by a victim or by the city of Gunnison that relates to a violation of the Gunnison Municipal Code for which the defendant has pled guilty or nolo contendere, including guilty pleas relating to deferred sentences, or for which a defendant has been found guilty by the court. "Restitution" does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages. "Restitution" shall also include all costs incurred by a government agency relating to any clean-ups related to a nuisance violation, or costs relating to housing an animal in a shelter, whether the shelter is a public or private animal shelter.

D. Any order for restitution entered pursuant to this section shall be a final civil judgment in favor of the city of Gunnison and any victim. Notwithstanding any other civil or criminal statute or rule, any such judgment shall remain in force until the restitution is paid in full. (Ord. 1-2011 § 2).

Chapter 4.20**PENALTY**

Sections:

- 4.20.010 Penalty.
- 4.20.020 Application.
- 4.20.030 Liability of officers.

4.20.010 Penalty.

Except where a different penalty is specifically provided in any section of this code or by ordinance, any person convicted of a violation of any section of this code shall be fined in a sum of not more than \$1,000 or by imprisonment for not more than 90 days, or both such fine and imprisonment. (Ord. 3-1997 § 3; Code 1997 § 4-2-1).

4.20.020 Application.

The penalty provided in this chapter shall be applicable to every section of this city code the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this city code where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this city code.

In all cases where the same offense is made punishable or is created by different clauses or sections of this city code the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Whenever the doing of an act or the omission to do any act constitutes a breach of any section or provision of this city code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues. (Code 1997 § 4-2-2).

4.20.030 Liability of officers.

No provision of this city code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the governing body to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (Code 1997 § 4-2-3).

