

COUNCIL COMMUNICATION

Meeting Date: September 22, 2020	Agenda Item: 10D	Agenda Location: Consent Calendar	Goal(s):	Legal Review: 	<input type="checkbox"/> 1 st Reading <input checked="" type="checkbox"/> 2 nd Reading
Subject: An ordinance amending Section 14-17 of the Thornton City Code pertaining to Court-appointed counsel.					
Recommended by: Joyce Hunt <i>JH</i>			Approved by: Kevin S. Woods <i>KW</i>		Ordinance previously introduced by: <u>Sandgren</u>
Presenter(s): Joyce Hunt, Assistant City Manager					

SYNOPSIS:

This ordinance amends Section 14-17 of the Thornton City Code (Code), Court-appointed counsel, to change the language clarifying that the rate the City pays for Court-appointed counsel pursuant to Directive issued by the Chief Justice of the Supreme Court is the minimum and not the maximum.

RECOMMENDATION:

Staff recommends Alternative No. 1, approval of the ordinance to amend the Code to allow more flexibility with respect to establishing the method to compensate Court-appointed counsel.

BUDGET/STAFF IMPLICATIONS:

None.

ALTERNATIVES:

1. Approve the ordinance to amend the Code to clarify that the guidance the City uses to pay for Court-appointed counsel is the minimum and not the maximum.
2. Do not approve the ordinance.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

Code Section 14-17, Court-appointed counsel, provides that any person charged before the Municipal Court who is financially unable to obtain counsel and who could be incarcerated if convicted of one or more of the violations with which charged may petition the court for Court-appointed counsel. The Code includes a provision that provides that Court-appointed defense counsel shall be compensated through funds made available by the City Council at an hourly rate recommended by the State Judicial System. That guidance is provided by the Chief Justice of the Colorado Supreme Court through the Directives issued relating to the Appointment and Payment Procedures for Court-appointed Counsel. The current hourly rate for Court-appointed counsel is \$80 as per Chief Justice Directive 04-04, amended effective July 1, 2018.

The City contracts with independent counsel to attend in-custody video advisement hearings, which are scheduled by the Adams County Sheriff's Office and held in Brighton, to represent persons charged without representation as well as to act as Court-appointed counsel for persons who are financially unable to obtain counsel. The Court also maintains a list of counsel and may assign these individuals to represent persons charged who are financially unable to obtain counsel and who could be incarcerated if convicted.

INTRODUCED BY: Sandgren

AN ORDINANCE AMENDING SECTION 14-17 OF THE THORNTON CITY CODE PERTAINING TO COURT-APPOINTED COUNSEL.

WHEREAS, the Thornton City Code (Code) currently provides that any person charged before the municipal court who is financially unable to obtain counsel and could be incarcerated if convicted to petition the court for Court-appointed counsel; and

WHEREAS, the Code also provides that Court-appointed counsel be compensated through funds made available by the City Council at an hourly rate recommended by the State Judicial System; and

WHEREAS, the Colorado Supreme Court Chief Justice establishes the rate, as amended from time to time, in Chief Justice Directive 04-04 Appointment and Payment Procedures for Court-appointed Counsel; and

WHEREAS, State legislation requires the City to provide counsel to defendants without representation at in-custody video advisement hearings which are conducted at scheduled days and times at the Adams County Jail in Brighton, Colorado; and

WHEREAS, this amendment would change the language to pay for Court-appointed counsel services to establish the rate in the Chief Justice Directive 04-04 as the base rate and not the maximum.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Section 14-17 of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows:

Sec. 14-17. Court-appointed counsel.

Any person charged before the municipal court who is financially unable to obtain counsel and who could be incarcerated if convicted of one or more of the violations with which charged, or who may be otherwise entitled by law to court-appointed counsel, may petition the court for court-appointed counsel. Court-appointed ~~defense~~-counsel shall be compensated through funds made available by the city council in the annual budget and paid at no less than the ~~at an hourly~~ rates recommended by the ~~state judicial system~~ Chief Justice Directive 04-04 for Court Appointed Counsel, as amended. Petitions by defendants for a court-appointed counsel must be accompanied by a financial statement sufficient to adequately advise the municipal judge that the defendant is financially unable to obtain counsel.

The municipal judge retains jurisdiction ~~shall have total discretion~~ to determine whether or not the defendant is in fact financially unable to obtain counsel and qualified for court-appointed counsel.

2. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.
4. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.
5. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on September 8, 2020.

PASSED AND ADOPTED on second and final reading on _____, 2020.

CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST:

Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Luis A. Corchado, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, and Thornton Active Adult Center after first and second readings.

Published on the City's official website after first reading on September 9, 2020, and after second and final reading on _____, 2020.