

**TOWN OF RED CLIFF, COLORADO
ORDINANCE 1, SERIES 2014**

AN ORDINANCE REPEALING AND REENACTING ARTICLE 7 OF CHAPTER 2 OF THE TOWN OF RED CLIFF MUNICIPAL CODE CONCERNING THE MUNICIPAL COURT IN AND FOR THE TOWN OF RED CLIFF.

WHEREAS, the Town of Red Cliff (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law;

WHEREAS, § 13-10-104 of the Colorado Revised Statutes requires the municipal governing body of the Town to create a municipal court to hear and try all alleged violations of the Town of Red Cliff Municipal Code (“Code”);

WHEREAS, the Town has established the municipal court required by Colorado statute through Article 7 of Chapter 2 of the Code; and,

WHEREAS, the Board of Trustees of the Town has determined that it is necessary and advisable to repeal and reenact Article 7 of Chapter 2 of the Code to ensure that Code provisions governing the Town’s municipal court reflect the Town’s present practices and intended use of its municipal court and provide the Town’s municipal court the maximum power, authority and flexibility allowed by Colorado statute.

NOW, THEREFORE, THE TOWN OF RED CLIFF ORDAINS:

Section 1: Chapter 2 of Article 7 of the Code is repealed.

Section 2: A new Chapter 2 of Article 7 of the Code is enacted to provide in its entirety as follows:

**ARTICLE 7
Municipal Court**

Sec. 2-7-10. Creation of Municipal Court.

The Municipal Court in and for the Town is established as a qualified municipal court of record. The Municipal Court shall keep a verbatim record of the proceedings and evidence at trials by either electronic devices or stenographic means.

Sec. 2-7-20. Jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under this Code and other ordinances of the Town with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by ordinance or court rule. The Municipal Court shall not have jurisdiction over any

civil action against the Town, including any claim brought pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 2-7-30. Municipal Judge.

The Municipal Court shall be presided over by a Municipal Judge appointed by the Board of Trustees. The Board of Trustees may appoint additional deputy municipal judges as needed to transact the business of the Municipal Court or to preside in the absence of the Municipal Judge. The Municipal Judge and any deputy municipal judge shall be admitted to and currently licensed to practice law in the State of Colorado. Before entering upon the duties of his or her office, the Municipal Judge and any deputy municipal judge shall take an oath or affirmation that he or she will support the Constitution of the United States, the Constitution and laws of the State of Colorado and the ordinances and laws of the Town and faithfully perform the duties of such office. The Municipal Judge and any deputy municipal judge may be removed from office by the Board of Trustees for cause.

Sec. 2-7-40. Procedures and Powers.

The Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, including powers incident to compelling attendance of witnesses, punishing for contempt and enforcing court orders, consistent with any municipal court rules of procedure as promulgated by the Colorado Supreme Court

Sec. 2-7-50. Sessions.

There shall be a regular session of the court for the disposition and trial of cases to be established by the Clerk of the Municipal Court. The Municipal Judge may hold special sessions of the Court at any time. All sessions shall be open to the public. Where the nature of the case is such that it would be in the best interests of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared.

Sec. 2-7-60. Clerk.

There shall be a Clerk of the Municipal Court who shall have and carry out such duties and powers as are delegated to him or her by law, court rules of the Municipal Judge. The Town Administrator shall appoint the Clerk of the Municipal Court after consulting with the Municipal Judge.

Sec. 2-7-70. Reporting.

All fines, costs and other funds collected or received by the Municipal Court shall be reported and paid by the Clerk of the Municipal Court to the Town Treasurer on the last day of each month. The Clerk of the Municipal Court shall keep such additional records and make such additional reports as directed by the Town Administrator.

Sec. 2-7-80. Court Costs.

(a) The Municipal Judge shall have the discretion to assess the following costs and impose the following obligations against any person who is found guilty of violating any provision of the Code or the Town's ordinances after trial, who pleads guilty or no contest to violating any provision of the Code or the Town's ordinance or who is granted a deferred prosecution, deferred judgment or deferred sentence:

(a) *Court Costs.* The Municipal Judge may assess court costs in the amount of twenty-five dollars (\$25.00).

(b) *Witness Costs.* The Municipal Judge may assess the costs incurred by it in procuring the appearances of witnesses at trial or hearings and the fees required to be paid to all witnesses appearing at trial or hearings.

(c) *Jury Trial.* The Municipal Judge may assess a jury trial fee in the amount of fifty dollars (\$50.00) where a person is found guilty after trial to a jury.

(d) *Additional Costs.* The Municipal Judge may assess against a person any other costs similar to those authorized by state law.

(e) *Restitution.* The Municipal Judge may order restitution or reparation to the victim of the defendant's conduct for the damage or injury which was sustained.

(b) The Municipal Judge may decline to assess some or all of these costs and obligations where the interests of justice so demand.


Section 3: Declaration. The Board of Trustees hereby finds, determines and declares that this Ordinance is necessary and proper to protect the public health, safety and welfare of the Town and its inhabitants.

Section 4: Severability. If any section, paragraph, clause, provision or part of this Ordinance is for any reason held to be invalid or unenforceable, the remainder of this Ordinance shall continue in full force and effect, it being the intent of the Board of Trustees that this Ordinance would have been adopted even if such invalid or unenforceable matter had not been included therein. It is further declared that if any section, provision or part of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance and the application thereof to other persons shall not be affected thereby.

Section 5: Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, TITLE READ IN FULL, APPROVED ON THE FIRST READING, APPROVED AND ORDERED POSTED IN FULL THIS 4th DAY OF FEBRUARY 2014. A public hearing on the SECOND READING of this Ordinance shall be held at the regular meeting of the Board of Trustees of the Town of Red Cliff, Colorado, on the 18th day of FEBRUARY 2014 at 7:00 p.m. in the Town Hall of the Town of Red Cliff, Colorado.

TOWN OF RED CLIFF, COLORADO



Scott Burgess, Mayor


ATTEST:



Barb Smith, Town Administrator/Clerk


ADOPTED AND ORDERED PUBLISHED on this 18th day of February 2014.

TOWN OF RED CLIFF, COLORADO



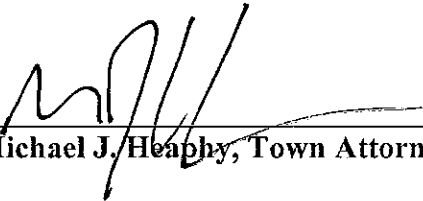
Scott Burgess, Mayor

ATTEST:



Barb Smith, Town Administrator/Clerk

APPROVED AS TO FORM:



Michael J. Heaphy, Town Attorney