



**PLANNING & DEVELOPMENT DEPARTMENT MEMORANDUM
#37-2019**

DATE: July 22, 2019
TO: Honorable Mayor Antonio B. Esquibel and City Council Members
THROUGH: Heather Geyer, City Manager 
FROM: Brook Svoboda, Director of Planning and Development 
SUBJECT: CR-84 – On-Call Contract for Nuisance Enforcement Hearing Officer

PURPOSE

To designate the Deputy Municipal Judge as a Hearing Officer for nuisance enforcement and related matters.

BACKGROUND

The attached agreement would designate the Deputy Municipal Judge as the Hearing Officer and set forth compensation and a scope of services. The nuisance regulations, Chapter 9 of the Municipal Code, contemplates a Hearing Officer to preside over abatement noticing process. The attached agreement would engage the Court's Deputy Municipal Judge to preside over the show cause hearings for abatements. This process will serve as a more timely method for carrying out abatements than the current process.

STAFF RECOMMENDATION

Staff recommends approval of CR-84.

BUDGET/TIME IMPLICATIONS

There are no budget implications with the effort; costs would be covered under the department's abatement budget. The 2019 City budget has \$20,000 appropriated for abatement.

STAFF REFERENCE

If City Council members have any comments or questions they may contact Brook Svoboda, Director of Planning and Development, at 303.450.8937.

CR-84 – On-Call Contract for Nuisance Enforcement Hearing Officer
On-Call Hearing Officer Agreement

SPONSORED BY: MAYOR ESQUIBEL

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-84
Series of 2019

Series of 2019

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND KATHRYN KURTZ FOR ON-CALL HEARING OFFICER SERVICES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Agreement between the City of Northglenn and Deputy Municipal Judge Kathryn Kurtz, attached hereto as **Exhibit A**, for on-call services to act as a hearing officer for nuisance enforcement and related matters is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Northglenn.

DATED, at Northglenn, Colorado, this _____ day of _____, 2019.

ANTONIO B. ESQUIBEL
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2019, by and between the City of Northglenn, a Colorado home rule municipality (the "City"), and Kathryn Kurtz.

RECITALS:

A. The City seeks on-call services from Kathryn Kurtz, who has previously been appointed as a Deputy Municipal Judge pursuant to Section 6.11(b)(2) of the City of Northglenn Home Rule Charter and Section 8-1-4(c) of the City of Northglenn Municipal Code; and

B. This Agreement provides for such on-call services to act as a hearing officer for nuisance enforcement and related matters.

NOW, THEREFORE, it is hereby agreed that, for the consideration hereinafter set forth, the City and Kathryn Kurtz agree as follows:

I. TERM/APPOINTMENT/SERVICES

Effective upon execution of this Agreement, Kathryn Kurtz shall provide those services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

II. COMPENSATION

Kathryn Kurtz shall be paid for services performed under this Agreement at the rate of \$75.00 per hour with a two-hour minimum payment of \$150. Judge Kurtz shall be compensated for all time actually worked, including hearing or trial time, any pre-hearing preparatory work, and post-hearing time spent preparing written orders. All invoices for services rendered shall be submitted to the City within 30 days of the services being provided, and the City shall pay all invoices within 30 days of receiving said invoices.

III. COMPLIANCE WITH LAW

Nothing herein shall be deemed to create any additional terms, conditions or obligations of employment in addition to those provided for in the City of Northglenn Home Rule Charter and the City of Northglenn Municipal Code, nor is anything herein intended to change the nature of the Deputy Municipal Judge position as an appointed position under the City of Northglenn Home Rule Charter and the City of Northglenn Municipal Code.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same as of the date first above written.

CITY OF NORTHGLENN, COLORADO


By: _____
Antonio B. Esquibel, Mayor

ATTEST:

Johanna Small, CMC, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney



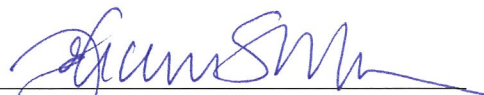
Kathryn Kurtz

STATE OF COLORADO)
) ss.
COUNTY OF Adams)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 15th day of July, 2019, by Kathryn Kurtz.

My commission expires: 10/27/2020

(S E A L)



Notary Public

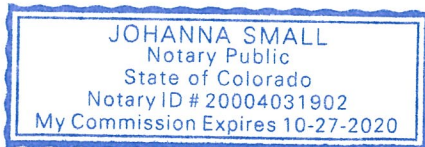


Exhibit A

SCOPE OF SERVICES

1. At the hearing Hearing Officer, shall hear such statements and consider such evidence as the inspector, the owner or occupant, or any other witness shall offer relative to the existence of and removal or elimination of the nuisance. The burden of proof is upon the City to establish that the nuisance exists on the property by a preponderance of the evidence.
 - a. If the City is seeking a continuing order, as authorized by Section 9-11-9 (a)(4)(C), evidence shall be presented establishing the public necessity for such order which evidence may include, but not be limited to, that the property subject to the order is vacant property, foreclosed property, abandoned property or property where the owner has demonstrated a pattern of repeatedly failing to comply with administrative orders.
2. The hearing shall be an administrative hearing where the strict rules of evidence shall not be adhered to and hearsay shall be admitted. However, any decision with regard to the nuisance on the property shall not be based solely on hearsay evidence.
3. The Hearing Officer shall issue an order based on the findings of fact made pursuant to the hearing either relieving the owner or occupant of any responsibility by finding that no nuisance exists on the real property, or commanding the owner or occupant to abate the nuisance within a reasonable time and thereby rehabilitating the property.
4. Any continuing order issued shall remain in effect for one year from the date of such order requiring the owner of the property to maintain the property in compliance with the specific requirements identified in the continuing order.
5. The order of the Hearing Officer, made shall be a final decision and may be appealed to the District Court pursuant to Colorado Rule of Civil Procedure 106(a)(4).
6. Failure of an owner or occupant to appeal said order constitutes a knowing waiver of any right to contest the City's order and consequential authority to abate the nuisance from the owner's property, and charge the resulting costs to the property owner.
7. If any order issued by the Hearing Officer has not been complied with, within the designated time frame contained in the order, the City, at the direction of the Hearing Officer, may cause the abatement of the nuisance as specifically identified in the order and any continuing order issued may authorize the City to eliminate such conditions so long as the order is in effect and so long as the property is owned by the same owner identified in the order.
8. Any such owner or occupant who fails to comply with an order issued by the Hearing Officer, shall be charged with all administrative costs and expenses incurred in the abatement of the nuisance. Such administrative costs shall include the cost of said abatement, inspection fees, postal charges, legal expenses, and other expenses as related to the enforcement of the order.