

RESOLUTION NO. 16-27

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "CHAPTER 5 MUNICIPAL COURT" OF THE MARICOPA CITY CODE, RELATING TO THE ESTABLISHMENT OF THE POWERS AND DUTIES OF THE MUNICIPAL COURT OF THE CITY OF MARICOPA AND AMENDING CERTAIN PROVISIONS OF SECTIONS 5-1 THROUGH 5-105 OF THE MARICOPA CITY CODE.

WHEREAS, the City Council previously adopted Ordinances which establish and enumerate the powers and duties of the Municipal Court; and

WHEREAS, staff for the City has provided some amendments to those Ordinances which clarify and confirm those powers and duties of the Municipal Court; and

WHEREAS, the City Council believes that declaring such document a public record and adopting its provisions by reference will be in the City's best interests;

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Maricopa, Arizona as follows:

That certain document known as "Chapter 5 Municipal Court" amending certain provisions of Sections 5-1 through 5-105 of the previously adopted City Code relating to the establishment of the powers and duties of the Municipal Court, is hereby declared to be a public record, and a copy shall remain on file in the office of the City Clerk of the City of Maricopa for examination by the public.

PASSED AND ADOPTED by the City Council of the City of Maricopa, Arizona this 6th day of September, 2016.

APPROVED:



Christian Price
Mayor

ATTEST:

APPROVED AS TO FORM:

Vanessa Bueras

Vanessa Bueras, CMC
City Clerk



D. M. Fitzgerald

Denis Fitzgibbons
City Attorney

CHAPTER 05 MUNICIPAL COURT

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions in General

The definitions in A.R.S. tit. 22 (A.R.S. § 22-401 et seq.) shall be applicable to this Chapter unless a term is specifically defined in this Chapter, or unless the context requires otherwise.

Secs. 5-2—5-10. Reserved.

ARTICLE II. MUNICIPAL COURT

Sec. 5-11. Established; Jurisdiction

There is established in the city a municipal court which shall have jurisdiction of all violations of this Code, and jurisdiction concurrently with justices of the peace of precincts in which the city is located of violations of state laws committed within the limits of the city.

Sec. 5-12. Presiding Judge and Other Judges of the Municipal Court

(a) The presiding officer of the municipal court and such other magistrates as deemed necessary by the council shall be appointed by the council. The presiding officer of the municipal court shall be referred to in this Chapter as the presiding judge and all other magistrates of the municipal court shall be referred to as judges. Judges may be full-time, part-time or pro tempore.

(b) In the event of a vacancy in the office of presiding judge, the council may appoint an interim presiding judge. The selection of the interim presiding judge is not required to comply with the procedures set forth in Section 5-33. The interim presiding judge shall serve until a presiding judge is appointed in accordance with this section.

(c) The presiding judge and all other judges shall serve for a term of not less than two years with the beginning and end of the term to be specified at the time of appointment. During such term, the presiding judge and other judges may be removed only for cause.

Sec. 5-13. Judicial Selection

All judges shall be selected and appointed pursuant to the procedures set forth in Article III of this Chapter.

Sec. 5-14. Powers and Duties of the Presiding Judge

The powers and duties of the presiding judge include:

(a) The powers and duties set forth and conferred upon him under the provisions of the state constitution and statutes, this Code and the ordinances and resolutions of the city.

(b) The supervision of the court clerk in the keeping of a docket in which shall be entered each action and the proceedings of the court therein.

(c) The responsibility for establishing the amount of fines, penalties, bails, bonds or fees or other monies, consistent with this Code and adopted ordinances and resolutions of the city council, and for receiving monies derived there from as provided by law and in accordance with the Administrative Office of the Courts Minimum Accounting standards and consistent with City financial policies and procedures. Fees shall include without limitation, those special purpose fees set forth in Section 5-62 of this Code.

(d) Supervising the payment of all fees, fines, penalties and other monies collected by the court to the Finance Director in accordance with state law and the Administrative Office of the Courts Minimum Accounting standards and consistent with City financial policies and procedures.

(e) Submitting a monthly report to the council summarizing court activities for that month.

(f) Preparation of a schedule of traffic and criminal violations, as provided by law listing specific bail for each violation or offense.

Sec. 5-15. Conduct of Proceedings

(a) The proceedings of the municipal court shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to police or magistrate courts. The proceedings shall also be conducted in accordance with the Arizona Rules of Criminal Procedure, unless otherwise prescribed, and providing this Code and resolutions of the city are not in conflict therewith.

(b) The municipal court proceedings shall be commenced as provided by law or by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.

(c) If the judge is satisfied that the offense complained of has been committed by the person charged, the judge shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the judge may subpoena and examine witnesses as to the truth of the complaint.

Sec. 5-16. Juries

(a) The formation and summoning of juries in municipal court shall be done in the same manner as provided for by law in courts of record.

(b) Selection of potential jurors shall be made from the list of registered voters furnished by the county recorder pursuant to A.R.S. § 21-101(6) and those holding valid Arizona driver's licenses.

(c) Each juror shall be paid by the city for each day's attendance upon the municipal court in accordance with state law.

Sec. 5-17. Hearing Officers

(a) *Civil traffic violations hearing officer.* The presiding judge may appoint one or more civil traffic hearing officers to preside over civil traffic violation cases when, in the opinion of the presiding judge, the appointment of such hearing officers is necessary to ensure prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the presiding judge. All civil traffic hearing officers shall have successfully completed the Civil Traffic Hearing Officer training course conducted by the Administrative Office of the Courts of the Supreme Court of the State of Arizona.

(b) *Zoning civil hearing officer.* The presiding judge may appoint one or more civil hearing officers to hear and decide matters related to violations of the zoning code, as set forth in Section 512.06 of the City of Maricopa Zoning Code.

(c) *Appeals.* A decision of a hearing officer is appealable to the superior court pursuant to A.R.S. Title 22, Ch.2, Art. 4 (A.R.S. § 22-261 et seq.).

Secs. 5-18—5-30. Reserved

ARTICLE III. APPOINTMENT OF JUDGES OF THE MUNICIPAL COURT

Sec. 5-31. Applicability

This Article shall apply to the appointment of full-time and part-time judges and judges pro tempore of the Maricopa Municipal Court.

Sec. 5-32. Qualifications of Judges of the Municipal Court

(a) The qualifications of judges for the municipal court shall be as follows:

(1) For the position of presiding judge, each applicant shall be a member in good standing of the State Bar of Arizona;

(2) For the position of judge of the municipal court, each applicant shall be either (i) a member in good standing of the State Bar of Arizona or (ii) hold a masters degree from an accredited college or university and have at least two years' court experience within the State of Arizona;

(3) For the position of judge pro tempore, each applicant shall be a member in good standing of the State Bar of Arizona.

(b) All applicants for judicial positions for the municipal court shall successfully complete a background check and a pre-employment drug screening test administered by the personnel department prior to final appointment.

Sec. 5-33. Selection Process--Presiding Judge

The council shall appoint, following any such process that shall from time to time be adopted by the council, the presiding judge. Anyone so appointed shall meet the minimum qualifications enumerated in this Article.

Sec. 5-34. Selection Process—Full or Part-time Judges of the Municipal Court

The council shall appoint, following any such process that shall from time to time be adopted by the council, full or part-time judges of the court. Anyone so appointed shall meet the minimum qualifications enumerated in this Article.

Sec. 5-35. Selection Process—Judges Pro Tempore

The council may appoint, upon recommendation of the presiding judge, a number of judges pro tempore necessary to fulfill the needs of the court. Anyone so appointed shall meet the minimum qualifications enumerated in this Article.

Secs. 5-36—5-50. Reserved

ARTICLE IV. ESTABLISHMENT OF FEES FOR SERVICES PROVIDED BY THE MUNICIPAL COURT

Sec. 5-51. Establishment of Fees

In order to defray the costs of various municipal court services, the fees set forth in this Article may be assessed and collected from certain persons using municipal court services. The fees assessed are and shall at all times be reasonably calculated to recover, on average, all or part of the costs and expenses associated with each service provided or undertaken on behalf of the person assessed fees.

Sec. 5-52. Assessment and Collection of Fees

The municipal court may assess and collect fees as provided for in this Article. Unless otherwise specified herein, or required by state law, the fees assessed under this Article shall become part of the City's general fund. All fees assessed against a person constitute a debt of the person and may be collected by the City of Maricopa. In addition to any other remedies which may be allowed by law, the city attorney is authorized to institute any appropriate civil suit in a court of competent jurisdiction for recovery of the fees referred to in this Article.

Sec. 5-53. Penalties and Assessments

In each case where required by state law, there shall be imposed on the fees imposed in this Chapter a penalty or other assessment in an amount equal to the amounts required to be collected pursuant to Arizona Revised Statutes Sections 12-114.01, 12-116, 12-116.01, 12-116.02, and 16-954(C), as may each be amended or superceded from time to time, as well as any other statutes, ordinances or other laws which may be added or revised by the Arizona Legislature, Pinal County or any other governing body relating to the imposition of such surcharges.

Sec. 5-54. Authority to Waive Fees

The judge may waive all or a portion of the fees established by this Article when, in the judge's opinion, such waiver would be in the interest of justice. A finding that the person is indigent and has no anticipated future source of funds from which the fee(s) may be paid would support waiver of all or part of the fees in the interest of justice.

Sec. 5-55. Case Processing Fee

For each case involving a criminal, criminal traffic, or civil traffic offense, the municipal court shall assess each person a Case Processing Fee of not more than \$20 for each case in which there is an adjudication adverse to the person in that matter. For purposes of this Section, adverse adjudication shall include any and all determinations of guilt or responsibility including "no contest" pleas in criminal matters, irrespective of the punishment or penalty imposed by the city judge.

Sec. 5-56. Warrant Issuance Administrative Fee

When the municipal court issues a warrant for failure to appear, non-compliance with any court order, failure to pay a fine, failure to pay restitution, or failure to pay any other fees or penalties, the judge may impose an administrative fee of not more than \$75 upon the person for whom the warrant is issued. This fee shall be added to the sum or sums set forth in the warrant.

Sec. 5-57. Defense Appointment Fee

The municipal court may assess each person who receives the services of a court-appointed defense attorney and against whom an adjudication of guilt, including pleas of no contest, is entered, a defense appointment fee. The amount of the fee is at the discretion of the judge, who shall consider the nature, complexity and seriousness of the charges and services provided by the court-appointed defender, as well as the financial condition of the person.

Sec. 5-58. License Reinstatement Processing Fee

The judge may assess a license reinstatement processing fee of not more than \$50 for processing requests for license reinstatement for those persons whose licenses were suspended, revoked or cancelled due to failure to comply with a lawful order of the municipal court.

Sec. 5-59. Default Fee

In any civil violation or civil traffic matter where a default is entered against a person for failure to timely appear and defend or plead to the charge, a default processing fee of \$25 may be imposed against the person.

Sec. 5-60. Jail Cost Recovery Fee

The municipal court may order a person who is convicted of a misdemeanor offense and who is sentenced to a term of incarceration to reimburse the city for the incarceration costs. The court may determine the amount of incarceration costs to be paid based on the following factors:

- (a) The per diem per person cost of incarceration incurred by the political subdivision that incarcerates the person.
- (b) The person's ability to pay part or all of the incarceration costs.

Sec. 5-61. Deferred Prosecution and Probation Fee

In addition to other fees established in this Article, a Deferred Prosecution and Probation Fee may be imposed on each criminal case for which the court defers prosecution of an offense or places an offender on probation for a criminal offense. The amount of the Deferred Prosecution and Probation Fee in each case, may not exceed \$150 for each case, and shall be determined by the judge who will base this determination upon the level of administrative services expected to be provided by the court or the city as a result of the deferred prosecution or period of probation.

Sec. 5-62. Court Enhancement Fund

- (a) There is created a court enhancement fund, which shall be used exclusively to enhance the technological, operational and security capabilities of the municipal court, including, but not limited to, the operation of the judicial collection program.
- (b) Pursuant to Section 5-14 of this Code and A.R.S. § 22-404(e), the court enhancement fund may be funded by the assessment of following fees:

- (1) *Security fee.* A fee may be assessed to cover the costs of providing, staffing, servicing, and maintaining magnetic, electronic, or other security devices, and such other costs associated with or incidental to providing a court security system for the benefit of employees and the public. The security fee shall not exceed five percent (5%) of the base fine or civil sanction imposed by the court.

- (2) *Resource protection fee.* A resource protection fee shall be assessed to cover administrative costs incurred as a result of the unnecessary expenditure of otherwise available resources on account of unreasonable delay, prolongation or duplication occasioned by litigants. The resource protection fee shall be in an amount of not more than actual costs involved, not to exceed \$1,000.00 per event, and may be assessed against litigants and/or their attorneys, but shall not be assessed against the state or any attorney appearing on behalf of the state. This fee shall not exceed actual costs involved and is intended to include, without limitation, the following:

- (i) In the case of a plea to the court on the day of a scheduled jury trial, the fees may include all jury related costs including but not limited to (1) fees paid to jurors who actually appeared for the jury trial, and (2) mailing costs incurred by the court to summon the jurors for that trial;

- (ii) In the case of a plea to the court on the calendar call day which falls within the week of the scheduled jury trial, the fees shall be limited to the actual cost of the court to summon the jurors for that case.

Court enhancement fees shall be deposited in a separate agency account for the court enhancement fund and shall only be used for the budgeted purposes as authorized by the presiding judge.

Secs. 5-63—5-99. Reserved

ARTICLE V. HOME DETENTION AND CONTINUOUS ALCOHOL MONITORING PROGRAM

Sec. 5-100 Home Detention and Continuous Alcohol Monitoring

If a person is sentenced to jail confinement by the Municipal Court, the Court may substitute home detention or continuous alcohol monitoring or both for a portion of the jail term as provided in this Article.

Sec. 5-101 Eligibility

A person is not eligible for home detention or continuous alcohol monitoring if any of the following apply:

- A. The person is found to constitute a risk to himself/herself or other members of the community.
- B. The person has a past history of violent behavior.
- C. The sentencing judge states at the time of the sentence that the person may not be eligible for home detention or continuous alcohol monitoring.

Sec. 5-102 Violation of A.R.S. §28-1381 or §28-1382

- A. If a person is sentenced under A.R.S. §28-1381(I), the person must first serve a minimum of one day in jail before being placed under home detention or continuous alcohol monitoring.
- B. If a person is sentenced under A.R.S. §28-1381(K) or A.R.S. §28-1382(D) or (E), the person must serve a minimum of twenty percent of the initial term of incarceration in jail before being placed under home detention or continuous alcohol monitoring.

Sec. 5-103 Monitoring

A person placed under home detention shall be subject to the following:

- A. Electronic monitoring in the person's home and shall be required to remain at home during the hours specified by the Court.
- B. Any other form of electronic or geographic monitoring that would advise the Court of the person's location.
- C. If a person attends educational classes in the State of Arizona or is employed within the State of Arizona, the Court may permit the person to attend classes or leave home for employment during specified hours. The Court, or its designee, may permit the person to attend religious services, funerals or seek medical care.
- D. Testing for the use of alcohol or drugs at such frequencies as determined by the Court and participation in an alcohol or drug treatment program approved by the Court.
- E. For persons sentenced under A.R.S. §28-1381 or A.R.S. §28-1382, may be tested for the use of alcohol or drugs at least once a day in a manner approved by the Court. This testing shall be at the expense of the person.

- F. For persons sentenced under A.R.S. §28-1381 or A.R.S. §28-1382, participation in an alcohol or drug treatment program, or both, is required.
- G. Restrictions on association with individuals that the Court has determined to be detrimental to the person's successful completion of the home detention program.
- H. Compliance with all other conditions imposed by the Court at sentencing.
- I. Compliance with any other provisions that the Court may impose pursuant to A.R.S. §9-499.07.

Sec. 5-104 Fees; Requirements

- A. A person under home detention or continuous alcohol monitoring shall be required to pay the full cost to the provider of electronic monitoring, alcohol and drug testing, plus an amount not more than \$100.00 per month payable to the Court. The fee shall be paid on a monthly basis in advance of the month of participation. The Court may assess a lesser amount based on the person's ability to pay.
- B. The Court shall obtain private provider services for electronic monitoring, drug and alcohol testing reporting and verification of compliance. The costs of any such service provider, together with an administrative surcharge not to exceed ten percent, and the cost of the home detention and electronic monitoring program may be assessed against the person and payment shall be a condition of participation in the program.
- C. The Court may require a person under home detention to participate in community service work or impose other reasonable requirements or restrictions the Court deems necessary.
- D. The Court may condition a person's participation in home detention or continuous alcohol monitoring upon the participant being employed or a full-time student and remaining in employment or school while participating in the program. The person participating in the home detention or continuous alcohol monitoring program must provide written proof of their work and/or school hours to the Court or its designee.
- E. A person under home detention or continuous alcohol monitoring shall not tamper, remove or otherwise interfere with an electronic monitoring device. To do so may constitute a class 4 felony and would subject that person to criminal prosecution pursuant to the Arizona Revised Statutes, including but not limited to, A.R.S. §13-3725. In addition, any loss or malicious damage caused to an electronic monitoring device could subject a person to criminal prosecution pursuant to the Arizona Revised Statutes, including but not limited to, A.R.S. §13-1602 and A.R.S. §13-1802.

Sec. 5-105 Termination of Participation in the Program

- A. The Court may terminate a person's home detention or continuous alcohol monitoring and require the person to complete the remaining term of any jail sentence by jail confinement if the person: (1) fails to pay the required fees for participation in home detention or continuous alcohol monitoring; (2) fails to

successfully complete a Court ordered alcohol or drug screening, counseling, education and treatment program; (3) the Court finds that the person left the approved location without permission of the Court or its designee during a time that the person was ordered to be at the location; or (4) the Court finds that the person tampered, removed, damaged or otherwise interfered with the electronic monitoring device.

- B. The Court may terminate a person's home detention or continuous alcohol monitoring at any other time for any reason and, if terminated, may require the person to complete the remaining term of any jail sentence by jail confinement.
- C. If the City Council terminates home detention and continuous alcohol monitoring, then a person's participation in home detention or continuous alcohol monitoring shall terminate on the effective date of the termination of the home detention and continuous alcohol monitoring program.