

ORDINANCE NO. 16-809

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE TOWN CODE OF THE TOWN OF CHINO VALLEY, ARIZONA, TITLE III: ADMINISTRATION, CHAPTER 34: MUNICIPAL COURT, SUBCHAPTER MUNICIPAL COURT FEES, BY AMENDING SECTIONS 34.20: AUTHORITY TO SET FEE AMOUNTS, 34.21 ESTABLISHMENT OF FUNDS AND ALLOCATION OF FEES, AND 34.22 ESTABLISHMENT OF COURT FEES RELATED TO UPDATING THE MUNICIPAL COURT FEES BY REVISING THE NOTICE REQUIREMENTS TO COMPLY WITH STATE LAW, ESTABLISHING NEW FEES AND ELIMINATING SOME EXISTING FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. In General.

The Town Code of Chino Valley, Arizona, Title III: Administration, Chapter 34: Municipal Court, Subchapter Municipal Court Fees, Section 34.20 Authority to Set Fees is hereby amended to read as follows (additions shown in ALL CAPS; deletions shown in ~~strikeout~~):

§ 34.20 Authority to Set Fee Amounts.

(A) *Presiding magistrate to set and submit to Council.* The amount to be charged by Municipal Court for all fees set forth in this ~~section~~CHAPTER is to be set by the Presiding Magistrate of the Municipal Court and submitted by resolution to the Town Council for approval. Fees can not be changed more often than every six months.

* * *

(C) *Automatic annual adjustment.* On July 1 of each year, commencing in 2007, the amount of the Municipal Court fees to be paid to the town pursuant to this section shall be increased by the percentage change in the annual average of the *Engineering News Record* (ENR) index between the prior 2 calendar years. The Finance Director shall make the required calculation by April 1 of each year, and the amount of the Municipal Court fees for the next 12-month period, beginning July 1 of that year, as calculated by the Finance Director based upon such calculation, without the necessity of further action by the Council. In no event shall the amount of the Municipal Court fees be reduced based upon a change in the ENR index. No later than 3060 days ~~after~~prior to the Municipal Court fees ~~are~~BEING adjusted each year as provided in this section, the Town Clerk shall cause THE PROPOSED FEES to be ~~published~~POSTED

ON THE TOWN'S HOME PAGE a public notice setting forth the amount of the adjusted Municipal Court fees. Such notice shall be published 1 time in a newspaper of general circulation in the town, provided, however, that the failure of the Clerk to cause such notice to be published shall not affect the validity of the adjustment to Municipal Court fees as made by the Finance Director pursuant to this section. In the event the ENR index information for the prior calendar years is unavailable by April 1, the Municipal Court fees as previously fixed for the prior fiscal year (July 1 to June 30) shall continue in effect until such time as the ENR index for the prior year is available; and the Finance Director makes the required calculation; AND THE PROPOSED FEES ARE POSTED ON THE TOWN'S HOME PAGE FOR AT LEAST 60 DAYS PRIOR TO BECOMING EFFECTIVE.

The Town Code of Chino Valley, Arizona, Title III: Administration, Chapter 34: Municipal Court, Subchapter Municipal Court Fees, Section 34.21 Establishment of Funds and Allocation of Fees is hereby amended to read as follows (additions shown in ALL CAPS; deletions shown in strikeout):

§ 34.21 Establishment of Funds and Allocation of Fees.

* * *

(B) Municipal Court Collection Account. There is hereby established a Municipal Court Collection Account, which shall be used exclusively to enhance the technological, operational, and security capabilities of the Municipal Court collection program. The Court Collection Account shall be established as an interest bearing account in accordance with town policies and procedures. The Municipal Court shall collect probation client, Municipal Court time payment, warrant, AND suspension SUSPEND LICENSE, and house arrest fees as defined in this section SET FORTH IN SECTION 34.22 OF THIS CODE and deposit them in the court collection account on a monthly basis.

~~(C)~~ Jail reimbursement fee. All jail reimbursement fees shall be distributed to the Yavapai County jail district to defray expenses incurred from defendants in custody.

~~(D)~~(C) Traffic case processing fee. All such fees shall be distributed to the town's General Fund.

~~(E)~~(D) Allocation of fees. All current and future fees not designated to be deposited in a specific account, as defined in this section, are to be included in the court's monthly remittance to the town's general account as reimbursement for costs of court operations.

The Town Code of Chino Valley, Arizona, Title III: Administration, Chapter 34: Municipal Court, Subchapter Municipal Court Fees, Section 34.22 Establishment of Court Fees is hereby amended to read as follows (additions shown in ALL CAPS; deletions shown in strikeout):

§ 34.22 Establishment of Court Fees.

(A) The following fees are hereby established to be collected by the Municipal Court:

~~(A)~~ Jail reimbursement fee. Any person who has been convicted of a misdemeanor criminal offense in the Municipal Court and sentenced to a term of

~~incarceration in the county jail, or any other detention facility authorized by law and approved by the court, as a part of any fine imposed by the Municipal Court in connection with the sentencing, may be required to reimburse the county for all or any part of the actual expenses the town has or will incur to the county or other authorized detention authority by reason of the incarceration. The maximum amount ordered for reimbursement under this section shall not exceed the number of days the misdemeanor is actually incarcerated in the county jail or detention facility, multiplied by the prevailing per diem rate, plus the booking fee, charged to the county at the time that the misdemeanor is incarcerated.~~

~~(B)(1) *Court improvement fee.* The Municipal Court shall collect a court improvement fee which shall be applied by the Municipal Court on TO each case in which fines, sanctions, penalties, and assessments are imposed by the Municipal Court. The improvement fee shall also apply to fees collected for court authorized diversion programs. "Court Authorized Diversion Program", as used in this section, means a program in which an individual charged with any civil, criminal, or petty offense is not prosecuted for the offense on successful completion of an authorized diversion program and includes authorized defensive driving courses.~~

~~(C) *Probation client fee.* Any person who has been convicted of a criminal misdemeanor, petty offense, or local code violation in the Municipal Court and sentenced to a term of probation, may, as part of any fine imposed by the Municipal Court in connection with the sentencing, be required to pay a user fee to the town to help defray the cost of probation services as provided by the Municipal Court. The minimum amount ordered for reimbursement on summary or supervised probation under this section shall be established on a per month basis for each month or part thereof that the defendant is sentenced to probation.~~

~~(D)(2) *Warrant fee.* The Municipal Court shall collect a warrant fee SHALL BE IMPOSED for each warrant issued by the court. Any person who has a warrant issued by the court for failure to appear, failure to comply with a court order, or any other warrant from the bench shall be required to pay this fee to the town for the cost of issuing and servicing the warrant.~~

~~(E)(3) *SuspensionSUSPENDED LICENSE fee.* The Municipal Court shall collect a suspensionA SUSPENDED LICENSE fee SHALL BE IMPOSED for each suspension on a driver's license SUSPENSION issued by the court. Any person who has had a suspension issued by the court for failure to pay a civil traffic fine or for any other reason shall be required to pay this fee to the town for the cost of issuing and servicing the suspension. This fee shall be applied to each suspension issued.~~

~~(F) *Municipal Court time payment fee.* The Municipal Court shall collect a Municipal Court time payment fee for each time payment plan that is issued by the court. Any person who has had a time payment plan issued by the court for failure to pay a civil or criminal fine on the date of the imposition of said fine shall pay this fee to the town for the cost of issuing and servicing the time payment plan. This fee shall be applied to each time payment plan issued.~~

~~(G) — *Debit card transaction fee.* The Municipal Court shall collect a debit/credit card transaction fee for each time a debit/credit card is used to pay any payment to the Municipal Court. Any person who uses a debit/credit card to pay any payment shall be required to pay this fee to the town for the cost incurred by the Court in processing a debit/credit card payment. This fee shall apply to each debit/credit card transaction.~~

~~(H) — *House arrest fee.* The Municipal Court shall collect a house arrest fee for each house arrest order issued and implemented by the Court. Any person ordered to participate in the house arrest program shall be required to pay to the town the cost of implementing and monitoring the house arrest. This fee shall apply to each house arrest order and implementation. This fee shall be in addition to any fees and costs assessed by the house arrest service provider.~~

~~(4) *Traffic case processing fee.* The Municipal Court shall collect a traffic case processing fee, in addition to the fine imposed by the Court, upon the finding of responsibility or guilt for a traffic violation. For purposes of this section, "Traffic Violation" means a violation of Title VII of this code of ordinances, entitled "Traffic Code," relating to traffic movement or control; or Arizona Revised Statutes, Title 28, as follows: (i) Chapter 3, Articles 1-15; (ii) Chapter 4; (iii) Chapter 5; (iv) Chapter 7, Article 5; (v) Chapter 8, Articles 4, 6 and 8; (vi) Chapter 9, Article 4; or (vii) Chapter 25, Article 3, except for federal licensing, registration and insurance disclosure requirements pursuant to A.R.S. §§ 28-8271, 28-8272 and 28-8275, as may be amended from time to time. The Court shall impose a single traffic case processing fee per case, regardless of the number of traffic violations arising out of any one case or complaint.~~

(4) *NSF SERVICE FEE.* AN NSF SERVICE FEE SHALL BE APPLIED TO ANY PERSON WHO ISSUES A CHECK TO THE COURT IN PAYMENT OF A FEE OR FINE WHERE THE CHECK IS RETURNED BY THE FINANCIAL INSTITUTION FOR INSUFFICIENT FUNDS

(5) *RESEARCH FEE.* A RESEARCH FEE SHALL BE REQUIRED OF ANY PERSON WHO REQUESTS EXTENSIVE RECORDS SEARCHES AND CASE FILE COPYING WHO IS NOT A VICTIM OF THE CRIME ALLEGED BY THE CASE OR COMPLAINT FOR WHICH HE IS REQUESTING RECORDS. THE FEE SHALL BE PAID PRIOR TO THE PERSON RECEIVING THE RECORDS REQUESTED UNLESS PRIOR ARRANGEMENTS HAVE BEEN MADE WITH THE COURT ADMINISTRATOR DUE TO EXTENUATING CIRCUMSTANCES.

(6) *CASE FILE COPIES FEE.* A CASE FILE COPIES FEE SHALL BE CHARGED TO ANY PERSON WHO IS A NON-PARTY TO A LAWSUIT WHO REQUESTS A COPY OF THE CASE FILE. THE CASE FILE COPIES FEE SHALL BE PER PAGE OF COPIES PROVIDED.

(7) *DEFERRED PROSECUTION FEE.* A DEFERRED PROSECUTION FEE SHALL BE ASSESSED ON EVERY DEFENDANT WHO ENTERS A DEFERRED PROSECUTION AGREEMENT WITH THE MUNICIPAL COURT.

(8) *SUSPENDED SENTENCING FEE.* WHEN A PERSON'S SENTENCE IS SUSPENDED BY THE COURT, THE PERSON SHALL PAY TO THE COURT A SUSPENDED SENTENCING FEE.

(9) *INDIGENT DEFENSE FEE.* AN INDIGENT DEFENSE FEE SHALL BE ADDED BY THE COURT TO SENTENCING TERMS WHEN A DEFENDANT IS REPRESENTED IN COURT BY A PUBLIC DEFENDER.

~~(J)~~(B) If a person has been found by the Municipal Court to be indigent, the Municipal Court Magistrate may reduce the amount of any fee set forth in this section based upon the individual's ability to pay.

~~(K)~~(C) In addition to any other remedies which may be allowed by law, the Town Attorney is authorized to institute civil legal proceedings in any court of competent jurisdiction to recover any fee owing under this section.

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section 3. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 26th day of January, 2016 by the following vote:

AYES: 7
NAYS: 0

ABSENT: 0
ABSTAINED: 0

APPROVED this 26th day of January, 2016.


Chris Marley, Mayor

ATTEST:

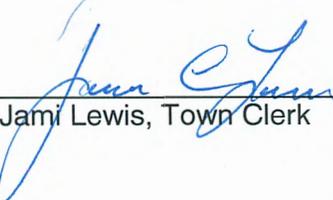

Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:



Phyllis L.N. Smiley, Town Attorney

I, JAMI LEWIS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 16-809 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF CHINO VALLEY ON THE 26th DAY OF JANUARY, 2016, WAS POSTED IN THREE PLACES ON THE 28th DAY OF JANUARY, 2016.



Jami Lewis, Town Clerk