

ORDINANCE NO. 11-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 5, MUNICIPAL COURT, BY CREATING A NEW ARTICLE 5-8, ADMINISTRATIVE COSTS, RELATED TO CHARGING ADMINISTRATIVE COSTS ASSOCIATED WITH CERTAIN VIOLATIONS.

WHEREAS, the Town of Fountain Hills (the "Town") is empowered by the Constitution and laws of the State of Arizona to exercise jurisdiction over certain civil matters and criminal misdemeanors; and

WHEREAS, in carrying out its duties, the Town's Municipal Court (the "Court") requires certain administrative tasks to be performed by the Maricopa County Sheriff's Office ("MCSO"); and

WHEREAS, the costs for MCSO to carry out these administrative tasks is included in the Town's intergovernmental agreement with MCSO for law enforcement services; and

WHEREAS, the Mayor and Council of the Town of Fountain Hills have determined that it is in the best interests of the Town that certain administrative costs should be recovered from persons convicted of certain offenses in the Court.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Fountain Hills Town Code, Chapter 5 (Municipal Court), is hereby amended by adding a new Article 5-8 (Administrative Costs), which reads as follows:

Article 5-8 Administrative Costs

The Town Council may establish a schedule of administrative charges to be assessed upon persons convicted of certain violations of law, as set forth in this Article, within the jurisdiction of the Town's municipal court. The schedule of charges shall be adopted as part of the Town's annual budget or by separate resolution.

Section 5-8-1 Assessment of administrative charge on persons convicted of violations of ARIZ. REV. STAT. § 28-1381 *et seq.*

- A. A person convicted in the Town's municipal court of a violation of ARIZ. REV. STAT. § 28-1381 *et seq.*, either after trial or pursuant to plea agreement, shall be assessed an administrative charge to cover all or part of the administrative costs and expenses directly incurred by the Town's law enforcement entity in the investigation of violations of ARIZ. REV. STAT. § 28-1381 *et seq.* The

administrative charge constitutes a debt of the person, and may be collected by the Town.

- B. The Town's municipal court shall assess and collect the administrative charge on behalf of the Town. The court shall set forth the requirement and amount of the administrative charge as a separate item in all orders and judgments, and not as part of any sentence or probation conditions imposed by the court in the criminal case.
- C. No person whom the Town's municipal court finds to be indigent shall be required to pay the monetary charge authorized in this section. If the court finds that a person is able to pay only a portion of the administrative charge as calculated pursuant to subsection 5-8-1(D) below, the court may waive that portion that the court finds the person is unable to pay.
- D. The Town's chief law enforcement officer shall, on a periodic basis, determine the amount of costs and expenses, including but not limited to officer salaries, directly incurred by the Town's law enforcement agency in the investigation of violations of ARIZ. REV. STAT. § 28-1381 *et seq.*, as amended, and set the administrative charge to be assessed against each convicted person at an amount reasonably calculated to recover all or part of those costs and expenses, but in no event to exceed the average amount of such costs and expenses per case. The calculated amount shall not include costs and expenses for officer testimony given during discovery, at a hearing or at trial. The Town's chief law enforcement officer shall communicate the result of the administrative charge calculation to the Town's municipal court.
- E. The administrative charge collected by the Town's municipal court shall be deposited in the Town's general fund.
- F. In addition to any other rights and remedies available to the Town, the Town Attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the administrative charge authorized under this section.
- G. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed, except that this section shall not apply in any case where the convicted person caused an accident that resulted in an appropriate emergency response, thereby making ARIZ. REV. STAT. § 28-1386 *et seq.*, as amended, applicable. It is the intent of the Mayor and Council that this section supplement the provisions of ARIZ. REV. STAT. § 28-1386 *et seq.*, as amended, in cases where that statute is not applicable, and that ARIZ. REV. STAT. § 28-1386 *et seq.*, as amended, control in the event of any actual conflict between it and this section.

H. The administrative charge provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any sentence or probation conditions imposed by the Town's municipal court in the criminal case.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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 of this Ordinance.

SECTION 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, June 16, 2011.

FOR THE TOWN OF FOUNTAIN HILLS:



Jay T. Schlum, Mayor

ATTESTED TO:



Bevelyn J. Bender, Town Clerk

REVIEWED BY:



Richard L. Davis, Town Manager

APPROVED AS TO FORM:



Andrew J. McGuire, Town Attorney