

Chapter 5

MUNICIPAL COURT

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Article 5-1

MUNICIPAL COURT ESTABLISHED; JURISDICTION

There is hereby established in the town a court which shall be called the "Town Municipal Court" and which shall have jurisdiction of all cases arising under town ordinances and this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town, to the extent provided by state statute.

Article 5-2

OFFICERS, POWERS AND DUTIES

Sections:

- 5-2-1 Presiding Judge**
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- Section 5-2-1 Presiding Judge**

The presiding officer of the town municipal court shall be the presiding judge, who shall be appointed by the council for an initial term of two years with subsequent terms of four years with the beginning and end of the term to be specified at the time of appointment. During such term, the judge may be removed only for cause. The presiding judge shall control the calendar, supervise the activities of the court administrator and make all sitting assignments for the pro tem judges. The presiding judge shall serve for such salary or other compensation as the council may determine. The presiding judge shall be an attorney licensed to practice in the State of Arizona, with at least five (5) years experience in private practice or on the bench.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-2-2 Associate Pro Tem Judge

The office of associate pro tem judge is hereby created. The associate pro tem judges shall be appointed by the presiding judge to serve at the pleasure of the presiding judge and to perform the duties of the presiding judge in the absence of the presiding judge. The associate pro tem judges may serve for such salary or other compensation as the council may determine.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-2-3 Substitute Judge

The office of substitute judge is hereby created. The individual serving as justice of the peace in the precinct in which the town hall is located may serve as substitute judge in all cases where the presiding judge and all associate judges are unable or unwilling to act and where requested to so serve by the presiding judge.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-2-4 Powers and Duties of the Presiding Judge

The powers and duties of the presiding judge shall include:

- A. The powers and duties set forth and conferred upon the judge under the provisions of the state constitution and statutes, this code and the ordinances and resolutions of the town.

- B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein.
- C. The responsibility for setting and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.
- D. Payment of all fees, fines, penalties and other monies collected by the court to the town, in accordance with a schedule established by the town manager.
- E. Submitting a monthly report to the council summarizing court activities for that month.
- F. Preparation of a schedule of traffic violations, not involving the death of a person, listing specific bail for each violation.
- G. Serve as juvenile hearing officer if appointed by the presiding judge of the juvenile court for Maricopa County.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-2-5 Hearing Officers

The council may appoint one or more hearing officers to preside over civil traffic violation cases when, in their opinion, the appointment of such hearing officers is necessary to assure prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases which are appealable to the superior court. Hearing officers shall be supervised by the presiding officer of the town municipal court.

Section 5-2-6 Relationship of Town Municipal Court with Appointing and Funding Authority

Because of the relationship between the town and the town municipal court, town judges must exercise care to insure that the adjudication process remains free from the influence of any person or institution having responsibility for judicial appointments or funding. While any judge may listen to the counsel of others, decisions regarding the resolution of a particular case must be made by the judge in the exercise of a free and unfettered judgment. Decisions regarding the overall function of the court are the sole responsibility of the presiding judge. The authority of the presiding judge for making decisions regarding the overall function of the court applies to decisions concerning handling of court mail and records, hiring, supervision, discipline and dismissal of court personnel. Decisions regarding hiring, supervision and dismissal of court personnel must be consistent with municipal personnel policy. Personnel rules adopted by the town for employment, grievance procedures, termination, sick leave, overtime, vacation time and other items are applicable to employees of the town municipal court. In employing additional personnel, the existing town personnel procedures shall be followed. The presiding judge shall have exclusive supervisory authority over all court personnel. However, non-judicial functions, such as custodial and maintenance services assigned to the town municipal court may be performed by employees or contractors working under the supervision and authority designated by the town council.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-2-7 Court Revenue

The presiding judge should not permit anyone to control or influence the discretionary amount of any fine, penalty or sanction imposed. Under the direction of the presiding judge, the court shall collect all fines, sanctions, restitution and bond payments imposed by the court. Because all monies coming into the possession of the town municipal court are public monies, these funds shall be handled and accounted for in accordance with state law and procedures adopted by the town council.
(Ordinance 02-03, Amended, 03/21/2002)

Article 5-3

PROCEEDINGS OF COURT

Sections:

- 5-3-1 Proceedings**
- 5-3-2 Admission to Bail**
- 5-3-3 Jury Trials**

Section 5-3-1 Proceedings

- A. The proceedings of the town municipal court shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to justice of the peace or town municipal courts. The proceedings shall also be conducted in accordance with the rules of procedure in civil traffic cases and the rules of criminal procedure, including the provisions thereof regarding bail, issuance of subpoenas, summons and warrants, and punishment for disobedience thereof, so far as applicable and when not otherwise prescribed.
- B. The town municipal court proceedings for violations of this code and town ordinances shall be commenced by complaint under oath and in the name of the state setting forth the offense charged, with 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 there exists probable cause to believe that the offense complained of has been committed by the person charged, he 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.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-3-2 Admission to Bail

Defendants, after arrest and before conviction, shall be admitted to bail, if bailable, and the rules of criminal procedure shall govern the release of all defendants, wherever applicable.

Section 5-3-3 Jury Trials

- A. The right of trial by jury shall be granted in all cases of such a nature as are triable before a jury under the constitution and laws of the state, but not for violation of ordinances of such a nature as by common law were not triable by a jury.
- B. Each juror for every day's attendance in the town municipal court shall be paid a sum fixed by the council.
- C. The formation, summoning, drawing and disposition of names and impaneling of juries in the town municipal court shall be done in the same manner as in courts of record.
- D. Selection of potential jurors shall be made from the list furnished by the county jury commissioner's office.

(Ordinance 02-03, Amended, 03/21/2002)

Article 5-4

TOWN PROSECUTOR; COMPENSATION AND DUTIES

The council shall appoint a chief prosecutor and one or more associate prosecutors to serve at the pleasure of the council, and the compensation of each prosecutor shall be as determined by the council. The prosecutor's duties will be to represent the state or the town in contested matters where the defendant is represented by counsel or in cases where the prosecutor's participation is requested by the council or one of the town officers, and to assist the presiding magistrate and the court clerk in the proper functioning of the town municipal court, as requested by the presiding magistrate with the approval of council.

Article 5-5

COURT EMPLOYEES

Sections:

5-5-1 Appointment and Compensation

5-5-2 Duties of Court Administrator

5-5-3 Court Services Specialists

Section 5-5-1 Appointment and Compensation

The town municipal court shall have a court administrator appointed by the presiding judge. The court administrator shall be an employee of the town and shall serve at the pleasure of the presiding judge. Compensation of the court administrator shall be established by the council and be comparable with other employees of a similar class.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-5-2 Duties of Court Administrator

The duties of the court administrator are the following, subject to the overall supervision of the presiding judge with regard to their performance:

- A. Accept and file all summons, complaints, pleadings, motions, records, judgments and other documents presented to, or issued by, the town municipal court in the exercise of its jurisdiction.
- B. Prepare and maintain the court's dockets, calendar and other records of its proceedings.
- C. Issue any town court process.
- D. Receive and collect all funds in payment of fines, bail and costs, and to deposit, disburse and account for the same as required by state statute or court rules.
- E. Prepare of all statistical and other reports required to be maintained or filed by the town municipal court.
- F. Perform such other services as may be directed by the judge in the exercise of the town municipal court's jurisdiction.
- G. Furnish all secretarial services required in the exercise of the jurisdiction of the town municipal court.

(Ordinance 02-03, Amended, 03/21/2002)

Section 5-5-3 Court Services Specialists

The presiding judge may appoint one or more court services specialists, who, subject to the supervision of the presiding judge, may perform the duties of the court administrator when the court administrator is unavailable to do so.

(Ordinance 02-03, Amended, 03/21/2002)

Article 5-6

PUBLIC DEFENDER

The public defender shall be appointed by the presiding magistrate and be compensated as determined by the magistrate.

Article 5-7

HOME DETENTION AND ELECTRONIC MONITORING

Sections:

5-7-1 Home Detention and Electronic Monitoring

Section 5-7-1 Home Detention and Electronic Monitoring

- A. To the extent authorized by applicable law, the presiding judge (the "Judge") of the Town Municipal Court (the "Court") may, in the exercise of the Judge's discretion, order home detention, electronic monitoring and alcohol/drug testing as a term of an adult sentence or juvenile disposition ordered by the Court, as provided herein.
1. A person (adult or juvenile) is not eligible for home detention if any of the following apply:
 - a. The person constitutes a risk to himself or other member of the community.
 - b. The person has a past history of violent behavior.
 - c. The conviction for which the person is being sentenced is a domestic violence offense pursuant to Ariz. Rev. Stat. § 13-3601, as amended.
 - d. The conviction for which the person is being sentenced is an act of prostitution or solicitation pursuant to Ariz. Rev. Stat. § 13-3214, as amended.
 - e. The person is not eligible pursuant to Ariz. Rev. Stat. § 9-499.07, as amended.
 2. If a person is sentenced to jail confinement by the Court (the "Responsible Party") in any driving under the influence ("DUI") charge, the Court may substitute home detention for a portion of the jail term as provided in this Section. Any Responsible Party placed in a home detention program as a term of a DUI sentence must serve an initial 24 consecutive hours in jail, except as provided in subsection 5-7-1(A)(3) below. The Responsible Party shall bear the costs of incarceration and be responsible for payment of thereof.
 3. If a Responsible Party is sentenced pursuant to Ariz. Rev. Stat. § 28-1381(K), as amended, or Ariz. Rev. Stat. § 28-1382(D) or (E), as amended, the Responsible Party must first serve a minimum of 15 consecutive days in jail before being eligible to be placed in a home detention program. The Responsible Party shall bear the costs of incarceration and be responsible for payment of thereof.
- B. A Responsible Party placed in a home detention program shall be subject to electronic monitoring in the Responsible Party's home and shall be required to remain at home during the hours specified by the Court. A Responsible Party sentenced pursuant Ariz. Rev. Stat. §§ 28-1381 or 28-1382, shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the Court.
- C. If the Responsible Party attends educational classes in Maricopa County or is employed within Maricopa County, the Court may permit the Responsible Party to attend classes or leave home for

employment during specified hours. The Court may permit the Responsible Party to attend religious services or funerals, or to seek medical care or other Court-approved counseling.

- D. The Court may require a Responsible Party placed in a home detention program to participate in community service work or impose other reasonable requirements or restrictions the Court deems necessary.
- E. A Responsible Party placed in a home detention program shall bear the expense and be responsible for payment of the full cost of the home detention, including electronic monitoring and alcohol or drug testing costs, to the program provider/administrator. The Court may assess a lesser amount based on the ability of the person to pay. Non-payment of any program costs may result in termination of home detention.
- F. The Court shall terminate a Responsible Party's participation in a home detention program and require the Responsible Party to complete the remaining term of any sentence by jail confinement if the Court finds the Responsible Party (i) has not successfully completed Court ordered alcohol or drug screening and treatment pursuant to Ariz. Rev. Stat. §§ 28-1381 or 28-1382, or pursuant to any other Court-ordered program, or (ii) has left the home during home detention without permission of the Judge or supervising authority. The Court may terminate a Responsible Party's participation in the home detention program and require jail confinement for any other violation of the terms of the home detention order.

(10-03, Added, 09/02/2010)

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.

Sections:

5-8-1 Assessment of administrative charge on persons convicted of violations of Ariz. Rev. Stat. §28-1381 et seq.

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.

(11-09, Amended, 06/16/2011)