

CHAPTER 5 — MAGISTRATE

(Ord 11-14) (Ord 13-03)

ARTICLE 5-1 ESTABLISHMENT AND JURISDICTION OF MUNICIPAL COURT

Section 5-1-1 Establishment and Jurisdiction of Municipal Court

There is hereby established in the town a municipal court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with the La Paz County Justice of the Peace Precinct in which the town is located and the Superior Court of the State of Arizona over violations of civil, civil traffic, petty and misdemeanor offenses as defined by Arizona Revised Statutes of which any element thereof is alleged to have been committed within the limits of the town.

ARTICLE 5-2 MAGISTRATE

Section 5-2-1 Town Magistrate

- A. The presiding officer of the municipal court shall be the Town Magistrate.
- B. The Town Magistrate shall be appointed by the Common Council.
- C. The Town Magistrate shall serve a term of two years, with the beginning and end of the term to be specified at the time of appointment.
- D. The term shall automatically terminate upon expiration of said two-year period, unless prior thereto the Common Council shall by a majority vote otherwise direct.
- E. Nothing in this article shall change the Town's right, after a due process hearing, to remove the Magistrate for cause.

Section 5-2-2 Pro Tem Town Magistrate

- A. Every Magistrate, Pro Tem Magistrate, Justice of the Peace, Pro Tem Justice of the Peace, Judge of the Superior Court, Pro Tem Judge of the Superior Court and Superior Court Commissioner so employed by any county, city or town of the State of Arizona or by the State of Arizona, is qualified to serve as a Pro Tem Town Magistrate and, if assigned to serve in such capacity by the Town Magistrate, shall be permitted to serve as a Pro Tem Town Magistrate without the formality of the ratification of such appointment by the Common Council.
- B. The Town Magistrate may, but is not required to, appoint one or more Pro Tem Magistrates not otherwise qualified to serve as a Pro Tem Town Magistrate pursuant to Town Code § 5-2-2(A) with the advice and consent of the Common Council.

- C. A Pro Tem Magistrate shall, while so serving, have all the duties, responsibilities and authority of the Town Magistrate.
- D. Any Pro Tem Magistrate may serve as Town Magistrate in the absence of the Town Magistrate.
- E. A Pro Tem Magistrate shall, regardless of the presence or absence of the Town Magistrate, preside over such matters as are assigned by the Town Magistrate.
- F. The term for a Pro Tem Magistrate appointed pursuant to Town Code § 5-2-2(B) is two years, with the beginning and end of the term to be specified at the time of appointment.
- G. The term for a Pro Tem Magistrate appointed pursuant to Town Code § 5-2-2(B) shall automatically terminate upon expiration of said two-year period, unless prior thereto the Council shall by a majority vote otherwise direct.
- H. Nothing in this article shall change the Town's right, after a due process hearing, to remove a Pro Tem Town Magistrate appointed pursuant to Town Code § 5-2-2(B) for cause.

Section 5-2-3 Powers and Duties of Town Magistrate

- 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 resolution 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 fixing 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 treasurer.
- 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.

ARTICLE 5-3 PROCEEDINGS OF COURT

Section 5-3-1 Proceedings

Municipal Court proceedings shall be governed by the applicable provisions of the Arizona Constitution, Arizona Revised Statutes and Arizona Supreme Court Rules pertaining to the type and nature of cause being heard by the Court.

ARTICLE 5-4 FEES AND COURT ENHANCEMENT FUND

Section 5-4-1 Collection Agency Fees

A defendant who defaults in his or her obligation for the payment of monies owed or due to the Magistrate Court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a collection agency that is licensed pursuant to Title 32, Chapter 9, Article 2, Arizona Revised Statutes, and that is engaged by the Magistrate Court to collect and enforce such payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from and chargeable against the defendant.

Section 5-4-2 Attorney Collection Fees

A defendant who defaults in his or her obligation for the payment of monies owed or due to the Magistrate Court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a duly licensed attorney, and who is engaged by the Magistrate Court to collect and enforce such payment. The collection fees and charges assessed by the attorney shall be added to the sum or sums due from and chargeable against the defendant.

Section 5-4-3 Warrant Fees

- A. The Municipal Court shall assess a Warrant Fee for each warrant the court is required to issue as the result of the defendant's violation of a promise to appear, failure to appear, failure to comply with a court order to maintain contact with his or her attorney, as a result of the return by the United States Postal Service of a summons mailed by certified mail, as the result of an order to show cause, as the result of a charge or finding of contempt of court, as the result of a violation of a court order, as a result of an alleged failure to comply with a term or condition of a sentence imposed, as a result of an alleged failure to comply with a term or condition of probation, as a result of an alleged failure to comply with a term or condition of deferred prosecution or as a result of an alleged failure to comply with a term or condition of pre or post-plea prosecution diversion.
- B. The Warrant Fee shall be set in a schedule by the Town Magistrate subject to approval by the Common Council.

- C. The Warrant Fee shall be listed on the warrant but is independent of, and in addition to, the bond and surcharge which must also be posted to secure the defendant's release.
- D. The Warrant Fee shall remain owing notwithstanding the quashing or vacating of the warrant requiring its assessment or the dismissal, with or without prejudice, of the case in which the fee was assessed.
- E. Notwithstanding Town Code Section 5-4-3(C), the Court may waive the Warrant Fee if the Court determines that the ends of justice would otherwise be thwarted by the collection of the fee. The Court shall waive the Warrant Fee if the Court determines clear and convincing evidence exists that, through no fault of the defendant's, the summons returned by the United States Postal Service was mailed to an address at which the defendant could not have received the summons.

Section 5-4-4 Suspension Fees

- A. The Municipal Court shall assess a Suspension Fee for each suspension of any driver's license which a court is required to issue as a result of a failure to appear to answer a charge or to pay a civil sanction or criminal fine.
- B. The Suspension Fee shall be set in a schedule by the Town Magistrate subject to approval by the Common Council.
- C. The Suspension Fee shall remain owing notwithstanding the quashing or vacating of the warrant requiring its assessment or the dismissal, with or without prejudice, of the case in which the fee was assessed.
- D. Notwithstanding Town Code § 5-4-4(C), the Court may waive the Suspension Fee if the Court determines that the ends of justice would otherwise be thwarted by the collection of the fee.

Section 5-4-5 Credit/Check/Debit Card Service Fee

The Municipal Court shall assess a service fee to cover the costs associated with the processing of payments to the court, by credit, check, or debit card. Such fee shall be reflected in those costs and charges assessed by the credit card processing center, as well as the costs of maintenance and operation by the Town Finance Department.

Section 5-4-6 Public Safety Recovery Fee

- A. A public Safety Recovery Fee shall be collected from a defendant found guilty or responsible of any criminal or civil violation, other than a parking violation, on a per charge basis.

- B. The Finance Director shall establish a Public Safety Recovery Fee Account for the purpose of enhancing public safety. These funds shall not supplant budgeted expenditures and may only be used in a manner that enhances public safety.
- C. The Court may waive the Public Safety Recovery Fee if the Court determines that the ends of justice would otherwise be thwarted by the collection of the fee.

Section 5-4-7 Court Enhancement Fee

- A. The Municipal Court shall assess a Court Enhancement Fee in addition to any fine, sanction, or penalty imposed by the court in every case wherein the defendant is found guilty or responsible for one or more charges or where the charges against a defendant are deferred or diverted pursuant to a formal agreement presented to the Court. Court Enhancement Fees shall be collected per charge for which the defendant is found guilty or responsible. Court Enhancement Fees are secondary in order of collection only to restitution and time payment fees, if applicable.
- B. The Court Enhancement Fee shall be received by the court in a manner consistent with the Arizona Supreme Court Accounting Standards and deposited with the Finance Department on a monthly basis for deposit into the Court Enhancement Fund. The Magistrate may use Court Enhancement Funds in conjunction with common project, programs or uses which may benefit the Court's operations, but enhancement funds may not be used to supplant budgeted expenses.
- C. The Court may waive the Court Enhancement Fee only if the Court determines that the ends of justice would otherwise be thwarted by the collection of the fee.

Section 5-4-8 Late Fee

- A. A Late Fee shall be paid to the Municipal Court for every payment against any fine, sanction, fee, assessment, restitution or court cost (including sanctions paid through community work service) paid after the date required by a time-payment agreement between the Court and the defendant.
- B. This fee is a recurring fee and shall be assessed for every late payment.
- C. This fee is in addition to the fee required under A.R.S. § 12-116(A).
- D. Exceptions may be made for bond forfeitures to fines when the bond has not been received by the Court or when a defendant is in custody and receives a sentence of time-served.

Section 5-4-9 Time Payment Fees

- A. A time-payment fee shall be assessed in every case in which the defendant

enters an agreement to pay a fine, fee, assessment, court cost, restitution or to perform community work service over time.

- B. The Court may waive the Time Payment Fee if the Court determines that the ends of justice would otherwise be thwarted by the collection of the fee.

Section 5-4-10 Court Enhancement Fund

- A. The Finance Director shall ensure that a fund is established for a Court Enhancement Fund.
- B. Fees collected in accordance with this Chapter not required by law to be deposited elsewhere shall be placed in the Court Enhancement Fund.
- C. The Municipal Court shall administer, through the annual budget process of the Town of Quartzsite, and may make expenditures from the fund for the purposes of enhancing the Municipal Court. Monies from this fund shall supplement monies already provided for the operation of the Municipal Court.

ARTICLE 5-5 ELIGIBILITY

Section 5-5-1 Eligibility Requirements

- A. Unless otherwise required by Arizona Revised Statutes, any person eligible to be elected as a Justice of the Peace in the State of Arizona is eligible to be Town Magistrate.
- B. Although residency may be considered as a factor by the Common Council in selecting a Town Magistrate, residency within the town limits of the Town is not a prerequisite to employment as Town Magistrate.

Section 5-5-2 Persons Ineligible to Serve as Town Magistrate

- A. No person whose duties as an employee of the Town have a direct relationship with the administration of the Town, including but not limited to the town manager, assistant town manager, town clerk, police chief, town engineer or town attorney shall hold the office of town magistrate or assistant town magistrate.
- B. No person who has been convicted of a felony offense, whether or not the record of such conviction has been expunged, is eligible to be Town Magistrate unless expungement of the record of such conviction was the result of a determination of actual innocence.
- C. No person who has been convicted of a misdemeanor offense involving dishonesty or of theft, including shoplifting, is eligible to be Town Magistrate.

ARTICLE 5-6 DUTIES

Section 5-6-1 Duties

- A. The Magistrate shall serve as an independent arbiter of justice.
- B. The Magistrate shall abide by the Judicial Canons established by the Arizona Supreme Court.
- C. The Magistrate shall administer the Court and be responsible for the management of its personnel and budget.

ARTICLE 5-7 DISCIPLINE – Repealed by Ord 13-03