

ORDINANCE NO. 1466

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 5: MUNICIPAL COURT, ARTICLE 5-1, MUNICIPAL COURT, BY ADDING SECTION 5-1-11, HOME DETENTION CONTINUOUS ALCOHOL MONITORING PROGRAM, REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Apache Junction ("City") budgets each year in excess of \$290,000.00 for jail costs relating to incarceration of misdemeanants it prosecutes; and

WHEREAS, the first day of jail confinement at the Pinal County Jail costs the city \$193.83 and \$72.30 for each additional day; and

WHEREAS, the City must pay for manpower, gas, jail van maintenance in the approximate amount of \$100 for one jail delivery task with a minimum time involvement of at least three hours travel time to and from Florence and intake processing; and

WHEREAS, Arizona Revised Statutes ("A.R.S.") § 9-499.07 allows a city or town to establish a home detention program with electronic monitoring in lieu of jail confinement for eligible sentenced prisoners; and

WHEREAS, home detention coupled with treatment and electronic monitoring in certain cases can be an effective alternative to incarceration necessitated by the steadily rising jail costs and by the unique circumstances facing particular prisoners, which make home detention a suitable form of punishment for these prisoners; and

WHEREAS, before implementation, the city magistrate shall approve the program and provide a recommendation to the mayor and city council for adoption; and

WHEREAS, the city magistrate indicated his recommendation of approval of this program to the mayor and city council on November 5, 2018 at a city work session; and

WHEREAS, such program may be used at the discretion of the sentencing judge in individualized cases solely for eligible persons; and

WHEREAS, the mayor and city council held a public hearing on these recommended code changes on November 20, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL

OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I IN GENERAL

The Apache Junction City Code, Volume I, Chapter 5, Municipal Court, Article 5-1, Municipal Court, is hereby amended by adding new Section 5-1-11, Home Detention Continuous Alcohol Monitoring Program, in its entirety, to read as follows:

APACHE JUNCTION CITY CODE: § 5-1-11, Home detention and continuous alcohol monitoring

A. As authorized by Arizona Revised Statutes ("A.R.S.") § 9-499.07, 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 section.

B. A person is not eligible for home detention or continuous alcohol monitoring when substituted for jail if any of the following apply:

1. The person constitutes a risk to himself or other members of the community.

2. The person has a history of violent behavior.

3. The conviction for which the person is being sentenced is a domestic violence offense pursuant to A.R.S. § 13-3601.

4. The conviction for which the person is being sentenced is an act of prostitution or solicitation pursuant to A.R.S. § 13-3214.

C. Any person placed on home detention or continuous alcohol monitoring must serve an initial one day in jail, except as provided in subsection (D) below. The person shall pay the cost of incarceration.

D. If the person is sentenced under A.R.S. § 28-1381(K) or A.R.S. § 28-1382(D) or (E), the person must first serve a minimum of twenty percent (20%) of the initial term of incarceration in jail before being placed under home detention or continuous alcohol monitoring.

E. A person placed under home detention shall be subject to electronic monitoring in the person's home and shall be required to remain at home during the hours specified by the court. If a person is sentenced under A.R.S. §§ 28-1381 or 28-1382, the person shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the court.

F. If the person attends educational classes or is employed, the court may permit the person to attend classes or leave home for employment during specified hours. The court may permit the person to also attend religious services, funerals, or seek medical care.

G. The court may require a person under home detention to participate in community restitution work or impose other reasonable requirements or restrictions the court deems necessary.

H. A person under home detention or continuous alcohol monitoring shall be required to pay the full cost of the electronic monitoring and alcohol or drug testing plus administrative fees established by the presiding magistrate. The court may assess a lesser amount based on the ability of the person to pay after income verification is confirmed.

I. The court shall terminate a person's home detention or continuous alcohol monitoring and require the person to complete the remaining term of the jail sentence by jail confinement if the court finds the person has not successfully completed court-ordered alcohol or drug screening and treatment pursuant to A.R.S. §§ 28-1381 or 28-1382, or the person has improperly left the home during home detention, or failed to comply with the continuous alcohol monitoring program requirements. The court may terminate a person's home detention or continuous alcohol monitoring and require jail confinement for any other violation of the terms of the home detention or continuous alcohol monitoring order.

J. The court may use continuous alcohol monitoring alone or in conjunction with any other sentence requirements as a term of probation.

K. A person who is in program pursuant to this ordinance shall bear the cost of all testing, monitoring and enrollment in the program and pay thirty dollars per month while in the program, unless, after determining the inability of the prisoner to pay the cost, the court assesses a lesser amount. The court shall use the collected monies to offset operational costs of the program.

L. All other provisions of A.R.S. § 9-499.07 shall be followed by the court if not already stated above.

SECTION II

REPEALING ANY CONFLICTING PROVISIONS

All other ordinances and parts of ordinances in conflict with the provisions of this ordinance or in conflict with any part of the code adopted herein by reference are also hereby repealed.

SECTION III

PROVIDING FOR SEVERABILITY

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

SECTION IV

ESTABLISHING AN EFFECTIVE DATE

The provisions of this ordinance shall take effect on January 1, 2019.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS _____ DAY OF _____, 2018.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2018.

JEFF SERDY
Mayor

ATTEST:

KATHLEEN CONNELLY
City Clerk

APPROVED AS TO FORM:

R. JOEL STERN
City Attorney