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CHAPTER 5: MUNICIPAL COURT

ARTICLE 5-1: MUNICIPAL COURT

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§ 5-1-1 MUNICIPAL COURT ESTABLISHED; JURISDICTION.

The municipal court is established as a separate, independent branch of city government, which has exclusive jurisdiction of all violations of the city code, and jurisdiction concurrently with justices of the peace of precincts in which the city is located for violations of all misdemeanors committed within the limits of the city (inclusive of city code and state statute crimes).

§ 5-1-2 DEFINITIONS.

The following words, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**ASSOCIATE MAGISTRATE.** A full or part time termed judge of the city court, appointed by the city council, other than the presiding magistrate.

**CITY MAGISTRATE.** Any judge of the municipal court, including the presiding magistrate, associate magistrate, ~~pro-tem magistrate~~ and interim magistrate, all of whom have attended the Judicial College or New Judge Orientation required by the Administrative Office of the Courts, passed any required exam.

CIVIL TRAFFIC HEARING OFFICER. A city court employee assigned special duties by the presiding magistrate pursuant to the city code.

DISCIPLINARY ACTION. Action taken by the State Bar of Arizona or the Supreme Court of Arizona, or any other licensing authority for attorneys or judges including reprimand, censure, suspension or disbarment.

INTERIM MAGISTRATE. A judge appointed by the city council to perform the duties of a presiding magistrate during an absence or vacancy greater than three weeks, but not greater than six months.

JUDICIAL ASSISTANT. A full or part-time termed administrative contractual non-attorney and non-career employee of the city appointed by the council, charged with performing administrative non-judicial and associate magistrate ministerial or clerical non-discretionary judicial duties in the absence or unavailability of the presiding magistrate.

MINISTERIAL OR CLERICAL NON-DISCRETIONARY JUDICIAL DUTIES. Tasks that a judicial assistant may perform that do not require an individualized evaluation but instead concentrate on technical skills and training, including the processing of plea agreements with definitive conditions not allowing changes by a judicial officer, continuances of pretrial matters, and initial appearances pursuant to Arizona Criminal Procedure Rule 4 and arraignments pursuant to Arizona Criminal Procedure Rule 14, and only uncontested hearings or motions.

PRESIDING MAGISTRATE. The full time ~~termed~~ judge appointed by council, charged with the management and administrative responsibility of the municipal court.

~~PRO-TEM MAGISTRATE. A full or part time temporary judge of the city court appointed by the city council or presiding magistrate.~~

#### § 5-1-3 PRESIDING MAGISTRATE.

(A) The presiding officer of the municipal court shall be the presiding magistrate, who shall be appointed by the council for a minimum term of two years with the dates of the term to be set by contract. The council may suspend, discipline, or remove any city magistrate as follows:

(1) If the judge pleads guilty or no contest, or is found guilty, of a crime punishable as a felony under any laws of this state, another state, or a federal law, or of any other crime that involves moral turpitude under the laws of this state;

(2) If the judge has a disability that prevents the judge from performing the essential functions of the position;

(3) If the judge engages in actions constituting willful misconduct in office, willful and persistent failure to perform his or her duties, or conduct prejudicial to the administration of justice that brings the judiciary into disrepute; or

(4) If the judge is subjected to disciplinary action by the Arizona Supreme Court or State Bar of Arizona.

(B) The Presiding Magistrate shall be considered a non-career contract employee after being appointed and all other terms shall be negotiated and set forth in a written employment contract.

(C) The city council shall appoint one or more full and/or part-time magistrates for a term as the city council deems necessary pursuant to this chapter. In the event of an absence or vacancy in the position of presiding or associate magistrate, council may appoint an interim magistrate who must meet all of the requirements as a city magistrate.

#### § 5-1-4 QUALIFICATIONS OF CITY MAGISTRATES.

(A) Every magistrate shall:

(1) Be an active member of the State Bar of Arizona in good standing for at least five years prior to appointment;

(2) Have no discipline by any State Bar or State Supreme Court for a period of ten years prior to appointment.

#### § 5-1-5 HEARING OFFICERS.

Civil traffic hearing officers shall:

(A) Be assigned to one or more employees of the magistrate court at the discretion of the presiding magistrate, provided such duties are listed in the job duties of such positions;

(B) Meet the qualifications established by the Arizona Supreme Court for such officers to be eligible for the special assignment;

(C) Have the authority to hear cases involving civil traffic matters arising under state law or city code, cases involving orders of protection, injunctions against harassment, and such other civil cases as may be authorized by law; and

(D) Not receive additional compensation for performing such duties.

§ 5-1-6 ~~MAGISTRATE PRO-TEM~~ JUDICIAL ASSISTANTS.

(A) In the absence of the presiding magistrate, or in ~~those~~ instances where the presiding magistrate has been disqualified by the action of the prosecution, defendant, recusation on the part of the presiding magistrate or other cause, ~~the presiding magistrate of the municipal court may assign such action to a magistrate pro-tem~~ a judicial assistant to may hear such criminal action. However, judicial assistants may only perform ministerial or clerical non-discretionary judicial duties on these matters as defined in this chapter under definitions and administrative non-judicial duties as assigned by the presiding magistrate. If such judicial assistant has been privy to *ex parte* communications or has conducted independent factual research about a case while acting as court administrative staff, the judicial assistant shall not perform any magistrate duties in such case.

(B) ~~Magistrates pro-tem~~ Judicial assistants shall be appointed by the council upon recommendation by the presiding magistrate with a minimum of a two year written contract as a non-career contract employee.

(C) ~~Magistrates pro-tem shall~~ Judicial assistants do not have to be active members of the State Bar of Arizona.

(D) Judicial assistants shall complete the New Judge Orientation, pass the exam as required by the Administrative Office of the Courts.

(E) Under no circumstances may a judicial assistant perform criminal trials, civil injunctions against harassment or orders of protection hearings, but they may serve as a civil hearing officer in other cases.

§ 5-1-~~7-6~~ POWERS AND DUTIES OF PRESIDING MAGISTRATE.

The powers and duties of the presiding magistrate shall include:

(A) Those set forth and conferred upon the magistrate under the provisions of the state constitution and statutes, administrative orders of the State Supreme Court or Superior Court, and the ordinances and resolutions of the city;

(B) The keeping of a docket in which shall be entered each action and the proceedings of the court therein;

(C) Responsibility over fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law;

(D) Payment of all fines, penalties and other monies collected by the court to the city finance director or his or her designee;

- (E) Monthly report submittal to the council summarizing court activities;
- (F) Preparation of a schedule of traffic violations ~~not involving the death of a person~~, listing specific bail for each violation;
- (G) Supervision of the judicial and internal administrative functions of the municipal court in a professional manner utilizing appropriate management techniques to organize and direct the efficient operation of the court;
- (H) Department director status as a non-career employee under the Apache Junction Personnel Rules, and shall as any director, manage municipal court employee grievance procedures, termination, evaluation or other personnel related matters;
- (I) Delegation of duties and responsibilities to and supervision of ~~magistrates pro-tem and other~~ judicial and non-judicial personnel as necessary who directly affect the operation of the court;
- (J) Establishment and implementation of proper case management techniques and standards;
- (K) Determination of judicial assignments for each magistrate ~~pro-tem~~ and within guidelines established by council, establishment and maintenance of standard working hours and times to effectively discharge these assignments;
- (L) Establishment and implementation of standards and parameters for indigence screening and guidelines for the purpose of appointing defense counsel;
- (M) Establishment of specific parameters within the bounds of the law and sound management practice, under which a defendant shall be granted the time to pay monetary sentences imposed, and authority to specify the standards for establishment of payment amounts;
- (N) Exclusive supervisory authority over all court personnel while such personnel are performing work for the court, including, but not limited to, the court administrator, clerical support, courtroom support staff, and bailiffs and security screeners;
- (O) Exercising of administrative supervision over the court in accordance with the principle of judicial independence under the doctrine of separation of powers as defined in the Arizona State Constitution, Article III;
- (P) Exercising similar other administrative authority as necessary to maintain and enhance the ability of the court to do justice for all who come before the court;
- (Q) Cooperation and coordination with the presiding superior court judge(s) concerning the administration of the municipal court; and

(R) Keeping in custody and taking charge of and safely keeping and disposing of, according to court rules, all books, papers and records which may be filed or deposited in custody; destruction of all documents, records, instruments, books, papers, dispositions, exhibits and transcripts in any action or proceeding in the municipal court or otherwise filed or deposited in custody pursuant to rules established by the Supreme Court, and notification to the appropriate state office for records retention.

#### § 5-1-~~8-7~~ PROCEEDINGS OF COURT.

(A) The proceedings shall be conducted in accordance with the Arizona State Constitution, applicable state statutes and rules of the State Supreme Court pertaining to municipal courts. The proceedings shall also be conducted in accordance with the Rules of Criminal Procedure for the Superior Court and pertinent Arizona Revised Statutes ~~Titles 13 and 22~~ with regard to the following, including ~~the but not limited to: provisions regarding~~ filing complaints, bail, initial appearances, arraignments, taking of pleas, consideration of plea agreements, conducting trials, orders of protection, injunctions against harassment, issuance of subpoenas, summons, warrants and punishment for disobedience so far as applicable and when not otherwise prescribed.

(B) The magistrate shall cause to be prepared a schedule of criminal traffic or misdemeanor violations ~~not involving the death of a person or any felony traffic offense,~~ listing specific bail for each violation.

(C) The magistrate shall cause to be prepared a schedule of civil traffic violations, listing a specific deposit for each violation.

(D) When the defendant pleads guilty or is convicted either by the court or by a jury, the court shall pronounce judgment on the plea or verdict.

(E) A sentence of a fine, imprisonment or both, and other things such as probation, community restitution, victim restitution, counseling and screening, anger management, and other appropriate requirements, may be pronounced at the time of sentencing and shall be included in the judgment and sentencing documents.

(F) If the court sentences the defendant to pay a fine, and the defendant fails to comply with the order, the court, after a hearing, may order that the defendant receive credit toward payment of the fine for jail time served as determined by state law for each day of imprisonment.

(G) The sentence, shall not extend beyond the term of imprisonment for which the defendant might be sentenced for the offense of which the defendant has been found guilty.

(H) A sentence and judgment that the defendant pay a fine, with or without the alternative of imprisonment, shall constitute a lien such as which can typically be ordered in a civil action.

§ 5-1-~~9~~8 FORMATION AND SUMMONING OF JURIES; JUROR PAY.

(A) The formation and summoning of juries and drawing and disposition of names and impaneling of jurors in municipal court shall be done in the same manner as provided for by law in courts of record, or as permitted by A.R.S. § 21-331, and as may be amended from time to time.

(B) Each juror shall be paid by the city for each day in attendance in the municipal court a sum as provided for in state statutes for payment of jurors, as may be amended from time to time.

§ 5-1-~~10~~9 COURT PERSONNEL.

(A) Unless otherwise noted in this chapter, ~~The~~ authority of the presiding magistrate 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, provided that decisions regarding hiring, supervision and dismissal of court personnel are consistent with the municipal court personnel policy. Personnel rules adopted by the city for the employment, grievance procedures, termination, sick leave, overtime, vacation time and other items are applicable to employees of the municipal court, unless otherwise stated in a written policy approved by the presiding magistrate. In employing additional personnel, the existing city personnel procedures shall be followed.

§ 5-1-~~11~~10 HOME DETENTION AND CONTINUOUS ALCOHOL MONITORING.

(A) As authorized by 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 1 day in jail, except as provided in division (D) below. The person shall pay the cost of incarceration.~~

(~~DC~~) 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 20% of the initial term of incarceration in jail before being placed under home detention or continuous alcohol monitoring and shall pay the incarceration costs; if the person is sentenced under A.R.S. § 28-1381(I), the person shall first serve a minimum of twenty four (24) hours in jail.

(~~ED~~) 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.

(~~FE~~) 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 or funerals, or to seek medical care.

(~~GF~~) 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.

(~~HG~~) 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.

(~~HI~~) 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.

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

(~~KJ~~) A person who is in a program pursuant to this section shall bear the cost of all testing, monitoring and enrollment in the program, and pay \$30 per month while in the program, unless, after determining the inability of the defendant 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.

(~~LK~~) This program can only be terminated by a majority vote of the city council.



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