

**ORDINANCE NO. (O)22-02**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA,  
AMENDING ORO VALLEY TOWN CODE CHAPTER 5,  
MAGISTRATE**

**WHEREAS**, on September 27, 1989, the Mayor and Council adopted Ordinance (O) 89-21, adopting that certain document entitled “Oro Valley Town Code”, including Chapter 5, Magistrate; and

**WHEREAS**, the Town Magistrate has reviewed the existing Chapter 5, Magistrate, and proposes amending it to better define the operations of the court, update fees, add provisions that will lower Town costs and improve defendant compliance, and generally update the outdated code.

**WHEREAS**, in compliance with Arizona Revised Statutes § 9-499.15, fee increases included in the amended Chapter 5, Magistrate, have been posted on the Town of Oro Valley’s website for sixty (60) days.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Oro Valley, Arizona that:

**SECTION 1.** The amended Oro Valley Town Code, Chapter 5, Magistrate, declared a public record by Resolution No. (R)22-05 and incorporated herein by this reference, is hereby amended.

**SECTION 2.** All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

**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 thereof.

**PASSED AND ADOPTED** by Mayor and Town Council of the Town of Oro Valley, Arizona, this 19<sup>th</sup> day of January, 2022.

**TOWN OF ORO VALLEY**

E-SIGNED by Joseph Winfield  
on 2022-01-20 17:01:10 GMT

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Joseph C. Winfield, Mayor

**ATTEST:**

E-SIGNED by Mike Standish  
on 2022-01-20 17:54:28 GMT

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Michael Standish, Town Clerk

PUBLISH: DAILY TERRITORIAL  
JANUARY 24, 25, 26, 27, 2022

**APPROVED AS TO FORM:**

E-SIGNED by Tobin Sidles  
on 2022-01-20 17:47:12 GMT

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Tobin Sidles, Legal Services Director

POSTED: 1/24/22 - 2/25/22

Deletions are shown with ~~strikethrough~~ additions are shown with CAPS

## CHAPTER 5 MAGISTRATE

### *Article 5-1*

#### ~~MAGISTRATE TOWN COURT ESTABLISHED; JURISDICTION~~

~~(Reserved)~~

#### 5-1-1 TOWN COURT ESTABLISHED; JURISDICTION

THE TOWN COURT IS ESTABLISHED AS A SEPARATE, INDEPENDENT BRANCH OF TOWN GOVERNMENT, WHICH HAS EXCLUSIVE JURISDICTION OF ALL VIOLATIONS OF THE TOWN CODE, AND JURISDICTION CONCURRENTLY WITH JUSTICES OF THE PEACE OF PRECINCTS IN WHICH THE TOWN IS LOCATED FOR VIOLATIONS OF MISDEMEANORS COMMITTED WITHIN THE LIMITS OF THE TOWN. THE COURT SHALL BE NAMED THE TOWN OF ORO VALLEY TOWN COURT.

#### 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.

- A. "ASSOCIATE MAGISTRATE" MEANS A TERMED JUDGE OF THE TOWN COURT, EMPLOYED BY THE TOWN, OTHER THAN THE PRESIDING MAGISTRATE.
- B. "CIVIL TRAFFIC HEARING OFFICER" MEANS A TOWN COURT EMPLOYEE ASSIGNED SPECIAL DUTIES BY THE PRESIDING MAGISTRATE PURSUANT TO THE TOWN CODE.
- C. "DISCIPLINARY ACTION" MEANS 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.
- D. "INTERIM MAGISTRATE" MEANS A JUDGE APPOINTED BY THE TOWN COUNCIL TO PERFORM THE DUTIES OF A PRESIDING MAGISTRATE DURING AN ABSENCE OR VACANCY GREATER THAN THREE WEEKS, BUT NOT GREATER THAN SIX MONTHS.
- E. "PRESIDING MAGISTRATE" MEANS THE JUDGE APPOINTED BY TOWN COUNCIL, CHARGED WITH THE MANAGEMENT AND ADMINISTRATIVE RESPONSIBILITY OF THE TOWN COURT.
- F. "TOWN MAGISTRATE" MEANS ANY JUDGE OF THE TOWN COURT, INCLUDING THE PRESIDING MAGISTRATE, ASSOCIATE MAGISTRATE, PRO TEM MAGISTRATE AND INTERIM MAGISTRATE.

G. "PRO TEM MAGISTRATE" MEANS ANY JUDGE THAT IS NOT CURRENTLY SEATED ON TOWN COURT, BUT THAT IS APPOINTED BY THE PRESIDING MAGISTRATE ON A TEMPORARY (PRO TEMPORE), CASE-BY-CASE BASIS TO HEAR AND DECIDE CASES BEFORE THE TOWN COURT.

H. "PROBATION MONITOR" MEANS PROBATION OFFICER EMPLOYED BY OR CONTRACTED FOR THE TOWN WHO MONITOR OFFENDERS IN THE COMMUNITY USING ELECTRONIC MONITORING.

#### 5-1-3 TOWN MAGISTRATE.

THE PRESIDING OFFICER OF THE TOWN COURT SHALL BE THE TOWN PRESIDING MAGISTRATE WHO SHALL BE APPOINTED BY THE TOWN COUNCIL. THE PRESIDING TOWN MAGISTRATE SHALL SERVE AN INITIAL TERM OF TWO (2) YEARS AND SUBSEQUENT TERMS OF FOUR (4) YEARS, IF REAPPOINTED, WITH THE BEGINNING AND END OF EACH TERM TO BE SPECIFIED AT THE TIME OF APPOINTMENT/REAPPOINTMENT. DURING SUCH TERM, THE TOWN MAGISTRATE MAY BE REMOVED ONLY FOR CAUSE BY A MAJORITY VOTE OF THE TOWN COUNCIL.

#### 5-1-4 QUALIFICATIONS OF TOWN MAGISTRATES.

A. EVERY MAGISTRATE SHALL:

1. BE AN ACTIVE MEMBER OF THE STATE BAR OF ARIZONA IN GOOD STANDING.

#### 5-1-5 HEARING OFFICERS.

CIVIL TRAFFIC HEARING OFFICERS SHALL:

- A. THE PRESIDING MAGISTRATE MAY ASSIGN ONE OR MORE EMPLOYEES OF THE TOWN COURT TO SERVE AS HEARING OFFICER.
- 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 TOWN CODE; CASES INVOLVING ORDERS OF PROTECTION, INJUNCTIONS AGAINST HARASSMENT; AND SUCH OTHER CIVIL CASES AS MAY BE AUTHORIZED BY LAW.

#### 5-1-6 MAGISTRATE PRO-TEM.

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 TOWN COURT MAY ASSIGN SUCH ACTION TO A MAGISTRATE PRO-TEM TO HEAR SUCH ACTION.

B. MAGISTRATES PRO-TEM SHALL BE APPOINTED BY THE PRESIDING MAGISTRATE.

C. MAGISTRATES PRO-TEM SHALL BE ACTIVE MEMBERS OF THE STATE BAR OF ARIZONA.

5-1-7 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 THIS CODE, 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. 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 TOWN CHIEF FINANCIAL OFFICER OR HIS OR HER DESIGNEE.

E. PROVIDE REPORTS AS REQUESTED BY TOWN 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 TOWN COURT IN A PROFESSIONAL MANNER.

H. HOLD DEPARTMENT DIRECTOR STATUS AS A CONTRACT EMPLOYEE UNDER THE TOWN OF ORO VALLEY PERSONNEL RULES, AND SHALL AS ANY DIRECTOR, MANAGE TOWN COURT EMPLOYEE GRIEVANCE PROCEDURES, TERMINATIONS, EVALUATIONS, OR OTHER PERSONNEL RELATED MATTERS IN ACCORDANCE WITH TOWN RULES, POLICIES, AND PROCEDURES.

I. DELEGATION OF DUTIES AND RESPONSIBILITIES TO AND SUPERVISION OF ASSOCIATE MAGISTRATES, AND 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 TOWN COURT; AND

R. IN ACCORDANCE WITH COURT RULES, KEEPING IN CUSTODY AND TAKING CHARGE OF AND SAFELY KEEPING AND DISPOSING OF, ALL BOOKS, PAPERS AND RECORDS WHICH MAY BE FILED OR DEPOSITED IN THE CUSTODY OF THE TOWN COURT; DESTRUCTION OF ALL DOCUMENTS, RECORDS, INSTRUMENTS, BOOKS, PAPERS, DISPOSITIONS, EXHIBITS AND TRANSCRIPTS IN ANY ACTION OR PROCEEDING IN THE TOWN 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 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 TOWN COURTS. THE PROCEEDINGS SHALL ALSO BE CONDUCTED IN ACCORDANCE WITH THE RULES OF CRIMINAL PROCEDURE FOR THE SUPERIOR COURT AND ARIZONA REVISED STATUTES TITLES 13 AND 22 INCLUDING THE PROVISIONS REGARDING FILING COMPLAINTS, BAIL, ISSUANCE OF SUBPOENAS, SUMMONS, WARRANTS AND PUNISHMENT FOR DISOBEDIENCE SO FAR AS APPLICABLE AND WHEN NOT OTHERWISE PRESCRIBED.

B. THE PRESIDING 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 PRESIDING 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 AND OTHER APPROPRIATE REQUIREMENTS, MAY BE PRONOUNCED AT THE TIME OF SENTENCING AND SHALL BE INCLUDED IN THE JUDGMENT.

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 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 TOWN 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. FOR THE SELECTION OF POTENTIAL JURORS, THE LIST OF REGISTERED VOTERS SHALL BE FURNISHED BY THE CLERK OF THE BOARD OF SUPERVISORS OF PIMA COUNTY.

C. EACH JUROR SHALL BE PAID BY THE TOWN FOR EACH DAY IN ATTENDANCE IN THE TOWN COURT A SUM AS PROVIDED FOR IN STATE STATUTES FOR PAYMENT OF JURORS, AS MAY BE AMENDED FROM TIME TO TIME.

#### 5-1-10 COURT PERSONNEL.

A. 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 TOWN PERSONNEL POLICIES AND PROCEDURE. PERSONNEL RULES ADOPTED BY THE TOWN FOR THE EMPLOYMENT, GRIEVANCE PROCEDURES, TERMINATION, SICK LEAVE, FAMILY MEDICAL LEAVE, OVERTIME, VACATION TIME AND OTHER ITEMS ARE APPLICABLE TO EMPLOYEES OF THE TOWN COURT. IN EMPLOYING ADDITIONAL PERSONNEL, THE EXISTING TOWN PERSONNEL PROCEDURES SHALL BE FOLLOWED. ALL PERSONNEL MUST BE AUTHORIZED AND FUNDED THROUGH THE TOWN COUNCIL ADOPTION OF THE ANNUAL BUDGET.

#### 5-1-11 COURT FEES.

A. FEES. THE ORO VALLEY TOWN COURT IS AUTHORIZED TO IMPOSE THE FOLLOWING FEES AND ALLOCATE CHARGES TO THE PARTIES WHO HAVE CAUSED THE CHARGES TO BE INCURRED.

1. *DEFAULT JUDGMENT FEE.* THE COURT SHALL ORDER THE PAYMENT OF A \$50.00 FEE BY EACH DEFENDANT WHO FAILS TO APPEAR ON A CIVIL TRAFFIC VIOLATION FILED IN THE COURT OR FAILS TO PAY THE CIVIL SANCTION AS ORDERED UNLESS THE DEFAULT IS SET ASIDE PURSUANT TO THE RULES OF PROCEDURE IN CIVIL TRAFFIC VIOLATION CASES.

2. *WARRANT ADMINISTRATIVE FEE.* THE COURT SHALL ORDER THE PAYMENT OF A FEE OF \$75.00 BY EACH DEFENDANT FOR WHOM THE COURT ENTERS AN ARREST WARRANT ON AN ADJUDICATED CASE FOR FAILURE TO APPEAR, OR FOR FAILURE TO PAY ANY FINE, RESTITUTION, OR OTHER COURT IMPOSED FEE OR OBLIGATION, OR FAILURE TO COMPLY WITH ANY OTHER COURT ORDER. THIS FEE SHALL BE ADDED TO ANY AMOUNTS OWED BY THE DEFENDANT.

3. *ORDER TO SHOW CAUSE FEE.* THE COURT SHALL ORDER THE PAYMENT OF A FEE OF \$65.00 BY ANY DEFENDANT FOR WHOM THE COURT ISSUES AN ORDER TO SHOW CAUSE TO ENFORCE ANY COURT ORDER.

4. *NSF CHECK FEE.* THE COURT SHALL ORDER THE PAYMENT OF A FEE OF \$50.00 BY ANY PERSON PAYING THE COURT WITH A CHECK THAT IS DISHONORED BY A FINANCIAL INSTITUTION FOR INSUFFICIENT FUNDS. THIS FEE WILL BE IN ADDITION TO ANY FEES IMPOSED ON THE COURT BY THE BANK OR FINANCIAL INSTITUTION FOR PROCESSING THE DISHONORED CHECK OR FINANCIAL INSTRUMENT.

5. *PROBATION MONITORING FEE.* THE COURT SHALL ORDER THE PAYMENT OF A FEE OF \$65.00 PER MONTH BY ALL DEFENDANTS WHO ARE PLACED ON MONITORED PROBATION. THE FEE SHALL BE PAID TO AND COLLECTED BY THE PROBATION MONITOR. THE PROBATION MONITOR IN HIS/HER DISCRETION MAY WAIVE OR REDUCE THE FEE. THE FEE MAY BE TERMINATED IF THE PROBATION BECOMES UNSUPERVISED.

6. *COLLECTION FEES.* A DEFENDANT WHO FAILS TO FULFILL HIS/HER OBLIGATION TO PAY TO THE COURT ANY FINES, SANCTIONS, RESTITUTION, SURCHARGES, ASSESSMENTS, JAIL COSTS, COURT APPOINTED ATTORNEYS FEES, SHALL BE LIABLE FOR ANY FEES AND/OR COSTS ASSOCIATED WITH THE COLLECTION OF THOSE OBLIGATIONS TO THE COURT, INCLUDING, BUT NOT LIMITED TO, ANY FEES AND CHARGES OF A COLLECTION AGENCY LICENSED PURSUANT TO CHAPTER 9, ARTICLE 2 OF TITLE 32 OF THE ARIZONA REVISED STATUTES, THAT MAY BE RETAINED BY THE TOWN TO COLLECT THOSE MONIES, AND ANY ATTORNEY'S FEES INCURRED BY THE TOWN OR ITS AGENTS IN ITS EFFORTS TO COLLECT UNPAID AMOUNTS.

7. *JAIL COST FEE.* THE COURT MAY, PURSUANT TO ARIZONA REVISED STATUTES, SECTION 28-1444, AS A PART OF A SENTENCE IMPOSED BY THE COURT ORDER A



PERSON SENTENCED TO SERVE TIME IN JAIL TO REIMBURSE THE TOWN OF ORO VALLEY FOR ALL OR PART OF THE ACTUAL COST OF HIS/HER INCARCERATION INCURRED BY THE TOWN AS A RESULT OF THAT INCARCERATION AT THE DAILY RATES CHARGED TO THE TOWN BY THE JAIL.

8. *COURT APPOINTED COUNSEL FEE.* A FEE OF \$125.00 SHALL BE ASSESSED TO EACH DEFENDANT WHO IS APPOINTED COUNSEL TO HELP OFFSET THE COST OF COURT APPOINTED ATTORNEY FEES.

9. *DIVERSION MONITORING FEE.* EACH DEFENDANT WHO IS ALLOWED TO ENTER A DIVERSION PROGRAM OR DEFERRED PROSECUTION AGREEMENT, WILL BE CHARGED A \$75.00 FEE TO COVER THE ADDED COST OF MONITORING HIS/HER COMPLIANCE WITH THE DIVERSION PROGRAM OR AGREEMENT. THIS SHALL NOT APPLY TO THOSE ENTERING THE DEFENSIVE DRIVING SCHOOL OR THE SUSPENDED DRIVER LICENSE DIVERSION PROGRAM.

10. *COMMUNITY SERVICE MONITORING FEE.* EACH DEFENDANT ALLOWED TO COMPLETE COMMUNITY SERVICE IN LIEU OF PAYING ANY FINE, FEE OR SURCHARGE SHALL BE CHARGED A FEE OF \$5.00 TO COVER PART OF THE COST OF MONITORING HIS OR HER PROGRESS ON COMPLETING THE COMMUNITY SERVICE.

11. *TOWN COURT ENHANCEMENT FUND.*

A. THERE IS HEREBY CREATED A TOWN COURT ENHANCEMENT FUND, WHICH SHALL BE USED EXCLUSIVELY TO IMPROVE THE TECHNOLOGICAL, OPERATIONAL AND SECURITY CAPABILITIES OF THE TOWN COURT.

B. THE TOWN COURT ENHANCEMENT FUND SHALL BE ASSESSED IN THE BASE AMOUNT OF \$25, WHICH SHALL BE APPLIED BY THE TOWN COURT ON EACH CIVIL AND CRIMINAL CHARGE WHERE A FINE, SANCTION, PENALTY OR ASSESSMENT IS IMPOSED BY THE COURT. ANY SURCHARGE, FEE, ASSESSMENT, OR OTHER SUM REQUIRED TO BE CHARGED BY STATE LAW OR ARIZONA SUPREME COURT RULE AS AN ADDITION TO THE BASE AMOUNT OF \$25 SHALL ALSO BE IMPOSED BY THE COURT.

C. THE COURT ENHANCEMENT FUND SHALL BE SEPARATELY ACCOUNTED FOR IN A MANNER DETERMINED BY THE TOWN CHIEF FINANCIAL OFFICER. THE CHIEF FINANCIAL OFFICER OR HIS OR HER DESIGNEE, SHALL INVEST THE MONIES IN THE FUND IN THE SAME MANNER AS GENERAL TOWN FUNDS. INTEREST EARNED ON FUND MONIES SHALL BE DEPOSITED IN THE FUND.

D. THE TOWN COURT SHALL BE SOLELY RESPONSIBLE FOR DETERMINING THE EXPENDITURES ELIGIBLE FROM THIS FUND CONSISTENT WITH THE PURPOSES APPROVED IN THIS SECTION, IN ACCORDANCE WITH USUAL AND CUSTOMARY BUDGETARY AND FINANCIAL PROCEDURES OF THE TOWN

12. *PROSECUTION ASSESSMENT RECOVERY FEE.* A PROSECUTION ASSESSMENT RECOVERY FEE IN THE AMOUNT OF \$86 SHALL BE IMPOSED ON EACH CRIMINAL CASE AND SHALL BE APPLIED BY THE TOWN COURT ON ALL CRIMINAL CASES THAT ARE PROSECUTED BY THE TOWN PROSECUTOR.

13. *JURY CANCELLATION FEE.* THE TOWN COURT MAY, IN ITS DISCRETION, ORDER PAYMENT OF A \$200 JURY CANCELLATION FEE BY A PERSON (AS DEFINED IN TOWN CODE, ARTICLE 1-3) WHO CANCELS OR WHOSE CONDUCT RESULTS IN THE CANCELLATION OF A JURY TRIAL AFTER THE JURY POOL HAS BEEN SUMMONED IF THE COURT DETERMINES THAT THE CANCELLATION WAS REASONABLY AVOIDABLE.

14. *COURT SECURITY FEE.* A COURT SECURITY FEE SHALL BE ASSESSED IN THE BASE AMOUNT OF \$25, WHICH SHALL BE APPLIED BY THE COURT ON EACH CIVIL AND CRIMINAL CHARGE WHERE A FINE, SANCTION, PENALTY OR ASSESSMENT IS IMPOSED BY THE COURT. ANY SURCHARGE, FEE, ASSESSMENT, OR OTHER SUM REQUIRED TO BE CHARGED BY STATE LAW OR ARIZONA SUPREME COURT RULE AS AN ADDITION TO THE BASE AMOUNT OF \$25 SHALL ALSO BE IMPOSED BY THE COURT. THE COURT MAY WAIVE THE FEE IN CASES WHERE THE DEFENDANT IS INDIGENT OR IN THE INTERESTS OF JUSTICE.

15. *WAIVER OF FEES.* A JUDGE OR HEARING OFFICER MAY WAIVE PART OR ALL OF ANY FEE IMPOSED BY THIS ARTICLE IF THE COURT FINDS THE DEFENDANT IS INDIGENT, THAT IT WOULD CAUSE A HARDSHIP ON THE DEFENDANT OR HIS/HER FAMILY, OR IF THE JUDGE OR HEARING OFFICER IS OF THE OPINION SUCH WAIVER WOULD BE IN THE INTERESTS OF JUSTICE.

16. *COLLECTION OF FEES.* IN ADDITION TO ANY OTHER REMEDIES, WHICH MAY BE ALLOWED BY LAW, THE TOWN PROSECUTOR IS AUTHORIZED TO INSTITUTE ANY APPROPRIATE CIVIL SUIT IN A COURT OF COMPETENT JURISDICTION FOR RECOVERY OF THE FEE(S) REFERRED TO IN THIS ARTICLE.

5-1-12 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 TOWN 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 SECTION (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 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 AND SHALL BE REQUIRED TO REMAIN AT THEIR RESIDENCE 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 OR FUNERALS, OR TO 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 THEIR RESIDENCE 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 THE 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 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.

*Article 5-2*

*PRESIDING OFFICER*

~~5-2-1 TOWN MAGISTRATE.~~

~~The presiding officer of the magistrate's court shall be the town magistrate who shall be appointed by the town council. The town magistrate shall serve an initial term of two (2) years and subsequent terms of four (4) years, if reappointed, with the beginning and end of each term to be specified at the time of appointment/reappointment. During such term, the Town Magistrate may be removed only for cause by a majority vote of the Town Council. ((O)03-10, 2003; (O)93-06, 1993.)~~

~~5-2-2 PRO TEMPORE MAGISTRATES.~~

~~Special Magistrates shall be appointed in accordance with Administrative Order No. 2002-66 of the Arizona Supreme Court, and Administrative Order 2002-1 of the Oro Valley Magistrate Court, whereby Administrative Order 2002-1 of the Oro Valley Magistrate Court was made a public record of the Town of Oro Valley by Resolution No. (R)03-09. ((O)03-04, 2003; (O)93-06, 1993.)~~

~~5-2-3 POWERS AND DUTIES OF TOWN MAGISTRATE.~~

~~The powers and duties of the magistrate shall include:~~

- ~~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 resolutions of the town.~~
- ~~B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein.~~

~~5-2-4 HEARING OFFICER.~~

~~The town 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. Hearing officers shall be supervised by the presiding officer of the Oro Valley Magistrate's Court. ((O)93-06, 1993.)~~

*Article 5-3*

*PROCEEDINGS OF COURT*

~~5-3-1 Proceedings of Court.~~

The proceedings of the court shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to police courts.

*Article 5-4*

*JURY*

~~5-4-1 Jury.~~

~~A. The formation, summoning, drawing, disposition of names and the impaneling of jurors in the police court of the town shall be accomplished in the same manner as provided for in courts of record as more fully set forth in Title 21, Chapter 3, of the Arizona Revised Statutes (Section 21-301 through Section 21-351), and as hereafter may be provided.~~

~~B. For the selection of potential jurors, the list of registered voters shall be furnished by the clerk of the Board of Supervisors of Pima County.~~

*Article 5-5*

*MAGISTRATE COURT FEES*

~~5-5-1 Fees.~~

~~A. Fees. The Oro Valley Magistrate Court is authorized to impose the following fees and allocate charges to the parties who have caused the charges to be incurred.~~

- ~~1. Default Judgment Fee. The Court shall order the payment of a \$50.00 fee by each defendant who fails to appear on a civil traffic violation filed in the Court or fails to pay the civil sanction as ordered, unless the default is set pursuant to the Rules of Procedure in Civil Traffic Violation Cases.~~
- ~~2. Warrant Administrative Fee. The Court shall order the payment of a fee of \$65.00 by each defendant for whom the Court enters an arrest warrant for failure to appear, or for failure to pay any fine, restitution, or other Court imposed fee or obligation, or failure to comply with any other Court order. This fee shall be added to any amounts owed by the defendant.~~
- ~~3. Order to Show Cause Fee. The Court shall order the payment of a fee of \$65.00 by any defendant for whom the court issues an Order to Show Cause to enforce any Court order.~~
- ~~4. NSF Check Fee. The Court shall order the payment of a fee of \$25.00 by any person paying the Court with a check that is dishonored by a financial institution for insufficient funds. This fee will be in addition to any fees imposed on the Court by the bank or financial institution for processing the dishonored check or financial instrument.~~
- ~~5. Probation Monitoring Fee. The Court shall order the payment of a fee of \$30.00 per month by all defendants who are placed on monitored probation. The fee shall be paid to and collected by the probation monitor. The probation monitor in his/her discretion may waive or reduce the fee. The fee may be terminated if the probation becomes unsupervised.~~
- ~~6. Collection Fees. A defendant who fails to fulfill his/her obligation to pay to the Court any fines, sanctions, restitution, surcharges, assessments, jail costs, court appointed attorneys fees, shall be liable for any fees and/or costs associated with~~

~~the collection of those obligations to the Court, including, but not limited to, any fees and charges of a collection agency licensed pursuant to Chapter 9, Article 2 of Title 32 of the Arizona Revised Statutes, that may be retained by the Town to collect those monies, and any attorney's fees incurred by the Town or its agents in its efforts to collect unpaid amounts.~~

~~7. Jail Cost Fee. The Court may, pursuant to Arizona Revised Statutes, Section 28-1444, as a part of a sentence imposed by the Court order a person sentenced to serve time in jail to reimburse the Town of Oro Valley for all or part of the actual cost of his/her incarceration incurred by the Town as a result of that incarceration at the daily rates charged to the Town by the jail.~~

~~8. Debt Setoff Fee. A fee of \$9.00 shall be assessed to each defendant when the defendant's case is entered into the Debt Setoff System.~~

~~9. Diversion Monitoring Fee. Each defendant who is allowed to enter a diversion program or deferred prosecution agreement, will be charged a \$25.00 fee to cover the added cost of monitoring his/her compliance with the diversion program or agreement. This shall not apply to those entering the Defensive Driving School or the Suspended Driver License Diversion Program.~~

~~10. Community Service Monitoring Fee. Each defendant allowed to complete community service in lieu of paying any fine, fee or surcharge shall be charged a fee of \$5.00 to cover part of the cost of monitoring his or her progress on completing the community service.~~

~~11. Repealed.~~

~~12. Reserved.~~

~~13. Jury Cancellation Fee. The Magistrate Court may, in its discretion, order payment of a \$200 Jury Cancellation Fee by a person (as defined in Town Code, Article 1-3) who cancels or whose conduct results in the cancellation of a jury trial after the jury pool has been summoned if the Court determines that the cancellation was reasonably avoidable.~~

~~14. Court Security Fee. The court shall order the payment of a \$13.66 court security fee by each defendant at the time the fine or sanction on a case is assessed. The court may waive the fee in cases where the defendant is indigent or in the interests of justice.~~

~~B. Waiver of Fees. A Judge or Hearing Officer may waive part or all of any fee imposed by this Article if the Court finds the defendant is indigent, it would cause a hardship on the defendant or his/her family, or if the Judge or Hearing Officer is of the opinion such waiver would be in the interests of justice.~~

~~C. Collection of Fees. In addition to any other remedies, which may be allowed by law, the Town Attorney is authorized to institute any appropriate civil suit in a court of competent jurisdiction for recovery of the fee(s) referred to in this Article. ((O)11-29, 2011; (O)10-03A, 2010; (O)07-17, 2007; (O)06-08, 2006; (O)05-47, 2005; (O)03-05, 2003.)~~