

# CONTENTS OF PACKETS FOR PERSONS INTERESTED IN APPLYING FOR VACANT CITY MAGISTRATE POSITIONS

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- Questionnaire for applicant to fill out
- Release form authorizing background check
- Criteria for Judicial Selection
- Instructions for letters of reference
- Copy of Chapter 8 of the Tucson City Code
- CMMSC Contact Info - Upon request

Completed questionnaires along with the signed Release Form authorizing background checks are to be returned by mail to the following address listed below. If you have any questions, contact Bambi Benitez with the City Clerk's Office, by telephone at (520) 791-4213 (voice messages will be returned within 24 business hours) or by email at [clerk-ea@tucsonaz.gov](mailto:clerk-ea@tucsonaz.gov). The deadline to submit applications is **Friday, November 6, 2020**.

**NOTE: Do not email the Authorization/Background Release form as it contains your personal information and can be subject to public record.**

City Clerk's Office,  
c/o City Magistrate Merit Selection Commission  
P. O. Box 27210  
Tucson, AZ 85726-7210.

# QUESTIONNAIRE

## CANDIDATE FOR JUDICIAL OFFICE

### CITY MAGISTRATE

This questionnaire must be completed and filed with the Chairperson of the City Magistrate Merit Selection Commission, c/o City Clerk, P.O. Box 27210, Tucson, Arizona 85726-7210, not later than **5:00 pm, Friday, November 6, 2020.** Please attach additional pages where necessary for a complete response. The contents of the application will be held in strictest confidence subject to the requirements of applicable rules. The fact that you have applied, however, is not confidential and the information provided may be verified by commission members. Interviewee and nominee names will be made public.

1. Full name: \_\_\_\_\_

2. Residence Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_ Phone: \_\_\_\_\_

3. Business Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_ Phone: \_\_\_\_\_

4. Have you continuously resided in Arizona for the past year? \_\_\_\_\_

5. Have you been admitted to the practice of law in Arizona continuously for the past five years?

\_\_\_\_\_

6. List all places of residence (City and State) and approximate dates, for the past five years:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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7. List schools attended (preparatory, college and law), dates and degrees:

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8. List Bar admission and dates:

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Have you ever been denied admission to the Bar of any other state? Yes \_\_\_\_\_ No \_\_\_\_\_,  
If so, explain:

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9. Have you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk?

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10. Are you actively engaged in the practice of law? Yes \_\_\_\_\_ No \_\_\_\_\_. If so, give present professional partners, associates, employer, or firm (name and address):

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11. List prior professional partners, associates, employers and dates:

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12. What has been the general nature of your legal practice? What are the areas of specialization?

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13. Have you regularly appeared in court as part of your legal practice? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, summarize your trial experience identifying how many cases, type of cases and the tribunals in which they were handled: \_\_\_\_\_

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14. If applicable, please state the judicial office you now hold, and the judicial offices you previously held, giving dates and details. Please include the courts involved, whether elected or appointed, periods of service and a description of the jurisdiction of each such court, with any limitations upon the jurisdiction of each court: \_\_\_\_\_

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15. Have you engaged in any pro bono legal work? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, please describe: \_\_\_\_\_

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16. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? Yes \_\_\_\_\_ No \_\_\_\_\_

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

17. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please give details, including dates:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

18. Are you now an officer or director or otherwise engaged in the management of any business?

Yes \_\_\_\_\_ No \_\_\_\_\_

a. If so, give details, including the name of the business, the title or other description of your position, the nature of your duties and the term of your service:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

b. Is it your intention to resign such position and withdraw from any participation in the management of the business if you are nominated and confirmed? If not, give reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

19. Have you published any legal books or articles? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please list. Give citations and dates:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

20. List any honors, prizes, awards, or other forms of recognition which you have received other than those mentioned on answers to the foregoing questions:

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21. List any public offices held: \_\_\_\_\_

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22. List memberships and activities in professional organizations, including offices held:

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23. Are you active in any committee work for any Bar Association or professional organizations?

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24. List memberships and activities in civic organizations, including offices held: \_\_\_\_\_

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25. Are you physically and mentally able to perform the essential duties of a City Court Magistrate?  
Please identify any accommodations you may need to perform the job:

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26. To your knowledge, has any formal charge of professional misconduct ever been filed against you by the State Bar or Judicial Conduct Commission in any jurisdiction?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If so, give particulars, including, but not limited to, the dates, nature of inquiries and how it was resolved:

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27. Have you ever been a party to a lawsuit or any other legal proceedings?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If so, please provide details:

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28. Have you ever been charged with either a misdemeanor or a felony? If so, please provide the current status or ultimate disposition (conviction, dismissal, plea agreement to a lesser charge, etc.) and detail what occurred.

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29. Have you failed to file any federal or state tax returns for the last five years? Yes \_\_\_\_\_  
No \_\_\_\_\_ If answer is yes, please explain: \_\_\_\_\_

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Are all income tax payments up to date? Yes \_\_\_\_\_ No \_\_\_\_\_

30. Have you ever violated a court order including but not limited to an order for payment of child or spousal support? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

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31. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, give details: \_\_\_\_\_

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32. Judicial candidates must possess “good moral character.”

a. Are there any circumstances in your professional or personal life that might interfere with your ability to perform the duties of a City Court Magistrate?

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b. Are there any circumstances in your professional or personal life that might create a question as to your qualifications or ability to serve as a City Court Magistrate? \_\_\_\_\_

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33. List the names and addresses of those persons whom are in a position to comment on your qualifications for a judicial position, and of whom inquiry may be made by the commission. (Include and identify as such one or more professional adversaries.)

Name:

Address:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

34. Have you ever applied for this position before? If so, when? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

35. Please provide any other information that the Commission should know in evaluating your candidacy for this position.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

36. Do you hold any beliefs that would preclude you from being able to apply the law as written? If so, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

37. Will you be able to fairly and impartially apply the law? Yes \_\_\_\_\_ No \_\_\_\_\_

Submission of this questionnaire expresses my willingness to accept appointment as a City Magistrate, if tendered by the Mayor and Council. I certify that the information given in this questionnaire is true to the best of my knowledge and belief and I agree that omissions or misstatements shall constitute just cause for rejection of my application, or removal from office. I agree to assume a continuing obligation to supplement the answers to these questions up until the date of appointment.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

**AUTHORIZATION FOR CRIMINAL AND DISCIPLINARY  
BACKGROUND CHECK**

Criminal and disciplinary records of applicants will be checked.

By submission of this application, applicant hereby authorizes the City of Tucson's City Magistrate Merit Selection Commission to conduct a criminal background and disciplinary records investigation as part of the application process for appointment or reappointment as a City Magistrate.

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Work Phone: \_\_\_\_\_

Home Phone: \_\_\_\_\_

FAX Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

State Bar Number: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Applicant

# CRITERIA FOR JUDICIAL SELECTION

## CITY MAGISTRATE

### INITIAL APPOINTMENT:

- LEGAL KNOWLEDGE AND ABILITY
- PROFESSIONAL EXPERIENCE
- KNOWLEDGE OF SUPREME COURT ADMINISTRATIVE ORDERS ABOUT THE DUTIES AND RESPONSIBILITIES OF TRIAL AND PRESIDING JUDGES OF MUNICIPAL COURTS.
- INTEGRITY
- INDUSTRY / DILIGENCE
- JUDICIAL TEMPERAMENT
- HEALTH (PHYSICAL AND MENTAL
- FINANCIAL RESPONSIBILITY
- COMMUNICATION SKILLS
- PUBLIC SERVICE

LEGAL KNOWLEDGE AND ABILITY – A candidate should possess a high degree of knowledge of established legal concepts and procedures and have a high degree of ability to interpret and apply to specific factual situations.

All judges are expected to be well-versed in fundamental legal areas. Judges must be prepared to hear a variety of issues covering procedure, evidence and constitutional law. Both the length and type of legal experience will be considered in candidate selection.

PROFESSIONAL EXPERIENCE – A candidate must be a licensed, experienced lawyer.

The number of years that a lawyer has practiced is a valid criterion in screening applicants for judgeships. The professional experience should be long enough to provide a basis for the evaluation of the candidate's demonstrated performance and long enough to ensure that the candidate has had substantial exposure to legal problems and the judicial process.

It is desirable for a candidate to have substantial trial experience. Trial experience includes the preparation and presentation of matters of proof and legal argument in an adversary setting. Although substantial trial experience is desirable, other types of legal experience should also be carefully considered.

KNOWLEDGE OF SUPREME COURT OF ARIZONA ADMINISTRATIVE ORDERS REGARDING THE DUTIES AND RESPONSIBILITIES OF TRIAL AND PRESIDING JUDGES OF MUNICIPAL COURTS.

Candidates should have knowledge of, and be willing to abide by Supreme Court of Arizona administrative orders regarding duties and responsibilities of the Chief City Magistrate, and the duties and responsibilities of Trial Judges as set forth therein. (Example: Supreme Court Administrative Orders 90-4 and 83-11.)

INTEGRITY – A candidate should be of undisputed integrity. The responsibility of judges requires the selection of men and women of unquestionable integrity. A judicial candidate's integrity and character in regard to honesty and truthfulness must be above reproach. The position also requires a sense of honor, trustworthiness and absolute sincerity and reliability.

A candidate's past professional and personal conduct should demonstrate consistent adherence to high ethical standards. A candidate's disciplinary record will be considered.

INDUSTRY/DILIGENCE – Candidates must possess good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished.

The demands of rising caseloads and backlogged calendars have accentuated the importance of selecting industrious and diligent judges. Punctuality should be recognized as a component of diligence. A candidate should be known to meet procedural deadlines in trial work and to keep appointments and commitments. A candidate should be known to respect the time of other lawyers, clients and judges.

A judge should be prompt and prepared. A judge must be in the habit of opening court on time. Another aspect of industry is decisiveness. To keep cases moving, a judge must be willing and able to reach decisions with confidence and without hesitation.

JUDICIAL TEMPERAMENT – A candidate should possess a judicial temperament, which trait includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding.

Because the judicial function is essentially one of the facilitating conflict resolution among competing interests, judicial temperament requires an ability to deal with counsel, jurors, defendants, and witnesses calmly and courteously, and the willingness to hear and consider what is said on all sides.

Judicial temperament is a quality, which is not easily quantifiable, but does not wholly evade discovery; its absence can probably be fairly ascertained.

GOOD HEALTH – A candidate should be in good physical and mental health.

The demands of judicial office require a high level of performance and consequently, applicants should be physically and mentally healthy. Good mental health requires an individual to have a sound, alert mind and a high degree of emotional stability. The ability to handle stress is a component of good mental health.

Physical disabilities should not be cause for rejection of a candidate. At that same time, any serious condition must be considered carefully as to the possible effect it could have on the person's ability to perform the duties of a judge.

FINANCIAL RESPONSIBILITY – A candidate should be financially responsible.

Demonstrated financial responsibility of a candidate is one of the factors to be considered in predicting ability to properly serve. Whether there have been unsatisfied judgements or bankruptcy proceedings against a candidate and whether the candidate has promptly and properly filed income tax returns are pertinent to financial responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures, which might compromise independence and impartiality.

COMMUNICATION SKILLS – A judge must speak and write effectively in order to be understood by those appearing before the bench. A judge should have attentive listening skills. Communication skills are essential for a close working relationship with all courtroom participants.

Judges must have the ability to work with their colleagues. Collegiality requires judges to understand and respect their colleagues' differing views.

PUBLIC SERVICE – Consideration should be given to a candidate's previous public service activities.

Participation in public service and pro bono activities adds another dimension to the personality of the candidate. The degree of participation in such activities may indicate fairness, honesty, industriousness, diligence, social consciousness and consideration for others.

Candidates should have a wide knowledge of the community and its resources.

INSTRUCTIONS FOR LETTERS OF REFERENCE, TELEPHONE CALLS AND CONTACT  
IN GENERAL WITH THE CITY'S MAYOR AND COUNCIL AND THE CITY  
MAGISTRATE MERIT SELECTION COMMISSION.

**These instructions apply to all individuals seeking appointment as a Magistrate.**

LETTERS, TELEPHONE CALLS AND CONTACT IN GENERAL WITH THE MAYOR  
AND COUNCIL:

1. Applicants shall not contact or solicit others to contact members of the Mayor and Council or their staff regarding an appointment as a City Magistrate.

Applicants shall not contact, or request others to contact, either in person, by phone, letter or other means, members of the Mayor and Council or their staff regarding any application for appointment as a city magistrate.

Instead, all contacts including letters of reference, personal contact, telephone calls, etc. regarding any application for appointment as a city magistrate should be directed to the City Magistrate Merit Selection Commission.

2. Only "final applicants" (individual(s) whose names are recommended to Mayor and Council by the Commission for appointment as a magistrate) may contact or solicit others to contact members of the Mayor and Council in support of their appointment.

An applicant may contact or solicit others to contact members of the Mayor and Council in support of their appointment as a City Magistrate only if the commission has recommended them for appointment as a city magistrate.

Final applicants are advised that "more" is not necessarily "better". Ten to twelve substantive letters of reference are usually adequate to give a perspective about what the authors believe about the applicant. Final applicants may also solicit individuals to contact or make telephone calls to members of the Mayor and Council on their behalf. However, neither the Mayor and Council or its individual members either need or desire "phone banks" on behalf of any of the final applicants. Applicants recommended for appointment may also personally contact council members if the individual council member so desires.

## LETTERS, TELEPHONE CALLS AND CONTACT IN GENERAL WITH THE CITY MAGISTRATE MERIT SELECTION COMMISSION:

The City Magistrate Merit Selection Commission (“commission”) welcomes and needs the written comments and assessments of others regarding an applicant’s skills, expertise, ethics and other characteristics relevant to an individual’s qualifications for seeking appointment as a city magistrate. Although applicants solicit letters of reference in support of their application, applicants are advised that “more” is not necessarily “better”. Ten to twelve substantive letters of reference are usually adequate to give the commission a perspective about what the authors of those letters believe about the applicant. All letters of reference should be sent to the City Clerk’s Office, attention City Magistrate Merit Selection Commission, City Hall, P. O. Box 27210, Tucson, AZ 85726-7210. All letters timely received will be distributed to all members of the commission. Letters should not be sent to individual commission members. Letters sent to the commission will be treated as confidential.

The commission also welcomes contacts and telephone calls to individual commissioners where the individual can provide candid insight into the qualifications of the applicant. However, neither the commission nor its individual members either need or desire “phone banks” on behalf of applicants. Again, applicants are reminded that “more” is not necessarily better”.

## CANONS OF JUDICIAL ETHICS:

Applicants seeking their first appointment as a City Magistrate and those seeking a second or subsequent appointment are reminded that both sitting magistrates and those seeking a first time judicial appointment are governed by Canon 5 of the Code of Judicial Ethics. All applicants should read and comply with the provisions of Canon 5.

Lawyer applicants are further reminded they are also governed by the provisions of ER 8.2 (b) of the Rules of Professional Responsibility. Applicants should review and comply with the provisions of that section.

The commentary to Canon 2A of the Code of Judicial Conduct provides: “A judge must avoid all impropriety and appearance of impropriety.” The commentary further states: “The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.” Sitting magistrates are referred to Judicial Ethics Advisory Opinion 99-1 regarding soliciting support from attorneys.

The Rules of Professional Responsibility impose a like requirement for lawyers. Accordingly, all applicants for City Magistrate shall refrain from any conduct, which even involves the appearance of an impropriety.

## Tucson, AZ Code of Ordinances

## Chapter 8 CITY COURT\*

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\* **Charter References:** City court, ch. XII.

**Cross References:** Penalty for violating ordinances, § 1-8; treatment of prisoners generally, § 1-9 et seq.; violations of traffic regulations, § 20-68 et seq.

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### **Art. I. In General, §§ 8-1--8-34**

#### **Art. II. Reserved**

#### **Article I. In General**

Sec. 8-1. Jurisdiction, powers, duties.

Sec. 8-2. Appointment of magistrates; several powers, duties.

Sec. 8-2.1. Methods of appointment of magistrates and qualifications; establishing senior special magistrate status and compensation.

Sec. 8-2.2. Appointment of special magistrates; full-time magistrate pro tempore; terms of office; compensation; powers; duties; qualifications.

Sec. 8-2.3. Appointment of limited special magistrates; term; powers; duties; qualifications; compensation.

Sec. 8-2.4. Criminal history records check prior to appointment of city magistrates.

Sec. 8-2.5. Justices of the peace appointed as special magistrates for weekend arraignments, initial appearances, and conflict and other cases designated by the presiding magistrate.

Sec. 8-3. Conducting business on nonjuridical days.

Sec. 8-4. Magistrates; powers and duties.

Sec. 8-4.1. Authorizing assignment of an associate presiding magistrate, term, compensation, duties.

Sec. 8-5. Duty to fix bond, bail, fines, penalties, fees and assessments.

Sec. 8-5.2. Probation monitoring fees.

Sec. 8-6. Assumption of chapter 28 procedures.

Sec. 8-6.1. Penalties.

Sec. 8-6.3. Reimbursement of city's costs of incarceration; factors to be considered; exemption for indigent persons; reimbursement separate and distinct from any sentence or probation conditions; action for recovery authorized.

Sec. 8-6.4. Administrative fee for warrants issued for failure to pay fines or restitution; exemption for indigent persons; fee separate and distinct from any sentence or probation conditions; action for recovery authorized.

Sec. 8-6.5. Case processing fee; exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.

Sec. 8-6.6. Assessment of administrative charge on persons convicted in city court of violations of A.R.S. § 28-1381 et seq.

Sec. 8-6.7. Administrative default fee; exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized.

Sec. 8-6.8. Post-adjudicated civil motion filing fee; exemption for extraordinary circumstances; fee separate and distinct from any sentence; action for recovery authorized.

Sec. 8-6.9. Defensive Driving School (DDS) rescheduling fee; fee separate and distinct from any sentence; action for recovery authorized.

Sec. 8-7. Fines; collection; abatement.

Sec. 8-8. City court procedures.

Sec. 8-9. When jury trial required.

Sec. 8-10. Summoning jurors.

Sec. 8-11. Number of jurors; challenges for cause.

Sec. 8-12. Pay of jurors.

Sec. 8-13. Execution to collect fine.

Sec. 8-14. Director of finance; powers and duties in relation to city court.

Secs. 8-15--8-34. Reserved.

## Article II. Reserved

## ARTICLE I. IN GENERAL\*

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\* **Editors Note:** Ord. No. 7733, adopted Dec. 9, 1991, extensively revised this article by amending certain sections, by repealing certain sections, and by renumbering certain sections. The editor has retained the history note as it appeared prior to the renumbering and has included a note giving the former section number.

Section 10 gave an effective date of §§ 2--7 as the effective date of the intergovernmental agreement between the city and the county superior court attached to Res. No. 15893. Section 1 of Ord. No. 7756, adopted Jan. 13, 1992, changed the number of the resolution to Res. No. 15917.

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### Sec. 8-1. Jurisdiction, powers, duties.

(a) There shall be a city court which shall be the municipal court for the city, to be known and designated as "The City Court of the City of Tucson, Pima County, State of Arizona". It shall have and exercise the jurisdiction conferred upon it by the Charter and the Code of the city. It shall exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of the Charter or of any ordinance of the city, and of every action of any nature for the enforcement of a penalty, or the recovery of a penalty

or forfeiture imposed by any ordinance of the city for the violation thereof or for neglect to perform any duty by any ordinance imposed or for a violation of a civil traffic ordinance and of every action for the collection of any license fee, fine or penalty due from any person to the city and required to be paid or which is due and collectible under the ordinances of the city.

(b) The city court shall further have jurisdiction over all actions alleging civil violations or civil infractions of this Code.

(c) The city court shall further have concurrent jurisdiction with justices of the peace over all violations of the laws of the state committed within the limits of the city. The court shall also have jurisdiction of violations of the Charter and ordinances of the city committed on land owned or leased by the city, whether contiguous or noncontiguous, lying without the corporate limits thereof, to the same extent and with like effect as if the violation occurred within the corporate limits of the city, provided that the land is signed as provided in subsection B of A.R.S. section 9-401.

(1953 Code, ch. 9A, § 1; Ord. No. 5930, § 1, 12-19-83; Ord. No. 7887, § 2, 8-3-92)

**Cross References:** Authority of city to exercise jurisdiction over land owned or leased outside city. § 1-7.

## **Sec. 8-2. Appointment of magistrates; several powers, duties.**

There shall be appointed a sufficient number of magistrates as determined by the mayor and council. Each magistrate shall exercise powers and duties as provided by the Charter and Code of the city and the constitution and laws of the state in such cases made and provided.

(1953 Code, ch. 9A, §§ 2, 3, 4; Ord. No. 1956, §§ 1, 3, 9-8-59; Ord. No. 2529, § 1, 10-14-63; Ord. No. 4679, § 2, 6-27-77; Ord. No. 5169, § 1, 6-16-80; Ord. No. 7733, § 2, 12-9-91)

**Charter References:** Term of office of magistrate, ch. XII, § 3.

### **Sec. 8-2.1. Methods of appointment of magistrates and qualifications; establishing senior special magistrate status and compensation.**

(a) There shall be a nonpartisan merit selection commission known as the magistrate merit selection commission on magistrate appointments composed of four (4) attorney members appointed by the county bar association, not more than two (2) of whom shall be of the same political party, and five (5) non-attorney members appointed by the Mayor and Council. Of the five (5) non-attorney members not more than three (3) shall be of the same political party. None of the attorney or non-attorney members of the commission shall hold any other elective or appointive public office or be a member of law enforcement, and no attorney member shall be eligible for appointment to the office of magistrate until one (1) year after ceasing to be a member of the commission. All members shall serve four (4) year terms.

(b) For the purpose of conducting the business of the commission, a quorum shall consist of five (5) members.

(c) Within ninety (90) days from the occurrence of a vacancy in the office of magistrate or at the request of mayor and council, the commission shall recommend to

the mayor and council the names of not more than three (3) persons in ranked order to fill the position of magistrate or satisfy such request. Any such candidate shall be:

- (1) Of good moral character;
- (2) A resident of Arizona for one (1) year immediately preceding recommendation; and
- (3) Admitted to the practice of law for five (5) years immediately preceding recommendation.

In addition to other relevant materials and the results of the biennial judicial performance review, where a sitting magistrate seeks a new appointment the commission shall consider the magistrate's courtroom administrative performance, as evidenced by matters including but not limited to case aging, case load, time to rule on matters under advisement and rulings reversed/affirmed on appeal to the extent any such measures do not conflict with judicial independence; and the magistrate's adherence to the city's rules of conduct and code of ethics to the extent adherence is not inconsistent with the Code of Judicial Conduct. The presiding magistrate of the city court shall perform a written annual review of each magistrate's performance measured by these criteria.

(d) No later than nine (9) months prior to the expiration of the term, a magistrate may apply for reappointment in writing to the mayor and council. Upon such notice, the magistrate merit selection commission shall review the term of the magistrate and submit a written report of its findings to the mayor and council, which shall include a recommendation as to the reappointment. Such report shall be submitted at least ten (10) days prior to the expiration of the term. Upon expiration of the magistrate's term, the mayor and council may reappoint the magistrate, or may appoint a successor in accordance with the procedures set forth herein.

(e) A regular magistrate who completes a term in office and does not seek reappointment enters senior special magistrate status. The presiding magistrate of the city court may call a senior special magistrate to serve temporarily as needed; such senior special magistrates shall be compensated (without benefits) at the per-session rate for special magistrates set forth in Section 8-2.2(b) of this code.

(Ord. No. 4815, § 1, 5-22-78; Ord. No. 4866, § 1, 8-7-78; Ord. No. 4919, § 1, 12-18-78; Ord. No. 7305, § 1, 11-6-89; Ord. No. 7513, § 1, 11-19-90; Ord. No. 8189, § 1, 2-7-94; Ord. No. 8254, § 1, 4-25-94; Ord. No. 8569, § 1, 9-5-95; Ord. No. 8767, § 1, 10-21-96; Ord. No. 9086, § 1, 7-6-98; Ord. No. 10062, §§ 1, 2, 10-11-04; Ord. No. 10952, § 1, 12-20-11, eff. 1-1-12; Ord. No. 11335, § 1, 1-5-16; Ord. No. 11626, § 1, 1-20-19)

**Sec. 8-2.2. Appointment of special magistrates; full-time magistrate pro tempore; terms of office; compensation; powers; duties; qualifications.**

(a) Upon recommendation of the presiding judge of the Pima County Superior Court and subject to the appointment procedures set forth by the presiding judge, the mayor and council may appoint special magistrates, as needed, to assist in the timely adjudication of city court cases. Special magistrates shall serve a four (4) year term of office, and may be reappointed.

(b) The compensation of a special magistrate during the four (4) year term of

appointment is fixed at the rate of one hundred twenty five dollars (\$125.00) for each morning, afternoon or evening session of court at which the special magistrate sits; provided, however, that such special magistrate shall receive no more compensation than would be paid to a regular magistrate each month.

(c) The powers and duties of a special magistrate shall be the same as those of a regular magistrate and shall extend beyond the period of appointment for the purpose of hearing and determining any proceeding necessary for a final determination of a cause heard by the special magistrate in whole or in part during the period of appointment.

(d) Any such candidate for special magistrate shall possess the qualifications for a magistrate set forth in Tucson Code section 8-2.1(c).

(e) Subject to the nomination and appointment procedures set forth in section 8.2.1 (a), mayor and council shall appoint construction special magistrates possessing a demonstrated experience and familiarity of not less than five (5) years in contract and construction law to hear and decide cases arising under Tucson Code section 11-38. The compensation for such construction special magistrates shall be as set forth in subsection (b) above.

(f) Upon recommendation of the presiding judge of the Pima County Superior Court, the mayor and council may appoint a full-time magistrate pro tempore from among the appointed special magistrates, as needed, to assist in the timely adjudication of Tucson City Court cases. The full-time magistrate pro tempore shall serve a four (4) year term of office and may be reappointed. Compensation shall be set at eighty (80) percent of a city magistrate's pay with benefits during the term of the appointment.

(Ord. No. 7887, § 3, 8-3-92; Ord. No. 8835, § 1, 3-3-97; Ord. No. 8943, § 1, 9-8-97; Ord. No. 9158, § 3, 11-9-98; Ord. No. 9973, § 1, 5-17-04; Ord. No. 10063, § 1, 10-11-04; Ord. No. 10952, § 2, 12-20-11, eff. 1-1-12; Ord. No. 11111, § 1, 9-24-13, eff. 10-1-13; Ord. No. 11626, § 1, 1-20-19)

**Sec. 8-2.3. Appointment of limited special magistrates; term; powers; duties; qualifications; compensation.**

(a) Subject to the appointment procedures set forth in section 8-2.1, the mayor and council may appoint limited special magistrates to provide for the expeditious enforcement of civil violations and civil infractions of the Tucson Code and civil traffic violations under state law. Limited special magistrates shall be full time, shall serve a four-year term of office, and may be reappointed.

(b) Limited special magistrates shall have concurrent jurisdiction with regular and special magistrates to hear and decide actions alleging civil violations or civil infractions of the Tucson Code and civil traffic violations under state law, and shall assume all duties referenced in the Tucson Code as being the responsibility of an administrative hearing officer.

(c) At the time of appointment, limited special magistrates must have demonstrated experience or familiarity with administrative proceedings, technical codes or traffic law.

(d) The compensation to be received by limited special magistrates shall be as set from time to time by the mayor and council and shall include the same fringe benefits as provided to regular magistrates.

(Ord. No. 7887, § 4, 8-3-92; Ord. No. 8179, § 1, 1-3-94; Ord. No. 9398, § 1, 6-12-00; Ord. No. 10063, § 2, 10-11-04)

#### **Sec. 8-2.4. Criminal history records check prior to appointment of city magistrates.**

(a) Pursuant to A.R.S. § 41-1750, the City of Tucson is hereby authorized to receive criminal history record information for the purpose of evaluating the fitness of current and prospective city court magistrates.

(b) Each person who seeks to be appointed as a regular, special, or limited special city court magistrate shall, as part of such appointment application process, furnish a full set of fingerprints to the city.

(c) Pursuant to A.R.S. § 41-1750 and Public Law 92-544, the city shall submit such fingerprints accompanied by the appropriate fees, which will be paid by the city, to the Arizona Department of Public Safety and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information on all individuals identified in Section 1, subpart B. Such information shall be used only for the purpose of evaluating the fitness of such current and prospective city court magistrates.

(d) The city shall comply with any relevant State and Federal rules and regulations that may relate to the dissemination of such criminal history record information.

(Ord. No. 9085, § 1, 7-6-98)

#### **Sec. 8-2.5. Justices of the peace appointed as special magistrates for weekend arraignments, initial appearances, and conflict and other cases designated by the presiding magistrate.**

Any justice of the peace, upon assuming office, is appointed as a special magistrate of the city for the specific purpose of presiding over arraignments, initial appearances and any conflict case(s) or other case(s) designated by the presiding magistrate of the Tucson city court involving any state law or city ordinance.

(Ord. No. 9971, § 1, 5-17-04; Ord. No. 10155, § 1, 5-24-05; Ord. No. 10996, § 1, 6-19-12, eff. 7-1-12; Ord. No. 11653, § 1, 5-21-19)

#### **Sec. 8-3. Conducting business on nonjuridical days.**

City court shall always be open except on nonjuridical days. On such nonjuridical days, it may transact business within its jurisdiction.

(1953 Code, ch. 9A, §§ 2, 3; Ord. No. 1956, § 2, 9-8-59; Ord. No. 4679, § 3, 6-27-77; Ord. No. 7733, § 3, 12-9-91)

#### **Sec. 8-4. Magistrates; powers and duties.**

Each magistrate of the city court, in addition to exercising such judicial authority as provided in the Charter and Code of the city and the laws of the state shall:

(1) Devote his or her entire time to the duties of being a magistrate and shall not engage in the private practice of law.

(2) Observe, be available, and be present in attendance upon the court for the transaction of business every juridical day between the hours of 8:00 a.m. and 5:00 p.m. In addition to such hours, a magistrate may open court and be in attendance at the court during such additional hours of any juridical or nonjuridical day as may be necessary for the discharge or disposition of business properly coming before the court.

(3) Dispose with all reasonable promptness all matters taken under advisement and, in any event, issue a decision no later than twenty (20) days thereafter.

(4) Issue a minute entry of the court's judgment in all matters wherein disposition was based upon legal grounds rather than upon the factual merits of the matter, specifying therein the legal conclusion underlying the court's judgment.

(5) Follow and adhere to supervision by the presiding judge of the superior court as provided for in Arizona Supreme Court Administrative Order 93-30, and any amendment or successor to this provision.

(6) Follow and adhere to the city's rules of conduct and code of ethics contained in administrative directive 2.02-5 and 2.02-14 and any amendments or successors to these provisions to the extent adherence to these provisions does not affect judicial independence or is not inconsistent with the Code of Judicial Conduct.

(Ord. No. 4679, § 12, 6-27-77; Ord. No. 5169, § 3, 6-16-80; Ord. No. 7733, § 4, 12-9-91; Ord. No. 10062, § 3, 10-11-04)

**Editors Note:** Ord. No. 4679, § 1, adopted June 27, 1977, specifically amended the Code by repealing former § 8-5, which had pertained to office hours and had been derived from the 1953 Code, ch. 9A, § 5. Section 12 of Ord. No. 4679 added a new § 8-5 as hereinabove set out. The section was renumbered § 8-4 and the text amended by § 4 of Ord. No. 7733.

#### **Sec. 8-4.1. Authorizing assignment of an associate presiding magistrate, term, compensation, duties.**

(a) There is hereby created one administrative assignment position of Presiding Magistrate of the City Court of the City of Tucson whose function it is to assist the presiding judge of the superior court in performing administrative duties associated with the judicial and non-judicial functions of the city court.

(b) The presiding judge of the superior court is hereby authorized to appoint, in his or her sole discretion, any sitting city magistrate to the administrative assignment position of presiding magistrate.

(c) Any sitting city magistrate selected for assignment to the position of presiding magistrate shall serve at the pleasure of the presiding judge of the superior court, and may be removed from the administrative assignment of presiding magistrate at any time, for any reason, without cause and without right of appeal by the presiding judge of the superior court.

(d) While performing the administrative assignment of presiding magistrate, a city magistrate shall receive additional compensation in the amount of ten (10) percent of his or her annual salary, payable on a biweekly basis, pro-rated.

(e) The presiding magistrate shall perform those duties as required by law and this chapter and as assigned by the presiding judge of the superior court.

(Ord. No. 9042, § 1, 4-13-98; Ord. No. 10062, § 4, 10-11-04; Ord. No. 10454, § 1, 9-25-07)

### **Sec. 8-5. Duty to fix bond, bail, fines, penalties, fees and assessments.**

The city magistrates shall fix all bonds, bail, fines, penalties, fees and other assessments which are now or hereafter may be provided by law.

(1953 Code, ch. 9A, § 6; Ord. No. 4679, § 4, 6-27-77; Ord. No. 7733, § 7, 12-9-91)

**Note:** Formerly, § 8-6. Renumbered § 8-5 by § 7 of Ord. No. 7733.

### **Sec. 8-5.2. Probation monitoring fees.**

When granting supervised probation, the city court shall, as a condition of such probation, assess a monthly probation monitoring fee reflecting the actual costs of such supervised probation, including screening sessions, any necessary testing, court-ordered treatment, and any other necessary costs of supervised probation. Such monthly probation monitoring fee shall be not less than the sum specified in A.R.S. 13-901(A), or any successor provision(s), unless, after determining the inability of the probationer to pay the fee, the city court assesses a lesser fee. Such monthly probation monitoring fee may be assessed only when the person is placed on supervised probation.

(Ord. No. 8521, § 1, 6-12-95)

### **Sec. 8-6. Assumption of chapter 28 procedures.**

All references in this Code to section 28-12 shall be amended to read section 8-6.1, all references in this Code to section 28-14 shall be amended to read Rule 23 of Local Rules of Practice and Procedure in City Court Civil Proceedings, and all references in the Code to chapter 28 shall be amended to read chapter 8.

(Ord. No. 7887, § 5, 8-3-92)

### **Sec. 8-6.1. Penalties.**

(a) Unless otherwise provided in this Code, when a civil violation or civil infraction is determined, the following penalties shall be imposed:

(1) A person found responsible for a civil violation or civil infraction for the first time shall be fined not less than one hundred dollars (\$100.00) nor more than twenty-five hundred dollars (\$2,500.00) per civil violation or civil infraction. A person found responsible for the same civil violation or civil infraction for a second time shall be fined not less than two hundred dollars (\$200.00) nor more than twenty-five hundred dollars (\$2,500.00) per civil violation or civil infraction. A person found responsible for the same civil violation or civil infraction for a third or subsequent time shall be fined not less than three hundred dollars (\$300.00) nor more than twenty-five hundred dollars (\$2,500.00) per civil violation or civil infraction. The imposition of a fine for civil violations or civil infractions shall not be suspended.

(2) The magistrate, special magistrate or limited special magistrate shall, after a finding of responsibility, order abatement of the civil violation or civil infraction. An

abatement order shall be effective for one (1) year unless stayed on appeal. If stayed on appeal the order shall be effective for one (1) year from the end of the appeal if the finding of responsible and sentence is upheld.

(3) The magistrate, special magistrate or limited special magistrate shall warn a violator that additional fines will be imposed for failure to abate a violation and criminal charges may be brought by the city attorney for failure to obey an order to abate a violation.

(b) Failure of a defendant to comply with any order contained in a judgment for a civil violation or civil infraction shall result in an additional fine of not less than one hundred dollars (\$100.00) nor more than twenty-five hundred dollars (\$2,500.00) for each day the defendant fails to comply. A defendant's second failure to comply with any order contained in a judgment for a civil violation or civil infraction shall result in an additional fine of not less than two hundred dollars (\$200.00) nor more than twenty-five hundred dollars (\$2,500.00) for each day after the first determination of the defendant's failure to comply; a defendant's third and subsequent failures to comply with any order contained in a judgment for a civil violation or civil infraction shall result in an additional fine of not less than three hundred dollars (\$300.00) nor more than twenty-five hundred dollars (\$2,500.00) for each day after the second or subsequent determination of the defendant's failure to comply; provided, however, that the total fines imposed by this subsection and subsection (a) shall not exceed twenty-five hundred dollars (\$2,500.00) per civil violation or civil infraction.

(Ord. No. 7887, § 6, 8-2-92; Ord. No. 8154, § 2, 11-8-93; Ord. No. 8672, § 1, 4-8-96; Ord. No. 11393, § 3, 8-9-16)

**Sec. 8-6.3. Reimbursement of city's costs of incarceration; factors to be considered; exemption for indigent persons; reimbursement separate and distinct from any sentence or probation conditions; action for recovery authorized.**

(a) Where the city court sentences a person to a term of incarceration in the Pima County Jail, or makes a term of incarceration a condition of the person's probation for an offense, the city court shall order the person to reimburse the city for all or part of the actual incarceration costs to the city; EXCEPT THAT no person found by the city court to be indigent shall be required to reimburse the city for such incarceration costs.

(b) The city court shall determine the amount of incarceration costs to be reimbursed to the city based on the actual per diem per person cost of incarceration incurred by the city and on the person's ability to pay all or part of the incarceration costs.

(c) The reimbursement of incarceration costs 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 city court in the criminal case. The city court shall set forth the requirement and amount of such reimbursement of incarceration costs as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, where a person fails to reimburse the city for costs of incarceration in accordance with an order of the city court pursuant to this section the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of such costs

of incarceration.

(Ord. No. 8557, § 1, 8-7-95)

**Sec. 8-6.4. Administrative fee for warrants issued for failure to pay fines or restitution; exemption for indigent persons; fee separate and distinct from any sentence or probation conditions; action for recovery authorized.**

(a) When a city court magistrate issues a warrant for failure to pay a fine or restitution, the court shall impose a warrant fee in the amount of fifty dollars (\$50.00) upon the person who is the subject of the warrant, to cover the city court's administrative cost for processing such warrants. As used in this section, the term "magistrate" includes senior special magistrates, magistrates, special magistrates, and limited special magistrates.

(b) The warrant fee may be waived or suspended when such waiver would be in the interest of justice. No person who is found to be indigent by the city court shall be required to pay the warrant fee.

(c) The warrant fee 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 city court in the criminal case. The city court shall set forth the requirement and amount of such warrant fee as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the warrant fee authorized under this section.

(Ord. No. 8557, § 1, 8-7-95)

**Sec. 8-6.5. Case processing fee; exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.**

(a) Each person found guilty or responsible or who enters a plea of guilty or responsible for any charge in a city court case shall be assessed a processing fee of twenty dollars (\$20.00) for each charge to cover part of the cost of processing that person's charge through the city court system.

(b) The case processing fee may be waived or suspended when such waiver would be in the interest of justice. No person who is found to be indigent by the city court shall be required to pay the case processing fee.

(c) The case processing fee 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 city court in any criminal case, or any civil penalty in cases where a civil penalty is imposed. The city court shall set forth the requirement and amount of such case processing fee as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent

jurisdiction for recovery of the case processing fee authorized under this section.

(Ord. No. 9851, § 1, 5-12-03; Ord. No. 10585, § 1, 10-7-08, eff. 1-1-09)

**Sec. 8-6.6. Assessment of administrative charge on persons convicted in city court of violations of A.R.S. § 28-1381 et seq.**

(a) A person convicted in city court of a violation of A.R.S. § 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 city police department in the investigation of violations of A.R.S. § 28-1381 et seq. The administrative charge constitutes a debt of the person, and may be collected by the city.

(b) The city court shall assess and collect the administrative charge on behalf of the city. 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 city court in the criminal case.

(c) No person whom the city 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 by the chief of police pursuant to subsection (d), the court may waive that portion that the court finds the person is unable to pay.

(d) The chief of police shall, on a periodic basis, determine the amount of costs and expenses, including but not limited to officer salaries, directly incurred by the city police department in the investigation of violations of A.R.S. § 28-1381 et seq., 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 case amount of such costs and expenses. The calculated amount shall not include costs and expenses for officer testimony given during discovery, or at a hearing or trial. The chief of police shall communicate the amount of the administrative charge to be assessed against each convicted person to the city court.

(e) The administrative charge collected by the city court shall be deposited in the general fund.

(f) In addition to any other rights and remedies available to the city, the city 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 which 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 A.R.S. § 28-1386 et seq. applicable. It is the intent of the mayor and council that this section supplement the provisions of A.R.S. § 28-1386 et seq. in cases where that statute is not applicable, and that A.R.S. § 28-1386 et seq. 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 city court in the criminal case.

(i) As used in this section, the term "chief of police" includes any designee(s) of that officer.

(Ord. No. 8729, § 1, 7-1-96; Ord. No. 8958, § 2, 9-22-97)

**Sec. 8-6.7. Administrative default fee; exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized.**

(a) A default fee of fifty dollars (\$50.00) for each charge shall be assessed against a defendant who fails to appear, or who fails to pay a sanction or penalty imposed by the court, in any case involving a civil traffic violation of the Arizona Revised Statutes or civil violation, civil infraction or civil parking infraction of the Code.

(b) The default fee may be waived or suspended when such waiver would be in the interest of justice. No person who is found to be indigent by the city court shall be required to pay the default fee.

(c) The default fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any other fines or fees imposed. The city court shall set forth the requirement and amount of such default fee as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute appropriate civil action in any court of competent jurisdiction for recovery of the default fee authorized under this section.

(Ord. No. 9194, § 1, 1-25-99; Ord. No. 10010, § 1, 8-2-04)

**Sec. 8-6.8. Post-adjudicated civil motion filing fee; exemption for extraordinary circumstances; fee separate and distinct from any sentence; action for recovery authorized.**

(a) Each person filing a motion in a post-adjudicated civil case, to include those in default and/or submitted to the Fines Fees and Restitution Enforcement (FARE) program, will pay a five dollar (\$5.00) post-adjudicated civil motion filing fee. The five dollar (\$5.00) filing fee shall be paid prior to acceptance and processing of the motion.

(b) Absent extraordinary circumstances the five dollar (\$5.00) filing fee shall not be waived. When waving the five dollar (\$5.00) filing fee, city court shall set forth the extraordinary circumstances in all orders and judgments waving the fee.

(c) The post-adjudicated civil motion filing fee 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 civil penalty previously imposed by the court.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the post adjudicated civil motion filing fee authorized under this section.

(Ord. No. 10849, § 1, 11-9-10, eff. 12-1-10)

**Sec. 8-6.9. Defensive Driving School (DDS) rescheduling fee; fee separate and**

**distinct from any sentence; action for recovery authorized.**

(a) Each person requesting the court for an extension of time to complete Defensive Driving School shall pay a seventeen dollar (\$17.00) rescheduling fee. The seventeen dollar (\$17.00) rescheduling fee shall be paid prior to each court authorized extension.

(b) The rescheduling fee provided for in this section is hereby declared administrative in nature, separate from and in addition to any sentence or civil penalty previously imposed by the court.

(c) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the DDS rescheduling fee authorized under this section.

(Ord. No. 10901, § 1, 6-14-11, eff. 7-1-11)

**Sec. 8-7. Fines; collection; abatement.**

Any civil fine not paid within thirty (30) days after judgment shall constitute a lien against the real property of the defendant and may be filed with the county recorder's office. The city attorney may commence a separate legal action in city court to collect the fine. When the magistrate, special magistrate or limited special magistrate orders correction or abatement of a civil violation or civil infraction, and there is no compliance within thirty (30) days, such violation shall be deemed a public nuisance and the city attorney may seek injunctive relief in a court of competent jurisdiction. Any action taken under this section shall be in addition to any other remedies provided for in this Code.

(Ord. No. 7887, § 7, 8-3-92)

**Sec. 8-8. City court procedures.**

The rules of criminal procedure of the state shall apply to all criminal proceedings in city court. The rules of procedure in civil traffic violation cases shall apply to all proceedings in city court for civil traffic violations. The Local Rules of Practice and Procedure in City Court Civil Proceedings shall apply to all proceedings for civil parking infractions and to all other actions for civil violations or civil infractions of this Code.

(Ord. No. 7887, § 8, 8-3-92)

**Note:** Formerly, § 8-9. Renumbered § 8-8 by § 7 of Ord. No. 7733.

**Sec. 8-9. When jury trial required.**

In the trial of offense for the violation of the Charter and ordinances of the city and the laws of the state which are within the jurisdiction of the city court, and which by common law were not triable before a jury, no jury trial shall be granted. But in all cases where the offense charged was an offense at common law, a trial by jury shall be had if demanded by either the state or the defendant before the commencement of the trial. Unless such demand is made not less than three (3) days before the commencement of the trial, trial by jury shall be deemed waived.

(1953 Code, ch. 9A, § 14; Ord. No. 7733, § 7, 12-9-91)

**Note:** Formerly, § 8-10. Renumbered § 8-9 by § 7 of Ord. No. 7733.

### **Sec. 8-10. Summoning jurors.**

Upon proper demand by either of the parties for a jury trial in a case triable before a jury as herein provided, the magistrate shall issue an order directed to the chief of police or to any police officer of the city, commanding such officer to summon from the citizens of the city, and not from the bystanders, the number of qualified persons specified in the order to serve as jurors in the case. In the alternative, juries may be formed and jurors summoned in the manner authorized in A.R.S. sections 22-320.B and 22-426, as amended.

(1953 Code, ch. 9A, § 14; Ord. No. 5091, § 1, 1-21-80; Ord. No. 7733, § 5, 12-9-91)

**Note:** Formerly, § 8-11. Renumbered § 8-10 and the text amended by § 5 of Ord. No. 7733.

### **Sec. 8-11. Number of jurors; challenges for cause.**

In trials for offenses within the jurisdiction of this court which are triable by jury, the jury shall consist of six (6) persons but may, by consent of both parties, consist of any number less than six (6) and not under three (3). Any juror shall be subject to challenge for cause, which challenge for cause shall be tried by the court. At the time appointed for a jury trial in the city court, the list of jurors summoned shall be called; and if they all attend they shall constitute the jury unless excused or successfully challenged, in which case enough others to complete the jury shall be forthwith summoned in the manner hereinbefore provided.

(1953 Code, ch. 9A, § 15; Ord. No. 7733, § 7, 12-9-91)

**Note:** Formerly, § 8-12. Renumbered § 8-11 by § 7 of Ord. No. 7733.

### **Sec. 8-12. Pay of jurors.**

(a) Jurors who serve one (1) session shall receive the sum of five dollars (\$5.00). Jurors who serve the morning session and the afternoon session shall receive the sum of eight dollars (\$8.00); and in addition thereto the jurors shall receive free parking either by having parking spaces allocated for their vehicles or through the validation of their parking tickets, the sums to be paid by the city.

(b) A session of court shall be designated as a morning session or an afternoon session. The morning session will be between the hours of 8:30 a.m. and 12:00 noon, and the afternoon session shall be between the hours of 1:30 p.m. and 5:00 p.m.

(c) In the alternative, jurors may be paid as authorized in A.R.S. section 21-221, as amended.

(1953 Code, ch. 9A, § 20; Ord. No. 2852, § 1, 3-7-66; Ord. No. 4064, §§ 1, 2, 7-16-73; Ord. No. 5091, § 2, 1-21-80; Ord. No. 7733, § 6, 12-9-91)

**Note:** Formerly, § 8-13. Renumbered § 8-12 and the text amended by § 6 of Ord. No. 7733.

### **Sec. 8-13. Execution to collect fine.**

The city may, if a fine is imposed for the violation of its Charter, ordinances or the

statutes of the state within the jurisdiction of the city court, have execution against the property of the defendant as in civil actions.

(1953 Code, ch. 9A, § 23; Ord. No. 7733, § 7, 12-9-91)

**Note:** Formerly, § 8-14. Renumbered § 8-13 by § 7 of Ord. No. 7733.

#### **Sec. 8-14. Director of finance; powers and duties in relation to city court.**

The director of finance shall at his discretion inspect and audit any accounts or records of the financial transactions of the city court and prepare from time to time such financial reports of the court's transactions as are deemed necessary and appropriate.

(Ord. No. 4679, § 13, 6-27-77; Ord. No. 5169, § 4, 6-16-80; Ord. No. 7733, § 7, 12-9-91)

**Note:** Formerly, § 8-15. Renumbered § 8-14 by § 7 of Ord. No. 7733.

#### **Secs. 8-15--8-34. Reserved.**

**Editors Note:** Ord. No. 2754, § 1, enacted Apr. 5, 1965, repealed § 8-15, formerly derived from 1953 Code, ch. 9A, § 24 and Ord. No. 2582, § 1, 2-17-64. The section authorized the mayor and council to appoint and remove bailiffs and determine their compensation and term of office.

## **ARTICLE II. RESERVED\***

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\* **Editors Note:** Section 1 of Ord. No. 5950, adopted Feb. 13, 1984, repealed art. II, §§ 8-35--8-39, relating to unclaimed property, derived from the 1953 Code, ch. 2, §§ 40--43; Ord. No. 3225, §§ 1, 2, adopted Mar. 3, 1969; Ord. No. 4021, §§ 1--4, adopted May 1, 1973; and Ord. No. 4679, § 5, adopted June 27, 1977.

**Cross References:** Disposition of surplus, obsolete, lost, unclaimed and confiscated property, 2-53.

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