

CHAPTER 5 MUNICIPAL COURT

Article 5 – 1 Municipal Court Established; Jurisdiction

There is hereby established in the town a municipal court that shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violations of laws of the state committed within the limits of the town.

Article 5 – 2 Officers

- 5 – 2 – 1 Town Municipal Judge
- 5 – 2 – 2 Powers and Duties of Town Municipal Judge
- 5 – 2 – 3 Hearing Officer; Duties

Section 5 – 2 – 1 Town Municipal Judge

The presiding officer of the municipal judge's court shall be the town municipal judge, who shall be appointed by the council and shall be entitled to receive such compensation as the council by resolution shall set. The town municipal judge shall serve a term of four years with the beginning and ending of the term to be specified at the time of appointment and shall be entitled to receive such compensation as the council by resolution shall set. During such term, the municipal judge's compensation may not be increased or diminished and may be removed from office only for cause.

Section 5 – 2 – 2 Powers and Duties of Town Municipal Judge

The powers and duties of the municipal judge shall include:

- A. The powers and duties set forth and conferred upon him/her 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.
- C. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.
- D. Payment of all fees, fines, penalties and other monies collected by the court to the clerk/ treasurer.
- E. Submitting a monthly report to the council summarizing court activities for that month including all fines imposed or collected and all sentences of imprisonment imposed including the term and nature of such sentences.
- F. Preparation of a schedule of traffic violations not involving the death of a person, listing specific bail for each violation.
- G. Designation of a deputy other than a law enforcement officer and the specific location at which the deputy shall, during hours when the court is not open, set the amount of bail in accordance with the foregoing schedule and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court.

Section 5 – 2 – 3 Hearing Officer; Duties

- A. The council may appoint a hearing officer who shall be at least 21 years old, be of good moral character, and who shall have completed a course of instruction approved by the supreme court.
- B. The hearing officer shall serve under the administrative supervision of the town magistrate judge and may hear and determine civil traffic matters pending in the town municipal court, having the same powers in such matters as the town municipal judge.
- C. A hearing officer shall serve without pay, or if an employee of the town, shall not be entitled to additional compensation as a result of serving in this capacity.

ARTICLE 5 – 3 Proceedings of Court

- 5 – 3 – 1 Proceedings
- 5 – 3 – 2 Rules of Evidence
- 5 – 3 – 3 Rate of Pay for Court-Appointed Attorneys
- 5 – 3 – 4 Incarceration Fee
- 5 – 3 – 5 Collection Fees
- 5 – 3 – 6 Default Fee
- 5 – 3 – 7 Warrant Administrative Fee
- 5 – 3 – 8 Late Payment Fee
- 5 – 3 – 9 Municipal Court Enhancement Fund and Enhancement Fee

Section 5 – 3 – 1 Proceedings

- A. Proceedings in the town municipal court shall be conducted in accordance with the state constitution, the applicable state statutes and rules adopted by the state supreme court pertaining to limited jurisdiction courts.
- B. Criminal complaints shall be commenced conducted in accordance with the rules of criminal procedure and other applicable laws.
- C. Civil complaints shall be commenced and conducted in accordance with the rules of civil traffic and civil boating violation cases and other applicable laws.
- D. Applications for orders of protection shall be commenced and conducted in accordance with rules of protective order procedure and other applicable laws.

Section 5 – 3 – 2 Rules of Evidence

Except as otherwise permitted by the rules set forth in Section 5-3-1 above and allowed by the presiding judge, the Arizona Rules of Evidence shall apply in all municipal court matters.

Section 5 – 3 – 3 Rate of Pay for Court-Appointed Attorneys

Except upon good cause shown and upon written request setting forth the reasons to the town municipal judge, payments to attorneys appointed by the municipal court judge to represent indigent criminal defendants shall be as follows: \$65.00 per hour.

Section 5 – 3 – 4 Incarceration Fees

- A. Any person found guilty of a criminal violation of the Municipal Court of the town of Patagonia shall be assessed an incarceration fee for each day that person is incarcerated for that violation, whether before or after trial. Said incarceration fee shall be in addition to any other fine, fee or assessment required by law.
- B. The incarceration fee shall be based upon the daily rate assessed to the town of Patagonia by the county of Santa Cruz for the incarceration of that person. Provided, however, that in no event shall the incarceration fee exceed the actual total amount assessed to the town of Patagonia by the county of Santa Cruz for the incarceration of that person in the case in which the incarceration fee is imposed.

Section 5 – 3 – 5 Collection Fees

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

Section 5 – 3 – 6 Default Fee

Beginning January 1, 2004, the Municipal Court of Patagonia shall assess the defendant a default fee of twenty-five dollars for each default judgment entered in a civil traffic violation case upon failure to appear or failure to pay a civil sanction, unless such default judgment is set aside under Rule 28 of the Rules of Civil Procedure in Civil Traffic Violation Cases. A municipal judge may waive all or any part of the fee if the payment of the fee would cause a severe financial hardship to the defendant.

Section 5 – 3 – 7 Warrant Administrative Fee

Beginning January 1, 2004, in any case where a warrant is issued for failure to appear, failure to pay a fine, failure to pay restitution, surcharge or any other fee, an administrative fee in the amount of fifty dollars shall be imposed upon the person for whom the arrest warrant is issued. This fee shall be in addition to any fine imposed. The Municipal Judge shall be authorized to waive the administrative fee if such waiver would be in the interest of justice.

Section 5 – 3 – 8 Late Payment Fee

Beginning January 1, 2004, in any case where the defendant is ordered to pay a fine, restitution, surcharge or any other fees by the date ordered by the Municipal Judge, a late fee of five dollars shall be imposed upon the defendant to whom the order was given. This fee shall be in addition to the amount set forth in the Municipal Judge's order to pay such fine, sanction, restitution, surcharge or fee.

Section 5 – 3 – 9 Municipal Court Enhancement Fund

- A. There is hereby created a municipal court enhancement fund, which shall be used exclusively to enhance the technological, operational and security capabilities of the Town of Patagonia Municipal Court.
- B. The court enhancement fund shall be funded by an enhancement fee in the amount of ten dollars, which shall be applied by the Municipal Court on all fines, sanctions, penalties and assessments imposed by the Municipal Court. The enhancement fee shall also apply to fees collected for court authorized diversion programs. "Court authorized diversion program" as used in the section, means a program in which an individual charged with any civil, criminal or petty offense is not prosecuted for the offense on successful completion of an authorized diversion program not included in defensive driving programs.
- C. The court enhancement fund shall be established as a designated fund account with the Clerk/Treasurer. The Municipal Court shall collect enhancement fees and deposit them in the court enhancement fund account. The Town Clerk/Treasurer shall invest the monies in the fund in the same manner as Town funds. Interest earned on fund monies shall be deposited in the fund.
- D. The Municipal Court shall administer the funds and may make expenditures from the funds for the purposes provided in this section. Monies from the funds shall supplement monies already provided to the Municipal Court for the general purposes stated in this section.
- E. The Municipal Court shall annually submit to the Town Clerk/Treasurer a report detailing the amount of money collected and expended during the reporting period and the progress made in municipal court enhancement.