

CHAPTER 5 MUNICIPAL COURT*
Amended 3-13-13

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 PRESIDING OFFICER

- 5 - 2 - 1 Town Municipal Judge
- 5 - 2 - 2 Powers and Duties of Town Municipal Judge

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. The town municipal judge shall serve a term of FOUR years with the beginning and end of the term to be specified at the time of appointment. During such term, the municipal judge may be removed only for cause.

Sec. 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.

*Ordinance #2 in part.

- G. Designation of a deputy other than a law enforcement officer and a 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.

Article 5 - 3 PROCEEDINGS OF COURT

5 - 3 - 1	Proceedings
5 - 3 - 2	Bail
5 - 3 - 3	Rate of Pay for Court Appointed Attorneys ¹
5 - 3 - 4	Incarceration Fee*
5 - 3 - 5	Collection Fees
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5 - 3 - 9	Municipal Court Enhancement Fund and Enhancement Fee

Section 5 - 3 - 1 Proceedings

- A. The proceedings shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to police courts. The proceedings shall also be conducted in accordance with the rules of criminal procedure for the superior court, unless otherwise prescribed, and providing this code and resolutions of the town are not in conflict therewith.
- B. The municipal court proceedings shall be commenced by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.
- C. If the municipal judge is satisfied that the offense complained of has been committed by the person charged, s/he shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the municipal judge may subpoena and examine witnesses as to the truth of the complaint.

Sec. 5 - 3 - 2 Bail

Rule 7 of the Rules of Criminal Procedure shall govern release of all defendants, where applicable.

Sec. 5 - 3 - 3 *Rate of Pay for Court Appointed Attorneys¹

Except upon good cause shown and upon a written request setting forth the reasons to the town municipal judge, payments to attorneys appointed by the Patagonia municipal judge to represent indigent criminal defendants shall be as follows:

\$65.00 per hour.

5 - 3 - 4 Incarceration Fee**

- 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.

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.

* Revised, Ordinance No. 09-01

¹ Ordinance #101 Rev. 12/99

** Ordinance # 00-5 3/00

*** Ordinance # 188 3/99

5 - 3 - 6 Driver's License Suspension Administrative Fee*

Beginning January 1, 2004, the Municipal Court of the Town 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 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.

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.

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 fee 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.

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 this 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.

*Ordinance #03-09 12/03

- (c) The court enhancement fund shall be established as a designated fund account with the Town 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.