

ORDINANCE N^o 10-67

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, CREATING TOWN CODE § 34.11; PROVIDING FOR ANNUAL AUTOMATIC ADJUSTMENT; PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW; AND PROVIDING FOR REPEAL OF ANY ORDINANCE OR PART OF ORDINANCES OR CODE PROVISIONS IN CONFLICT THEREWITH.

Whereas, the Town has established a Magistrate's Court as authorized by A.R.S. § 22-402;

Whereas, the Town may establish and assess fees for Magistrate's Court programs and services as authorized by A.R.S. § 22-404(E);

Whereas, the Town's *Principles of Sound Financial Management* require the Town to conduct a cost of service study to identify the full cost of providing a service for which fees are charged;

Whereas, the calculation of full cost included all reasonable and justifiable direct, indirect, and overhead cost components;

Whereas, the Town's fees, including Magistrate's Court fees and surcharges, shall be reviewed every 3 years to calculate the full cost of the services provided thereby, to compare them to the current fee structure, and to recommend adjustments where necessary;

Whereas, the Town's existing Magistrate's Court fees are solely those provided by state law, without the benefit of a professional study calculating any reasonable and justifiable direct and indirect cost components in the local context;

Whereas, absent revised fees, the Town would have to supplement certain services provided to individuals by the Magistrate's Court from general public funds;

Whereas, it is the purpose of this Ordinance to establish a Magistrate's Court fee and surcharge schedule whereby the Town may defray certain costs associated with the additional services and products, e.g., related to issuing and processing numerous Failure to Appear warrants, suspension of driving privileges, and photo radar citations in the Magistrate's Courts;

Whereas, it is the further purpose of this Ordinance to establish a Court Enhancement Fee to provide funds supplemental to budgetary funds for advancing court operations in areas of technology, court security, and programs designed to improve the Magistrate's Court efficiency;

Whereas, the Town now believes that the Magistrate's Court fees and surcharges must be changed to meet these different costs; and

Whereas, the Town believes that these fees are applied and will be administered in a consistent and equitable manner, that all fee reductions have a rational basis, and that no fee will be administered or applied in a way that denies any constitutional right;

Now, Therefore, be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona as follows:

1. Creation of Dewey-Humboldt Town Code § 34.11. Town Code § 34.11 is hereby created, as follows:

§ 34.11. Magistrate's Court Fee and Surcharge Schedule.

A. *Fee and Surcharge Schedule.* The following table is the fee and surcharge schedule for Magistrate's Court services, which Town staff must collect unless otherwise directed by the Magistrate in accordance with this section. These fees and surcharges are in addition to any imposed by state or other law.

Magistrate's Court Fees		Fee
Arraignments	Per event in all criminal cases	\$46
Pre-trial conferences	Per conference in all criminal cases	\$92
Hearings	Per hearing upon a finding of guilty or responsible	\$701
Trials without a jury (half day maximum)	Per trial upon a finding of guilty or responsible	\$701
Trials with a jury (first day)	Per trial upon a finding of guilty or responsible	\$1,402
Trials with a jury (each additional half day)	Per half day upon a finding of guilty or responsible	\$701
Warrants	Per warrant following a Failure to Appear	\$175
Default civil traffic fee	Per event in all civil traffic cases	\$88
Court enhancement fee	Per event in all criminal cases	\$44
Court appointed counsel fee	Per hour in all criminal cases where council has been appointed but either: the defendant is later discovered to not be indigent; or the defendant fails to appear at a scheduled meeting with the court appointed counsel	\$44
Research fee	Per hour in all criminal cases	\$44
Return check fee	Per check in all criminal cases	\$57
Deferred prosecution fee	Per event in all cases resulting in deferred prosecution	\$88
Deferred Sentence Fee in cases where the Judge directs the defendant to perform a task and report back in lieu of punishment (not probation)	Per event in all cases resulting in deferred sentence	\$88
Suspended License	Per event in all cases resulting in or from each suspension of an Arizona driver's license or privilege to drive in the State of Arizona which the Magistrate's Court is required to issue as the result of failure to pay a civil sanction, or a default judgment in a civil traffic matter.	\$70
Copy fees	Per sheet in all cases	\$0.25
CD Transcription	Per CD in all cases	\$15

B. *Reduced Fees.*

- a. Fees may be reduced or waived by the Magistrate to avoid injustice.
- b. If a person has been found by the Magistrate's Court to be indigent, the Magistrate may reduce or waive the amount of any fee set forth in this section based upon the individual's ability to pay.
- c. Nothing herein purports to grant the Magistrate the authority to waive state mandated fees or surcharges.

C. *Ex post facto.* The foregoing fees and surcharges, if applied upon a finding of guilty/responsible, cannot be imposed in a case in which the violation occurred prior to June 1, 2010.

D. *Fee segregation.* The foregoing fees and surcharges collected for court-related products or services may not be used to fund other Town activities, unless specifically authorized by the Town Council. All fees collected under this section shall be received by the Magistrate's Court in a manner consistent with the Arizona Supreme Court Accounting Standards and shall be deposited into the Town's General Fund.

E. *Community Service Conversion.* The Magistrate may convert all or part of any fee to community service time at a rate consistent with the Magistrate's Court community service practices.

2. Automatic Adjustment. The fees contained in this Ordinance will be automatically adjusted on an annual basis using the Engineering News Record Twenty-City Construction Cost Index or equivalent nationally recognized index unless otherwise directed by the Town Council. The adjustment will be made at the end of each fiscal year, and will be based on the percentage change in the index over the preceding 12-month period. A current list of all adjusted fees will be on file with the Town Clerk.

3. Effective Date. That this Ordinance shall be effective as of June 1, 2010.

4. Savings Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended 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 remainder of this Ordinance.

5. Repeal. All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 20th day of April 2010.



Len Marinaccio, Mayor

ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Ethan Wolfinger, Town Attorney