



## City of Somerton

110 N. State Avenue  
P.O. Box 638  
Somerton, Arizona 85350

(928) 722-7400  
Fax: (928) 627-3794  
TTD: (928) 722-7400

### SPECIAL COUNCIL MEETING

#### ADDENDUM

Wednesday, December 14, 2011  
7:00 P.M.

#### SENIOR CENTER

#### AGENDA

Notification of public meeting to A.R.S. 38-431.02

#### NEW BUSINESS

**All items are for discussion and possible action**

11. **ORDINANCE NO. 243** AN ORDINANCE OF THE CITY OF SOMERTON, ARIZONA, AMENDING AND SUPPLEMENTING CHAPTER 5 MAGISTRATE, OF THE CITY CODE BY AMENDING SECTION 5-4-2, WAIVER OF COSTS FOR INDIGENTS; BY DELETING PARAGRAPH 5-4-2 IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 5-4-2, WAIVER OF COSTS FOR INDIGENTS; BY DELETING PARAGRAPH 5-4-3, COLLECTION OF FEE IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 5-4-3, MUNICIPAL COURT FUND; AND BY ADDING A NEW SECTION 5-4-4, MUNICIPAL COURT FEES

**Manuel Figueroa**

#### ADJOURNMENT

In accordance with the Americans with Disabilities Act (ADA) and § 504 of the Rehabilitation Act of 1973, the City of Somerton does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in its programs, activities or services. For information regarding rights and provisions of the ADA or § 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of Somerton Human -Resources, 110 N. State Ave., Somerton, Arizona 85350 (928) 722-7400. TDD is the same number.



## City of Somerton

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110 N. State Avenue  
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### AGENDA ITEM REVIEW FORM

**TO:** Mayor and Council

**FROM:** Manuel Figueroa, Judge

**SUBJECT:** Proposed Amendment / Update City Ordinance No. 243

**DATE:** December 05, 2011

**BACKGROUND:**

Court orders come in form of fines, jail, mandated counseling, community service etc. When court orders are not complied with, courts are required to attempt to have those particular orders obeyed. Consequently, Court personnel spend more and more time in attempt to force defendants to comply with our court orders. Court budgets have begun to reflect the difficulty in enforcing court orders.

Arizona Revised Statute 22-404© permits a city or town the capability to establish and assess fees for court programs and services. This law allows the City of Somerton to recover and defray some of the costs and expenditures created in the enforcement of Municipal Court orders.

**CURRENT:**

City Ordinance No. 243 was initially approved by the City Council in May of 1995.

**RECOMMENDATION:**

Approval of updated Ordinance No. 243, it might have to be re-numbered.

**FISCAL IMPACT:**

The City of Somerton will not incur any costs. The collection of these funds will be electronically initiated at the time the payee pays his fine or fee. Conservatively speaking, the court should collect approximately \$8,000 - \$10,000 per fiscal year. It is not just the collection of the enhancement of funds, but the *incentive* that it will give defendants to comply with court orders and court ordered fines. In the long run, it may reduce our overall costs of enforcing our court orders.

Ordinance No. 243

AN ORDINANCE OF THE CITY OF SOMERTON, ARIZONA, AMENDING AND SUPPLEMENTING CHAPTER 5 MAGISTRATE, OF THE CITY CODE BY AMENDING SECTION 5-4-2, WAIVER OF COSTS FOR INDIGENTS; BY DELETING PARAGRAPH 5-4-2 IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 5-4-2, WAIVER OF COSTS FOR INDIGENTS; BY DELETING PARAGRAPH 5-4-3, COLLECTION OF FEE IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 5-4-3, MUNICIPAL COURT FUND; AND BY ADDING A NEW SECTION 5-4-4, MUNICIPAL COURT FEES.

Be it ordained by the Mayor and Common Council of the City of Somerton, Arizona as follows:

SECTION 1. That Section 5-4-2, Waiver of Costs for Indigents, of the City Code of the City of Somerton, Arizona is hereby deleted in its entirety and replaced with the following:

Sec. 5-4-2 Waiver of Costs for Indigents

The City Magistrate may waive all or a portion of the fees when in the opinion of said Magistrate such waiver would be in the interest of justice or after finding the person has a substantial financial hardship or is indigent based on sworn affidavits of the person.

SECTION 2: That Section 5-4-3 Collection of Fees is deleted in its entirety and replaced with the following:

Sec. 5-4-3 Municipal Court Fund

A. There is hereby established a Municipal Court Fund, which shall be used exclusively to recover legitimate court costs and to enhance the technological, operational, security and collections capabilities of the Somerton Municipal Court.

B. The Municipal Court Fund shall be established as a designated fund account with the City Treasurer. Somerton Municipal Court shall collect designated Municipal Court Fees and deposit them in the Municipal

*IN CASE  
the...*

Court Fund account. The City Treasurer shall invest the monies in the fund in the same manner as other city funds. Interest earned on fund monies shall be deposited in the fund.

C. Somerton Municipal Court, with the concurrence of the Somerton City Council, shall administer the fund and may make expenditures from the fund for the purpose provided in this Section.

D. The Municipal Court Fees shall be administrative in nature, separate from and in addition to any sentence imposed by the Municipal Court in a criminal case, or any civil penalty in cases where a civil penalty is imposed. The Municipal Court shall set forth the requirements and amounts of such court fees as separate items in all orders and judgments.

E. If the defendant pays some or all of his or her fine, surcharges, restitution or other fees over time, the Municipal Court Fees shall be collected in proportion with any fine, surcharge, other fees, except restitution and time payment fees, which must be collected first.

SECTION 3. That Section 5-4-4, Municipal Court Fees, of the City Code of the City of Somerton, Arizona is hereby added as an addition to Article 5-4 as follows:

5-4-4 Municipal Court Fees

A. Municipal Court Enhancement Fee

Persons convicted of criminal traffic or misdemeanor offenses, or found responsible for civil traffic offenses, with an offense date of the effective date of this Ordinance or after, shall pay a Municipal Court Enhancement Fee in the amount of ten dollars (\$10.00) for each offense.

B. Municipal Court Default Cost Recovery Fee

A Default Cost Recovery Fee in the amount of forty dollars (\$40.00) shall be imposed on each default

70.00  
INCREASE

judgment entered for failure to appear in a civil traffic case, or for failure to satisfy in full a civil sanction imposed in a civil traffic case.

C. Municipal Court Warrant Cost Recovery Fee

When a City Magistrate issues a warrant for non-compliance with court orders, failure to pay a fine or failure to pay any other fees, the City Magistrate shall impose a Municipal Court Warrant Cost Recovery Fee in the amount of one hundred dollars (\$100.00) upon the person for whom the arrest warrant is issued; and this fee shall be added to the amount set forth in the arrest warrant.

ok  
no  
2009

D. Municipal Court Deferred Prosecution Cost Recovery Fee

A Deferred Prosecution Fee in the amount of one hundred dollars (\$100.00) shall be imposed on each criminal charge for which the court defers prosecution pursuant to Rule 38 of the Arizona Rules of Criminal Procedure (or its substitute).

ok  
no  
2009

*Remove*

E. Municipal Court Order of Protection/Injunction Against Harassment Cost Recovery Fee


~~When an Order of Protection or an Injunction Against Harassment is filed in the Municipal Court, and then subsequently withdrawn by the victim prior to its termination date, a Cost Recovery Fee in the amount of twenty-five dollars (\$25.00) shall be imposed.~~

ok  
no  
2009

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the Code adopted herein by reference 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.

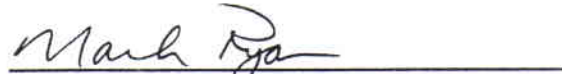
SECTION 5. That the effective date of this Ordinance and the effective date of for the collection of the fees established by this Ordinance shall be July 1, 1999.

PASSED AND ADOPTED by the Mayor and Council of the City of Somerton, Arizona this 4th day of May, 1999.

  
\_\_\_\_\_  
Salvador Troccoli, Vice Mayor  
(Acting)

\_\_\_\_\_  
Agustin Tumbaga, Mayor (Absent)

ATTEST:

  
\_\_\_\_\_  
Mark Ryan, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gerald W. Hunt, City Attorney

HUNT AND HOSSLER

ASSOCIATED ATTORNEYS INCLUDING PROFESSIONAL CORPORATIONS

GERALD W. HUNT\*  
DAVID J. HOSSLER  
LAWRENCE C. KENWORTHY\*\*

330 WEST 24TH STREET  
YUMA, ARIZONA 85364-0455  
(520) 783-0101

MAILING ADDRESS:  
POST OFFICE BOX 2919  
YUMA, ARIZONA 85366-2919

\*CERTIFIED TAX SPECIALIST  
ARIZONA BOARD OF LEGAL SPECIALIZATION  
ALSO ADMITTED IN COLORADO & TEXAS  
\*\*ALSO ADMITTED IN ALASKA

FAX (520) 783-2788

22 April 1999

Mark Ryan, City Manager  
*CITY OF SOMERTON*  
P. O. Box 638  
Somerton, AZ 85350

Dear Mark:

Enclosed are the following ordinances with changes as directed:

1. #243 with effective date inserted of 7/1/99;
2. #244 with the emergency clause deleted; and
3. #247 with the date left blank.

Sincerely,



Mary Kaffer  
Secretary to Gerald W. Hunt

/mk  
Enclosures