

ORDINANCE NO. 2024-\_\_ - \_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 66, "MUNICIPAL COURT OF RECORD," ARTICLE VII, "COSTS AND FEES," TO MODIFY THE FINES, FEES AND COURT COSTS COLLECTED BY THE MUNICIPAL COURT; AMENDING APPENDIX A, "SCHEDULE OF FEES"; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on or about June 18, 2019, the City Council of the City of McKinney ("City Council") established by ordinance the McKinney Municipal Court as a court of record pursuant to Chapter 30 of the Texas Government Code; and

**WHEREAS**, the City Council seeks to amend certain fines, fees, and court costs set forth in said ordinance to comply with state law and to authorize the Clerk of the McKinney Municipal Court to collect all fines, fees, and court costs mandated by state law to the fullest extent permissible.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of McKinney and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. From and after the effective date of this Ordinance, Chapter 66, "Municipal Court", Article VI, Section 66-18, "Appeals" and Article VII, "Costs and Fees," of the Code of Ordinances of the City of McKinney, Texas, is hereby amended to read as follows:

**"CHAPTER 66 - MUNICIPAL COURT OF RECORD**

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**ARTICLE VI – PROSECUTION AND APPEALS**

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**Sec. 66-18. Appeals.**

A defendant has the right of appeal from a judgment or conviction in the municipal court and the state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. Such appeals shall be in accordance with and conform to Chapter 30 of the Texas Government Code.

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**ARTICLE VII – COSTS AND FEES**

**Sec. 66-19. Collection by clerk.**

All costs and jury fees assessed by this article shall be collected by the clerk of the municipal court and paid over to the city for the use and benefit of the city.

**Sec. 66-20. Enforcement of collection.**

The enforcement of the collection of the costs and jury fees assessed by this article shall be in the same manner now provided for the enforcement of the collection of fines assessed in the municipal court.

**Sec. 66-21. Administrative fees.**

- (a) All persons requesting attendance to a driving safety course must pay the maximum reimbursement fee permitted under Article 45.0511(f), Code of Criminal Procedure, as amended.
- (b) All persons requesting copies of judicial records shall pay those costs set forth in Rule 12, Section 12.7 of the Judicial Administration Rules of the Texas Supreme Court, as amended.
- (c) All persons shall pay a processing fee for credit card payments for any costs, fines or fees owing under this Ordinance, which processing fee shall be set at the maximum percentage allowed under chapter 132, Local Government Code, as amended. By the adoption hereof, the City Council authorizes the City Manager and the Court to collect such payments by credit card, including through the Internet.

**Sec. 66-22. Additional fines, fees and court costs.**

- (a) The court clerk is hereby authorized to collect a Local Consolidated Fee to the maximum extent allowed by state law, with said fee to be allocated to the following funds in accordance with state law:
  - (i) Municipal court building security fund, pursuant to Article 102.017, Code of Criminal Procedure, as amended;
  - (ii) Local youth diversion fund, pursuant to Section 134.156, Local Government Code, as amended;
  - (iii) Municipal court technology fund, pursuant to Article 102.0172, Code of Criminal Procedure, as amended;
  - (iv) Municipal jury fund, pursuant to Section 134.156, Local Government Code, as amended; and
  - (v) Any other such funds established by state law after the effective date of this ordinance.
- (b) All persons requesting expunction of a criminal record are required to pay a fee in the amount specified by Article 102.006(a-1), Code of Criminal Procedure, as amended, for filing an ex parte petition for expunction.
- (c) A person who fails to appear for a complaint or citation shall pay a fee for each complaint or citation reported by the municipal court to the state department of public safety pursuant to and in the amount specified by chapter 706, Texas Transportation Code.
- (d) The court clerk is hereby authorized to collect a fee to be paid into a Child Safety Fund, the funds for which shall be used in accordance with Article 102.014, Code of Criminal Procedure, as amended, for the following offenses:
  - (i) A person who violates an ordinance of this City regulating the stopping, standing, or parking of vehicles shall pay the maximum fine allowed by Article 102.014(b), Code of Criminal Procedure, as amended;
  - (ii) A person convicted of an offense under Subtitle C, Title 7, Transportation Code, when the offense occurs within a school crossing zone as defined by Section 541.302 of that code

shall pay the fine set forth in Article 102.014(c), Code of Criminal Procedure, as amended;

- (iii) A person convicted of an offense under Section 545.066, Transportation Code, Passing a School Bus, shall pay the fine set forth in Article 102.014(c), Code of Criminal Procedure, as amended; and
- (iv) A person convicted of an offense under Section 25.093, Education Code, Parent Contributing to Nonattendance, shall pay the fine set forth in Article 102.014(d), Code of Criminal Procedure, as amended.
- (e) The court clerk is hereby authorized to collect the maximum Failure to Appear/Violate Promise to Appear fine allowed under Article 45.203(c), Code of Criminal Procedure, as amended, for an offense under Section 38.10(e), Penal Code, as amended, or Section 543.009, Transportation Code, as amended.
- (f) The court clerk is hereby authorized to collect all other fines, fees, reimbursement fees, and court costs set forth under applicable state law in the maximum amounts set forth under such laws, and as detailed in the most recent edition of the Court Costs chart published by the Texas Municipal Courts Education Center, which is hereby adopted by reference to the fullest extent permitted by law.
- (g) The court clerk shall maintain a schedule of all fines, fees, reimbursement fees and court costs collected by the municipal court, and make said schedule available for public viewing upon request.

**Sec. 66-23. Applicability of state law.**

- (a) The imposition and collection of the costs and fees in the municipal court of the city shall be as provided by the Code of Criminal Procedure, as amended, or any other applicable state law, which provisions are hereby incorporated by reference in this section.
- (b) Except for those costs and fees remitted to the state, all costs and fees collected by the clerk of the municipal court shall be paid over to the city for the use and benefit of the city.

**Sec. 66-24. Collections fee.**

- (a) Pursuant to article 103.0031, Code of Criminal Procedure, the city may enter into a contract with a private attorney or a public/private vendor for the provision of collection services.
- (b) The fee shall be the higher of the maximum amount allowed by law or 30 percent of any outstanding balance due on a case after 60 days of which the debt, fine, fee, forfeited bond, or court cost must be paid in full as determined by the court, by which the accused promised to appear or was notified, summoned, or ordered to appear, or the date on which a penalty or fee is due under a rule or order adopted under Chapter 233, Local Government Code, ordinance, policy, procedure, or rule of the McKinney Municipal Court.
- (c) All cases in which the fee has been assessed shall be forwarded to the attorney/vendor for collection services.
- (d) The fee does not apply to a case that has been dismissed, satisfied through time-served credit or community service, or if the court has determined that the defendant is indigent.

(e) The city may only use the collections fee authorized herein in accordance with Article 103.0031, Code of Criminal Procedure, as amended.”

Section 3. That Appendix A, entitled “Schedule of Fees,” of the Code of Ordinances, City of McKinney, Texas, is hereby amended to repeal Chapter 66, entitled “Municipal Court of Record,” in its entirety.

Section 4. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 5. All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 6. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

Section 7. Any provision of any prior ordinance of the City, whether codified or uncodified, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 8. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 9. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council’s adoption hereof as provided by law.

Section 10. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

[Signature Page to Follow]

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS ON THE 20<sup>TH</sup> DAY OF FEBRUARY, 2024.

CITY OF McKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

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EMPRESS DRANE  
City Secretary  
TENITRUS BETHEL  
Deputy City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney