

ORDINANCE NO. 21-1138

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA, MODIFYING TITLE 2 OF THE DOUGLAS MUNICIPAL CODE RELATING TO THE MAGISTRATE COURT BY AMENDING CHAPTER 2.40.025 DRIVER LICENSE SUSPENSION FEE, ESTABLISHING SEVERABILITY OF COMPONENTS OF ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Douglas Magistrate Court was formally required to collect a suspension fee of seventy-five dollars (\$75) for each suspension of an Arizona driver's license; which the court was required to issue as the result of a failure to pay a civil sanction or a default judgment in a civil traffic matter or an out-of-state driver's license privilege; and

WHEREAS, SB1551 was proposed with the intent of reversing the mandatory suspension of an Arizona driver's license as the result of a failure to pay a civil sanction or a default judgment in a civil traffic matter or an out-of-state driver's license privilege; and

WHEREAS, SB1551 was passed by the Arizona State Legislature and will become law effective September 29, 2021 and will be enforced retroactive to the effective date; and

WHEREAS, Chapter 2.40.025 will be in conflict with State Statute.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Douglas, Arizona, as follows:

Section 1. In order to avoid conflict with State Statute, Title 2, Chapter 2.40.025, of the Douglas Municipal Code is hereby amended to read in its entirety as attached (language additions are shown in colored print, and language deletions are shown in strikeout).

2.40.025 ~~Driver license suspension-Default f~~Fee.

A. The magistrate court ~~shall~~may collect a ~~suspension~~suspension~~default~~ fee of seventy-five dollars (\$75) ~~for each suspension of an Arizona driver's license privilege to drive in the State of Arizona which the court is required to issue~~ as the result of a failure to pay a civil sanction or a default judgment in a civil traffic matter or an out-of-state driver's license privilege as a result of failure to pay a civil sanction or a default judgment in a civil traffic matter provided the state that issued the driver's license is a participant in the Non-Resident Violator Compact (NRVC), ~~except that a judge may not mitigate a fine imposed pursuant to Section 28-1381, 28-1382 or 28-1383.~~

B. All ~~suspension~~suspension~~default~~ fees collected under this section shall be received by the magistrate court in a manner consistent with the Minimum Accounting Standards (MAS)~~Arizona Supreme Court Accounting Standards~~ issued by the Administrative Office of the Courts (AOC) and shall be disbursed to the City in accordance with the Court Co-Location Intergovernmental Agreement.~~and shall be deposited with the City Treasurer on a monthly basis for deposit into the Magistrate Court Enhancement Fund.~~

C. The magistrate or magistrate pro tempore may waive, suspend or defer payment of all or part of the ~~suspension~~suspension~~default~~ fee upon a determination of economic hardship as defined by the Federal Poverty Guidelines on the part of the defendant or in the interest of justice, ~~except that a judge may not mitigate a fine imposed pursuant to Section 28-1381, 28-1382 or 28-1383.~~

1 (Ord. 08-934 §§ 1-2, 2008)
2 (Ord. 08-950 §§ 1-2, 2008)

3 **Section 2.** All Ordinances and parts of ordinances in conflict herewith are hereby repealed.

4 **Section 3. Severability:** If any chapter, section, subsection, sentence, clause or phrase of this Ordinance
5 is for any reason held to be invalid or unconstitutional by the decision of any court of competent
6 jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance and this
7 Ordinance shall continue in full force and effect after the deletion of the illegal or unconstitutional
8 provision.

9 **Section 4. Emergency Clause:** Whereas the immediate operation of this Ordinance is necessary to the
10 preservation of the public health, peace and welfare, an emergency is declared to exist and this Ordinance
11 shall come into full force and effect by its terms from and after its passage by six-sevenths (6/7) of the
12 Council and approval of the Mayor.

13 **PASSED AND ADOPTED** by the Mayor and Council of the City of Douglas, Arizona, this 14th day of
14 September, 2021.

15 _____
16 Donald C. Huish, Mayor

17 Attest:

18 Approval as to form:

19 _____
20 Alma Andrade, City Clerk

21 _____
22 Denis Fitzgibbons, City Attorney