

**TOWN OF PINETOP-LAKESIDE**

**ORDINANCE NO. 11-351**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, INCREASING THE RATE OF THE MAGISTRATE COURT USER FEE SURCHARGE.**

**WHEREAS**, the Town of Pinetop-Lakeside has established a Magistrate Court as authorized by A.R.S. § 22-402; and

**WHEREAS**, the Town's Court User Fee surcharge is authorized by A.R.S. § 22-404(E); and

**WHEREAS**, the Town of Pinetop-Lakeside expends approximately \$55,300 per year in public funds, not including the building or utilities in support of the Magistrate Court, including the provision of personnel, materials and the Magistrate Court; and

**WHEREAS**, the Town adopted Chapter 2.28 of the Town Code on or about June 3, 2004 to establish a Court User Fee surcharge for persons found guilty or responsible of criminal and civil violations processed by the Magistrate Court to help defray some of the costs of the operation of the Magistrate Court and the costs of enforcement of the law; and

**WHEREAS**, the Town now finds that the costs associated with the operation of the Magistrate Court, enforcement of the law, and cooperation with Navajo County in prosecuting, defending, and enforcing the law in criminal and civil cases which take place within the Town are greater than originally calculated in 2006 when the Court User Fee surcharge was originally established; and

**WHEREAS**, the Town now believes that the Court User Fee surcharge must be increased to meet these increased and additional costs.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, as follows:

**Section 1.** Town Code Section 2.28.040.A, B, and C are amended to increase the Court User Fee surcharge from \$75 to \$85 for each civil or criminal charge brought in the Town of Pinetop-Lakeside Magistrate Court in which the defendant is found guilty or responsible, including pleas, defaults, or answers of no contest, or other admissions entered by defendants in Magistrate Court proceedings. **Current Town Code Sections 2.28.040.A, B, and C are amended to read as follows:**

A. Basis for Surcharge Fee. The Town and the Pinetop-Lakeside Magistrate Court incurs substantial costs in enforcing civil traffic matters and fines, and civil and criminal sections and penalties of the Town Code. These costs are incurred by both the Magistrate Court and the Town, including the Town Police Department, Community Development

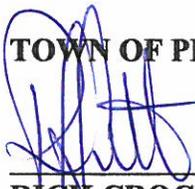
Department officials, Navajo County, and the Town Attorney. The Court Administrator has performed an analysis of these costs and has determined that they are approximately \$85 per violation as the cost of enforcement and prosecution. This fee may be adjusted as provided in subsection C below.

B. Surcharge Fee and Disbursement. Based upon the analysis of the Court Administrator, there is hereby imposed a surcharge fee of \$85 (to be updated annually as provided in subsection C below) for each civil traffic violation, for each violation, both civil and criminal, of the Town Code. This surcharge fee may be waived only in cases of extreme financial hardship as determined by the Town Magistrate. All of the surcharge fees collected shall be deposited monthly with the Town of Pinetop-Lakeside Treasurer. The Town Treasurer shall pay the State of Arizona the portion of the funds which constitute the State surcharge, and shall hold the remaining funds in a separate account for the sole purpose of defraying costs associated with the annual maintenance and support of court automation monthly with the Town of Pinetop-Lakeside Treasurer and held in a separate account to be distributed and used only for the purposes set forth in this Section. This fee may be adjusted as provided in subsection C below.

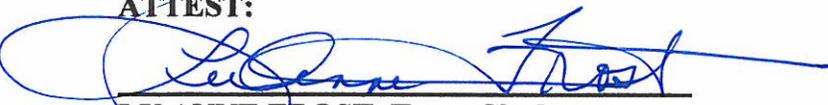
C. Annual Review. The fee imposed by subsection B of this section shall be reviewed annually by the Court Administrator to ensure that the amount collected does not substantially exceed (or fail to defray) the actual costs associated with enforcing the civil and criminal sections and penalties of the Town Code as well as the civil traffic infractions set forth in Arizona Revised Statutes. If appropriate, the Court Administrator, based upon a written analysis shall recommend to the Town Council an upward or downward adjustment of the surcharge fee to the Town Council prior to the start of the next fiscal year, which may be approved by resolution of the town council without formal amendment of this ordinance or the town code.

**Section 2.** Effective Date. The effective date of this Ordinance shall be thirty (30) days after adoption, or July 5, 2011, whichever date is later.

**PASSED AND ADOPTED** by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 2<sup>nd</sup> day of June 2011.

**TOWN OF PINETOP-LAKESIDE**  
  
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**RICH CROCKETT, Mayor**

**ATTEST:**

  
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**LU ANNE FROST, Town Clerk**

**APPROVED:**

  
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**W. Kent Foree, Town Attorney**