



CITY OF TYLER, TEXAS
CITY COUNCIL COMMUNICATION

Agenda Number: O-2

Date: October 24, 2006

Subject: Request that the City Council consider adoption of an ordinance amending and updating Chapter 1, "City Code", Article VIII., "Municipal Court", relating to the Municipal Court Technology Fee and Juvenile Case Manager Fee.

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Item Reference: City Code Chapter 1, Article VIII.

This ordinance provides for adoption of a new Juvenile Case Manager Fee to support the City's new Partners for Youth program in the Municipal Court. In addition, due to changes in State law, it is recommended that the City Council proceed at this same time to amend Technology Fee provisions:

New City Code Section 1-90; Juvenile Case Manager Fee. On June 18, 2005 the Texas Legislature authorized municipalities to create by ordinance a juvenile case manager fund. The law became effective on September 1, 2005. This law establishes a juvenile case manager fee not to exceed \$5 whenever a defendant is convicted of a misdemeanor offense in Municipal Court, as authorized by Texas Code of Criminal Procedure Article 102.0174. Funds from the juvenile case manager fee may be used only to finance the salary and benefits of a juvenile case manager employed under Texas Code of Criminal Procedure Article 45.056. (At this time, only a fee of \$2 is proposed in the accompanying Ordinance.) **Therefore, it is recommended that new Tyler City Code Section 1-90 be added to Chapter 1, "City Code", Article VIII., "Municipal Court".**

City Code Section 1-88; Technology Fee. The \$4.00 technology fee is required when a defendant is convicted of a misdemeanor offense in Municipal Court. This fee is authorized by Texas Code of Criminal Procedure Article 102.0172. Previous versions of this statute included subsection (f) which provided that Article 102.0172 expires on September 1, 2005. On June 20th, 2003 subsection (f) of Article 102.0172 was repealed by the Texas Legislature. **Therefore, it is recommended that Tyler City Code Section 1-88 be amended by deleting subsection c. which states that City Code Section 1-88 expires on September 1, 2005.**

Recommendation:

It is recommended that the City Council adopt the attached ordinance amending City Code Chapter 1, "City Code", Article VIII., "Municipal Court", amending and updating the Municipal Court technology fee and juvenile case manager fee.

Drafted/Recommended By:

Department Leader

Cam McCabe

**Cam McCabe, Municipal Court
Administrator**

Edited/Submitted By:

ORDINANCE NO. 0-2006-90

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 1, "CITY CODE", ARTICLE VIII., "MUNICIPAL COURT", OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, AMENDING AND UPDATING THE MUNICIPAL COURT TECHNOLOGY FEE AND ADDING THE JUVENILE CASE MANAGER FEE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, City Code Chapter 1, Article VIII., sets forth specific municipal court fees as authorized by State law; and

WHEREAS, it is important to amend and update the miscellaneous municipal court fees in order to reflect changes in State law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Chapter 1, "City Code", Article VIII., "Municipal Court", is hereby amended by amending Section 1-88 and adding new Section 1-90 as follows:

Sec. 1-88. Technology fund.

- a. No changes...
- b. No changes...

(Ord. No. 0-2006-90, 10/24/06)

Sec. 1-90. Juvenile case manager fund.

a. A defendant convicted of a misdemeanor offense in the Municipal Court shall pay a juvenile case manager fee of two dollars (\$2.00) as a cost of Court. A person shall be considered convicted if a sentence is imposed on the person or the person receives deferred disposition, including deferred proceedings under Texas Code of Criminal Procedure Article 45.052 or 45.053.

b. The judge may waive the fee required by Subsection (a) in a case of financial hardship.

c. In accordance with State law, the costs described in subsection (a) shall be deposited into a fund to be known as the Municipal Court juvenile case manager fund and administered under the direction of the Tyler City Council. The funds shall be used only to finance the salary and benefits of a juvenile case manager employed under Texas Code of Criminal Procedure Article 45.056. (Ord. No. 0-2006-90, 10/24/06)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3. That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be October 27, 2006.

PASSED AND APPROVED this 24th day of October, A. D., 2006.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY