

ORDINANCE NO. 3148

AN ORDINANCE AMENDING CHAPTER 25, MUNICIPAL COURT, ARTICLE I, IN GENERAL, OF THE MIDWEST CITY CODE; BY AMENDING SECTION 25-39 (c), PAYMENT OF JAIL COSTS BY INMATES; BY AMENDING SECTION 25-41, POLICE CAPITAL OUTLAY FEE; BY AMENDING SECTION 25-43, WARRANTS, WARRANT FEES AND WARRANT EXPENSES TAXED AS COSTS; AMENDING CHAPTER 25, MUNICIPAL COURT, ARTICLE II, PROCEDURES IN TRAFFIC CASES, DIVISION 1, GENERALLY, OF THE MIDWEST CITY CODE BY AMENDING SECTION 25-56, PROCEDURE ON FAILURE TO APPEAR, WARRANT, NOTICE, PENALTY; BY AMENDING SECTION 25-57, TRIAL OF TRAFFIC CASES; BY AMENDING SECTION 25-58, OBJECTION TO VALIDITY OF COMPLAINT; BY AMENDING SECTION 25-60, DEFENDANT TO BE ADVISED OF CERTAIN RIGHTS; BY AMENDING SECTION 25-62 (d) AND (e), MUNICIPAL TRAFFIC BAIL BOND PROCEDURE; BY REPEAL OF CHAPTER 25, MUNICIPAL COURT, ARTICLE II, PROCEDURES IN TRAFFIC CASES, DIVISION 2, TRAFFIC VIOLATIONS BUREAU, SECTIONS 25-67 TO 25-72 AND PLACING SUCH SECTION IN RESERVE; BY AMENDING CHAPTER 25, MUNICIPAL COURT, ARTICLE III, JURY TRIALS, OF THE MIDWEST CITY CODE, BY AMENDING SECTION 25-84, WHEN REQUIRED, BY AMENDING SECTION 25-85 DEFENDANT'S ELECTION GENERALLY, BY AMENDING SECTION 25-86, CHANGE OF DEFENDANT'S ELECTION, BY AMENDING SECTION 25-87 REQUEST FOR JURORS, BY AMENDING SECTION 25-95, FEES AND MILEAGE FOR JURORS AND WITNESSES, BY THE ADDITION OF SECTION 25-96, JURY TERM TO BE SET BY PRESIDING JUDGE; WHICH SECTIONS SHALL READ AS ESTABLISHED IN THIS ORDINANCE; AND PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

ORDINANCE

**SECTION 1.** That Chapter 25, Municipal Court, of the Midwest City Code, Article 1, In General, Section 25-39(c), Payment of Jail Costs by Inmates is hereby amended to read as follows:

(c) At any time subsequent to incarceration, the convicted defendant may be required to reimburse or make agreement to reimburse the jail facility for the costs of incarceration prior to release from the facility.

**SECTION 2.** That Chapter 25, Municipal Court, of the Midwest City Code, Article I, In General, Section 25-41, Police Capital Outlay Fee, shall read as follows:

There is hereby established a police capital outlay fund for the express and sole purpose of funding capital outlay needs for the police department. There shall be a six dollar (\$6.00) fee assessed in addition to any other costs or fees charged on every citation disposed of in the municipal court except those that are voided or declined for prosecution, or on which the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable interest bearing account. Expenditures may be made from this account only for capital outlay needs for the police department.

**SECTION 3.** That Chapter 25, Municipal Court, of the Midwest City Code, Article I, In General, Section 43, Warrants, Warrant Fees and Warrant Expenses Taxed as Costs, is hereby amended to read as follows:

The clerks of the courts shall collect as costs in every criminal case involving an outstanding warrant:

(a) A warrant issue fee in an amount of Two Hundred Dollars (\$200.00) shall be applied for the issuance of a warrant for arrest, a warrant for failure to comply with a court order involving payment of fines or attendance at a court required activity, or warrant for failure to appear at a scheduled court hearing;

(b) A warrant execution fee shall in the amount of fifty seven dollars (\$57.00) shall apply for the service and execution of a warrant where a defendant subject of a warrant has failed to voluntarily surrender to the court or to police subsequent to the issuance of a warrant. The warrant execution fee shall reimburse the city of actual cost of serving the warrant, including but not limited to personnel, transportation and other actual and necessary expenses incurred by the city or state.

(c) All costs charged to a defendant on whom a warrant is served shall be added to any outstanding fines, costs or incarceration fees. Defendants for whom a warrant is issued who voluntarily surrenders to the court or peace officer shall not be charged a warrant execution fee, but will be charged a warrant issue fee.

**SECTION 4.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 1, Generally, Section 25-56, Procedure on Failure to Appear, Warrant, Notice, Penalty, is hereby amended to read as follows:

The court may issue a warrant for the arrest of any defendant who fails to appear or answer a traffic ticket or summons served upon him and upon which a complaint has been filed.

**SECTION 5.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 1, Generally, Section 25-57, Trial on Traffic Cases, is hereby amended to read as follows:

- a. A person charged with a traffic offense who is thereby released at the scene and not arrested shall be notified of a date to return for arraignment on the traffic offense(s) for which he or she is charged.
- b. In the event the person charged should enter a plea of "Not Guilty" to the charged offense, the court clerk shall determine a date and time for which the person charged shall appear at a trial before the court.

**SECTION 6.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 1, Generally, Section 25-58, Objection to Validity of Complaint, is hereby amended to read as follows:

An objection to the validity or regularity of the complaint or process issued thereunder will be made by the defendant at the time of arraignment or plea.

**SECTION 7.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 1, Generally, Section 25-60, Defendant to be Advised of Certain Rights, is hereby amended to read as follows:

(a) At the time of arraignment for a traffic offense other than parking, standing or nonmoving, the court will inform the defendant of his rights as required, which shall include, but not be limited to, the right:

- (1) To engage counsel at the Defendant's own expense;
- (2) To a reasonable continuance to engage counsel prior to a trial;
- (3) To have process issued by the court, without expense to him, to compel the attendance of witnesses in his own behalf;
- (4) To testify or not to testify in his own behalf; and
- (5) To appeal.

(b) In all cases, except those where a plea of guilty has been entered, the court will hear all of the witnesses prior to judgment and sentence.

**SECTION 8.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 1, Section 25-61 (d) and (e), Municipal Traffic Bail Bond Procedure, is hereby amended to read as follows:

- (d) 1. The traffic related law violation bail schedule shall set bail for such offense(s) equal to the amount of the fine for the offense and the associated court costs and fees.
2. The violation of municipal ordinance for which personal recognizance based upon a signed written promise to appear as provided for in section 25-61(b)(1) shall be accepted and the amount of bail for a person, if ineligible for such personal recognizance or the amount of fine, excluding costs, upon a plea of guilty or nolo contendere shall be as follows:

Speeding, minimum bond - \$54.00

Eleven (11) to fifteen (15) miles per hour over limit - \$62.00

Sixteen (16) to twenty (20) miles per hour over limit - \$72.00

Twenty-one (21) to twenty-five (25) miles per hour over limit - \$92.00

Twenty-six (26) miles per hour or more over limit - \$122.00

Careless driving - according to the provisions of Chapter 1, Section 1-15.

Reckless driving - according to the provisions Chapter 1, Section 1-15.

Failure to obey official traffic control signal - \$54.00

Driving less than posted minimum speed or impeding the normal and reasonable flow of traffic - \$ 54.00

Driving left of center, in wrong lane, or in wrong direction on one-way - \$54.00

Improper passing - \$54.00

Failure to yield right-of-way - \$54.00

Failure to stop at a stop sign - \$54.00

Illegal turn, illegal approach or failure to signal - \$54.00

Following too closely - \$54.00

Depositing or throwing away trash on highway - \$100.00

Depositing or throwing destructive or injurious material on highway - \$100.00

Failure to stop for school bus displaying stop signal - \$54.00

Brakes inadequate or defective - \$54.00

No operator's or chauffeur's license or violation of restrictions as set forth in Chapter 1, Section 1-15.

Transporting open container of alcoholic liquor accessible while vehicle is in motion as set forth in Chapter 1, Section 1-15.

3. All other bondable traffic violations shall be fifty-four dollars (\$54.00).
4. The court clerk, unless otherwise directed by the court, shall accept bail or the payment of a fine and costs in the form of currency, cashier's, traveler's, certified or guaranteed bank check, approved credit card or postal or commercial money order

for the amount prescribed in this section for bail.

5. Upon the trial of any person charged and, if a judgment of conviction is entered, the judge may levy such fines and costs as he may consider appropriate, provided that such fines and costs shall not exceed statutory limits.
- (e) Neither the Court Clerk nor the jail is required to take a personal check for bail, payment of fines and fees or any other payment which is not in the form of certified funds, money orders, bank drafts, cash or approved credit cards.

**SECTION 9.** That Chapter 25, Municipal Court, of the Midwest City Code, Article II, Procedures in Traffic Cases, Division 2, Section 25-67 to 25-72 shall be repealed and that Sections 25-67 to 25-72, be placed in reserve.

**SECTION 10.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, Section 25- 84, When Required, is hereby amended to read as follows:

In all prosecutions for violations of this Code or other ordinances of the city, which violations are punishable by a fine of more than five hundred dollars (\$500.00) or by imprisonment or by both such fine and imprisonment, the defendant shall have the right to demand a trial by jury at the time of arraignment or at any time prior to adjudication by the court. All cases not tried to a jury shall be tried to the court. At the time a jury trial is demanded, the court clerk shall set the trial of the matter in accordance with Sec. 25-96 of this Code.

**SECTION 11.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, Section 25-85, Defendant's Election Generally, is hereby amended to read as follows:

At arraignment, the defendant shall be advised of his right to demand a jury trial where such charges indicate the defendant's right to have a trial by jury. His election shall be recorded in the minutes of the arraignment and entered on the docket of the court respecting proceedings in the case. A pre-trial conference shall be held on the first Monday of the month within which the jury trial docket is to be set. If the Defendant or his attorney fail to appear for the Pre-trial Conference for any inexcusable reason, the trial of the matter will be withdrawn from the jury docket and henceforth tried to the Judge.

**SECTION 12.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, Section 25-86, Change of Defendant's Election, is hereby amended to read as follows:

An election waiving jury trial, made at arraignment, may be changed by the defendant at any time prior to or during the time the pre-trial conference is held. In the event a jury trial is waived subsequent to the matter being set for jury trial, a defendant may not thereafter be permitted to demand a subsequent jury trial, and any further trial of the matter will be tried before the court without jury. In the event a jury trial is waived after a pre-trial conference, the judge of the court shall have the right to tax as cost any administrative fee associated with empaneling, issuing summons and mail costs associated with the impanelment of a jury for such matter.

**SECTION 13.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, Section 25-87, Request for Jurors, is hereby amended to read as follows:

Whenever a calendar has been made up for the trial of cases by jury, the judge, by and through the court clerk, shall request, in writing, the presiding judge of the district court for this judicial district to cause the names of a stated number of jurors, deemed sufficient to dispose of the cases on the calendar, to be drawn from the jury wheel in accordance with the governing statutes of the state, and to be certified by the clerk of the district court to the judge of the municipal court. The request shall be made in time for the list to be certified and the jurors to be summoned legally before the trial of the calendar begins. If it is anticipated that the completion of the calendar will require more than two (2) weeks, the request for jurors shall specify the number required for each two-week period, as provided by law for the drawing of jurors for the district court. Additional drawing of other names

also may be requested by the judge, when necessary, in accordance with the law for such additional drawings in the district court. If, in the future, provisions of the law respecting the drawing of jury lists for the district court are changed, the judge, by and through the court clerk, shall take such steps in requesting jury lists for the court as are necessary to comply with state law.

**SECTION 14.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, Section 25-95, Fees and Mileage for Jurors and Witnesses, is hereby amended to read as follows:

(a) Jurors shall receive for their services the sum of twenty-five dollars (\$25.00) per day, which shall include local travel mileage for attendance.

(b) Witnesses residing within the corporate limits shall receive the flat rate sum of twelve dollars (\$12.00) per day as compensation for mileage for appearance at any jury trial for which they have received a subpoena. Witnesses residing outside the corporate city limits shall receive a flat rate sum of twenty-five dollars (\$25.00) per day as compensation for mileage for appearance at any jury trial for which they have received a subpoena. No witness fee shall be paid to any employee of the state or any political subdivision thereof who is subpoenaed as a witness to testify on any matter pertaining to their employment; nor to any individual who, in their capacity as a private citizen, filed a complaint pursuant to section 25-15 of this Code and is required to testify regarding the matter complained of.

**SECTION 15.** That Chapter 25, Municipal Court, of the Midwest City Code, Article 1, In General, is hereby amended by the creation and addition of Section 25-96 and entitling it "Jury Term to be Set by Presiding Judge".

**SECTION 16.** That Chapter 25, Municipal Court, of the Midwest City Code, Article III, Jury Trials, shall Section 25-96, Jury Term to be Set by Presiding Judge, shall read as follows:

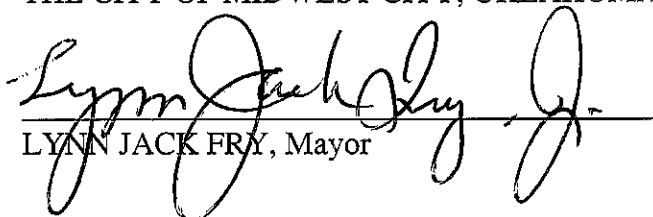
The presiding judge shall set the time and dates for each jury trial term, which shall be no less than two (2) terms during each calendar year, or where a jury trial shall be deemed necessary and special set by the presiding judge. Each jury trial will be placed on the docket by the court clerk on the next available jury trial docket or at least One Hundred Eighty (180) days from the date the jury trial is requested by a defendant or his attorney of record and in such order as determined by the judge who will preside over the jury trial or trials on the scheduled docket.

**SECTION 17. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.



**SECTION 18. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, on the 28<sup>th</sup> day of June, 2011.

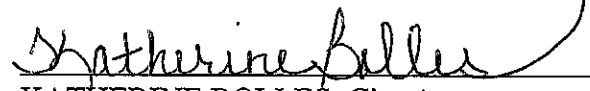
THE CITY OF MIDWEST CITY, OKLAHOMA

  
LYNN JACK FRY, Mayor

ATTEST:

  
RHONDA ATKINS, City Clerk, Acting  


APPROVED as to form and legality this 28<sup>th</sup> day of June, 2011.

  
KATHERINE BOLLES, City Attorney