

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 18
SERIES OF 2016**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO AMENDING SECTION 2-4-240 OF THE RIFLE MUNICIPAL CODE REGARDING MUNICIPAL COURT FEES AND COSTS AND SECTIONS OF THE RIFLE MUNICIPAL CODE INCREASING PENALTIES FROM A MAXIMUM OF \$1,000 TO \$2,000.

WHEREAS, the City of Rifle (“Rifle” or the “City”) Municipal Court is organized and maintained pursuant to Title 13, Article 10, C.R.S., with authority vested by Article VIII of the Rifle Home Rule Charter; and

WHEREAS, Section 2-4-240 of the Rifle Municipal Code establishes fees and costs to be taxed and paid to the City in all Municipal Court proceedings; and

WHEREAS, Rifle Municipal Code Sections 1-4-20, 1-4-30, and 10-1-40 establish penalties for all municipal misdemeanor offenses, with Section 10-1-40 dividing all such offenses into three (3) categories, each having different maximum penalties;

WHEREAS, Section 6-6-220 sets penalties for violation of local oil and gas business regulation;

WHEREAS, Section 7-1-190 sets penalties for the continuing maintenance of a nuisance within the City;

WHEREAS, Section 8-1-180 establishes penalties for criminal violations of the Model Traffic Code;

WHEREAS, Section 16-1-150 establishes penalties applicable under the Rifle Land Use and Development Code; and

WHEREAS, the City Council for the City of Rifle desires to amend Rifle Municipal Code Sections 1-4-20, 1-4-30, 2-4-240, 6-6-220, 7-1-190, 8-1-180, 10-1-40, 16-1-150 to reflect changes in state statutory law and practical considerations affecting the schedules of fees and costs therein.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. The aforementioned recitals are hereby incorporated herein as though set forth in full.
2. Section 1-4-20 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 1-4-20. - General penalty for violation.

- (a) Any person who violates or fails to comply with any provision of this Code or any rule or regulation promulgated thereunder, for which a different penalty is not specifically provided, shall, upon conviction thereof, be punished by a fine of not more than ~~one~~ two thousand dollars (\$~~1~~2,000.00), by incarceration not to exceed one (1) year, or by both such fine and incarceration, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees.
- (b) Each day such violation continues shall be considered a separate offense.

3. Section 1-4-30 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike-through language deleted~~.

Sec. 1-4-30. - Application of penalties to juveniles.

- (a) For the purposes of this Section, a *minor offender* is defined as any person accused of an offense contrary to this Code who, on the date of the alleged offense, was at least ten (10) years of age, but not yet eighteen (18) years of age.
- (b) Except as to alleged violations of the Model Traffic Code, as adopted by reference in Chapter 8 of this Code, any minor offender convicted of or pleads guilty or nolo contendere to a violation of this Code shall be punished by a fine of not more than ~~one~~ two thousand dollars (\$~~1~~2,000.00) per violation or count, unless otherwise provided by the specific section alleged to have been violated. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code. Any minor offender convicted or found liable for violating any provision of the Model Traffic Code as adopted in Chapter 8 of this Code may be punished by a fine of not more than ~~one~~ two thousand dollars (\$~~1~~2,000.00), by incarceration not to exceed ninety (90) days, or by both such fine and incarceration.

4. Section 2-4-240 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike-through language deleted~~.

Sec. 2-4-240. - Fees and costs.

- (a) Costs and fees taxable. The following fees and costs, if applicable, shall be taxed and paid in all Municipal Court proceedings. All fees and costs shall be paid to the City. When judgment is entered against a defendant, all fees and costs shall be taxed as a part of the judgment, unless otherwise provided in this Chapter.

- (1) Costs shall be paid by the City when a defendant is acquitted, when charges are dismissed against a defendant or when a defendant is convicted and the Court determines that he or she is unable to pay them, unless otherwise provided herein.
 - (2) If any private person complainant, in an action before the Municipal Court, requests dismissal of the prosecution of said action, willfully absents himself or herself from trial or fails to appear at trial, and said action is dismissed, the Court shall give judgment against said private person complainant for all applicable fees and costs. In addition, if charges against an accused pursuant to a private person complaint are dismissed, and it appears to the Court there was no reasonable grounds for the complaint or that it was maliciously made, the Court shall give judgment against said complainant for all applicable fees and costs.
- (b) Docket fee. In all proceedings before the Municipal Court, a docket fee shall be charged to a defendant if a conviction is imposed. Pursuant to the Colorado Municipal Model Traffic Code, in all Municipal Court traffic infraction actions, the docket fee is set forth in Appendix A to this Code. In all other Municipal Court ordinance actions, the docket fee is set forth in Appendix A to this Code. A separate docket fee in the same amount shall be charged if a defendant is found guilty of a violation of probation, deferred sentence and judgment, or contempt of court.
- (c) Surcharge. In addition to any docket fee or other costs imposed by this Section, a surcharge of the fine or administrative fee imposed for violation of all municipal ordinances, including ordinance violations under the Model Traffic Code, is hereby levied in an amount set forth in Appendix A to this Code on each Municipal Court action resulting in a conviction, plea of guilty or no contest, or in a deferred judgment and sentence, which municipal ordinance violation is charged pursuant to City ordinances. All calculated surcharge amounts resulting in dollars and cents shall be rounded to the nearest whole dollar. In the event a portion of the fine is suspended, the surcharge shall be computed based on the amount of the fine as suspended. The defendant shall pay such surcharge to the Court Clerk at the time the fine is paid, whether the defendant appears in Court or pays the fine through the mail. The Clerk shall deposit the money so received in the fund, and all such surcharges collected shall be used exclusively for training City police officers in the performance of their duties.
- (d) Jury fee. At the time he or she demands a jury trial, the defendant shall pay a jury fee as set forth in Appendix A to this Code to the Court Clerk. If the defendant is subsequently found not guilty, or the charges against him or her are dismissed, the jury fee shall be returned.
- ~~(e) Witness fee.~~
- ~~(1) A witness fee in the amount set forth in Appendix A to this Code for each witness shall be assessed for each witness testifying in a trial. Said fees shall be paid by the defendant upon his or her conviction.~~

- ~~(2) — Witnesses shall receive the sum set forth in Appendix A to this Code for testifying before the Municipal Court; provided, however, that witnesses called to testify only to an opinion founded on special study or experience in any branch of science or to make scientific or professional examinations and state the result thereof shall receive additional compensation, to be fixed by the Municipal Court, with reference to the value of the time employed and the degree of learning or skill required. Said fees fixed by the Municipal Court shall be assessed against the defendant upon his or her conviction and paid to such witnesses.~~
- ~~(3) — Any witness fee collected by the Court Clerk shall be paid to the person entitled to the witness fee, if claimed by such person. Any witness fee collected, but not claimed by a witness in the same month, shall be paid by the Court Clerk to the City Treasurer. All unclaimed witness fees shall become the property of the City and shall not be refunded. If a fee claimed by a witness has not previously been collected by the Court Clerk, the City shall pay the witness claimant if said claim was submitted in a timely manner.~~
- ~~(fe)~~ Juror fees. For attending Municipal Court, jurors shall receive the amount set forth in Appendix A to this Code while actually engaged on the jury, and the amount set forth in Appendix A to this Code for attendance on the panel alone. Said fee shall be paid by the City.
- ~~(gf)~~ Mileage fees. All witnesses and jurors shall receive an amount set forth in Appendix A to this Code per mile for each mile actually and necessarily traveled in going from their places of residence to the Municipal Court; provided, however, that no witness shall receive mileage fees unless such witness claims the same before the adjournment of the Municipal Court. Mileage fees shall be paid by the City. This Subsection shall not apply to an officer of the court who attends in his or her official capacity, including clerks, sheriffs, bailiffs and police officers.
- ~~(hg)~~ Deferred judgment or deferred prosecution fee. In all actions in which a defendant is granted a deferred judgment and sentence or a deferred prosecution, the defendant shall be assessed a fee in the amount set forth in Appendix A to this Code to defray the costs of preparing applicable court documents and of monitoring compliance with the terms of the deferred judgment and sentence. Nothing contained in this Article shall prevent the Court from assessing additional fees in the event the defendant is required to undergo counseling, treatment or supervision by a human services agency, mental health professional or similar professional.
- ~~(ih)~~ Probation fee. In all actions in which the Municipal Court grants a defendant either probation or a conditionally suspended sentence, the Court shall assess a fee set forth in Appendix A to this Code against the defendant to defray the costs of preparing applicable court documents and of monitoring compliance with the terms of probation or suspended sentence. Nothing contained in this Article shall prevent the Court from assessing additional fees in the event the defendant is required to undergo counseling,

treatment or supervision by a human services agency, mental health professional or similar professional.

- (ji) Bench warrant fee. In all actions in which a bench warrant is issued for the arrest of a defendant for failure to appear or failure to pay fines and costs as ordered by the Municipal Court, the Municipal Court shall assess against said defendant a fee in the amount set forth in Appendix A to this Code in addition to all other fees and costs due and owing.
- (kj) Incarceration fee. In all actions in which a defendant is sentenced to incarceration in the county jail, the Municipal Court may assess against said defendant an incarceration fee in an amount equal to the sum charged the City by Garfield County for such incarceration.
- (lk) YouthZone surcharge. In addition to any docket fee or other costs imposed by this Section, a YouthZone surcharge equal to fifteen percent (15%) of the fine imposed for criminal and juvenile violations of municipal ordinances is hereby levied on each Municipal Court action resulting in a conviction, plea of guilty or no contest, which fine is charged pursuant to City ordinances. In the event a portion of the fine is suspended, the surcharge shall be computed based on the amount of the fine as suspended. The defendant shall pay such surcharge to the Court Clerk at the time the fine is paid, whether the defendant appears in court or pays the fine through the mail. The Court Clerk shall deposit the money so received in a separate fund, and all such surcharges collected shall be used exclusively for YouthZone in the performance of its duties in the City.
- ~~(m) Fax fee. A charge of one dollar (\$1.00) per page of outgoing faxes shall be assessed to the party receiving the fax.~~
- (nl) Certification fee. The Court Clerk shall charge a five-dollar fee per certification of any document.
- ~~(o) Victims and witnesses assistance. A surcharge equal to ten percent (10%) of the fine imposed for violation of all municipal ordinances, including ordinance violations under the Model Traffic Code, shall be levied on each Municipal Court action resulting in a conviction, plea of guilty or no contest or in a deferred judgment and sentence. All calculated surcharge amounts resulting in dollars and cents shall be rounded to the nearest whole dollar. In the event a portion of the fine is suspended, the surcharge levied shall be computed based on the original fine, regardless of whether a portion of said fine has been suspended. Said surcharge shall be paid to the Court Clerk by the defendant, and the Court Clerk shall deposit the money so received in the Victims and Witnesses Assistance and Law Enforcement Fund. Disbursement of such funds shall be in accordance with the guidelines set forth in Article XIV of this Chapter.~~

5. Section 6-6-220 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 6-6-220. - Violation and enforcement.

- (a) Except as otherwise provided in this Article, it is unlawful to construct, install or use, or cause to be constructed, installed or used, any oil, gas or injection well, production site or well site in violation of any provision of this Article or of the conditions and requirements of the oil and gas special use permit unless approval has been granted by the City Council. The unlawful drilling or redrilling of any well or the production therefrom is a violation of this Article.
- (b) Penalty. Any person, firm, corporation or legal entity which constructs, installs, uses or causes to be constructed, installed or used any oil, gas or injection well, well site or production site, or commits any act or omission in violation of any provision of this Article or of the conditions and requirements of the oil and gas special use permit, may be punished by a fine of not more than ~~one~~ two thousand dollars (\$~~1~~2,000.00), by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.

6. Section 7-1-190 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 7-1-190. - Judgment; relief.

- (d) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Article, the imposition of a fine of not more than ~~one~~ two thousand dollars (\$~~1~~2,000.00), conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed.

7. Section 8-1-180 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 8-1-180. - Penalties for violation.

Section 1701 of the adopted code is amended to read as follows:

"1701. Municipalities - traffic offenses classified - schedule of fines.

"(1) Except as otherwise provided for in this section, any person who violates any provision of the Model Traffic Code shall be deemed to have committed a noncriminal traffic offense. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for, a noncriminal traffic offense shall be penalized by imposition of a fine in an amount not less than \$5.00 and not greater than \$500.00. The presiding Judge of the Municipal Court shall promulgate a schedule of penalties for all noncriminal traffic offenses contained in the Model Traffic Code. Said schedule shall be prominently posted in the office of the Municipal Court Clerk.

"(2) A violation of any of the following provisions of the Model Traffic Code shall be a criminal offense. Every person convicted of violating any of the following provisions of the Model Traffic Code shall be punished by a fine of not more than two thousand dollars (\$2,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

8. Section 10-1-40 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 10-1-40. - Penalties.

(a) All municipal misdemeanor offenses are divided into three (3) categories of municipal offenses. The classification and maximum penalties for each offense are as follows:

<i>Class</i>	<i>Maximum Fine</i>	<i>Maximum Imprisonment</i>
A	\$ <u>2,000.00</u>	One Year
B	\$ <u>1,000.00</u>	Six Months
C	\$ <u>1,000.00</u>	None

(b) If an offense carries a specific penalty, that penalty shall apply.

(c) Any offense not otherwise classified which does not carry a specific penalty is denominated as a Class A municipal offense.

9. Section 16-1-150 of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

Sec. 16-1-150. - Violations.

- (b) Penalty. Any person convicted of a violation of this Chapter shall be punished by a fine not to exceed ~~one~~ two thousand dollars (\$~~1~~2,000.00) or imprisonment for a period not to exceed one (1) year. Each day during which the violation occurs shall constitute a separate offense. As a separate remedy, administrative penalties as described in Section 16-1-170 below may also be imposed for violation of the sections of this Chapter.

10. Appendix A of the City of Rifle Municipal Code is hereby amended as follows, with double underlined text added and ~~strike through language deleted~~.

2-4-2340	Municipal Court fees	
	Docket fee, traffic infraction	\$30.00
	Docket fee, all other actions	\$35.00
	Surcharge	10% of fine
	Jury fee	\$25.00
	Witness fee assessment	\$2.00/day
	<u>Witness fee for testifying</u>	<u>\$2.00/day</u>
	Juror fee, engaged on jury	\$6.00

11. Any and all ordinances of the City of Rifle in conflict with this Ordinance are hereby repealed and replaced to the extent of the conflict only.

12. If any sentence, phrase, clause, or provision of this Ordinance is held to be illegal by a court or administrative body of competent jurisdiction, the same sentence, phrase, clause, or provision shall be deemed stricken from the Ordinance and not impact the remainder thereof.

13. This Ordinance shall become effective September 1, 2016.

INTRODUCED on August 3, 2016, read by title, passed on first reading, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on August 17, 2016 passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this 17th day of August, 2016.

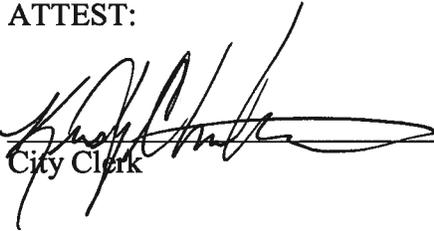
CITY OF RIFLE, COLORADO

BY:

Mayor



ATTEST:



City Clerk

