

MARION COUNTY CODE OF ORDINANCES
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Chapter 3: LAW ENFORCEMENT

Article

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Article I. COUNTY POLICIES

Section

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| 300.00 | Creation of a Metropolitan Branch of the County Sheriff's Office for the City of Summit. |
| 300.01 | Creation of a Metropolitan Branch of the County Sheriff's Office for the City of Yellville. |

§ 300.00 CREATION OF A METROPOLITAN BRANCH OF THE COUNTY SHERIFF'S OFFICE FOR THE CITY OF SUMMIT.

- 1) That the interlocal agreement attached hereto and incorporated herein as Article II is approved and adopted by the Marion County Quorum Court.
- 2) See attached interlocal agreement consisted of 5 pages and marked Attachment #1 through #5.
- 3) SEVERABILITY CLAUSE. The various articles and parts of this Ordinance are declared to be severable and therefore should any article or part be found to be invalid for any reason, it shall not invalidate the remaining portions hereof.
- 4) The effective date of this Ordinance shall be January 1, 1998.
- 5) EMERGENCY CLAUSE. It is hereby determined that this Ordinance is essential for the safety, health, and welfare of the citizens of Marion County. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate safety, health, and welfare of Marion County citizens, shall be in full force and effect from and after the date of its passage.
(Ord. 1997-097, passed 12-09-1997)

§ 300.01 CREATION OF A METROPOLITAN BRANCH OF THE COUNTY SHERIFF'S OFFICE FOR THE CITY OF YELLVILLE.

- 1) That the interlocal agreement attached hereto and incorporated herein as Article II is approved and adopted by the Marion County Quorum Court.
- 2) See attached interlocal agreement consisted of 8 pages and marked Attachment #1 through #A.

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- 3) The various articles and parts of this Ordinance are declared to be severable and therefore should any article or part be found to be invalid for any reason, it shall not invalidate the remaining portions hereof.

- 4) EMERGENCY CLAUSE. It is hereby determined that this Ordinance is essential for the safety, health, and welfare of the citizens of Marion County. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate safety, health, and welfare of Marion County citizens, shall be in full force and effect from and after the date of its passage.
(Ord. 1997-059, passed 09-30-1997)

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Article II. COUNTY JAILS

A.C.A. § 12-41-502. Supervision.

The county sheriff of each county in this state shall have the custody, rule, and charge of the jail within his or her county and all prisoners committed in his or her county, and he or she may appoint a jailer for whose conduct he or she is responsible.

A.C.A § 12-41-503(a)-(b). Management of local jail populations.

- (a) County sheriffs and other keepers or administrators of jails within the State of Arkansas are responsible for managing the populations and operations of their respective facilities in compliance with the laws and the Arkansas Constitution and within the requirements of the United States Constitution.

- (b) Neither a county sheriff nor another keeper or administrator of a jail shall refuse to accept any prisoner lawfully arrested or committed within the jurisdiction of the supporting agency of the jail except as necessary to limit prisoner population in compliance with subsection (a) of this section.

A.C.A. § 12-41-506(a). Municipal prisoners; expenses.

- (a) (1) In the absence of an agreement on jail costs between a county and all municipalities having law enforcement agencies in the county, the quorum court in a county in this state may by ordinance establish a daily fee to be charged municipalities for keeping prisoners of municipalities in the county jail.

- (2) The fee shall be based upon the reasonable expenses which the county incurs in keeping such prisoners in the county jail.

Section

- 320.00 Prisoner housing and care charges for the county jail.

- 320.01 Pay for stay system in county jail.

- 320.02 Inmate health care policy.

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- 320.03 Sheriff's office to pay for prisoner food on a cash basis.
- 320.04 County responsible for medical expenses of prisoners.

§ 320.00 PRISONER HOUSING AND CARE CHARGES FOR THE COUNTY JAIL.

- 1) In the absence of an agreement on jail costs between agencies in the county and all municipalities having law enforcement agencies in the county, the Quorum Court may by Ordinance establish a daily fee to be charged to municipalities for keeping prisoners of municipalities in the County Jail (12-41-506).
- 2) A charge of \$50.00 per day per prisoner is established for the various cities of Marion County.
- 3) Municipalities whose prisoners are maintained in the County Jail shall be responsible for paying the fee established by the Quorum Court in the County.
- 4) When a prisoner is sentenced to a County Jail for violating a Municipal Ordinance, the municipality shall be responsible for paying the fee established by an agreement or Ordinance of the Quorum Court in the County.
- 5) A day is defined as a 6-hour period of time beginning at 4:00 p.m. of each day.
- 6) The Sheriff's Office is established as the time-keeping agency for the purposes of the ordinance and will bill the various towns and/or government units by the 10th day of the following month. Billing intervals shall not exceed 30 days. Any municipality that is more than 60 days past on due payment shall not be allowed to house prisoners at the County Jail.
- 7) The County Sheriff shall remit to the County Treasurer the fees collected under this section and shall report on a monthly basis to the County Quorum the fees collected. All fees under this section shall be credited to the County General Fund 1000-0418 County Jail.
- 8) All provisions of Ordinances 86-17, 95-07 and 2005-14 in conflict with this Ordinance are hereby amended to read as stated above.
- 9) SEVERABILITY CLAUSE. The various articles and provisions of this Ordinance are hereby declared to be severable. If any article, provision, or part thereof shall be held to be

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invalid, said invalidity shall not affect the validity of the remaining portions of said article or provisions, or of this Ordinance.

- 10) EMERGENCY CLAUSE. That, due to the continued increasing costs of the incarceration of prisoners and the reduced monies available to Cities and Counties for the housing of prisoners, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon passage.

(Ord. 1979-013, passed 11-14-1979; Am. Ord. 1986-017, passed 9-10-1986; Am. Ord. 1995-007, passed 4-4-1995; Am. Ord. 2005-014, passed 4-13-2005; Am. Ord. 2021-014, passed 09-02-2021)

§ 320.01 PAY FOR STAY SYSTEM IN COUNTY JAIL.

- 1) The Marion County Quorum Court hereby finds that the average cost for carrying a prisoner to the Marion County Jail shall be five dollars (\$5.00) per prisoner.
- 2) The Marion County Quorum Court hereby finds that the daily average jail housing cost shall be fifty dollars (\$50.00) for room and board for each prisoner in the Marion County Jail. A “day” is defined to be immediately upon booking and then each twenty-four (24) hour period thereafter.
- 3) When each non-Municipal corporation or Incorporated Town prisoner is delivered to court, the Sheriff or Sheriff’s Designee shall provide the Prosecuting Attorney an invoice for the expenses in carrying him/her at the initial incarceration and for the whole time he/she remained there, so the Judge can hear the detainee’s side of the story regarding the imposition of the Pay for Stay Ordinance expenses as an additional element of cost to be assessed as a part of the judgment upon conviction, and reduce the assessed amount to judgment.
- 4) Once the collectible expenses have been reduced to judgment, they shall be collected in the same manner as fines and court costs are collected, and the property of the detainee shall be subjected to the payment of such expenses in accordance with A.C.A. § 12-41-505.
- 5) That the appropriate officers who handle such matters shall create a line-item in the Marion County Sheriff’s Office budget to address monies received under this Ordinance. Said line-item shall be entitled: “Other-jail sundry”.
- 6) Revenues derived from the additional fines levied under this Ordinance shall not offset or reduce funding from other sources for the maintenance, operation, and capital expenditures of the Marion County Detention Center (Marion County Jail).

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- 7) EMERGENCY CLAUSE. That, due to the continued increasing costs of the incarceration of prisoners and the reduced monies available to cities and Counties for the housing of prisoners, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon passage.
(Ord. 2004-015, passed 6-14-2004; Am. Ord. 2005-015, passed 04-13-2005)

§ 320.02 INMATE HEALTH CARE POLICY.

- 1) All prisoners in the Marion County Jail shall be required to pay a twenty-dollar (\$20.00) co-pay fee for any prisoner initiated medical services. Said services include, but are not limited to, seeing a doctor, nurse, dentist, etc.
- 2) A commissary account shall be established at the Marion County Jail for each prisoner by which the above fee shall be deducted anytime any prisoner-initiated health care service is requested.
- 3) If a prisoner lacks sufficient funds in his or her commissary account to pay for the above service, said prisoner shall not be denied access to care based on his or her inability to pay for any other reason. Said prisoner will, however, have an outstanding balance in their commissary account with the Marion County Jail that will be subject to payment at any time said prisoner returns to the Marion County Jail. The Marion County Sheriff will maintain any and all outstanding bills incurred under this Ordinance by prisoners in the Marion County Jail.
- 4) When each jail prisoner is delivered to court, the Sheriff or Sheriff's designee shall provide the Prosecuting Attorney an invoice for the expenses incurred under this Ordinance not covered by the prisoner's commissary account from the day of his or her initial incarceration for the time he or she remained there, so the Judge can hear the prisoner's side of the story regarding the imposition of the expenses incurred under this Ordinance as an additional element of cost to be assessed as a part of the judgment upon conviction, and reduce the assessed amount to judgment.
- 5) Once the collectible expenses have been reduced to judgment, they shall be collected in the same manner as fines and court costs are collected, and the property of the detainee shall be subjected to the payment of such expenses in accordance with A.C.A. § 12-41-505 (Repl. 2003).
- 6) Revenues derived from the additional fines levied under this Ordinance shall not offset or reduce funding from other sources for the maintenance, operation, and capital expenditures of the Marion County Detention Center (Marion County Jail).

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- 7) EMERGENCY CLAUSE. An emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon passage.
(Ord. 2004-016, passed 6-14-2004)

§ 320.03 SHERIFF’S OFFICE TO PAY FOR PRISONER FOOD ON A CASH BASIS.

- 1) It is recognized that prisoner food can be obtained by the Sheriff’s Office at less cost on a cash basis. Therefore, the Marion County Sheriff’s Office is authorized to create and maintain a fund of up to \$500.00 in cash for the purpose of purchasing prisoner food on a cash basis. The Sheriff’s Office shall submit food purchase receipts for food purchased with this fund when filing claims to replenish this fund.
(Ord. 1995-009, passed 03-06-1995)

§ 320.04 COUNTY RESPONSIBLE FOR MEDICAL EXPENSES OF PRISONERS.

- 1) Marion County recognizes and assumes its obligation to provide safe and suitable facility for the incarceration of persons charged with criminal and traffic offenses or otherwise confines by the Court Order as required by the Arkansas Constitution and by the statutes of the State and Federal Government.
- 2) Marion County also recognizes and assumes it duty to provide immediate emergency medical treatment for any and all inmates and further to provide access to any reasonable and necessary medical treatment that may be required on account of all preexisting condition, illness, or disease as prescribed or required by a medical doctor or other qualified practitioner.
- 3) That Marion County recognizes and willingly assumes the moral and legal obligation to provide medical treatment to inmates at the Marion County Jail or persons in custody of the Marion County Sheriff’s Office on account of injuries or physical harm suffered as a result of the negligent or intentional acts of the law enforcement officers employed by the County, and to pay all of the direct and reasonably incidental costs thereof.
- 4) That, however, Marion County does not assume any responsibility for nor will it be held for the costs of medical treatment provided to inmates of the County Jail nor persons in custody of the Marion County Sheriff’s Office for injuries or harm inflicted by that inmate or detainee to themselves, inflicted by third parties, who are not in custody or under detention at the jail facility, or for the reasonable medical treatment needed for such persons on account of their continuing treatment for preexisting illness, injury, or disease, or for the treatment, medication, or incidental medical expenses prescribed, recommended, or directed by a treating physician prior to the incarceration of the person.

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- 5) That Marion County further does not assume any responsibility for nor will it be held liable for the costs of medical treatment provided to inmates of the County Jail not persons in custody at Marion County Sheriff's Office for injuries or harm inflicted by law enforcement officials of a municipality, or of a County, State or Federal Agency not employed by or working at the direction of the Marion County Sheriff's Office.
- 6) That the costs of all medical care or treatment referred to in paragraphs IV and V hereof shall be the sole responsibility of the inmate, detainee, other party, or agency and in the event that the health care provider should for any reason bill, charge, or make a claim against Marion County for the access to care provided by the County Officers then the County shall initiate, maintain, and follow through any action, through courts of law or otherwise, to hold said parties liable for costs incurred.
- 7) That in order to give adequate, appropriate, and proper notice of the contents of this Ordinance to all potentially affected parties the Marion County Sheriff shall both post a conspicuous notice within the jail facilities for all persons to read and that all inmates shall be advised of these rights at the time of their incarceration and to sign and/or acknowledge their having been advised of and, their understanding of these rights, duties, and obligation. That the same notice and/or the contents of this Ordinance shall be served upon all health care providers within the County and to all medical facilities outside the County that may be called upon from time to time to provide medical care to the inmates or detainees.
- 8) That Marion County has seen the proliferation of frivolous medical claims and allegations of injury and harm to inmates, has foreseen the potential of claims based upon injuries or harm caused by third parties or by other law enforcement officers over whom the county has no control nor responsibility and has experienced the effects of previous ill, diseased, or injured persons expecting the County to be liable for their continued treatment while incarcerated, and has determined that protection against these claims, that avoiding the potential insurance costs or coverage for such claims, and the pure inequity of such claims is a good and proper reason for the enactment of this Ordinance.
(1986-022, passed 10-08-1986)

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Article III. COURT COSTS

A.C.A. § 16-10-305(a), (c)-(d). Court costs.

(a) There shall be levied and collected the following court costs from each defendant upon conviction, each plea of guilty or nolo contendere, or each forfeiture of bond:

(1) In circuit court, one hundred fifty dollars (\$150) for a misdemeanor or felony violation of state law, excluding a violation of:

(A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;

(B) The Underage DUI or BUI Law, § 5-65-301 et seq.;

(C) Section 5-75-101 et seq.;

(D) Section 27-23-114;

(E) Section 15-42-127; or

(F) Section 27-37-701 et seq.;

(2) In district court, one hundred dollars (\$100) for an offense that is a misdemeanor or violation of state law, excluding a violation of:

(A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;

(B) The Underage DUI or BUI Law, § 5-65-301 et seq.;

(C) Section 5-75-101 et seq.;

(D) Section 27-23-114;

(E) Section 15-42-127; or

(F) Section 27-37-701 et seq.;

(3) In circuit court or district court, seventy-five dollars (\$75.00) for a traffic offense that is a misdemeanor or violation under state law or local ordinance, excluding a violation of:

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- (A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;
 - (B) The Underage DUI or BUI Law, § 5-65-301 et seq.;
 - (C) Section 5-75-101 et seq.;
 - (D) Section 27-23-114;
 - (E) Section 15-42-127; or
 - (F) Section 27-37-701 et seq.;
- (4) In district court, for a nontraffic offense that is a misdemeanor or violation under local ordinance, twenty-five dollars (\$25.00);
- (5) In circuit court or district court, three hundred dollars (\$300) for violations of:
- (A) The Omnibus DWI or BWI Act, § 5-65-101 et seq.;
 - (B) The Underage DUI or BUI Law, § 5-65-301 et seq.;
 - (C) Section 5-75-101 et seq.;
 - (D) Section 27-23-114;
 - (E) Section 15-42-127; or
- (6)
- (A) In circuit court or district court, twenty-five dollars (\$25.00) for a violation of the mandatory seat belt use law, § 27-37-701 et seq.
 - (B) A defendant is not required to pay the court costs under subdivision (a)(6)(A) of this section if he or she pays the applicable fines under §§ 27-37-706 and 16-17-129 before his or her first appearance and shall not be assessed any additional court costs associated with the violation; and
- (7) In circuit court or district court, twenty-five dollars (\$25.00) for failure to present proof of insurance at the time of a traffic stop, §§ 27-22-103, 27-22-104, and 27-22-111.

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- (b)
- (1) The costs set forth in this section shall be imposed at the conclusion of any criminal case enumerated in subsection (a) of this section that does not end in an acquittal, dismissal, or, with the consent of the prosecution, an order nolle prosequi.
 - (2) The costs shall be imposed at the conclusion of cases involving a suspended or probated sentence even though that sentence may be expunged or otherwise removed from the defendant's record.
- (c) No county, city, or town shall be liable for the payment of the costs taxed under this section in any instance where they are not collected, or in any case in which the defendant pays the costs by serving time in a jail, on a county farm, or at any other official place of detention or work.
- (d) No town, city, or county shall authorize and no district court or circuit court shall assess or collect any other court costs other than those authorized by this act, unless specifically provided by state law.

Section

- 340.00 Levy of an additional \$5.00 fine to help defray the cost of incarceration of prisoners.
- 340.01 Sheriff as the elected official designated to collect fines and fees assessed in circuit and chancery courts.
- 340.02 Additional \$15.00 fine to help defray the cost of incarceration.
- 340.03 Probation fees for juveniles; established.
- 340.04 Administration of justice court cost in municipal court.
- 340.05 Levy of additional \$5.00 for the costs incurred in the defense of indigent persons accused of criminal offenses.
- 340.06 Levy of additional \$5.000 cost in all criminal and traffic offenses.

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§ 340.00 LEVY OF AN ADDITIONAL \$5.00 FINE TO HELP DEFRAY THE COST OF INCARCERATION OF PRISONERS.

- 1) Pursuant to Act 1188 of 2003 of the General Assembly of the State of Arkansas, an additional five dollars (\$5.00) shall be levied and collected from each defendant who pleads guilty or nolo contendere to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the District Court(s) within Marion County, Arkansas.
- 2) The additional fine levied by the County under this Ordinance shall be deposited into a special fund within the County Treasury, and the revenues generated by the additional fine shall be used exclusively for the maintenance, operation, and capital expenditures of the Marion County Detention Center (Marion County Jail).
- 3) Revenues derived from the additional fines levied under this Ordinance shall not offset or reduce funding from other sources for the maintenance, operation, and capital expenditures of the Marion County Detention Center (Marion County Jail).
- 4) EMERGENCY CLAUSE. An emergency is declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage.
(Ord. 2003-016, passed 6-10-2003)

§ 340.01 SHERIFF AS THE ELECTED OFFICIAL DESIGNATED TO COLLECT FINES AND FEES ASSESSED IN CIRCUIT AND CHANCERY COURTS.

- 1) The County Sheriff is hereby designated as the elected official who will be responsible for collecting all fines and fees assessed in Circuit and Chancery Courts. A five-dollar (\$5.00) fee per month, as authorized by Act 1262 of 1995, will be collected by the Sheriff's Office for the purpose of paying fines on an installment plan.
- 2) EMERGENCY CLAUSE. An emergency is declared to exist, and this Ordinance, being necessary for the preservation of the public peace, health, and safety of Marion County citizens, shall be in force immediately upon its passage and approval.
- 3) SEVERABILITY. If any part of this Ordinance is held invalid, such invalidity shall not affect any other portion of this Ordinance.
- 4) REPEALER. All laws and parts of laws in conflict with this Ordinance are hereby repealed.
(Ord. 1996-003, passed 1-8-1996; Am. Ord. 2001-015, passed 5-8-2001)

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§ 340.02 ADDITIONAL \$15.00 FINE TO HELP DEFRAY THE COST OF INCARCERATION.

- 1) Pursuant to Act 209 of 2009 of the General Assembly of the State of Arkansas, an additional fine of fifteen dollars (\$15.00) shall be levied and collected from each defendant who pleads guilty or nolo contendere to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the District Court(s) within Marion County, Arkansas.

- 2) The additional fine levied by the County under this Ordinance shall be deposited into a special fund within the County Treasury, and the revenues generated by the additional fine shall be used exclusively for maintenance, operation, defraying costs of incarceration of county prisoners, transportation of county prisoners, the purchase and maintenance of equipment for the county jail, and training, salaries, and certificate pay for Marion County Jail personnel and deputy sheriffs.

- 3) Revenues derived from the additional fines levied under this Ordinance shall not offset or reduce funding from other sources for the maintenance, operation, and capital expenditures.

- 4) EMERGENCY CLAUSE. The adoption of this Ordinance is necessary for the proper and efficient administration of the Marion County Jail and for the preservation of the health, safety, and welfare of the residents of Marion County, Arkansas; therefore, an emergency is declared to exist and this Ordinance shall be in full force and effective immediately upon its passage.
(Ord. 2009-028, passed 8-11-2009)

§ 340.03 PROBATION FEES FOR JUVENILES; ESTABLISHED.

- 1) A monthly probation or supervision fee may be assessed in all juvenile cases by the Court which amount shall not exceed twenty dollars (\$20.00) per month; which amount is an obligation of the juvenile together with his parent(s), guardian(s) or custodian(s).

- 2) All said fees, probation, or supervision, shall be paid to and collected by the Marion County Sheriff's Office, the same as other fines, costs, fees, and judgments.

- 3) The Marion County Sheriff's Office shall deposit all said collected fees, segregated as juvenile probation or supervision, not less than monthly to the Marion County Treasurer in the manner required by law.

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- 4) The Marion County Treasurer shall create, designate, and segregate all those juvenile probation and supervision fees into a separately designated account for their use by the Marion County Juvenile Services Department.
- 5) The juvenile probation and supervision fees collected and maintained in the separately designated account shall be utilized exclusively for the costs, expenses, and special allocation of the Juvenile Services Department for host home payments, detention payments, exceptional juvenile expenses for special needs, Intensive Supervision Officer (ISO) costs, all other juvenile related expenses except they shall not be used for the payment of intake, probation or secretarial salaries or benefits.
- 6) Any and all withdrawal of those finds from the specially designated account shall be by voucher drawn with specific purpose of use stated and approved by the Juvenile Division Judge of the 14th Judicial District.
(Ord. 1989-015, passed 08-08-1989; Am. Ord. 2001-037, passed 10-09-2001)

§ 340.04 ADMINISTRATION OF JUSTICE COURT COST IN MUNICIPAL COURT.

- 1) That pursuant to provisions of the Arkansas Code Annotated § 16-17-113 “Costs for Administration of Justice,” the Municipal Court shall assess from each defendant upon each plea of guilty, nolo contendere, forfeiture of bond, or determination of guilty for misdemeanors or traffic violations, a cost of Three Dollars (\$3.00), for each matter.
- 2) That said Three Dollar court costs shall, at the time of collection or at the least every thirty (30) days, be paid over to the Marion County Treasurer and said funds shall be used solely for the Administration of Justice.
- 3) That the County Judge is authorized to enter into an agreement with Municipalities of Flippin, Summit and Yellville, as appropriate, that any said funds collected by the Municipalities shall be retained by the Municipalities and any said funds collected by the County shall be retained by the County.
(Ord. 1989-026, passed 12-04-1989)

§ 340.05 LEVY OF ADDITIONAL \$5.00 FOR THE COSTS INCURRED IN THE DEFENSE OF INDIGENT PERSONS ACCUSED OF CRIMINAL OFFENSES.

- 1) That pursuant to provisions of Arkansas State Statute § 14-20-102 “Fund for Defense of Indigent,” the Municipal Court shall assess a cost to each matter brought before the Municipal Court except for small claims matters, said cost shall not exceed Five Dollars (\$5.00) for each matter.

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- 2) That said Five Dollar court cost shall be, at the time of collection or at least every thirty (30) days, segregated from all other funds and paid to the Marion County Treasurer for deposit into the established Special Attorney Fund No. 39, which has been established for the collection of such funds from the Chancery and Circuit Courts of Marion County. Further, that said accounting shall be reconciled by the Clerk of the Municipal Court with the records of the County Clerk at the end of each year.

- 3) That the said Five Dollar court costs shall be levied in addition to all other costs that are now or may be levied hereafter, and shall be in accordance with Arkansas State Statute § 14-20-102(c) "...other laws relating to the attorney fees, investigative expenses, expert witness fees and legal fees that may be paid in the defense of indigents charged with criminal offense and in the defense of persons against whom involuntary commitment proceedings are sought for insanity or alcoholism shall not be applicable." The amount to be paid for attorney fees, investigative costs, and other costs for defending indigents in Municipal Court matters shall be determined by the Judge of the Municipal Court for matters brought before that Court.
(Ord. 1989-025, passed 12-04-1989)

§ 340.06 LEVY OF A \$5.00 COST IN ALL CRIMINAL AND TRAFFIC OFFENSES.

- 1) That the costs of the Marion County Municipal Court have steadily increased with regard to the number of cases brought before it arising out of traffic violations and criminal acts committed within the county; and

- 2) That the costs of the administration of the Court should be partially borne or recouped from the person who have violated the law and additional costs in the nature of Court Costs should be levied against those persons.

- 3) That there shall be the sum of \$5.00 levied as Court Costs against every violation, ticket, citation, charge, or warrant issued on behalf of Marion County for a traffic or criminal offense, and the same shall be levied upon plea of guilty, plea of nolo contendere, bond forfeiture, trial, or any other disposition of said offenses before the Court. These costs shall be levied in addition to all other costs that are now or may be levied hereafter.

- 4) That the said funds, County Court Costs, shall be, at the time of their collection or at least every thirty (30) days, segregated from all other sums and deposited into the Marion County Municipal Court Fund of the County General Funds to be designated the Criminal Justice Fund.
(Ord. 1987-007, passed 03-12-1987)

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Article IV. COUNTY LAW

Section

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| 360.00 | Restricting sexually oriented businesses; prescribing definitions of sexually oriented businesses. |
| 360.01 | No Burn Advisory. |
| 360.02 | Ban smoking and tobacco use in county-owned vehicles. |
| 360.03 | Commercial salvage yards to be screened. |

§ 360.00 RESTRICTING SEXUALLY ORIENTED BUSINESSES; PRESCRIBING DEFINITIONS OF SEXUALLY ORIENTED BUSINESSES.

- 1) **PURPOSE AND FINDINGS.** It is the purpose of this Ordinance to restrict sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform restrictions to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

- 2) **DEFINITIONS.**
 - a) “*Adult Cabaret, Theater, Arcade, or Motion Picture Theater*” means a club, bar, theater, restaurant, auditorium, or similar commercial establishment which regularly features:
 - i) Persons who appear in a state of nudity or semi-nude, either in person or by film; or
 - ii) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

 - b) “*Establishment*” means and includes any of the following:

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- i) The opening or commencement of any sexually oriented business as a new business;
 - ii) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - iii) The additions of any sexually oriented business to any other existing sexually oriented business; or,
 - iv) The relocation of any sexually oriented business.
- c) **“Nude Model Studio”** means any place where a person who appears semi-nude in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude Model Studio” shall not include a proprietary school licensed by the State of Arkansas or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
- i) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and,
 - ii) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.
- d) **“Nudity”** or **“State of Nudity”** means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- e) **“Person”** means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- f) **“Semi-Nude”** or in a **“Semi-Nude Condition”** means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard,

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bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

- g) “***Sexual Encounter Center***” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - i) Physical activities between male and female persons and/or persons of the same sex when one or more of the persons is in the state of nudity or semi-nude.
 - h) “***Sexually Oriented Business***” means an adult cabaret, adult motion picture theater, adult theater, nude model studio, sexual encounter center, adult arcade, adult bookstore, adult novelty store, or adult video store.
 - i) “***Specified Anatomical Areas***” means:
 - i) The human male genitals in a discernibly turgid state, even if completely or opaquely covered; or,
 - ii) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point of immediately above the top of the areola.
 - j) “***Specified Sexual Activities***” means any of the following:
 - i) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or,
 - ii) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.
- 3) CLASSIFICATION. Sexually oriented businesses are classified as follows:
 - a) Adult arcades;
 - b) Adult bookstores, adult novelty stores, or adult video stores;
 - c) Adult cabarets, including nude or semi-nude dance halls;
 - d) Adult motion picture theaters;
 - e) Adult theaters;
 - f) Nude model studios; and,
 - g) Sexual encounter centers.

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- 4) **APPLICABILITY.** This Ordinance shall be applicable to all of the unincorporated areas of Marion County, Arkansas.
- 5) **PERMITS.** Every owner of a sexually oriented business shall apply for a permit prior to the opening of any new sexually oriented business in the unincorporated areas of Marion County, Arkansas; provided however, that no permit shall be required of any such sexually oriented business operating at the time of the adoption of this Ordinance. The permit application shall be accompanied by a one hundred dollar (\$100.00) non-refundable permit and investigation fee. The permit application and fee shall be delivered to the office of the Marion County Judge. Within ten (10) days of such application, the applicant shall cause notice of such application, in a form prescribed by the County Judge, to be published in a newspaper of general circulation in the County. The Marion County Judge shall issue the permit within thirty (30) days from the receipt of the application and fee unless the County Judge determines that:
- a) The owner's application is in conflict with this Ordinance; or
 - b) The owner has been convicted of a felony or any sexual offense.

If the proposed business location is in conflict with this Ordinance, the County Judge shall notify the applicant of the conflict within thirty (30) days from the receipt of the application and fee. The applicant shall have the right to appeal any adverse decision to the Quorum Court at its next regularly scheduled monthly meeting. The decision of the Quorum Court shall be final. For purposes of carrying out such investigation and inspection, the County Judge may call upon the Sheriff who shall assist in such investigation and inspection either in person or by a deputy.

- 6) **LOCATION OF SEXUALLY ORIENTED BUSINESSES.**
- a) A person commits an offense if the person operates or causes to be operated a sexually oriented business within two thousand feet (2000') of:
 - i) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities; or,
 - ii) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, pre-schools, kindergartens, elementary schools, junior high schools, middle schools, high schools, continuation schools, special education schools, junior colleges, and universities; "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or

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- iii) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, wilderness areas, or other similar public land within Marion County which is under the control, operation, or management of any government authority; or
 - iv) Any other sexually oriented businesses.
 - b) A person commits an offense if the person operates or causes to be operated a sexually oriented business within six hundred feet (600') of a residence.
 - c) A person commits an offense if that person owns, operates, or establishes a sexually oriented business within one (1) mile of another sexually oriented business.
 - d) For the purposes of subsections A, B, and C of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection A, B, or C. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes for calculating and applying the distance requirements of this Section.
 - e) A sexually oriented business lawfully operating in accordance with this Ordinance will not be considered as a violation of this Ordinance by the subsequent location of those uses outlined in subsections A, B, and C of this Section.
 - f) Notwithstanding the foregoing, nothing in this Section shall be construed so as to prohibit the operation of a sexually oriented business which was established prior to the enactment of this Ordinance.
- 7) **ADDITIONAL RESTRICTIONS FOR NUDE MODEL STUDIOS AND SEXUALLY ORIENTED BUSINESSES.**
- a) No person under the age of eighteen (18) years shall be employed by a person to appear semi-nude or in a state of nudity in a sexually oriented business or in a nude model studio. Any person who knowingly violates this subsection shall be guilty of an offense.
 - b) A person under the age of eighteen (18) years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio or a sexually oriented business. It is a defense to prosecution under this

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subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

- c) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio or a sexually oriented business premises which can be viewed from the public right-of-way.
 - d) No person under the age of eighteen (18) years shall be permitted within any building or structure during the hours of operation of any sexually oriented business within such building or structure. Any person who violates this subsection shall be guilty of an offense.
 - e) No person shall operate a sexually oriented business during the hours of 12:00 midnight to 7:00 a.m., or on a Sunday. No person shall appear nude or semi-nude in such a sexually oriented business during the hours of 12:00 midnight to 7:00 a.m., or on a Sunday. Any person who violates this subsection shall be guilty of an offense.
- 8) **ADDITIONAL RESTRICTIONS CONCERNING PUBLIC NUDITY.** It shall be an offense for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
- 9) **EXEMPTIONS.** It is a defense to prosecution under Section 8 that a person appearing in a state of nudity did so in a modeling class operated:
- a) By a proprietary school, licensed by the State of Arkansas, a college, junior college, or university supported entirely or partly by taxation;
 - b) By a private college or university which maintains and operates education programs in which credits are transferrable to a college, junior college, or university supported entirely or partly by taxation; or
 - c) In a structure:
 - i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - ii) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.
- 10) **INJUNCTION.** A person who operates or causes to be operated a sexually oriented business in violation of this Ordinance will be subject to a suit for injunction as well as prosecution for criminal violations.

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- 11) **CRIMINAL PENALTIES.** A person who operates or causes to be operated a sexually oriented business in violation of any provision(s) of this Ordinance shall be guilty of a misdemeanor and shall be fined in an amount not to exceed two hundred fifty dollars (\$250.00). Each day or part of a day during which a violation is continued or repeated shall constitute a separate offense.
- 12) **SEVERABILITY CLAUSE.** If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.
- 13) **REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.
- 14) **EMERGENCY CLAUSE.** It is hereby determined that this Ordinance is essential for the safety, health, and welfare of the citizens of Marion County. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate safety, health, and welfare of Marion County shall be in full force and effect from and after the date of its passage.
(Ord. 2001-030, passed 9-11-01)

§ 360.01 NO BURN ADVISORY.

- 1) That the Marion County Office of Emergency Services Director shall have the authority to issue and publicize a No Burn Advisory for Marion County or portions thereof. Said Director may issue such advisory upon his own decision or upon the request of the duly elected Chief or Chiefs of one or more of Marion County's volunteer fire departments whose areas of coverage are to be subject to advisory. Said advisory shall be for such duration as the Director feels is appropriate and the decision to issue such advisory shall be made according to the provisions in Article 2 herein. The Director shall also have the authority to cancel the advisory when in his judgment conditions no longer require such an advisory.
- 2) Unless the duly elected Chief of the volunteer fire department, whose area of coverage is to be subject to proposed advisory, and the Marion County OES Director agree to issue a NO BURN ADVISORY, a NO BURN ADVISORY shall not issue unless at least two (2) of the following criteria exist within Marion County or a portion thereof which is to be covered by the advisory:
- i. A humidity level of below 30 percent.
 - ii. Wind speeds above twenty (20) miles per hour.

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- iii. A period of fifteen (15) days without rainfall in excess of 0.30 inches.

- 3) The issuance of a NO BURN ADVISORY shall be publicized by posting a notice thereof of the main entry doors of the Marion County Courthouse and of the fire departments within the County or portion thereof covered by such advisory, publication in all newspapers published in Marion County, and by announcement on all radio stations whose broadcast signal originates in Marion County. Cancellation of the advisory shall be publicized in a like manner.

- 4) Any person or corporation (either public or private) who chooses to burn in any way during the existence of a NO BURN ADVISORY issued as set forth herein shall be civilly liable for the expenses of all volunteer fire departments responding to any uncontrolled fire resulting from said burning. An uncontrolled fire is defined as a fire which is not contained within the boundaries of real property owned by a person authorizing the burning for which, although said fire is so contained, the owner of the real property involved requests the response and assistance of any local volunteer fire department in controlling.

- 5) The actual dollar amount of the civil liability of the person or corporation involved shall be determined by reference to a schedule of costs to be established by the volunteer fire departments. Said schedules shall set forth the hourly cost for man hours and for each piece of equipment for which the department intends to charge. Said schedule may also include a flat fee to be charged per incident and a statement that the Department involved may, at its discretion, charge at an hourly rate or at the flat fee rate. Said schedules must have been published in a newspaper of local circulation within the department's district at least thirty (30) days prior to the issuance of any NO BURN ADVISORY for which the department intends to collect expenses. If the department involved has not met the above requirements for collection of the expenses involved in responding to an uncontrolled fire the collection of the expenses involved shall proceed as set forth in A.C.A. § 20-22-303.

- 6) Collection of said costs shall be via civil suit brought by the fire department involved. The departments may utilize the services of the Marion County Civil Attorney at no charge or those of an attorney of their own choosing.

- 7) All monies collected from lawsuits hereunder shall inure solely to the benefit of the volunteer fire department involved.

- 8) EMERGENCY CLAUSE. It is hereby determined that this Ordinance is essential for the safety, health, and welfare of the citizens of Marion County. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate safety,

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health, and welfare of Marion County citizens, shall be in full force and effect from and after the date of its passage.

- 9) SEVERABILITY CLAUSE. The various articles and provisions of this Ordinance are hereby declared to be severable. If any article, provision, or part thereof shall be held to be invalid, said invalidity shall not affect the validity of the remaining portions of said article or provision, or of this Ordinance.

(Ord. 1996-026, passed 03-04-1996; Am. Ord. 1996-027, passed 07-01-1996)

§ 360.02 BAN SMOKING AND TOBACCO USE IN COUNTY-OWNED FACILITIES.

- 1) Act 8 of 2006, The Arkansas Clean Indoor Air Act of 2006 went into effect on July 21, 2006. 20-27-1808, Subchapter deemed cumulative.
- a. This subchapter is cumulative to and does not prohibit the enactment of any other general or local laws, rules, or regulations of state or local governing authorities or local Ordinances prohibiting smoking that are more restrictive than or are in direct conflict with this subchapter.
- 2) Therefore, upon passage of this Ordinance, all smoking and tobacco use shall be prohibited in all vehicles and enclosed areas owned, leased, or operated by the County of Marion. Also, in accordance with Act 193 of 2017 (HB 1363), use of vaporizers, electronic cigarettes, and other similar devices is also prohibited. The ban shall include, but not limited to areas within 50 feet of entrances to County buildings, restrooms, hallways, lobby areas, conference rooms, breakrooms, courtrooms, and all employee work stations.
- 3) Therefore, any person who violates any provision of this Ordinance is guilty of a violation and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- 4) EMERGENCY CLAUSE. It is hereby determined that this Ordinance is essential for the safety, health, and welfare of the citizens of Marion County. Therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate safety, health and welfare of the Marion County Citizens shall be in force after the date of passage.
- 5) SEVERABILITY CLAUSE. The various Articles and parts of this Ordinance are declared to be severable and therefore, should an Article or part be found to be invalid for any reason, it shall not invalidate the remaining provisions hereof.

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(Ord. 1993-009, passed 06-08-1993; Am. Ord. 2006-029, passed 07-13-06; Am. Ord. 2017-031, passed 05-09-2017)

§ 360.03 COMMERCIAL SALVAGE YARDS TO BE SCREENED.

- 1) It shall be unlawful for any person to operate or have under his control in Marion County, Arkansas, a commercial salvage yard, or automobile graveyard with a state sales tax permit within *three hundred (300) feet* of the nearest edge of a right-of-way of any highway or roadway in the county unless the commercial salvage yard, or automobile graveyard with a state sales tax permit is properly screened so that it is not visible from traveled highway or roadway.
- 2) A commercial salvage yard, or automobile graveyard with a state sales tax permit shall be screened when it is not visible from the highways or roadways in the county because of natural objects, planting of perennial nature, or fences. The screens shall be such that it blends in with the environment of the area.
- 3) DEFINITIONS.
 - a. AUTOMOBILE GRAVEYARDS OR SALVAGE YARDS – any establishment or place of business which is maintained, used or operated for storing, buying, keeping, or selling wrecks, scrap, ruined or dismantled motor vehicles, motor vehicle parts, or any type of farm equipment, with a state tax permit.
- 4) Any persons violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than \$250.00 no more than \$500.00 for each offense.
- 5) All existing businesses, establishments, or individuals affected as of the date of this ordinance shall have a period of *six (6) months* from the date of this adoption of this Ordinance to begin compliance with this Ordinance and *one (1) year* from the date of passage for screening to be completed.
- 6) This Ordinance is not intended to conflict with any County, State, or Federal laws now in existence or hereafter in existence. If a conflict does arise, State or Federal law shall govern.
- 7) REPEALER. All ordinances and parts of this ordinance in conflict herewith are hereby repealed.

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- 8) SEVERABILITY CLAUSE. Various articles and parts of this Ordinance are declared to be severable and therefore should any article or part be found to be invalid for any reason, it shall not invalidate the remaining portions hereof.
(Ord. 1997-122, passed 12-09-1997)

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