

1st Rob  
08/21/12  
Jud Reading  
Sept. 4, 2012

**ORDINANCE NO. 2012-16**

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, CHAPTER 9 COURTS, FINES AND IMPRISONMENT, BY THE ADDITION OF ARTICLE III – PRETRIAL DIVERSION PROGRAM.**

**BE IT ORDAINED** by the City Council of the City of Phenix City, Alabama, that the Code of Ordinances of the City of Phenix City, Alabama, does hereby amend Chapter 9 Courts, Fines and Imprisonment by the addition of Article III – Pretrial Diversion Program, which shall read as follows:

**ARTICLE III – PRETRIAL DIVERSION PROGRAM**

**Sec. 9-31. - In general.**

- (a) The City of Phenix City Municipal Court Judge may assess fees for offenders participating in a pretrial diversion program under the direct supervision and sole control of the District Attorney of the 26<sup>th</sup> Judicial Circuit in Russell County under authority of ACT No. 2012-364.
- (b) Admittance into the pretrial diversion program is in the absolute discretion of the District Attorney of the 26<sup>th</sup> Judicial Circuit in Russell County and decisions to admit or to deny admittance to the program shall not be subject to review by any court or other agency.

**Sec. 9-32. - Fees.**

- (a) An offender may be assessed a nonrefundable fee when the offender is approved for the pretrial diversion program. The amount of the fee for participation in the program shall be in addition to any court costs, fees, fines and assessments for the crime victim's compensation fund, department of forensic sciences assessments, drug, alcohol, or anger management treatment required by law, and any costs of supervision, treatment, and restitution for which the offender may be responsible, including the assessment of any application fees set by and paid to the District Attorney. The Municipal Court Judge may establish a schedule of payments for any of these fees.
- (b) The following maximum applications fees shall be applied to offenders accepted in the program:
  - (1) Misdemeanors and DUI offenses: up to seven hundred fifty dollars (\$750.00);
  - (2) Traffic offenses and violations: up to five hundred dollars (\$500).
- (c) The amount of the application fee for each offender shall be established by the municipal court judge.

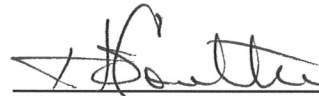
- (d) The application fee shall be allocated to the general fund of the city.
- (e) An applicant offender may not be denied access into the pretrial diversion program based solely on the inability of the offender to pay the application fee. Application fees may be reduced, but not waived, for just cause, including indigency of the offender, at the discretion of the city. Any determination of the indigency of the offender for purposes of program fee mitigation shall be made by the city but such mitigation shall be done only upon the determination by the city that there is no reasonable likelihood within the reasonably foreseeable future that the offender will have the ability to pay the application fee.
- (f) Application fees required by this act shall be collected by the court clerk of the city municipal court.

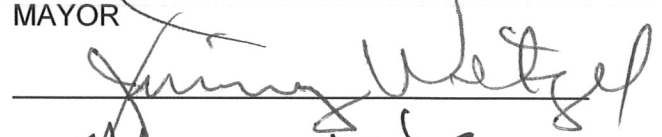
Any ordinance heretofore adopted by the city council of the City of Phenix City, Alabama which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

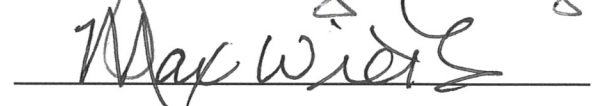
If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

**This Ordinance shall become effective upon passage.**

**PASSED, APPROVED AND ADOPTED** this 5th day of September, 2012.

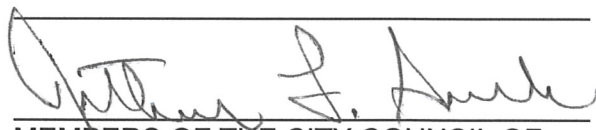
  
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MAYOR

  
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ATTEST:

  
\_\_\_\_\_  
CITY CLERK

  
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MEMBERS OF THE CITY COUNCIL OF  
THE CITY OF PHENIX CITY, ALABAMA