

ORDINANCE NO.

**AN ORDINANCE AMENDING CITY CODE TITLE 2-10 RELATING TO
THE MUNICIPAL COURT AND ESTABLISHING STANDARDS FOR
CERTAIN FINES, ALTERNATIVE SENTENCES, AND COMMITMENTS.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 2-10-21 (*Fines, Alternative Sentencing, and Imprisonment*) is repealed and replaced to read as follows:

§ 2-10-21 FINES, ALTERNATIVE SENTENCING, AND COMMITMENT.

- (A) If a defendant is convicted of an offense, a judge may direct the defendant to pay a fine immediately, at a later date, or in designated installments, or may order alternative sentencing in lieu of payment of a fine.
- (B) A judge may waive payment of all or part of a fine or costs the judge could impose on a defendant if the judge determines:
- (1) the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs; and
 - (2) each alternative method of discharging the fine or cost would impose an undue hardship on the defendant.
- (C) A judge may determine that a defendant is indigent based on any of the following factors:
- (1) the defendant's household income is less than 200% of the poverty guidelines established by the U.S. Department of Health and Human Services in effect at the time of the determination, and the difference between the defendant's monthly net income and reasonable necessary expenditures is less than \$500;
 - (2) the defendant or the defendant's dependents are eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, public housing, or benefits under a similar state, federal, or local program based on financial status;
 - (3) the defendant is serving a sentence in a correctional institution, is residing in a public mental health facility, or is the subject of a

1 proceeding in which admission or commitment to such a mental health
2 facility is sought;

3 (4) the defendant is currently enrolled in and attending middle school or
4 high school, or is under the age of 17; or

5 (5) any other factors the judge may consider under state law.

6 (D) A judge may determine that an alternative sentence would impose an undue
7 hardship if any of the following factors substantially affect a defendant's
8 ability to perform an alternative sentence:

9 (1) a significant health limitation, either physical or mental;

10 (2) pregnancy and childbirth;

11 (3) substantial family commitments and responsibilities, including child
12 and/or dependent care;

13 (4) work responsibilities and work hours;

14 (5) transportation limitations; or

15 (6) any other factors the judge may consider under state law.

16 (E) If a defendant defaults in the discharge of a judgment, a judge may order the
17 defendant committed in jail under the requirements of the Texas Code of
18 Criminal Procedure.

19 (F) A judge shall make a written record of a determination made under this
20 section concerning alternative sentencing, indigency, undue hardship, or
21 waiver of fines or costs.

22 **PART 2.** City Code Chapter 2-10 (*Municipal Court*) is amended to add a new
23 Section 2-10-25 to read as follows:

24 **§ 2-10-25 INFORMATION ABOUT ALTERNATIVE SENTENCING.**

25 The court shall make information about the availability of alternative
26 sentencing available through the court's public website, through information
27 posted at the court, and in written documentation provided to each defendant.
28
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PART 3. This ordinance takes effect on _____ 2017.

PASSED AND APPROVED

_____, 2017 § _____
Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk