

**Oftentimes questions are submitted by city attorneys to circulate to other attorneys to gain their opinions which often differ. The attached submission and the seven responses involve a matter dealing with the issue of Security Verifications and their actual costs to the municipality.**

### **Security Verification Question**

Statute on penalties for failure to have security verification in vehicle, 47 O.S. 7-606(C) provide that if the individual presents proof of insurance at the time of stop to court prior to court day, dismissal shall be without "court costs."

Local ordinance does NOT have the same provision.

1. Can the municipality charge "court costs" (in regular amount as for other citations, including pass through fees) anyway pursuant to local ordinance or rule?
2. Can municipality charge an administrative fee of a lesser amount? If we charged court costs (\$49 here) we would be receiving \$2500 to \$3000 a month. By the time the officer issues the ticket, it is processed at the police department, entered in to the clerk's office, pulled, and the person dealt with at window, and insurance is further verified, then handled for dismissal, we easily have \$20 to \$25 in these things. It is probably worse at county.

Response #1: I have always been under the impression that municipalities could have lesser punishments, but not exceed what is allowed by state law. With that being said, I think it does bring up an excellent point. Administrative fees are allowed on deferred sentences. I am not sure we are able to circumvent this statute and apply "administrative" fees to dismissals. It does bring up the question of whether municipalities may create their own "handling fee" to offset the expense incurred for cases such as this. On the other hand, is that why a "dismissal with costs" was created? It appears this may be a legislative fix.

Response #2: It's an interesting issue. 7-606(A) criminalizes EITHER not having insurance OR not producing a valid insurance verification. I can see how producing one after the fact could defeat a charge that you didn't have insurance, but it doesn't address the underlining issue that you didn't have the insurance verification with you, which is a separate violation. I guess if the whole point is that the State just wants you to be insured, then I get the (C) language. Personally, I still believe there should be a lesser fine if you had insurance but didn't have it with you. Otherwise, what's the incentive for people to carry their insurance with them?

Response #3: My response would be no to both questions.

Response #4: My opinion is that based on the wording of the statute defining "court" as "any court in this state," a municipality has no authority to vary from the statutory provision that

mandates that the charge be dismissed without payment of costs so long as the proof is submitted no later than the business day preceding the arraignment.

Response #5: State Statute will probably prevail unless the municipality is a Charter (home rule) city. Furthermore, an “Administrative Fee” is applicable to municipal courts already in the context of a Deferred Sentence. Those words have a usage in municipal law already and are probably not available as a generalized substitute for “court costs”. Legislative intervention is probably the solution.

Response #6: This City follows state law and does not charge court costs if valid proof is presented any time prior to the court day.

Response #7: In my opinion a change to the law would be required for a city to levy court costs. Title 11 prohibits cities with courts not of record from charging more than state penalty.

Please Note: This summary is not a substitute for legal advice. You should consult your city or town attorney prior to taking any action based on this document.