

## **CHAPTER 6 MAGISTRATE COURT**

### **Article 6-1 MAGISTRATE COURT**

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- Section 6-1-3 Court User Program and Service Fee

#### **Section 6-1-1 Magistrate Court Established: Jurisdiction**

There is hereby established in the City a Magistrate Court which shall have jurisdiction of all violations of this Code, and jurisdiction concurrently with Justices of the Peace of precincts in which the City is located of violations of State laws committed within the limits of the City.<sup>1</sup>

#### **Section 6-1-2 Prosecution**

- A. All cases filed in the Magistrate court shall be charged and prosecuted in accordance with the rules of procedure applicable to the type of violation, unless more specific rules are adopted by the Arizona Supreme Court:
  - 1. All criminal offenses shall be prosecuted in accordance with the Arizona Rules of Criminal Procedure.
  - 2. All offenses carrying civil sanctions shall be prosecuted in accordance with the Arizona Rules of Procedure in Civil Traffic Cases.
- B. The City Attorney, or designee, shall supervise the prosecution of City Code violations in the Magistrate Court. The personnel listed in section 6-2-5 (A) may file citations or long form complaints as specified in this Chapter subject to the supervision of the City Attorney.

#### **SECTION 6-1-3 COURT USER PROGRAM AND SERVICE FEE**

All persons charged and convicted, by trial or admission, of any offense in the City of Globe Magistrate Court shall be assessed a Court User Program and Service Fee in an amount established by the Mayor and Council by Resolution from time to time.<sup>2</sup>

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<sup>1</sup> Editor's Notes: State law reference—Authority to establish, A.R.S. § 22-402.

<sup>2</sup> Editor's Note: Originally adopted by and through Ordinance 780, 4/19/10

## **Article 6-2 PRESIDING MAGISTRATE - RULES OF COURT**

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### **Section 6-2-1 Presiding City Magistrate - Created - Term of Office**

- A. The office of Presiding City Magistrate is hereby established. The Presiding City Magistrate shall be the presiding officer of the Magistrate Court, and shall be appointed by the Council for a term of two (2) years. He/she shall receive such compensation as the Council may from time to time provide by resolution or contract.<sup>3</sup>
- B. The Presiding Magistrate shall be subject to removal from office for good cause shown. Prior to any such removal a written notice shall be provided to the Presiding Magistrate stating the grounds for possible removal. Upon request, a hearing shall be convened not less than ten (10) days following such notice and the Presiding Magistrate shall be given an opportunity to be heard. The decision of the Council shall be final.
- C. Should a vacancy occur during any term, the Council shall appoint a new Presiding Magistrate to serve for the unexpired portion of said term.

### **Section 6-2-2 City Magistrate**

The office of City Magistrate is hereby created. The City Magistrate shall be appointed by and shall serve at the pleasure of the Council for such term and for such salary as the Council may determine. He/she shall perform the duties of the City Magistrate in the absence of the Presiding City Magistrate.

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<sup>3</sup> Editor's Notes: Presiding Magistrate A.R.S. 22-403

### **Section 6-2-3 Powers and Duties**

The powers and duties of the Magistrate Court shall include:

- A. The powers and duties set forth and conferred upon him/her under the provisions of the State Constitution and Arizona Revised Statutes, this Code, and the ordinances of the City. In performing his/her duties the Magistrates shall at all times comply with the Code of Judicial Conduct.
- B. The keeping of a docket in which shall be entered each action and a record of the proceedings of the Court therein.
- C. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies on account for same, as provided by law.
- D. Payment of all fees, fines, penalties and other monies collected by the Court to the proper official as provided by law.
- E. Submitting a monthly report to the Council summarizing Court activities for that month or as otherwise directed by the Council.
- F. Preparation of a schedule of traffic, civil and criminal violations listing specific bails and fines for each violation.
- G. Such other powers and duties as may be required to carry out the duties imposed on said court by the Supreme Court or the Legislature of the State of Arizona.

### **Section 6-2-4 Proceedings of Court**

- A. The Court shall be open for transaction of business on such days and during such hours as the Council may from time to time direct by resolution or at such other times as the Presiding Magistrate deems necessary to properly operate the Court.
- B. All proceedings shall be conducted in accordance with the State Constitution, and applicable State statutes and rules of procedure which pertain to Magistrate courts.

### **Section 6-2-5 Civil or Criminal Violations, Commencement of Action.**

- A. An action to prosecute a civil or criminal violation of a provision of this Code may be commenced by issuing an Arizona Uniform Traffic Ticket and Complaint ("ticket and complaint") or by filing a summons and complaint in the Magistrate

Court. Upon determining that reasonable cause exists to believe that a Defendant has committed or is responsible for a violation of this Code, the City Attorney, any Peace Officer, Code Enforcement Officer, Animal Control Officer, Fire Marshal, Building Official, or any other person duly authorized by the City, may issue a ticket and complaint or summons and complaint and serve the Defendant as provided in this Article. <sup>4</sup>

- B The ticket and complaint shall direct the Defendant to appear in Magistrate Court within thirty (30) days (no less than five, not more than thirty) after its issuance.
- C Service of the ticket and complaint or of a summons and complaint may be accomplished by the following methods:
  - 1. In the case of both civil and criminal violations:
    - (a) By having the defendant sign the ticket and complaint with a promise to appear in court within thirty (30) days (no less than five, not more than thirty) of the issuance of the ticket and complaint;
    - (b) By hand delivering a copy of the ticket and complaint or the summons and complaint to the Defendant;
    - (c) By mailing a copy of the ticket and complaint or of the summons and complaint to the defendant certified or registered mail, return receipt requested, at his or her last known address. Service is complete upon filing the receipt with the court.
  - 2. In the case of a civil violation only, by any means allowed by the Arizona Rules of Civil Procedure for the service of a summons.
  - 3. In the case of a criminal violation only, by any means allowed by the Arizona Rules of Criminal Procedure for the service of a summons.

### **Section 6-2-6 Rules of Procedure of Civil Action.**

- A. At the request of either party, or on the Court's own initiative, the Court may order a pretrial conference between the City Attorney, or designee, and the Defendant.
- B. The City Attorney may file a standing notice of appearance for civil actions to enforce this Code. If such notice is filed, the City is not required to give notice to the Court and to the Defendant of its election to be represented by counsel for a City Code violation.

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<sup>4</sup> Editors Notes: See A.R.S. 22-421

- C. The presiding City Magistrate may serve as the Hearing Officer for civil traffic and civil offenses or the Council may appoint a separate Hearing Officer.
- D. The hearing, rules of evidence, appeal, default and all matters associated with the violation will be conducted in accordance with those rules for civil traffic offenses in the State of Arizona.
- E. At the conclusion of the hearing, the Magistrate or Hearing Officer shall determine whether a violation exists, and if so, may impose civil penalties up to the maximum amount specified in A.R.S. § 9-240, as amended, and the City Code, for each day a violation exists beyond the initial notice constituting a separate offense. The Magistrate or Hearing Officer may also order abatement of the nuisance pursuant to A.R.S. § 9-499, as amended.
- F. Notwithstanding any other provision of this Code, if the violator does not comply with the civil enforcement action, the City Attorney or a Peace Officer may issue a criminal ticket or complaint. A civil enforcement action is not a prerequisite to the filing of a criminal action.
- G. A final decision of the Magistrate or Hearing Officer may be appealed pursuant to A.R.S. § 12-124, as amended.
- H. Rule 64 and 64.1 of the Arizona Rules of Civil Procedure shall apply to all civil violation cases.
- J. Any matter not addressed by the Arizona Rules of Court for Civil Traffic Violation cases shall be governed by the Arizona Rules of Civil Procedure. In the event of an inconsistency between a provision of this Code and a provision of either of these sets of rules, this Code shall take priority.

**Section 6-2-7 Collection of Civil Sanctions and Judgments.**

The City and City Magistrate may collect a sanction of judgment entered in a civil violation case in any manner provided by law for collecting a civil judgment. Any civil fine or judgment for civil sanctions issued pursuant to this Article shall constitute a lien against the real property of the responsible party that may be perfected by recording a copy of the fine or judgment with the Gila County Recorder. Any judgment for civil fines or penalties pursuant to this Article may also be collected as any other civil judgment and shall bear interest at the legal rate until paid in full.

**Section 6-2-8 Failure to Appear for Civil Violation Proceeding.**

If a person served with a citation fails to appear on or before the time directed to appear at the time set for hearing, the allegations in the citation shall be deemed admitted and the Magistrate or civil Hearing Officer shall enter a finding of responsible and a judgment for the City and impose a civil sanction as authorized by section 1-5-1(A) of this Code, in an amount not less than Two Hundred Fifty (\$250.00) Dollars, plus applicable surcharges.

**Section 6-2-9 Failure to Comply With a Civil Violation Court Order.**

Failure to comply with a civil violation court order entered pursuant to a finding of responsibility following hearing, admission, or by agreement shall be a class one misdemeanor punishable as provided in Section 1-5-1(B) of this Code.

**Section 6-2-10 Habitual Offenders**

- A. A person who commits a violation of this Code after previously having been found responsible for committing two (2) or more civil violations of this Code within a twenty-four (24) month period --- whether by admission, by payment of the fine, by default or by judgment after hearing --- shall be guilty of a class one (1) misdemeanor. The City Attorney is authorized to file a criminal misdemeanor complaint in the City or County Court against habitual offenders who violate this Code. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Section, the Court may impose a sentence as set forth in section 1-5-1(B) of this Code. The Magistrate shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred (\$500) dollars for each count upon which a conviction has been obtained, plus applicable surcharges. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Section except on the condition that the person pay the mandatory minimum fine as provided in this paragraph.
- C. Every action or proceeding against a habitual offender, under this Section, shall be commenced and prosecuted in accordance with the rules of criminal procedure relating to criminal misdemeanors.

**Section 6-2-11 Procedure for Criminal Violations.**

- A. All cases involving a criminal violation of this Code shall be governed by the Arizona Rules of Criminal Procedure.

- B. If the Defendant in a case of criminal violation of this Code fails to pay a fine or restitution as ordered by the court, the City may collect such fine or restitution in any manner provided by law, including petitioning the court to issue an order to show cause, to issue an arrest warrant and to punish the defendant for contempt of court.

**Section 6-2-12 Hearing Officers**

The Council may appoint one or more Hearing Officers to preside over civil traffic, civil violation or public nuisance cases when, in its opinion, the appointment of such Hearing Officers are necessary to assure prompt disposition of such cases. Hearing Officers may hear and dispose of such cases under supervision of the Presiding Magistrate and their decisions are appealable to the Superior Court pursuant to Arizona Revised Statutes.