

**CHAPTER 1 - ADMINISTRATION**

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**ARTICLE 1-1 GENERAL MATTERS**

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1-1-1 How Code Designated and Cited

The ordinances embraced in the following titles, chapters and sections shall constitute and be designated the "Holbrook City Code." This Code shall be supplemented to incorporate the most recent legislation of the city as provided in Section 1-1-3 of this Chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this City Code by title in any legal documents.

1-1-2 Acceptance

The City Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this State as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in Section 1-1-4 of this Title.

1-1-3 Amendments

Any ordinance amending the City Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be inserted in their proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code.

1-1-4 Ordinances, Repeal of General Ordinances

- A. All general ordinances of the city passed prior to the adoption of this City Code are hereby repealed, except such as are included in this City Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; assessment ordinances; ordinances relating to boundaries, annexations and dedications; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; the continued existence and operation of any department, agency, commission or office heretofore legally established or held; and all special ordinances.
- B. The repeal of the ordinances as provided in subsection A of this Section, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1-1-5 Public Ways and Public Utility Ordinances

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this City Code or by virtue of the preceding Section, excepting as the City Code may contain provisions for such matters, in which case, this City Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1-1-6 Court Proceedings

- A. No new ordinance shall be construed or held to repeal a former ordinance

whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

- B. This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this City Code.

1-1-7 Severability Clause

- A. General: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this City Code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code, or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.
- B. Conflicting Provisions: If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter. A particular provision shall prevail over a general provision covering the same subject matter.

1-1-8 Definitions: Construction of Words

- A. The rules and the definitions set forth in this Chapter shall be observed in the construction of this Code and the ordinances of the city, unless such construction would be inconsistent with either the manifest intent of the city council, the Holbrook City Charter, the context of this Code, or the ordinances of the city.
- B. Whenever any word in any section of this City Code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this City Code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this City Code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.
- C. The word "ordinance" contained in the ordinances of the city has been changed in the content of this City Code to "Title", "Chapter", "Section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances.

1-1-9 Definitions<sup>1</sup>, General

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Whenever the following words or terms are used in this Code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

Definitions:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

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<sup>1</sup>State law reference: For definitions and construction of statutes generally, A.R.S. § 1-211 through 1-215.

CHARTER: The Charter of the City of Holbrook.

CITY: The City of Holbrook, Arizona.

CITY MANAGER: City manager or his designee

CODE: The Holbrook City Code unless the context indicates otherwise.

COUNCIL: The city council of the City of Holbrook, Arizona, unless otherwise indicated.

DAY: The period of time between any midnight and the midnight following.

DAYTIME, NIGHTTIME: Daytime is the period of time between sunrise and sunset. Nighttime is the period of time between sunset and sunrise.

DEPARTMENT, BOARD OR EMPLOYEE: Whenever any department, board, commission, office, officer or employee is referred to, it shall mean a department, board, commission, office, officer or employee of the city, unless the context clearly indicates otherwise.

FEE: A sum of money charged by the city for the carrying on of a business, profession or occupation.

GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

IN THE CITY, WITHIN THE CITY: Shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

MONTH: A calendar month.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the city, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

OATH: Includes affirmation or declaration.

OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

PROPERTY: Shall include real and personal property.

REAL PROPERTY: Shall include lands, tenements and hereditaments.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

SHALL HAVE BEEN: Includes past and future cases.

SHALL, MAY: Shall is mandatory and may is permissive.

STREET: Shall include alleys, lanes, courts, boulevards, rights of way, public ways, public squares, public places and sidewalks.

TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

TENSES: The present tense includes the past and future tenses, and the future includes the present.

TIME:

- A. Computation: The time within which an act is to be done as provided in this Code or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or holiday it shall be excluded; and when such time is expressed in hours, the whole of Saturday, Sunday or a holiday, from midnight to midnight, shall be excluded.
- B. Reasonable: In all cases where any section of this Code shall require any act to

be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

UTILITIES: Consists of the Water, Wastewater, Sanitation Departments of the city.

WEEK: Consists of seven (7) consecutive days.

WHOLESALE: The terms "wholesaler" and "wholesale dealer" as used in this Code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITING: Includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

YEAR: A calendar year, except where otherwise provided.

#### 1-1-10 Catchlines

The catchlines of the several sections of the City Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

#### 1-1-11 Penalties: General Penalty

- A. Misdemeanor: Any person found guilty of violating any provisions of this Code, except as otherwise provided in this Code, shall be guilty of a Class One misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein above described.
- B. Petty Offense: A petty offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

- C. Civil Violation: A civil sanction shall not exceed five hundred dollars (\$500.00).

1-1-12 Application of Provisions

- A. The penalty provided in this Chapter shall be applicable to every section of this City Code the same as though it were a part of each and every separate section.
- B. In all cases where the same offense is made punishable or is created by different clauses or sections of this City Code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.
- C. Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this City Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this Chapter shall apply.

1-1-13 Liability of Officers

No provision of this City Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

**ARTICLE 1-2 MAYOR AND COUNCIL**

- 1-2-1 Council Members
- 1-2-2 Mayor
- 1-2-3 Agenda
- 1-2-4 Voting
- 1-2-5 Suspension of Rules
- 1-2-6 Ordinances, Resolutions and Contracts

1-2-1 Council Members

The term of office for members of the council is four years.

1-2-2 Mayor



- A. Election of Mayor: The mayor shall be directly elected by the qualified electors of the city. The term of the Mayor's office shall be for two years.
- B. Acting Mayor: In the absence or disability of both the mayor and vice mayor, the council may designate another of its members to serve as acting mayor, and he shall have all the powers, duties and responsibilities of the mayor during such absence or disability.
- C. Failure to Sign Documents: If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring his signature for five days consecutively, then a majority of the council in attendance may, at any regular or special meeting, authorize the vice mayor, or in his absence, an acting mayor to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor.
- D. Committee Appointments: The mayor shall appoint members to various committees, boards and commissions after due official notice to the public and with the consent of the council<sup>2</sup>.

1-2-3 Agenda

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the city manager shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, and prepare an agenda according to the order of business and shall furnish each council member, the mayor and the attorney with a copy. Any council member, including the mayor, the city manager, city clerk or city attorney, may place an item on the agenda for the city council's consideration.

1-2-5 Voting

The mayor shall vote as a member of the council.

1-2-6 Suspension of Rules

Any of the provisions of this article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths of the members present, except that this section shall not be construed to permit any action that is contrary to State statutes, or the City Charter.

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<sup>2</sup>See City Charter Section 2.07(d)

1-2-6 Ordinances, Resolutions and Contracts

- A. Introduction: Ordinances, resolutions and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney, city manager or clerk may present ordinances, resolutions and other matters or subjects to the council, and any council member may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject adopted; otherwise it shall not be considered.
- B. Effective Date of Ordinance: No ordinance or resolution having the effect of an ordinance or franchise shall become operative until thirty days after its passage by the council except an emergency measure shall become immediately operative.<sup>3</sup>
- C. Posting Required: Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted by the clerk in three or more public places within the city and an affidavit of the person who posted the ordinances shall be filed in the office of the clerk as proof of posting.<sup>4</sup>

**ARTICLE 1-3 VOLUNTEER FIRE DEPARTMENT**

- 1-3-1 Fire Department Composition
- 1-3-2 Departmental Rules and Regulations
- 1-3-3 Compensation
- 1-3-4 Powers and Duties of the Fire Chief
- 1-3-5 Providing Fire Protection Outside the City Limits
- 1-3-6 Fire Code

1-3-1 Fire Department Composition

The volunteer Fire Department shall consist of a chief, one or more assistant chiefs, and as many other officers and firefighters as may be deemed necessary from time to time by the Council.

1-3-2 Departmental Rules and Regulations

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<sup>3</sup> Section 7.06, City Charter

<sup>4</sup>Also required in City Charter, Section 7.07(c)

The Fire Department shall be operated and managed in accordance with such departmental rules, regulations, and bylaws as may, from time to time, be adopted by the City Council. The Fire Department shall adopt rules and regulations to govern their internal operations.

1-3-3 Compensation

The Fire Chief, assistant Fire Chiefs and other members and officers of the Fire Department shall receive such compensation as may be determined by the Council.

1-3-4 Powers and Duties of Fire Chief

It shall be the duty of the Chief to:

- A. Be accountable to the city manager for the personnel, morale and general efficiency of the Fire Department.
- B. Direct the operations of the Fire Department, subject to the rules and regulations thereof.
- C. Enforce or cause to be enforced, all ordinances, laws and regulations of the City and state insofar as they pertain to fire and safety.

1-3-5 Providing Fire Protection Outside the City Limits

The City Council may enter into agreements or contracts to furnish fire protection outside the City or enter into mutual aid agreements, and the Fire Department is authorized to render fire fighting services pursuant to the terms of such agreements or contracts.

1-3-6 Fire Code

There is hereby adopted for the purpose of prescribing regulations governing the conditions hazardous to life and property from fire or explosion, those certain codes known as the Uniform Fire Code, current edition, promulgated in its entirety, by the Office of the State Fire Marshal; the Flammable and Combustible Liquids Code, current edition, being particularly NFPA No. 30; the Recommended Regulatory Standard for Tank Vehicles for Flammable Liquids, current edition, being NFPA No. 385; the Standard Life Safety Code, current edition, being particularly NFPA No. 101; the Model State Fireworks Law, being particularly NFPA No. 4941; including all future amendments, additions or deletions thereto, excepting any provisions which may be modified, deleted or amended by ordinance of the City. Three copies of the above materials are and shall remain on file in the office of the Clerk and in the office of the Fire Chief and the same are hereby adopted and incorporated by reference as though fully set forth herein, and from the date this Chapter shall take effect the provisions thereof shall be controlling within the limits of the City of Holbrook.

## ARTICLE 1-4 PURCHASING POLICY

1-4-1	Purchasing Agent; Authority
1-4-2	Bidding Procedures
1-4-3	Lowest Responsible Bidder Determined
1-4-4	Professional Services
1-4-5	Emergency Purchases
1-4-6	Cooperative Purchasing
1-4-7	Performance Bond

### 1-4-1 Purchasing Agent; Authority

The city manager, or his designee, shall be the purchasing agent for the city. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the city, shall be made by the Purchasing Agent or any officer, employee or agent of the city, except in the manner set forth in this Chapter. Whenever any contemplated purchase or contract for goods or services is in excess of ten thousand dollars (\$10,000.00), such purchase or contract shall be presented to the city council for approval. The city council may request that the Purchasing Agent solicit bids in the manner set forth herein prior to the approval of any such purchase or contract.

### 1-4-2 Bidding Procedures

When solicitation of bids is requested by the city council, or is required by applicable State law, or if the Purchasing Agent determines that it is in the best interests of the city to solicit bids, the Purchasing Agent shall conduct the bidding procedures in the following manner:

- A. Notice Contents: All notices and solicitation of bids shall state the time and place for opening.
- B. Submission: All bids shall be submitted sealed to the Purchasing Agent and shall be identified as bids on the envelope.
- C. Opening: All bids shall be opened in public at the time and place stated in the public notice.
- D. Tabulation; Posting: A tabulation of all bids received shall be posted in the City Hall for public inspection.
- E. Formal Bids: When the council requests a formal bid, the formal bids shall specifically state the character of the city improvement, purchase or kind of supplies, materials, equipment and services required. Notice shall be published once in the official newspaper, not less than five (5) days prior to the opening of bids. Bidding shall be by sealed proposals only under regulations prescribed by

the council. Council has the right to reject any and all bids, and to advertise for bids again. <sup>5</sup>

- F. Under \$1,000: Whenever any contemplated purchase or contract for services is for the sum of less than \$1,000, the purchasing agent may order the item without any further requirements.
- G. \$1,000 to \$4,999 Inclusive: Whenever any contemplated purchase or contract for services is for the sum of at least \$1,000 but not more than \$4,999, the purchasing agent shall solicit three (3) bids for the item or service. The bids may be orally obtained and the purchasing agent may then award the purchase or contract to the lowest responsible bidder.
- H. \$5,000 to \$9,999 Inclusive: Whenever any contemplated purchase or contract for services is for the sum of at least \$5,000 but less than \$9,999, the purchasing agent shall solicit at least three (3) written bids for the item or service on bid forms. No contract or purchase of \$5,000 or more shall be approved except by the council. The purchasing agent shall present to the council any contemplated purchase or contract for \$5,000 or more for approval and advise the council of the advantages and disadvantages of the bid proposal.
- I. \$10,000 and Over: Whenever any contemplated purchase or contract for services is for the sum of \$10,000 or more, the purchasing agent shall cause to be published once in the official newspaper a notice inviting bids, which notice shall be published not less than five (5) days prior to the opening of bids.<sup>6</sup> The notice herein required shall include a general description of the articles to be purchased or services to be performed and the time and place for the opening of bids. In addition, the purchasing agent shall post a notice inviting bids at the City Hall and shall provide notice by mail to any responsible prospective local suppliers known to the purchasing agent. No contract or purchase of \$5,000 or more shall be approved except by the council. The purchasing agent shall present to the council any contemplated purchase or contract for \$5,000 or more for approval and advise the council of the advantages and disadvantages of the bid proposal.

#### 1-4-3 Lowest Responsible Bidder Determined

The city council shall have the authority to reject any and all bids and parts of all bids and readvertise or resolicit bids. Unless the city council exercises its right of rejection, the purchase

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<sup>5</sup>See City Charter Section 8.03

<sup>6</sup>See City Charter Section 8.03

or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract or for any part thereof. In determining the lowest responsible bidder, the city council may consider:

- A. Ability: The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- B. Timely Performance: Whether the bidder can perform the contract or provide the services promptly or within the specified time, without delay or interference.
- C. Quality Of Previous Contracts: The quality of performance of previous contracts.
- D. Compliance With Laws: The previous and existing compliance by the bidder with the laws and ordinances of the city.
- E. Financial Resources: The financial resources and ability of the bidder to perform the contract.
- F. Supplies; Services: The quality, availability and adaptability of the supplies or service.

#### 1-4-4 Bid Preference for Local Businesses

In awarding a contract for work or supplies to be paid for from public funds, bids of contractors or suppliers who own a business supplying the goods or services, and which maintain a physical address within the City limits may receive the bid if their bid is within five (5%) percent of the lowest bid on the project. The purpose of giving a bid preference to local businesses for goods and services is to reduce costs to the City due to the high cost of public works bids because of the cost of mobilizing equipment to the City of Holbrook and to promote economic development by encouraging businesses to locate and remain within the City of Holbrook.

#### 1-4-5 Professional Services

Unless directed by the council, the bidding and other requirements of this article shall not apply to professional services. Such services include but are not limited to: physicians, attorneys, engineers, accountants and other similar professions.

#### 1-4-6 Emergency Purchases

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the mayor shall be empowered to authorize the Purchasing Agent to purchase goods or secure services without complying with the procedures of this Chapter. A full report in writing of the circumstances of any emergency purchase shall be filed by the Purchasing Agent with the city council at its next meeting.

1-4-7 Cooperative Purchasing

When solicitation of bids is requested by the city council or required by applicable State law, the Purchasing Agent may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so for the same item or service if a separate bidding process is not likely to result in a lower price for such items or services.

1-4-8 Performance Bond

The Purchasing Agent shall have the authority to require a performance bond, in cash or otherwise, for such amount as he may deem sufficient to secure the execution of the contract for the best interest of the city.

**ARTICLE 1-5 MAGISTRATE COURT; PROSECUTING CIVIL & CRIMINAL VIOLATIONS**

- 1-5-1 Magistrate Court Established; Jurisdiction
- 1-5-2 Powers and Duties of City Magistrate
- 1-5-3 Court Fees
- 1-5-4 Purpose and Scope
- 1-5-5 Civil or Criminal Violation - Commencement of Action
- 1-5-6 Citation or Summons and Complaint - Authority to Issue
- 1-5-7 Rules of Procedure for Civil Violation
- 1-5-8 Collection of Civil Sanctions and Judgments
- 1-5-9 Procedure for Criminal Violations

1-5-1 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 laws of the State committed within the limits of the city.

1-5-2 Powers and Duties of City Magistrate

The powers and duties of the magistrate shall include the powers and duties set forth and conferred upon the magistrate under the provisions of the State Constitution and statutes, this code and the ordinances and resolutions of the city.

1-5-3 Court Fees

The city council may, by resolution, establish and assess fees for court programs and services,

including but not limited to, costs associated with court collections, civil traffic defaults, and issuing and executing failure to appear warrants.

#### 1-5-4 Purpose and Scope

The city may use the procedures established in this article to enforce every city ordinance, whether or not the ordinance is codified in this code, and to prosecute any civil or criminal violation of every such ordinance. These procedures do not supersede other enforcement procedures which are established by ordinance, but rather are an alternative to such procedures.

#### 1-5-5 Civil or Criminal Violation-Commencement of Action

- A. An action to prosecute a civil or criminal violation of a provision of this code may be commenced by issuing a citation or by filing a summons and complaint.
- B. The citation shall direct the defendant to appear in Magistrate Court within thirty (30) days after the issuance of the citation.
- C. Service of the citation 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 citation with a promise to appear in court within thirty (30) days (no less than five, not more than thirty) of the issuance of the citation;
    - b. By delivering a copy of the citation or the summons and complaint to the defendant;
    - c. By mailing a copy of the citation or of the summons and complaint to the defendant by certified or registered mail, return receipt requested, at his or her last known address. An address which is contained in the records of the Holbrook Magistrate Court, the City of Holbrook, the Navajo County Assessor's Office, Navajo County Health Department, Arizona Motor Vehicle Department, or Navajo County Recorder's Office shall be sufficient. Service is complete upon mailing.
  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.



1-5-6 Citation or Summons and Complaint - Authority to Issue

Upon determining that probable cause exists to believe that the defendant committed or is responsible for a violation of this code, the city manager, his authorized representative or any peace officer may issue a civil or criminal citation or summons and complaint and serve the defendant as provided in this article.

1-5-7 Rules of Procedure for Civil Action

The Magistrate Court shall follow the Arizona Rules of Court for Civil Traffic Violation Cases in all cases of a civil violation of this code, with the following exceptions:

- A. Notwithstanding Rule 13 of the Arizona Rules of Court for Civil Traffic Violation cases, the City is not required to give notice to the court and to the defendant of its election to be represented by counsel.
- B. Rule 64 and 64.1 of the Arizona Rules of Civil Procedure shall apply to all civil violation cases.
- C. 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.

1-5-8 Collection of Civil Sanctions and Judgments.

- A. The city may collect a sanction or judgment entered in a civil violation case in any manner provided by law for collecting a civil judgment, including the filing of a lien against the defendant's property and against any other property affected. In the case of a judgment for the expenses of correcting a violation of Chapter 3, the city may file a lien against the property upon which the violation existed.
- B. In addition, the city may add the amount of the sanction or judgment to any other debt which the defendant owes to the city, including, but not limited to, the defendant's bill for utility service, the fee for any license or permit issued by the city, or the fee for any application filed with the city. The city may withhold utility service from the defendant, deny the defendant a license or permit or refuse to accept the defendant's application until the sanction or judgment is paid.

1-5-9 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 the manner provided in section 1-5-3 or in any other 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.

**ARTICLE 1-6 BOARDS AND COMMISSIONS**

- 1-6-1 Planning and Zoning Commission
- 1-6-2 Historic Preservation Commission

1-6-1 Planning and Zoning Commission

- A. Establishment: There is hereby created a Planning and Zoning Commission composed of seven members to be appointed by the mayor after official notice and with the consent of the council.
- B. Terms of Office: Members of the Planning and Zoning Commission shall be appointed for a term of two years or for the unexpired term of a successor member so that at all times there shall be three members of the commission whose terms will expire on January 31<sup>st</sup> of an odd-numbered year and four members whose terms will expire on January 31<sup>st</sup> of an even-numbered year.
- C. Removal from Office: Members of the Planning and Zoning Commission may be removed from office by a two-thirds majority vote of the council.
- D. Compensation: Members of the Planning and Zoning Commission shall serve without compensation, but they may be reimbursed for actual and necessary expenses.
- E. Ex Officio Members: The city council may appoint one member of their body to be an ex officio member of the Planning and Zoning Commission.
- F. Qualifications: All regular members of the Planning and Zoning Commission shall be residents of the City of Holbrook.
- G. Organization and Meetings: The commission shall elect from its membership such officers and prescribe their duties as it deems necessary or convenient. The commission shall hold at least one regular meeting each month and shall adopt such rules as it deems necessary for the transaction of business. The

commission shall keep a record of its resolutions, transactions, findings and determinations, all of which shall be open and available at all times for inspection by the public.

- H. All members of the Planning & Zoning Commission shall be residents of the City. If a member ceases to be a resident of the City, the council may declare the office to be vacant by a majority vote of the council and the mayor may appoint a new member with the consent of the council.

1-6-2 Historic Preservation Commission.

- A. Purpose: The protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded upon its past, and inasmuch as Holbrook has many significant historic, architectural and cultural resources which constitute its heritage, this portion of the code is intended to:

1. Protect and enhance the landmarks and historic districts which represent distinctive elements of Holbrook's historic architectural and cultural heritage.
2. Foster civic pride in the accomplishments of the past.
3. Protect and enhance Holbrook's attractiveness to visitors and the support and stimulus to the economy thereby provided.
4. Ensure the harmonious, orderly and efficient growth and development of Holbrook.

- B. Historic Preservation Commission.

1. The City of Holbrook Preservation Commission is hereby established.
2. The Commission shall consist of at least five (5) members to be appointed, to the extent available in the community, by the mayor after official notice with consent of the council, as follows:
  - a. At least one member shall be a historian.
  - b. At least one member shall be trained in archeology.
  - c. At least one member shall be a resident of a historic district.

- d. At least one member shall have demonstrated significant interest and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field.
  - e. All members shall have a known interest in historic preservation and architectural development within the City of Holbrook.
  - f. All members shall be residents of the city. If a member ceased to be a resident of the city, the council may declare the office vacant by a majority vote of the council and the mayor may appoint a new member with the consent of the council.
3. Commission members shall serve for a term of three years with the exception of the initial term of two of the members, which shall be for one year, two of which shall be for two years and one of which shall be for three years.
4. A chairman and a vice-chairman of the commission shall be elected by and from among the members of the commission.
5. The responsibilities of the commission shall include:
- a. Recommendation of rules and regulations as necessary for the conduct of its business.
  - b. Recommendation of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic district.
  - c. Conduct of surveys of significant historic, architectural and cultural landmarks and historic districts.
  - d. Recommendation to the city council of the designation of identified structures or resources as landmarks and historic districts.
  - e. Recommendation to the city council concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this article.
  - f. Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in

public education programs.

- g. Recommendation to the city council concerning the utilization of state, federal and private business funds to promote the preservation of landmarks and historic districts within the city.
  - h. Recommending acquisition of any landmark structure by the city where its preservation is essential to the purposes of this article and where private preservation is not feasible.
- 6. The Commission shall meet at least four (4) times per year, but meetings may be held at any time upon the written request of any two of the commission members or upon the call of the chairman to the mayor.
  - 7. A quorum for the transaction of business shall consist of three (3) of the commission's members.

B. Designation of Landmarks or Historic Districts.

- 1. The commission may recommend to the city council that an individual property be designated as a landmark if the owners of the property concur with the designation and the property either:
  - a. Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social historic of the locality, region, state or nation, or
  - b. Is identified with historic personages, or
  - c. Embodies the distinguishing characteristics of an architectural style, or
  - d. Is the work of a designer whose work has significantly influenced an age, or
  - e. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- 2. The commission may recommend to the city council that a group of properties be designated as a historic district if the owners of said properties concur with the designation and the area either:
  - a. Contains several properties which meet one or more of the criteria for designation of a landmark, and

- b. By reason of possessing such qualities, it constitutes a distinct section of the city.
  - 3. The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed in the city clerk's office for public inspection.
  - 4. Notice of a proposed designation shall be sent by registered mail to the owners of the property proposed for designation. Where the proposed designation involves so many owners that individual notice is not feasible, notice may be published once in a newspaper of general circulation at least fifteen (15) days prior to the date of the public hearing. Once the notice of a proposed designation has been issued, no building permits shall be issued by the building inspector without the consent of the city council until the city council has decided whether to make the designation.
  - 4. The city council shall hold a public hearing prior to designation of any landmark or historic district.
  - 5. The city shall forward to the owners a notice of each property designated as a landmark and of the boundaries of each designation of a historic district.
- D. Certificate of Appropriateness for Alteration, Demolition or New Construction Affecting Landmarks or Historic Districts. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving a landmark structure within a historic district, no shall any person make any material change in the appearance of such a structure, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the city.
- E. Criteria for Approval of a Certificate of Appropriateness.
  - 1. In passing upon an application for a certificate of appropriateness, changes to interior spaces shall not be considered unless they are open to the public.
  - 2. The decision on an application for a certificate of appropriateness shall be based upon the following principles:
    - a. Properties which contribute to the character of the historic

district shall be retained with their historic features altered as little as possible.

- b. Any alteration of an existing property shall be compatible with its historic character, as well as with the surrounding district.
- c. New construction shall be compatible with the district in which it is located.

3. In applying the principle of the compatibility, the following factors shall be relevant:

- a. The general design, character and appropriateness to the property of the proposed alteration or new construction.
- b. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
- c. The texture, composition, color and the appearance of materials and their relation to similar features of other properties in the neighborhood.
- d. Visual compatibility with surrounding properties, including the proportion of the property's front facade, the proportion and arrangement of windows and other openings within the facade, the roof shape, and the rhythm of spacing of properties on streets, including setbacks.
- e. The importance of historic, architectural or other features to the significance of the property.

F. Certificate of Appropriateness Application Procedure.

- 1. Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the city. The application shall contain the following:
  - a. The name, address and telephone number of applicant.
  - b. The legal description and address of the property.
  - c. Photographs of the property.

- d. Elevation drawings of proposed changes, if available.
  - e. Perspective drawings of proposed changes, including relationship to adjacent properties, if available.
  - f. Samples of materials to be used.
  - g. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property.
  - h. Any other information which the city may deem necessary.
2. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the city. The certificate of appropriateness required by this act shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance, regulation or requirement of the city.

G. Hardship Criteria.

1. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
- a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible,
  - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return, and
  - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
2. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return. Regardless of whether that return represents the most



profitable return possible.

H. Hardship Application Procedure.

1. After receiving written notification from the city of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued without a finding that a hardship exists.
2. The city council may, at its discretion, hold a public hearing on the hardship application.

- I. Enforcement. All work performed pursuant to a certificate of appropriateness issued under this article shall conform to any requirements included therein. In the event that any work is not performed in accordance with the certificate of appropriateness, the city may issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

J. Maintenance and Repair Required.

1. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color or outward appearance.
2. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the city, produce a detrimental effect upon the character of the historic district as a whole or in the life and character of the property itself.
3. Examples of such prohibited deterioration include:
  - a. Deterioration of exterior walls or other vertical supports.
  - b. Deterioration of roofs or other horizontal members.
  - c. Deterioration of exterior chimneys.
  - d. Deterioration or crumbling of exterior stucco or mortar.
  - e. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.

- f. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

K. Violations.

- 1. It is unlawful for any person or entity to violate any provision of this article.
- 2. In lieu of, or in addition to any prosecution or violation of this article, either or both of which shall be at the discretion of the city, the city may require the owners of any property covered by this article or any other person or entity occupying, using or controlling such property, or otherwise responsible for any violation of this article, to restore such property to an acceptable condition, in a manner substantially in compliance with the provisions of this Code.