

Chapter 5

MAGISTRATE ♣

- Art. 5-1. Magistrate Court, § 5-1-1 – 5-1-2
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ARTICLE 5-1. MAGISTRATE COURT

Sec. 5-1-1. 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 violation of laws of the state committed within the limits of the city.

State law reference—Authority to establish, A.R.S. § 22-402.

Sec. 5-1-2. Court fees.

- (a) The following fees are hereby authorized to allow the magistrate court to impose and collect fees and allocate charges to defendants who incur them. The amount of each fee to be charged shall be determined by resolution of the city council and shall be in addition to fees otherwise assessable by statute:
 - (1) Court collection fee
 - (2) FTA (failure to appear) warrant fee
 - (3) Civil traffic default fee
 - (4) Court automation fee
 - (5) Probation monitoring fee
 - (6) Deferred prosecution fee
 - (7) Prosecution fee
 - (8) NSF (non-sufficient funds) fee
 - (9) Jail cost recovery fee
 - (10) Diversion monitoring fee
 - (11) Public defender fee
 - (12) Jury cancellation fee
 - (13) Screening (evaluation) recovery fee

♣ **Editor's note**—Sections 1 and 2 of Ord. No. 2003-15, adopted Nov. 4, 2003, amended and replaced Chapter 5 in its entirety. The following sections were not revised, although some were renumbered: Sections 5-1-1, 5-2-3 and 5-3-5.

(14) Court user fee

- (b) A person who is convicted of a misdemeanor criminal offense in the magistrate court and who is sentenced to a term of incarceration in a county jail, or other detention facility authorized by law, shall pay a jail cost recovery fee to reimburse the city for its actual expenses incurred by reason of such confinement.
- (c) A judge or hearing officer may waive part or all of any of the fees imposed pursuant to this section upon a finding that the defendant is indigent, it would cause substantial financial hardship to the defendant or the defendant's immediate family, or if such waiver would be in the interests of justice.
- (d) A person who fails to fulfill his obligation to pay to the court any fines, sanctions, restitution, surcharges, assessments, or any other fees authorized herein, shall be liable for any costs associated with collection of those obligations to the court, including, but not limited to, any fees and charges of a licensed collection agency that may be retained by the City to collect those monies, and any attorney's fees or costs incurred by the City or its agents in its efforts to collect unpaid amounts.

(Ord. No. 423, § 1, 11-4-97; Ord. No. 2003-15, §§ 1-2, 11-4-03; Ord. No. 2007-15, § 1, 6-19-07)

ARTICLE 5-2. PRESIDING OFFICER

Sec. 5-2-1. City magistrate.

- (a) *Presiding officer.* The presiding officer of the magistrate court shall be the city magistrate, who shall be appointed by the council for a term of two years, subject to removal for cause.

State law reference—Similar provisions, Ariz. Const. VI § 32; A.R.S. § 22-403.

- (b) *Associate magistrates.* The city council may appoint one or more associate magistrates who shall serve for two years and for such salary as the council may determine.

(Ord. No. 423, § 2, 11-4-97; Ord. No. 516, § 1, 8-6-02; Ord. No. 2003-15, §§ 1-2, 11-4-03; Ord. No. 2009-07, § 1, 5-19-09)

Sec. 5-2-2. Powers and duties of city magistrate.

The powers and duties of the magistrate shall include:

- (a) The powers and duties set forth and conferred upon him under the provisions of the state constitution and statutes, this Code, and the ordinances and resolutions of the city.
- (b) The keeping of a docket in which shall be entered each action and the proceedings of the court therein.
- (c) The responsibility for establishing and receiving all bonds and bail and receiving all fines, penalties, fees and other monies as provided by law.
- (d) Payment of all fees, fines, penalties and other monies collected by the court to the appropriate governmental entity.
- (e) Submitting a quarterly report to the council summarizing court activities for that quarter.
- (f) Preparation of a schedule of traffic violations not involving the death of a person, listing specific bond amount for each violation.
- (g) Designation of a deputy other than a law enforcement officer and a specific location at which the deputy shall, during hours when the court is not open, set the amount of bail in accordance with the foregoing schedule and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court.
- (h) Upon appointment by the presiding judge of the juvenile court of Navajo County, and approval of the city council, the city magistrate shall act in the capacity of juvenile hearing officer for cases involving persons under the age of eighteen (18) years on the date of offenses alleged to be in violation of Arizona Revised Statutes Section 8-232(B) which occur within the city limits of the City of Show Low, Arizona.
- (i) Designation of a Justice of the Peace or other qualified individual to act as a temporary city magistrate in the absence of the city magistrate.

(Ord. No. 384, § 1, 2-7-95; Ord. No. 516, § 1, 8-6-02; Ord. No. 2003-15, §§ 1-2, 11-4-03)

State law reference—Docket, A.R.S. § 22-422; disposition of fines and forfeitures, A.R.S. § 22-404; bail, A.R.S. § 22-424.

Sec. 5-2-3. Traffic hearing officer(s).

The city council may appoint one or more hearing officers to preside over civil traffic violation cases when, in its opinion, the appointment of such hearing officers are necessary to assure the prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the city

magistrate and said cases shall be appealable to the superior court pursuant to Title 22, Chapter 2, Article 4, Arizona Revised Statutes.

(Ord. No. 190, § 3, 1-11-84)

ARTICLE 5-3. PROCEEDINGS OF COURT

Sec. 5-3-1. 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 probable cause exists to believe that a defendant has committed or is responsible for a violation of this code, the city manager, his authorized representative or any peace officer may issue a ticket and complaint or summons and complaint and serve the defendant as provided in this article.
- (b) The ticket and complaint shall direct the defendant to appear in magistrate court within thirty (30) days 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.

(Ord. No. 2003-15, §§ 1-2, 11-4-03)

Sec. 5-3-2. 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 prosecutor and the defendant.
- (b) The city prosecutor may file a standing notice of appearance for civil traffic cases. 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 civil traffic hearing, if a pretrial conference has been previously held in the case.
- (c) The city magistrate may serve as the hearing officer for civil offenses of the magistrate court or the city magistrate 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 for those for civil traffic offenses in the state of Arizona.
- (e) At the conclusion of the hearing, the 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 hearing officer may also order abatement of the nuisance pursuant to A.R.S. § 9-499, as amended.
- (f) If the violator does not comply with the civil enforcement action, the city may issue a criminal ticket and complaint. A civil enforcement action is not a prerequisite to the filing of a criminal action.
- (g) A final decision of the 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.
- (i) 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.

(Ord. No. 2003-15, §§ 1-2, 11-4-03)

Sec. 5-3-3. Collection of civil sanctions and judgments.

- (a) The city may collect a sanction of judgment entered in a civil violation case in any manner provided by law for collecting a civil judgment. In the case of a judgment for the expenses of correcting a violation, the city may file a lien against the property upon which the violation existed.

(Ord. No. 2003-15, §§ 1-2, 11-4-03)

Sec. 5-3-4. Failure to appear for civil violation proceeding.

It shall be a class one misdemeanor punishable as provided in Section 1-8-1(b) of this Code for any person to fail to appear at a civil violation proceeding after proper service of process, promise to appear, or court notice.

(Ord. No. 2004-22, § 2, 11-3-04)

Sec. 5-3-5. Failure to comply with a civil violation court order.

Failure to comply with a civil violation court order shall be a class one misdemeanor punishable as provided in Section 1-8-1(b) of this Code.

(Ord. No. 2004-22, § 2, 11-3-04)

Sec. 5-3-6. 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.

(Ord. No. 2003-15, §§ 1-2, 11-4-03; Ord. No. 2004-22, § 1, 11-3-04)

Sec. 5-3-7. Bail.

The defendant, at any time after arrest, and before conviction, shall be admitted to bail, if bailable.

(Ord. No. 2003-15, §§ 1-2, 11-4-03; Ord. No. 2004-22, § 1, 11-3-04)

State law reference—Similar provisions, A.R.S. § 22-424.