

# CHAPTER 1 GENERAL<sup>1</sup>

## ARTICLE 1-1 HOW CODE DESIGNATED AND CITED

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the City of Maricopa, Arizona," and may be so cited. Such code may also be cited as the "Maricopa City Code."

## ARTICLE 1-2 CONSTRUCTION OF ORDINANCES

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 council or the context of this code or the ordinances of the city.

## ARTICLE 1-3 DEFINITIONS<sup>2</sup>

- 1-3-1 General Rule Regarding Definitions
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<sup>1</sup> As of 07/06/2017

<sup>2</sup> For definitions and construction of statutes generally, see Arizona Revised Statutes, Sections 1-211 to 1-215.

1-3-29	Week
1-3-30	Writing
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### **Section 1-3-1 General Rule Regarding Definitions**

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.

### **Section 1-3-2 Acts by Agents**

When this code or an ordinance requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

### **Section 1-3-3 City**

Whenever the word "city" is used, it shall mean the City of Maricopa, Arizona.

### **Section 1-3-4 Clerk**

Whenever the word "clerk" is used, it shall be construed to mean the city clerk of the City of Maricopa, Arizona.

### **Section 1-3-5 Code**

The words "the code" or "this code" shall mean "The Code of the City of Maricopa, Arizona," unless the context indicates otherwise.

### **Section 1-3-6 Council**

Whenever the word "council" is used, it shall be construed to mean the common council of the City of Maricopa, Arizona.

### **Section 1-3-7 Day**

A "day" is the period of time between any midnight and the midnight following.

### **Section 1-3-8 Daytime, Nighttime**

"Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

### **Section 1-3-9 Department, Board, Commission, Office, Officer 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.

**Section 1-3-10 Gender; Singular and Plural**

Words of the masculine gender include the feminine; words in the singular number include the plural and words in the plural number include the singular.

**Section 1-3-11 In the City**

The words "in the city" or "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.

**Section 1-3-12 Joint Authority**

All words purporting to give a joint authority to three or more city officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.

**Section 1-3-13 Month**

The word "month" shall mean a calendar month.

**Section 1-3-14 Oath**

"Oath" includes affirmation or declaration.

**Section 1-3-15 Or, And**

"Or" may be read "and," and "and" may be read "or," if the sense requires it.

**Section 1-3-16 Person**

The word "person" shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.

**Section 1-3-17 Personal Property**

"Personal property" includes every species of property, except real property as defined in this article.

**Section 1-3-18 Preceding, Following**

The words "preceding" and "following" mean next before and next after, respectively.

**Section 1-3-19 Property**

The word "property" shall include real and personal property.

**Section 1-3-20 Real Property**

"Real property" shall include lands, tenements and hereditaments.

**Section 1-3-21 Shall, May**

"Shall" is mandatory and "may" is permissive.

**Section 1-3-22 Shall Have Been**

The words "shall have been" include past and future cases.

**Section 1-3-23 Signature or Subscription by Mark**

"Signature" or "subscription" includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

**Section 1-3-24 State**

The words "the state" shall be construed to mean the State of Arizona.

**Section 1-3-25 Tenant or Occupant**

The word "tenant" or "occupant" applied to a building or land shall include any person holding a written or an oral lease or who occupies the whole or part of such building or land, either alone or with others.

**Section 1-3-26 Tenses**

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

**Section 1-3-27 Time--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.

**Section 1-3-28 Time--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.

**Section 1-3-29 Week**

A "week" consists of seven consecutive days.

**Section 1-3-30 Writing**

"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.

**Section 1-3-31 Year**

The word "year" shall mean a calendar year, except where otherwise provided.

**ARTICLE 1-4 REFERENCE TO CHAPTERS, ARTICLES OR SECTIONS:  
CONFLICTING PROVISIONS**

- 1-4-1 Additional Rules of Construction
- 1-4-2 References to this Code
- 1-4-3 Conflicting Provisions – Different Chapters
- 1-4-4 Conflicting Provisions – Same Chapter

**Section 1-4-1 Additional Rules of Construction**

In addition to the rules of construction specified in articles 1-2 and 1-3, the rules set forth in this article shall be observed in the construction of this code.

**Section 1-4-2 References to this Code**

All references to chapters, articles or sections are to the chapters, articles and sections of this code unless otherwise specified.

**Section 1-4-3 Conflicting Provisions--Different Chapters**

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.

**Section 1-4-4 Conflicting Provisions--Same Chapter**

If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter.

#### **ARTICLE 1-5 SECTION HEADINGS**

Headings of the several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law, except to the extent necessary for construction or interpretation of the section.

#### **ARTICLE 1-6 EFFECT OF REPEAL**

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

#### **ARTICLE 1-7 SEVERABILITY OF PARTS OF CODE**

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this code shall be severable, and, if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provisions of the code.

#### **ARTICLE 1-8 PENALTY<sup>3</sup>**

- A. 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 (1) misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed twenty-five hundred dollars (exclusive of any fees or surcharges as may be imposed by this code or state law) or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

Notwithstanding the foregoing provision, in any prosecution for a violation of this code, the city magistrate may, upon motion of the city prosecutor, allow for the reduction of the classification and punishment of an offense to a petty offense if doing so would be in the interest of justice. A petty offense shall be punishable by a fine not to exceed three hundred dollars (exclusive of any fees or surcharges as may be imposed by this code or state law).

- B. Civil Code Enforcement

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<sup>3</sup> Amended Article 1-8 (B) and (C) and added (D) by Ordinance 17-05 adopted 06/06/2017

1. As an alternative to other enforcement means, for an informal, timely and efficient process for adjudication of civil code violations, violations of the zoning, subdivision and other code ordinances of the City may be filed under the civil enforcement procedures herein, and are declared to be civil offenses. A person shall not be charged both as a civil and criminal offense for the same violation on the same date, but a subsequent violation against the same property or person may be charged as criminal rather than civil. The City may file a criminal charge against a violator that does not comply with a civil enforcement action pursuant hereto.
2. The City Magistrate or a hearing officer appointed by City Council shall hear and determine zoning, subdivision and code violations under this civil violation procedure.
3. Filing a Complaint
  - i. Civil citations shall be filed using a complaint form substantially similar to the Uniform Arizona Traffic Ticket and Complaint form, as approved by the Arizona Supreme Court, which shall cite to this Article as well as the particular subsection of the zoning, subdivision or code ordinance applicable to the alleged violation. Each subsection of the ordinance cited in the complaint shall be deemed a separate offense. Complaints may be sworn to by any code enforcement officer, building inspector, zoning officer or public safety officer for the City. The citation shall contain the date and time for the alleged violation, and direct the defendant to appear before the City Magistrate or the hearing officer at the specified time to enter a plea either admitting or denying the complaint.
  - ii. Citations will be served (a) by personal delivery upon the defendant by the code enforcement officer, responsible inspector, zoning officer or public safety officer for the City; (b) by first class mail, postage prepaid, addressed to the defendant at the last known address; (c) by posting the citation on the property where the violation has occurred; or (d) by any of the methods described in Rules 4, 4.1 or 4.2 of the Arizona Rules of Civil Procedure.
  - iii. The citation will state that if the defendant wishes to admit responsibility, he must correct the violation (if applicable) and pay one hundred dollars (\$100.00) per day per violation for the first offense; two hundred dollars (\$200.00) per day per violation for the second offense; and four hundred dollars (\$400.00) per day per violation for any subsequent offense within ten (10) days from the date of receipt of the citation or by the date specified on the citation either in person or by mail to the City. The citation will state that if the defendant fails to correct the violation (if applicable) and pay the civil penalty on or before the date specified above or fails to appear at the date specified on the citation, the City Magistrate or hearing officer will enter a default judgment against him and impose a sanction of not less than \$200.00 nor more than \$2,500.00 for each alleged violation.
  - iv. Subpoenas for witnesses shall be prepared and signed at the request of either the defendant or the City, and served by personal service, certified mail or first class mail, pursuant to A.R.S. §13-4072, as may be amended.

#### 4. Hearing Process

- i. Unless otherwise modified herein, civil enforcement procedures herein shall follow the Arizona Rules of Court for Civil Traffic Violations. Evidence of the charges in the citation may be presented by the City Attorney, a code enforcement officer or a building inspector. The defendant may present evidence pro per or through counsel. If the defendant is represented by an attorney, the attorney shall file a notice of appearance with the Maricopa City Court at least five (5) business days prior to the hearing. The defendant will not have a right to a jury trial.
  - ii. If the City Magistrate or hearing officer finds that the charges are proven by a preponderance of the evidence, judgment shall be entered against the defendant and sanctions imposed in an amount not to exceed \$2,500.00 per violation for each day a violation exists beyond the initial notice constituting a separate offense. If the City Magistrate or hearing officer finds the charges not proven, the case shall be dismissed.
  - iii. Any sanction shall be imposed immediately, without setting a sentencing date or probationary period, except that the City Magistrate or hearing officer may allow the defendant a time to pay the sanction not more than 30 days from the hearing date. If a defendant cannot pay within 30 days from the hearing date, then the defendant shall enter into an acceptable payment plan to pay the sanction.
  - iv. Any judgment entered against a defendant may be collected as any other civil judgment as provided in the Arizona Revised Statutes. In addition, any judgement entered against a defendant shall constitute a lien against defendant's real property until paid and a copy of the judgment will be filed with the Pinal County Recorder's office.
- C. Any violation of or failure or refusal to do or perform any act required by Chapter 12 of this code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of Title 28, Chapter 5, Arizona Revised Statutes and amendments thereto.
- D. Upon a defendant's conviction for an offense causing economic loss to any person, the court, in its sole discretion, may order that all or any portion of the fine imposed be allocated as restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct. The award of restitution shall be governed by the procedures and standards set forth in A.R.S. §13-804.

#### **ARTICLE 1-9 ORDINANCES EXEMPT FROM REPEAL**

The adoption and enactment of this code shall not be construed to repeal or in any way to modify or affect:

- A. Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning.
- B. Any ordinance making an appropriation.
- C. Any ordinance affecting any bond issue or by which any bond issue may have been authorized.
- D. The running of the statute of limitations in force at the time this code becomes effective.
- E. The continued existence and operation of any department, agency, commission or office heretofore legally established or held.
- F. Any bond of any public officer.
- G. Any taxes, fees, assessments or other charges incurred or imposed.
- H. Any ordinances authorizing, ratifying, confirming, approving or accepting any compact or contract with any other municipality, the State of Arizona or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

#### **ARTICLE 1-10 EFFECTIVE DATE OF CODE**

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after 12:01 a.m. on the first day of July 2004, except that where a later effective date is provided it shall prevail.