

CHAPTER 5 MUNICIPAL COURT

ARTICLE 5-1 MUNICIPAL COURT ESTABLISHED; JURISDICTION

There is hereby established in the town a municipal court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the town is located of violation of laws of the state committed within the limits of the town. The court shall be known as the Queen Creek Municipal Court and may be located either within or without the corporate limits of the town.

ARTICLE 5-2 PRESIDING OFFICER

- 5-2-1 Judge
- 5-2-2 Powers and Duties of Presiding Judge
- 5-2-3 Hearing Officers

Section 5-2-1 Judge

The presiding officer of the municipal court shall be the presiding judge who shall be appointed by the council for a two-year term. During such term, the magistrate may only be removed for cause.

Section 5-2-2 Powers and Duties of Presiding Judge

The powers and duties of the presiding judge shall include:

- A. The powers and duties set forth and conferred upon judges under the provisions of the state constitution and statutes, this code and the ordinances and resolutions of the town.
- B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein.
- C. The fixing and receiving of all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.
- D. The payment of all fees, fines, penalties and other monies collected by the court to the treasurer.
- E. The submission of a periodic report to the council summarizing court activities for specified period.
- F. The preparation of a schedule of traffic violations not involving the death of a person, listing a suggested bail for each violation.

- G. The 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. The preparation of a schedule of civil traffic violations listing a specific deposit for each violation. The presiding judge shall designate a person, a specific location and the hours which such person will be at the location to accept proper deposits for civil traffic violations for and on behalf of the court.
- I. The provision of such associate or substitute judges to perform duties in the absence of the presiding judge.
- J. The magistrate shall serve as juvenile hearing officer if appointed by the presiding judge of the juvenile court for Maricopa County.

Section 5-2-3 Hearing Officers

The town council may appoint one or more hearing officers to preside over civil traffic violation cases when the appointment of such hearing officers is deemed necessary to assure prompt disposition of civil traffic violation cases. Hearing officers may hear and dispose of civil traffic violation cases under supervision of the presiding officer of the Queen Creek Municipal Court which are appealable to the Superior Court pursuant to the Arizona Revised Statutes.

ARTICLE 5-3 PROCEEDINGS OF COURT

- A. The municipal court proceedings shall be commenced by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.
- B. If the presiding judge is satisfied that the offense complained of has been committed by the person charged, he shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the presiding judge may subpoena and examine witnesses as to the truth of the complaint.

MUNICIPAL COURT

ARTICLE 5-4 COURT CLERK

The town council may by intergovernmental agreement provide for the use of an existing court clerk who shall perform all of the duties of a court clerk subject to the overall supervision of the presiding judge.

ARTICLE 5-5 TOWN PROSECUTOR

The town attorney shall serve as the town prosecutor and will represent the state or the town in all contested matters and in all other matters where representation is requested or required by the town council, the presiding judge or by law.

ARTICLE 5-6 CIVIL HEARING OFFICER¹

A Civil Hearing Officer shall be appointed by the Town Manager and may hear all civil code infractions and make such orders as may be proper and necessary to dispose of such cases. Such cases shall be heard without a jury. The Civil Hearing Officer shall adopt such local rules of procedure as may be necessary to implement the hearing of civil code infraction cases. The Civil Hearing Officer shall be the person with authority to hear complaints related to violations and to issue penalties for violations of Chapter 10, Health and Sanitation and for violations of the Zoning Ordinance.

¹ Ordinance 566-15

ARTICLE 5-7 CIVIL CODE INFRACTIONS

5-7-1 Commencement of Enforcement Action on Civil Code Infraction

5-7-2 Violations Deemed a Public Nuisance

5-7-3 Remedies Not Exclusive

5-7-4 Compatibility With Other Regulations

Section 5-7-1 Commencement of Enforcement Action on Civil Code Infraction

- A. A civil code infraction means all violations of the Town Code designated as civil violations or such violations that are not designated as a petty offense, misdemeanor or civil traffic violation.
- B. An enforcement action on a civil code infraction shall be commenced by the filing of a complaint with the Town Civil Hearing Officer, on a form approved by the Town Attorney, or on a Uniform Arizona Traffic Ticket and Complaint, as specified in the Arizona Rules of Procedure in civil traffic violation cases. The complaint form shall be in at least triplicate, in dimensions of approximately 8-1/2 inches by 11 inches, consisting of the original complaint, violator or defendant copy, and enforcement copy. The complaint form shall contain a notice of hearing specifying a location, date, and time at least ten (10) days following issuance of the complaint, at which the defendant shall appear to admit or deny the allegations contained therein. The complaint shall

MUNICIPAL COURT

specifically identify the defendant, the date and time of the alleged civil code infraction(s), the location of the alleged civil code infraction(s), and the civil code infraction(s) alleged by the town code or ordinance section number and description. The complaint shall be signed by the complainant or Enforcement Officer, who shall certify, under penalty of perjury, that he or she has reasonable grounds to believe that the named defendant committed the civil code infractions described in the complaint and that a copy of the complaint has been served on the defendant pursuant to this section.

- C. The complaint and notice of hearing may be served upon the defendant and will be deemed proper and complete by any of the following means:
1. By having the defendant(s) sign the complaint with an acknowledgement of receipt of a copy thereof;
 2. By hand delivery to the person or persons listed on the complaint;
 3. By certified mail with return receipt, addressed to the person or persons listed on the complaint; or
 4. By any means authorized in the Arizona Rules of Civil Procedure.
- D. Where the defendant is a corporation, partnership, or association the words Defendant or Person in subdivisions C(1), (2), (3) and (4) above shall mean a partner, an officer, a managing organization agent, or any other agent of such entity.
- E. Any town official or employee with responsibility to enforce or administer the particular area of the town code or a town ordinance for which the enforcement action is brought, including the Town Attorney, Town Prosecutor or any peace officer, may file an enforcement action on a civil code infraction and may serve the complaint and notice of hearing in the manner set forth in subdivisions C(1), (2), (3), or (4) above. The Civil Hearing Officer may enter an award in favor of the town for the actual costs of service if a civil code infraction is found, whether or not a civil penalty is assessed.
- F. A person served with a notice of hearing for a civil code infraction shall appear at the time and place set forth in the notice of hearing or may appear prior to the time and upon the directions contained in the notice of hearing to admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted.
- G. If the allegations are admitted, the Civil Hearing Officer shall enter judgment for the Town and may impose a civil sanction and costs of service against the defendant. The Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of a finding of responsibility therefore.
- H. If the defendant(s) denies any allegations contained in the complaint, the Civil

MUNICIPAL COURT

Hearing Officer shall set the matter for a civil code infraction hearing. Civil code infraction hearings shall be informal and held without a jury, and the Town is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence shall not apply in such hearings, except for rules concerning relevancy and privileged communications. If the defendant elects to be represented by counsel, the defendant shall so notify the Civil Hearing Officer. The Town may also be represented by the Town Attorney or Town Prosecutor. Hearings shall be electronically recorded by the Civil Hearing Officer. If the Civil Hearing Officer finds in favor of the defendant, the Civil Hearing Officer shall enter an order denying the complaint. If the Civil Hearing Officer finds in favor of the Town, the Civil Hearing Officer shall enter judgment for the Town and may impose a civil sanction and costs of service against the defendant. Each day that a violation continues shall be a separate offense punishable as herein provided. In addition to any monetary civil sanction, the Civil Hearing Officer shall also order the abatement of the civil code infraction, unless it has been abated by the date of entry of such judgment. The Civil Hearing Officer shall have the authority, within his or her discretion, to suspend the payment of any civil sanction imposed.

- I. If a person served with a complaint and notice of hearing fails to appear on or before the date and time directed in the notice of hearing, or at such other time as may be directed by the Civil Hearing Officer, the allegations contained in the complaint shall be deemed admitted, and the Civil Hearing Officer shall enter judgment for the Town and may impose a civil sanction and costs of service against the defendant.
- J. In any case involving a civil code infraction relating to the occupancy or use of land, any interest in such land shall be recordable as a lien upon such land and shall run with the land. The Town, at its sole option, may record a notice of civil sanction and abatement order with the Maricopa County Recorder or Pinal County Recorder, as appropriate, and thereby cause compliance by any person(s) or entity thereafter acquiring such property. When the property is brought into compliance by the owner or responsible party, satisfaction of notice of civil sanction and abatement order shall be filed at the request and expense of the owner or responsible party. It shall be the property owner's responsibility to secure the satisfaction of notice of civil sanction and abatement order from the Town.
- K. Notwithstanding and other provision of this code, any person found to have violated any provision of this code or amendments thereto, which pursuant to this section is classified as a civil code infraction, and who has been twice previously found to have violated such provision within the preceding twenty four (24) months, shall, in addition to any penalty prescribed for such civil code infraction, be guilty of a Class 1 misdemeanor and shall be punished by a fine not to exceed \$2,500, by imprisonment for a period not to exceed six months, by a term of probation not to exceed three (3) years, or by an combination of such fine, imprisonment, and probation.

MUNICIPAL COURT

- L. Any person against whom judgment is entered for a civil code infraction, or against whom a civil sanction is imposed for such infraction, may seek judicial review of such judgment or sanction by way of special action to the Maricopa County Superior Court or Pinal County Superior Court, whichever is the proper venue.

Section 5-7-2 Violations Deemed a Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 5-7-3 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 5-7-4 Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.