



ORDINANCE NO. 2016-01
(First Reading)

AN ORDINANCE OF THE TOWN OF CAREFREE, MARICOPA COUNTY, ARIZONA, ADOPTING AMENDMENTS TO THE TOWN CODE OF THE TOWN OF CAREFREE, ARIZONA, CHAPTER 2 MAYOR AND COUNCIL, CHAPTER 3 ADMINISTRATION, AND CHAPTER 4 MAGISTRATE COURT; PROVIDING FOR SEPARABILITY; ADOPTION AND APPROVAL BY THE MAYOR AND COMMON COUNCIL OF THE TOWN AS REQUIRED BY LAW AND DIRECTING THE TOWN CLERK OF THE TOWN OF CAREFREE TO INCORPORATE THESE AMENDMENT INTO THE CAREFREE TOWN CODE.

BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAREFREE, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: The Mayor and Common Council deem it necessary, in order to acknowledge the need to clarify and update those parts of the Town Code, and it is necessary to amend that certain document known as the Town Code of the Town of Carefree, Arizona.

Section 2: All ordinances and portions of ordinances in conflict with the provisions of this Ordinance, or inconsistent with the regulations of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 3: Chapters 2 Mayor and Council, Chapter 3 Administration, and Chapter 4 Magistrate Court of the Town of Carefree Code, are hereby amended as follows (additions are shown in underlined text, and deleted language is ~~crossed out~~):

(See Attachments)

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAREFREE, ARIZONA, this 2nd day of February, 2016.

Ayes _____ Noes _____ Abstentions _____ Absent _____

TOWN OF CAREFREE

Les Peterson, Mayor

Attest:

Kandace French, Town Clerk

Approved as to Form:

Mike Wright, Town Attorney

CHAPTER 2 MAYOR AND COUNCIL

Article 2-1 COUNCIL

- 2-1-1 ~~Elected Officers~~ Council Members
- 2-1-2 Corporate Powers
- ~~2-1-3 Assumption of Duties~~
- 2-1-43 ~~Vacancies in Council~~ among Council Members
- 2-1-54 Compensation
- 2-1-65 Oath of Office and Code of Conduct
- 2-1-6 Disclosure of Acceptance of Gifts and Favors
- 2-1-7 Bond
- 2-1-8 Financial Disclosure Statement
- 2-1-9 Limitation of Terms
- 2-1-10 Use of Staff
- 2-1-11 Sanctions

Section 2-1-1: ~~Elected Officers~~ Council Members

The elected officers town council of the town shall be seven council members. The mayor shall be elected, and in the case of a vacancy occurring on the council during the term for which the mayor was elected, succession will follow the manner prescribed herein. Members of the council shall be elected, or in the case of a vacancy occurring on the council during the term for which the council member was elected, appointment in the prescribed manner for the remainder of the term by the members of the council. The mayor and councilmembers who shall constitute the council and shall continue in office until assumption of duties of office by their duly elected successors. The members of the council, whether elected or appointed, shall continue in office until their successors shall assume the position and sworn into office.

The mayor and Elected officers shall serve two year terms, commencing on the date of the next council meeting following the canvass of the general election at which they were elected. For appointed council members, they shall assume the duties of their office immediately following their appointment by the council, and shall continue to serve until the end of the term during which they were appointed as prescribed herein.

Each of the officers council members of the town shall be a resident of the town of Carefree and shall have been a resident of the town for a minimum of one year at the time of election as more fully set forth in A.R.S. § 16-311.

Section 2-1-2 Corporate Powers

The corporate powers of the town shall be vested in the council and shall be exercised only as directed or authorized by law. All powers of the council shall be exercised by ordinance, resolution, order, or motion.

Section 2-1-3 Assumption of Duties

~~Councilmembers shall assume the duties of office at the council meeting next following the canvass of the general election at which, or effective as of the date of which, the councilmembers were elected.~~

Section 2-1-43 Vacancies in Council among Council Members

~~The council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason.~~

In the event of a vacancy in any of the six council member positions for any reason, including death, resignation, disqualification, assumption of mayoral office or permanent disability, the council, including the mayor, shall appoint by majority vote a duly qualified person to fill the unexpired term of the vacant position. The newly appointed councilmember shall assume the duties of his office at the meeting at which he is appointed.

Section 2-1-54 Compensation

The compensation of elective officers of the town shall be fixed from time to time by resolution of the council.

Section 2-1-65 Oath of Office and Code of Conduct

Immediately prior to assumption of the duties of office, each council member, including the mayor, shall, in public, take and subscribe to execute the oath of office and the Code of Conduct (Resolution #2016-02).

Section 2-1-6 Disclosure of Acceptance of Gifts and Favors

Arizona law prohibits elected officials, and advisory and appointed board or commission members, from receiving anything of value or any compensation other than their designated salary for any service rendered in connection with that person's duties with the town as set forth in A.R.S. § 38-505(A). Elected and appointed officials, and advisory and appointed board and commission members must consider ethical principles before accepting personal gifts of entertainment and sports/athletic activities.

Within two business days of receipt of the following gifts or favors, or within two business days of returning to Carefree after receipt of a gift of favor while traveling outside of Carefree, elected officials and advisory board and commission members shall disclose in writing to the town clerk all gifts, benefits, or favors received from people with a financial interest in business before the Town, or which may come before the Town, that:

- A. Relate to professional or collegiate sports, athletic, or entertainment activities or tickets, or
- B. Have a face value of \$50 or more, amount subject to periodic review.

Under no circumstances shall a council or board member accept a gift or favor that is a bribe, or

reflects, to a reasonable person, an effort to improperly influence the member contrary to that member's responsibility to the public to act impartially and on the merits of a matter. When in doubt about these requirements, elected officials and advisory board members shall disclose the gift, benefit or favor. All disclosures will be kept for public record.

Section 2-1-7 Bond

Prior to taking office, every councilmember shall execute and file an official bond, enforceable against the principal and his sureties, conditioned on the due and faithful performance of his official duties, payable to the state and to and for the use and benefit of the town or any person who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in Section 38-260 of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by the council, and the premium for such bonds shall be paid by the town.

Section 2-1-8 Financial Disclosure Statement

The mayor and each councilmember shall file by January 31 of each year or within sixty days of their filling a vacancy on the town council, on a form prescribed by the clerk, a financial disclosure statement setting forth such information as determined by resolution of the council. That certain document entitled An Ordinance of the Town of Carefree Prescribing Standards of Financial Disclosure by Local Elected Officials adopted by Ordinance 84-2 is hereby ratified and made a part of this code the same as if specifically reenacted hereby. At least three copies of said ordinance shall be kept on file in the office of the town clerk.

Section 2-1-9 Limitation of Terms

No person shall be eligible to be elected or appointed to the office of council member for more than three consecutive two-year terms, and no person shall be eligible to be elected or appointed to the office of mayor for more than three consecutive two-year terms. No person who serves as councilmember or mayor for five consecutive terms shall be eligible to hold either office until three years have elapsed.

Section 2-1-10 Use of Staff

Under the council-town administrator form of government, the council appoints a town administrator, who directs the day-to-day operations of all town employees. All members of the council shall be cognizant of the role of the town administrator and town staff. All members of the council shall coordinate with the town administrator when dealing with the town staff.

A member of the council may ask a member of the town staff for information or status of a matter. However, council members shall not expressly or implicitly give order or direction to town staff except through his or her participation on the council. Council members shall not try to privately influence the decisions or recommendations of town staff members, but they may share information.

Council, advisory board, commission and committee members shall not intervene directly with town staff members on behalf of a particular constituent or organization on a pending matter, but shall participate with council or board colleagues in discussion and deciding policy matters for the town staff to carry out.

Section 2-1-11 Sanctions

Sanctions should not be approached lightly, utilized as a form of punishment for a differing point of view, or used as a way to try to silence or discredit any individual who is serving Carefree in an official capacity. Sanctions may be considered only where an elected or appointed official exhibits unprofessional behavior in such an egregious manner while participating in town activities so as to be detrimental to the functioning of the council, advisory board, commission or committee upon which they are serving and the behavior prevents, significantly restricts, or undermines the achievement of one or more of the town's priorities.

When sanctions are being considered for any elected official, the individual shall be apprised of the specific behavior for which the sanctions are being considered. The specific unprofessional behavior shall be identified and addressed by two or more council members as an Agenda item in a regularly scheduled council meeting. Additionally, independent legal or other experts may be utilized by the remaining council for the purpose of an unbiased investigation. Following the first regularly scheduled council meeting, that matter shall be considered at a second regularly scheduled council meeting, at which time the individual being considered for sanctions shall be given the opportunity to respond and defend his or her behavior. Town officials and members of the public shall also be provided with the opportunity to voice viewpoints in the second council meeting. After comments, council members shall be given the opportunity to ask questions directly pertaining to the situation and behavior exhibited. Thereafter, a vote shall be taken. Sanctions shall only be imposed by a majority of the council.

Elected and appointed officials who are found to have violated the behavioral and/or related requirements of the Town Code and/or the Code of Conduct shall be reprimanded or formally censured by the council, and potentially have sanctions imposed. The council will consider the severity of the violation(s) in determining if sanctions are to be imposed. Such sanctions may include:

- For elected officials: They may have their participation in town assignments terminated (other than directly participating in regular and special meetings of the council), both within the town of Carefree and/or with inter-governmental agencies, for a period of up to one year; and they may have official travel restricted.
- For appointed officials: To have their participation terminated in the advisory board, committee or commission upon which they serve.

Article 2-2 MAYOR

- 2-2-1 Selection of Mayor
- 2-2-2 Vice Mayor
- 2-2-3 Acting Mayor
- 2-2-4 Powers and Duties of the Mayor
- 2-2-5 Failure to Sign Documents
- 2-2-6 Powers and Duties of Council Members

Section 2-2-1 Selection of Mayor; Vacancy

The mayor shall be directly elected by the vote of qualified electors. Any candidate who shall receive at the primary election a majority of all votes cast for mayor shall be declared elected to office, and no further election shall be held. In the event that no candidate shall receive a majority of votes cast for mayor in the primary election, Section 2-3-3 of the town code shall apply. The first direct election for mayor shall be in 2011. The term of the mayor shall be two years. In the event of a vacancy in the office of mayor for any reason, including death, resignation, disqualification or permanent disability, the vice mayor shall become mayor for the balance of the election term.

Section 2-2-2 Vice Mayor

~~At the same council meeting at which the mayor is selected, the council shall designate one of its members as vice mayor, who shall serve at the pleasure of the council.~~ assumes the duties of office as set forth in Section 2-1-1 of this code, the council shall elect one of its members, other than the mayor, to be the vice mayor. The vice mayor shall serve at the pleasure of the council and assist the mayor in the performance of the required duties and shall perform the duties of the mayor during the mayor's ~~his~~ absence or disability.

Section 2-2-3 Acting Mayor

~~In the temporary absence or disability of both the mayor and vice mayor, the event that the mayor and vice mayor are both temporarily absent or disabled, the council may designate one another of its members to serve as acting mayor who until the mayor or vice mayor return to service.~~ The acting mayor shall have all the powers, duties and responsibilities of the mayor during any such temporary absence or disability.

Sections 2-2-4 Powers and Duties of Mayor

The powers and duties of the mayor shall include:

- A. ~~He shall be~~ Be the chief executive officer of the town.
- B. ~~He shall be the chairman of the council and preside over its meetings. He may make and second motions and shall have a voice and vote in all its proceedings.~~

~~C. He shall enforce the provisions of this code.~~

~~D. He shall execute and authenticate by his signature such instruments as the council or any statutes, ordinances or this code shall require.~~

~~E. He shall make such recommendations and suggestions to the council as he may consider proper.~~

~~F. He may, by proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing or any other natural or man-made calamity or disaster or in the event of the threat or occurrence of riot, rout or affray or other acts of civil disobedience which endanger life or property within the town. After declaration of such emergency and during the pendency thereof, the mayor may govern by proclamation and impose all necessary regulations to preserve the peace and order of the town, including but not limited to:~~

~~1. Imposition of a curfew in all or any portion of the town.~~

~~2. Ordering the closing of any business.~~

~~3. Closing to public access any public building, street or other public place.~~

~~4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.~~

~~A majority of the council may terminate the exercise of such emergency powers by the mayor.~~

~~G. He shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.~~

B. Place the interest of the town ahead of all personal interests.

C. Be aware of and knowledgeable of the major issues which the town is addressing so as to be able to take informed leadership of and make an informed decision regarding the issues which may come before the council. The mayor shall also provide input to and make such recommendations to the council as he or she may consider proper.

D. Lead and preside over regular and special council meetings, and executive sessions. The mayor may make and second motions and shall have a voice and vote in all its proceedings.

E. Enforce the provisions of this code.

F. Execute and authenticate by his or her signature, such instruments as the council or any statutes, ordinances or this code shall require.

F.G. He may, bBy proclamation, declare a local emergency to exist due to fire, conflagration,

flood, earthquake, explosion, war, bombing or any other natural or man-made calamity or disaster or in the event of the threat or occurrence of riot, rout or affray or other acts of civil disobedience which endanger life or property within the town. After declaration of such emergency and during the pendency thereof, the mayor may govern by proclamation and impose all necessary regulations to preserve the peace and order of the town, including but not limited to:

1. Imposition of a curfew in all or any portion of the town.
2. Ordering the closing of any business.
3. Closing to public access any public building, street or other public place.
4. Calling upon regular or auxiliary law enforcement agencies and organizations within or outside of the political subdivision for assistance.

A majority of the council may terminate the exercise of such emergency powers by the mayor.

- H. Take a leadership role in determining the appropriate long-term strategy which best suits the town.
- I. Take the leadership role in projects to help further town priorities.
- J. Serve as a volunteer on special projects, when requested by the designated special project leader.
- K. Execute and abide by the Code of Conduct.
- L. He shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the town.

Section 2-2-5 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 members of the council 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.

Section 2-2-6 Powers and Duties of Council Members

The council members function as the board of directors for Carefree. Council members for Carefree have two broad functions:

- A. Like a traditional board of directors, council members help steer the town

towards an enjoyable living situation for its residents and a sustainable future by adopting sound, ethical, and legal governance and financial management policies, and

B. Because of the population of the town and the necessity to provide the services desired from government, yet maintain a compact and efficient town staff and operating approach, council members are also expected to assist in the development of priority projects which the council deems important to the town.

The powers and duties for each councilmember shall be:

A. Place the interests of the town ahead of all personal interests.

B. Be aware of and knowledgeable of the major issues which the town is addressing so as to be able to make an informed decisions regarding the issues which may come before the council. Every councilmember shall also provide input to and make such recommendations to the council as may appropriate.

C. Take the initiative to develop ideas and concepts to further the interests of the town, and bring them forward to the council for discussion and consideration.

D. Participate in regular and special council meetings, and executive sessions.

E. To take a leadership role in specific special town projects to help further town priorities, when requested by the mayor or authorized by a majority vote of the council.

F. Serve as a volunteer on special projects, when requested by the designated special project leader.

G. To treat fellow council members, town staff, residents and vendors to the town in a cordial and truthful manner as identified in the Code of Conduct, recognizing that every officer of the town is an ambassador for the town.

H. Execute and abide by the Code of Conduct.

Article 2-3 COUNCIL ELECTION

2-3-1 Primary Election

2-3-2 Non-Partisan Ballot

2-3-3 General Election Nomination

~~2-3-4~~ Election to Office

2-3-5 ~~4~~ Candidate Financial Disclosure

2-3-5 Powers and Duties of Council Members

Section 2-3-1 Primary Election

~~Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate. If more candidates receive a majority than there are offices to be filled, then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.~~

There will be two elections, one for mayor and another for the six council positions, in the primary election:

For the election for the mayor, any candidate who shall receive at the primary election a majority of all the valid votes cast for that office shall be declared to be elected to the office of mayor effective as of the date of the general election, and no further election shall be held. If no candidate receives a majority of the valid number of votes cast, then the two candidates receiving the highest number of qualified votes will proceed into the general election.

For the election of the six councilmember positions, if any (but up to six) of the candidates running for this position shall receive at the primary election a majority of the valid votes cast for this position, they shall be deemed elected. The number of council seats remaining after the primary election for which a candidate(s) did not receive a majority of all valid votes cast for that position(s), if any, will have a runoff election to determine which candidate will fill the remaining positions on council.

If more candidates for either election receive a majority of the valid votes cast than the number of offices to be filled, then those equal in number to the offices to be filled receiving the highest number of qualified votes shall be declared elected.

No person may simultaneously run in the Primary Election in both the election for mayor and in the election for one of the six council positions.

Section 2-3-2 Non-Partisan Ballot

Elections shall be non-partisan, and nothing on the ballot in any election shall be indicative of partisan support of a candidate.

Section 2-3-3 General Election Nomination

~~If at any primary election held, as above provided there by any office for which no candidate is elected, than as to such office, the primary election shall be considered to be the primary election for nomination of candidates for such office, and the general municipal election shall be held to vote for candidates to fill such office. Candidates to be placed on the ballot at the general municipal election shall be those not elected at the primary election and shall be equal in number~~

~~to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election ballot. Persons who receive the highest number of votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this article, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving an equal number of votes shall likewise become candidates for such office. The candidates with the highest vote totals at the general election that is equal to the number of council positions not filled at the primary election shall be declared elected. In the event of a tie vote in the general election, the winner shall be decided by a game of chance as provided by Arizona law.~~

Only candidates who participated in and were one of the top vote getters in the primary election, as defined and limited in the following, may be a candidate in the General Election.

For the election for mayor, if no candidate in the primary election receives a majority of the valid votes cast for the office, then the top two candidates shall be voted upon in the general election. The candidates shall be those candidates receiving the highest number of qualified votes in the primary election, including any ties if the number of votes received by each candidate places them within the top two vote receiving candidates. In the event of a tie vote in the general election, the winner shall be decided as provided by Arizona law.

For the election of each of the six council members, the candidates with the highest valid vote totals in the general election that is equal to the number of council positions not filled at the primary election shall be declared elected. In the event of a tie vote in the general election, the winner shall be decided as provided by Arizona law.

The number of candidates in the general election may be up to twice the number of vacancies remaining after the primary election, and the candidates shall be the top vote getters, plus any ties, not receiving a majority in the primary election.

No person may simultaneously run in the General Election in both the election for mayor and in the election for one of the council positions unfilled in the primary election.

~~Section 2-3-4 Election to Office~~

~~The candidates equal in number to the persons to be elected who receive the highest number of votes shall be declared elected.~~

Section 2-3-5 4 Candidate Financial Disclosure

Each candidate for the office of councilmember shall file a financial disclosure statement on a form prescribed by the clerk when such candidate files a nomination paper. The statement shall contain the same information as required to be supplied by the mayor and each councilmember pursuant to the provisions of Section 2-1-8 hereof and Ordinance 84-2 prescribing standards of financial disclosure by local elected officials.

Article 2-4 COUNCIL PROCEDURE

- 2-4-1 Regular Meetings
- 2-4-2 Notice and Cancellation of Meeting
- 2-4-3 Special Meetings
- 2-4-4 Meetings to Be Public
- 2-4-5 Quorum
- 2-4-6 Agenda
- 2-4-7 Order of Business
- 2-4-8 Committees and Commissions
- 2-4-9 Voting
- 2-4-10 Suspension of Rules

Section 2-4-1 Regular Meetings

The council shall hold regular meetings on the first Tuesday of each month at 5:00 p.m., provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal holiday or election day, such meeting shall be held at the same hour ~~next succeeding day which is not a legal holiday, or election day within one week of the legal holiday or election day, as designated by the council.~~ All regular meetings of the council shall be held at the town hall or such other place as may be designated in the public notice of the meeting.

Section 2-4-2 Notice and Cancellation of Meetings

Public notice of such regular meetings shall be promptly posted in accordance with the provisions of A.R.S. § 38-431.02 at the town hall. A statement of such place for notices shall be filed with the town clerk. Cancellation of any meeting properly noticed hereunder may be effected by posting public notice thereof not less than twenty-four hours in advance of the time set for such regular meeting of the council.

Section 2-4-3 Special Meetings

The mayor may convene the council at any time by notifying the members of the council of the date, hour and purpose of a special meeting. The clerk, upon the request of ~~four~~ three members of the council, may also convene the council at any time by notifying the members thereof of the date, hour and purpose of the special meeting. The public shall be given at least twenty-four hours' notice of any such special meeting and the agenda of business to be considered thereat by the posting of such notice and agenda in at least two public places; except that in the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances and in accordance with law.

Section 2-4-4 Meetings to Be Public

All proceedings of the council shall be open to the public, except that upon approval by a majority vote of the council, the council may meet in a closed executive session pursuant to the

provisions of A.R.S. § 38-431.03. Notice of meetings shall be given in a manner consistent with state statutes.

Section 2-4-5 Quorum

A majority of the council shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members.

Section 2-4-6 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 clerk shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council, prepare an agenda including all matters scheduled to be considered or requested to be placed on the agenda by any two members of the council and furnish each councilmember, the mayor and the attorney with a copy of the agenda and any material pertinent thereto.

Section 2-4-7 Order of Business

The business of the council shall be taken up for consideration and disposition in an order set by the council and shall include the following:

- A. Call to Order. The mayor shall call the council to order at the appointed time. In the absence of the mayor, the vice mayor shall call the council to order. In the absence of both the mayor and the vice mayor, an acting mayor shall be selected to chair the meeting. Upon the arrival of the mayor or the vice mayor, the vice mayor or the acting mayor shall relinquish the chair upon the conclusion of the business then pending before the council. The mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings in accordance with his discretion or, upon motion duly adopted upon any specific occasion, then in accordance with the parliamentary rules contained in Robert's Rules of Order unless otherwise specified in said motion.
- B. Roll Call. Before proceeding with the business of the council, the clerk or his deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members present may adjourn pursuant to Section 2-4-5 of this code.
- C. Consent Agenda
 1. When any item of business requires action by the council, but is of a routine and noncontroversial nature, such item may be presented at a regular meeting of the council as part of a consent agenda.
 2. The consent agenda shall be introduced by a motion "To approve the Consent Agenda," and shall be considered by the council as a single item.
 3. There shall be no debate or discussion by any member of the council regarding any item on the consent agenda, beyond asking questions for simple clarification.

4. All items on the consent agenda which require public hearings shall be open for hearing simultaneously, and the mayor shall announce, or direct the town clerk to announce, the titles of all such items.
5. Upon objection by any member of the council to inclusion of any item on the consent agenda, that item shall be removed from the consent agenda forthwith. Such objections may be recorded at any time prior to the taking of a vote on the motion to approve the consent agenda. All such items shall be considered individually, in the order in which they were objected to, immediately following consideration of the consent agenda.
6. Approval of the motion to approve the consent agenda shall be fully equivalent to approval, adoption or enactment of each motion, resolution, ordinance or other item of business thereon, exactly as if each had been acted upon individually.

D. Minutes. If not covered by the consent agenda, the clerk or his deputy shall read or present the minutes of the preceding council meeting, which shall be approved if correct. Any errors noted shall be corrected.

E. Claims. If not covered by the consent agenda, the clerk shall present any claims against the town and report all payments thereof, which will then be approved or disapproved by the council.

F. Conduct of Business. The council shall consider and if desired take action upon any town business or problem that has been placed on the agenda, whether or not previously considered, including the introduction and passage of motions, ordinances and resolutions relating to the governance of the town or the conduct of persons within its jurisdiction.

G. Call to Public. Petitions, remonstrances, communications and comments or suggestions from citizens present, shall be heard by the council. All such remarks shall be addressed to the council as a whole, and not to any member thereof. ~~Such remarks shall be limited to three minutes, unless additional time is granted by the council.~~ Pursuant to A.R.S. 38-431.01(H), those wishing to address the council need not request permission in advance of the meeting. The public may address the council on matters not on the agenda. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter, direct staff to study the matter, reschedule the matter for further consideration and decision at a later date, or may ask that a matter be put on a future agenda. However, the council may not discuss or take legal action at that time. Those addressing the council will be asked to limit their comments to not more than three minutes. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer. No question shall be asked a councilmember except through the presiding officer.

H. Adjournment. The council may, by a majority vote of those present, adjourn from time to time to a specific date and hour. A motion to adjourn shall always be in order and decided without debate.

Section 2-4-8 Committees and Commissions

The council may create such committees and commissions, standing or special, as it deems necessary. They shall consist of as many members and shall perform such duties as the council may require and shall exist at the pleasure of the council.

Section 2-4-9 Voting

- A. The mayor shall vote as a member of the council.
- B. Upon the request of any member or when required by the provisions of Section 2-5-4, the ayes and nays upon any question shall be taken and entered in the minutes.

Section 2-4-10 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.

Article 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS

~~2-5-1 Introduction~~ Ordinances and Resolutions

~~2-5-2 Reading Required~~

~~2-5-3~~ 2 Codification of Ordinances

~~2-5-4~~ 3 Effective Date of Ordinances

~~2-5-5~~ 4 Signatures Required

~~2-5-6~~ 5 Publishing Required

~~2-5-7~~ 6 Posting Required

Section 2-5-1 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 or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any member of the council may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered.~~

Section 2-5-2 Reading Required

~~Ordinances shall be read at two meetings of the council, although the council may dispense with one of the two readings by an affirmative vote of a majority plus one of the council. Amendments to the Town of Carefree Zoning Ordinance shall be read at one meeting of the council. All ordinances shall be read in full unless the council, in possession of printed copies of said ordinance, shall allow reading by title only.~~

Section 2-5-1 Ordinances

With the exception of ordinances reviewed by the planning and zoning commission no other town ordinance shall be passed and become effective until it has been before the council on two occasions. The ordinance shall be introduced and discussed at the first meeting. It shall be discussed and voted upon by the council at the second meeting, and if passed by a majority of the council, , it shall become valid and binding as set forth in this Code. Pursuant to Section 2-4-6 of this Code, ordinances can be placed on the council agenda for consideration by the council by any two council members, the mayor or the Town Administrator. All other matters may be considered and voted upon by the council at just one meeting.

The remaining sections of Chapter 2 remain unchanged.

CHAPTER 3 ADMINISTRATION

Article 3-1 OFFICERS IN GENERAL

- 3-1-1 Officers
- 3-1-2 Additional Officers
- 3-1-3 Bond
- 3-1-4 Vacancies; Holding More Than One Office
- 3-1-5 Additional Powers and Duties

Article 3-2 OFFICERS

- 3-2-1 Town Administrator
- 3-2-2 Town Clerk
- 3-2-3 Town Marshal
- 3-2-4 Town Engineer
- 3-2-5 Town Attorney
- 3-2-6 ~~Town Prosecutor~~ ~~Town Building Official~~
- 3-2-7 Town Building Official

Section 3-1-1 Officers

There are hereby created the offices of town administrator, town clerk, town marshal, town engineer, town ~~prosecutor~~ ~~building official~~, town attorney, town building official and town ~~magistrate judge~~ all of who shall be appointed by the council and who shall serve, with the exception of the ~~magistrate judge~~, at the pleasure of the council. The magistrate judge shall be appointed for a term of office as provided in Section 4-2-1. The positions of town prosecutor and town judge will be addressed in a separate section of this town code.

Section 3-1-2 Additional Officers

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute.

Section 3-1-3 Bond

The council shall require each officer of the town to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve. The town shall pay the costs of such bond.

Section 3-1-4 Vacancies; Holding More Than One Office

Any vacancy that shall occur in any town officer position shall be filled by appointment by the council. ~~provided that one~~ A person may hold more than one office. ~~and that, at~~ At the discretion of the council, the functions of a town ~~official~~ officer may be validly performed and discharged by a deputy or another town ~~official~~ officer, or an otherwise qualified individual not holding office but employed at the pleasure of the council.

Section 3-1-5 Additional Powers and Duties

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the council through ordinance, resolution or order.

Section 3-2-1 Town Administrator

~~The town administrator shall oversee the day-to-day conduct of town business in accordance with the directions of the mayor and council. He shall supervise all town employees and have authority to authorize overtime service and payment therefor at premium rates, as established by the council. The town administrator shall also consider and take action upon all complaints received from citizens and shall authorize the service of citations and the filing of complaints by the town prosecutor where appropriate.~~

A. Office. The town administrator (hereinafter called "administrator") shall be appointed by a majority of the council for an indefinite term. The administrator shall be chosen on the basis of their operational and administrative qualifications and their knowledge of accepted practice with respect to the duties of this office. The administrator shall hold office at the pleasure of the council.

The administrator shall function as the chief administrator and manager of the town's business. No town business shall be conducted without the prior and continuing involvement of the administrator. The administrator shall be responsible for the operation of all town functions in keeping with the best practices within their respective functions.

The administrator shall provide a primary element of continuity to any business being conducted by the town in addition to addressing the short-term considerations inherent within each town officer's position; the administrator shall also be responsible for safeguarding the long-term interest of the town. Because of the long-term orientation and historical extended tenure of administrators within the town, the administrator should be a reservoir of institutional knowledge and experience regarding the town.

B. Absence. During a temporary absence or disability of the permanent administrator the council may designate a qualified administrative officer to perform the administrator's duties.

C. Removal. The administrator may be removed only by a majority vote of the council at a regular council meeting. In such event, the administrator shall have been furnished with a written notice stating the council's intention to remove him, and the reasons therefore, at least 30 days in advance of the regular council meeting at which a vote on the removal will take place. If the removal becomes final, the town shall pay the administrator's salary according to their employment contract with the town.

D. Resignation. The town administrator shall give such notice as set forth in the employment contract prior to resigning the office of town administrator.

E. Compensation. The town administrator shall receive compensation in accordance with the terms of their employment agreement.

F. Responsibilities. The administrator shall act in the capacity of the chief administrative officer of the town government and shall be responsible to the council for the proper handing and implementation of all affairs of the town under the specific direction and control of the council. In addition to the general powers as the chief administrative officer and not as a limitation thereon, it shall be the administrator's responsibility and authority to:

1. Manage the administration and operation of the town staff:
 - a. The council, and individual council members, shall deal with the town and the town staff and the administrative services they provide only through the administrator, except for the purposes of inquiry.
 - b. Appoint and, when necessary, suspend or terminate all employees of the town, except those officers appointed by the council.
 - c. Coordinate the administrative functions and operations of the various departments, boards, divisions, and services of the town government and, on its behalf, carry out policies, rules, regulations, ordinances, and provisions of the town code relating to the administration of the affairs of such departments, boards, divisions, or services.
 - d. Analyze the functions, duties, and activities of the various departments, boards, and services of the town government and of all employees, and recommend to the council any changes which, in the administrator's judgment, would result in a more efficient or more effective town government.
2. Manage the administrative functions of the town:
 - a. Attend all meetings of the council, unless excused therefrom, and report on any matter concerning activities, departments, and services under his or her supervision about which, in his or her judgment, the council should be informed; attend, or designate a representative to attend, all board and commission meetings.
 - b. Prepare, or cause to be prepared, all required regulatory and other filings or reports as required from a town government entity.
3. Manage the development and implementation of the annual town budget:
 - a. Prepare, or cause to be prepared, the annual budgets estimates and submit them to council. Be responsible for the administration of the budget after adoption.
 - b. Recommend to the council the purchase of machinery, equipment, and supplies along with the means by which these items will be obtained.
 - c. Supervise the expenditures of all departments, divisions, or services of the town government.
 - d. Monitor the implementation of the approved annual town budget to maintain coordination with changes in anticipated tax receipts, cash flow and income to the town.
4. Serve as the purchasing agent for the town:
 - a. All town expenditures of any kind or expenditure level shall first involve and secure the concurrence of the administrator before being committed.
 - b. Manage, supervise and control the expenditures for all goods and/or services purchased

by the town by all departments, divisions, or other aspects of the town government.

- c. Acquire and maintain inventory of the town's personal property and recommend to the council the purchase of machinery, equipment, and supplies along with the means by which these will be obtained.
- d. Supervise the use, maintenance, upkeep and safe keeping of all town physical assets.
- e. Acquire and maintain inventory of the town's personal property.

5. Other responsibilities:

- a. Work with the mayor and council in resolving town priorities.
- b. Work with the mayor and council in evaluating alternatives under consideration by the council.
- c. Work with the mayor, council and others regarding supervising the implementation of town projects.
- d. Schedule, manage and/or coordinate all activities (e.g., proprietary town events, fairs, festivals, performances, etc.) in the town center and Carefree Desert Gardens.
- e. Work with the town attorney on all matters requiring legal review and action.
- f. Ensure that all laws and ordinances of the town are enforced, and recommend that the council adopt such measures or ordinances as may contribute to the health, safety, or welfare of the community or improve administrative services.
- g. Investigate all complaints concerning the administration of the government and any contract and/or service maintained by the town, and report all findings to the council, and confirm that all franchises, permits, and privileges granted by the town are faithfully observed.
- h. Perform such other duties as may be required by the council not inconsistent with the laws of the state or the provisions of the ordinances of the town, and devote full time to the discharge of official duties.

Section 3-2-2 Town Clerk

A. Records. The clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the town or that the council directs.

B. Public Inspection of Records. The clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute.

C. Monthly Reports. The clerk shall prepare and collect from town officers and employees such monthly reports prepared in such manner and to include such information as may be directed by the council.

D. Minutes. The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy.

E. Ordinances, Resolutions, Budgets and Notices. The clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, motions, budgets and notices that may be passed by the council.

F. Duties as Treasurer. The clerk shall hold the office of town treasurer and receive and safely keep all monies that shall come to the town and pay out the same when authorized by the council. He shall keep a separate record and account of each different fund provided by the council, apportion the monies received among the different funds as prescribed by the council, and keep a complete set of books showing: every money transaction of the town, the state of each fund, from what source the money in each fund was derived and for what purpose expended, and he shall make monthly reports to the council of all receipts and disbursements. At the end of the fiscal year he shall make a full and detailed statement of the receipts and expenditures of the town during the year, specifying the different sources of revenue and the amount received from each, all appropriations made by the mayor and council, and the object for which they were made, and the amount of money expended under each, the evidences of indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

G. Budget. Cause to be prepared and submitted to him by each department, board, division or service of the town government, itemized annual estimates of expenditures required by them for capital outlay, salaries, wages and miscellaneous operating costs, to tabulate the same into a preliminary consolidated municipal budget and submit the same to the council annually on the date specified by them, with his recommendations as to any increases, decreases, cancellations, transfers or changes in any of the items included in the preliminary budget.

H. Election Official. The clerk shall be the town election official and perform those duties required by state statute.

I. Licenses. Except where such duty is cast upon some other officer by this code, the clerk shall issue or cause to be issued all licenses that may be prescribed by this code or state statute.

J. Administrative Duties. The clerk shall perform such administrative responsibilities and duties as may be assigned to him by the council in addition to those specified in this code.

Section 3-2-3 Town Marshal

The town administrator or designee shall serve as the town marshal and law enforcement agent and shall provide enforcement of town ordinances. The town administrator with the approval of the town council shall have the authority to enter into an intergovernmental agreement or contract for the provision of law enforcement services. Enforcement will be effected by either issuance of citations or summons and complaint to persons accused of violating town ordinances.

Section 3-2-4 Town Engineer

The engineer shall have charge of the town streets and public works and shall perform such duties as may be required of him by law and such other duties as the council may deem necessary.

Section 3-2-5 Town Attorney

The town attorney shall act as the legal counselor and advisor of the council and other town officials and, as such, shall give his opinion orally or in writing when requested to do so. He shall draft such deeds, contracts, conveyances, ordinances, resolutions and other legal instruments and shall approve as to form all drafts of contracts and all official or other bonds, as may be required by the council or any town official. He shall review all ordinances and resolutions submitted to him for consideration and give to the council his comments or advice regarding the form and substance thereof, together with his reasons therefor, when so requested. He shall arrange for the prosecution and defense of all suits, actions or causes where the town is a party and shall report to the council on the condition of any suit or action to which the town is a party, when required to do so.

Section 3-2-6 Town Prosecutor

The council may appoint a chief prosecutor and one or more associate prosecutors to serve at the pleasure of the council, and the compensation of each prosecutor shall be as determined by the council. The prosecutor's duties will be to represent the state or the town in contested matters where the defendant is represented by counsel or in cases where the prosecutor's participation is requested by the council or one of the town officers, and to assist the presiding judge and the court clerk in the proper functioning of the town's municipal court, as requested by the presiding magistrate judge with the approval of council.

Section 3-2-7 Town Building Official

The town building official shall be charged with the general administration and enforcement of the town's building codes referenced in Chapter 10 hereof and for all plan review, issuance of all permits, the conduct of inspections and granting of all approvals required thereby.

*Ordinances 85-14, 85-15, 85-21, 94-09, 95-08, 96-15, 97-10, 98-01, 98-05, 99-09, 01-01

CHAPTER 4 MAGISTRATE MUNICIPAL COURT*

Article 4-1 MAGISTRATE MUNICIPAL COURT ESTABLISHED; JURISDICTION

There is hereby established in the town a municipal court ~~which shall be called the town magistrate court and~~ which shall have jurisdiction of all cases arising under town ordinance and 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 to the extent provided by state statute.

Article 4-2 OFFICERS, POWERS AND DUTIES

4-2-1 Presiding Magistrate Judge

4-2-2 Associate Magistrates Judges

4-2-3 Substitute Magistrate Filling of Vacancies

4-2-4 Powers and Duties of Town Magistrate Judge

4-2-5 Relationship of Municipal Court with Appointed and Funding Authority

4-2-6 Juvenile Hearing Officer Court Revenue

4-2-7-Part-Time Magistrate Judge Pro Tempore and Temporary Magistrate Judge Pro Tempore

Section 4-2-1 Presiding Magistrate Judge

~~The presiding officer of the town magistrate's court shall be the presiding magistrate who shall be appointed by the council for a term of at least two years from the date of such appointment.~~ The Presiding Judge of the municipal court shall be appointed by the council. The length of the term of office for the presiding judge shall be a minimum of two years as determined by the council. The presiding magistrate judge shall control the calendar, supervise the activities of the court clerk and make all sitting assignments for magistrates judges. The presiding magistrate judge shall serve for such salary or other compensation as the council may determine at the time of his or her appointment.

Section 4-2-2 Associate Magistrates Judges

The office of associate magistrate judges is hereby created. The associate magistrates judges shall be appointed by the council for terms of a minimum of at least two years from the date of their respective appointments and serve at the will of the council. During such terms of office, the associate magistrates judges shall serve for such salary or other compensation as the council may determine.

MAGISTRATE COURT

Section 4-2-3 Substitute Magistrate

~~The office of substitute magistrate is hereby created, and the individual serving as justice of the peace in the precinct in which the town hall is located may serve as substitute magistrate in all cases where the presiding magistrate, all associate magistrates, all part-time magistrates pro tempore and all temporary magistrates pro tempore are unable or unwilling to act and where requested to so serve by the presiding magistrate.~~

Section 4-2-3 Filling of Vacancies

In the event of the death, resignation, suspension, or removal of a judge, such vacancy may be filled for the unexpired term of office by the town council. The council may suspend or remove a judge:

- 1) For any reason authorized by law;
- 2) Whenever a judge is unable to perform the duties of the office as determined by the council; or
- 3) For failure to meet the minimum qualifications of the position.

Section 4-2-4 Powers and Duties of Town Magistrate Judge

The powers and duties of the town ~~magistrate's~~ municipal court shall include:

- A. The powers and duties set forth and conferred upon it under the provisions of the state constitution and statutes, this code and all 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 responsibility for ~~fixing~~ setting and receiving all bonds and bails and receiving all fines, penalties, fees, forfeitures and other monies as provided by law.
- D. Payment of all fees, fines, penalties, forfeitures and other monies collected by the court to the treasurer and payment of all surcharges levied thereon by the state to the state treasurer, as required by law.
- E. Issuance of execution against the property of any defendant failing to pay any fine imposed for violation of this code or of a town ordinance. Such execution shall be in favor of the town and shall be issued and enforced like executions in civil actions.
- F. The hearing and determination of any civil action brought by the town to recover a penalty or forfeiture provided for the violation of any town ordinance or this code. Such action shall be brought and conducted like civil actions in justice of the peace courts.
- G. Submitting a monthly report to the council summarizing court activities for that month, as well as a monthly statistical report to the administrative director of the courts, as required by supreme court order.
- H. Preparation of the schedules of traffic violations not involving the death of a person, and civil traffic violations, listing specific bail or deposit payable for each such traffic or civil traffic violation.
- I. ~~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 of traffic violations and collect such bail, or accept proper bail bonds in lieu thereof, for and on behalf of the court.~~
- J. ~~Designation of a person, a specific location and the hours during which such person will be at the location, to accept deposits in accordance with the schedule of civil traffic violations for and on behalf of the court.~~
- I. Serve as a juvenile hearing officer.

Section 4-2-5 Relationship of Municipal Court with Appointed and Funding Authority

Because of the relationship between the town and the municipal court, town judges must exercise care to ensure that the adjudication process remains free from the influence of any person or institution having responsibility for judicial appointments or funding. While any judge may

listen to the counsel of others, decisions regarding the resolution of a particular case must be made by the judge in the exercise of a free and unfettered judgment. Decisions regarding the overall function of the court are the sole responsibility of the presiding judge. The authority of the presiding judge for making decisions regarding the overall function of the court applies to decisions concerning handling of court mail and records, hiring, supervision, discipline and dismissal of court personnel. Decisions regarding hiring, supervision and dismissal of court personnel must be consistent with municipal Employee Management Guidelines. Personnel rules adopted by the town for employment, grievance procedures, termination, sick leave, overtime, vacation time and other items are applicable to employees of the town municipal court. In employing additional personnel, town personnel guidelines shall be followed. The presiding judge shall have exclusive supervisory authority over all court personnel. However, non-judicial functions, such as custodial and maintenance services assigned to the town municipal court may be performed by employees or contractors working under the supervision and authority designated by the town council.

Section 4-2-6 Court Revenue

It is the responsibility of the presiding judge to ensure that he does not allow anyone to control or influence the discretionary amount of any fine, penalty or sanction imposed. Under the direction of the presiding judge, the court shall collect all fines, sanctions, restitution and bond payments imposed by the court. Because all monies coming into the possessions of the town municipal court are public monies, these funds shall be handled and accounted for in accordance with state law and procedures adopted by the town council.

Section 4-2-7 Part-Time Magistrate Pro Tempore and Temporary Magistrate Judge Pro Tempore

The offices of part-time magistrate pro tempore and temporary magistrate pro tempore are hereby created. Part-time magistrates pro tempore shall be appointed by the council to serve at the pleasure of the presiding magistrate for an indefinite term not to exceed the current term of the presiding magistrate. Temporary magistrates pro tempore may be appointed by the presiding magistrate to preside over specific cases or to serve for a limited period of time not to exceed three months when there is a conflict of interest or recusal by the presiding magistrate and part-time magistrate pro tempore, if any is then serving, illness, absence, overload of docket or other circumstances making the appointment of a temporary magistrate pro tempore necessary. Notwithstanding anything contrary in this chapter, the presiding judge of the municipal court may appoint judges to serve on a temporary or "pro tempore" basis. Such judges shall be compensated on a contractual or hourly basis, shall not be eligible for any benefits as full-time employees and shall be appointed for a term as set forth by the presiding judge of the municipal court. Part-time and temporary magistrates pro tempore shall serve for such salary or other compensation as the council may determine.

Section 4-2-6 Juvenile Hearing Officer

The appointment of the presiding magistrate of the Carefree municipal court to serve as a juvenile hearing officer is hereby approved.

Article 4-3 PROCEEDINGS OF COURT

4-3-1 Proceedings

4-3-2 Admission to Bail

4-3-3 Jury Trials

Section 4-3-1 Proceedings

A. The proceedings of the town ~~magistrate's~~ municipal court shall be conducted in accordance with the state constitution, the applicable state statutes and rules of the state supreme court pertaining to justice of the peace or town police courts. The proceedings shall also be conducted in accordance with the rules of procedure in civil traffic cases and the rules of criminal procedure including the provisions thereof regarding bail, issuance of subpoenas, summons and warrants, and punishment for disobedience thereof, so far as applicable and when not otherwise prescribed.

B. Town ~~magistrate's~~ municipal court proceedings for criminal violations of town ordinances shall be commenced by complaint under oath and in the name of the state setting forth the offense charged, with 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.

C. If the ~~magistrate~~ judge is satisfied that there exists probable cause to believe 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 ~~magistrate~~ judge may subpoena and examine witnesses as to the truth of the complaint.

D. Proceedings to enforce and collect sanctions for civil offenses or to obtain any other remedy allowed by the town code shall be initiated and prosecuted in accordance with the provisions of Article 1-9 or Section ~~6-2-2~~ 6-3-3 or as otherwise herein provided.

Section 4-3-2 Admission to Bail

Defendants, after arrest and before conviction, shall be admitted to bail, if bailable; and the rules of criminal procedure shall govern the release of all defendants, wherever applicable.

Section 4-3-3 Jury Trials

A. The right of ~~trial~~ trial by jury shall be granted in all cases of such a nature as are triable by a jury under the constitution and laws of the state, but not for violation of ordinances of such a nature as by common law were not triable by a jury.

B. Each juror for every day's attendance in the town magistrate's court shall be paid a sum fixed by council.

C. Juries in the town ~~magistrate's~~ municipal court shall be formed and summoned in the same manner as is provided under Arizona law for juries in courts of record, as authorized by A.R.S. Section 22-426(A).

Article 4-4 ~~TOWN PROSECUTOR~~ PUBLIC DEFENDER

~~The council may appoint a chief prosecutor and one or more associate prosecutors to serve at the pleasure of the council, and the compensation of each prosecutor shall be as determined by the council. The prosecutor's duties will be to represent the state or the town in contested matters where the defendant is represented by counsel or in cases where the prosecutor's participation is requested by the council or one of the town officers, and to assist the presiding magistrate and~~

the court clerk in the proper functioning of the town magistrate's court, as requested by the presiding magistrate with the approval of council.
The public defender shall be appointed by the presiding judge and be compensated as determined by the judge. The defendant shall reimburse the cost of the public defender unless there is a finding of indigence by the court.

Article 4-5 — COURT CLERK

- 4-5-1 — Appointment and Compensation
- 4-5-2 — Duties of Court Clerk
- 4-5-3 — Assistant Court Clerks

Section 4-5-1 Appointment and Compensation

~~The town magistrate's court shall have a court clerk appointed by the council upon the recommendation, and subject to the exclusive control, of the presiding magistrate as regards hiring, supervision, disciplinary action and discharge. The court clerk shall be an employee of the town, who may also perform other duties for the town, subject to his or her primary responsibility to perform the duties of the court. The court clerk shall serve for such salary as may be determined by the council.~~

Article 4-5 COURT EMPLOYEES

- 4-5-1 Appointment and Compensation
- 4-5-2 Duties of Court Clerk Administrator
- 4-5-3 Deputy Duties of Deputy Court Clerks

Section 4-5-1 Appointment and Compensation

The municipal court shall have a court administrator appointed by the presiding judge. The court administrator shall be an employee of the town and shall serve at the pleasure of the presiding judge. Compensation of the court administrator shall be established by the town council.

Section 4-5-2 — Duties of Court Clerk

~~The duties of the court clerk are the following, subject to the overall supervision of the presiding magistrate with regard to their performance:~~

- A. ~~To accept and file all summons, complaints, pleadings, motions, records, judgments and other documents presented to, or issued by, the town magistrate's court in the exercise of its jurisdiction.~~
- B. ~~To prepare and maintain the town magistrate's court's dockets, calendar and other records of its proceedings.~~
- C. ~~To issue any town magistrate court process.~~
- D. ~~To receive and collect all funds in payment of fines, bail and costs, and to deposit, disburse and account for the same as required by state statute or court rules.~~
- E. ~~To assist in the preparation of all statistical and other reports required to be maintained or filed by the town magistrate's court.~~
- F. ~~To perform such other services as may be directed by the magistrate in the exercise of the town magistrate court's jurisdiction.~~

G. ~~To furnish all secretarial services required in the exercise of the jurisdiction of the town magistrate's court.~~

Section 4-5-2 Duties of Court Administrator

The duties of the court administrator are the following, subject to the overall supervision of the presiding judge with regard to their performance:

- A. Accept and file all summons, complaints, pleadings, motions, records, judgments and other documents presented to, or issued by, the court in the exercise of its jurisdiction.
- B. Prepare and maintain the court's dockets, calendar and other records of its proceedings.
- C. Issue any court process.
- D. Receive and collect all funds in payment of fines, bail and costs, and to deposit, disburse and account for the same as required by state statute or court rules.
- E. Prepare all statistical and other reports required to be maintained or filed by the court.
- F. Perform such other services as may be directed by the judge in the exercise of the court's jurisdiction.
- G. Furnish all administrative services required in the exercise of the jurisdiction of the court.

Section 4-5-3 Assistant Court Clerks Duties of Deputy Court Clerk

~~The council, with the approval of the presiding magistrate, may appoint one or more assistant court clerks from among its employees, who, subject to the supervision of the presiding magistrate, may perform the duties of the court clerk when the court clerk is unavailable to do so.~~
The presiding judge may appoint one or more deputy court clerks, who, subject to the supervision of the presiding judge and court administrator, will assist in the duties of the court administrator.

Article 4-6 JAIL SERVICES RECOVERY FEE*

- 4-6-1 Payment of Costs of Confinement
- 4-6-2 ~~Waiver of Costs of Indigents~~
- 4-6-3 ~~Collection of Fee~~
- 4-6-4 ~~Consequences of Nonpayment of Fee~~

Section 4-6-1 Payment of Costs of Confinement**

Any person who is convicted of a misdemeanor offense within the corporate limits of the town and who is sentenced to a term of incarceration in the Maricopa County Jail or other facility may be required by the Carefree Municipal Court to reimburse the town for the incarceration costs pursuant to state law.

Section 4-6-2 Waiver of Costs of Indigents

A. ~~No person shall be required to pay the fee established by this article who is found by the court to be indigent. Prior to determining that a person is indigent for purposes of this section, the court shall require a sworn statement from the defendant seeking a waiver of the jail services recovery fee which includes, at minimum, the following information:~~

- 1. ~~All income received by the defendant from any source on a monthly basis.~~
- 2. ~~The defendant's monthly expenses.~~
- 3. ~~A list of assets owned by the defendant, including the estimated fair market value.~~
- 4. ~~A list of debts owed by the defendant.~~

B. ~~The fees required by this article shall be waived by the court if the defendant establishes by~~

sworn statement or otherwise, that he or she receives assistance from one or more of the following governmental programs:

1. ~~The aid to Families with Dependent Children Program (42 U.S.C. Sections 601-515).~~

2. ~~The Food Stamp Program (7 U.S.C. Sections 2011-2029).~~

3. ~~The General Assistance Program enacted pursuant to A.R.S. § 42-631, et seq.~~

~~C. The court may also waive the fees required by this section if the court expressly finds that the defendant has an income which is insufficient or barely sufficient to meet the daily essentials of life and includes no surplus disposable income that could be budgeted for payment of the jail services recovery fee.~~

~~D. The court shall order the defendant to pay the required fee if, at any time prior to the entry of the final judgment, the court determines after notice to the defendant and a hearing that the defendant no longer meets the eligibility requirements of subsection B of this section.~~

~~E. A defendant who has been granted a waiver of the jail services recovery fee pursuant to subsection B of this section shall promptly notify the court of any change in his financial circumstances during the pendency of the action that affects his ability to pay the fee.~~

Section 4-6-3 2 Collection of Fee

The town attorney is authorized to institute any appropriate civil suit in a court of competent jurisdiction for recovery of the fee referred to hereinabove.

Section 4-6-4 3 Consequences of Nonpayment of Fee

The provisions of A.R.S. § 13-810 governing nonpayment of fines or restitution apply to nonpayment of jail services recovery fees.

Article 4-7 COURT ENHANCEMENT FUND*

4-7-1 Court Enhancement Fund**

4-7-2 Collection of Fees and Costs

Section 4-7-1 Court Enhancement Fund

A. There is hereby created a court enhancement fund, which shall be used exclusively to enhance the technological, operational, and security capabilities of the Magistrate municipal ~~C~~ourt,, including the operation of a ~~Judicial Collection Program.~~

B. The court enhancement fund shall be funded by:

1. An enhancement fee in the amount of ~~thirty (\$30.00)~~ twenty-five dollars (\$25.00) which ~~includes~~ excludes applicable state and/or county surcharges, shall be charged by the Magistrate municipal ~~C~~ourt to each person against whom a fine, penalty, and forfeiture is imposed by court order and shall be in addition to fees assessable by statute.

2. A civil traffic default judgment fee in the amount of twenty-five (\$25.00) dollars, which shall be charged by the Magistrate municipal ~~C~~ourt to each person (in addition to any civil sanction imposed) for which a default judgment is entered for failure to appear on a civil traffic violation case, unless such default judgement is set aside pursuant to Rule 28 of Arizona Rules of Court Procedure in Civil Traffic Cases. The Municipal ~~J~~udge may waive all or

any part of the fee if the payment of the fee would cause undue hardship to the defendant.

3. A suspension fee in the amount of twenty-five (\$25.00) dollars, which shall be charged by the ~~Magistrate~~ municipal ~~C~~ourt to each person (in addition to any civil sanction and default judgement fees imposed) for which an MVD eligible suspension is entered for failure to appear or failure to pay on a civil traffic violation case.

4. An administrative fee not to exceed two hundred (\$200) dollars for the issuance of a warrant due to the failure of a defendant to appear or to pay any fine, fee, or restitution imposed by the ~~C~~ourt or the failure of a defendant to comply with any other sanction or any other order regarding probation, counseling, or diversion programs.

5. An administrative fee not to exceed one hundred (\$100) dollars to any defendant who is permitted and elects to participate in any counseling or diversionary programs as an alternative to a judicial resolution of any charge against the defendant.

C. The court enhancement fund shall be established as a designated fund account of the ~~T~~own. The ~~municipal~~ ~~Magistrate~~ ~~C~~ourt shall collect the "court enhancement fee", "default judgment fee", "suspension fee", and "warrant fee" and deposit them in the court enhancement fund account. The monies in the fund shall be invested in the same manner as other ~~T~~own funds. Interest earned on fund monies shall be deposited in the fund.

Section 4-7-2 Collection of Fees and Costs

Any fee or cost assessed pursuant to the procedures specified in this article may be collected as any other court ordered fine, penalty and forfeiture.

Article 4-8 PRIVATE COLLECTION AGENCY TRANSACTION FEES (COSTS)*

A. A defendant who defaults in his or her obligation for the payment of monies owed or due to the ~~magistrate~~ municipal court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a private collection agency that is licensed pursuant to Title 32, Chapter 9, Article 2, Arizona Revised Statutes, and that is engaged by the magistrate court to collect and enforce such payment. The collection fees and charges assessed by the private collection agency shall be added to the sum due from and chargeable against the defendant.

B. A defendant who defaults in his or her obligation for the payment of monies owed or due to the ~~magistrate~~ municipal court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a duly licensed attorney, and who is engaged by the ~~magistrate~~ municipal court to collect and enforce such payment. The private collection agency fees and charges assessed by the attorney shall be added to the sum due from and chargeable against the defendant.