

**CHARTER**  
**COUNCIL-MANAGER GOVERNMENT**  
**Original Adoption May 11, 1994**  
**1<sup>st</sup> Revision March 13, 2007**  
**2<sup>nd</sup> Revision May 19, 2009**  
**3<sup>rd</sup> Revision May 21, 2019**

**ARTICLE I. INCORPORATION, FORM OF GOVERNMENT, POWERS OF THE CITY AND BOUNDARIES**

Section 1.01. Incorporation

We, the people of the City of Holbrook, within the corporate limits as now established in the manner provided by law, shall continue to be a municipal body, politic and corporate, in perpetuity, under the name of "City of Holbrook, Arizona."

Section 1.02. Form of Government.

(a) Council-Manager

The municipal government provided by this Charter shall be known as "Council-Manager Government."

(b) Council

Pursuant to its provision and subject only to the limitations imposed by the Arizona State Constitution, laws of the State of Arizona, the laws and Constitution of the United States of America, and this Charter, all legislative powers of the City shall be vested in an elective council, which shall enact local legislation, adopt budgets, determine policies, appoint the City Manager and provide for such other officers deemed necessary and proper for the orderly government and administration of the affairs of the City.

(c) Exercise of Powers

All powers of the City shall be exercised in the manner prescribed by this Charter, or if they be not prescribed, then in such manner as may be prescribed by ordinance.

Section 1.03. Powers of the City

(a) Grant of Powers

The City shall have all powers granted to municipal corporations and to cities and towns by the Constitution and general laws of this State, together with all of the implied powers necessary to carry into execution all of the powers granted.

(b) Control of Property

The City may acquire property within or without its corporate limits for any City purpose in fee simple or any lesser interest or estate by purchase, gift, devise, lease or condemnation, and may sell, lease, grant, convey, exchange, mortgage, hold, manage and control such property as its interests may require.

(c) General Municipal Powers

Except as prohibited by the Constitution of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever, and may enter into contracts, cooperative and otherwise, with the Government of the United States, the State of Arizona, Navajo County, or any other political subdivision of this State, or person for the construction, maintenance, and operation of roads, highways, parks, sewers, waterworks, public utilities and public buildings, or for any other municipal purpose, all when deemed in the best interests of the City.

(d) Enumeration of Powers

The enumeration of particular powers by this Charter shall not be deemed to be exclusive; in addition to the powers enumerated herein, or implied hereby or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all powers, which, under the Constitution or laws of this State, it would be competent for this Charter specifically to enumerate.

(e) General Plan

The City shall adopt and may from time to time modify a general plan of the future physical development of the City to serve as a guide to all future Council action concerning land use regulations and expenditures for capital improvements. The Council shall by ordinance implement said general plan by adopting land use and development regulations, including but not limited to an official map, and zoning and subdivision regulations.

(f) Specific Plans

The City may adopt specific and differing plans for areas within the City for the purpose of refining the General Plan.

(g) Prior Approval of Construction

The City may require Planning and Zoning Commission, and architectural and site plan review and approval of the development, construction, reconstruction, or conversion of any building or structure prior to any physical construction.

(h) Levy of Assessment

The City may levy and collect assessments and file liens on real property to collect amounts owed to the City for garbage and trash collection, sewer rental charges, the provision of any utilities, reasonable amounts for the abatement of any nuisance, demolition and removal of any legally condemned building or structure, and the cleaning and renovating of lots which are offensive to the sight or smell, or hazardous to the public health, or any other services provided by the City for the benefit of any property.

(i) Streets, Alleys, Public Grounds

The City shall have exclusive jurisdiction to control and regulate the use and enjoyment of its streets and alleys, public grounds or ways.

(j) Requirements for New Development

The City may require all persons, firms or corporations responsible for new physical development within the City to provide or furnish, or pay a fee in lieu of providing or furnishing, the following:

- (1) Public utility easements
- (2) Water production, storage and transmission
- (3) Sewer collection, treatment and disposal
- (4) Park land and development
- (5) School sites
- (6) Dedication and improvement of public rights of way
- (7) Bike paths and other necessary transportation
- (8) Drainage
- (9) Flood control
- (10) Other public facilities necessary to maintain satisfactory levels of service for said new development, as provided by ordinance which shall include definite standards basing the foregoing requirements on the needs of the inhabitants of said new development and of the City as a whole.

Section 1.04. Boundaries

The boundaries of this City shall be the boundaries as established at the time this Charter takes effect or as such boundaries may be changed thereafter in the manner authorized by law.

## **ARTICLE II. THE COUNCIL**

### Section 2.01. Powers of the Council

All powers of the City not in conflict with the Constitution of the State of Arizona and subject to the limitations of this Charter shall be vested in the Council, which shall enact appropriate legislation and do and perform any and all acts and things which may be necessary and proper to carry out these powers or any of the provisions of this Charter.

### Section 2.02. Number

The Council shall consist of a Mayor and six Council Members.

### Section 2.03. Elections

The first election for the offices of Mayor and Council Members under the terms of this Charter shall be held in 1995 and every two years thereafter.

### Section 2.04. Term of Mayor

The Mayor shall be elected for a term of four years.

### Section 2.05. Terms of Council Members

#### (a) Four-Year Terms

Council Members shall be elected for terms of four years each, and three shall be elected every two years. Council members serving on the date this Charter takes effect shall continue to serve until successors are elected in the 1995 and 1997 elections and take office as provided by ordinance in effect for said election.

#### (b) Terms of Council Members Elected in 1995 and 1997

Council Members elected in 1995 and 1997 shall serve until successors are elected, qualified and installed as herein provided.

### Section 2.06. Qualifications of Mayor and Council

#### (a) Mayor

The Mayor shall be a qualified elector of the City. The Mayor shall have physically resided in the City of Holbrook for at least two years preceding the date of such election or appointment. The Mayor must reside within the city limits during the term of office. If the Mayor shall cease to possess any of these qualifications, or shall have been convicted of a felony or any offense in violation of his official duties, the office shall immediately become vacant. No person is eligible to stand for election or serve as Mayor while employed by the City.

(b) Council Members

Council Members shall be qualified electors of the City. Council Members shall have physically resided in the City of Holbrook for at least two years preceding the date of such election or appointment. Council Members must reside within the city limits during the term in office. If a Council Member shall cease to possess any of these qualifications, except as provided herein, or shall have been convicted of a felony or any offense in violation of official duties, the office shall immediately become vacant. No person is eligible to stand for election or serve as a Council Member while employed by the City.

(c) Judge of qualifications

The Council shall be the judge of the qualifications of its members and of the grounds for forfeiture of their office pursuant to subparagraph (b) above; and for that purpose shall have power to subpoena witnesses, administer oaths, take testimony and require the production of evidence. A member charged with misconduct constituting grounds for forfeiture of this office shall be entitled to a public hearing on demand, providing such demand is made in writing within two (2) weeks of the filing of the charge, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. The Council, after such hearing may remove a member by a majority vote for failure to meet the qualifications in subparagraph (B) above. Decisions made by the Council under this section shall be subject to review by the Courts.

Section 2.07. Duties of the Mayor

(a) Chairperson of Council

The Mayor shall be the Chairperson of the Council and preside over its meetings.

(b) Voice and Vote in Council Proceedings

The Mayor may make and second motions, and shall have a voice and vote in all Council Proceedings.

(c) Head of City Government

The Mayor shall be recognized as head of the City Government for all ceremonial purposes and by the Governor for purposes of martial law, and shall have executive, but no regular administrative, duties.

(d) Appointments

The Mayor shall appoint members to various committees, boards and commissions after due official notice to the public and with the consent of the Council.

Section 2.08. Vice Mayor

The Vice Mayor shall be elected following the election every two years from among the council members. The Vice Mayor shall perform the duties of the Mayor during absences or upon disability.

Section 2.09. Salaries of Mayor and Council Members

The annual salaries of the Mayor and Council shall be as determined by ordinance, subject to ratification by the electorate at the next city election.

Section 2.10. Induction of Mayor and Council Members Into Office

The newly elected Mayor and Councilmembers shall be inducted (or seated) immediately after Council approval of the canvass of the General Election votes. It is at this time that the Vice Mayor shall be elected.

Section 2.11. Absence to Terminate Membership

If the Mayor or any Council Member shall be absent from two consecutive regular meetings without prior notice to the Council, which shall be duly recorded in the minutes, that office shall immediately become vacated.

Section 2.12. Vacancies in Council and Office of Mayor

(a) Mayor

In case of a vacancy, for whatever reason, in the office of Mayor, the Vice Mayor shall act as Mayor until such vacancy is filled. The Council, by a majority vote of its remaining members, shall, within 31 days, but not less than 15 days from the date the Council receives notice of vacancy or accepts the resignation of the Mayor, fill the vacancy in the office of Mayor from its own membership. Upon appointment of one

of the Council Members to the office of Mayor, said Council Member's seat shall be deemed vacant and shall be filled in the manner provided in Subsection (b) hereof.

(b) Council

In case of a vacancy, for whatever reason, in the Council, the remaining members, including the Mayor, shall, by a majority vote, select a qualified person. The vacancy in the Council shall be filled within 31 days, but not less than 15 days from the date the Council receives notice of the vacancy or accepts the resignation of one of its members. The appointed Council Member shall serve until the next general election or until a successor shall have been qualified.

(c) Remaining Term of Vacated Council Seat

If the vacated Council seat has in excess of two years remaining in its term, the appointed Council Member shall serve until the next election. At that election, candidates for the Council shall run for the remainder of the unexpired term of the vacated Council seat, and the ballot shall designate that said candidates are running for the unexpired term, or there shall be other suitable designation indicating that it is a "short term" of two years. In the event that the unexpired term shall be in excess of two years, but there is insufficient time within which candidates can have their names placed on the ballot for the primary election, the Council, including the Mayor, shall fill the vacated Council seat in the same manner as if the vacancy were for a period of two years or less.

(d) Failure to Appoint Due to a Tie Vote

Should a tie vote occur in an attempt to select a person to fill a vacancy of a Council seat, and because thereof, there shall be failure to choose such person within 31 days within a manner shown in this Section, a special election shall be held to fill such vacancy.

Section 2.13. Meetings of Council, Boards, Commissions and Committees

(a) Time

The Council shall meet at least once a month. Special meetings may be held as called for in Section 2.14.

(b) Open Meeting Law

All meetings of the City Council, the City's boards, commissions and committees shall be open to the public, in accordance with the Arizona Revised Statutes pertaining to the open meeting law. Executive sessions of the Council or of any City boards, commissions and committees may be held only as prescribed by State statute.

### (c) Minutes of Meetings

All public bodies, except where no quorum is present, must provide written minutes or a recording of all meetings, as prescribed by State statute.

### Section 2.14. Special Meetings

The Mayor or Vice Mayor acting as Mayor may, or at the request of any two Council Members, shall, by giving notice thereof to all members of the Council, or leaving the same at their usual place of abode, call a special meeting of the Council for a time not earlier than 24 hours after the notice is given. In case of a catastrophic emergency, a meeting may be held upon such notice as is appropriate to the circumstances. Items to be considered at a special meeting shall be included in the notice. At such meetings, business concerning only such emergency shall be acted upon.

### Section 2.15. Rules of Procedure

The Council shall determine its own rules and order of business subject to the provisions of this Charter.

### Section 2.16. Quorum; Voting

A majority of the members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time until a quorum can be assembled. The vote on any question shall be ayes and nays, and shall be entered in the minutes. At the request of any member of the Council, a roll call vote shall be taken.

### Section 2.17. Failure to Vote

No member of the Council shall be excused from voting except upon matters as may be deemed conflicts of interest as set forth in the laws of this State. All conflicts of interest shall be declared and noted in the minutes. In all other cases, a vote of aye or nay must be cast. Should the Mayor or Council Member fail to vote, such vote shall be counted with the majority vote on the issue, and in case of a tie vote, such vote shall be counted as a nay vote.

### Section 2.18. Consideration of Petitions



Any citizen of the City may appear before the Council at any regular meeting and present a written petition. Such petitions shall be considered and response given within 31 days in conformity with the requirements of this Charter, the Open Meeting Law, and other statutory and constitutional provisions.

#### Section 2.19. Non-Interference of Council in Administrative Service

##### (a) Non-Interference of Council with Powers and Duties of City Manager

No individual member of the Council shall interfere with the execution by the City Manager of his powers and duties, or order, directly or indirectly, the appointment by the City Manager of any person to an office or employment, or removal therefore, or the discipline of an employee. Except for purposes of inquiry, the Council and its members shall deal with the administrative services that are under the control of the City Manager solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

##### (b) Discussions Between Council and City Manager in Open or Executive Session

Nothing in this section shall be construed, however, as prohibiting the Council, while in open or executive session, from fully and freely discussing with or suggesting to the City Manager anything pertaining to City affairs or the interests of the City.

#### Section 2.20. Code of Conduct for Elected Officials and Advisory Board Members

The Code of Conduct for Elected Officials and Advisory Board Members shall be included in the City Charter, may be amended from time to time and remain on file in the Office of the City Clerk.

### **ARTICLE III. CITY MANAGER**

#### Section 3.01. Appointment of Manager

The Council shall appoint a Manager who shall be an officer of the City and who shall have the powers and perform the duties provided in this Charter. The Manager shall hold office for and at the pleasure of the Council. No Council Member shall receive such appointment during the term of office, nor within one year after the expiration of such term. The Council shall have the discretion of entering into a

written employment contract with the Manager, but in no event shall the term of such contract be for a period longer than twenty-four (24) months.

### Section 3.02. Residence

The Manager need not be a resident of the City at the time of appointment, but by provisions of the contract with the Manager shall be required to establish residence within the City within ninety (90) days after appointment, unless such period is extended by the Council, and thereafter maintain residence within the City during the tenure of office.

### Section 3.03. Qualifications

The Manager shall be chosen by the Council solely on the basis of executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth.

### Section 3.04. Bond

The Manager shall furnish a corporate surety bond to be approved by the Council, which shall be conditioned upon the faithful performance of the duties imposed upon the Manager as herein prescribed. The premium for such bond (or insurance) shall be a proper charge against the City. Employee theft and dishonesty or other proper form of insurance may substitute for said bond.

### Section 3.05. Acting City Manager

By letter filed with the Clerk, the Manager shall designate one or more qualified City administrative officers to exercise the power and perform the duties of the Manager during periods of temporary absence or disability longer than one week or five working days. The Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or the disability shall cease.

### Section 3.06. Powers and Duties

#### (a) Administrative

The Manager shall be the administrative head of the government of the City under the direction and control of the Council. The Manager shall be responsible for the

administration of all affairs of the City. In addition to the general powers as administrative head, the Manager shall have the duties and powers set forth in the following subsections.

(b) Law Enforcement

It shall be the duty of the Manager to see that the laws of the State pertaining to the City, the provisions of this Charter, and the ordinances, franchises, contracts, permits and privileges granted by the Council are enforced. The Manager shall report any failure in that regard to the Council, which shall give such instruction and direction as it may desire for remedial, corrective or other action by the Manager.

(c) Authority Over Employees

The Manager shall exercise control of all administrative offices and departments of the City, and of all officers and employees, and shall prescribe such general rules and regulations as may be deemed necessary or proper for the general conduct of the administrative offices and departments of the City under the Manager's jurisdiction.

(d) Powers of Appointment and Removal

The Manager shall appoint and, when necessary for the good of the City, lay off, suspend, transfer, demote or remove all officers and employees of the City, except as otherwise provided by this Charter; the Manager may authorize the head of a department or office to take such action in connection with the employees of such department or office, subject to such merit system regulations as the Council may adopt. In case of the appointment or removal of any department head, the Manager shall first review such appointment or removal with the Council.

(e) Ordinances

It shall be the duty of the Manager to recommend to the Council for adoption such measures and ordinances as may be deemed necessary.

(f) Meetings

It shall be the duty of the Manager to attend all meetings of the Council unless, at the Manager's request, the Mayor individually or the Council excuses the Manager therefore. The Manager may present definite recommendations relative to any item of the agenda for approval, rejection or modification by the Council. The Manager shall be accorded a seat at all meetings of all boards, commissions, committees and other City bodies. The Manager shall inform the members of said bodies as to the status of any matter being considered by the Council, and shall cooperate to the fullest reasonable extent with the members of all boards, commissions, committees and other City bodies. The Manager shall be entitled to participate in their

deliberations, but shall not have a vote. The Manager shall receive notice of all special meetings of the Council, and of all boards, commissions, committees and other City bodies.

(g) Financial Matters

It shall be the duty of the Manager to keep the Council advised as to the financial condition and needs of the City in such form and at such times as requested by the Council.

(h) Annual Budget

It shall be the duty of the Manager to submit a proposed annual budget to the Council, and to be responsible for the administration of the budget after adoption.

(i) Expenditure Control and Purchasing

It shall be the duty of the Manager to see that no indebtedness is incurred or expenditure made in violation of the State laws applicable to cities or of the provisions of this Charter.

(j) Investigations and Complaints

It shall be the duty of the Manager to make investigations into the affairs of the City, and any department or division thereof. It shall be the duty of the Manager to investigate all complaints in relation to matters concerning the administration of the City government and in regard to the services of the public utilities in the City, and report all findings to the Council.

### Section 3.07. Non-Interference With Administrative Service

The Council and its members shall deal with the administrative services of the City only through the Manager, except for the purpose of inquiry, investigation or report. The Council and its members shall not interfere with the Manager in the execution of the Manager's powers and duties. The Council and its members shall not order the Manager to appoint any person to office or employment, or remove therefore.

### Section 3.08. Removal of City Manager

The Manager shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days next succeeding any municipal election at which a member of the Council is elected. At any other time, the Manager may be removed only at a regular meeting of the Council and upon the affirmative votes of four-sevenths (4/7ths) of the Council. At least thirty (30) days prior to the effective

date of removal, the Manager shall be furnished with a written notice stating the Council's intention to remove the Manager and the reasons therefore. Within seven (7) days after receipt of such notice, the Manager may by written notification to the Clerk request a public hearing before the Council, in which event the Council shall fix a time for a public hearing which shall be held before the expiration of the thirty-day (30) period above referred to. The Manager shall appear and be heard at such hearing. After furnishing the Manager with written notice of the intended removal, the Council may suspend the Manager from duty, but compensation shall continue until removal as herein provided. In removing the Manager, the Council shall use its uncontrolled discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the Council and the Manager to present to each other and to the public all pertinent facts prior to the final action of removal.

#### **ARTICLE IV. ADMINISTRATIVE DEPARTMENTS, OFFICES AND EMPLOYEES**

##### Section 4.01. Administrative Departments and Offices

###### (a) Creation of Departments

The Council, by ordinances not inconsistent with this Charter, shall provide for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies, and for their consolidation, alteration or abolition. In the event that the Council votes to abolish the City of Holbrook Police Department, such abolition shall only be effective upon approval by a majority of the qualified electors of the City at the first regularly scheduled election where a request may be timely placed on the ballot.

###### (b) Officers

The Council shall provide for the number, title, qualifications, powers, duties and compensation of all officers of the City as created or authorized by this Charter.

###### (c) Assignment of Powers and Duties

The Council may assign additional functions or duties to offices, departments or agencies. Where the positions are compatible, the Council may combine in one person the powers and duties of two or more offices created or authorized by this Charter.

###### (d) Bond and or Insurance

Officers of the City as created or authorized by this Charter may be required to furnish corporate surety bond or equivalent employee theft and dishonesty insurance; cost to be paid by the City. The premium for said bond or insurance shall be a proper charge against the City.

#### Section 4.02. City Clerk

The Manager, with approval of the Council, shall appoint an officer with the title of City Clerk, who shall be responsible to the Manager. The Clerk shall give notice of all Council meetings, keep the minutes of Council proceedings, ordinances and resolutions authenticated by the Clerk's signature and recorded in full in books kept for that purpose. The Clerk shall perform such other duties as required by this Charter or by ordinance. The Manager may not hold the position of Clerk.

#### Section 4.03. City Treasurer

The Manager, with approval of the Council, shall appoint an officer with the title of City Treasurer. The Treasurer shall receive and have custody of all of the money of the City, and shall keep and have said money, and disburse the same only as provided by law, and shall always be bound by the Constitution, the laws of the State, the Charter and ordinances of the City.

#### Section 4.04. City Attorney

##### (a) Appointment and Duties

The Council shall appoint the City Attorney, who shall be an attorney at law duly licensed to practice in the State of Arizona. The City Attorney shall be chief legal advisor to all offices, departments and agencies, and to all officers and employees in matters relating to their official powers and duties. The City Attorney shall represent the City in all legal proceedings, except as provided in subparagraph (b) hereof. It shall be the City Attorney's duty to perform all services incident to the position as may be required by statute, by this Charter or by ordinance. The City Attorney's contract shall be reviewed annually.

##### (b) Council Control of Legal Services

The Council shall have control of all litigation of the City and may employ attorneys, in addition to the City Attorney, to take charge of any litigation or to assist the City Attorney therein. The Council shall provide for compensation for such additional legal services rendered on behalf of the City.

#### Section 4.05. Finance Director

The Manager, with approval of the Council, shall appoint the Director of Finance. The Finance Director shall be head of the Finance Department of the City, and shall have the power and shall be required to administer the financial affairs of the City under the direction of the Manager. The Finance Director shall perform such duties consistent with this Charter as may be required by ordinance or resolution of the Council.

#### Section 4.06. Basis for Appointment

Appointments and promotions in the administrative service of the City shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

#### Section 4.07. Personnel Policy and Procedures

- (a) The Council shall, by ordinance, provide for the personnel policies and procedures, including a merit pay system, for the purpose of regulating and controlling the appointments of officers and employees of the City except for elected officials, the Manager, City Attorney, Magistrate, Police Chief and Fire Chief.
- (b) The City shall not bargain collectively with any employee, group of employees, employee organizations or a representative of any employee organization with respect to wages, hours or working conditions, or any other conditions of employment.

### **ARTICLE V. APPOINTIVE BOARDS, COMMISSIONS AND COMMITTEES**

#### Section 5.01. Appointive Boards, Commissions and Committees

The Council may, by ordinance, create or abolish boards, commissions, committees and other City bodies as in its judgment are required, and may grant them such power and duties as are consistent with the provisions of this Charter and State statute.

#### Section 5.02. Mayor or Council Members as Ex-Officio Members

By appointment of the Mayor, the Mayor or any member of the Council may serve as an ex-officio member, without voting privileges, of any or all boards, commissions, committees and other City bodies.

### **ARTICLE VI. FINANCE AND TAXATION**

## Section 6.01. Fiscal

The powers of the City concerning budget, taxation, financial and fiscal powers shall be limited only by the provisions of the Federal or State Constitution and this Charter.

## Section 6.02. Taxing Powers

### (a) General Powers

The Council shall have the power to levy and collect ad valorem and excise taxes, including, but not limited to, a transaction privilege tax, a use tax and a business license tax, and all other taxes not prohibited by Federal or State Constitution, for any or all of the following purposes:

#### (1) Indebtedness

To pay the interest and maintain a sinking fund to repay the bonded indebtedness of the City.

#### (2) General Expenses

For the general expenses incurred in the operation of City government.

#### (3) Advertising

For advertising and promoting the advantages of the City.

#### (4) Other

For any other lawful municipal purpose.

### (b) Special Taxing Districts for Improvements

The Council may establish special taxing districts to provide for improvements within specified areas of the City, and shall have the authority to issue bonds for such improvements, and to levy taxes or impose special assessments therefore within such specified areas.

### (c) Enumeration Does Not Limit Taxing Power

The enumeration herein of the types of taxes and the purposes for which such taxes may be levied and collected shall not be deemed to limit in any way the taxing powers of the City.

## Section 6.03. Special Revenue Funds



Special Revenue Funds shall be established to account for revenues from specific tax assessments or other special sources which are to be used to finance specified and anticipated activities and shall not be diverted to other uses, except by Resolution approved by a five-sevenths vote of the Council. Any such diversion shall not be treated as an emergency measure.

#### Section 6.04. Depositories, Transfers and Investment of City Funds

##### (a) Depositories and Investments

In addition to authority granted by State statutes, the Council may authorize City monies to be deposited in sufficiently collateralized investments. The Council may implement this authority by ordinance and the appropriate City official may invest City monies not needed to meet current bills.

##### (b) Transfers

Whenever there are not sufficient monies in any of the interest funds for the bonded indebtedness of the City to pay the interest on such bonded indebtedness when due, the Council shall direct the transfer from the general or other fund having monies therein to such interest funds of the necessary amounts of money to pay the interest on said bonded indebtedness, and the amount so transferred shall be returned to the respective funds from which such transfer was made whenever sufficient monies shall accrue in said bonded indebtedness funds.

#### Section 6.05. Independent Audit and Review

##### (a) Certified Public Accountants

Prior to the end of each fiscal year, the Council shall designate one or more qualified Certified Public Accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government, and shall submit a report to the Council and to the City Manager including recommendations as to procedures necessary to the proper fiscal operations of the City. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. The accountants shall not maintain any accounts or records of the City business, pursuant to the specifications approved by the Council, shall post-audit the books and documents kept by the City, and any separate or subordinate accounts kept by any other office, department or agency of the City government.

##### (b) Audit Contracts

Notwithstanding the provisions of Section 6.06. (a) Above, the Council may enter into a contract for auditing services as above described for a period in excess of one (1) year and not to exceed three (3) years upon a finding by the Council that a contract in excess of one (1) year would be in the best interests of the City.

#### Section 6.06 Voter approval for certain public expenditures

Notwithstanding any other provision of the Charter of the City of Holbrook, the City shall not expend public funds, grant tax concessions, or incur any form of debt in an amount greater than five hundred thousand dollars (\$500,000.00), and/or exchange or grant city-owned land of a fair market value in excess of five hundred thousand dollars (\$500,000.00) to construct or aid in the construction of any amphitheater, sports complex, cultural or entertainment facility, arena, stadium, convention facility, or multi-purpose facility without approval of the majority of the electorate voting thereon at the next ensuing election.

### **ARTICLE VII. ORDINANCES AND RESOLUTIONS**

#### Section 7.01. Action by Council

The Council shall act by motion, resolution or ordinance.

#### Section 7.02. Voting By Council

A roll call vote shall be taken upon final action on all ordinances and resolutions, and such vote shall be entered upon the minutes of the proceedings of the Council.

#### Section 7.03. Majority Vote Required

A majority vote of the members present, provided a quorum is present, shall be sufficient to pass motions, resolutions and ordinances.

#### Section 7.04. Enacting Style

##### a) Ordinances

The enacting clause of all ordinances passed by the Council shall be as follows: "Be it ordained by the Mayor and Council of the City of Holbrook, Arizona."

##### b) Resolutions

The enacting clause of all resolutions passed by the Council shall be as follows: "Be it resolved by the Mayor and Council of the City of Holbrook, Arizona."

#### Section 7.05. Actions Requiring an Ordinance

In addition to other acts required by State or Federal law or by specific provisions of the Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

(a) Tax

Levy any tax or assessment.

(b) Affect City Codes, Departments, Offices or Agencies

Adopt or amend a City Code or establish, alter or abolish any City department, office or agency.

(c) Zoning Districts

Establish or change zoning districts.

(d) Streets, Alleys, Subdivisions

Establish, abandon or vacate streets, alleys or subdivisions.

(e) Provide Fines

Provide for a fine or penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed.

(f) Appropriation, Acquisition, Sale, Lease or Exchange of Real Property

Authorize the appropriation, acquisition, sale, lease or exchange any real property.

(g) Alteration of Municipal Boundaries

Provide for the alteration of the municipal boundaries by annexation or otherwise.

#### Section 7.06. Emergency Ordinances

(a) "Emergency" Defined

As used in this section, an emergency ordinance is one necessary to meet a public emergency affecting life, health, property or the public peace.

(b) Matters Not to Be Classified as "Emergencies"

Ordinances granting, renewing or extending a franchise or regulating the rate charged by any public utility for its services, except as otherwise provided in this Charter, shall never be classified as emergency measures.

(c) Procedure

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance. The ordinance shall contain, in one section, after the enacting clause, a declaration stating that an emergency exists, and describing the reasons for the necessity of declaring such ordinance to be an emergency measure, which section shall be passed only by the affirmative vote of six Council Members upon a separate roll call thereon.

(d) Adoption

An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced. The ordinance shall become effective upon adoption or at such later time as may be specified therein. After adoption, the ordinance shall be published as prescribed for other ordinances.

Section 7.07. Reading and Passage of Ordinances and Resolutions; Effective Date

All proposed ordinances and resolutions having the effect of ordinances shall be subject to the following requirements for passage at any meeting of the Council:

(a) Copies to Mayor and Council

Copies of a proposed ordinance shall be delivered to the Mayor and Council, or left at their usual place of abode or employment, at least three (3) working days prior to the meeting.

(b) Reading

By request of the Mayor or any member of the Council, a full reading of the proposed ordinance shall be ordered; otherwise, such ordinance shall be read by number and title only. Said ordinances shall have a first and a second reading and, if passed, shall be effective after proper publication as noted in Section 7.10.

(c) Posting at City Hall

Copies of titles of proposed ordinances and resolutions heretofore mentioned shall be posted at City Hall three (3) working days before the hour the City Council convenes to act upon the ordinance or resolution. During the said period of three (3) working days, copies of the entire proposed ordinance or resolution heretofore mentioned

shall be made available for inspection by the public at any time during the City's regular business hours. In the event that copies are not so made available to the public for inspection and the said title is not so posted, the ordinance or resolution shall not be brought before the Council for action.

(d) Amendment

If an amendment is proposed to an ordinance which the Council or City Attorney finds to be a substantive change to the ordinance as originally drafted, the Council may delay action on the ordinance in order to provide sufficient time for public review, as prescribed in Subparagraph (c) of Section 7.07. of Article VII hereof.

(e) Effective Date

All ordinances of the City shall have an effective date 30 days after the official date of first publication in the official newspaper of the City. Ordinances may be, by separate vote, declared emergency measures and take immediate effect.

Section 7.08. Motions to Reconsider

When an ordinance, put to a vote for final passage, fails to pass, and a motion is made to reconsider, the vote on such motion shall not be taken within 24 hours thereafter.

Section 7.09. Signing of Ordinances and Resolutions

All ordinances and resolutions shall be approved as to form by the City Attorney prior to signature by the Mayor and attestation by the City Clerk within five days after adoption, but failure to so sign and attest shall not affect the validity of such ordinance or resolution.

Section 7.10. Publication of Ordinances and Resolutions

All ordinances, except those necessary for the immediate preservation of the peace, health or safety of the City, and resolutions having the effect of ordinances shall be published at least once a week for two consecutive weeks in the official newspaper of the City before they become effective and operative. Emergency measures shall be published twice in the official newspaper of the City within 30 days after their passage.

### Section 7.11. Ordinances Revised, Re-Enacted, Amended

Ordinances shall not be revised, re-enacted or amended by reference to title only, but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this Charter for the adoption of ordinances.

### Section 7.12. Ordinances Repealed or Suspended

No ordinance or section thereof shall be repealed or suspended, except by ordinance adopted in the manner provided in this Charter.

### Section 7.13. Ordinances and Resolutions Filed, Recorded and Certified; Ordinances and Resolutions as Evidence

All ordinances and resolutions shall be filed and safely kept by the City Clerk, and duly recorded and certified by the Clerk in books kept for that purpose and marked "City Ordinances" and "City Resolutions" respectively; and record copies thereof certified by the City Clerk, or the originals thereof shall be prima facie evidence of the contents of such ordinances or resolutions, and of the due passage and publication of the same, and shall be admissible in evidence in any Court of this State, or in any proceeding where the contents of such ordinance or resolution, or any of them, is in question; provided, however, that nothing herein contained shall be construed to prevent the proof of the passage and publication of any ordinance or resolution in the manner otherwise prescribed by law.

### Section 7.14. Procedure for Adoption by Reference

The Council may enact the provisions of a code or public record theretofore in existence without setting forth such provisions, but the adopting ordinance shall be published in full. At least three copies of the code or public record shall be filed in the office of the City Clerk, and kept available for public use and inspection. A code or public record enacted by reference may be amended in the same manner.

### Section 7.15. Recording of Certain Ordinances

All ordinances extending or changing the boundaries of the City, zoning territory, or establishing or vacating streets, alleys or subdivisions, or restrictions and/or covenants, after publication, shall be recorded in the office of the County Recorder of

Navajo County, and, after being so recorded, the same shall constitute public notice to all parties of the legal import thereof.

#### Section 7.16. Codification of Ordinances

Any and all ordinances of the City, which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of any ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the Clerk prior to the adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.

### **ARTICLE VIII. CONTRACTS**

#### Section 8.01. Formal Guidelines by Ordinance

##### (a) Formal Guidelines

The City Council shall establish by ordinance formal guidelines regulating the purchase by contract of goods and services by the City. Such ordinance shall specify the conditions pursuant to which competitive bidding shall be required, and those conditions under which no bidding for City contracts shall be required. Such ordinance shall not be enacted under an emergency clause.

##### (b) Preparation

All contracts shall be drawn under the supervision of and approved as to form by the City Attorney. Such contracts shall be in writing, approved by Council, at the Council's direction be reviewed and executed in the name of the City of Holbrook, Arizona, by the Mayor or Manager, except as may be otherwise provided either by this Charter or by law or by direction of the Council, and must be attested by the Clerk, who shall maintain a copy of the same.

#### Section 8.02. Purchases and Contracts for City Improvements

##### (a) Supplies

The Manager or his designee shall contract for and purchase, or issue purchase authorization for all supplies, materials, equipment and services for the offices, departments and agencies of the City.

(b) Contracts for Improvements, Services and Purchases

(1) Rules, Limits

Any equipment, materials or supplies to be purchased, or services to be obtained for or on behalf of the City, or contract to be awarded for any City improvements, shall be awarded under such rules, regulations and ordinances as the Council may adopt. The Council shall set limits on contracts and purchases as it deems necessary.

(2) Council's Right to Reject Bids

The Council, at its discretion, may reject any and all bids.

(c) Contract Alterations

Alterations in any contract before or after its award and execution, may be made when authorized by the Council, upon the written recommendation of the Manager.

(d) Progressive Payments

Any public works contract may provide for progressive payments. No contract for public works shall provide for or authorize or permit the payment of more than 90 percent of the total contract price before the completion of the total work to be done under said contract and the acceptance thereof by the proper official, department or the Council.

Section 8.03. Formal Bids

The advertisement for formal bids shall distinctly and specifically state the character of the City improvement, purchase, or kind of supplies, materials, equipment and services required. Such notice shall be published at least once in the official newspaper, not less than five days prior to the opening of bids. Bidding shall be by sealed proposals only, and under such regulations as may be prescribed by the Council. The Manager, with the approval of the Council, shall have the power to reject any and all bids, and to advertise for bids again.

Section 8.04. Transfer and Sale of Personal Property



The Manager may transfer to or between offices, departments and agencies of the City, or to other governmental entities, or may sell at public auction, any surplus or obsolete personal property, including, but not limited to, supplies, materials and equipment, subject to such regulations as the Council may prescribe.

#### Section 8.05. Transfer and Sale of Real Property

The Council may sell such portions of the real property of the City not needed or not likely to be needed within a reasonable future time. Each sale shall be made on such conditions as the Council may prescribe. When bids are required or requested, the Council shall have the right to reject any and all bids.

#### Section 8.06. Fraud and Collusion

Any member of the Council, or any officer or employee of the City who shall aid or assist a bidder in securing a contract to furnish labor, materials, equipment, supplies or services at a higher price than that proposed by any other bidder, or who shall favor one bidder over another by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the labor, material, equipment, supplies or services called for or the conditions under which the proposed work is to be done, or who shall knowingly accept materials, supplies or equipment of a quality inferior to those called for by any contract, or who shall knowingly certify to a greater amount of labor or service performed than has actually been performed or to receipt of a greater amount or different kind of material, supplies or equipment than has actually been received, shall, in addition to any criminal penalty, be removed from office.

#### Section 8.07. Avoidance of Contracts Made Through Fraud and Collusion

If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, the contract so awarded shall be null and void, and the Manager shall advertise for new bids for securing the purposes of the contract, or the Council may direct that the services to be provided by said contract shall be performed by the City under the direction of the Manager.

#### Section 8.08. Personal Interest

The provisions of the laws of this State relating to and defining conflicts of interest of all officers and employees of the City shall apply to and govern in all matters of conflict of interest.

## **ARTICLE IX. ELECTIONS**

### Section 9.01. Types of Elections

#### (a) Primary

Primary elections shall be held for the purposes of making nominations for the general election and electing officers hereinafter provided, and for other such purposes as the Council may prescribe.

#### (b) General

General elections shall be held for the purpose of electing officers of the City and for such other purposes as the Council may prescribe.

#### (c) Special

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special elections.

### Section 9.02. Application of State Law

The provisions of the laws of this State relating to and governing the nominations of elective officers and the conduct of elections, and each and every provision of said law, with all amendments thereto, shall apply and shall govern the nomination of elective officers and the conduct of elections, except as otherwise provided in this Charter or in ordinances adopted pursuant to this Charter. The Council shall have the power to make any additional provisions relating to the nominations of officers and to the conduct of elections not in conflict with or contrary to the provisions of the laws of this State or the provisions of the Charter.

### Section 9.03. Qualifications of Electors

The qualifications of electors shall be as required by the Constitution and laws of this State for State, County and City electors.

### Section 9.04. Qualifications of Candidates

Qualifications of candidates shall be as prescribed in Article II, Section 2.06. of this Charter.

#### Section 9.05. Arrangement of Names on Ballot

##### (a) Mayor

The names of the candidates for Mayor shall be arranged on the ballot, as provided by law, and nothing on the ballot shall be indicative of the source of the candidacy or the support of any candidate.

##### (b) Council Members

The names of the candidates for Council Members shall be arranged on the ballot, as provided by law, and nothing on the ballot shall be indicative of the source of the candidacy or the support of any candidate.

#### Section 9.06. Nomination for Primary Election

##### (a) Petition

Nominations for primary elections shall be by petition of nomination, which shall consist of a printed form or facsimile thereof, which shall be furnished to applicants by the Clerk.

##### (b) Mayor

The petition or petitions for nomination of Mayor shall contain the signatures of qualified voters, aggregating not less than five percent of the total number of electors voting at the last preceding municipal election for the office of Mayor.

##### (c) Council Members

The petition or petitions for nomination of a Council Member shall contain the signatures of qualified voters, aggregating not less than five percent of the total number of electors voting at the last preceding municipal election for the office of Mayor.

##### (d) Notice of Qualification

Nominating petitions shall be presented to the Clerk not less than 75 days nor more than 105 days before the date set for the primary election. The Clerk shall endorse on each petition the date and the time when the same was received, and shall determine that the signatures contained therein are sufficient prior to causing the qualified candidate's name to be printed on the ballot. Notice shall be given to the candidate within five days of receipt of the petition as to the qualification of said candidate.

## Section 9.07. Majority to Elect in Primary

### (a) Mayor

At the primary election, any candidate for Mayor who shall receive a majority of all the votes cast at such election shall be declared elected, and no further election shall be held as to said office.

### (b) Council Member

At the primary election, any candidate for Council Member who shall receive a majority of all the votes cast at such election shall be declared elected to the office for which he is a candidate, and no further election shall be held as to said office.

## Section 9.08. Nomination for General Election

### (a) Mayor

If in a primary election one candidate for Mayor does not receive a majority of the votes cast at large, then the two candidates with the highest number of votes will be considered nominated, and their names will appear on the ballot of the general election. In case of a tie for second place, that candidate with the highest number of votes and those tied for second place will appear on the ballot of the general election. These shall be the only candidates for Mayor in the general election.

### (b) Council Member

If in a primary election one or more candidates for Council Member do not receive a majority of all votes cast at such election, the candidates not elected at the primary election equal in number to twice the number of the offices remaining unfilled, and who received the highest number of votes for the offices at the primary election, shall be considered nominated for the remaining positions, and their names shall appear on the ballot of the general election. In the case of a tie among candidates who would have been entitled to become candidates for an office at the general election except for the fact that some other candidate received an equal number of votes therefor, all such candidates receiving said equal number of votes shall become candidates for such office.

## Section 9.09. Plurality to Elect in General Election

### (a) Mayor

The candidate for Mayor who shall receive the highest number of votes at the general election shall be declared elected.

(b) Council Member

At the general election, any candidate for Council Member who receives a plurality of all votes cast for that office shall be declared elected.

(c) Tie

In case of ties, the decision as to the winner shall be determined by lot.

Section 9.10. Time of Holding Primary Elections

Primary elections shall be held on dates that conform to State and Federal law.

Section 9.11. Time of Holding General Elections.

General elections shall be held on dates that conform to State and Federal law.

Section 9.12. Special Elections

The Mayor and Council shall provide the time, manner and means of holding any special election on dates that conform to State and Federal law.

Section 9.13. Canvassing Returns and Declaring of Election Results

Within seven (7) days after any election, the Mayor and Council shall canvass returns and declare the results of such election. The Clerk shall issue a certificate to each candidate elected to office at any election.

**ARTICLE X. INITIATIVE, REFERENDUM AND RECALL**

Section 10.01. Initiative, Referendum, Recall

There is hereby reserved to the electors of the City the powers of the initiative and referendum, and of the recall of the elective officers. The provisions of the Constitution and general laws of this State, as the same now exist or hereafter may be amended, governing the initiative and referendum, and the recall of elective officers shall apply to the use thereof in the City.

Section 10.02. Submission of Measures to Electors

The Mayor and Council may submit to the electors at any election any ordinance, referendum or measure that the Mayor and Council or the qualified electors of the City shall have authority to enact or submit to referendum in the same manner as is provided in this Charter for ordinances or measures submitted on petitions. At any special election called under the provisions of the Charter, there shall be no bar to the submission by the Council of other questions to a vote of the electors in addition to the ordinances or measures herein provided.

## **ARTICLE XI. MAGISTRATE COURT**

### Section 11.01. Establishment

The Council may establish in the City a Magistrate Court to be known as "The Magistrate Court of the City of Holbrook, County of Navajo, State of Arizona." The Council may, in lieu of establishing the City's own Magistrate Court, contract with another political subdivision for these court services.

### Section 11.02. Presiding Officer

The presiding officer of the Magistrate Court shall be the City Magistrate.

### Section 11.03. Judicial Selection

#### (a) Judicial Selection

The Council may establish a Judicial Selection Committee to suggest persons to serve as Magistrate.

#### (b) Appointment and Term of City Magistrate

The Magistrate shall be appointed by the Mayor, with the approval of the Council, for two years starting July 1st in each odd year, subject to removal for cause.

#### (c) Dissolution of Judicial Selection Committee

Each Judicial Selection Committee established under the terms of this section shall exist for the sole purpose of recommending to the Mayor and City Council persons to fill vacancies in the office of Magistrate. Immediately upon the filling of any such vacancy, each Judicial Selection Committee shall forthwith cease to exist.

### Section 11.04. Disposition of Fines, Penalties and Fees

All fines, penalties and fees collected by the Magistrate shall be paid to the properly designated officer authorized to receive them.

#### Section 11.05. Ordinances to Give Effect

The Council shall pass all necessary ordinances to give effect to the provisions of this Article not otherwise herein provided.

### **ARTICLE XII. FRANCHISE AND PUBLIC UTILITIES**

#### Section 12.01. Elections for Approval of Franchise

No franchise shall be granted, extended or renewed by the City without the approval of a majority of the qualified electors residing within its corporate limits voting thereon at a primary, general or special election. The Council shall submit any matter for approval or disapproval to such electors at any primary or general election, or call a special election for such purpose. The Council shall require, before calling any such election, that the estimated expense thereof, to be determined by the Council, shall be first deposited by the applicant for such franchise with the City Clerk. No franchise shall be granted, extended or renewed for a longer period than 25 years.

#### Section 12.02. Establishment of Municipally Owned and Operated Utilities

The City shall have the power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease or purchase any existing utility properties used or useful to public service. The City may also furnish service to adjacent and nearby territories which may be conveniently and economically served by the municipally owned and operated utility. The Council may provide by ordinance for the establishment of such utility, and provide for its regulation and control, and by resolution the fixing of rates to be charged. The Council may by ordinance or resolution, as appropriate, provide for the extension, enlargement or improvement of existing utilities, and provide reasonable reserves for such purpose.

#### Section 12.03. Voter approval for annexations

All annexations of real property into the City shall not be effective until approved by a majority of the qualified electors residing within its corporate limits voting thereon at the next primary, general or special election following adoption of an ordinance authorizing annexation.

## **ARTICLE XIII. PUBLIC RECORDS**

All records and accounts of every office, department or agency of the City shall be open for inspection by any citizen, any representative of a citizens' organization, or any representative of the media at all reasonable times and under such reasonable regulations established by the Council, except those records and documents which have been decreed as being exempt from such disclosure by State or Federal laws, or by a court of competent jurisdiction of the State of Arizona or the United States of America. In addition, a copy of all official City ordinances, resolutions, budgets, official planning documents and this Charter shall be placed in a clearly designated area of the Holbrook Public Library, and made available electronically as soon as practicable after publication.

## **ARTICLE XIV. GENERAL PROVISIONS**

### Section 14.01. Official Bonds

All elected and appointed officers and other such employees as the Council may require shall give bond in such surety and amount as may be ordained by the Council. The premiums for such bonds shall be paid by the City. Employee theft and dishonesty insurance may substitute for said bonds; costs to be paid for by the City.

### Section 14.02. Oath of Office

Every officer of the City, whether elected or appointed under the provisions of this Charter, or under any ordinance of the City, shall, before entering upon the duties of office, take and subscribe an oath of office in the form of the official oath required by the State Constitution.

### Section 14.03. Liability Insurance

The Council shall provide liability coverage for the City and its officers, agents, employees and members of boards and commissions while engaged in governmental or proprietary capacities.

### Section 14.04. Short Title

This Charter adopted by the people of the City of Holbrook shall be known and may be cited as the "Charter of the City of Holbrook, Arizona."



#### Section 14.05. Separability Clause

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any persons or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

#### Section 14.06. Violations of Charter and City Ordinances

The violation of any provisions of this Charter or any ordinance of the City shall be deemed a Class 1 misdemeanor and may be prosecuted by the authorities of the City in the name of the State of Arizona, or may be redressed by civil action at the option of the Council.

#### Section 14.07. Plenary and Implied Powers of the Council

The Council shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express, as well as the implied, powers granted in this Charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the City, and to protect and safeguard the rights, interests, safety, health and welfare of the City and its inhabitants.

### **ARTICLE XV. SUCCESSION IN GOVERNMENT**

#### Section 15.01. Rights of Officers and Employees Preserved

Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the City or of any office, department or agency existing at the time when this Charter takes effect or any provision of law in force at the time this Charter shall take effect and not inconsistent with the provisions of this Charter in relation to the personnel, appointment, rank, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of the City or any office, department or agency.

#### Section 15.02. Continuance of Present Officers

All persons holding administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have

been made in accordance therewith for the performance of such duties or the discontinuance of such office.

#### Section 15.03. Continuance of Present Offices, Departments or Agencies

##### (a) Conduct Business

Any office, department or agency provided for in this Charter to be named or with powers and duties the same or substantially the same as those heretofore existing, shall be deemed a continuation of such office, department or agency, and shall have powers to continue any business proceedings or other matters within the scope of the powers and duties prescribed by this Charter. Any office, department or agency not provided for in this Charter heretofore existing shall continue to exercise powers and duties as the same have been heretofore exercised, and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department or agency shall be changed or abolished by the Council as heretofore provided in this Charter.

##### (b) Powers and Duties

The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of this State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the Council, unless otherwise provided herein.

#### Section 15.04. Continuance of Appointive Boards and Commissions

All appointive boards, committees and commissions heretofore existing shall continue, and shall exercise such powers and duties as were granted them until such boards and commissions shall be changed or abolished by the Council as heretofore provided in this Charter.

#### Section 15.05. Transfer of Records and Property

All records, property and equipment whatsoever of any office, department or agency, or part thereof, all of the powers and duties of which are assigned to any other office, department or agency by this Charter or under its authority, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

#### Section 15.06. Continuance of Contracts

All contracts entered into by the City or for its benefit prior to the taking of effect of this Charter shall continue in full force and effect.

#### Section 15.07. Pending Actions and Proceedings

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect brought by or against the City or any office, department, agency or officer thereof.

#### Section 15.08. Ordinances to Remain in Force

All ordinances, resolutions and regulations of the City in force at the time this Charter takes effect and not inconsistent with the provisions hereof are hereby continued in force until the same shall be duly amended or repealed.

#### Section 15.09. Inauguration of Government Under This Charter

If a majority of the qualified electors of the City voting on the question, vote to ratify this Charter, the provisions of this Charter shall go into effect for all purposes immediately upon the approval of the Governor, as provided by the Constitution of this State.

### **ARTICLE XVI. AMENDMENTS**

#### Section 16.01. Method of Amendment

This Charter, or any part thereof, may be amended in the manner provided by the Constitution or laws of this State.

#### Section 16.02. Charter Review

The Mayor, with approval of the Council, may appoint a committee of seven (7) electors of the City to review this Charter for applicability and content to best serve the City of Holbrook and its citizens at least once every four (4) years. Elected City Officials, appointed City Department Heads and City employees are prohibited from serving on this Committee.

### **ARTICLE XVII. DEFINITIONS**

Section 17.01. City

Wherever the term "City" is used in this Charter, it shall mean and refer to the City of Holbrook, Arizona.

Section 17.02. Council

Wherever the term "Council" is used in this Charter, it shall mean and refer to the Mayor and Council Members of the City of Holbrook, Arizona.

Section 17.03. Manager

Wherever the term "Manager" is used in this Charter, it shall mean and refer to the City Manager of the City of Holbrook, Arizona.

Section 17.04. Clerk

Wherever the term "Clerk" is used in this Charter, it shall mean and refer to the City Clerk of the City of Holbrook, Arizona.

Section 17.05. Treasurer

Wherever the term "Treasurer" is used in this Charter, it shall mean and refer to the City Treasurer of the City of Holbrook, Arizona.

Section 17.06. State

Wherever the word "State" is used in this Charter, it shall mean and refer to the State of Arizona.

Section 17.07. Gender

Wherever the context of the Charter requires, words used in the masculine gender include the feminine and neuter.

Section 17.08. Number

The singular number includes the plural, and the plural, the singular.

Section 17.09. Person

The word "person" includes a corporation, company, partnership, association or society, as well as a natural person.

## APPENDIX

### CODE OF CONDUCT FOR ELECTED OFFICIALS AND ADVISORY BOARD MEMBERS CITY OF HOLBROOK, ARIZONA

#### **SECTION 1: The City of Holbrook Ethics Policy**

It is the policy of the City of Holbrook to uphold, promote and demand the highest standards of ethics from all of its officials, whether elected to the City Council or appointed to advisory boards. Accordingly, all members of City boards, commissions, committees and members of the City Council shall maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or authority improperly or for personal gain.

The City of Holbrook and its elected and appointed officials all share a commitment to ethical conduct and service to the City of Holbrook. This code has been created to ensure that all elected and appointed officials have clear guidelines for carrying out their responsibilities in their relationships with each other, with the staff, with the citizens of Holbrook, and with all other private and governmental entities.

#### **SECTION 2: City Council Relationships**

##### **A. Intra-Council Relationships**

The Mayor and City Council, hereinafter referred to as “the Council” have a Charter responsibility to set the policies for the City. In doing so, certain types of conduct are beneficial and certain types are destructive. The City Council is responsible to take the high road on Intra-Council conduct and treat other council members as they would like to be treated.

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office and have the obligation to preserve and protect the well being of the community and its citizens. In all cases, this common goal should be acknowledged and the Council must recognize that certain

behavior is counterproductive, while other behavior will lead to success. The following are examples of how the Council Members should relate to one another:

- Practice civility and decorum in discussion and debates.
- Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of an effective City Council. However, City Council Members who are belligerent, impertinent, slanderous, threatening, abusive, or who engage in personal or disparaging attacks on other Council members denigrate the process and preclude effective discussions and the successful resolution of issues.
- Every council member has the right to an individual opinion, which should be respected by the other Council Members. Council Members should assume the other members of the Council have the appropriate motives and interest of the public in mind and not criticize differing opinions because they believe them to be lacking in judgment or improperly motivated.
- An issue may be contentious without being hostile, degrading or defamatory.
- The Council should act as cooperatively as possible and may be required, from time to time, to modify to some extent their positions so that a decision can be reached. Compromise in a Council Member's position does not indicate dishonesty or lack of integrity, but does indicate a recognition of the realities involved in reaching a consensus or decision in the best interests of the community.

#### B. Council Action in the Public

The City Council Members are expected to demonstrate, not only publicly but privately, their honesty and integrity and be an example of appropriate and ethical conduct. A Council Member should not personally criticize other Council Members, nor impugn their integrity. Council Members should treat each other with respect when discussing council issues outside of Council meetings, and should convey to the public their respect and appreciation for other Council Members and their positions.

Council Members must ensure that in expressing their own opinions they do not mislead any listener into believing that their opinion is the opinion of the Council unless the Council has taken a vote on that issue and the Council Member's opinion is the same as the decision made by the Council. Likewise, no Council Member should state in writing that Council Member's position in a way that implies it is the position of the entire City Council. A City Council Member has the right to state a personal opinion, and has the right to indicate that he/she is stating such as a member of the Council, but must always clarify that he/she is not speaking on behalf of the City or the City Council unless authorized by the Council to do so.

#### C. Council Conduct with City Staff

Governance of the City relies on the cooperative efforts of elected officials who set policy and the City staff who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each

other for the good of the community. The following are examples of how the Council should relate to the staff:

- The Council Members should treat all staff as professionals. Clear, honest communication that respects the abilities, experience and dignity of each staff member is expected. Poor behavior or comments toward staff are not acceptable.
- Staff works within a chain of command under the ultimate direction of the City Manager. Since the City Manager is the principle administrator in the City, the City Council should generally direct questions and suggestions to the City Manager and allow the City Manager to assign out those tasks or responsibilities.
- When Council Members give specific direction to a staff member the Council Members may in fact be giving direction contrary to direction already given to the staff member by a superior, or may be giving direction to the staff member which the staff member knows to be ineffective or inappropriate. The Council should attempt to work through the City Manager for all communication with the staff and expect the City Manager to be responsive to the Council's needs, questions and comments.
- The City Council should never publicly criticize City employees from the City Manager through the front line staff members. Public criticism of City employees leads to poor morale of the City employees, undermines their effectiveness with the public and is detrimental to their performance and to the ability of the City Manager to administer the City and implement Council policy.
- If a City Council Member has a question regarding a matter that is on a City Council agenda, the City Council Member should contact the City Manager prior to the meeting and indicate the concern or question that the City Council Member has to the City Manager, so that the City Manager can either research the question and be prepared to provide an answer, or have a staff member research the question and be prepared to provide an answer.
- The City Council should not attempt to influence the decisions or opinions of City staff members on issues that may come before the City Council.
- Council Members should avoid attending City staff meetings unless they are requested by the City Manager to attend, and should also avoid attending advisory committee meetings because of the likelihood that the members of the committee will be affected by the Council Member's attendance.
- The City Council should avoid asking for information which will unduly burden the staff and, when asking for information, should go through the City Manager.
- The Council Members shall not exert any influence on the City Manager on issues relating to hiring, promotion, or discipline of City employees.
- Nothing herein shall be interpreted to be in conflict with the provisions of Section 3.07 of the Charter, which specifically provides that the Council and its members may deal with the administrative services of the City for the purpose of inquiry, investigation or report.

D. Council Conduct in City Council Meetings

The Mayor shall conduct all City Council Meetings. Council Members shall address all comments through the Mayor. Only the Mayor, no individual Council Members, may interrupt a speaker during a presentation. However, a Council Member may ask the Mayor for permission to question the speaker.

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council Members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public comments. The Council should listen to comments from the public and concerns raised by the public or disagreements voiced by the public. Council Members should also ask for clarification if they do not understand the comment.

However, the public should not be allowed to launch any personal attacks against any members of the Council during any public meeting, nor should Council Members disparage or insult members of the public during any Council meetings.

The Mayor shall maintain order in all City Council meetings and shall take reasonable steps to ensure compliance by the public, staff and Council Members. This may include an indication that a comment is out of order and a ruling by the Mayor that in the event such inappropriate comments continue the interrupting party may be ordered removed from the premises.

#### E. Sanctions

Council Member behavior and conduct in City Council meetings and outside City Council meetings is subject to sanctions set out in this Code of Conduct. The preceding section regarding the conduct of elected officials not only sets out principals and examples of proper conduct or improper conduct, but also constitutes enforceable guidelines, not merely suggestions.

All Council conduct in and out of Council meetings must be in compliance with the open meeting law (see Section 7 and Exhibit A).

If a Council Member intentionally violates the principles and guidelines set out herein, that Council member is subject to the sanctions set out in this code.

### **SECTION 3: Boards and Commissions**

In accordance with Section 2.07 of the Charter, the Mayor shall appoint volunteer members to various committees, board and commissions after due official notice to the public and with consent of the Council. These members can provide substantial contributions to the Council and to the welfare of the entire City.

Committee and commission members are encouraged to attend all meetings, be prepared for all discussions in those meetings, and to follow the same principles and guidelines that are set out in the preceding sections for Council Member conduct.

Commission and committee members are subject to the sanctions set out herein.



#### **SECTION 4: Ethics Policy and Conflict of Interest**

It is the policy of the City of Holbrook to uphold, promote and demand the highest standard of ethical behavior from its Mayor, members of its City Council and individuals appointed to serve on City boards and commissions. Honesty, integrity and fairness are hall marks of public service. Use of one's office or position for personal gain or inappropriate influence will not be tolerated and is prohibited.

All City officials shall obey and observe the letter and spirit of the Constitution of the United States, the Constitution of the State of Arizona and all federal, state and local laws, codes and ordinances, including this Code of Conduct. A listing of key public service ethics laws and other specific laws governing the conduct of public officials are listed in Exhibit A attached to this code. (Exhibit A is offered for reference only and is not intended to be an inclusive list of statutory obligations or limitations on Council conduct.)

As a prerequisite for exercising any power of office, each City official is required to read and agree in writing to comply with the provisions of applicable laws, regulations, policies and this Code of Conduct, as well as to participate annually in continuing education workshops regarding public service ethics and applicable state laws.

#### **SECTION 5: Conflicts of Interest**

A conflict of interest arises when a City official, a relative of that official, or an entity in which a City official has a substantial interest is actively engaged in an activity that involves the City's decision-making process. "Decision-making process" is broader than just voting, and includes, inter alia, being involved with any aspects of any decisions the City makes, including contracting, sales, purchases, permitting, zoning, transactions in City owned property, discussions and negotiations with various business interests, and relationships with other governmental entities.

When a conflict of interest arises, the City official involved must immediately refrain from participating in any manner in the City's decision-making processes relating to that issue. The City official should not participate in any discussions of the matter, nor vote on the matter. Likewise, the City official should not provide any opinion or suggest any conduct to be taken by any member of the City Council or any City employee, contractor or agent, officer, staff member, commission member or any other advisory group to the City when such a conflict involves the City official.

In addition, the City official shall declare the specific nature of the possible conflict by either stating on the record in a public session the nature of the conflict or by providing a written disclosure of the conflict to the City Attorney and the City Manager.

In situations where said official has questions about the applicability of this Code of Conduct or the provisions in other Arizona conflicts of interest laws or any other questions regarding a possible conflict, the City official may seek the advice of the City Attorney on whether a conflict of interest exists. City officials are also strongly encouraged to avoid involvement in

situations where conduct is not a technical conflict of interest, but where active participation might raise the perception of undue influence or impropriety.

All Council Members and members of City boards, commissions and committees shall complete and file with the City Clerk a Personal Interest Disclosure Form (a copy of which attached to this code as Exhibit B) prior to officially participating in a public meeting, and annually before January 31<sup>st</sup> of each year of service to the City.

#### **SECTION 6: Acceptance of Gifts or Other Consideration for Public Action**

City officials are prohibited from soliciting, receiving or accepting personal gifts of any kind from anyone who is engaged in a general practice or specific situation that involves the City's decision-making or permitting processes. The term "gifts of any kind" includes money, services, loans, travel, entertainment, hospitality including meals, promises of any future gifts, or anything of value that might be construed as an attempt to create a more favorable relationship than that enjoyed by any other citizen, including the purchase, sale or lease of any real or personal property by the City official, by the City official's relative or by any entity in which that official has a financial interest at a value below or above that available to the general public. Nor may the City official receive employment and/or services, contracts or direct or indirect benefits from any person or entity in exchange for any acts, conduct, or efforts made by the City official in the official's capacity, nor shall the City official allow any of that official's relatives or an entity in which the official or relative has a financial interest to be so benefited.

#### **SECTION 7: Open Government**

The citizens of Holbrook expect and deserve open government. Arizona has an official public policy "that meetings of public bodies be conducted openly," and that any doubt should always be resolved "in favor of public meetings".

Therefore, City officials shall conduct themselves in a manner that fully adheres to and preferably exceeds state laws concerning open meetings and transparency of actions. City officials are encouraged to employ a "mindset of openness" in conducting the affairs of the City and should be cautious before voting to hold a portion of a meeting in executive session. If a matter can be discussed in open session without damage to the public interest, public officials are encouraged to do so. Moreover, City officials are reminded that any attempt to circumvent the open meeting law, such as by using electronic technology, a "hub and spoke" scheme, or any other technique involving less than a quorum designed to communicate with the quorum of a public body will violate the open meeting law and is prohibited. City officials are reminded that any time a quorum of a public body is present in one location, or is in communication by telephone, e-mail, or by other means, and either propose, discuss, consider or vote on any City issue, that such conduct constitutes a violation of the open meeting law and is prohibited.

Please note that the Arizona Open Meeting Law (see Exhibit A) prohibits a discussion in a meeting on any item which is not listed on the agenda unless it is reasonably related to an item listed on the agenda. "Reasonably related" requires that reasonable members of the public would or should expect such "reasonably related items" to be discussed under the published agenda item.

This ensures that members of the public will have adequate notice of the possible discussion so that they can decide whether they wish to attend the meeting in question.

The City Attorney is directed to vigorously promote and enforce state laws regulating open meetings, and be assertive in ensuring strict adherence to those laws reflecting the City's "mindset of openness".

During a person's employment or service with the City, and for two years thereafter, no member of a City board, commission, committee, or of the City Council may disclose or use confidential information without appropriate authorization. "Confidential information" includes certain economic development information and other non-public information that may affect the City's economic interests.

## **SECTION 8: Preservation of Public Records**

Consistent with the Arizona Public Records laws, written communications between public officials and private citizens, or between public officials and other public officials on matters involving the affairs of the City are considered public documents. Such written communications shall be preserved in compliance with the City's document retention policy and made available for review upon request.

"Written communications", as used above, includes City related documents, memos and e-mail messages and attachments originating from or received by elected or appointed officials on any publicly or privately owned equipment at City Hall, at the City official's place of employment, private residence or at remote locations. Destruction of such communications prior to expiration of the time period specified in the City's document retention policy is prohibited.

## **SECTION 9: Enforcement of this Code of Conduct**

### **A. Filing of Complaints**

Any person who believes a City official, in his/her official capacity, has violated a requirement or prohibition or guideline set out herein, or any other federal, state or local law may file a sworn complaint with the City Attorney identifying 1) the complainant's name, address and telephone number; 2) the name and position of the City official who is the subject of the complaint; 3) the nature of the alleged violation, including the specific provision of this code or law allegedly violated, and 4) a statement of facts constituting the alleged violation and the dates on which, or period of time during which the alleged violation occurred.

Attached to the complaint the person making the complaint shall provide all documents or other materials in the complainant's possession that are relevant to the allegation, a list of all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and a list of witnesses, what they may know, and information to contact those witnesses.

The complaint shall include an affidavit at the end of the complaint stating that the “information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged are true and correct and that they constitute a violation of the ethics code, guidelines set out therein, or federal, state or local law or ordinance.” If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public, or before the City Clerk. The notary public or City Clerk shall verify the signature.

B. Time for Filing

A complaint under this code must be filed no later than one year from the date of discovery of the alleged violation. However, anyone having information on which a complaint is based is encouraged to file the complaint as soon as the information is obtained so that immediate action may be taken by the Council or the appropriate staff member or agency. The delay in filing a complaint may be considered in determining the sanction to be imposed.

C. False or Frivolous Complaints

A person who knowingly makes a false, misleading or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and possible civil liability. If, after reviewing an ethics complaint, it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided under penalty of perjury, the City Attorney may refer the matter to the appropriate law enforcement authority for possible prosecution. A City official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

D. Complaints Against Members of Boards, Commissions, Committees, Task Forces or other Appointed Advisory Groups.

1. Initial Screening of Complaints - The City Attorney shall review each complaint filed alleging a violation by a member of a City board, commission, committee, task force or other appointed advisory group, and within 15 business days either 1) return it for being incomplete; 2) dismiss it if the complaint, on its face, fails to state allegations that if true would violate a mandatory requirement or prohibition of this code, 3) dismiss it as being without merit and refer it to the appropriate authorities for action against the complainant if the City Attorney determines that the complaint was false, misleading, frivolous or unsubstantiated, 4) refer alleged violations of Arizona or federal laws to an appropriate law enforcement agency if the complaint states, on its face, allegations that, if true, would constitute a violation of Arizona or federal law, or, 5) if the complaint states, on its face, allegations that, if true, would constitute a violation of a mandatory requirement or prohibition of this code, take action as set forth below.

2. Investigation of Complaint - After completion of the initial review of the complaint as set out above, the City Attorney shall investigate the allegations and within thirty days

submit to the Council, complainant, the official who is the subject of the complaint, and the City Clerk a report with findings of fact, conclusions of law and a recommendation. The City Council shall consider the City Attorney's report at a public meeting. Upon review of the report and following a discussion, if the City Council, by motion, concludes that there is a violation of this Code, the City Council may remove the member from the City board, commission, committee, task force or other appointed advisory group. In resolving the complaint, the totality of the circumstances shall be taken into consideration, including the intent of the person accused of the wrong-doing.

3. Complaint and City Attorney Report are Public Records - On the same day the City Attorney notifies a complainant of the action taken on a complaint as set forth herein, and on the same day the City Attorney issues a report to the City Council regarding a complaint against a member of a City board, commission, committee, task force or other appointed advisory group, or on the same day that the City Attorney refers a matter to an independent reviewer, the City Attorney shall issue a report to the City Council regarding the complaint and provide copies of the complaint and all supporting documentation to the City Clerk to be made a public record.

E. Complaints Against the Mayor and Members of the City Council.

1. Investigator Appointment - The City shall use independent, non-city personnel to handle complaints lodged against the Mayor and members of the City Council. The independent non-city investigator shall be appointed by the City Attorney.

2. Investigator Initial Action - The City Attorney shall immediately transfer any complaint filed against the Mayor or a member of the City Council to the City's independent investigator who will conduct the initial screening of the complaint and, within 15 business days, absent an extension granted by the City Council shall issue a report, including findings of fact and conclusions of law and recommend that the City Attorney handle the complaint in one of the following ways:

- a) Return the complaint to the complainant because it is not complete;
- b) Dismiss the complaint if, on its face, it fails to state allegations which, if true, would violate a prohibition or guideline as set out in this Code of Conduct;
- c) Dismiss the complaint for lack of merit and refer the complaint to the appropriate authorities for action against the complainant, if the independent investigator determines the complaint was false, misleading, frivolous, or unsubstantiated; or
- d) Refer any alleged violations of Arizona or Federal laws to an appropriate law enforcement agency if the complaint, on its face, states allegations which, if true, would constitute a violation of Arizona or Federal law.

Upon taking any of the above actions, the City Attorney shall submit a copy of the investigator's report to the official who is the subject of the complaint, unless, in the discretion of the City Attorney, to do so will impede a possible investigation of an alleged violation of Arizona or Federal law.

3. Investigation - If the complaint appears valid on its face, the investigator shall conduct such investigation as he/she deems appropriate to determine the accuracy/truthfulness of the allegations made, and if such allegations violate any provision of this code or State or Federal law. The independent investigator may request the assistance of the City Attorney in such investigation. The investigator shall then submit findings of fact and conclusions of law to the City Attorney and the City Council.

4. Appointment of Hearing Officer and Presenting Attorney - If the investigator concludes that this code has been violated or that a violation of City, state or federal law has occurred, the City Attorney shall appoint a hearing officer to conduct a hearing on the matter. The City Attorney shall also designate an outside attorney to present the matter to the Hearing Officer on behalf of the complainant.

5. Rules of Procedure - The City Council will adopt written rules of procedure to govern the hearing process, including the right of a City official against whom a complaint has been lodged to respond to the complaint, attend any hearing, present witnesses and offer evidence, and be represented by counsel at his or her own expense.

The hearing officer shall conduct the hearing in accordance with the rules of procedure adopted by the Council. After completion of the hearing, the hearing officer shall make findings of fact and conclusions of law and transmit the same to the Council for a determination of the sanction/s to be imposed. The Council shall accept the findings and conclusions of the hearing officer as true and correct, but shall have the discretion to determine the appropriate sanction/s to be imposed. If the City official against whom the complaint was filed is exonerated by the hearing officer, the City may, in the discretion of the Council, pay part or all of the reasonable attorney's fees and costs incurred by the City official in his/her defense.

6. Penalties and Sanctions Policy - It is the intent of the City Council to educate and when necessary, discipline Council Members and members of boards and commissions appointed by the Council who violate this Code of Conduct. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that the progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrong-doing.

7. Possible Penalties and Sanctions - The City Council shall determine the appropriate penalty or sanction for violations of this Code of Conduct. Possible sanctions may include an informal censure by the Council, which would only be made as part of a motion in a public meeting; a formal censure by the Council, which would be made by motion in a public meeting and then published in the City newspaper. The Council may also vote to impose a dollar fine on the Council Member, up to \$500.00. The Council may also vote to prohibit a Council Member's participation on the Council for a specified

number of days or may vote to remove a Council Member from office in the event of the most serious violations of this code. The imposition of any of these penalties or sanctions will require five affirmative votes of the Council.

