

Title 1

GENERAL PROVISIONS

Chapters:

1.04 Manner in Which Ordinances Shall Be Passed

1.08 Boundaries of Wards

1.12 Social Security System

1.16 Repealing of Ordinances

1.00 REVISING, CODIFYING AND COMPILING THE GENERAL ORDINANCES OF THE CITY, PROVIDING FOR PERPETUAL CODIFICATION: AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

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PROCEDURE FOR PASSING ORDINANCES AFTER THE CODE IS ADOPTED

This code has been designed to permit logical expansion without requiring recodification or renumbering. To preserve the code's continuity and usefulness, we recommend that the procedure set forth below be followed before a new ordinance is adopted.

FIRST, before drafting the ordinance, determine whether the same or similar provisions are presently in the code. The index should be useful in making this determination.

SECOND, compare any similar code provision with those considered for the new ordinance and determine whether the present code provision is sufficient, needs to be amended or is to be repealed.

THIRD, if the existing code section need only be amended, the ordinance should simply expressly amend the code sections as follows:

"Section 5.10.032 is hereby amended to read as follows:"
or

"Sections 5.10.032 and 7.08.040 are hereby amended to read as follows:"

"Section 5.10.032 . . ."

"Section 7.08.040 . . ."

Chapters and Titles may be amended in a similar manner.

Important: Do not use the words "Chapter X is hereby repealed and re-enacted as follows," unless the intent is to simply repeal the material and use the chapter number again for entirely new material. When such words are used the City Clerk will rewrite the history note eliminating any reference to the old ordinance.

FOURTH, if the prior code provision is to be totally replaced by the new ordinance, the new ordinance should specifically repeal the prior code section by simply stating, "Section 5.10.032 is hereby repealed."

FIFTH, if new sections are to be added to the code, determine whether such sections would best fit within an existing chapter and title or whether they should be codified as a new title or chapter. In each case, the expandable decimal numbering system used in this volume reserves title, chapter and section numbers for expansion. If there is any question as to the proper placement of a new provision, no reference to code section number should be made. The City Clerk will place the ordinance when the next supplement is prepared. The following language is sufficient to locate the new ordinance in the code:

"There is hereby added to the Municipal Code of _____,
Section 5.32.033 which is to read as follows:

CHAPTER 1.00

REVISING, CODIFYING AND COMPILING THE GENERAL ORDINANCES OF THE CITY,
PROVIDING FOR PERPETUAL CODIFICATION: AND REPEALING ALL ORDINANCES IN
CONFLICT HEREWITH.

SECTION:

- 1.00.010 Providing for adoption of code book
- 1.00.020 Providing for type of binding and services to code
- 1.00.030 Providing for official copy at Clerk's Office
- 1.00.040 Providing for repeal of conflicting ordinances
- 1.00.050 Providing for codes to go into effect

1.00.010 PROVIDING FOR ADOPTION OF CODE BOOK. That all ordinances of a general nature in force in the City of Harlowton, Montana as revised, codified, and compiled and hereinafter set forth, be and they are hereby adopted, passed, published and declared to be the compiled ordinances of the City of Harlowton, Montana and that said compiled ordinances shall be referred to and cited as the "City Code of Harlowton, 1977".

1.00.020 PROVIDING FOR TYPE OF BINDING AND SERVICES TO CODE. There is hereby adopted as a method of perpetual codification, the loose leaf type of binding, together with a continuous supplemental service, whereby each newly adopted ordinance of a general nature amending, altering, adding to, or deleting provisions of the Municipal Code, is identified by the proper catch line and is inserted in the proper place in each of the official copies. Each such insertion shall be made within thirty (30) days following the date of adoption by the council.

1.00.030 PROVIDING FOR OFFICIAL COPY AT CLERK'S OFFICE. That at least one (1) official copy of said official Municipal Code of the City of Harlowton, Montana shall be at all times on file and available for inspection in the office of the City Clerk.

1.00.040 PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES. All ordinances in conflict herewith, are hereby repealed as set forth in Title I, Chapter 1.04, herein.

1.00.050 PROVIDING FOR CODES TO GO INTO EFFECT. That this ordinance and all said ordinances of a general nature compiled and codified as above stated, shall be in full force and effect thirty (30) days after the passage and approval of this ordinance.

PASSED, APPROVED AND ADOPTED THIS 19TH DAY OF JANUARY, 1978, THE COUNCIL
VOTING AS FOLLOWS: ALL AYES.

CHAPTER 1.00

REVISING, COPYING AND COMPILING THE GENERAL ORDINANCES OF THE CITY,
PROVIDING FOR PERPETUAL CODIFICATION: AND REPEALING ALL ORDINANCES IN
CONFLICT HEREWITH.

SECTION:

- 1.00.010 Providing for adoption of code book
- 1.00.020 Providing for type of binding and services to code
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1.00.050 PROVIDING FOR CODES TO GO INTO EFFECT. That this ordinance and all said ordinances of a general nature compiled and codified as above stated, shall be in full force and effect thirty (30) days after the passage and approval of this ordinance.

PASSED, APPROVED AND ADDED THIS 19TH DAY OF JANUARY, 1978, THE COUNCIL VOTING AS FOLLOWS: ALL AYES.

Chapter 1.04

MANNER IN WHICH ORDINANCE SHALL BE PASSED

Sections:

- 1.04.010 Style of Ordinance
- 1.04.020 Recording Ordinance
- 1.04.030 Ordinance in Effect
- 1.04.040 Ordinance Adopted by Initiative
- 1.04.050 Publication of Ordinance
- 1.04.060 Ordinance Numbered in Order
- 1.04.070 Special Privileges
- 1.04.080 Passing Ordinance by Council
- 1.04.090 Title of Ordinance
- 1.04.100 Ordinance Vetoed by Mayor
- 1.04.110 Ordinance Repealed or Modified

1.04.010 Style of Ordinance. The style of the ordinances of the City of Harlowton shall be "Be it Ordained by the City Council of the City of Harlowton", and all ordinances shall be signed by the mayor or presiding officer of the council and attested by the city clerk under the seal of the City.

1.04.020 Recording Ordinance. All ordinances hereafter passed by the city council shall be recorded in a book kept for that purpose and known as the "Book of Ordinances of the City of Harlowton", by the city clerk of the City of Harlowton. The original shall be filed and kept in the office of the city clerk.

1.04.030 Ordinance in Effect. No ordinance or resolution passed by the council shall become effective until thirty days after its passage, except general appropriation ordinances providing for the ordinary and current expenses of the city; excepting also emergency measures and in case of emergency measures the emergency must be expressed in the preamble or in the body of the measure, and the measure must receive two-thirds vote of all members elected. In emergency ordinances the resolution shall include only such measures as are immediately necessary for the preservation of the peace, health and safety, and shall not include, franchise or license to a corporation or individual, nor any lease or letting of any property for a period exceeding one year, nor the purchase or sale of personal property exceeding four thousand dollars in value.

1.04.040 Ordinance Adopted by Initiative. Ordinances adopted by initiative shall likewise be recorded in said book of ordinances, and the original filed with the clerk in the same manner as any ordinance passed by the council; and a referendum vote, if any be had, upon ordinances or resolutions passed by the city council shall be certified by the city clerk and attached to said ordinance and incorporated in the record thereof.

1.04.050 Publication of Ordinance. Ordinances of a general nature and those imposing any fine, penalty or forfeiture may be published two consecutive times in one newspaper published within the limits of the city; or written copies of such ordinances may be posted in not less than three conspicuous places, one of such being at the front door of the Fire Hall of said city, and all within the limits of said city as the council may direct. Provided that the city clerk shall attach at the expiration of each term of posting and at the end of the ordinances as recorded in the book of ordinances, his certificate as to the fact of publishing or posting said ordinance as provided herein.

1.04.060 Ordinance Numbered in Order. All ordinances hereafter passed shall be designated as "Ordinance No. _____", provided, that a mere omission to comply with this section shall not invalidate any ordinance.

1.04.070 Special Privileges. All ordinances, resolutions or other acts of the city council of the City of Harlowton, hereafter to be passed, adopted or done, whereby special privileges or immunities shall be granted to or conferred upon any person or persons or contracts made with them, shall unless the contrary be expressed, shall be taken to be made and accepted with reference to these provisions and all right which it declares and reserves to the city.

1.04.080 Passing Ordinance by Council. No ordinance shall be passed or tax assessed or levied without the consent of a majority of the whole of the council; and no ordinance shall be passed except at a regular or adjourned meeting of the council, unless two-thirds of the whole council vote in favor thereof, nor shall any ordinance be passed at the same meeting at which it is introduced unless two-thirds of the members present vote in favor of the passage of the same; and in all cases the question of the passage of an ordinance shall be taken by the "yeas" and "nays" and entered upon the record.



1.04.090 Title or Ordinance. All ordinances hereafter passed by the city council shall have a title indicative of the nature and subject thereof, and no ordinance shall be passed containing more than one subject, which shall be clearly expressed in its title, except ordinances for the codification and revision of ordinances.

1.04.100 Ordinance Vetoed by Mayor. Any ordinance vetoed by the mayor may be passed over the veto by a two-thirds vote of the whole number of councilpersons elected, and shall thereupon take effect notwithstanding the veto; and shall the mayor neglect or refuse to sign any ordinance, or return the same with his objections in writing at the next regular meeting of the council, the same shall take effect without his signature.

1.04.110 Ordinance Repealed or Modified. Whenever any ordinance or part of any ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the repealing ordinance shall go into effect, or until such time as may be especially designated in said repealing ordinance.

Chapter 1.08

BOUNDARIES OF WARDS

Sections:

1.08.010 City Wards - Boundaries

1.08.010 City Wards - Boundaries. That in order to equalize the representation of the City Wards to the Harlowton city council, the three wards of the City of Harlowton shall be defined by boundaries as follows:

WARD ONE (1): All of the platted territory within the Harlowton city limits, beginning at the northwest corner of Lot 7, Block 14 of the Graves Third Addition to the City of Harlowton on Second Street N.W. (U.S. intersection of Second Street and Central Avenue; thence in a southerly direction on Central Avenue to the north boundary of Lot 9, Block 2 of Milwaukee First Addition to the City of Harlowton; thence in an easterly direction along the north boundary of Lots 9 and 1 of Block 2 of the Milwaukee First Addition to the City of Harlowton to A- Avenue S.E.; thence in a northerly direction to the intersection of A- Place and 1st Street S.E.; thence in an easterly direction along 1st Street S.E. to F Avenue S.E.; thence in a southerly direction to 3rd Street S.E.; thence in a westerly direction on 3rd Street S.E. to the easterly city limits; thence in a northerly direction along the westerly city limits to the point of beginning on Second Street N.W. (U.S. Highway No. 12).

WARD TWO (2): All of the platted territory within the Harlowton city limits beginning at the intersection of Second Street N.E. (U.S. Highway No. 12) and Central Avenue; thence in a southerly direction on Central Avenue to the south boundary of Lot 8, Block 28 of Graves Second Addition to the City of Harlowton; thence in an easterly direction along the south boundary of Lots 8 and 9 of Block 28 of the said Graves Second Addition to A Avenue S.E.; thence northerly to First Street S.E.; thence easterly along First Street S.E. to the easternmost City of Harlowton; thence northerly along the east city limits to the North city limits; thence westerly along the north city limits to the western boundary of the Van Cleve Addition to the City of Harlowton, Montana; thence southerly along the west boundary of the Van Cleve Addition to U.S. Highway No. 12; thence westerly along the southern boundary of the U.S. 12 right of way to the intersection of U.S. Highway No. 12 and Central Avenue, the place of beginning.

WARD THREE (3): All of the territory within the City Limits of the City of Harlowton, lying north of the present U.S. Highway No. 12 with the exception of the Van Cleve Addition to the City of Harlowton, Montana, and all of the Brown Addition and Blocks 7 and 8 of Riverview First Addition and Blocks 8,9,10,11,12,13 and Lots 1,2,3,4,5, and 6 of Block 14 of Graves Third Addition to the City of Harlowton, Montana.

EXHIBIT A TO ORDINANCE NO. 1.08

WARD ONE (1):

GRAVES THIRD ADDITION:

Block 14;

Lots 7,8,9,10,11,12,13,14,15,16,17,18,19, and 20

All of Block 15

All of Block 16

VIEW ADDITION:

All

GRAND VIEW ADDITION

All of Blocks 1, 3, and 3

MILWAUKEE FIRST ADDITION: A11

MILWAUKEE SECOND ADDITION: A11

WARD TWO (2):

GRAND VIEW ADDITION:

All of Blocks 4 and 5

GRAVES SECOND ADDITION: A11, except Blocks 1,2,3,4 and 5

VAN CLEVE ADDITION: A11

WARD THREE (3)

GRAVES SECOND ADDITION:

Blocks 1,2,3,4 and 5

GRAVES THIRD ADDITION:

Blocks 1,2,3,4,5,6,7,8,9,10,11,12,13, and
Lots 1,2,3,4,5, and 6 of Block 14.'

ORIGINAL TOWNSITE: A11

PARK ADDITION: A11

FAIRVIEW ADDITION: A11

RIVERVIEW FIRST ADDITION: A11

BROWN ADDITION: A11

RIVERVIEW SECOND ADDITION: A11

TUCKER SECOND ADDITION: A11

TUCKER THIRD ADDITON: A11

Chapter 1.10

MUNICIPAL INFRACTION

Sections:

- 1.10.010 Definitions.
- 1.10.020 Civil Citations. Service and Requirements
- 1.10.030. Court Proceedings
- 1.10.040 Penalties
- 1.10.050 Appeals
- 1.10.060 Issuance of Civil Complaint Not Grounds for Further Legal Action

- 1.10.070 Environmental Actions

1.10.010 Definitions.

A. "Municipal Infraction" means any violation of the Harlowton Municipal Code which has been specifically declared to be a Municipal Infraction under provisions of the Harlowton Municipal Code.

B. "Officer" means any employee or official authorized to enforce provisions of the Harlowton Municipal Code or Harlowton Municipal Regulation.

C. "Repeat Violation" means a recurring violation for the same section of the Harlowton Municipal Code. Each day that a violation occurs or is permitted to exist constitutes a separate and distinct infraction.

1.10.020 Civil Citations. Service and Requirements.

A. The City Attorney will prepare a civil complaint which will be served upon a person who commits a municipal infraction once it is filed in the City Court. A copy of the civil complaint may be served on the defendant by anyone of the following methods:

1. Personal Service;
2. By certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested; or,
3. By publication, in the manner described in Rule 4D(5) of the Montana Rules of Civil Procedure.

B. The original complaint will be filed with the City of Harlowton City Court.

C. The complaint will serve as notification that a municipal infraction has been committed and will contain the following information:

1. The name and address of the defendant;
2. The name or description of the infraction attested to by the Harlowton City Council,
3. The location and time of the infraction;
4. The amount of the civil penalty to be assessed or the alternative relief sought, or both;
5. The manner, location and time in which the penalty may be paid;
6. The time and place of court appearance; and,
7. The penalty for failure to appear in court.

1.10.030. Court Proceedings.

A. If the total amount of civil penalties do not exceed three thousand dollars (\$3,000.00), the matter will be tried before the City Court Judge in the same manner as a small claim. If the total amount of civil penalties assessed exceeds three thousand dollars (\$3,000.00), the matter must be tried before a District Court Judge.

B. The City has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof must be by clear and convincing evidence.

C. The Court will ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the City and produce evidence or witnesses on the defendant's behalf.

D. The defendant may be represented by counsel of the defendant's own choosing and at the defendant's own expense.

E. The defendant may answer by admitting or denying the infraction.

F. If a municipal infraction is proven, the Court shall enter judgment against the defendant. If the infraction is not proven, the Court will dismiss the charges.

G. If the person named in the citation is shown to have been served with the civil complaint in the proper manner and, without good cause, fails to appear in response to the complaint, judgment shall be entered against the person by the Court.

1.10.040 Penalties.

- A. A violation of a municipal infraction is a civil offense and punishable by a civil penalty.
- B. For a first violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.
- C. For each repeat violation, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed.
- D. If there is a specific Harlowton Municipal Code provision that provides for a specific penalty, the specific Harlowton Municipal Code provision shall apply provided the penalty does not exceed the civil penalties provided by this section.
- E. Any statutory surcharges required by State Law or Harlowton Municipal Code must be imposed in addition to the civil penalty.
- F. All Penalties and forfeiture collected by the Court for municipal infractions shall be remitted to the City in the same manner as fines and forfeitures collected for criminal offenses.
- G. The defendant against whom judgment is entered shall pay court costs and fees as in small claims court under Title 25, Chapter 35 of the Montana Code Annotated in addition to the penalties imposed by the Court.
- H. In addition to the imposition of civil penalties authorized by law against a defendant, the City may seek alternative relief from the Court in the same action.
Alternative relief may consist of any of the following:
1. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court;
 2. Order the defendant to abate or cease the violation;
 3. Authorize the City to abate or correct the violation; or,
 4. Order the City costs for abatement or correction of the violation be entered as a judgment against the defendant or assessed against the property where the violation occurred, or both.
1. The City Court may assess or enter judgment for costs of abatement or correction in any amount not to exceed the jurisdictional amount for a money judgment in a civil action under Section 3-11-103, MCA. If the City seeks abatement or correction costs in excess of this amount, the matter shall be referred to District Court for hearing and entry of an appropriate order.

J. A defendant who willfully violates the terms of an order imposed by the Court is guilty of contempt.

.1.10.050 Appeals.

A. The defendant or the City may file a motion for a new trial or may appeal the decision to District Court.

B. A factual determination made by the trial court, supported by substantial evidence as shown on the record, is binding for purposes of appeal relating to the violation at issue, but is not admissible or binding as to any future violations for the same or similar ordinance provision by the same defendant.

.1.10.060 Issuance of Civil Complaint Not Grounds for Further Legal Action.

Except for willful or wanton misconduct on the part of the City, the issuance of a civil complaint for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

.1.10.070 Environmental Actions.

An action brought by the City for an environmental violation does not preclude, and is in addition to, any other enforcement action that may be brought under state law.



Chapter 1.12

SOCIAL SECURITY SYSTEM

Sections:

1.12.010 Extension of Social Security System

1.12.010 Extension of Social Security System. Be it ordained by the city council of Harlowton that it is the considered opinion of this body that the extension of the Social Security System to employees and officers of the City of Harlowton, will be of great benefit, not only to the employees of the city by providing that said employees and officers may participate in the provisions of the Old-Age and Survivors Insurance System, and will also be of great benefit to the City of Harlowton by enabling it to attract and retain in employment the best personnel and thus increase the efficiency of its government.

The City of Harlowton, is hereby authorized to execute and deliver to the State of Montana, a plan or plans, and agreement, required under Section 3 of said Enabling Act of the Social Security Act, to extend coverage to employees and officers of the city of Harlowton and do all other things necessary to effectuate coverage of employees and officers under the Old-Age and Survivors Insurance System.

The clerk is hereby authorized to establish a system of payroll deductions to be matched by payments by the City of Harlowton, to be made into the Contribution Fund of the Social Security Act through the State Board of Equalization, and to make charges of this contribution to the fund, or funds, from which wage or salary payments are issued to employees of the City of Harlowton. Such payments are to be in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of that act. Payments made to the State of Montana, shall be due and payable on or before the 18th day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of 1/2 of 1 per cent per month until such time as payments are made.

Appropriation is hereby made from the proper fund, or funds of the City of Harlowton in the necessary amount to pay into the contribution fund as provided in Section 5, of the Enabling Act and in accordance with the plan or plans and agreement. Authority is given to the mayor and the clerk of the City of Harlowton, to enter into an agreement with the State of Montana, which agreement shall be in accordance with the Social Security Act. Such plan and agreement shall provide that the participation of this City of Harlowton shall be in effect as of January 1, 1954.



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Chapter 1.16

REPEALING OF ORDINANCES

Sections:

- 1.16.010 Repeal
- 1.16.020 Effect of Code on Past Actions and Obligations
- 1.16.030 Severability
- 1.16.040 Acceptance

1.16.010 Repeal. All general ordinances of the city passed prior to the adoption of this city code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal subject to the saving clause contained in section 030.

1.16.020 Effect of Code on Past Actions and Obligations. Neither the adoption of this code nor the consequent repeal or amendment of any ordinance or part or portion of any ordinance of the municipality shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty due and unpaid under such ordinance, or affect the validity of any bond or cash deposit required to be posted, filed, or deposited pursuant to any such ordinance.

The repeal provided for in section 010, shall not affect any ordinance or resolution promising or guaranteeing the payment of money to or by the municipality or authorizing the issuance of any bonds of the municipality or any evidence of the municipality's indebtedness, or any contract or obligation assumed by the municipality. Such repeal shall not affect the annual tax levy; nor shall it affect any right or franchise conferred by ordinance or resolution on any person or corporation; nor shall it affect any ordinance relating to the salaries of the municipal officers and employees.

1.16.030 Severability. If any section, subsection, sentence, clause, phrase, portion or part of this code is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase, part or portion thereof, whether or not any one or more sections, subsections,



clauses, phrases, parts or portions be declared invalid or unconstitutional.

1.16.040 Acceptance. This Municipal Code of the City of Harlowton, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of a general and permanent effect of the City.

