

## Chapter 2.32

### CITY JUDGE

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2.32.000 Appointment of Judge. The city no longer desires to take advantage of MCA Section 3-11-205 allowing a city to appoint the County Justice of the Peace to act as the City Judge, and wishes instead to appoint it's own City Judge as per 7-3-4254 and 7-4-4102 MCA.

The city shall from this time forward appoint it's own City Judge and shall be fully responsible for the full salary and training expenses of that judge.

2.32.010 Oath of Office and Bond. The city judge shall, before entering upon the duties of his office and within ten (10) days after receiving notice of his election, take oath required by law and file the same with the city clerk, together with a bond in the penal sum of one thousand dollars (\$1,000.00) with surety or sureties to the satisfaction of the city council and in conformity with law conditioned as required by law and the ordinances of the city.

2.32.020 City Court. He shall hold a city court, which shall be open at all times from 9 o'clock am to 5 o'clock pm, except on Sundays and Legal Holidays for the trial of causes arising under the city or ordinances or laws of the state. He shall keep a "Docket", to be furnished by the city clerk in which he shall enter in continuous order a record of his proceedings in each case commenced before him giving names of parties, nature of complaint, the process issued, the appearances, the plea, adjournment, the trial, verdict and judgment, payment of fines, the commitment, the appeal (if any) and all such other facts and proceedings to set forth a full history of each cause.



2.32.030 Penal Actions. Penal actions for the violation of any ordinance of the city may be commenced by either of the following methods:

FIRST: Whenever the act complained of was committed in view of the city judge he may direct any police officer to arrest and bring such person before him forthwith without a warrant.

SECOND: By complaint which shall be subscribed and sworn to by the person making the same, and which shall contain the name of the party accused, if his name be known; if not known, he may be designated as John Doe, whose real name is unknown to the complainant; also a brief statement of the acts constituting the offense and time and place of its commission as near as may be possible, substantially as required for a criminal complaint under the laws of the State of Montana.

2.32.040 Warrant Upon Complaint. Upon the filing of the complaint the city judge may, at his discretion issue a warrant which shall run in the name of the City of Harlowton, directed to the chief of police or any police officer of the city, and the officer receiving such warrant must serve the same by taking the defendant into custody and bringing him before the city judge forthwith. Such warrant shall briefly describe the offense charged. The officer serving a warrant shall make due return of the same. If any officer shall have arrested a person without a warrant, he shall file with the city judge a complaint against such person charging him with the offense for which he was arrested.

2.32.050 Person Arrested May Give Bail. Any person in custody of the chief of police or any policeman for the violation of any city ordinance may be admitted to bail by giving bond to the city, with sureties to be approved by the city judge, chief of police or city attorney, in such sum as he may specify, conditioned that he will appear upon a time named in the bond before the city judge and answer the accusation for which he has been arrested and shall render himself amendable to all the orders and processes of the city court. Such bond shall be filed in the office of the city judge and if the defendant fails to appear according to the conditions of the bond, the city judge shall forfeit said bond and the city attorney shall cause the same to be collected as provided by law.



2.32.060 Mode of Trial. The proceedings in the city court shall be conducted in the same manner as is or may be prescribed by the laws of the State of Montana in reference to trials in criminal cases before justice of the peace and parties there shall be entitled to the same rights.

2.32.070 Recognizance. A party in custody who cannot be tried because of the absence of witnesses or other sufficient cause shown, may at the discretion of the city judge, be required to enter into a recognizance for his appearance at the trial and on failure to do so, may be confined in the city jail until trial.

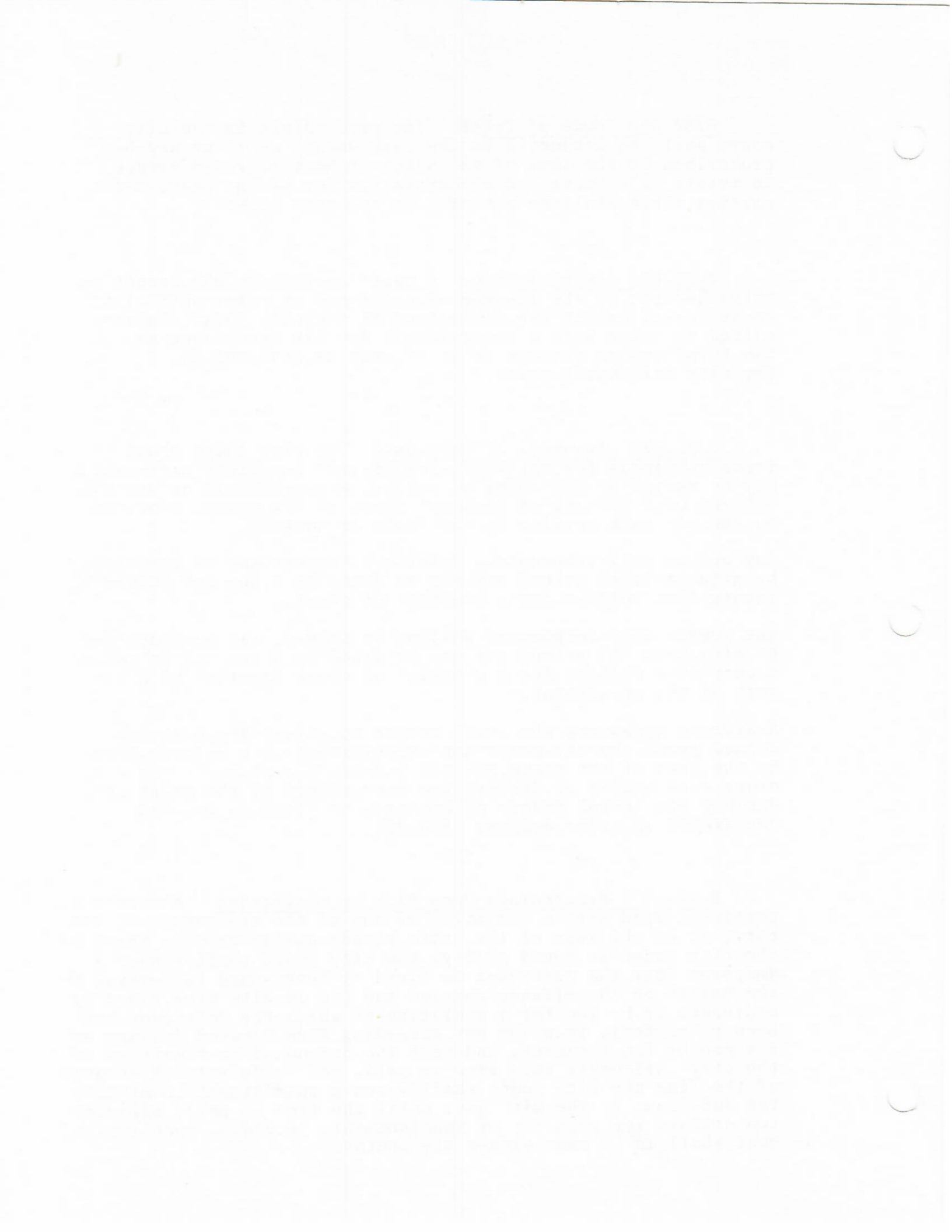
2.32.080 Issuance of Subpoena. The city judge shall issue subpoenas for all witnesses desired by either party which may be served by the chief of police, any policeman or any male citizen over the age of eighteen years in the manner provided by law for such service in the State of Montana.

Any person duly subpoenaed, failing to appear may be compelled by attachment to attend and may be fined in a sum not exceeding twenty-five dollars for a contempt of court.

Any person duly subpoenaed failing to appear, may be compelled by attachment to attend and may be fined in a sum not to exceed twenty-five dollars for a contempt of court together with the cost of the attachment.

A witness appearing who shall refuse to answer any question deemed proper by the court not inconsistent with or privileged by the laws of the state and all persons who shall by noise or other wise hinder or disturb the proceedings of the court or disobey its lawful orders or process, be fined in any sum not exceeding fifty dollars (\$50.00).

2.32.090 Proceedings Upon Plea or Conviction. Whenever any person charged with a violation of any of the ordinances of the city, or of the laws of the state pleads guilty or upon trial by the city judge is found guilty, the city judge shall render a judgment that the defendant be fined or imprisoned (according to the nature of the offense charged and the penalty prescribed by ordinance or by law for a violation of which the defendant has been convicted), in a sum not exceeding five hundred dollars or six months imprisonment, and that the defendant be committed to the city jail until said fine is paid, and in default of payment of the fine the city judge shall issue a committment committing the defendant to the city jail until the fine is paid, allowing two dollars for each day of imprisonment, provided, such imprisonment shall in no case exceed six months.



2.32.100 Offenses Cognizable Under Ordinances. Offenses cognizable under ordinances to be brought thereunder. It shall be and it is hereby made the duty of the city judge of the City of Harlowton, to cause all complaints for the offenses committed within the City of Harlowton and cognizable under the ordinances of the City of Harlowton to be brought thereunder, except when otherwise recommended by the city attorney.

2.32.110 Work on Streets for Convict. Every able-bodied male person of legal age, who has been convicted as above provided and committed to the city jail in default of payment of a fine adjudged against him, may be ordered by the city judge to work out said fine upon the streets and alleys of the city or upon the public work of the city or elsewhere within three miles of city at the rate of three dollars per day under the charge of some designated officer of the city. In case such order be made, it shall be endorsed on the mittimus, and it shall be the duty of the officer receiving such commitment so endorsed to execute the same according to the tenor and purpose thereof; and every such person who shall refuse to work as required or do the same inefficiently, carelessly or grudgingly, shall be returned to the jail and placed in solitary confinement on a diet of bread and water and so kept until the term of his confinement expires or he is willing to work and conduct himself properly. Any person duly convicted, fined and or ordered to work as above provided, if he shall work diligently and will give security to the approval of the city judge for his appearance each morning during the term of his commitment, need not be confined in the city jail at night during such time. The officer or person having charge of any convict working out any fine may impose any reasonable restraint upon the person required to labor, or prevent any violence or attempt to escape.

2.32.120 Enforcement of Fine. When any fine for breach of any ordinance shall be adjudged against any woman or any male person under legal age, or one disabled from some cause from performing labor on the streets of the city, and such person has been committed to jail in default of the payment of the fine, and such person has been confined not less than ten days, if the city judge is satisfied that such person is unable to pay such fine or any part thereof, it shall be his duty with the advice and consent of the mayor to order the discharge of such person from further imprisonment, but such discharge shall not operate as a satisfaction of the judgment against such person, but only pro tanto.





2.32.130 Payment of Fine. If any person convicted of the violation of a city ordinance, and adjudged to pay a fine, can pay part and not all of such fine, the city judge shall endorse the same on the order of commitment, and allowance of the same shall be made in the term of confinement pro tanto, and if such person so convicted and adjudged to pay a fine and is unable to pay the payment of the same, but offers good and sufficient surety or sureties for the payment of the same within a time of not more than thirty days, the city judge may accept such surety or sureties, and the surety or sureties shall sign an agreement to the effect to be entered on the docket, such person so convicted may be released and the order for commitment may be suspended by the city judge for such time; but if the payment of such fine is not made within the time for which security is given, a commitment shall be issued against the person convicted and an action for debt shall be instituted against the defaulting sureties.

2.32.140 Malicious Prosecutor. When any person has been arrested and brought to trial for an alleged violation of any city ordinance, and the city judge shall find that the prosecutor or complaining witness who has acted maliciously or without probable cause, such complaining witness shall be deemed to have committed a violation of this ordinance and judgment shall be rendered against such prosecutor or complaining witness for the cost of such action and he shall be confined in the city jail until such costs are paid, allowing two dollars for each day in confinement.

2.32.150 Temporary Vacancy in Office. If a vacancy occurs in the office of city judge, or if he is temporarily absent from the city or is incapable from discharging the duties of his office, the mayor may designate in writing some justice of the peace residing in the city to perform the duties of the city judge while such incapacity continues. The person so appointed shall receive the same compensation for his services during the period he has performed the duties of city judge as the city judge is authorized to receive.

2.32.160 Fines Collected. All fines and penalties imposed and collected by the city judge or justice of the peace acting as city judge, for the infraction or violation of any ordinance of the city shall be paid by him to the city clerk. He shall take a receipt therefore, and shall render to the city council a monthly report showing the amount of fines, penalties and costs collected and the names of the persons who paid, and when paid over to the city clerk. In all cases where a defendant has been found guilty, the city judge shall tax the costs of prosecution to such defendant and enter judgment against the defendant for the fine and cost, and upon application of the city attorney within five years, if such fine and costs have not been paid, he



shall issue an execution against such defendant for the amount of such fine and costs. Upon payment of the fine and costs, the city judge shall immediately pay over all costs and fees belonging or coming to any officer or witness in such cause but no costs shall be paid by the city in any case.

2.32.170 Removal from Office. If the city judge, or the justice of the peace acting as city judge, shall refuse or neglect to perform any of the duties of his office, or if he shall in the discharge of his official duties be guilty of any fraud, extortion, oppression, favoritism or wilful wrong of injustice, he shall be deemed guilty of a misdemeanor and shall be fined in a sum not less than ten or more than three hundred dollars. He shall moreover be suspended from office by the mayor, who shall report all the facts to the city council at the next regular meeting thereof; he shall be deemed incapacitated from discharging the duties of his office, and upon a two-thirds vote of the entire city council and the approval of the mayor, his removal from office shall be effected. And if the city judge shall in any manner apply any money or city warrants belonging to the city or coming into his hands in his official capacity, for his private use and benefit or refuse or neglect to turnover any and all moneys coming into his hands as city judge to the person, party or corporation entitled thereto, for such malfeasance or misfeasance, shall be removed from office and it is hereby made the duty of the city attorney to prosecute such offenses on behalf of the city in the courts of the state having jurisdiction thereof.

2.32.180 Records and Papers . Upon the expiration of his term of office, all dockets, books, records and papers in his hands belonging to or pertaining to his office, together with all property belonging to the city, and a failure to do so shall be deemed a violation of the conditions of his official bond.

2.32.190 Compensation . The city judge shall receive such salary as set by the city council. All fees received by him as such city judge shall be accounted for and delivered to the city clerk.

