

## CHAPTER 4 ADMINISTRATION

### ARTICLE 4-1 OFFICERS IN GENERAL

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

There are hereby created the offices of Town Manager, Town Attorney and Town Magistrate who shall be appointed by the Council and who shall serve at the pleasure of the Council. ~~§~~ Ord. 1001

#### **Section 4-1-2**            **Additional Officers**

The Council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this Code or State Statute.

#### **Section 4-1-3**            **Bond**

The Council shall require each officer of the Town to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve as determined by resolution, and the Town shall pay the costs of such bond.

#### **Section 4-1-4**            **Vacancies; Holding More Than One Office**

Any vacancy that shall occur in any office shall be filled by appointment by the Council, provided that one (1) person may hold more than one (1) office and that at the discretion of the Council, the functions of a Town official may be validly performed and discharged by a deputy or another official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

#### **Section 4-1-5**            **Additional Powers and Duties**

In addition to any powers and duties prescribed in this Code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the Council through Ordinance, Resolution or Order.

#### **Section 4-1-6**            **Departmental Policies and Procedures Manual**

- A. Each officer shall prepare a written manual setting forth policies and procedures governing the administration of his Department. The manual shall not become effective unless it is approved by the Town Manager.
- B. Each officer shall prepare an organizational chart or diagram showing the chain of command among all officers and employees within the Department.
- C. Nothing in this Section shall be construed to alter the rights of any employee under the adopted Personnel Policies of the Town.

**ARTICLE 4-2 OFFICERS**

- 4-2-1 Town Manager
- 4-2-2 Town Clerk
- 4-2-3 Finance Director
- 4-2-4 Chief of Police (Town Marshal)
- 4-2-5 Town Attorney
- 4-2-6 Town Magistrate
- 4-2-7 Community Services Director

**Section 4-2-1 Town Manager**

- A. Office Created. The office of Town Manager is hereby established and created. The Town Manager shall be appointed 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 office as hereinafter set forth; and he shall hold office at the pleasure of the Council.
- B. Eligibility. Residence in the Town of Wickenburg, at the time of appointment, shall not be required as a condition of appointment. No person, elected to membership on the Council, shall subsequent to such election, be eligible for appointment as a Town Manager, until one (1) year has elapsed after he has ceased to be a member of the Council.
- C. Bond. The Town Manager shall secure a corporate surety bond to be approved by the Council in such sum as may be determined by the Council and shall be conditioned on the faithful performance of the duties imposed on the Town Manager as herein prescribed. The bond fee is to be paid by the Town.
- D. Absence. To perform the duties of Town Manager during the temporary absence or disability of the permanent Town Manager, the Town Manager may designate by letter, filed with the Clerk, a qualified administrative officer of the Town. In the event of failure of the Town Manager to make such designation the Council may, by resolution, appoint an officer of the Town to perform the duties of the Manager until the Manager shall have returned or his disability shall have ceased.
- E. Removal. In case of his removal by the Council, the Manager shall be furnished with a written notice stating the Council's intention to remove him and the reasons therefore at least thirty (30) days before the effective date of his removal. Within seven (7) days after the delivery to him of such notice, the Manager may, by written notification to the Clerk, request a public hearing before the Council. Thereafter, the Council shall fix a time for the public hearing, which shall be held at its usual place of meeting before the expiration of a thirty (30) day period and at which time the Manager shall appear and be heard. After furnishing the Manager with written notice of intention to remove, the Council may suspend him from duty but his salary shall continue until his removal by resolution of the Council passed subsequent to the public hearing. The Council, in removing the Manager, 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 Manager publicly to present to the Council his grounds of opposition to removal prior to its official action.
- F. Resignation. The Manager shall give, in writing, a thirty (30) day notice of his intention to resign before leaving, resigning, or quitting the office of Town Manager.

- G. Compensation. The Manager shall receive such compensation as the Council shall from time to time determine and fix by Ordinance, Resolution, or motion, and said compensation shall be a proper charge against such funds of the Town, as the Council shall designate. The Town Manager shall be reimbursed for all sums necessarily incurred or paid by him in the performance of his duties, or incurred when traveling on business pertaining to the Town under direction of the Council; reimbursement shall only be made, however, when a verified itemized claim, setting forth the sums expended for which reimbursement is requested, has been presented, approved and allowed by the Council.
- H. Powers and Duties. The Town Manager shall be the Chief Administrative Officer of the Town government and shall be responsible to the Council for the proper administration of all affairs of the Town under the specific direction and control of the Council. In addition to the general powers as the Chief Executive Officer and the head of the administrative branch of the Town government, and not as a limitation thereon, it shall be the Manager's responsibility and duty and the Manager shall have the power:
1. To see that all laws and ordinances of the Town are duly enforced, and that all franchises and privileges granted by the Town are faithfully observed.
  2. To control, order and give directions to all heads of Departments, subordinate officers and employees of the Town, except elected officers and their respective staffs, magistrate, attorney and auditor, and to transfer employees from one Department to another; and to consolidate or combine offices, positions, Departments or units of the Town, such powers and duties are subject to the following provisions:
    - a. That the organizational structure under which municipal services are performed shall be specified in an organizational chart subject to Council approval.
    - b. That prior to any creation, combination, consolidation or deletion of any positions of employment, written job descriptions or amendments thereto shall have been approved by the Council.
  3. To appoint, discipline and terminate employees of the Town in accordance with the Town's Personnel Rules and Regulations. \*Ord. 995-3/3/08
  4. To exercise control over all Departments, utilities and enterprises of the Town and over all officers and employees thereof, except elective officers and their respective staffs.
  5. To attend all meetings of the Council unless excused there from and to attend, or designate a representative to attend, all Board and Commission meetings.
  6. To recommend to the Council for adoption such measures and ordinances as is necessary or expedient.
  7. To advise the Council at periodic intervals of changes needed in the Town Code.
  8. To keep the Council, at all times, fully advised as to the financial conditions and needs of the Town and to provide whatever reports to the Council as it may deem necessary.
  9. To prepare and submit to the Council the annual tentative budget.
  10. To purchase or cause to be purchased all supplies and equipment and to make arrangements for contractual services for all of the departments or divisions of the Town.

11. To make investigation into the affairs of the Town, any Department or division thereof, or any contract, or the proper performance of any obligations of the Town.
  12. To investigate all complaints in relation to matters concerning the administration of the Town, its utilities or enterprises.
  13. To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the Council.
  14. To devote as much time to the duties of the office of Town Manager and the interest of the Town as necessary.
  15. To perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution of the Council.
  16. In addition to the elective officers and their respective staffs, the positions of Town Attorney and Magistrate shall be excluded from the scope of the Manager's surveillance; however, the services and facilities of these offices shall be made available to the Town Manager.
  17. ~~17.~~ The Town Manager is authorized to negotiate and settle on behalf of the Town, claims and disputes brought against the Town, its officers, appointees and employees, for an amount not to exceed \$25,000.00 subject to the following conditions:
    - A. The Town Manager has investigated questions of liability and damages raised by the claim and have determined a reasonable dollar value of the claim.
    - B. The claim and any proposed settlement has been reviewed and approved by the Town Attorney.
    - C. The settlement is conditioned upon an appropriate written release by the claimant.
- I. Orders and Directions. The Council shall deal with the administrative services of the Town only through the Town Manager except for the purpose of inquiry, and neither the Council nor any members thereof shall give orders to any subordinates of the Town Manager.

#### **Section 4-2-2 Town Clerk**

- A. Office Created. The office of the Town Clerk is hereby created and established. The Town Clerk shall be appointed and removed by the Town Manager. It shall be the duty of the Town Clerk to attend all meetings of the Council unless by request he/she is excused there from by the Manager, and shall be responsible for recording the minutes and presenting them to the Council for approval. ~~8~~ Ord. 1001
- B. Bond. Before entering upon the duties of office, the Town Clerk shall execute a bond in such amount as is provided by statute, conditioned upon the faithful performance of the duties.
- C. Duties. The duties of the Town Clerk shall be as follows:
  1. Signatures. The Clerk shall seal and attest all contracts of the Town and all licenses, permits and such other documents as shall require the formality.
  2. Money Collected. The Clerk shall turn over all money received on behalf of the Town to the Town Finance Director promptly upon receipt of the same; and with such money shall give a statement as to the source thereof.
  3. Accounts. The Clerk shall keep accounts showing all money received and the source and disposition thereof; and such other accounts as may be required by statute or ordinance.

4. Records. In addition to the record of ordinances and other records which the Clerk is required by statute to keep, he/she shall keep a register of all licenses and permits issued and the payments thereof; a record of all physical properties of the Town and the Department or office to which the respective properties are assigned, and such other records as may be required by the Council.
5. Seal. The Clerk shall be the custodian of the Town Seal and shall affix its impression on documents whenever this is required.
6. Documents. The Clerk shall be the custodian of all documents belonging to the Town, which are not assigned to the custody of some other officer and shall comply with the State Records Retention and Destruction procedures.
7. Indices. The Clerk shall keep and maintain a proper index to all documents and records kept by him/her, so that ready access thereto and use thereof may be had.
8. Ex-Officio Collector. The Clerk shall act as and perform all the duties of collector unless and until a separate collector is appointed.
  - a. The Clerk shall act as and perform all the duties of municipal elections official unless and until a separate municipal elections official is appointed.
  - b. The Clerk shall act as and perform all the duties of jury commissioner unless and until a separate jury commissioner is appointed.
9. Additional Duties. In addition to the duties herein provided the Clerk shall perform such other duties and functions as may be required by statute or ordinance.

**Section 4-2-3      Finance Director**

- A. Office Created. The office of the Town Finance Director is hereby created and established. The Finance Director shall be appointed and removed by the Town Manager. ~~§~~ Ord. 1001
- B. Duties. The duties of the Finance Director shall be as follows:
  1. Monitor and oversee the Town accounting system.
  2. Has responsibility for implementing the purchasing rules and regulations of the Town, including procurement of Town supplies, services and construction, establishing and maintaining programs for the inspection, testing and acceptance of supplies and services; process vendor claims.
  3. Exercise general supervision and control over all inventories of supplies of the Town.
  4. Provide every Town Department with a monthly report, which reflects the availability of budgeted funds.
  5. Encumber funds.
  6. Assist Town Manager in the preparation, adoption, execution and audit of the Town budget.

7. Oversee federally funded programs and provide liaison and coordinating assistance to participating agencies and Town Departments.
  8. Coordinate annual audit activities with contracted auditors.
- C. Bond. Before entering upon the duties of office, the Finance Director shall execute a bond in such amount as is provided by statute conditioned upon the faithful performance of the duties of office.

**Section 4-2-4      Chief of Police (Town Marshal)**

The Chief of Police (Town Marshal) shall be appointed by the Town Manager to perform the duties and assume the responsibilities as set forth in Resolution Number 712. ~~8~~ Ord. 1001

**Section 4-2-5      Town Attorney**

The Attorney shall act as the legal counselor and advisor of the Council and other Town officials, and as such shall give his/her opinion in writing when requested. He/She shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the Council. He/She shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the Council. He/She shall return all ordinances and resolutions submitted to him/her for consideration by the Council, with his/her approval or disapproval as to form noted thereon, together with his reasons therefore. He/She shall prosecute and defend all suits, actions or causes where the Town is a party, and shall report to the Council, when required, the condition of any suit or action to which the Town is a party.

**Section 4-2-6      Town Magistrate**

- A. The Town Magistrate shall be the presiding officer of the Police Court and shall be selected by the Council and shall perform those functions necessary to the maintenance of a Police Court as provided by State Statute.
- B. In addition to the duties assigned to the Town Magistrate in subsection A of this Section, his or her duties, or those of his or her deputy or deputies, shall also be those of a Juvenile Hearing Officer, pursuant to the authority set forth in A.R.S. § 8-232, as amended by the Laws of 1994.

**ARTICLE 4-3 AUDIT**

- A. The financial records of the Town shall be audited annually by an auditor who shall be a certified public accountant licensed to practice in Arizona.
- B. The auditor shall be selected for a period not to exceed three (3) years by the Council and shall present his report on examination of financial statements and any recommendations to the Council.

**ARTICLE 4-4 PURCHASING - ☒**

- 4-4-1 General Authority to Expend Funds ●
- 4-4-2 Special Council Approval Required
- 4-4-3 Purchase Orders Required
- 4-4-4 Delivery of Purchases
- 4-4-5 Petty Cash
- 4-4-6 Emergency Expenditures
- 4-4-7 Signatures and Ratifications
- 4-4-8 Quotation or Bid Requirements
- 4-4-9 Application to Employees and Professional Services
- 4-4-10 Change Orders
- 4-4-11 Cooperative Purchasing
- 4-4-12 Sealed Bid Procedures
- 4-4-13 Purchasing Card
- 4-4-14 Selection of Supplier
- 4-4-15 Grants
- 4-4-16 Imposition of Additional Requirements
- 4-4-17 Enforcement
- 4-4-18 Audit of Records
- 4-4-19 Surplus Supplies and EquipmentΦ
- 4-4-20 Neighborhood Revitalization Procedures: Section 3 Compliance and Federal Compliance
- 4-4-21 Conflict of Interest Procedures☞
- 4-4-22 Protest of Solicitations and Contract Awards χ
- 4-4-23 Stay of Procurement During Protest χ
- 4-4-24 Resolution of Solicitation and Contract Award Protests χ
- 4-4-25 Remedies by The Town Clerk and/or Town Council χ

**Section 4-4-1 General Authority to Expend Funds ☒**

- A. Council approval of the annual budget shall be construed to include authority for the making of Town expenditures as set forth in said budget.
- B. This Article shall apply to all purchases of the Town, including but not limited to petty cash purchases, purchases billed through a vendor, purchases made with Town credit cards, and purchases made with vendor credit cards.
- C. All expenditures shall be charged to the appropriate Department budget and shall not cause that budget to be exceeded. It is the responsibility of the Department Director to verify that the expenditure does not exceed the available budgeted funds. The Department Director shall sign the invoice when received to confirm that the goods have been received or that the services have been satisfactorily completed and that the invoice is accurate.
- D. To prevent unforeseen events causing a line item within the approved annual budget from exceeding the budget, transfers between line items other than contingencies shall only be made within the same fund as set forth below:

1. A transfer from a capital item line (9##### accounts) requires Town Council approval prior to incurring the expense.
  2. A transfer other than from capital item lines, within the same fund may be authorized by the Department Director prior to incurring the expense. (Ord. 1192)
  3. A transfer between funds requires approval by the Town Council prior to incurring the expense.
- E. Violation of this Article, including but not limited to the purchase of goods or services or the attempt to enter into contracts in violation of this Article, may result in disciplinary action.

#### **Section 4-4-2 Special Council Approval Required**

- A. Council approval shall be required for all purchases of fifty thousand dollars (\$50,000.00) and greater. (Ord. 1192)
- B. Council approval shall be required in advance for any expenditure to be charged to any contingency budget or for any transfer from any contingency budget to any specific expenditure account.

#### **Section 4-4-3 Purchase Orders Required**

- A. The purpose of a purchase order is to create an encumbrance in the general ledger to permit the remaining balance of budgeted line items to be monitored. When the invoice is received by accounts payable from the Department Director, it shall be matched to the applicable purchase order and processed for payment. The encumbrance shall then be replaced by the actual expenditure. Violation of this Article may result in disciplinary action.
- B. All Town expenditures of \$1,000 or more shall be by written Purchase Order except that purchase orders shall not be required: (Ord. 1192)
  1. For contracts approved by the Common Council, except purchase orders shall be issued for project specific contracts for budget monitoring purposes.
  2. For utility expenses for gas, electric, water, sewer, sanitation, internet and telephone services.
  3. For customer refunds.
- C. Blanket Purchase Orders may be issued on a fiscal year basis to a vendor used at least monthly. This blanket purchase order will be closed out on June 30<sup>th</sup> of each year.


#### **Section 4-4-4 Delivery of Purchases**

All items purchased with Town funds shall be delivered only to Town-owned property. Under no circumstances shall anything ordered with Town funds or through a Town purchase order be delivered to an employee's home, a Councilmember's home, a volunteer's home, or to any other non-Town owned property.




**Section 4-4-5 Petty Cash**  (Ord. 1192)

- A. A petty cash fund may be established at the discretion of the Finance Director to various Departments to be used for small purchases not exceeding ninety-nine dollars (\$99.00).
- B. Petty cash funds shall be used for unanticipated items having an immediate need, including employee reimbursements. Employee reimbursements require the receipt to be attached to a completed expense reimbursement request form. Petty Cash funds shall not be used to cash checks, to make personal loans, or for salary advances.
- C. The custodian of the petty cash fund shall arrange for a secure, locked location for the fund. The fund shall be subject to an audit at any time by the Finance Director or a designated representative. The sum of unused cash and receipts shall equal the original advance.
- D. Petty cash shall not be disbursed by the custodian of the petty cash fund without a dated and itemized receipt. All receipts shall be signed by the custodian's Department Director, noting the budget line to be charged. The receipt shall be submitted within two (2) business days of the purchase.
- E. A request to replenish petty cash funds shall be made to Accounts Payable by the 15<sup>th</sup> day of every month, unless no disbursements have been made since the last request.

**Section 4-4-6 Emergency Expenditures**  (Ord. 1192)

- A. Emergency expenditures are those needed for the immediate preservation of the public peace, health or safety and for which compliance with Article 4-4 are impractical or contrary to the public interest.
- B. The requesting Department Director shall be responsible for determining the validity of all emergency purchase requests for goods or services. The Town Manager shall review the request and may authorize the emergency purchase without complying with the procedures of this Article.
- C. Emergency expenditures under \$50,000 and not requiring the use of contingency funds may be approved by the Town Manager.
- D. Emergency expenditures of \$50,000 and greater, or requiring the use of contingency funds may be authorized by the Town Manager however, when an emergency expenditure is made under the authority of this Section, a full written report specifying the nature of the emergency and the amount of the expenditure shall be made to the Council at the next regularly scheduled Council meeting.
- E. Invoices for the purchase of emergency goods or services shall be signed by both the requesting Department Director and the Town Manager.

**Section 4-4-7 Signatures and Ratification**  (Ord. 1192)



- A. All checks for expenditures of Town monies shall bear two (2) signatures, one of either the Town Manager or Town Clerk, and the other of either the Mayor or Vice Mayor. A facsimile signature plate safeguarded by the Finance Department shall be utilized to affix all such signatures. 
- B. All agreements and contracts of the Town of \$50,000 or more shall be approved by the Town Council and shall be signed by the Mayor or Vice Mayor, the Town Clerk, and the Town Attorney.
- C. All agreements and contracts of the Town less than \$50,000 do not require Town Council approval and shall be signed by the Town Manager or his designee.
- D. Copies of all Town expenditures shall be provided to the Town Manager, Mayor, and Common Council at least one (1) time each month including, but not necessarily limited to the monthly check register and invoices paid report.

**Section 4-4-8 Quotation or Bid Requirements**   (Ord. 1192)

A. Except as provided in Sections 4-4-9 through 4-4-15 of this Article, prior to purchases of goods or services, quotations or bids shall be sought according to the following schedule:

DOLLAR RANGE QUOTATION OR BID REQUIREMENTS	
\$0 - \$4,999.99	No quotations or bids required.
\$5,000 - \$24,999.99	A minimum of three (3) written quotations shall be solicited. Selection shall be approved by the Department Director.
\$25,000 - \$49,999.99	A minimum of three (3) written quotations shall be solicited. Selection shall be approved by the Town Manager.
\$50,000 and Above	Sealed Bids shall be solicited through newspaper advertising, from the vendor's lists maintained by the Town Clerk's Office with a design towards obtaining the greatest number of bidders and bid responses. Upon receipt of the bids, the responsible Department Director shall prepare his/her written recommendation to the Common Council for award of the contract.

- B. Notwithstanding the provisions of Subsection A of this Section, no public official or employee shall supply any equipment, material, supplies or services to the Town unless pursuant to a sealed bid process, except that supplies, materials and equipment may be purchased from a member of the Town Council where the purchase does not exceed three hundred dollars (\$300.00) in a single transaction, and the aggregate total of all transactions for the fiscal year does not exceed one thousand dollars (\$1,000). In compliance with A.R.S. § 38-503, the Town Council shall annually approve a policy allowing for such purchases from a member of Council otherwise this exception shall lapse and no such purchase shall be made pending Council approval of such policy.
- C. Sole source procurement should be avoided when possible by using generic specifications rather than name brand only specifications. Name brand only specifications can usually be multi-quoted or bid by using multiple distributors. When only one vendor sells the name brand only material or service a letter from the manufacturer or service provider indicating the sole vendor is required. A purchase from a sole source supplier of goods and services may be made without receiving quotations or competitive bids. The requesting Department Director shall submit a memorandum explaining the sole source request along with the manufacturer or service provider letter, to the Town Manager for approval. The requesting Director must demonstrate that there was a serious, diligent effort to identify potential sources and/or test alternatives available. Requests \$50,000 and above also require Council approval. Once approved by Council, the Department Director may proceed with the regular purchase procedure.
- D. Notwithstanding, the provisions of Subsection A of this Section, because fuel prices fluctuate daily and purchases need to be made quickly, purchases of fuel for the Airport or fuel facility will only require two (2) written quotations.
- E. When evaluating quotes and bids, except for public works projects as defined in title 34 of the Arizona revised statutes, a local preference will be used by deducting the local transaction privilege taxes (TPT) also known as sales tax from quotes received from local businesses.\*
  - 1. A local business is defined as one having a fixed location within the town limits.
  - 2. To qualify for local preference, the local business must have a business license with the Town of Wickenburg and a TPT license with the Arizona Department of Revenue.
    - a. Both of these licenses must be in place for a minimum of one year prior to the date of the quote.
    - b. Any reports or payments required under both of these licenses must be current.

 Ord. 1045/6-09  
 Ord. 1121/05-13  
 \*Ord. 1126/12-13  
 Ord. 1192/ 12-18

- F. A business from which the town has previously not purchased goods or services shall complete a W-9 form, which shall be included with the business' bid or quote. \*\*Ord. 1146
- G. All businesses performing services on town-owned property shall provide proof of insurance coverage in accordance with the town insurance requirements, set by resolution, prior to the town issuing a purchase order. \*\*Ord. 1146

**Section 4-4-9 Application to Employees and Professional Services** 📄 🗑️ \*

- A. Nothing in Sections 4-4-8 through 4-4-10 shall be construed to apply to the hiring of Town employees or for independent contractors providing professional services for a monthly fee.
- B. Unless required by Council, the bidding and other requirements of Sections 4-4-8 through 4-4-10 shall not apply to professional services. For purposes of this Section, "professional services" is a field for which a license or certification is required by Federal or State Law.

**Section 4-4-10 Change Orders** 📄 \* (Ord. 1192)

- A. Change orders which exceed a bid or quote previously approve by Council but do not cause the project to go over the original budget previously adopted by Council may be approved and executed by the Town Manager provided the cumulative change order total does not exceed 20% of the original bid or quote.
- B. Change orders which will cause the project to go over the budget previously adopted by Council require approval of the Council.

**Section 4-4-11 Cooperative Purchasing** (Ord. 1192)

- A. Notwithstanding any other provision of this Article, the Town, by and through its authorized personnel, may purchase any goods or services for which funds have been duly appropriated, regardless of the amount of purchase from, or off of, any other governmental entity's master or specific bidding list if, in the opinion of the Town Manager, a separate bidding process is not likely to result in a lower price for such goods or services.
- B. Cooperative purchasing should be the first choice of procurement when a formal bid is required, unless it is believed that a formal bid would result in a more favorable pricing.

**Section 4-4-12 Sealed Bid Procedures**

- A. A request for sealed bids may include the requirement that each bidder furnish a performance bond, in cash or otherwise' sufficient to secure the performance sought,
- B. Sealed bids shall be received, on behalf of the Council, by the Town Clerk. Each bid shall be identified, on its envelope, as a bid. Bids shall be opened in public at the time and place set in the call for bids and the call for bids shall include notice of the time and place of the opening of bids.
- C. Awarding of contracts based upon sealed bids shall be by Council action, and the Council shall retain the right to reject any or all bids. Notice of the provisions of this Section shall be included in the call for bids.

**Section 4-4-13 Purchasing Card** (Ord. 1192)

- A. Town departments are authorized to use the purchasing card (P-Card) for certain purchases up to \$5,000 per transaction. Monthly spending limits vary depending on the types of purchases an individual may need to make. P-Card spending limits apply to the total transaction including taxes and shipping. All P-Card transactions shall be in accordance with applicable accounting and budgeting rules.
- B. Using the P-Card for any of the following is strictly prohibited:
  - 1. To purchase professional services of the type requiring a form 1099. In general, the types of services that require the issuance of a Form 1099 include payment of rent, miscellaneous income to independent contractors, medical and health care payments, or fees paid to accountants, attorneys, temporary help, etc.
  - 2. To withdraw cash from ATM's or other sources.
  - 3. To purchase traveler's checks or any other negotiable instrument.
  - 4. To purchase alcoholic beverages or any illegal substance.
  - 5. Dividing purchase transactions to circumvent purchase limits is prohibited.
- C. Department Directors are responsible for all P-Card activity of their staff. The Director shall:
  - 1. Review all transactions at least weekly to verify compliance and submit the transaction for processing.
  - 2. Resolve any disputed transactions and document the resolution thereof.
  - 3. Recover the P-Card upon termination of the employee, and notify the Finance Director to cancel the P-Card.
- D. Cardholder shall:
  - 1. Maintain all receipts document charges or credit incurred on the P-Cards. If original documentation is lost, the cardholder will contact the vendor to obtain a duplicate receipt.
  - 2. Immediately surrender the P-Card upon resignation, retirement or termination from Town services.
  - 3. If a P-Card is lost, misplaced, stolen or destroyed, this fact must be reported immediately to the Department Director and Finance Director, and the card will be cancelled.

**Section 4-4-14 Selection of Supplier** (Ord. 1192)

Purchase shall be from suppliers offering the lowest prices, except that the Town may purchase at other than the lowest offered price for reasons including quality, ability of a supplier to furnish the goods or services quoted or bid, or compatibility with existing equipment, structures, or ongoing service requirements. Federal excess and surplus will be used in lieu of purchasing new equipment whenever such use is feasible and reduces project costs.

**Section 4-4-15 Grants** (Ord. 1192)

- A. Grants requiring a Town match shall be approved by Council prior to applying for said grant.
- B. Grants spanning more than the current fiscal year shall be approved by Council.
- C. The provisions of Article 4-4 Purchasing may be superseded by bidding, proposal or qualification requirements for federal, state or county grants.

**Section 4-4-16 Imposition of Additional Requirements**

The Town Manager may, at his discretion, in matters involving purchases made under his authority, impose requirements for the seeking of quotations or bids according to standards more stringent than those of Sections 4-4-6 and 4-4-8.

**Section 4-4-17 Enforcement** (Ord. 1192)

- A. It shall be the duty of the Town Clerk or designee to enforce the provisions of this Article.
- B. The Clerk shall prepare such reports as may be necessary for the Council to act in keeping with the provisions of this Article, and maintain such records as may be necessary to demonstrate that the provisions of this Article have been met.
- C. The records of payments for goods or services shall include written verification that the provisions of this Article have been met.

**Section 4-4-18 Audit of Records**

The annual audit of municipal financial records shall include an examination of records necessary under this Article.

**Section 4-4-19 Surplus Supplies and Equipment** (Ord. 1192)

Department Directors or their designee shall submit to the Finance Director, at such time, and in such time, and such form as he/she shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Finance Director or designee shall dispose of such supplies and equipment pursuant to ARS §9-402. ☐

**Section 4-4-20 Neighborhood Revitalization Procedures; Section 3 Compliance and Federal Compliance** <sup>℞</sup> (Ord. 1192)

- A. PURPOSE: To establish procedures for procuring small, minority and women owned business enterprises and maintain compliance with Section 3 and other Federal programs, to ensure that the employment and other economic opportunities generated by federal financial assistance for Housing and Community Development and other Federal programs shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing. Those considered as Section 3 residents reside in public housing and low-income persons who live in the area where a HUD-assisted project is located.
- B. PROCEDURES: It is a national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:
  - 1. Including qualified small and minority businesses on solicitation lists.
  - 2. Assuring that small and minority businesses are solicited whenever they are potential sources, and to the greatest extent possible that these businesses are located within the metropolitan area.
  - 3. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
  - 4. Where the requirement permits, establishing delivery schedules which will encourage participation by small minority businesses.
  - 5. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the Department of Commerce and the Community Services Administration as required.
  - 6. Grantees shall take similar appropriate action in support of women's enterprises.
  - 7. To the greatest extent feasible, opportunities for training and employment be given to low- and moderate-income persons residing within the metropolitan area.

8. If an individual or business feels the Town does not comply with Section 3, there is a complaint process available to Section 3 residents and businesses. They may file complaints if they feel a violation of Section 3 requirements has occurred where a HUD-funded project is planned or underway. To file a complaint, in writing, to your local HUD Office or to: The Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7<sup>TH</sup> Street SW, Room 5100, Washington, D.C. 20140-2000. A written complaint should contain:
- a. Name and full address of person filing the complaint; and
  - b. Name and full address of the subject of complaint (HUD recipient or contractor); and,
  - c. Description of acts or omissions in alleged violation of this Section.

**Section 4-4-21 Conflict of Interest Procedures**   (Ord. 1192)

- A. **PURPOSE:** All Council Members and Town employees shall not engage in on or off duty conduct which constitutes a conflict of interest with their Town duties and responsibilities. No Council Member or employee shall have a financial interest in any sale to the Town of land, materials, supplies, equipment or services, unless the sale complies with the bidding requirements of the conflict of interest statutes of the State of Arizona. Contracts or sales made by a person or entity with knowledge, express or implied, of a violation of this Section shall be voidable by the Town Manager.
- B. **PROCESS:**
- I. **CONFLICTS OF INTEREST:**
    - a. No employee of the Town shall supply to the Town equipment, material, supplies or services, unless pursuant to an award of a contract after a public competitive bid. A request for proposals or quotes shall not be considered a competitive bid.
    - b. Any employee of the Town who has, or whose relative has, a substantial interest in any contract with, sale to, purchase from, or service to the Town shall notify the employee's Department Director or Town Manager. The Department Director or Town Manager shall require the employee to file a notice of such interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department Director or Town Manager shall establish procedures to ensure the employee does not participate in any manner in such contract, sale, purchase or service.
    - c. Any employee of the Town who has, or whose relative has, a substantial interest in any decision or action of the Town, other than as an employee, shall notify the employee's Department Director or Town Manager. The Department Director or Town Manager shall require the employee to file a notice of such interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department Director or Town Manager shall also establish procedures to ensure the employee does not participate in any manner in such a decision.

2. PROHIBITED ACTS:

- a. No employee, or former employee who has left employment within the preceding twelve (12) months, may represent another person for compensation before the Town Council or any Board, Committee, Task Force or Commission of the Town concerning any matter with which such former officer or employee was directly concerned, and in which he/she personally participated during his/her employment or service.
- b. During the period of employment with the Town and for two (2) years thereafter, no employee shall disclose or use, for the employee's personal profit without appropriate authorization, any information acquired by the employee in the course of the employee's official duties which information has been clearly designed by the employer as confidential or which is declared confidential by law.
- c. No employee may use, or attempt to use, the employee's position with the Town to secure from any person any valuable thing or valuable benefit for the employee to which the employee would not ordinarily be entitled for the performance of the employee's duties with the Town.
- d. No employee may receive or agree to receive, directly or indirectly, compensation other than the employee's salary from the Town for any services rendered, or to be rendered, by the employee which are within the employee's duties as a Town employee.
- e. No employee may receive or agree to receive, directly or indirectly, compensation other than the employee's salary from the Town for any service rendered, or to be rendered, by the employee personally in any case, proceeding, application, or other matter which is pending before the Town Council or any Board, Committee, Task Force, or Commission of the Town.

3. VIOLATIONS:

- a. Any employee found guilty of any violation of this procedure shall be subject to punitive disciplinary actions up to and including termination.
- b. Any violation of this procedure with the knowledge, expressed or implied, of the person, corporation or other entity contracting with the Town shall render the contract voidable by the Town.

4. CONSTRUCTION:

- a. This directive shall be construed in compliance with the conflict of interest statutes contained in the Arizona Revised Statutes, A.R.S. §38-501, et. seq.
- b. The Town Attorney's office defines and provides interpretation of prohibited Conflicts of Interest in compliance with Arizona Revised Statute, A.R.S. §38-501, et seq.

**Section 4-4-22 Protest of Solicitations and Contract Awards** χOrd. 987/8-07

- A. Any interested party may protest a solicitation, a determination that a purchase or contract is not required to be bid, or the award of a contract.
- B. The interested party shall file the protest, in writing, with the Town Clerk's office, and shall include the following information:
  1. name of person filing protest; and,
  2. name of the business (if applicable) filing the protest; and,
  3. full address (both physical and mailing if different), telephone and fax number of the protesting party; and,
  4. original signature of the protesting party or the protesting party's representative; and,
  5. identification of the solicitation or contract number; and,
  6. a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and,
  7. The form of relief being requested.

- C. If the protest is based upon alleged improprieties in a solicitation that are apparent before the deadline for submittal, the protesting party shall file the protest before the deadline for submittal of a bid.
- D. In cases other than those covered in Subsection C, the protesting party shall file the protest within ten (10) calendar days after the Town Clerk conducts the public bid opening as long as the bid file is available for public inspection.
- E. The protesting party may submit a written request to the Town Clerk for an extension of the time limit for protest filing set forth in Subsection D. The written request shall be submitted before the expiration of the time limit set forth in Subsection D – ten (10) calendar days and shall set forth good cause as to the specific action or inaction of the Town that resulted in the protesting party being unable to submit the protest within the ten (10) calendar days. The Town Clerk shall have the authority to approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing but shall not be for longer than twenty (20) additional calendar days.
- F. The Town Clerk shall immediately give notice of protest to all bidders.

**Section 4-4-23 Stay of Procurements During Protest**

- A. If a protest is filed before the deadline for submittal of bids, before the award of contract, or before the performance of a contract has begun, the Town Clerk shall, in writing, make a written determination to either:
  - 1) Proceed with the solicitation, award or contract process; or,
  - 2) Recommend to the Town Council to stay all or part of the procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Town.
- B. Upon determination, the Town Clerk shall provide the protesting party, and all other interested parties with a copy of the written determination.

**Section 4-4-24 Resolution of Solicitation and Contract Award Protests**

- A. Only the Mayor and Common Council have the authority to resolve a protest.
- B. After the determination has been made pursuant to Subsection A, the Town Clerk shall issue a written decision letter to the protesting party within seven (7) days after a Council meeting has been held and determination been made regarding a protest filed under Section 4-4-18. The Town Clerk shall furnish the decision to the protesting party by certified mail, return receipt requested or by any other method that provides evidence of receipt with a copy to the Town Manager and Town Council.
- C. The Town Council may request one (1) extension not to exceed thirty (30) days if the reason(s) can be justified.
- D. If the Town Council fails to hear and issue a decision within sixty (60) days, the protesting party may proceed as if the Town Clerk had issued an adverse decision.



**Section 4-4-25 Remedies by the Town Clerk and/or Town Council**

- A. If the Town Clerk and/or Town Council sustains a protest in whole or in part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with this Article 4-4, the Clerk shall assist Council in implementing an appropriate remedy.
- B. In determining an appropriate remedy, the Town Clerk and/or Town Council shall consider all the circumstances surrounding the procurement or proposed procurement including:
- 1) The seriousness of the procurement deficiency;
  - 2) The degree of prejudice to other interested parties or to the integrity of the procurement system;
  - 3) The good faith of the parties;
  - 4) The extent of performance;
  - 5) The costs to the Town;
  - 6) The urgency of the procurement;
  - 7) The impact on the Town's mission; and,
  - 8) Other relevant issues.
- C. The Town Clerk and/or Town Council may implement any of the following appropriate remedies:
- 1) Decline to exercise an option to review under the contract;
  - 2) Terminate the contract;
  - 3) Amend the solicitation;
  - 4) Issue a new solicitation;
  - 5) Award a contract consistent with this Article 4-4; or,
  - 6) Render such other relief as determined necessary to ensure compliance with this Article 4-4.

**ARTICLE 4-5 CLAIMS**

- 4-5-1 Presentation of Claims
- 4-5-2 Submission to Council; Audit
- 4-5-3 Drawing of Warrants
- 4-5-4 Payment of Warrants

**Section 4-5-1 Presentation of Claims**

Every person having a claim against the Town, except those referred to in the provisions of this Article shall present a demand therefore, in writing, to the Council, verified by the affidavit of himself or his agent. Such demand shall state minutely what the claim is for and specify each item and the date and amount thereof. The verification shall state that said amount is justly due, that there are no offsets or credits to the same' and that the person is not in any way indebted to the Town. No demand shall be allowed in favor of any person who is indebted to the Town without first deducting such indebtedness. Nothing herein shall be held to apply to demands for official salaries, which by express provision of law, are made a demand against the Town.

**Section 4-5-2                    Submission to Council; Audit**

Claims shall be filed with the Clerk and shall be passed upon and audited by the Council at their next regular meeting and either allowed, or rejected in whole or in part, as the Council may deem proper. No demand shall be allowed in favor of any officer whose accounts have not been allowed and approved, or who has neglected to make his official returns or report, or who has neglected or refused to perform any duty required of him. The Council may examine on oath, or otherwise, the person presenting such claim or any other person, in order to ascertain the necessary facts in determining the allowance or rejection thereof.

**Section 4-5-3                    Drawing of Warrants**

When any amount is allowed as a demand against the Town, a warrant shall be drawn on the Treasurer therefore signed by the Mayor and the Clerk, which warrant shall be delivered to the party in whose favor the warrant is drawn. All warrants shall be made payable to the order of the person entitled thereto, and must be properly endorsed by him before presentation to the Treasurer. Such warrant may be presented by the assignee, executor or administrator of the person to whom the same is drawn.

**Section 4-5-4                    Payment of Warrants**

Warrants must specify the liability for which they are drawn, when the same accrues and must be paid in the order of presentation. If the fund upon which such warrant is drawn is insufficient to pay the same, such warrant shall be registered by the Treasurer and thereafter paid in the order of its presentation when such fund shall become sufficient.

**ARTICLE 4-6 CIVIL PREPAREDNESS AND DISASTER ORGANIZATION**

4-6-1 Establishment

4-6-2 Functions

4-6-3 Local Emergency

**Section 4-6-1                    Establishment**

The Town Manager is hereby authorized and directed to create a civil preparedness organization. The Director of the Civil Preparedness Organization shall be the Town Manager.

**Section 4-6-2                    Functions**

The functions of the civil preparedness organization are to establish and provide for emergency services within the Town in accordance with the State Emergency Plans and Programs, and Arizona Revised Statutes Title 26, Chapter 2 is incorporated herein by reference to further define the functions of the civil preparedness organization and its Director.

**Section 4-6-3                    Local Emergency**

The Mayor is hereby authorized to declare by proclamation an emergency or a local emergency to exist in accordance with the provisions of Arizona Revised Statutes § 26-311.

## **ARTICLE 4-7 INDEMNIFICATION OF OFFICERS, EMPLOYEES, AND COUNCILMEMBERS**

- 4-7-1 Definitions
- 4-7-2 Indemnification
- 4-7-3 Action Other Than by or in the Right of Town
- 4-7-4 Criminal Proceedings
- 4-7-5 No Presumption Created
- 4-7-6 Action by or in the Right of Town
- 4-7-7 Negligence and Misconduct
- 4-7-8 Success on the Merits
- 4-7-9 Determination by Council
- 4-7-10 Indemnification not Exclusive Remedy

### **Section 4-7-1 Definitions**

1. "Person" includes any officers, employees, Councilmembers and members of Committees, Commissions, and Boards of the Town of Wickenburg.
2. "Proceedings" includes any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administered or investigated.

### **Section 4-7-2 Indemnification**

Any person made a party or threatened to be made a party to any proceeding by reason of the fact that said person is an officer, employee or Councilmember of Wickenburg shall be indemnified as hereinafter set forth.

### **Section 4-7-3 Action Other Than by or in the Right of Town**

If said proceeding is one other than an action by or in the right of the Town, said person shall be indemnified against his expenses, including attorney fees, and including judgments, fines, amounts paid in settlement actually and reasonably incurred by him in connection with such proceeding.

### **Section 4-7-4 Criminal Proceeding**

If said proceeding is a criminal proceeding, said person shall be indemnified if he had no reasonable cause to believe his conduct was unlawful.

### **Section 4-7-5 No Presumption Created**

With respect to indemnification under Section 4-7-3 or 4-7-4 above, a termination of the proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, by itself, create a presumption that said person acted, or failed to act, other than in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Town, and with respect to any criminal proceeding, had reasonable cause to believe that his conduct was unlawful.

**Section 4-7-6      Action by or In the Right of Town**

If said proceeding is one by or in the right of the Town to procure a judgment in the Town's favor, said person shall be indemnified against his expenses, including attorneys fees, but excluding judgments and fines, and except as hereinafter set forth, amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of such proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Town.

**Section 4-7-7      Negligence and Misconduct**

No indemnification under Section 4-7-6 shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Town.

**Section 4-7-8      Success on the Merits**

To the extent that a person covered by this Article has been successful on the merits or otherwise in defense of any proceeding covered by this Article or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith.

**Section 4-7-9      Determination by Council**

Any indemnification made pursuant to this Article shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the officer, employee or Councilmember is proper in the circumstances because he has met the applicable standard of conduct set forth in this Article. Such determination shall be made by any of the following:

1. By the Town Council by majority vote of a quorum consisting of Councilmembers who were not party to the proceeding.
2. If a quorum is not obtainable, then by a written opinion of independent legal counsel acquired by majority of the disinterested Councilmembers for that purpose.
3. If there are no disinterested Councilmembers, then by a declaratory judgment action brought in the Superior Court, declaring the rights of the officer, employee or Councilmember to be indemnified pursuant to this Article.

**Section 4-7-10      Indemnification Not Exclusive Remedy**

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled. The indemnification provided by this Article shall be supplemental to and excess to any valid and collectible insurance coverage.

**ARTICLE 4-8 DISPOSAL OF LOST, UNCLAIMED, OR CONTESTED PROPERTY** / Ord. 869

- 4-8-1 Definitions
- 4-8-2 General
- 4-8-3 Notice of Disposition
- 4-8-4 Service and Publication of Notice of Disposition
- 4-8-5 Award of Lost Property to Finder
- 4-8-6 Disposal of Unclaimed Property
- 4-8-7 Sale at Public Auction
- 4-8-8 Disposal and Destruction of Firearms, Liquor, Perishables
- 4-8-9 Disposal of Contested Property
- 4-8-10 Affidavit; Records

**Section 4-8-1 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings as set forth below:

1. "Intangible property" shall have the definition as described in ARS § 44-301.
2. "Personal property" means property of every kind, except real property and intangible property.
3. "Spirituous liquor" means any beverage or liquid containing more than one half of one percent of alcohol volume.
4. "Stolen property" means money or property to which the owner has been lawfully deprived of possession and which has been taken into police custody pursuant to a commission of any crime as defined by the laws of the State or the Town.
5. "Weapon" means any firearm or any other instrument capable of discharging a dangerous or deadly object, or any other instrument capable of inflicting bodily injury.

**Section 4-8-2 General**

All unclaimed, lost or abandoned money or personal property coming into the possession of the Town shall be disposed of by the Police Department pursuant to this article, except:

1. Evidence obtained for use in a criminal proceeding is subject to any additional conditions of disposal under Rule 28-2, Rules of Criminal Procedures;
2. Property seized as a forfeiture shall be disposed of under ARS § 13-4301 et seq.;
3. Illegal drugs not used for evidence or as forfeitures shall be disposed of under ARS § 13-3413;
4. Intangible property and unpaid wages shall be disposed of under ARS § 44-301 et seq.;
5. Abandoned and unclaimed vehicles shall be disposed of under ARS § 28-4839 et seq.

**Section 4-8-3 Notice of Disposition**

Within 30 days after receiving possession of unclaimed money or personal property, the Police Department shall serve a notice of disposition containing the following information:

1. A brief description of the property. The name and address of the owner or finder of the money or property, if known.
2. A statement that the owner or finder must claim and take possession of the money or property no later than 90 days following the date of the notice, or else the Police Department may destroy, donate to charity, or sell the property at a public auction approved by a petition to the court.

**Section 4-8-4      Service and Publication of Notice of Disposition**

- A. Notice of disposition shall be sent by mail to the last known address of any owner or finder. Service shall be complete upon mailing. If the name and address of the owner or finder are not known, notice shall be served by publishing the notice of disposition in a newspaper published in the Town, and display of said notice on the public bulletin board of the Town at 155 North Tegner Street.
- B. If the property is valued at \$25.00 or more, the notice shall be sent by certified mail, otherwise, the notice may be sent by regular mail.

**Section 4-8-5      Award of Lost Property to Finder**

- A. Lost money or property will be awarded to the finder where:
  - 1. The owner has failed to claim and obtain possession of the money or property, and at least 90 days have expired since the date the notice of disposition was served; and
  - 2. The finder claims and obtains possession within the reasonable time required by the Town; and
  - 3. The money or property is not contraband; and
  - 4. For money or property valued at more than \$25.00, the Town files a petition with the Superior Court describing the property; the date, location and circumstances under which the money or property was originally found and delivered to the Town, and reasonable efforts made to locate and notify the owner. The court may order escheatment to the finder when all the conditions of this section are met.
- B. The finder's claim to ownership of the money or property is inferior to the true owner's claim. Upon delivery of property to the finder, the Town shall have no further interest in or obligations with respect to the property. The Town shall, however, provide the name and address of finder and the location of the property, if known, to any person making a satisfactory claim of proof of ownership subsequent to the delivery of the property to the finder.
- C. No Town employee may be awarded any lost money or property discovered while engaged in duties of office or employment for the Town.

**Section 4-8-6      Disposal of Unclaimed Property**

Money or property remaining unclaimed in the possession of the Town, after notice of disposition has been served and expiration of the claim period, may be disposed of as follows:

- 1. Money or property determined by the Department to have a value of \$25.00 or less may be donated to a nonprofit charity, destroyed, or kept by the Town for its use.
- 2. When at least 90 days have passed since the notice of disposition has been served, the Town shall file a petition with the Superior Court for disposal of any money or property valued at more than \$25.00, describing the money or property, location and circumstances under which it was originally found, and reasonable efforts made to locate and notify the owner. The Town may request in its petition that unclaimed money be deposited in the General Fund of the Town, that unclaimed property be sold at public auction as surplus property, that useful items be retained for Town use, or that illegal or non-useful items be destroyed. Upon satisfaction of such conditions, the Court shall order escheatment and may order dispositions requested by the Town.

**Section 4-8-7      Sale at Public Auction**

- A. Upon obtaining an Order of escheatment authorizing sale of unclaimed property at a public auction, the Town shall sell such property following Town procedures for disposal of surplus property pursuant to Section 4-4-15 of the Town Code and the bidding and notice procedures set forth in ARS § 9-402. Property shall be sold to the highest bidder for cash. Some or all of the property may be sold subject to a minimum bid, which shall be known in advance of bidding. Upon delivery to any purchaser of any property sold, the Finance Department shall execute to purchaser a certificate of sale.
- B. All property remaining unsold after being offered for sale may be deemed having no value and may be disposed of pursuant to Subsection 4-8-6(1).
- C. Proceeds from the sale shall be given to the Town Finance Director or his designee and deposited immediately into the General Fund of the Town.

**Section 4-8-8      Disposal and Destruction of Firearms, Liquor, Perishables**

- A. Legal firearms, weapons, ammunitions, explosives and hazardous materials shall be disposed of pursuant to the general procedures set forth herein, except that the Town shall not sell any such items at a public auction. If the Police Department has no use for the legal firearms, weapons, ammunitions, explosives or hazardous materials remaining unclaimed, they shall be destroyed.
- B. Illegal firearms, weapons, ammunitions, explosives and hazardous materials shall be destroyed.
- C. Confiscated liquors not used as evidence, not claimed by the rightful owner, or not converted for Police training purposes, shall be destroyed.
- D. Perishable items not claimed by the owner may be destroyed 24 hours after the Town has obtained possession thereof.

**Section 4-8-9      Disposal of Contested Property**

- A. Money or property in the possession of the Police Department shall be disposed of pursuant to this Section if;
  - 1. The department has reason to believe it was stolen; and
  - 2. Two or more persons claim or may claim ownership or the right to possession; and
  - 3. The money or property is not required for use as evidence in any legal proceedings; and
  - 4. The Town makes no claim for the money or property.
- B. A Hearing Officer will be appointed by the Town Manager. The Hearing Officer will not be a member of the Police Department.
- C. The Police Department shall file a petition for resolution of claims for contested property with the Hearing Officer describing:
  - 1. All the facts listed in paragraph A.
  - 2. The name and address of each claimant.
  - 3. An accurate description of the property including any identifying marks or serial numbers, the location where seized, and the person from whom seized.
- D. The Hearing Officer shall schedule a hearing on the matter. The Police Department shall serve upon each claimant, by certified mail, written notice of the hearing date, time and locations, along with a copy of the petition.

1. The hearing date shall be held at least 30 days after the date of service.
  2. Service shall be made to the last known address of each claimant, and complete upon receipt.
  3. Proof of service on each claimant shall be delivered to the Hearing Officer.
- E. The failure of any person to appear at the hearing shall constitute a waiver of any claim against the Town for the property and the Hearing Officer may enter a ruling consistent therewith.
- F. The hearing shall be informal. The technical rules of evidence shall not apply. The Hearing Officer shall allow testimony to be given orally or through sworn written affidavits. The hearing shall be recorded electronically or by other means.
- G. Within 10 days after the hearing, the Hearing Officer shall send his written decision based on a preponderance of the evidence, by certified mail, to each claimant. The decision of the Hearing Officer shall be final.
- H. Property shall be released to any person who produces a copy of the original petition and the final decision in their favor describing the requested property, and appropriate identification to the Police Department Property Custodian. No property may be released until 20 days after the date of the Hearing Officer's decision.
- I. Any aggrieved person may seek judicial review of the Hearing Officer's final decision by a special action proceeding in Superior Court. Nothing in this section shall prevent any person from filing an action in court to establish ownership to the property.
- J. In lieu of the procedures set forth in this section, the Town may file a complaint in interpleader in a court of competent jurisdiction against all person claiming an interest of ownership in the property held in possession of the Town.

**Section 4-8-10            Affidavit; Records**

- A. An affidavit shall be prepared and served as prima facie evidence of the facts contained therein, by: (1) any finder who may, subsequently, claim the money or property found; (2) the person serving the notice of disposition by mail or publication; (3) the person who disposes of property by destruction; (4) the person who releases property to the Finance Department for public auction; (5) the person who releases unclaimed money to the Finance Department to be deposited in the General Fund of the Town; (6) the person who presides as Hearing Officer in a contested property dispute.
- B. The Police Department shall keep a complete record of all money and property taken into possession, including a copy of the notice of disposition, a copy of the petition filed with the court; the name and address of the purchaser and amount paid, and a statement of the costs of sale and advertising which will be forwarded to the property section of the Police Department; the original affidavits described in Subsection 4-8-10 (A), and a copy of any documents pertaining to disposition of the property.
- C. All affidavits and records of disposition of money or property shall be kept for a minimum of 24 months.



