

CHAPTER 4

ADMINISTRATION

4-1	OFFICERS IN GENERAL.....	37
4-2	OFFICERS.....	38
4-3	PERSONNEL.....	42
4-4	PURCHASING.....	42
4-5	SURPLUS PROPERTY.....	45.1

CHAPTER 4 ADMINISTRATION

ARTICLE 4-1 OFFICERS IN GENERAL

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

Section 4-1-1 Officers

A. There are hereby created the offices of town manager, town clerk, police marshal, town attorney and town magistrate who shall be appointed by the council and who shall serve at the pleasure of the council, with the exceptions provided in Section 4-2-6 and 4-2-5.

B. The town manager is authorized to act as the town clerk and treasurer.

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 may require each officer of the town to give bond for the due discharge of his or her duties in such sums and with such security as it may direct and approve as determined by resolution. 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 town office shall be filled by appointment by council, provided that one person may hold more than one office and that at the discretion by a deputy or another town 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.

ARTICLE 4-2 OFFICERS

- 4-2-1 Town Manager
- 4-2-2 Town Clerk
- 4-2-3 Town Marshall
- 4-2-4 Town Attorney
- 4-2-5 Town Magistrate
- 4-2-6 Removal of Officers

Section 4-2-1 Town Manager

4-2-1.1 Appointment: The office of the town manager is hereby created and established. The town manager shall be appointed by the council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and at the pleasure of the council. The town manager may hold more than one town position simultaneously as directed by the council.

4-2-1.2 Bond: The town manager shall furnish a corporate surety bond to be approved by the council, and shall be conditioned upon the faithful performance of the duties imposed upon the manager as herein prescribed. Any premium for such bond be a proper charge against the town.

4-2-1.3 Compensation: The town manager shall receive such compensation as the council shall fix from time to time and shall accrue a vacation privilege as provided in the Personnel Policy Manual.

4-2-1.4 Removal Procedure: The town manager may be removed by a majority vote of the council, with or without cause. If the removal is for cause and if requested, the council shall grant the individual a public hearing within thirty days following notice of removal. If the removal is without cause, it shall become operative thirty days from the date of the notice of removal. During the interim the council may suspend the manager from duty, but shall continue his or her salary for three months following the removal date, provided however that the manager shall have been in the service of the town for at least one calendar year.

4-2-1.5 Powers and Duties: The town manager shall be the administrative head of the government of the town under the direction and control of the council except as otherwise provided in this chapter. He or she shall be responsible to the council for the proper administration of all affairs of the town. In addition to his or her general powers as administrative head and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following subsections.

Prepare the budget annually and submit it to the council together with a message describing the important features and be responsible for its administration after adoption.

Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the town of the preceding year.

Keep the council advised of the financial condition and future needs of the town and make such recommendations as he or she may deem desirable.

Recommend to the governing body a standard schedule of pay for each position in the town service, including minimum, intermediate and maximum rates. Authorize the payment of overtime pay for such employees as may work in excess of a normal work period. Such rates of pay and period of work shall be in conformity with wages and salaries enacted by the town council.

Recommend to the governing body from time to time adoption of such measure as he or she may deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.

The town manager shall have the supervisory authority over all departments and shall therefore have authority to direct the activities of and to hire and terminate all employees including department heads, with cause, after consultation with his immediate supervisor.

Attend all meetings of the council unless excused therefrom, and take a part in the discussion of all matters coming before the council. He or she shall be entitled to notice of all regular and special meetings of the council. In the event that the manager will not be able to attend a council meeting, he or she will give the mayor 24 hours notice and state the reason therefore.

Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of the town services for amounts up to and including two thousand dollars, receive sealed bids for purchases or contracts in excess of two thousand dollars and present them to the council for approval, and advise the council on the advantages or disadvantages of contract and bid proposals. No contract in excess of two thousand dollars and no contract for new construction shall be let except by the council. The manager may issue such rules governing purchasing procedures within the administrative organization as the council shall approve.

In case of accident, disaster or other circumstances creating a public emergency, the manager may award contracts and make purchases for the purpose of meeting said emergency; but he or she shall file promptly with the council certificate showing

such emergency and the necessity for such action, together with an itemized account of all expenditures.

Investigate the affairs of the town or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government by the town and in regard to service maintained by the public utilities in the town, and see that all franchises, permits and privileges granted by the town are faithfully observed.

Perform such other duties as may be required by the council, not inconsistent with state law or town ordinances.

See that all laws and ordinances are duly enforced.

Section 4-2-2 Town Clerk

A. Records: The clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the town or that the council directs. The clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, ordinances, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.

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

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

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

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

F. Duties As Treasurer: The clerk shall hold the office of town treasurer and receive and safely keep all moneys that shall come to the town and pay out the same when authorized by council and/or town manager. The town clerk shall be the primary signatory for all town accounts. The town manager and assistant town clerk (in that order) shall function as secondary signatories in his or her absence. He or she shall keep separate records and accounts of each different fund provided by the

council, apportion the moneys received among the different funds as prescribed by the council and keep a complete set of books showing: every money transaction of the town, the state of each fund, from what source the money in each fund was derived and for what purpose expended, and he or she shall make monthly reports to the council of all receipts and disbursements and the balance in each fund.

At the end of the fiscal year, he or she shall make a full and detailed statement of the receipts and expenditures of the town during the year, specifying the different sources of revenue and the amount received from each, all appropriations made by the mayor and council, and the object for which they were made, indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

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

H. Licenses: The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.

I. Administrative Duties: The clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the council in addition to those specified in this code.

Section 4-2-3 Police Chief

The chief of police shall perform such duties as may be required of him or her by law and as the council may deem necessary. In the event the Town of Duncan does not have a marshal or police chief acting as a peace officer certified by the Arizona Peace Officer Standards and Training Board, the Greenlee County Sheriff's Department may assume the aforementioned duties through an intergovernmental agreement.

Section 4-2-4 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 or her opinion in writing when requested by the council. He or she shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. He or 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 or she shall return, within ten days, all ordinances and resolutions submitted to him or her for consideration by the council, with his or her approval or disapproval as to form noted thereon. He or she shall prosecute and defend all suits, actions or causes where the town is a party, and shall report to the council meetings at the request of the town manager.

Section 4-2-5 Town Magistrate

The town magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

Section 4-2-6 Removal of Officers

Officers appointed by the council as set forth in Section 4-1-1 may be removed from office upon the majority vote of all members elected or appointed to the council.

Section 4-2-7 Contract for Services

The council may, by a two-thirds vote, elect to enter into a contract for services with any of its officers on such terms or conditions as may be agreed upon in the contract.

ARTICLE 4-3 PERSONNEL

4-3-1 Rules and Regulations

4-3-2 Political Contributions

Section 4-3-1 Rules and Regulations

The council may adopt by resolution personnel rules and regulations, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration.

Section 4-3-2 Political Contributions

No officer, official or employee of the town shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

ARTICLE 4-4 PURCHASING

4-4-1 In General

4-4-2 Exclusive Service

4-4-3 Bidding

4-4-4 Determination of Lowest Responsible Bidder

4-4-5 Bonding

4-4-6 Emergency Purchases

4-4-7 Forms

4-4-8 Professional Services

4-4-9 Cooperative Purchasing

4-4-10 Payments for Purchases

Section 4-4-1 In General

The town manager shall be the purchasing agent for the town. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the town, shall be made by the purchasing agent, or any officer, employee or agent of the town, except in the manner set forth in this article, and unless said purchase is in accordance with the adopted town budget.

A. Under \$2,000: Whenever any contemplated purchase or contract for services is for the sum of less than \$2,000, the purchasing agent may order the item as needed without further formality.

B. \$2,000 to \$4,999 inclusive: Whenever any contemplated purchase or contract for services is for the sum of at least \$2,000 but not more than \$4,999, the purchasing agent shall solicit at least three bids for the item or service. Said solicitation may be orally obtained by him or her, and he or she shall then submit the bids to the Town Council for its consideration and action. The purchasing agent shall submit the bids to the Town Council along with his or her memorandum ("recommendation memo") as to which vendor, contractor, service provider or supplier, as the case may be, should be approved and the advantages and disadvantages of the contracts or bids being considered. The recommendation memo is advisory only. So that all solicitations for bids may be uniform in nature and wording, a scope of work/request for proposal will be utilized for all purchases exceeding estimated expenditures of \$2,000. All purchases under this sub-section shall be approved by a vote of the Council and award the purchase or contract of services to the lowest responsible bidder as defined in section 4-4-4 in herein. However, the Council reserves the right to refuse any and all bids.

C. \$5,000 or Over: Whenever any contemplated purchase or contract for services, except for professional services as defined in Section 4-4-8, is for the sum of \$5,000 or more, the purchasing agent shall cause to be published in two issues of a newspaper of general circulation in the town, notice inviting bids, which notice shall be published at least five days prior to the date set for the receipt of the bids. The notice herein required shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids. In addition, the purchasing agents shall post a notice inviting bids in the town hall and may also mail to all responsible prospective suppliers a copy of the notice inserted in the newspaper. After receipt of all bids, the purchasing agent shall submit the bids to the council along with his or her recommendation memo as to which vendor, contractor, service provider, or supplier, as the case may be, should be approved and the advantages and disadvantages of the contracts and bids being considered. The recommendation memo is advisory only.

D. No contract of \$2,000 or more shall be let except by the council. Whenever any contemplated purchase or contract for services is for the sum of \$2,000 or more, the purchasing agent shall present the bids to the council for its consideration and action, and present its recommendation memo to the council, advising the council of the advantages or disadvantages of contract and bid proposals as it is required by this section 4.

E. The purchasing agent shall accept only one bid from each vendor, contractor, service provider or supplier for purchases and contracts for services exceeding \$2,000.

F. Council reserves the right to require a bond, in accordance with Section 4-4-5, for any contract over \$5,000 that requires their approval. Such bonding shall not be superfluous to any federal, state or other bonding requirements.

Section 4-4-2 Exclusive Service

In the event that there is only one firm, company or individual capable of providing a particular service or commodity and such services or commodities cannot be secured from other persons or companies, Section 4-4-1 shall not be applicable, and such services or commodities can be secured without bidding.

Section 4-4-3 Bidding

A. The purchasing agent and all parties contracting with the town, except those parties contracting for professional services as defined in Section 4-4-8, shall follow the procedure set forth in this section in relation to all bids required under Section 4-4-1, subsection D.

1. All notices and solicitation of bids shall state the time and place for opening.
2. All bids shall be submitted sealed to the purchasing agent and shall be identified as bids on the envelope.
3. All bids shall be opened in public at the time and place stated in the public notice.
4. A tabulation of all bids received shall be posted in the town hall for public inspection.

B. The purchasing agent under subsections A, B and C of Section 4-4-1 and the council under subsection D of that section shall have the authority to reject any and all bids and parts of all bids and re-advertise to re-solicit bids.

Section 4-4-4 Determination of Lowest Responsible Bidder

Unless the council or purchasing agent shall exercise the right of rejection as provided by Section 4-4-3, the purchase or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract or for any part thereof. In determining the lowest responsible bidder, the council and purchasing agent may consider:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- B. Whether the bidder can perform the contract or provide the services promptly or within the specified time, without delay or interference.
- C. The quality of performance of previous contracts.
- D. The previous and existing compliance by the bidder with laws and ordinances of the town.
- E. The financial resources and ability of the bidder to perform the contract.
- G. The quality, availability and adaptability of the supplies or services.

Section 4-4-5 Bonding

The purchasing agent shall have the authority to require a performance, bid, contract or other type of bond, in cash or otherwise, for such amount as he or she may deem sufficient to secure the execution of the contract for the best interest of the town.

Section 4-4-6 Emergency Purchases

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the mayor shall be empowered to authorize the purchasing agent to purchase or secure services without complying with the procedures of this article. A full report in writing of the circumstances of any emergency purchase shall be filed by the purchasing agent with the town council at its next meeting.

Section 4-4-7 Forms

The purchasing agent shall prescribe and maintain such forms as he or she shall find necessary for the operation of the provisions of this article.

Section 4-4-8 Professional Services

Unless required by the council, the provisions of this article shall not apply to professional services. Such services shall include, but not limited to, the following: physicians, attorneys, engineers and similar professions.

Section 4-4-9 Cooperative Purchasing

This article shall not apply to purchases made by, through or with the State of Arizona or its political subdivisions. The town may make purchases or award contract for services without a formal bidding process whenever other governmental units have done so for the same item or service if, in the opinion of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.

Section 4-4-10 Payments for Purchases

Payments for purchases shall be made by check or credit card only. The town checking, savings and safe deposit box account(s) shall be kept at the local branch bank. A minimum number of credit card accounts are authorized WITH NO MORE THAN 5 CARDS PER ACCOUNT.

A petty cash fund is not authorized except for special events.

Disbursements of funds by the town clerks, acting as treasuring and in accordance with his or her duties, shall be only for payments for authorized purchases, as prescribed in Section 4-2-2.

Checks for purchase or contract for services under \$2,000 requires a purchase order approved by the Town Manager, or Town Clerk. As directed by the Town Manager.

Checks for purchase or contract for services over \$2,000 shall require a purchase order that has been approved by the Town Council.

Each check will have as the signatories (1) The Town Clerk, Assistant Town Clerk/Billing Clerk or Town Manager and (2) The Mayor, Vice-Mayor or a councilmember. In the event that the Mayor is not available, the Vice Mayor or a councilmember may sign. The Vice- Mayor and councilmembers will be contacted in order of seniority, the Vice-Mayor being the senior to the councilmember.

If the Mayor, Vice-Mayor or Councilmember refuses to sign a check, then another councilmember may not be contacted to sign the check. The Mayor, Vice-Mayor or councilmember refusing to sign the check will fill out a check refusal form. The unsigned check will be voided and placed in the town safe along with the check refusal form. The item will then be placed on the next Town Council Meeting agenda for discussion and action.

Payroll checks: The Town of Duncan operates on a biweekly payroll system. All payroll checks shall be signed as provided above. However, payroll checks will be signed on or before the payday date. Wages shall not be withheld except in accordance to A.R.S. §23-351, ET SEQ.

No one shall sign a check made out to him or her.

ARTICLE 4-5 SURPLUS PROPERTY

4-5-1 Surplus Property

Section 4-5-1

- A. \$1 to \$499: Surplus property sold at a fair market value of \$499 or less is considered a casual sale. The Town Manager shall report casual sales to the Town Council at the next regularly convened meeting following the sale. Casual sales to Town employees must be approved by the Town Council. Town officials may not purchase property by casual sales. Third degree nepotism laws shall apply.

- B. \$500 and Above: All property with a fair market value of \$500 or more must be declared surplus property by the Town Council and advertised for two consecutive issues of a newspaper of general circulation in the Town of Duncan with a minimum bid that meets fair market value. Town officials or employees may purchase property only if it is sold through sealed bids or public auction. The town of Duncan reserves the right to refuse any and all bids.