

CHAPTER 3 ADMINISTRATION

(Ord. 89-01)(Res. 89-01)(Ord. 13-05)(Ord. 14-04)

ARTICLE 3-1 OFFICERS IN GENERAL

- 3-1-1 Officers (Ord.14-04)
- 3-1-2 Additional Officers
- 3-1-3 Bond
- 3-1-4 Additional Powers and Duties

Section 3-1-1 Officers

There are hereby created the offices of Town Manager, Town Clerk, Police Chief, Town Engineer, Town Attorney and Town Magistrate who shall serve, with the exception of the Magistrate, at the pleasure of the Council.

Section 3-1-2 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 3-1-3 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. The Town shall pay the costs of such bond.

Section 3-1-4 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 3-2 OFFICERS

- 3-2-1 Town Manager (Ord.14-04)
- 3-2-2 Town Clerk (Ord. 06-05/Ord. 06-12/Ord. 10-06/Ord. 08-13/Ord. 10-07/Ord. 14-04)
- 3-2-3 Police Chief
- 3-2-4 Town Engineer (Ord.14-04)
- 3-2-5 Town Attorney; Town Prosecutor (Ord. 11-08/Ord. 14-04)
- 3-2-6 Town Magistrate

Section 3-2-1 Town Manager

- A. Office Created. The office of the Town Manager of the Town of Quartzsite is hereby created and established. The Town Manager shall be appointed by the Council wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and at the pleasure of the Council.

- B. Bond. The Town Manager shall furnish a corporate surety bond to be approved by the Council in such sum as may be determined by the Council. The bond shall be conditioned upon the faithful performance of the duties imposed upon the manager as prescribed in this article. Any premium for such bond shall be a proper charge against the Town.
- C. Compensation. The Town Manager shall receive such compensation as the Council shall fix from time to time.
- D. Removal Procedure. The Town Manager may be removed by a majority vote of the members of the Council. Severance pay, if any, shall be as provided in a contract.
- E. 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 by the Council. He shall be responsible to the Council for the proper administration of all affairs of the Town. In addition to his general powers as administrative head and not as a limitation thereon, it shall be his duty and he shall have the powers set forth in the following paragraphs.
1. Appoint and, when necessary for the good of the service, suspend or remove all officers and employees of the Town not appointed by the Council. If an officer or employee's appointment required the concurrence of the Council, removal shall require concurrence of the Council. He may authorize the head of a department or office to appoint, suspend or remove subordinates in such department or office. All appointments and removals shall be based on merit and upon the qualifications and disqualifications of such officer or employee without regard to any political belief or affiliation.
 2. 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.
 3. 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 the preceding year.
 4. Keep the Council advised of the financial condition and future needs of the Town and make such recommendations as he may deem desirable.
 5. Serve as personnel officer with such duties as directed by the Council, prescribed by this code and as set forth in the personnel rules and regulations. He shall recommend to the governing body a standard schedule of pay for each appointive office and position in the Town service, including minimum, intermediate and maximum rates. He shall authorize the payment of overtime pay for such employees as may work in

excess of a normal work period. Such rates of pay and periods of work shall be in conformity with wages and salaries enacted by the Council.

6. Recommend to the Council from time to time adoption of such measures as he may deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.
 7. Consolidate or combine offices, positions, departments or units under his jurisdiction, with the approval of the Council. The manager may be the head of one or more departments.
 8. Attend all meetings of the Council, unless excused therefrom, and take part in the discussion of all matters coming before the Council. He shall be entitled to notice of all regular and special meetings of the Council.
 9. 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 shall file promptly with the Council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.
 10. See that all laws and ordinances are duly enforced.
 11. 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 of 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.
 12. Oversee the work of the Police Chief and provide for a written evaluation on an annual basis to be provided to the Council for consideration.
 13. Perform such other duties as may be required by the Council, not inconsistent with state law or Town ordinances.
- F. Council Not to Interfere With Appointments or Removals. With regard to officers and employees appointed by the manager, neither the Council nor any of its members shall direct or request the appointment of any person to, or his removal or suspension from, such office by the manager or any of his subordinates, or in any manner take part in the appointment or removal of such officers and employees in the administrative services of the Town. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the manager.

Section 3-2-2 Town Clerk (Ord. 06-05/Ord. 06-12/Ord. 08-13/Ord. 10-07/Ord. 14-04)

- A. Appointment. The Clerk shall be appointed by the Town Manager with the concurrence of the Council. The position shall be classified and subject to the Town of Quartzsite Personnel Policy.
- B. 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 ordinances, resolution, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.
- C. Public Inspection of Records. The clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute.
- D. 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.
- E. Minutes. The clerk shall prepare or cause to be prepared all minutes of Council proceedings and ensure their correctness and accuracy.
- F. Ordinances, Resolution, 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.
- G. Duties as Treasurer. The clerk or the Town Manager's designee shall hold the office of Town Treasurer and receive and safely keep all monies that shall come to the Town and pay out the same when authorized by the Council. He shall keep a separate record and account of each different fund provided by the Council, apportion the monies 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 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 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, and the amount of money expended under each, the evidences of indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.
- H. Election Official. The clerk shall be the Town election official and perform those duties required by state statute.

- I. Licenses. The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.
- J. Administrative Duties. The clerk shall perform those administrative responsibilities and duties that are conferred upon him by the Town Manager in addition to those specified in this code.

Section 3-2-3 Police Chief

The Police Chief shall be the chief of police and he shall perform such duties as may be required of him by law and as the Council may deem necessary.

Section 3-2-4 Town Engineer

The Town Engineer shall be appointed by the Town Manager with the concurrence of the Council. The engineer shall have charge of the Town streets, sewers and waterworks and shall perform such duties as may be required of him by law and such other duties as the Council may deem necessary.

Section 3-2-5 Town Attorney; Town Prosecutor (Ord. 11-08)(Ord. 14-04)

- A. Town Attorney. The Town Attorney shall be appointed by the Council. The Town Attorney shall act as the legal counselor and advisor of the Council and other town officials and, as such, shall give his opinion in writing when requested by the Town Manager. The Town Attorney shall review and assist in the drafting of all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the Town Manager. The Town Attorney shall approve or disapprove as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the Council. The Town Attorney shall return within the time allotted by the Town Manager all ordinances and resolutions submitted for consideration by the Town Manager, with approval or disapproval as to form noted thereon, together with the reasons therefore. Except for matters handled by counsel appointed by the Town's insurance carrier, the Town Attorney shall prosecute and defend all civil suits, actions or causes where the town is a party to the extent of the Town Attorney's ability and in accordance with the Town Attorney's independent professional legal judgment and in compliance with the Arizona Supreme Court's Rule of Professional Responsibility shall report to the Council, when required, the condition of any suit or action to which the Town is a party. The Town Attorney shall attend all Council meetings to advise the Council on legal issues and serve as Town Parliamentarian.
- B. Town Prosecutor. The Town Prosecutor shall be appointed by the Council. The Town Prosecutor shall prosecute all criminal charges in the Quartzsite Magistrate Court which are supported by probable cause within the parameters of the Arizona Supreme Court's Rules of Professional Responsibility and prevailing standards of prosecution. The Town Prosecutor shall prosecute all civil, petty and civil traffic offenses in the Quartzsite Magistrate Court which are supported

by probable cause within the parameters of Professional responsibility and prevailing standards of prosecution if the defendant in such matters is represented by counsel.

- C. That if any section, subsection, sentence, clause or phase of this ordinance is, for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Town of Quartzsite Common Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phases be declared unconstitutional.

Section 3-2-6 Town Magistrate

The Town Magistrate shall be appointed by the Council and shall be the presiding officer of the magistrate's court. He shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

ARTICLE 3-3 PERSONNEL SYSTEM

- 3-3-1 Creation and Scope
- 3-3-2 Conditions of Employment (Ord.14-04)
- 3-3-3 Rules and Regulations
- 3-3-4 Political Contributions
- 3-3-5 Personnel Advisory Board (Ord.14-04)

Section 3-3-1 Creation and Scope

There is hereby adopted a merit system for the employees of the Town, the provisions of which shall apply to all employees of the Town, except elected officials, officers of the Town appointed by the Council, persons engaged under contract to supply expert, professional or technical services, temporary employees and volunteer personnel who receive no regular compensation from the Town.

Section 3-3-2 Conditions of Employment

The appointment, promotion and tenure of every employee shall be conditioned solely on merit, qualifications and satisfactory performance of the duties and responsibilities assigned. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, sex, age or political affiliation.

Section 3-3-3 Rules and Regulations

The Council may adopt by resolution rules and regulation to give effect to this article, 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 3-3-4 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.

Section 3-3-5 Personnel Advisory Board (Ord. 11-03)(Ord. 14-04)

A. Terms

There is hereby created a personnel board, which shall consist of three (3) regular members and two (2) alternate members from the citizens of the Town. Regular members and alternates shall be appointed by the Mayor and Council. The terms of regular members shall be three (3) years, so staggered that only two (2) board member terms expire in the same year. The terms of the alternate members shall be one (1) year. Alternate members shall be called by the chairman as needed to assure a quorum is present. This board shall be required to meet a minimum of once each year at a date and time to be determined by the members of the board. Special Meetings may be called as needed by the chairman. The regular members of the board shall elect a chairman from their membership to conduct the meetings. The members of the personnel board shall serve at the pleasure of the Mayor and Council.

B. Duties

The board shall meet as needed to conduct hearings on qualified employee grievances and make recommendations to the Town Manager or his/her designee as the Personnel Officer. The board may meet in executive session in accordance with the Arizona Open Meeting Law.

The board shall review changes to the Town of Quartzsite Personnel Policy and make recommendations to the Mayor and Council as needed.

ARTICLE 3-4 PROCUREMENT (Ord. 89-04) (Ord. 93-06) (Res. 89-07) (Ord. 11-15)(Ord. 14-04)

- 3-4-1 General
- 3-4-2 Procedure
- 3-4-3 Award by Council
- 3-4-4 Bidding
- 3-4-5 Determination of Lowest Possible Bidder
- 3-4-6 Performance Bond
- 3-4-7 Forms
- 3-4-8 Change Orders
- 3-4-9 Unauthorized Purchases

Section 3-4-1 General

The Town Manager is the procurement agent for the Town. No purchase of goods 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 procurement 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.

Section 3-4-2 Procedure

- A. \$2,000 or Less. Whenever any contemplated purchase of goods or contract for services is for the sum of \$2,000 or less, the procurement agent may purchase the item as needed without further formality.
- B. \$2,001 to \$4,000 Inclusive. Whenever any contemplated purchase of goods or contract for services is for the sum of at least \$2,001 but not more than \$4,000, the procurement agent shall solicit at least three oral bids for the item or service. The procurement agent may then award the purchase or contract of service to the lowest responsible bidder who submits a responsive bid.
- C. \$4,001 to \$8,000 Inclusive. Whenever any contemplated purchase of goods or contract for services is for the sum of at least \$4,001 but not more than \$8,000, the procurement agent shall solicit at least three written bids for the item or service on bid forms and award the purchase or contract of services to the lowest responsible bidder.
- D. \$8,000 and Over. Whenever any contemplated purchase of goods or contract for service is for the sum of \$8,000 or more, the procurement 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 agent 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.
- E. Exceptions: The following procurements are exempt from the bidding requirements of this article to the extent set forth below.
 - 1. Construction Contract. Construction projects are exempt from these bidding requirements and shall comply with Title 34, Arizona Revised Statutes; however, if public competitive bidding is not required pursuant to A.R.S. § 34-201(C) and (D), then the requirements of this section shall apply.
 - 2. Cooperative Purchasing. Cooperative purchases are exempt from these bidding requirements whenever other governmental units have bid the same item or service if, in the opinion of the procurement agent, a

separate bidding process is not likely to result in a lower price for such items or services. Purchases from the state bid list are cooperative purchases.

3. Sole Source Providers. Purchases from sole source providers are exempt from these bidding requirements if the procurement agent make a written determination that competition is not available and there is only one known source for the goods or services.
 4. Professional Services. Contracts for professional services are exempt from these bidding requirements. Contracts for professional services of engineers, architects, landscape architects, assayers, geologists and land surveyors may be required to comply with the procedures set forth in A.R.S. § 34-102(C), A.R.S. §34-103(C) and (D) or Title 34, Chapter 6, Arizona Revised Statutes.
 5. Intergovernmental Agreements. Intergovernmental agreements are exempt from these bidding requirements.
 6. Emergency Purchases. The procurement agent may procure and contract for supplies and services without compliance with the procedures set forth in this section when there has been a determination that an emergency purchase is necessary. The procurement agent shall be responsible for determining the validity of all emergency purchase requests. A complete written explanation shall be provided to the Council as soon as reasonably practical after the emergency purchase.
 7. Used Equipment. Purchases of used equipment and non-durable purchases such as fuel and oil are not subject to the bidding procedures applicable to other purchases on the recommendation of the procurement agent and approval of the Council.
- F. Nothing in subsection E shall preclude the Town from soliciting bids for proposals for the procurement listed in subsection E if the purchasing agent or Council deems it to be in the best interest of the Town to do so.
- G. Proposed purchases of multiple items shall not be segregated for the purpose of avoiding the requirements of this section.

Section 3-4-3 Award by Council

No contract of \$8,000 or more shall be let except by the Council. Whenever any contemplated purchase or commodities or contract for services is for the sum of \$8,000 or more, the purchasing agent shall present the bids to the Council for approval, and advise the Council of the advantages or disadvantages of the contract and bid.

Section 3-4-4 Bidding

- A. The procurement agent and all parties contracting with the Town shall follow the procedure set forth in this section in relation to all bids required under Section 3-4-2. All notices and solicitation of bids shall state the time and place for opening.
- B. All bids shall be submitted sealed to the procurement agent and shall be identified as bids on the envelope.
- C. All bids shall be opened in public at the time and place stated in the public notice.
- D. A tabulation of all bids received shall be posted in the Town Hall for public inspection.
- E. The procurement agent or the Common Council, as appropriate, shall have the authority to reject any and all bids and parts of all bids and re-advertise or re-solicit bids.

Section 3-4-5 Determination of Lowest Responsible Bidder

Unless the Common Council or procurement agent exercises the right of rejection, 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 Common Council and/or the procurement agent shall 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 procurement requirements and laws and ordinances of the Town.
- E. The financial resources and ability of the bidder to perform the contract.
- F. The quality, availability and adaptability of the supplies or services.

Section 3-4-6 Performance Bond

The procurement agent shall have the authority to require a performance bond, in cash or otherwise, for such amount as he may deem sufficient to secure the execution of the contract for the best interest of the Town.

Section 3-4-7 Forms

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

Section 3-4-8 Change Orders

- A. Change orders, including change orders for construction projects, that do not increase the contract amount may be approved and executed by the procurement agent.
- B. Change orders, including change orders for construction projects, that increase the contract amount may be approved and executed by the procurement agent if the total of all change orders for the contract does not exceed the lesser of ten percent of the original contract amount or \$8,000.

Section 3-4-9 Unauthorized Purchases

No Town employee shall order the purchase of supplies or services or make contracts on behalf of the Town other than through the procedures set forth in this article and the Town shall not be bound hereby; provided that exceptions may be made for emergency travel.

ARTICLE 3-5 OFFICE OF ZONING ADMINISTRATOR (Ord.14-04)

- 3-5-1 Established
- 3-5-2 Appointment of Zoning Administrator
- 3-5-3 Duties of Zoning Administrator
- 3-5-4 Fees
- 3-5-5 Appeals

Section 3-5-1 Established

The office of zoning administrator of the Town of Quartzsite is hereby established.

Section 3-5-2 Appointment of Zoning Administrator

The Zoning Administrator shall be appointed by the Town Manager with the concurrence of the Council. The Zoning Administrator may be the Town Manager, Town Clerk or any other individual appointed by the Council, which the Council finds to be qualified to hold said position.

Section 3-5-3 Duties of Zoning Administrator

It shall also be the duty of the Zoning Administrator to make recommendations to the Planning and Zoning Commission as to zoning changes that are necessary in the Town, and, upon the filing of an application with the zoning commission for a change of zoning, the Zoning Administrator shall make his recommendations, in writing, regarding the

application, citing the facts upon which he relies in making his decisions. The Zoning Administrator shall submit his recommendations to the Planning and Zoning Commission prior to the Planning and Zoning Commission hearings which deal with the rezoning of any parcel of property within the Town.

Section 3-5-4 Fees

The Council shall be authorized to establish a uniform schedule of fees to be charged by the Zoning Administrator for any duties performed by the administrator, and such fee schedule shall become effective upon approval of the Council.

Section 3-5-5 Appeals

Any decision or recommendation of the zoning administrator shall be appealable to the Board of Adjustment as established in the zoning ordinance of the Town.

ARTICLE 3-6 CIVIL PREPAREDNESS AND DISASTER

- 3-6-1 Purposes
- 3-6-2 Definitions
- 3-6-3 Civil Preparedness Organization
- 3-6-4 Powers and Duties (Ord. 10-06)
- 3-6-5 Mutual Aid
- 3-6-6 Immunity of Town and Representatives Thereof
- 3-6-7 Violations

Section 3-6-1 Purposes

The purposes of this article are to:

- A. Reduce vulnerability of people and the community to damage, injury and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action.
- B. Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by disaster.
- C. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters.
- D. Clarify and strengthen the roles of the Mayor, Council, manager and Town agencies in prevention of, preparation for and response to and recovery from disasters.
- E. Authorize and provide for cooperation in disaster prevention, preparedness, response and recovery.

- F. Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery by agencies and officers of this Town, agencies of the private sector and similar activities in which the federal government, the state and its political subdivisions may participate.
- G. Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response.

Section 3-6-2 Definitions

In this article unless the context otherwise requires:

- A. **“Civil preparedness”** means the organization, administration, trained manpower, facilities, equipment, material, supplies, programs, emergency plans, ability to execute emergency plans and all other measures necessary and incidental thereto relating to disaster prevention preparedness response and recovery by all governmental and private sector agencies to protect or save health, life or property.
- B. **“Director”** means the Town Manager or his designee.
- C. **“Disaster”** means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property or extreme peril to the safety of persons or property, resulting from any natural or manmade causes, including but not limited to fire, flood, earthquake, wind, storm, blight, drought, famine, infestation, air contamination, epidemic, explosion, riot or other act of civil disobedience which endanger life or property, or hostile military or paramilitary action.
- D. **“Emergency”** means the existence of a disaster within the Town limits requiring immediate action by the emergency forces of the Town.
- E. **Emergency forces”** means all Town governmental and private sector agencies, volunteers, facilities, equipment, trained manpower and other resources required to perform civil preparedness functions.
- F. **“Regulations”** means the orders, rules and emergency procedures deemed essential for civil preparedness.
- G. **“State of emergency”** means the duly proclaimed existence of a disaster within the state except a disaster resulting in a state of war emergency which is or is likely to be beyond the capabilities and resources of any single county, city, or Town and requires the combined efforts of the state and the political subdivision.
- H. **“State of war emergency”** means the situation which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent.

Section 3-6-3 Civil Preparedness Organization

The Town Manager is hereby authorized and directed to create a civil preparedness organization. The Town Manager or his designee shall be the director of civil preparedness.

Section 3-6-4 Powers and Duties (Ord. 10-06)

A. The Council

1. Shall have the power to make, amend and rescind regulations, not inconsistent with regulations promulgated by the governor, necessary for civil preparedness, which regulations shall have the full effect of this article when a copy is filed in the office of the Town Clerk. Existing ordinances and regulations, or ordinances and regulations issued under authority of A.R.S. Title 26, Chapter 2, in conflict therewith, are suspended during the time and to the extent that they are in conflict.
2. May appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil preparedness purposes.
3. In the absence of specific authority in state emergency plans and procedures, the Council shall take emergency measures as deemed necessary to carry out the provisions of A.R.S. Title 26, Chapter 2.
4. In a state of war emergency the Council may waive procedures and formalities required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when the Council determines and declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency. The Town shall be exempt during such emergency from budget limitations prescribed by Article IX, Section 20 of the State Constitution.
5. In addition to the powers granted by other provisions of the law or Town ordinance, the Council may, by proclamation, declare an emergency or a local emergency to exist. The proclamation may be rescinded by a majority of the Council after twenty-four hours.
6. During an emergency or local emergency, the Mayor shall govern by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the Town including but not limited to:
 - a. Imposition of curfews in all or in a portion of the Town;

- b. Ordering the closing of any business;
- c. Denying public access to any public building, street or other public place;
- d. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the Town for assistance.

B. The Town Manager

- 1. The Town Manager is responsible in nonemergency periods to act on behalf of the Council to develop a readiness plan for the Town's civil preparedness and for coordinated operations in disaster situations.
- 2. During emergencies, the Town Manager shall act as the principal advisor or aid to the Council on emergency operations. His major responsibility is to assure coordination among emergency forces and with higher and adjacent governments, by assuring that the emergency operation center functions effectively. He shall assist the Council in the execution of operations, plans and procedures required by the emergency.
- 3. The Town Manager shall prepare a comprehensive disaster basic plan which shall be adopted and maintained by resolution of the Council upon the recommendations of the Town Manager. In the preparation of this plan as it pertains to Town organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies be used to the fullest extent.
- 4. The disaster plan shall be considered supplementary to this article and have the effect of law whenever emergencies, as defined in this article, have been proclaimed.

Section 3-6-5 Mutual Aid

In periods of local emergency as declared pursuant to this article, the Town is hereby granted full power to provide mutual aid to any affected area in accordance with local ordinances, resolution, emergency plans or agreements therefore. The Town may request from state agencies mutual aid including personnel, equipment and other available resources to assist the Town during the local emergency in accordance with emergency plans or at the direction of the governor.

Section 3-6-6 Immunity of Town and Representatives Thereof

- A. The Town shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform a discretionary function or duty on the part of the Town or any employee of the Town, except willful misconduct, gross negligence or bad faith of any such employee, in carrying out the provisions of A.R.S. Title 26, Chapter 2.

- B. The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability workmen’s compensation and other benefits which apply to the activity of officers, agents or employees of the Town when performing their respective functions within the limits of the Town shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorial under the provisions of this article, excepting willful misconduct, gross negligence or bad faith.
- C. Volunteers duly enrolled or registered for services in a local emergency, a state of emergency or a state of war emergency in carrying out, complying with or attempting to comply with, any regulations issued pursuant to A.R.S. title 26, Chapter 2 or any local ordinance, or performing any of their authorized functions or duties, or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy immunities as officers and employees of the state and its political subdivisions performing similar work.

Section 3-6-7 Violations

It is unlawful for any person to violate any provision of this article or to refuse or willfully neglect to obey any lawful regulation or order issued as provided in this article. This provision, however, does not apply to the refusal of any private organization or members thereof to participate in an emergency; local emergency or state of emergency as defined by this article.

ARTICLE 3-7 INDEMNIFICATION AND DEFENSE OF OFFICERS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIES

(Ord. 13-05)

- 3-7-1 Definitions
- 3-7-2 Persons to Be Indemnified or Defended
- 3-7-3 Prerequisite; Notification of Town Manager
- 3-7-4 Proceeding Not Initiated By the Town
- 3-7-5 Criminal Proceedings
- 3-7-6 No Presumption Created
- 3-7-7 Proceeding Initiated By the Town
- 3-7-8 Success on the Merits
- 3-7-9 Determination by Legal Counsel
- 3-7-10 Indemnification Not Deemed Exclusive Remedy

Section 3-7-1 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“**Defend**” means to provide legal counsel to represent the person in a proceeding.

“Indemnify” means to reimburse an officer or employee for expenses incurred related to a proceeding.

“Person” means (i) current and former officers, employees, Town Council Members and members of committees, commissions and boards of the Town, and (ii) the spouse of a current or former officer, employee, Town Council Member or member of a committee, commission or board of the Town to the extent such spouse is named in a proceeding solely because of the spouse’s marital relationship to such officer, employee, Town Council Member or member of a committee, commission or board of the Town who is named in a proceeding.

“Proceeding” means any threatened, pending or completed action or suit, whether civil, criminal, or administrative.

Section 3-7-2 Persons to be Indemnified or Defended

- A. Any person made a party or threatened to be made a party to any proceeding because such person is an officer, employee, council member or member of a committee, commission or board of the Town shall be indemnified and defended in accordance with this article.
- B. The indemnification and defense obligations set forth in this article do not apply to acts of an officer, employee, council member or member of a committee, commission or board for any conduct that exceeds the authority granted to the person by virtue of his position.
- C. The indemnification and defense obligations set forth in this article do not apply to acts of an officer, employee, council member, or member of a committee, commission or board of the Town being civilly or criminally prosecuted for acts constituting a violation of the Town Code.
- D. The Town reserves the right not to indemnify any person with respect to an award of damages where such person is adjudged by a court as negligent or committing misconduct in the performance of his duty to the Town.

Section 3-7-3 Prerequisite; Notification of Town Manager

As a prerequisite to indemnification of defense under this article, a person shall notify the Town Manager as soon as he has knowledge that he is made a party or threatened to be made a party to any proceeding. If there is no Town Manager, the interim Town Manager or Town Clerk shall be notified.

Section 3-7-4 Proceeding Not Initiated by the Town

Except as provided in Section 3-7-2, if the proceeding is one not initiated by the Town:

- A. The person shall be indemnified against his expenses, including attorney's fees, costs, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the proceeding.
- B. The Town, either directly or through its insurance carrier, shall defend the person in connection with the proceeding.

Section 3-7-5 Criminal Proceedings

Except as provided in Section 3-7-2, if the proceeding is a criminal proceeding, the person shall be indemnified and defended if he had no reasonable cause to believe his conduct was unlawful.

Section 3-7-6 No Presumption Created

With respect to the indemnification and defense obligations under section 3-7-4 or 3-7-5, 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 the 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, shall not by itself create a presumption that the person had reasonable cause to believe that his conduct was unlawful.

Section 3-7-7 Proceeding Initiated by the Town

The indemnification and defense obligations set forth in this article shall not apply to proceedings initiated by the Town to procure a judgment against any person in the Town's favor unless a determination is made pursuant to section 3-7-9 that the requirements of this article have been met. Notwithstanding anything else set forth in this section, if a court enters a judgment that the person's actions exceeded his authority, such person shall reimburse the Town for all costs incurred by it in providing the indemnification and/or defense of the proceeding.

Section 3-7-8 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 attorney's fees and costs, actually and reasonably incurred by him in connection therewith.

Section 3-7-9 Determination by Legal Counsel

Any indemnification made pursuant to this article and any defense authorized by this article shall be provided by the Town only as authorized in the specific case upon a determination that indemnification or defense of the person is proper in the circumstances because he has met the requirements set forth in this article. Indemnification and defense shall be made unless the Town Attorney or independent

legal counsel engaged by the Town determines that the requirements of this article have not been met.

Section 3-7-10 Indemnification not Deemed 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.