

CHAPTER 3 ADMINISTRATION  
Amended 3-13-13

Article 3 – 1 OFFICERS IN GENERAL

- 3 – 1 – 1 Officers
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- 3 – 1 – 4 Vacancies, Holding More than One Office
- 3 – 1 – 5 Additional Powers and Duties

Section 3 – 1 – 1 Officers

There are hereby created the officers of town manager (who shall also serve as town clerk/treasurer), town marshal, town attorney, town prosecutor, town municipal judge, town librarian and town engineer, all of whom shall be appointed by the council, with the latter appointments made after due consideration of the recommendation of the town manager. These town officers, with the exception of the municipal judge, shall serve at the pleasure of the council, except that a contract of employment may be entered between the town and the officers listed in section 3-1-6 below. The municipal judge shall be appointed for a term of office as provided in Section 5-2-1. The town attorney, town prosecutor, town municipal judge and town engineer need not be full-time employees of the town but may be appointed pursuant to a service agreement for hourly or other acceptable unit compensation basis.

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, provided that any such position(s) shall be created pursuant to resolution of the council and the salary for any such position shall have been previously authorized in the town budget.

Section 3 – 1 – 3 Bond

The council may require each officer of the town to give bond for the due discharge of his/her duties in such sums and with such security as it may direct and approve as determined by resolution. Alternatively, the town may obtain blanket officer fidelity coverage through a qualified insurance broker. The town shall pay the costs of such bond(s) or insurance.

Section 3 – 1 – 4 Vacancies; Holding More Than One Office

Any vacancy that shall occur in any town office shall be filled by appointment by the council upon the recommendation of the town manager, provided that in the interim period pending council appointment, the town manager may temporarily assume such duties or assign some or all of the duties of the vacant office to another officer, deputy or combination thereof. One person may hold more than one office and at the discretion of the council, the functions of a town official may be permanently performed and discharged by a deputy or another town official, or an otherwise qualified individual not holding office but employed at the pleasure of the council.

Section 3 – 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 3 – 1 – 6      Contracts of Employment

At its discretion, the town council may enter into an employment contract with the town manager, town marshal and/or town library director. Any contract that varies the at-will nature of any position must be in writing, approved by council at a public meeting, and the term of such employment contract shall not exceed 24 months, after which the contract shall expire unless renewed in writing by council at a public meeting. Any severance compensation provision included within such employment contract shall not exceed six months' salary or the remaining term of the contract, whichever is less, and shall not be applicable to a termination for cause, provided the officer is given notice and an opportunity to be heard prior to the council acting on terminating employment. No officer of the town is authorized to enter into a contract of employment with a subordinate employee, and any such purported contract is void and of no effect.

Article 3 – 2      OFFICERS

3 – 2 – 1	Town Manager
3 – 2 – 2	Town Marshal
3 – 2 – 3	Town Attorney
3 – 2 – 4	Town Municipal Judge
3 – 2 – 5	Town Engineer
3 – 2 – 6	Town Prosecutor

Section 3 – 2 – 1      Town Manager

- A.      Appointment. The town manager will be appointed by a majority of the town council. S/He shall be chosen solely on the basis of clerical, executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practices in respect to the duties of office as hereinafter set forth.
- B.      Eligibility. At the time of appointment, the town manager need not be a resident of the town, but during the tenure of office shall reside within the town or within close proximity of the town at the discretion of the town council. No person elected to membership on the council shall, subsequent to such election, be eligible for such appointment as town manager until one year has elapsed after s/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 hereinafter prescribed. Alternatively, the town may obtain blanket fidelity insurance coverage from a qualified insurance broker. The fee for the bond or insurance coverage is to be paid by the town.
- D.      Removal. The town manager may be removed with or without cause by the council by simple majority vote of its members, unless the council has entered into a contract of employment with the town manager, in which event s/he may be removed only in accordance with the terms of such contract.
- E.      Resignation. The town manager shall give in writing thirty-day notice of his/her intention to resign before leaving, resigning or quitting the office of town manager.

- F. Compensation. The town 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/her in the performance of his/her 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 to council and duly approved and allowed by council.
- G. Council Interference. Except for the officers set forth in section 3-1-1 above, the town manager shall be the hiring official for all open positions within the town, subject to formal council direction taken at a duly noticed public meeting. Except for the purpose of inquiry, the council and its members shall deal with the administrative service of the town solely through the town manager, and neither council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately.
- H. Job Description. the job description of the town manager, including the essential functions and minimum qualifications thereof, is on file in the records of the town clerk's office. the town council may amend the job description of the town manager from time to time by resolution.
- I. Orders and Direction. The council shall deal with the administrative services of the town only through the town manager except for the purpose of inquiry and to assist in an advisory capacity of department heads, either individually or collectively on any phase or policy or public relations; such association not to conflict with the administrative duties of the town manager.
- J. Policy Making. The town manager shall not exercise any legislative function whatsoever, nor shall s/he engage in overall policy making or planning or institute programs that require official action of the council. The policy making power of the town manager shall be administrative only. It is not intended by this article to grant any authority to or impose any duty upon the town manager which is vested in or imposed by general law or town ordinances on any other town commission, board, officer or employee except as herein specifically set forth.

#### Section 3 – 2 – 2 Town Marshal

The marshal shall be the chief of police and shall perform such duties as may be required of him/her by law and as the council may deem necessary. The marshal may be removed with or without cause, by the council, by simple majority vote of its members, unless the council has entered into a contract of employment with the marshal pursuant to section 3 – 1 – 6, in which event the marshal may be removed only in accordance with the terms of such contract and for good cause. The duties of this position are further set forth in chapter 4 of this town code.

#### Section 3 – 2 – 3 Town Attorney

The town attorney shall act as the legal counselor and advisor of the council and other officials and, as such, shall give his/her opinion in writing when requested. S/He shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. S/He 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. S/He shall return, within ten days, 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/her reasons therefor. S/He shall prosecute and defend all suits, actions or causes where in 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. This is an “At Will” employment position and serves at the pleasure of the town council and may be removed without cause by a majority vote thereof.

#### Section 3 – 2 – 4     Town Municipal Judge

The town municipal judge shall be the presiding officer of the municipal court and shall be selected by the council and shall perform those functions necessary to the maintenance of a municipal court as provided by state statute. The duties of this position are further set forth in chapter 5 of this town code.

#### Section 3 – 2 – 5     Town Engineer

The town engineer shall design plans for all projects requiring an engineer design for the town. S/He shall have thorough knowledge of civil and sanitary engineering and hydraulics principles, theories, tests, methods, practices and procedures, street and grounds maintenance problems, standard management and supervisory practices and procedures; ability to assist other department heads in engineering and design planning; to communicate in writing and orally effectively with others; to accept engineering assignments from the mayor and town council; to establish and maintain good working relationships with others. The town engineer must be registered with the State of Arizona as a civil engineer. This is an “At Will” employment position and serves at the pleasure of the town council and may be removed without cause by a majority vote thereof.\*

#### Section 3 – 2 – 6     Town Library Director

The town library director is responsible for the management of the Patagonia Library, serves as the primary staff liaison to the Patagonia library advisory board and reports directly to the town manager. The library director, in conjunction with the library advisory board, makes recommendations to the town manager on library policy and hiring. This is an “At Will” employment position and serves at the pleasure of the town council and may be removed without cause by a majority vote thereof unless the council has entered into a contract of employment with the library director, in which event the library director may be removed only in accordance with the terms of such contract and for good cause.

#### Section 3 – 2 – 7     Town Prosecutor

The town prosecutor shall prosecute criminal complaints filed in the magistrate court, independently and impartially exercising prosecutorial discretion in accordance with the professional rules of ethics. The town prosecutor shall report to the town manager, when requested, on the number, nature and status of any or all criminal matters for which s/he acts as attorney for the state. This is an “At Will” employment position and serves at the pleasure of the town council and may be removed without cause by a majority vote thereof.

### Article 3 – 3    PURCHASING

- 3 – 3 – 1     In General
- 3 – 3 – 2     Exclusive Service
- 3 – 3 – 3     Bidding
- 3 – 3 – 4     Determination of Lowest Responsible Bidder
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- 3 – 3 – 6     Emergency Purchases

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### Section 3 – 3 – 1 In General

The town clerk/treasurer 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. \$500 or less. Whenever any contemplated purchase or contract for services is for the sum of \$500 or less and through a numbered purchase order system, the purchasing agent may order the item as needed without further formality.
- B. \$501 to \$2,499 inclusive. Whenever any contemplated purchase or contract for services is for the sum of at least \$501 but not more than \$2,499, the purchasing agent shall solicit at least three bids for the item or service. Said solicitation may be orally obtained by him/her, and s/he may then award the purchase or contract of service to the lowest responsible bidder.
- C. \$2,500 to \$9,999 inclusive. Whenever any contemplated purchase or contract for services is for the sum of more than \$2,500 but less than \$9,999, the purchasing 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 after council approval.
- D. \$10,000 and over. Whenever any contemplated purchase or contract for services is for the sum of \$10,000 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 ten 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. No contract of \$20,000 or more shall be let except by the council. Whenever any contemplated purchase or contract for services is for the sum of \$ 20,000 or more, the purchasing agent shall present the bids to the council for approval, and advise the council of the advantages or disadvantages of contract and bid proposals.

### Section 3 – 3 – 2 Exclusive Service

In the event that there is only one firm or 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 3-3-1 shall not be applicable, and such services or commodities can be secured without bidding but subject to council approval if over \$ 20,000. The purchasing agent shall prepare a written file documenting the justification for no-bid purchase.

### Section 3 – 3 – 3 Bidding

The purchasing 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 3-3-1, subsection D.

- A. All notices and solicitation of bids shall state the time and place for opening.
- B. All bids shall be submitted sealed to the purchasing 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 purchasing agent under subsections A, B, and C of Section 3-3-1 and the council under subsection D of that section shall have the authority to reject any and all bids and re-advertise or re-solicit bids.

Section 3 – 3 – 4      Determination of Lowest Responsible Bidder

Unless the council or purchasing agent shall exercise the right of rejection as provided by Section 3-3-3, 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 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 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 – 3 – 5      Performance Bond

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

Section 3 – 3 – 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 provided by the purchasing agent to the members of town council within fifteen (15) working days of the date the purchase or services are procured.

Section 3 – 3 – 7     Forms

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

Section 3 – 3 – 8     Professional Services

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

Section 3 – 3 – 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 contracts 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.