

CHAPTER 3 ADMINISTRATION

Article 3-1 OFFICERS IN GENERAL

- 3-1-1 Officers
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- 3-1-3 Additional Officers
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- 3-1-5 Vacancies; Holding More Than One Office
- 3-1-6 Additional Powers and Duties
- 3-1-7 Overtime Pay

Section 3-1-1 Officers (1)

- A. There are hereby created the offices of Town Manager, Town Engineer and Town Attorney who shall be appointed by the Council and who shall serve at the pleasure of the Council.
- B. There is hereby created the office of Town Magistrate, who shall be appointed by the Council. The Magistrate may be removed by the Council only for cause during his/her term as Magistrate.

Section 3-1-2 Treasurer and Collector of Taxes (2)

The Town Clerk shall act as treasurer, and the Town Marshal shall act as collector of taxes.

Section 3-1-3 Additional Officers (3)

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 3-1-4 Bond (3)

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.

- (1) Section 9-237 and 9-303, A.R.S.
- (2) Section 9-238, A.R.S.
- (3) Section 9-239, A.R.S.

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Section 3-1-5 Vacancies; Holding More Than One Office (1)

Any vacancy that shall occur in any Town office shall be filled by appointment by the Council, provided that one person may hold more than one 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 Town official, or an otherwise qualified individual not holding office but employed at the pleasure of the Council.

Section 3-1-6 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 3-1-7 Overtime Pay

The Council has the authority to 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 Town Council.

Article 3-2 OFFICERS

- 3-2-1 Town Manager
- 3-2-2 Town Clerk
- 3-2-3 Town Marshal
- 3-2-4 Town Engineer
- 3-2-5 Town Attorney
- 3-2-6 Town Magistrate

Section 3-2-1 Town Manager (2)

- A. Creation of Office: The office of Town Manager is hereby established. The Town Manager shall be appointed by the Council, and he shall hold office during the pleasure of the Council.

(1) Section 9-239, A.R.S.

(2) Section 9-303, A.R.S.

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- B. Qualifications: The Town Manager shall be chosen by the Council solely on the basis of his/her executive and administrative qualifications with special reference to his/her actual experience in or his/her knowledge of accepted practice in respect to the duties of his/her office as hereinafter set forth. Residence in the Town at the time of appointment shall not be required as a condition of appointment, but within ninety days after reporting for work, the Town Manager must become a resident of the Town, unless residency is specifically exempted through an employment contract.

No Council member shall be appointed Town Manager during the term for which he/she shall have been elected, nor within one year after expiration of his/her term.

- C. Powers and Duties: The Town Manager shall be the head of the administrative branch of the Town government. Under specific direction and control of the Council, he shall be responsible to the Council for the proper administration of the affairs of the Town. In addition to his general powers as head of the administrative branch of the Town government, and not as a limitation thereon, the Town Manager shall have the powers and duties set forth below:

1. Devote his time to the discharge of his official duties, and attend all meetings of the Council unless excused therefrom by the Council or the Mayor.
2. See that all ordinances are enforced, and that the provisions of all franchises, leases, contracts, permits and privileges granted by the Town are observed.
3. To supervise and give directions to all heads of departments, subordinate officers and employees of the Town except elected or judicial officers and their respective staffs. In the event the Town Manager shall also serve as a department head of a particular department of the Town, then the Town Manager shall not supervise that department head and said supervision shall be the responsibility of the Council.
4. Appoint and, when deemed necessary for the good of the Town, lay-off, suspend, transfer, demote or remove department heads and employees of the Town.
5. Recommend to the Council for adoption such measures and ordinances as he deems beneficial to the Town.

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6. To keep the Council at all times fully advised to the financial conditions and needs of the Town.
 7. To prepare and submit to the Council the annual tentative budget.
 8. 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.
 9. To make investigation into the affairs of the Town, and any department or division thereof, and any contract or the proper performance of any obligations of the Town.
 10. To investigate all complaints in relation to matters concerning the administration of the Town government and in regard to the service maintained by public utilities in the Town.
 11. To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the Council.
 12. Performs such other duties as may be delegated to him from time to time by the Council.
- D. Orders and Directions: The Council shall deal with the administrative services of the Town 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. It shall be the responsibility of the Council and its members to aid and assist in an advisory capacity any department head, but such assistance shall not conflict with the administrative duties of the Town Manager.
- E. Policy Making: The Town Manager shall not exercise any legislative function, nor shall he engage in policy making. The Town Manager shall implement policy made by the Council
- F. Public Relations: In the discharge of his duties as Town Manager, the person holding such position shall endeavor at all times to exercise the highest degree of tact, patience and courtesy in his contacts with all Town boards, departments and employees and shall use his best efforts to establish and maintain a harmonious relationship between all personnel employed in the government of the Town to the end that the highest possible standards of public service shall be continuously maintained.

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- G. Removal: In case of his/her removal by the Council, the Town Manager shall be furnished with a written notice stating the Council's intention to remove him and the reasons therefore at least thirty days before the effective date of his removal. Within seven days after delivery to him of such notice, the Town Manager may, by written notification to the Council, request a public hearing, which shall be held at the usual place of meeting before the expiration of said thirty day period, and at which time the Town Manager shall appear and be heard. After furnishing the Town 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 after the public hearing. The Council may remove the Town Manager, in the exercise of its discretion, with or without cause. The purpose of the hearing is to allow the Town Manager publicly to present to the Council his grounds of opposition to removal.
- H. Resignation: The Town Manager shall give at least a thirty day written notice of his intention to resign before leaving his office. Failure on part of the Town Manager to give said written notice shall relieve the Town of any responsibility of paying any salary to the Town Manager for the thirty day period immediately preceding his resignation.
- I. Acting Town Manager: In the event of the Town Manager's absence or disability, the Council may appoint an acting Town Manager.

Section 3-2-2 Town Clerk (1)

- A. Records: The Clerk shall keep a true and correct record of all business transacted by thy Council and any other record that either pertain to the business of the Town or that the Council directs. The Clerk shall number, plainly label and file separately a suitable cabinet all resolution, 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 control, as provided by 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

(1) Section 9-2238 A.R.S.

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- 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, public and, if required by the 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 monies that shall come to the Town and pay out the same when authorized by the Council, or Manager as 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. He shall make monthly reports to the Council of all receipts and disbursements and the balance in each fund.
- 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 by the Council in addition to those specified in this code.
- J. Acting Town Clerk: In the event of the Town Clerk's absence or disability, the Town Manager may appoint an acting Town Clerk.

Section 3-2-3 Town Marshal (1)

The Marshal shall be the Chief of Police and shall be collector of all taxes of the Town provided that the collection of such taxes may be administered by the Clerk. He shall perform such duties as may be required of him by law and as the council may deem necessary.

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Section 3-2-4 Town Engineer (1)

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

The 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. He shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the Council. 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. He shall return all ordinances and resolutions submitted to him for consideration by the Council, with his approval or disapproval as to form noted thereon, together with his reasons therefor. He 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 3-2-6 Town Magistrate (2)

- A. The Town Magistrate shall be the presiding officer of the Magistrate's Court and shall be selected by the Council. The Magistrate shall perform those functions necessary for the maintenance and operation of Magistrate's Court as provided by state statute.
- B. The Magistrate shall serve for a term of two years with the beginning of the term to be specified at the time of appointment.
- C. The Magistrate may be removed from office as specified in Section 3-1-1.

(1) Section 9-238, A.R.S.

(2) Section 22-402, A.R.S.

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Article 3-3 ZONING ADMINISTRATOR

- 3-3-1 Creation
- 3-3-2 Duty

Section 3-3-1 Creation

The Office of Zoning Administrator of the Town of Clarkdale is hereby established.

Section 3-3-2 Duty

The zoning administrator shall be responsible for the enforcement of the zoning ordinances of the Town and shall act as provided by Section 9-462.05, A.R.S.

Article 3-4 Purchasing

- 3-4-1 Definitions
- 3-4-2 In General
- 3-4-3 Bidding
- 3-4-4 Determination of Lowest Responsible Bidder
- 3-4-5 Security
- 3-4-6 Emergency Purchases
- 3-4-7 Forms
- 3-4-8 Professional Services
- 3-4-9 Exceptions
- 3-4-10 Conflict of Interest, Exemptions; Employee Prohibition
- 3-4-11 Prohibited Acts
- 3-4-12 Additional Income Prohibited for Services

Section 3-4-1 Definitions

- A. **“Business”** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
- B. **“Construction”** means the process of building, altering, demolishing or relocating any public structure or building, or other public improvements of any kind to any public real property. Construction does not include routine operation, repairs, or maintenance of existing structures, buildings or real property.

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- C. **“Contract”** means all types of Town agreements, regardless of what they may be called, for the procurement of good and services or construction or the disposal of material.
- D. **“Goods”** means any material, supplies, equipment, printing, insurance, and leases of property and equipment.
- E. **“Procurement”** means buying, purchasing, or otherwise acquiring any goods, services or construction, to include contracted professional services not exempt by Arizona Revised Statutes.
- F. **“Services”** means the furnishing of labor, time or effort by a contractor which does not involve the delivery of a specific end product other than required reports and performance.

Section 1: Section 3-4-2 In General

The Town Manager, or his/her designee, 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 \$10,000.00** Whenever any contemplated purchase or contract for services is for the sum of less than \$10,000.00, the purchasing agent may order the item as needed without further formality.
- B. **\$10,000.00-\$24,999.99 inclusive** Whenever any contemplated purchase or contract for services is for the sum of at least \$10,000.00 but not more than \$24,999.99, 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.
- C. **\$25,000.00 and over** Whenever any contemplated purchase or contract for services is for the sum of \$25,000.00 or more, the Purchasing Agent shall cause to be published, in at least one issue 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 shall include a general description 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.

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- D. No contract of \$25,000.00 or more shall be let except by the Council. Whenever any contemplated purchase or contract for services is for the sum of \$25,000.00 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 3-4-3 Bidding

The Purchasing Agents and all parties contracting with the Town shall follow the procedure set forth in this section in relation to all bids required under Section 3-4-1, subsection D.

- A. All notices and solicitations of bids shall state the time and place for opening.
- B. All bids shall be submitted sealed to the Purchasing Agents 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. The Purchasing Agent under subsections A, B and C of Section 3-4-1 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 or re-solicit bids.

Section 3-4-4 Determination of Lowest Responsible Bidder

- A. Unless the Council or Purchasing Agent has exercised the right of rejection as provided by Section 3-4-3, the purchase or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract for any part thereof.
- B. In determining the “responsible” bidder, the Council and Purchasing Agent shall consider:
 - 1. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
 - 2. Whether the bidder can perform the contract or provide the services promptly or within the specified time, without delay or interference.
 - 3. The quality of performance of previous contracts.

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4. The previous existing compliance by the bidder with the laws and ordinances of the Town.
5. The financial resources and ability of the bidder to perform the contract.
6. The quality, availability and adaptability of the supplies or services.

Section 3-4-5 Securities

The Purchasing Agent shall have the authority to require a performance bond, a bid bond, a payment bond and/or liability insurance, in cash or otherwise, for such amount as he/she may deem sufficient for the best interest of the Town.

Section 3-4-6 Emergency Purchases

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the Town Manager shall be empowered to authorize 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 Town Manager with the Town Council at its next meeting.

Section 3-4-7 Forms

The Purchasing 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 Professional Services

Unless required by the Council, the provisions of this Article requiring competitive did procedures shall not apply to professional services rendered on an open account on an as needed basis. Such services shall include, but not be limited to the following: physicians, attorneys and, engineers, architects, and similar professions.

Professional services not rendered on an open account, but let for a specific purpose or for a specific service pursuant to a contract for a set price shall be let as set forth in Section 3-4-1, except that procurement of said professional services shall not be based upon price or cost considerations alone. Additional considerations shall include the experience, abilities, reputation and accessibility of the professional.

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Section 3-4-9 Exceptions

- A. **Exclusive Service:** In the event that there is only one firm or company or individual within (25) highway miles of the Town capable of providing a particular service or commodity, and such services or commodities cannot be secured from other persons or companies, Section 3-4-2 shall not be applicable, and such services or commodities can be secured without bidding.
- B. **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 the opinion of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.
- C. **Used Equipment:** Upon recommendation of the Town Manager, the Council may elect to waive the bid procedures with respect to the purchase of used equipment.
- D. **Public Works:** All public works contracts shall be bid in accordance with those Arizona statutory provisions currently codified in A.R.S. § 34-201 et seq. As may be amended from time to time.
- E. **Lease Purchase Agreements:** This article shall not apply to acquisitions made through lease purchase agreements that have been approved by the Council.

Section 3-4-10 Conflict of interest; exemptions; employment prohibition (ARS 38-503)

- A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision. The official records of the Town of Clarkdale shall be interpreted to mean the minutes of a Town Council meeting.

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- C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:
- D. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

Section 3-4-11 Prohibited Acts (ARS 38-504)

- A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.
- B. During the period of a public officer's or employee's employment or service and thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designations is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.
- C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

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Section 3-4-12 Additional Income Prohibited for Services (exerts of ARS 38-505)

- A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.
- B. This section shall not be construed to prohibit this performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.