

ORDINANCE NO. 1031

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA AMENDING THE TOWN OF WICKENBURG CODE BY AMENDING CHAPTER 2 MAYOR AND COUNCIL, ARTICLE 2-1 COUNCIL BY AMENDING SECTION 2-1-1 ELECTED OFFICERS, AND AMENDING ARTICLE 2-3 COUNCIL ELECTION, SECTION 2-3-2 PRIMARY ELECTION AND SECTION 2-3-4 GENERAL ELECTION NOMINATION RELATED TO THE COMPUTATION OF VOTES CAST FOR AN OFFICE AT PRIMARY ELECTIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY

WHEREAS, A.R.S. § 9-821.01A authorizes the Town to adopt an ordinance providing that at a primary election the candidate who receives a majority of all votes cast at such election shall be declared elected to the office for which he is a candidate; and

WHEREAS, the Arizona Supreme Court *Maxwell v. Fleming*, 64 Ariz. 125, 166 P.2d 831 (1946) held that for purposes of A.R.S. § 9-821.01A, the phrase "votes cast" means "ballots cast"; and

WHEREAS, the Town Council desires to avoid confusion in the application of its Town Code with respect to elections.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, Arizona as follows:

Section 1. In General.

The Code of Wickenburg, Chapter 2 Mayor and Council, Article 2-1 Council, is amended by amending Section 2-1-1 Elected Officers to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 2-1-1 Elected Officers

The elected officers of the Town shall be six (6) Councilmembers and a Mayor. ~~Commencing with the Primary and the General Elections held in the Town of Wickenburg in 1996, the~~ Mayor of the Town of Wickenburg shall hereafter be directly elected by the qualified electors of the Town of Wickenburg, provided that if a candidate, at any election of the Mayor hereafter, receives at the Primary Election a majority of all ~~votes~~ VALID BALLOTS cast for Mayor, MAJORITY BEING FIFTY PERCENT PLUS ONE, he or she shall be declared to be elected to the Office of Mayor at the Primary Election, and said candidate shall not be required to run for Mayor at the subsequent General Election. If there are more than two (2) candidates running for Mayor in any Primary Election and no candidate receives more than

fifty percent (50%) of the valid ~~votes~~ BALLOTS cast, then and in such event, the candidates in the next General Election SHALL BE THOSE NOT ELECTED AT THE PRIMARY ELECTION AND SHALL BE EQUAL TO TWICE THE NUMBER TO BE ELECTED FOR ANY GIVEN OFFICE and the one (1) thereof receiving the greatest number of valid ~~votes~~ BALLOTS shall be deemed elected to the Office of the Mayor in the General Election. The term of Office of the Mayor shall be for four (4) years. The Mayor and Councilmembers shall constitute the Council and shall continue in office until assumption of duties of office by their duly elected successors. Councilmembers shall serve four (4) year overlapping terms in the manner provided by State law; however, the terms for Councilmembers elected in 2002 and 2004 shall be extended until their successors are officially seated following the 2006 and 2008 general elections, respectively.

The Code of Wickenburg, Chapter 2 Mayor and Council, Article 2-3 Council, is amended by amending Sections 2-3-2 Primary Election and 2-3-4 General Election Nomination to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 2-3-2 Primary Election

Any candidate who shall receive at the primary election a majority of all the ~~votes~~ VALID BALLOTS cast FOR THAT OFFICE shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate. If more candidates receive a majority than there are offices to be filled, then those equal in number to the offices to be filled receiving the highest number of VALID BALLOTS CAST ~~votes~~ shall be declared elected.

* * *

Section 2-3-4 General Election Nomination

If at any primary election held as above provided there be any office for which no candidate is elected, then as to such office, the primary election shall be considered to be a primary election for nomination of candidates for such office, and the general municipal election shall be held to vote for candidates to fill such office. Candidates to be placed on the ballot at the general municipal election shall be those not elected at the primary election and shall be equal in number to twice the number to be elected to any given office or less than that number if there be less than that number named on the primary election ballot. Persons who receive the highest number of ~~votes~~ VALID BALLOTS CAST for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this Article would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefore, then all such persons receiving an equal number of ~~votes~~ VALID BALLOTS CAST shall likewise become candidates for such office.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this

3 day of March, 2009.

By: _____

KELLY BLUNT, MAYOR

ATTEST:

By: _____

Donna Riffel, Town Clerk

APPROVED AS TO FORM:

By: _____

Susan D. Goodwin, Town Attorney

Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.

Number of Councilmembers Present: 7

Number of Votes For: 7

Number of Votes Against: 0

Number of Abstentions: 0

CERTIFICATION

I, Donna Riffel, Town Clerk of the Town of Wickenburg, HEREBY CERTIFY that the foregoing Ordinance Number 1031 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 2nd day of March 2009, and that a quorum was present at the meeting.

Donna Riffel

Donna Riffel, Town Clerk