

ORDINANCE NO. 945

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, COUNTY OF MARICOPA, STATE OF ARIZONA, AMENDING CHAPTER 4 ADMINISTRATION OF THE WICKENBURG TOWN CODE BY AMENDING SECTION 4-4 PURCHASING ADDING TWO (2) NEW SUBSECTIONS SPECIFICALLY, SECTION 4-4-16 SECTION 3 COMPLIANCE FOR NEIGHBORHOOD REVITALIZATION PROCEDURES; AND SECTION 4-4-17 CONFLICT OF INTEREST PROCEDURES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR PENALTIES

WHEREAS, the Town of Wickenburg has benefited tremendously by the Maricopa County Community Development Block Grant (CDBG) Program; and,

WHEREAS, in order to be in compliance with all regulations associated with the CDBG Program, the Town has been directed to amend its Town Code to include two additional procurement regulations and procedures.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION I. IN GENERAL

It is hereby ordained by the Mayor and Common Council of the Town of Wickenburg that the following changes be made to Chapter 4, ADMINISTRATION, specifically Section 4-4 PURCHASING by adding two (2) new Subsections as follows:

SECTION 4-4-16 SECTION 3 COMPLIANCE FOR NEIGHBORHOOD REVITALIZATION PROCEDURES

- A. PURPOSE: TO ESTABLISH PROCEDURES FOR PROCURING SMALL, MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES AND MAINTAIN COMPLIANCE WITH SECTION 3 TO ENSURE THAT THE EMPLOYMENT AND OTHER ECONOMIC OPPORTUNITIES GENERATED BY FEDERAL FINANCIAL ASSISTANCE FOR HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS SHALL, TO THE GREATEST EXTENT FEASIBLE, BE DIRECTED TOWARD LOW AND VERY LOW INCOME PERSONS, PARTICULARLY THOSE WHO ARE RECIPIENTS OF GOVERNMENT ASSISTANCE FOR HOUSING. THOSE CONSIDERED AS SECTION 3 RESIDENTS RESIDE IN PUBLIC HOUSING AND LOW INCOME PERSONS WHO LIVE IN THE AREA WHERE A HUD-ASSISTANT PROJECT IS LOCATED.
- B. PROCEDURES: IT IS A NATIONAL POLICY TO AWARD A FAIR SHARE OF CONTRACTS TO SMALL AND MINORITY BUSINESS FIRMS. ACCORDINGLY, AFFIRMATIVE STEPS MUST BE TAKEN TO ASSURE THAT SMALL AND MINORITY BUSINESSES ARE UTILIZED WHEN POSSIBLE AS SOURCES OF SUPPLIES, EQUIPMENT, CONSTRUCTION, AND SERVICES. AFFIRMATIVE STEPS SHALL INCLUDE THE FOLLOWING:
 - 1) INCLUDING QUALIFIED SMALL AND MINORITY BUSINESSES ON SOLICITATION LISTS.
 - 2) ASSURING THAT SMALL AND MINORITY BUSINESSES ARE SOLICITED WHENEVER THEY ARE POTENTIAL SOURCES, AND TO THE GREATEST EXTENT POSSIBLE THAT THESE BUSINESSES ARE LOCATED WITHIN THE METROPOLITAN AREA.
 - 3) WHEN ECONOMICALLY FEASIBLE, DIVIDING TOTAL REQUIREMENTS INTO SMALLER TASKS OR QUANTITIES SO AS TO PERMIT MAXIMUM SMALL AND MINORITY BUSINESS PARTICIPATION.
 - 4) WHERE THE REQUIREMENT PERMITS, ESTABLISHING DELIVERY SCHEDULES WHICH WILL ENCOURAGE PARTICIPATION BY SMALL MINORITY BUSINESSES.
 - 5) USING THE SERVICES AND ASSISTANCE OF THE SMALL BUSINESS ADMINISTRATION, AND THE OFFICE OF MINORITY BUSINESS ENTERPRISES OF THE DEPARTMENT OF COMMERCE AND THE COMMUNITY SERVICES ADMINISTRATION AS REQUIRED.
 - 6) GRANTEES SHALL TAKE SIMILAR APPROPRIATE ACTION IN SUPPORT OF WOMEN'S ENTERPRISES.

- 7) TO THE GREATEST EXTENT FEASIBLE, OPPORTUNITIES FOR TRAINING AND EMPLOYMENT BE GIVEN TO LOW AND MODERATE INCOME PERSONS RESIDING WITHIN THE METROPOLITAN AREA.
- 8) IF AN INDIVIDUAL OR BUSINESS FEELS THE TOWN DOES NOT COMPLY WITH SECTION 3, THERE IS A COMPLAINT PROCESS AVAILABLE TO SECTION 3 RESIDENTS AND BUSINESSES. THEY MAY FILE COMPLAINTS IF THEY FEEL A VIOLATION OF SECTION 3 REQUIREMENTS HAS OCCURRED WHERE A HUD-FUNDED PROJECT IS PLANNED OR UNDERWAY. TO FILE A COMPLAINT, IN WRITING, TO YOUR LOCAL HUD OFFICE OR TO: THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 451 7TH STREET SW, ROOM 5100, WASHINGTON, D.C. 20140-2000.

A WRITTEN COMPLAINT SHOULD CONTAIN:

- A. NAME AND FULL ADDRESS OF PERSON FILING THE COMPLAINT; AND
- B. NAME AND FULL ADDRESS OF THE SUBJECT OF COMPLAINT (HUD RECIPIENT OR CONTRACTOR); AND,
- C. DESCRIPTION OF ACTS OR OMISSIONS IN ALLEGED VIOLATION OF THIS SECTION

SECTION 4-4-17 CONFLICT OF INTEREST PROCEDURES

A. PURPOSE:

ALL TOWN EMPLOYEES SHALL NOT ENGAGE IN ON-DUTY OR OFF-DUTY CONDUCT WHICH CONSTITUTES A CONFLICT OF INTEREST WITH THEIR TOWN DUTIES AND RESPONSIBILITIES. NO EMPLOYEE OR RELATIVE OF AN EMPLOYEE SHALL HAVE A FINANCIAL INTEREST IN ANY SALE TO THE TOWN OF LAND, MATERIALS, SUPPLIES, EQUIPMENT OR SERVICES, UNLESS THE SALE COMPLIES WITH THE BIDDING REQUIREMENTS OF THE CONFLICT OF INTEREST STATUTES OF THE STATE OF ARIZONA. CONTRACTS OR SALES MADE BY A PERSON OR ENTITY WITH KNOWLEDGE, EXPRESS OR IMPLIED, OF A VIOLATION OF THIS SECTION SHALL BE VOIDABLE BY THE TOWN MANAGER.

B. PROCESS:

1. CONFLICTS OF INTEREST:

A. NO EMPLOYEE OF THE TOWN, OR RELATIVE OF AN EMPLOYEE, SHALL SUPPLY TO THE TOWN EQUIPMENT, MATERIAL, SUPPLIES OR SERVICES, UNLESS PURSUANT TO AN AWARD OF A CONTRACT AFTER A PUBLIC COMPETITIVE BID. A REQUEST FOR PROPOSALS OR QUOTES SHALL NOT BE CONSIDERED A COMPETITIVE BID.

B. ANY EMPLOYEE OF THE TOWN WHO HAS, OR WHOSE RELATIVE HAS, A SUBSTANTIAL INTEREST IN ANY CONTRACT WITH, SALE TO, PURCHASE FROM, OR SERVICE TO THE TOWN SHALL NOTIFY THE EMPLOYEE'S DEPARTMENT HEAD OR TOWN MANAGER. THE DEPARTMENT HEAD OR TOWN MANAGER SHALL REQUIRE THE EMPLOYEE TO FILE A NOTICE OF SUCH INTEREST WITH THE TOWN CLERK AND A COPY OF SUCH NOTICE WITH THE TOWN ATTORNEY AND TOWN MANAGER. THE DEPARTMENT HEAD OR TOWN MANAGER SHALL ESTABLISH PROCEDURES TO ENSURE THE EMPLOYEE DOES NOT PARTICIPATE IN ANY MANNER IN SUCH CONTRACT, SALE, PURCHASE OR SERVICE.

C. ANY EMPLOYEE OF THE TOWN WHO HAS, OR WHOSE RELATIVE HAS, A SUBSTANTIAL INTEREST IN ANY DECISION OR ACTION OF THE TOWN, OTHER THAN AS AN EMPLOYEE, SHALL NOTIFY THE EMPLOYEE'S DEPARTMENT HEAD OR TOWN MANAGER. THE DEPARTMENT HEAD OR TOWN MANAGER SHALL REQUIRE THE EMPLOYEE TO FILE A NOTICE OF SUCH INTEREST WITH THE TOWN CLERK AND A COPY OF SUCH NOTICE WITH THE TOWN ATTORNEY AND TOWN MANAGER. THE DEPARTMENT HEAD OR TOWN MANAGER SHALL ALSO ESTABLISH PROCEDURES TO ENSURE THE EMPLOYEE DOES NOT PARTICIPATE IN ANY MANNER IN SUCH A DECISION.

2. PROHIBITED ACTS

A. NO EMPLOYEE, OR FORMER EMPLOYEE WHO HAS LEFT EMPLOYMENT WITHIN THE PRECEDING TWELVE (12) MONTHS, MAY REPRESENT ANOTHER PERSON FOR COMPENSATION BEFORE THE TOWN COUNCIL OR ANY BOARD, COMMITTEE, TASK

FORCE OR COMMISSION OF THE TOWN CONCERNING ANY MATTER WITH WHICH SUCH FORMER OFFICER OR EMPLOYEE WAS DIRECTLY CONCERNED, AND IN WHICH HE/SHE PERSONALLY PARTICIPATED DURING HIS/HER EMPLOYMENT OR SERVICE.

- B. DURING THE PERIOD OF EMPLOYMENT WITH THE TOWN AND FOR TWO (2) YEARS THEREAFTER, NO EMPLOYEE SHALL DISCLOSE OR USE FOR THE EMPLOYEE'S PERSONAL PROFIT, WITHOUT APPROPRIATE AUTHORIZATION, ANY INFORMATION ACQUIRED BY THE EMPLOYEE IN THE COURSE OF THE EMPLOYEE'S OFFICIAL DUTIES WHICH INFORMATION HAS BEEN CLEARLY DESIGNED BY THE EMPLOYER AS CONFIDENTIAL OR WHICH IS DECLARED CONFIDENTIAL BY LAW.
- C. NO EMPLOYEE MAY USE, OR ATTEMPT TO USE, THE EMPLOYEE'S POSITION WITH THE TOWN TO SECURE FROM ANY PERSON ANY VALUABLE THING OR VALUABLE BENEFIT FOR THE EMPLOYEE TO WHICH THE EMPLOYEE WOULD NOT ORDINARILY BE ENTITLED FOR THE PERFORMANCE OF THE EMPLOYEE'S DUTIES WITH THE TOWN.
- D. NO EMPLOYEE MAY RECEIVE OR AGREE TO RECEIVE, DIRECTLY OR INDIRECTLY, COMPENSATION OTHER THAN THE EMPLOYEE'S SALARY FROM THE TOWN FOR ANY SERVICES RENDERED, OR TO BE RENDERED, BY THE EMPLOYEE WHICH ARE WITHIN THE EMPLOYEE'S DUTIES AS A TOWN EMPLOYEE.
- E. NO EMPLOYEE MAY RECEIVE OR AGREE TO RECEIVE, DIRECTLY OR INDIRECTLY, COMPENSATION OTHER THAN THE EMPLOYEE'S SALARY FROM THE TOWN FOR ANY SERVICE RENDERED, OR TO BE RENDERED, BY THE EMPLOYEE PERSONALLY IN ANY CASE, PROCEEDING, APPLICATION, OR OTHER MATTER WHICH IS PENDING BEFORE THE TOWN COUNCIL OR ANY BOARD, COMMITTEE, TASK FORCE, OR COMMISSION OF THE TOWN.

3. VIOLATIONS

- A. ANY EMPLOYEE FOUND GUILTY OF ANY VIOLATION OF THIS PROCEDURE SHALL BE SUBJECT TO PUNITIVE DISCIPLINARY ACTIONS UP TO AND INCLUDING TERMINATION.
- B. ANY VIOLATION OF THIS PROCEDURE WITH THE KNOWLEDGE, EXPRESSED OR IMPLIED, OF THE PERSON, CORPORATION OR OTHER ENTITY CONTRACTING WITH THE TOWN SHALL RENDER THE CONTRACT VOIDABLE BY THE TOWN.

4. CONSTRUCTION

- A. THIS DIRECTIVE SHALL BE CONSTRUED IN COMPLIANCE WITH THE CONFLICT OF INTEREST STATUTES CONTAINED IN THE ARIZONA REVISED STATUTES, A.R.S. §38-501, ET SEQ.
- B. THE TOWN ATTORNEY'S OFFICE DEFINES AND PROVIDES INTERPRETATION OF PROHIBITED CONFLICTS OF INTEREST IN COMPLIANCE WITH ARIZONA REVISED STATUTE, A.R.S. §38-501, ET SEQ.

SECTION II. REPEAL OF CONFLICTING ORDINANCES

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

SECTION III. SEVERANCE CLAUSE

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

SECTION IV. PROVIDING FOR PENALTIES

Any person found guilty of violating any provision of this ordinance shall be subject to the violation and penalty provisions of Section 1-8 of the Wickenburg Town Code.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF
WICKENBURG, STATE OF ARIZONA, ON THIS 15 DAY OF August, 2005.

R.R. Badowski

R.R. BADOWSKI, MAYOR

Date Signed: 8/15/05

ATTEST:

Donna Ables

Donna Ables, Deputy Town Clerk

APPROVED AS TO FORM:

K. Russell Romney

K. Russell Romney, Town Attorney

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

Date Signed: 8/15/05

Number of Councilmembers Present: 7

Number of Votes For: 7

Number of Votes Against: 0

Number of Abstentions: 0

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 945 was duly amended, passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 15 day of August 2005, and that a quorum was present at the meeting.

Donna Ables

Donna Ables, Town Clerk