

**ORDINANCE NO. 1032**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA AMENDING THE TOWN OF WICKENBURG CODE BY AMENDING CHAPTER 6 POLICE COURT, BY ADDING NEW ARTICLE 6-6 HOME DETENTION PROGRAM TO ESTABLISH A HOME DETENTION PROGRAM FOR ELIGIBLE SENTENCED OFFENDERS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY**

WHEREAS, Section 9-499.07 authorizes municipalities to establish a Home Detention Program for eligible sentenced offenders if the Presiding Judge of the Town Court approved the Program; and

WHEREAS, a Home Detention Program will reduce the cost to Wickenburg for confining low risk, non-violent offenders and allow participants in the Program to engage in gainful employment; and

WHEREAS, a public hearing was held pursuant to A.R.S. §9-499.07L and the majority of the full membership of the Town Council find it necessary to permit the Town Court to order home detention for persons convicted of violating A.R.S. §28-1381 and §28-1382; and

WHEREAS, the Common Council of Wickenburg finds that the establishment of a Home Detention Program will reduce the Town's jail costs and that only those offenders who do not pose a risk to public safety will be allowed to participate in the Home Detention Program; and

WHEREAS, the Common Council finds that the establishment of a Home Detention Program is necessary for the public health, safety and general welfare of Wickenburg and its citizens.

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

Section I. In General.

The Code of Wickenburg, Arizona, Chapter 6 Police Court is hereby amended by adding new Article 6-6 Home Detention Program to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

**ARTICLE 6-6 HOME DETENTION PROGRAM**

**SECTION 6-6-1 ESTABLISHMENT OF HOME DETENTION PROGRAM**

A. A HOME DETENTION PROGRAM IS HEREBY ESTABLISHED IN THE TOWN COURT FOR PERSONS WHO ARE SENTENCED TO JAIL CONFINEMENT, INCLUDING THOSE PERSONS SENTENCED UNDER A.R.S. SECTIONS 28-1381 OR 28-1382. IF A PERSON IS SENTENCED TO JAIL CONFINEMENT BY THE TOWN COURT, THE COURT MAY SUBSTITUTE HOME DETENTION FOR A PORTION OF THE JAIL TERM AS PROVIDED IN THIS ARTICLE.

B. THE PRESIDING JUDGE SHALL DEVELOP AND IMPLEMENT A HOME DETENTION PROGRAM THAT COMPLIES WITH THE REQUIREMENTS OF STATE LAW.

C. HOME DETENTION SHALL NOT BE PERMITTED FOR PERSONS WHO:

1. ARE FOUND TO CONSTITUTE A RISK TO THEMSELVES OR OTHER MEMBERS OF THE COMMUNITY.
2. HAVE A HISTORY OF VIOLENT BEHAVIOR.
3. HAVE BEEN CONVICTED OF AND ARE BEING SENTENCED FOR A DOMESTIC VIOLENCE OFFENSE PURSUANT TO §13-3601 OF THE ARIZONA REVISED STATUTES.

4. HAVE BEEN CONVICTED OF AND ARE BEING SENTENCED FOR AN ACT OF PROSTITUTION OR SOLICITATION PURSUANT TO §13-3214 OF THE ARIZONA REVISED STATUTES.

5. IS NOT ELIGIBLE UNDER §9-400.07 OF THE ARIZONA REVISED STATUTES OR HAS BEEN DECLARED INELIGIBLE BY THE SENTENCING JUDGE FOR PARTICIPATION IN THE HOME DETENTION PROGRAM.

D. EXCEPT AS PROVIDED IN SECTION 6-6-3, ANY PERSON PLACED ON HOME DETENTION SHALL SERVE AN INITIAL TWENTY-FOUR (24) CONSECUTIVE HOURS IN JAIL. THE PERSON SHALL PAY THE COSTS OF INCARCERATION.

E. A PERSON PLACED UNDER HOME DETENTION SHALL BE SUBJECT TO ELECTRONIC MONITORING IN THE PERSON'S HOME AND SHALL BE REQUIRED TO REMAIN AT HOME DURING THE HOURS SPECIFIED BY THE COURT. THE PERSON SHALL PAY THE FULL COST OF THE ELECTRONIC MONITORING.

F. IN ORDER TO BE ELIGIBLE FOR THE HOME DETENTION PROGRAM, THE PERSON SHALL BE EMPLOYED IN MARICOPA COUNTY OR YAVAPAI COUNTY. IF THE PERSON IS RETIRED OR INCAPABLE OF BEING EMPLOYED, THE COURT MAY EXEMPT THE PERSON FROM THIS REQUIREMENT. IF THE PERSON ATTENDS EDUCATIONAL CLASSES IN MARICOPA COUNTY OR YAVAPAI COUNTY OR IS EMPLOYED WITHIN MARICOPA COUNTY OR YAVAPAI COUNTY, THE COURT MAY PERMIT THE PERSON TO ATTEND CLASSES OR LEAVE HOME FOR EMPLOYMENT DURING SPECIFIED HOURS. THE COURT MAY PERMIT THE PERSON TO ATTEND RELIGIOUS SERVICES, FUNERALS OR SEEK NECESSARY MEDICAL CARE.

G. THE COURT MAY REQUIRE A PERSON UNDER HOME DETENTION TO PARTICIPATE IN COMMUNITY SERVICE WORK OR IMPOSE OTHER REASONABLE REQUIREMENTS OR RESTRICTIONS THE COURT DEEMS NECESSARY.

H. THE COURT SHALL TERMINATE A PERSON'S HOME DETENTION AND REQUIRE THE PERSON TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE BY JAIL CONFINEMENT IF THE COURT FINDS THE PERSON HAS IMPROPERLY LEFT THE HOME DURING HOME DETENTION OR HAS VIOLATED ANY OTHER TERMS OF THE HOME DETENTION ORDER.

I. THE COURT IS AUTHORIZED TO ASSESS COSTS AGAINST AN OFFENDER WHO PARTICIPATES IN A HOME DETENTION PROGRAM TO THE EXTENT AUTHORIZED BY LAW.

#### **SECTION 6-6-3 HOME DETENTION FOR VIOLATION OF A.R.S. §28-1381 OR §28-1382**

A. IN ADDITION TO THE REQUIREMENTS OF SECTION 6-6-2, IF AN OFFENDER IS SENTENCED UNDER A.R.S. §28-1381 OR §28-1382, THE PERSON MAY PARTICIPATE IN A HOME DETENTION PROGRAM ONLY IF THE PERSON MEETS THE REQUIREMENTS OF THIS SECTION.

B. THE PERSON MUST FIRST SERVE A MINIMUM OF TWENTY-FOUR (24) CONSECUTIVE HOURS IN JAIL IF SENTENCED UNDER A.R.S. §28-1381(I). THE PERSON MUST FIRST SERVE A MINIMUM OF FIFTEEN (15) CONSECUTIVE DAYS IN JAIL IF SENTENCED UNDER A.R.S. §28-1381(K) OR §28-1382(D) OR § 28-1382(F).

C. THE PERSON SHALL BE TESTED AT LEAST ONCE DAILY FOR THE USE OF ALCOHOL OR DRUGS IN A MANNER APPROVED BY THE COURT. THE PERSON SHALL PAY THE FULL COST OF ALCOHOL OR DRUG TESTING.

D. THE COURT SHALL TERMINATE A PERSON'S HOME DETENTION AND REQUIRE THE PERSON TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE BY JAIL CONFINEMENT IF THE COURT FINDS THE PERSON HAS NOT SUCCESSFULLY COMPLETED COURT-ORDERED ALCOHOL OR DRUG SCREENING AND TREATMENT PURSUANT TO §28-1381 OR §28-1382 OF ARIZONA REVISED STATUTES OR HAS VIOLATED ANY OTHER TERM OF THE HOME DETENTION ORDER.

#### **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.

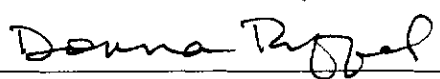
Section IV: Declaring An Emergency

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety of the Town of Wickenburg and an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage, adoption and approval by the Common Council of the Town of Wickenburg.

PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 3 day of March, 2009.

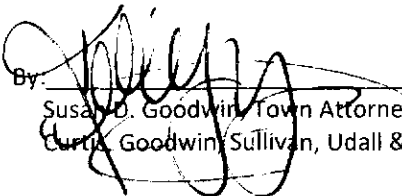
By:   
KELLY BLUNT, MAYOR  
Date Signed: 3/2/09

ATTEST:

By:   
Donna Riffel, Town Clerk

Date Signed: 3/3/09

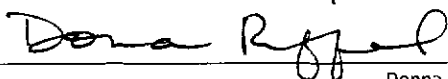
APPROVED AS TO FORM:

By:   
Susan D. Goodwin, Town Attorney,  
Curran, 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 HEREBY CERTIFY that the foregoing Ordinance Number 1032 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 2<sup>nd</sup> day of March 2009 and that a quorum was present at the meeting.

  
Donna Riffel, Town Clerk