

ORDINANCE NO. ____

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA, AMENDING THE CODE OF THE TOWN OF WICKENBURG, ARIZONA, CHAPTER 4 – ADMINISTRATION, ARTICLE 4-4 PURCHASING, BY ADDING A NEW SECTION 4-4-26 DISBURSEMENT OF FUNDS TO NON-PROFIT ORGANIZATIONS RELATED TO ESTABLISHING PROCEDURES FOR REVIEWING FUNDING REQUESTS FROM NON-PROFIT ORGANIZATIONS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, the Common Council of the Town of Wickenburg desires to support programs and services that promote the health, safety, and welfare of Town residents through partnerships with non-profit organizations; and

WHEREAS, the Arizona Constitution prohibits the use of public funds as gifts or subsidies to private entities, and requires that any disbursement of public funds results in a direct public benefit and return of value to the Town in compliance with the Arizona Gift Clause; and

WHEREAS, the Common Council of the Town of Wickenburg finds it necessary to establish clear procedures for evaluating and approving funding requests from non-profit organizations;

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 4 Administration, Article 4-4 Purchasing, is amended by adding a new Section 4-4-26 Disbursement of Funds to Non-Profit Organizations to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

SECTION 4-4-26 DISBURSEMENT OF FUNDS TO NON-PROFIT ORGANIZATIONS

- A. PUBLIC FUNDS MAY BE DISBURSED TO NON-PROFIT ORGANIZATIONS ONLY WHEN THE DISBURSEMENT SERVES A VALID PUBLIC PURPOSE AND PROVIDES A RETURN OF VALUE IN COMPLIANCE WITH ARTICLE IX, SECTION 7 OF THE ARIZONA CONSTITUTION (THE “GIFT CLAUSE”) AND ARIZONA LAW. NO DONATIONS, GIFTS OR GRANTS, WHETHER BY SUBSIDY OR OTHERWISE, ARE PERMITTED.

- B. NON-PROFIT ORGANIZATIONS SEEKING DISBURSEMENTS OF PUBLIC FUNDS SHALL PROVIDE A WRITTEN REQUEST TO THE TOWN DETAILING (1) THE AMOUNT OF FUNDS REQUESTED, (2) THE INTENDED USE OF THE FUNDS, (3) THE PUBLIC PURPOSE SERVED, AND (4) THE NATURE AND AMOUNT OF THE BENEFIT TO THE TOWN INCLUDING ANY DIRECT BENEFITS TO RESIDENTS OR OTHER CONSIDERATION RECEIVED IN EXCHANGE OF FUNDING.
- C. TOWN STAFF SHALL REVIEW ANY REQUESTS FOR FUNDING IN COMPLIANCE WITH THIS SECTION AND SCHEDULE THE REQUEST FOR COUNCIL CONSIDERATION AT A DULY NOTICED PUBLIC MEETING OF THE COUNCIL.
- D. IF FUNDING IS APPROVED BY COUNCIL, THE NON-PROFIT ORGANIZATION SHALL BE REQUIRED TO ENTER INTO A WRITTEN AGREEMENT PRIOR TO DISBURSEMENT THAT REQUIRES:
 - 1. USE OF FUNDS SOLELY FOR THE APPROVED PUBLIC PURPOSE;
 - 2. SUBMISSION OF QUARTERLY REPORTS BY THE NON-PROFIT ORGANIZATION, AT A MINIMUM, CONFIRMING THE USE OF FUNDS FOR THE APPROVED PUBLIC PURPOSE;
 - 3. AUDIT RIGHTS AT THE TOWN'S REQUEST; AND
 - 4. THAT A FAILURE OF THE RECIPIENT NON-PROFIT ORGANIZATION IS A BREACH OF THE AGREEMENT, AND IN THE EVENT OF A BREACH OF THE AGREEMENT, UNSPENT FUNDS OR FUNDS USED IN VIOLATION OF THE AGREEMENT SHALL BE RETURNED TO THE TOWN, MINUS ANY AMOUNT EQUAL TO THE CONSIDERATION ALREADY RECEIVED BY THE TOWN.

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. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a Class One Misdemeanor pursuant to Section 1-8 of the Wickenburg Town Code and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

PASSED AND ADOPTED by the Common Council of the Town of Wickenburg, Arizona, this _____ day of _____, _____, by the following vote:

BG Bratcher, Mayor

ATTEST:

Amy Brown, Town Clerk

APPROVED AS TO FORM:

Trish Stuhan, Town Attorney

Number of Councilmembers Present: _____
Number of Votes For: _____
Number of Votes Against: _____
Number of Abstentions: _____

I, Amy Brown, Town Clerk, HEREBY CERTIFY that a true and correct copy of the Ordinance No. _____ was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, on the this _____ day of _____, _____, and that a quorum was present at the meeting.

Amy Brown, MMC
Town Clerk