

## **3-1-1 Administration 3-1-5**

### **Chapter 3 Administration**

#### **Article 3-1 OFFICERS IN GENERAL**

3-1-1 Officers

3-1-2 Additional Officers

3-1-3 Bond

3-1-4 Vacancies; Holding More Than One Office

3-1-5 Additional Powers and Duties

#### **3-1-1 Officers**

There are hereby created the offices of town manager, town clerk, town marshal, town engineer, town attorney and town magistrate who shall be appointed by the Council and who shall serve at the will and pleasure of the Council.

#### **3-1-2 Additional Officers**

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.

#### **3-1-3 Bond**

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 and the Town shall pay the costs of such bond.

#### **3-1-4 Vacancies; Holding More than One Office**

Any vacancy that shall occur in any Town office shall be filled by appointment by the Mayor with the approval of 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.

#### **3-1-5 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.

#### **Article 3-2 OFFICERS**

3-2-1 Town Manager

3-2-2 Town Clerk

3-2-3 Town Marshal

3-2-4 Town Attorney

3-2-5 Town Magistrate

### **3-2-1 Town Manager**

**A. Powers and Duties.** The Manager shall be the administrative head of the government of the Town under the direction and control of the Council. He shall be responsible for the administration of all affairs of the Town which are under his control. In addition to his general powers as administrative head, it shall be his duty and he shall have the powers set forth in the following subsections:

**1. Law Enforcement.** It shall be the duty of the manager to see that all laws and ordinances of the Town, and that all franchises, contracts, permits and privileges granted by the Council are faithfully observed and to report any failure in that regard to the Council, which shall give such instruction and direction as it may desire for remedial, corrective or terminating action by the Manager.

**2. Authority Over Employees.** It shall be the duty of the Manager, and he shall have the sole authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the Town under his jurisdiction through their department heads.

**3. Power of Appointment and Removal.** Subject to approval by the Council and to the-exceptions expressly provided by this Chapter, it shall be the duty of the Manager to, and he shall appoint, remove, promote, and demote any and all officers and employees Of the town, except Magistrate, Attorney, Clerk, Counsel, and members of Boards, and Commissions and Committees, all of whom shall be appointed by the Council. As to these officials, he shall recommend appointment and removal. All this shall be subject to all applicable personnel ordinances, rules and regulations.

**4. Ordinances.** It shall be the duty of the Manager to recommend to the Council such measures and ordinances as he deems necessary.

**5. Attendance at Council Meetings.** It shall be the duty of the Manager to attend all meetings of the Council unless he is excused there from by the Mayor individually or by the Council. Except when his removal is under consideration, he shall present definite recommendations relative to each item on the agenda for approval, rejection or modification by the Council.

**6. Financial Reports.** It shall be the duty of the Manager to keep the Council fully advised as to the needs of the Town in such form and at such times as requested by the Council.

**7. Budget.** It shall be the duty of the Manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the Council for its approval.

**8. Expenditure Control and Purchasing.** It shall be the duty of the Manager to see that no indebtedness is incurred or expenditure made in violation of the State Budget Law, and Arizona Revised Statutes or Town Ordinance.

**9. Investigations and Complaints.** It shall be the duty of the Manager to make investigations 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 and to report all findings to the Council. Further, it shall be the duty of the Manager 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 said Town and report all findings to the Council.

**B. Residence.** Residence in the Town at the time of appointment as Manager shall not be required as a condition for the appointment, but within sixty (60) days after reporting for work the Manager must become a resident of the Town unless the council approves his residence outside the Town.

**C. Eligibility.** No member of the Council shall be eligible for appointment as Manager until one year has elapsed after such

Council member shall have ceased to be a member of the Council.

**D. Acting Town Manager.** In the event of the absence or disability of the Manager, his powers and duties, subject to Council ratification shall evolve upon the following officers of the Town and they are so appointed in the following order as each succeeding officer may be absent or disabled:

**1. Mayor**

2. Town Clerk

3. Vice Mayor

**E. Compensation.** The Manager shall receive such compensation as the Council shall from time to time determine. In addition, the Manager shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.

**1. Involuntary Removal.** The manager serves at the will and pleasure of the Town Council. On termination of employment of the Manager by reason of involuntary removal from service other than for willful misconduct in office, the Manager shall receive cash severance pay in a lump sum equal to two (2) month's pay, such pay to be computed at the salary received by the Manager for the preceding month of his service with the Town.

**F. Council- Manager Relations.** The Council and its members shall deal with the administration services of the Town only through the Manager, except for the purpose of inquiry, and neither the Council, nor any member thereof, shall give orders or instructions to any employee or officer other than the Manager. The Manager shall 'take his orders and instructions from the Council only when promulgated at a duly convened meeting of the Council, and no individual Councilman shall give any orders or instructions to the Manager.

**G. Attendance at Commission Meetings.** The Manager may attend any and all meetings of all commission, boards, or committees created by the Council, upon his own volition or upon direction of the Council. At such meetings which the Manager attends, he shall be heard by such commissions, boards or committees as to all matters upon which he wishes to address the members thereof, and he shall inform said members as to the status of any matter being considered by the Council, and he shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the Council, however, at no time shall he disclose matters discussed in Executive Session of the Council.

**H. Discretion of Council on removal.** In removing the Manager, the Council shall act at its discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at a hearing.

**I. Limitation On Removal.** Notwithstanding the provisions of sub-section H herein, the Manager shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days next succeeding any general election held in the Town which election a member of the Council is elected or when a new Councilman is appointed; the purpose of this provision is to require any newly elected or appointed member of the Council or a reorganized Council to observe the actions and ability of the Manager in the actual performance of the powers and duties of his office.

**J. Resignation of Manager.** The Manager shall provide the Council a minimum of forty—five (45) days written notice of intention to resign his position. The Manager shall assist the Council in the recruitment and selection of a replacement if requested by the Council. In the event of resignation due to health reasons, the period of written notice shall be determined in conference between the Manager and the Council.

**K. Agreements on Employment.** Nothing in this Article shall be construed as a limitation on the power or authority of the Council to enter into any supplemental agreement with the Manager delineating additional terms and conditions of employment not inconsistent with any provisions of this article or of state statute.

### **3-2-2 Town Clerk**

**A. Records.** The Clerk shall keep a true and correct record of all business transacted by the Council and any other records that either pertain to the business of the Town or that the Council directs. The Clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, 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 in 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.

**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, publish and, if requested by 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 put the same when 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. The Clerk shall make monthly reports to the Council of all receipts and disbursements and the balance in each fund. At the end of the fiscal year, he shall make a full and detailed statement of the receipts and expenditures of the Town during the year specifying the different sources of revenue and the amount received from each, all appropriations made by the Mayor and Council, and the object for which they were made, and the amount of money expended under each, the evidences of indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

**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 má3i be prescribed by state statute or this Code.

**I. Purchasing Agent.** The Clerk shall assist the Town Manager in his capacity as purchasing agent for the Town and make purchases as authorized and directed by the Town Council or Town Manager within the Town's policy of purchasing.

**J. 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.

### **3-2-3 Town Marshall**

The Marshall 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 Town Clerk. He shall perform such duties as may be required of him by law and as the Council may deem necessary.

### **3-2-4 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, within ten-days, all ordinances and resolutions submitted to him for consideration by the Council, with his approval or disapproval noted thereon, together with his reasons therefore. 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 suitor action to which the Town is a party.

### **3-2-5 Town Magistrate**

The Town Magistrate shall be the presiding officer of the Town Court, shall be selected by the Council and shall perform those functions necessary to the maintenance of a magistrate court as provided by state statute, this Code or ordinances of the Town.

### **3-2-6 Town Engineer**

The Engineer shall make recommendations and reports to the Town Manager and Council on Town streets and shall perform such duties as may be required of him by law and such other duties as the Council may deem necessary.

## **ARTICLE 3-3 APPEALS PROCEDURE FOR REQUIRED DEDICATION OR EXACTION**

3-3-1 Compliance with Arizona Statute, Appointment of Hearing Officer

3-3-2 Notice Provisions, Continuing Education

3-3-3 Appeals Procedure, Time Limits, Ruling

3-3-4 Legislative Act – Non-applicability

Sec. 3-3-1 Compliance with Arizona Statute, Appointment of Hearing Officer

**A.** In order to comply with State and Federal laws, there is hereby created the office of Hearing Officer for the Town of Superior to hear appeals from property owners who have been required by a decision of an administrative agency or official of the Town to complete a dedication or exaction as a condition of approving an applied for use, improvement, or development of the owner's real property. All actions of the hearing officer shall be in full compliance with the provisions of A.R.S. §9-500.12 et seq. and with the provisions of this Article. Should there be a conflict between the provisions of this Article and State law, the provisions of State law shall apply.

**B.** The hearing officer shall be appointed by the Mayor and Council and shall serve a term of two (2) years, be over the age of eighteen (18), be a resident of the Town of Superior<sup>1</sup> shall not be a Town employee other than as a hearing officer, and shall be informed of the Conflict of Interest Policy established by the Town.

**C.** The compensation of the hearing officer shall be determined by the Mayor and Council at the time of appointment and shall include reimbursement for expenses of appearing at hearings. There shall be no change to the compensation during the term of office.

### **3-3-2 Notice Provisions, Continuing Education**

The Town Manager shall establish procedures to comply with the provisions of A.R.S. §9-500.12 et seq. as same may be amended from time to time, including the establishment of a procedure to notify property owners of their appeal rights pursuant to State law and this Article. The Town Manager shall further establish a method of insuring continuing education and notification of all Town administrative agencies, Town staff and the Mayor and Council of the requirements of State law.

### **3-3-3 Appeals Procedure, Time Limits, Ruling**

**A.** At the time of any decision by an administrative agency or official of the Town which makes a final determination granting the approval of a requested use, improvement<sup>1</sup> or development of real property subject to the requirement of a dedication or exaction as a condition of granting the approval, the property owner shall be notified in writing of his/her right to -appeal the required dedication or exaction pursuant to this Code and A.R.S. §9-500.12. The notice shall further describe the appeals procedure which shall, in all respects, comply with A.R.S. §9-500.12.

**B. Should the property owner wish to appeal an appeal able decision:**

1. The appeal shall be in writing and filed with or mailed to the hearing officer designated by the Town within thirty (30) days of the decision of the administrative agency or official requiring the dedication or exaction.
2. No fee will be charged for the filing.
3. The hearing officer shall schedule a hearing within thirty (30) days of the receipt of the request.
4. At the hearing, the Town shall bear the, burden of proving that the dedications or exactions being required bear an essential nexus between the requirement imposed and a legitimate governmental interest of the Town and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement, or development proposed by the property owner.
5. The hearing officer shall provide at least ten (10) days notice of the date, time, and place of the hearing unless the property owner acknowledges, in writing, that less notice is acceptable to him/her. The hearing officer must render his/her decision within five (5) working days after the appeal is heard.
6. The hearing officer can affirm the dedication or exaction, modify it, or delete the requirement. His/her decision shall be in writing and delivered to the address provided by the property owner and to the Town Manager and Town Attorney.
7. If the property owner is aggrieved by decision of the hearing officer which modifies or affirms the requirement of the dedication or exaction, the property owner may, within thirty (30) days, after the hearing officer has rendered a decision, file a complaint for a trial de novo in Superior Court on the facts and the law regarding the issues of the condition or the requirement of a dedication or exaction.

**3-3-4 Legislative Act – Non-applicability**

The provisions of this Article shall not apply to a dedication or exaction required in a legislative act of the Town Council which does not give discretion to an administrative agency or official to determine the nature or extent of the dedication or exaction.

**POLICY OF THE TOWN OF SUPERIOR ON APPEALS OF REQUIRED DEDICATIONS OR EXACTIONS**

Rights of Property Owner In addition to other rights granted to you by-the U.S. and Arizona Constitution, federal and state law and Town ordinances or regulations, you are hereby notified of your right to appeal any dedication or exaction which is required of you by an administrative agency or official of the Town as a condition of granting approval of your request to use, improve or develop your property.

**Appeal Procedure**

If you wish to appeal, the following procedures will apply to your appeal:

- It must be in writing and tiled with or mailed to the hearing officer designated by the Town within thirty (30) days after the administrative agency or official has made his determination requiring the dedication or exaction. The name and address of the hearing officer is as follows:

\_\_\_\_\_  
\_\_\_\_\_

- No fee will be charged for filing.
- Your hearing will be scheduled within thirty (30) days of receipt by the hearing officer of your request. The Town will bear the burden of proving that the dedications or exactions to be imposed on your

property bear an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development proposed by you.

- Ten (10) days notice will be given to you of the date, time and place of the hearing unless you indicate to the hearing officer in your request that less notice is acceptable to you.
  - The hearing officer must render his decision within five (5) working days after the appeal is heard.
  - The hearing officer can affirm the dedication or exaction, modify it or delete the requirement.
  - If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial de novo with the Superior Court within thirty (30) days of the hearing officer decision.
- Questions

If you have any questions about this appeal process, you may contact:

---

---

**REPORT ON DEVELOPMENT PROCESS**  
as required by Chapter 166 of the Laws of 1995

**NAME OF CITY/TOWN:**

Town of Superior

**EDUCATIONAL SESSIONS ATTENDED OR SPONSORED ON NEW REQUIREMENTS:**

League of Cities and Towns Convention and Executive Session with Town Attorney

**PUBLIC HEARINGS OR MEETINGS HELD WITH PROPERTY OWNERS ON NEW APPEALS PROCESS:**

Hearing on adoption of legislation to establish hearing officer position and to establish an appeal and notice procedures - Thursday, October 19, 1995

**DESCRIPTION OF REVIEW PROCESS COMPLETED OR UNDERWAY TO DETERMINE COMPLIANCE WITH RECENT U.S. SUPREME COURT CASES:**

Review of Code by Town Attorney and staff to determine extent of administrative agencies or other Town officials' powers to require a dedication or exaction as a condition of use, improvement or development of real estate

**DESCRIPTION OF APPEALS PROCESS ADOPTED IN RESPONSE TO NEW LAW:**

See attached Code Section and notice

**NAME, ADDRESS AND PHONE NUMBER OF CONTACT PERSON:**

**Melanie Oliver**

Town Manager

271 W. Main

Superior, AZ 85173

(520) 689-5752