

**TOWN COUNCIL OF DEWEY-HUMBOLDT  
REGULAR MEETING NOTICE AND AGENDA – AMENDED**

**Tuesday, October 1, 2019, 6:30 P.M.**

**DEWEY-HUMBOLDT TOWN HALL  
COUNCIL CHAMBERS  
2735 S. HWY 69, SUITE 10  
HUMBOLDT, ARIZONA 86329**

**NOTICE OF MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Dewey-Humboldt Town Council and to the general public that the Town Council will hold a meeting open to the public on **Tuesday, October 1, 2019, at 6:30 p.m.**, at the **Dewey-Humboldt Town Hall Council Chambers, 2735 S. Highway 69, Suite 10, Humboldt, Arizona, 86329**. As indicated in the agenda, pursuant to A.R.S. § 38-431.03(A)(7), the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

**DEWEY-HUMBOLDT TOWN COUNCIL REGULAR MEETING AGENDA –  
AMENDED**

The issues that come before the Town Council are often challenging and potentially divisive. To make sure we benefit from the diverse views to be presented, the Council believes public meetings to be a safe place for people to speak, and asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. § 38-431.03(A)(3), which will be held immediately after the vote and will not be open to the public. Upon completion of the Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. Council Meetings are broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

**1. Call To Order**

**2. Roll Call** Town Council Members: Karen Brooks, Lynn Collins, John Hughes, Amy Lance, Mark McBrady, Vice Mayor Victoria Wendt and Mayor Terry Nolan.

**3. Pledge of Allegiance**

**4. Invocation**

**5. Announcements regarding Town Current Events; Guests; Appointments; and Proclamations** Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action. Pursuant to the Arizona Open Meeting Law, the Town Council may present a brief summary of current events; however, the Council may not discuss, deliberate, or take legal action on any matter in the summary.

Page **A. Council announcements about outside meetings and committees**

**B. Discussion and Presentation of the 2018 Volunteer of the Year Award to Mike and Ronnie Donovan and Certificate Presentations to the 2018 Volunteer of the Year nominees: Leigh Cluff, Tom Mallette, Ken Dolan, Jeffery and Karen Whitman, Paul Manganello (deceased) and Denise Rogers.**

**5 C. Proclamation – declaring October, 2019, as Domestic Violence Prevention Month**

**6. Public Comment on Non-agendized Items** The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. According to the Arizona Open Meeting Law, Councilmembers may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Councilmembers are forbidden from discussing or taking legal action on matters raised during Public Comment unless the matters are properly noticed for

discussion and legal action. A **3 minute** per speaker limit shall be imposed. Everyone is asked to please be courteous and silent while others are speaking.

- 7. Town Manager's Report** Update on Current Events. The Town Council may ask clarifying questions about any item listed on the agenda under Town Manager's Report, or ask that any item listed on the agenda under Town Manager's Report be placed on a future agenda for Council deliberation and action. No legal action will be taken on items listed under Town Manager's Report. From time to time, as authorized by A.R.S. § 38-431.02(K), the Town Manager may present a brief summary of a current event that, due to its timeliness, is not listed on the agenda. In such cases, the Town Council shall not propose, discuss, deliberate or take legal action on the matter.

**A. Town Manager's Report on the General Plan Update process**

**B. Town Manager's Report on the status of the new Town Hall building, to be located at 13298 East Main Street**

Page **8. General Business** Discussion and possible legal action may be taken.

- 7 **A. Discussion and possible direction from the Town Council to the Town Attorney on the provisions of the draft ordinances establishing business licenses and peddlers' licenses** (Staff CC)
- 27 **B. Discussion and possible action relating to the Mayor's use of a tomahawk as a gavel** (CAARFs – Councilmember McBrady and Councilmember Brooks)
- 29 **C. Discussion and possible action relating to establishing a provisional or emergency permit code** (CAARF – Councilmember Collins)
- 35 **D. Discussion and possible action relating to Executive Sessions, including amending Dewey-Humboldt Code of Ordinances § 30.103, and adopting new guidelines about what is allowed to be discussed in Executive Sessions, as authorized by A.R.S. § 38-431.03 and Code § 30.103** (CAARF – Councilmember Collins)
- 39 **E. Discussion and possible action to approve a presentation by Robert Houle from APS (Arizona Public Service Company) on the issue of power outages in Humboldt** (CAARF – Mayor Nolan)
- E1. If approved by Council, presentation by Robert Houle from APS on the issue of power outages in Humboldt**
- 41 **F. Discussion and possible direction to the Town Attorney relating to the Dewey-Humboldt Code of Ordinances § 30.086, Attorney-Client Relationship, and Public Body Rules of Policies and Procedures, PG TC13-01, Parameters of Obtaining Legal Services, including requesting advice on best practices and directing the Town Attorney as needed** (CAARF – Councilmember Collins)

**9. Executive Session**

**Vote to recess to Executive Session**

- A. An Executive Session pursuant to A.R.S. § 38-431.03(A)(3) for discussion and consultation for legal advice with the Town Attorney relating to the Dewey-Humboldt Code of Ordinances § 30.086, Attorney-Client Relationship, and Public Body Rules of Policies and Procedures, PG TC13-01, Parameters of Obtaining Legal Services**

**Close Executive Session/Reconvene Regular Meeting**

- 10. Discussion and possible direction to the Town Attorney relating to the Dewey-Humboldt Code of Ordinances § 30.086, Attorney-Client Relationship, and Public Body Rules of Policies and Procedures, PG TC13-01, Parameters of Obtaining Legal Services, including requesting advice on best practices and directing the Town Attorney as needed**

**11. Consideration of additional Special Session(s)** Whether to hold and, if so, set the date

**12. Adjourn**

Persons with a disability may request reasonable accommodations by contacting the Town Hall at (928) 632-7362 at least 24 hours in advance of the meeting.

**Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, at \_\_\_\_\_ a.m./p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: \_\_\_\_\_, Town Clerk's Office.

**For Your Information:**

Next Planning & Zoning Meeting: Thursday, October 3, 2019, at 6:00 p.m.  
Next Town Council Study Session: Tuesday, October 8, 2019, at 6:30 p.m.  
Next Town Council Regular Meeting: Tuesday, October 15, 2019 at 6:30 p.m.

If you would like to receive Town Council agendas via email, please sign up at [AgendaList@dhaz.gov](mailto:AgendaList@dhaz.gov) and type Subscribe in the subject line, or call 928-632-7362 and speak with Tim Mattix, Town Clerk.

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## **PROCLAMATION**

### **“DOMESTIC VIOLENCE AWARENESS MONTH – OCTOBER 2019”**

**Whereas**, domestic violence is an epidemic affecting Americans in all communities, regardless of age, gender, economic status, race, religion or educational background; and,

**Whereas**, the Centers for Disease Control and Prevention reports that nearly 1 in 4 women and 1 in 10 men have experienced domestic violence during their lifetime; and,

**Whereas**, last year, 85 people were killed in domestic violence related homicides in Arizona; and,

**Whereas**, the Arizona Department of Health Services reports that in Arizona, children witness a domestic violence incident every 44 minutes; and,

**Whereas**, domestic violence is an epidemic affecting individuals in every community, regardless of age, economic status, gender, race, religion or nationality; and,

**Whereas**, the Town of Dewey-Humboldt is dedicated to ensuring the safety of domestic violence survivors and holding abusers accountable; and,

**Whereas**, local programs and agencies, state coalitions and national organizations are committed to increasing public awareness of domestic violence and its prevalence and to eliminating it through prevention and education in a “Lighting Arizona Purple” campaign as an example of Arizona’s dedication to ending domestic violence; and,

**Whereas**, enhanced education, prevention, and intervention efforts will increase public awareness and confront the abuse of power and control in interpersonal relationships;

**Whereas**, the Town of Dewey-Humboldt encourages domestic violence victims and their families to seek assistance from appropriate victims’ services organizations and the National Domestic Violence Hotline at 1-800-799-SAFE;

**NOW, THEREFORE**, I, Terry Nolan, Mayor of the Town of Dewey-Humboldt, do hereby proclaim the month of October, 2019 as

### **“Domestic Violence Awareness Month”**

in the Town of Dewey-Humboldt, Arizona and encourage all citizens to support the efforts of organizations providing education, outreach, and support to victims of domestic violence, and call upon citizens to dedicate themselves to ending all forms of violence and the abuse of power in relationships.

**In Witness Whereof**, I have hereunto set my hand this 1st day of October, 2019.

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Terry Nolan, Mayor

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Timothy A. Mattix

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## COUNCIL COMMUNICATION

Regular Council Meeting Date: **October 1, 2019**

Agenda Item: 8.A.

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**Submitted by:** Kay Bigelow, Town Attorney

**Subject:**

Discussion and direction from council members on new ordinances establishing business licenses and peddlers' licenses.

**Background:**

In prior Town Council meetings, council members instructed staff to draft ordinances establishing business and peddlers' licenses.

The Arizona League of Cities and Town has issued the attached memorandum about the state restrictions and League recommendations for business license ordinances at the municipal level.

One of the League recommendations is to have uniformity among the municipalities' business license regulations. These two drafts are modeled after the City of Prescott ordinances for these types of activities.

These are drafted to be placed in Title XI of the Town of Dewey Humboldt Code (Business Regulations) but there are some other options for placement in the code.

**Financial Impact:**

\$25 Business license fee

\$25 Peddler license fee with each worker paying \$10 fee

**Direction Requested:**

Staff requests Council give the Town Attorney and other staff direction on the draft ordinances so that finalized ordinances can be brought for adoption at a later Town Council meeting.

**Suggested Motion:**

**For:** n/a

**Against:** n/a

**Attachments:**

Draft Business License ordinance, Draft Peddlers' License ordinance, Arizona League of Cities and Towns Restrictions & League Recommendations, Draft Business License Notice of Intent to Establish Fees and Report; Draft Peddlers' License Notice of Intent to Establish Fees and Report

## **Title XI Business Regulations**

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### **Chapter 112: Business License**

#### **§112-1 DEFINITIONS:**

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For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Business activity" means transactions or orders for goods and services with a financial exchange, and shall include any trade, event, amusement, profession, occupation, or performance of services whether engaged in for profit or not for profit.

"Casual activity or sales" means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business for which a license is required. The sale, rental, license for use, or lease transaction concerning real property shall not be treated, or be exempt, as casual. Examples of casual activities or sales include but are not limited to:

1. Individuals engaging in private sales activities, such as the sale of a personal automobile or yard sale, on no more than three (3) separate occasions during any calendar year.
2. Persons under the age of eighteen (18) years engaged in part-time or seasonal employment while still attending school full time.
3. Musicians, musical groups and other performers and entertainment activity performed at a local venue or special event, excluding carnivals or circuses.

"Delivery" includes wholesale or retail deliveries.

"Person" includes all individuals and legal entities which may, under applicable law, conduct business.

"Profession" means any occupation which requires advanced learning acquired by a prolonged course of specialized intellectual instruction or which involves original or creative work depending primarily on invention, imagination, or talent, including, but not limited to, accountants, architects, artists, attorneys, dentists, doctors, medical technicians, nurses, engineers, surveyors, and veterinarians.

"Residential real property rental" means the business of offering for rent, lease or license a building or structure that is used for a home or residence by one (1) or more persons who maintain a household. It also may mean a mobile home offered for rent, lease or license by one (1) or more persons who maintain a household regardless of ownership of the land upon which said mobile home sits. This definition does not include business activities, such as assisted living or behavioral health residential facilities, and/or any other business operation that does not meet this definition of a residential real property rental.

"Separate business location" means a different physical address or branch location of the same business or franchise. A single business occupying more than one (1) suite in the same building does not constitute a separate business location.

"Special event" means any fair, parade, march, motorcade, ceremony, show, exhibition, procession, festival, street dance, circus, carnival, concert, performance, rodeo, organized race, seasonal/holiday sales lot or other temporary activity which invites public participation and patronage (with or without charge) whether held on public or private property. Special events do not include block parties or private events to which the public is not invited or allowed to participate.

"Special event organizer" means an individual or entity who promotes, schedules, contracts for, or otherwise arranges for a sales event, show, exhibition or any other public event where other individuals gather to sell, show, exhibit, display, entertain or in any other way render services to the general public.

"Vendor" means any person or entity engaging in business activity in special events. "Vendor" does not include entities who distribute information only at the event.

#### **§112-2 LICENSE REQUIRED; EXEMPTIONS:**

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(A) Any person or entity engaging in business activity within the Town, including businesses that have locations outside the Town limits, except for those persons or entities specified in subsection (B) of this section, shall be required to obtain a Business License pursuant to this chapter (hereinafter "Business License") and to pay an annual license fee.

(B) The following persons, when engaging in activities subject to the following licensing provisions, shall not be required to obtain a license:

1. Casual activity or sales.
2. Churches as religious institutions engaged solely as a place of worship.

3. Schools whether public or private.
4. Governmental entities, whether federal, state or municipal.
5. Political organizations and homeowner associations as defined and registered by the Internal Revenue Service (IRS).
6. Businesses physically located outside the municipal limits whose only contact within the Town is the delivery of pre-ordered goods.
7. Employees or independent contractors for another person or entity which holds a Town license for such business activity.
8. Residential real property rental.
9. Sober living homes as defined in A.R.S. § 36-2061.
10. All exemptions granted pursuant to the Arizona Revised Statutes.

(C) It is unlawful for any person to practice, transact or carry on any business within the municipal limits of the Town without first having procured a Business License from the Town to do so, or without complying with any and all regulations of such business designated in this chapter.

(D) A separate license shall be obtained for each branch or separate place of business within the Town and for each business transacted or carried on at the same place or location. Each license issued shall authorize the licensee to practice, transact and carry on only that business set forth on such license and only at the location or place of business described thereon.

(E) A single license will be required for multiple professionals co-located at a single business address.

(F) Special event vendors and special event organizers engaging in business activity are required to obtain a Business License, unless already possessing an annual license to operate in the Town. All vendors and organizers must also comply with the Town Tax Code. In addition, all special event organizers shall furnish a list of all vendors participating in the event, including information requested by the Town Finance Department, ten (10) days before the event or the date otherwise agreed upon by the Town Finance Department and the organizer. Failure to provide the requested information may be grounds for disallowing future events.

### **§112-3 APPLICATION AND ISSUANCE; APPROVALS REQUIRED:**

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(A) Every person seeking a Business License must complete an application and furnish the information requested by the Town. The Town reserves the right to request any information deemed necessary to insure public safety and the collectability of license fees. Refusal to provide any requested information is grounds for denial of license.

(B) If the business is to be located within the Town limits, the application may require approval by the appropriate department(s) prior to the issuance of a Business License.

### **§112-4 LICENSE TERM AND FEES; PENALTIES:**

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(A) The license fee shall be \$25.00.

(B) The Business License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee.

(C) Proration of license fees is not allowed. According to departmental policy, new license applications received within the fourth quarter of the year may be granted an expiration date through the following calendar year.

(D) The annual license renewal fee is due on or before January 1st of each year and delinquent if not paid and received on or before the last business day of January.

(E) The annual license fee is subject to a fifty percent (50%) penalty if the annual license fee is not paid within thirty (30) days of beginning business within the Town. The annual license fee is delinquent and subject to the fifty percent (50%) penalty if not paid and received on or before the last business day of January.

(F) Penalties may be waived in accordance with Town departmental policy.

### **§112-5 CANCELLATION, REVOCATION, OR DENIAL OF BUSINESS LICENSE:**

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(A) A Business License issued under this chapter may be cancelled or revoked at any time during the term of such license, or the application or renewal may be denied if the Town or its designee determines that a person or entity owning or operating the business or an employee of the business has violated one or more of the following:

1. Failed to provide complete and accurate information of the applications required by this chapter; or
2. Failed to renew Business License when required; or

3. Failed to pay the Business License fees in full when due and payable; or
4. Violated or is not in compliance with either Dewey Humboldt Town Code, Dewey Humboldt Land Usage code sections, or the Arizona Revised Statutes; or
5. Been determined by the Town to owe delinquent Town transaction privilege taxes, and/or other delinquent fees payable to the Town.

(B) A notice of cancellation or refusal to issue or renew, or the revocation of an existing license, will be given to the applicant(s) and licensee(s), specifying the nature of the violation(s). Notice shall be delivered or mailed to the address of the applicant(s), licensee(s), or statutory agent(s), as shown on the current Business License application. The giving of notice shall be completed upon the date of mailing or delivery.

(C) No Business License revoked or cancelled pursuant to this section shall be reinstated until the cause for cancellation has been fully rectified and a new fee collected.

(D) It is unlawful for any person to continue to engage in or conduct any business within the Town upon the revocation or nonrenewal of that person's Business License until it has been secured. In the event a person violates this subsection, the Town may seek, in addition to all remedies available in this code, an injunction in the Yavapai Superior Court enjoining the violator from engaging or continuing in business within the Town until such person has complied with this chapter.

#### **§112-6 NONTRANSFERABILITY; DISPLAY:**

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(A) Business Licenses are not transferable.

(B) Every licensee under this chapter shall display the license conspicuously at the applicable place of business and shall upon demand display the same to the Town police or other designee of the Town. If the licensee does not have a place of business within the Town limits, the license shall be kept on the person conducting the licensee's business.

#### **§112-7 COMPLIANCE WITH OTHER LAWS:**

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The granting of a Business License is not deemed as evidence or proof that the business is in compliance with other ordinances of the Town, nor shall it stop the prosecution by the Town for any such violations of the Town Code.

#### **§112-8 Penalty**

Civil offense or misdemeanor?

DRAFT

## **Title XI Business Regulations**

### **Chapter 111: Peddlers and Solicitors**

#### **§ 111 -1 DEFINITIONS:**

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When used in this chapter, the following terms have the following meanings:

**PEDDLER:** Any person, whether a resident of the Town of Dewey Humboldt or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

**PORTABLE SIGN:** Any sign not permanently affixed to the ground or the structure on the site it occupies.

**SIGN:** As defined in Section 153.005 

**SOLICITOR:** Any person, whether a resident of the Town of Dewey Humboldt or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, hires, leases, uses or occupies any approved building, structure, room in hotels or motels, shops or other approved structures within the Town for the primary purpose of exhibiting samples and taking orders for future delivery.

**SPECIAL EVENT:** Any fair, parade, march, motorcade, ceremony, show, exhibition, procession, festival, street dance, circus, carnival, concert, performance, rodeo, organized race, seasonal/holiday sales lot or other temporary activity which invites public participation and patronage (with or without charge) whether held on public or private property. Special events do not include block parties or private events to which the public is not invited or allowed to participate.

**SPECIAL EVENT VENDOR:** Includes any person, whether a resident of the Town or not, who engages in a temporary business of fabricating, displaying, or selling goods or handcrafted objects, curios and textiles, and who in furtherance of such purpose occupies a space, stall, booth or other temporary structure on location in conjunction with, associated with, or attendant to a special event.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

TEMPORARY SIGN: Any sign not intended for permanent display.

**§ 111 -2 LICENSE REQUIRED:**

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(A) Requirement. It is unlawful for any peddler or solicitor to engage in any such business within the Town without first obtaining a license therefor in compliance with the provisions of this chapter.

(B) Prohibited Practices.

1. It is unlawful for any peddler or solicitor to make exclusive use of any location to any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise.
2. It is unlawful for any peddler or solicitor to operate in a congested area where such operation impedes or inconveniences the public use of such street, alley, sidewalk or right-of-way.
3. It is unlawful for any peddler or solicitor to display signs on the exterior of any structure; no signs or temporary signs shall be allowed.
4. It is unlawful for any peddler or solicitor to occupy any property or structure for the purpose of selling or delivery of goods, wares or merchandise within the Town, unless said structure or property conforms with the Dewey Humboldt Land Development Code. It is the responsibility of the licensee to assure that approval of each specific structure or property is clearly listed on any license issued under this chapter.
5. It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this chapter.

**§ 111 -3 EXEMPTIONS:**

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(A) The terms of this chapter do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newspaper carriers, nor to the acts of merchants or their employees in delivering goods in the regular course of business.

(B) Nothing contained in this chapter prohibits any sale required by statute, or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

(C) Those persons who have had prior contact with the owners or occupants and have been invited to a private residence for the purpose of making sales, soliciting orders, or delivering goods shall be exempt from the provisions of this chapter.

(D) Special event vendors are exempt from this chapter when they are approved participants of the event by the show organizer, promoter or sponsor.

(E) Religious, Charitable, and Other Federally Exempt Organization. Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than a member of such organization upon the streets, in office or business buildings, by house-to-house canvass, or in public places for a charitable, religious, patriotic, philanthropic, fraternal, public service or other similar purpose.

**§ 111 -4 APPLICATION:**

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Licenses in this chapter are in addition to the business license provisions in Chapter 4-6. Applicants for a license under this chapter shall file with the Town Finance Director a sworn application in writing on a form to be furnished by the Town Finance Director. The Town reserves the right to request any information deemed necessary to insure public safety and the collectability of license fees. Refusal to provide any requested information is grounds for denial of license.

At the time of filing the application, a nonrefundable fee of fifty dollars (\$25.00) shall be paid by the applicant to cover the cost of processing. Upon approval of the application by the Town, the applicant shall pay a fee of ten dollars (\$10.00) for an identification card. The applicant may authorize up to twenty (20) identification cards to be issued under his license for employees, agents or independent dealers handling his products. If the applicant wishes to authorize more than twenty (20) identification cards, he must make a special request, in writing, to the Chief of Police. The Chief of Police will indicate his approval or disapproval on the written request and return it to the Finance Department. Employees, agents or independent dealers must complete applications for such cards, and there will be a fee of ten dollars (\$10.00) for each identification card issued.

**§ 111 -5 ISSUANCE:**

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Upon payment of the prescribed fee, the Town Finance Department shall deliver to the applicant his identification card. Such identification card shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, date of issuance, the license number, and other identifying description of any vehicle used in such

licensed business. Each peddler or solicitor must secure a personal identification card from the Town Finance Department. No identification card shall be used at any time by any person other than the one to whom it is issued. The Finance Department shall keep a permanent record of all licenses and identification cards issued.

**§ 111 -6 BONDS:**

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(A) Every applicant for a license issued under this chapter shall post a cash bond with the Town Finance Director in the amount of two hundred dollars (\$200.00) for the applicant, plus one hundred dollars (\$100.00) for each employee, agent or independent dealer acting in the capacity of peddler or solicitor. The total bond required shall not exceed one thousand dollars (\$1,000.00). This bond is to assure compliance with the provisions of this chapter and shall be forfeited if the licensee or any of his employees, agents or independent dealers are found to be in violation of any of the provisions of this chapter.

(B) Upon surrender by the licensee of his peddler or solicitor license and of all identification cards of his employees, agents or independent dealers to the Town Finance Department, the bond shall be returned in full; provided, all fees, taxes or other encumbrances are paid; and further provided, that the licenses and identification cards are surrendered within sixty (60) days of their expiration date.

**§ 111 -7 LOUD NOISES AND SPEAKING DEVICES:**

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No licensee, nor any person on his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound-amplifying device upon any of the streets, alleys, parks or other public places of the Town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

**§ 111 -8 EXHIBITION OF LICENSE:**

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Licensees, employees, agents and independent dealers are required to exhibit their original identification card at the request of any citizen. Exhibition of any copy or facsimile of the card shall not be considered compliance with this section.

**§ 111 -9 DUTY OF POLICE TO ENFORCE:**

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It shall be the duty of the police of the Town to require any person peddling or soliciting to produce his identification card when such person is not known by the officer to be duly licensed. Such police officer shall enforce the provisions of this chapter against any person found to be violating the same.

**§ 111 -10 RECORDS:**

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The Chief of Police shall report to the Town Finance Director all convictions for violation of this chapter and the Town Finance Director shall maintain a record for each license and identification card issued and record the reports of violation therein.

**§ 111 -11 REVOCATION OF LICENSE:**

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(A) Licenses issued under the provisions of this chapter may be revoked by the Town Manager after twenty-four (24) hours' notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or incorrect statement contained in the application for license.
2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor or peddler.
3. Any violation of this chapter.
4. Conviction of any crime or misdemeanor.
5. Conducting the business of peddler or solicitor as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(B) Notice of the hearing for revocation of a license shall be given by the Town Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least forty eight (48) hours prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least forty eight (48) hours prior to the date set for hearing.

**§ 111 -12 APPEAL:**

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Any person aggrieved by the action of the Chief of Police or the Town Finance Director in the denial of a permit, license or identification card as provided in Sections § 111 -5 and § 111 -6 may appeal to the Town Manager. Such appeal shall be made by filing a written statement setting forth fully the grounds for the appeal. Such statement must be filed within forty five (45) days of receipt by the applicant of notice of denial of the permit, license or identification card. The Town Manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section § 111 -12 for notice of hearing on revocation.

**§ 111 -13 REAPPLICATION:**

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No licensee or company whose license has been revoked or refused shall make further application until at least one (1) year has elapsed since the last previous revocation.

**§ 111 -14 EXPIRATION OF LICENSE:**

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All licenses and identification cards issued under the provisions of this chapter expire at twelve o'clock (12:00) midnight on December 31st of the year when issued, unless applicant elects an earlier expiration date.

**§ 111 -15 PENALTY:**

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Any person who violates any provision of this chapter shall be guilty of a **CIVIL OFFENSE/misdemeanor** and upon conviction thereof shall be punished as provided in Subsection 10-99(A)/or criminal.

**§ 111 -16 FEES ARE IN ADDITION TO TRANSACTION PRIVILEGE TAX:**

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All fees levied in this chapter are in addition to transaction privilege tax that may be required by Section 34.15 et seq.

DRAFT

Your city or town (hereafter, "city") may currently require or may be considering instituting a local Business License. Please note that the Business License is NOT the same as a tax license, also known as the Municipal TPT License. This is intended to provide guidance related to requirements for a local Business License only. TPT licensing is a wholly separate matter administered by the Department of Revenue on behalf of the city.

### **General Information**

The issuance of any license by the city is subject to the procedural requirements captured in A.R.S. 9-835, Licensing time frames; compliance; consequence for failure to comply with time frame; exemptions; definitions. It requires the city to establish and publish the ordinary time frame for the city to consider issuing or denying each type of license it issues, as well as identifying the recourse an applicant has if their application is denied, among other things.

The establishment or increase of a Business License fee, including application fees and renewal fees, must follow the requirements set out in A.R.S. 9-499.15, Proposed new or increased municipal taxes and fees; notification; exceptions. This requires certain public notices and schedules to be prepared prior to approval of any proposed increase in taxes or fees.

### **Restrictions and Prohibitions**

Per statute, your city may not require a Business License from any of the following:

- Wholesale Liquor distributors (unless the business is physically located in your city) (A.R.S. 4-223)

While they regularly visit your city to make sales and deliveries to retail stores, restaurants and bars in your city, you cannot require them to have a local Business License unless they have a physical business location in your city.

- Real estate brokers, agents, salesmen, or property managers (unless their office is physically located in your city) (A.R.S. 9-491.01)

You can only require a business license if a realtor has a primary place of business located in your city. You cannot require a license of anyone with a real estate license who is merely showing or managing properties in your city.

- Out-of-state businesses (A.R.S. 9-491.02)

This is a new law as of 2019 that prohibits a city from requiring a local Business License of any person who does not have a physical presence in the city and is only liable for the local TPT because they exceed the thresholds laid out in A.R.S. 42-5043 to establish an economic presence in the State. This is specifically directed to Remote Sellers and Marketplace Facilitators. (Please note: this section provoked considerable discussion about whether it was appropriate to license others who do not maintain a physical business location in the city as well. Please proceed cautiously.)

- Residential rental properties or property owners (A.R.S. 9-1304(B))

While a tax license is allowed, and all rental properties (including most short-term rental properties) are required to register with the County Assessor as a residential rental, you cannot require a Business License of either the property or the owner if the property is considered either Class 3 or Class 4 for property tax purposes (homes, condos, townhouses, apartments). This includes Short-Term Rental or vacation rental properties and their owners, as these are also considered residential rentals. See the related Attorney General's Opinion available here: [AG Report - Sedona STR Business License](#)

- Insurance agents (A.R.S. 20-1098.17)

An insurance agent who is licensed by the State cannot be required to hold a local Business License, even if their office is physically located in your city.

### **League Recommendations Regarding Business Licenses**

There is plenty of potential for additional restrictions on local business licensing, so it behooves all cities to act with restraint when requiring a Business License. We strongly recommend that you remove any requirement based only on the person needing a tax license, or merely entering the city on a temporary basis without establishing a place of business at which to make sales. A Business License can reasonably be required for a "temporary" business location such as a contractor building homes based on the job site, or persons participating in fairs or other special events where they make sales from their booth. Please try to keep in mind that a primary purpose of a business license should be to create a demographic inventory of the businesses that exist in your city. Other purposes, like peddler identification, are better handled through a separate process, such as a specialty license. We further advise against requiring multiple licenses for the same activity unless it's absolutely necessary. The League provides the following advice to all cities and towns regarding Business License programs and ordinances:

- Strive for uniformity among all cities whenever possible
- Consider establishing fees based primarily on the administrative cost of processing, enforcement, and services provided by the city.
- We strongly urge you NOT to require a Business License of anyone who does not have a physical business location in your city. If your current ordinance does this, it is at a minimum in conflict with A.R.S. 9-491.02 and will need to be changed in that respect. This is an opportunity to remove potentially problematic language requiring a Business License of anyone who is required to have a tax license, anyone who does business on an itinerant basis, out-of-state wineries shipping bottles to residents, and similar persons who do not maintain a permanent or temporary business location within the city.
- Do NOT require a Business License of independent operators such as the individual drivers for Uber, Lyft, Door Dash, Grub Hub, etc.

**Notice of Intent to Establish Fees**

In accordance with A.R.S. § 9-499.15, notice is hereby given that the Dewey-Humboldt Town Council will consider amending the schedule of fees and charges authorized by the Town Code by adding Town Code provisions and fees relating to implementing Business Licenses for conducting business within the Town. The Town Council public hearing and meeting where this item will be considered is scheduled for Tuesday, November 19, 2019. A schedule of the new fees that include the amounts of the fees and the data that supports the new fees are available on the Town of Dewey-Humboldt's website.

Posting date: \_\_\_\_\_

**Purpose:**

Propose to the Town Council Business License application fees for conducting business within the Town.

**Proposed Schedule of Fees for the Town of Dewey-Humboldt:**

Business License fee - \$25/annually (January 1 through December 31)

**Town Council Public Hearing and Meeting:**

Tuesday, \_\_\_\_\_, 2019 – 6:30 p.m.

Dewey-Humboldt Town Hall  
Council Chambers  
2735 S. Highway 69, Suite 10  
Humboldt, AZ 86329

## **Business License Fee Report**

Anyone wishing to conduct business within the Town of Dewey-Humboldt must submit a Business License application for review and issuance by the Town of a Business License. Licensure fees will be used for the purpose of recovering a portion of the Town's cost for application processing and license issuance.

### Application Review and Approval:

The process for reviewing, approving and issuing a Business License is estimated to take two hours of Town staff time per application. Staff time will include review of the application for completeness, zoning and/or permitting requirements, and entry of the license into a central database, which will then be used to print the Business License.

Staff involved in the initial Business License application and issuance process include an Administrative Assistant, Town Accountant, Community Planner, Building Official, and Town Clerk.

For annual renewals, staff involved in processing include an Administrative Assistant and Town Accountant.

**Notice of Intent to Establish Fees**

In accordance with A.R.S. § 9-499.15, notice is hereby given that the Dewey-Humboldt Town Council will consider amending the schedule of fees and charges authorized by the Town Code by adding Town Code provisions and fees relating to implementing Occupational Licensing for Peddlers within the Town. The Town Council public hearing and meeting where this item will be considered is scheduled for Tuesday, November 19, 2019. A schedule of the new fees that include the amounts of the fees and the data that supports the new fees are available on the Town of Dewey-Humboldt's website.

Posting date: \_\_\_\_\_

**Purpose:**

Propose to the Town Council Occupational Peddlers License application fees within the Town.

**Proposed Schedule of Fees for the Town of Dewey-Humboldt:**

Occupational Peddlers License fee - \$25 annual license fee plus \$10/annually for each employee who will be acting as a Peddler (January 1 through December 31)

**Town Council Public Hearing and Meeting:**

Tuesday, \_\_\_\_\_, 2019 – 6:30 p.m.

Dewey-Humboldt Town Hall  
Council Chambers  
2735 S. Highway 69, Suite 10  
Humboldt, AZ 86329

### **Occupational Peddlers License Fee Report**

Anyone wishing to conduct business as a peddler within the Town of Dewey-Humboldt must submit an Occupational Peddlers License application for review and issuance by the Town of an Occupational Peddlers License. Licensure fees will be used for the purpose of recovering a portion of the Town's cost for application processing and license issuance.

#### Application Review and Approval:

The process for reviewing, approving and issuing an Occupational Peddlers License is estimated to take two hours of Town staff time per application and will include a background check for peddlers who will conduct business by going door-to-door. Staff time will include review of the application for completeness, submittal for background checks for peddlers who will be going door-to-door, and entry of the application into a central database, which will then be used to print the business license.

Staff involved in the Occupation Peddlers License application and issuance process include an Administrative Assistant, Town Accountant, and Town Clerk.

DRAFT

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**TOWN OF DEWEY-HUMBOLDT**  
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HUMBOLDT, AZ 86329  
Phone 928-632-7362 ▪ Fax 928-632-7365

Dewey-Humboldt

SEP 12 2019

Received

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular       Special       Work Session

Meeting Date: October 1, 2019

Date of Request: \_\_\_\_\_

Requesting:  Action       Discussion or Report Only

Type of Action:  Routine/Consent Agenda       Regular

Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda): Discussion and possible action relating to the inappropriateness of the Mayor's use of a weapon (tomahawk) as his gavel while presiding over our Town Council meetings.

Purpose and Background Information (Detail of requested action). \_\_\_\_\_

The Mayor's use of this weapon as a gavel has interfered with the proper decorum expected from the public and our Council members.

Staff Recommendation(s): \_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

List All Attachments: \_\_\_\_\_

Type of Presentation: \_\_\_\_\_

Special Equipment needed:  Laptop     Remote Microphone  
 Overhead Projector     Other: \_\_\_\_\_

Contact Person: Mark McBrady

**Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.**



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**RECEIVED**

SEP 17 2019

Dewey-Humboldt

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular     Special     Work Session

Meeting Date: OCTOBER 1, 2019

Date of Request: SEPTEMBER 16, 2019

Requesting:  Action     Discussion or Report Only

Type of Action:  Routine/Consent Agenda     Regular

**Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda):**

BANNING MAYOR NOLAN'S HATCHNET FROM TOWN HALL AND NOT TO BE USED IN TOWN MEETINGS.

**Purpose and Background Information (Detail of requested action).** \_\_\_\_\_

THERE IS NO PURPOSE FOR THE HATCHNET TO BE ON TOWN HALL PREMISES AND SHOULD NEVER BE USED IN MEETINGS

**Staff Recommendation(s):** \_\_\_\_\_

**Budgeted Amount:** 0

**List All Attachments:** NONE

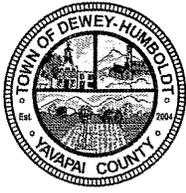
**Type of Presentation:** ORAL

**Special Equipment needed:**     Laptop     Remote Microphone

Overhead Projector     Other: NONE

**Contact Person:** KAREN BROOKS

**Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.**



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AUG 13 2019

Dewey-Humboldt

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular       Special       Work Session

Meeting Date: Sept 3 2019

Date of Request: August 13, 2019

Requesting:  Action       Discussion or Report Only

Type of Action:  Routine/Consent Agenda       Regular

**Agenda Item Text (a brief description for placement on the agenda; please be exact as this will be the wording used for the agenda):** Discuss how to get a provisional or emergency permit code and give a copy of "Status Report: Northern Evacuation Route" handout distributed at June 18, 2019 TC mtg to the town attorney as info

**Purpose and Background Information (Detail of requested action).** The "Status Report" helps explain why we may need a provisional permit code. DH roads, flood, and fire risks are worse than most towns. I would like a way to handle this properly if it happens again.

Staff Recommendation(s): \_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

List All Attachments: Can Mr. Mattix please obtain a copy of the status report I only have 1st page.

Type of Presentation: \_\_\_\_\_

Special Equipment needed:  Laptop     Remote Microphone  
 Overhead Projector     Other: \_\_\_\_\_

Contact Person: Lynn Collins

**Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.**

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**STATUS REPORT - June 14, 2019**  
**Northern Emergency Evacuation Route**  
for the  
**Dewey-Humboldt / Blue Hills community**

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**BACKGROUND**

The Town of Dewey-Humboldt (DH) has, through its FireWise Committee, been extraordinarily active in promoting actions that residents may implement to reduce the likelihood of Wild Fire ignition and spread. The Committee, initiated and chaired by Vice Mayor Vicki Wendt, has:

- Increased public awareness, *well-boosted by the evacuation required by the Goodwin Fire of 2017*
- Provided grant assistance for citizens who wish to create defensible space around their homes
- Identified and will improve a Southern Evacuation Route from the Blue Hills community

A Northern Blue Hills Evacuation Route, *not yet available*, is more critical than the Southern Evacuation Route as Wildfire approaching from the South/Southwest (**ref: the Goodwin Fire**) is the most likely fire threat<sup>1</sup>. Discussions by FireWise committee members with Central Arizona Fire and Medical (CAFMA), Daryl Willis, Type III Fire Incident Commander, and Yavapai County Emergency Management indicate that:

1. A devastating fire **WILL** sweep through the Blue Hills Community; it's only a matter of time and, of course, no one can predict when.
2. Kachina Drive, past the Dewey Post Office, as the only exit for citizens and the only entrance for Fire-fighting Resources, will be a deadly "choke zone."
3. Unless residents evacuate early, promptly, and in an orderly fashion lives will be lost – as in the Paradise California fire where a number of people burned to death in their vehicles and homes.
4. Fire personnel will be at great risk as they try to prevent loss of life – a primary priority of all firefighters – using only one exit/entry point.

**ACTION**

Earth Resources Corporation (ERC),<sup>2</sup> a participant in the FireWise effort, recognizing the understandable and inherent inability of the Town to take swift action to provide this measure of Public Safety, took the following actions (at its own risk and initiative) with the intent to provide a Northern Emergency Evacuation Route for the Blue Hills Community at no cost to the Town – *for the 2019 Fire Season*:

---

<sup>1</sup> All Fire agencies concur in this opinion, with the caveat that fire ignition and subsequent behavior is subject to human and natural variables – notably wind speed, direction and changes.

<sup>2</sup> Regular Meeting Packet, October 1, 2019  
A small, locally owned contractor, ROC License: # 259019, KA<sup>2</sup> Dual Engineering, Heavy Civil.

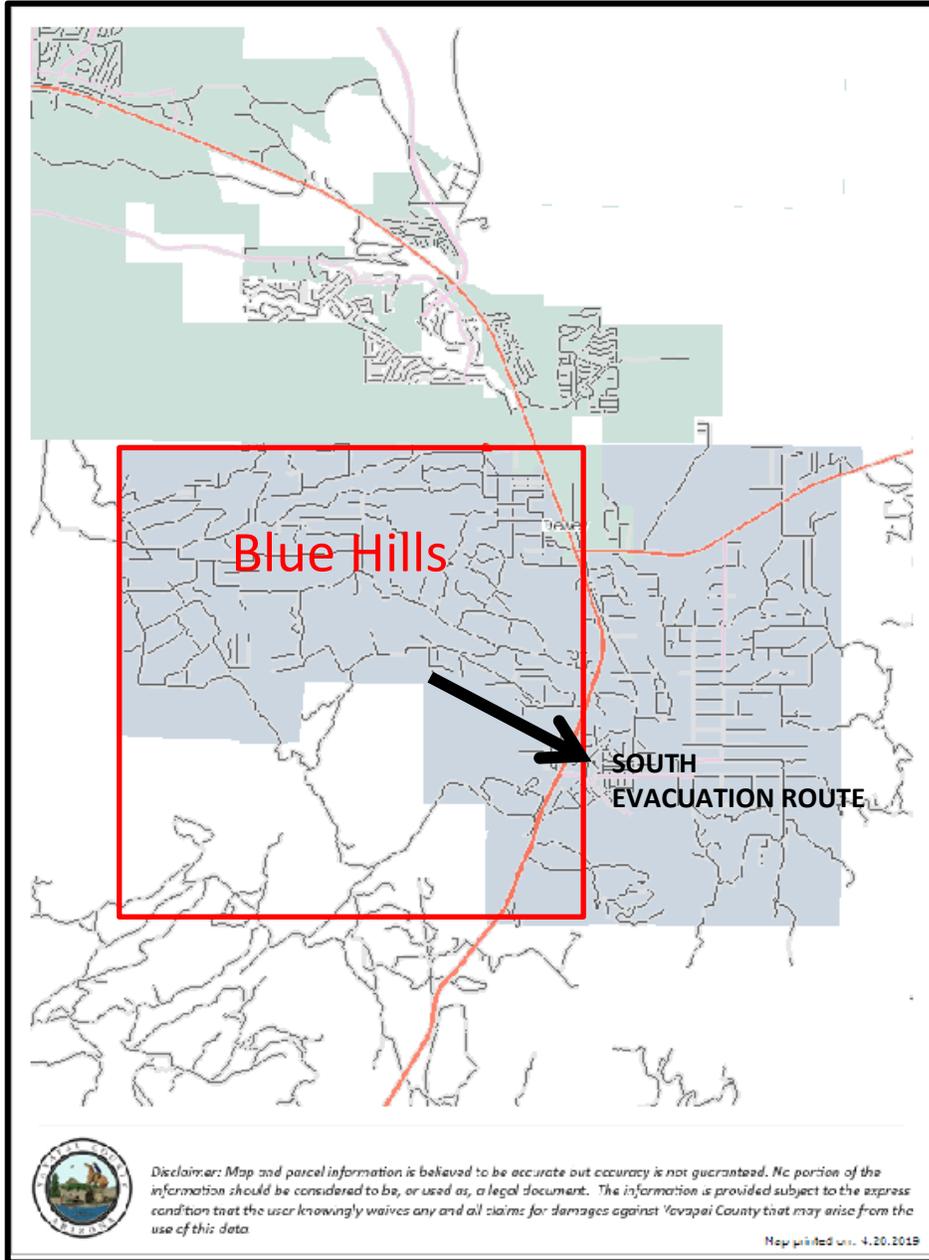
1. Searched Yavapai County maps, public records and digital satellite (Google) data for an expedient route.
2. Identified an optimum route from Kachina Drive to Bradshaw Mountain Middle School property, where Fire Incident Command resources staged during the Goodwin Fire.
  - This route could serve to evacuate trapped citizens –
  - *and also provide an alternate route for Fire Fighting Resources.*
3. Providentially, the two properties essential for this route (402-02-062C & E) were in escrow, but - failing to close – became available.
4. After consulting with Mr. Ed Hanks (DH Acting Town Manager, and Director, Public Works) and Mr. Dan Streeter (Superintendent, Humboldt Public Schools) regarding the feasibility of an access across these properties, ERC purchased both lots for \$50,000, cash. Escrow was opened April 17, 2019 (closed May 30, 2019).
5. Immediate efforts to obtain a Grading Permit from the Town of Dewey Humboldt have been continually delayed, pending Yavapai County Flood Control specification of culvert capacity for the necessary wash crossing.
6. **With time being of the essence** for building a driveway/evacuation route for the 2019 fire season, ERC (Wil Orr) and Mr. Hanks agreed (discussions during the week of May 27, 2019) that a provisional Grading Permit would be acceptable, with ERC agreeing to add additional culvert capacity if required by Yavapai County. This provisional Grading Permit was to be available to ERC on Friday, June 14, 2019 enabling work to begin over the weekend.
7. ERC delivered culverts to the site on June 12, and had a dozer loaded and ready for transport to the site by 9 am, Friday June 14. Work was scheduled to begin Friday afternoon.
8. Mr. Hanks called ERC (Wyatt and Wil Orr) about 9:30 am, Friday June 14, 2019 and said he “was told by Mayor Nolan not to issue the provisional Permit.”
9. ERC considered this a “Stop Work Order” and immediately cancelled all scheduled work on the driveway.

## **STATUS**

We have lost the opportunity to construct a Northern Blue Hills Emergency Evacuation Route in time for the 2019 Fire Season. ERC will not reschedule equipment and personnel to complete this project without a Grading Permit.

*Submitted for information to the Dewey-Humboldt Town Council  
June 18, 2019  
Wilson W. Orr, Earth Resources Corporation*

**BLUE HILLS AREA, TOWN OF DEWEY HUMBOLDT**



No Northern Evacuation  
Route has been  
Identified

**PROPOSED NORTHERN EVACUATION ROUTE**



 LOCKED GATES (keys to be held by DH and the HUSD)

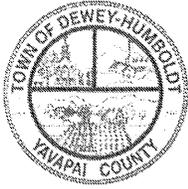
Earth Resources Corporation, having purchased the two parcels, was committed to building the road (with culverts), installing gates & locks, and dedicating this road and its Right of Way to the Town of Dewey-Humboldt for an Emergency Evacuation Route as soon as possible.

*Thank you,  
Wilson W. Orr, June 16, 2019  
Earth Resources Corporation  
[worr@prescott.edu](mailto:worr@prescott.edu), 928-899-6365*

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SEP 19 2019



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HUMBOLDT, AZ 86329
Phone 928-632-8562 • Fax 928-632-7365

Dewey-Humboldt

COUNCIL AGENDA ACTION REQUEST FORM

Meeting Type: [X] Regular [ ] Special [ ] Work Session

Meeting Date: Oct 6, 2019

Date of Request: Sept 19

Type of Action: [ ] Routine/Consent [X] Regular

Requesting: [X] Action [ ] Report Only

Agenda Item Text (a brief description for placement on the agenda; please be exact):

Discuss Executive Sessions town code 30.103, and ARS 38-431.03 - to adopt better guideline about what Council should be allowed by town code to discuss in executive session, possible direction on suggested changes to code

Purpose and Background Information (Detail of requested action). We obviously have communication "issues" with our residents in that they don't like how these sessions are handled and want more openness whenever possible. I believe they are right and we need better guidelines to address community concerns

Staff Recommendation(s):

Budgeted Amount:

List All Attachments:

Type of Presentation: oral

Special Equipment needed: [ ] Laptop [ ] Remote Microphone [ ] Overhead Projector [ ] Other:

Contact Person: Lynn Collins

Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.

### 30.103 EXECUTIVE SESSIONS.

(A) Executive sessions are also regulated pursuant to the Act. All written materials and verbal information regarding executive session items must remain confidential. Written reports and exhibits or materials furnished to members of the Council as part of an executive session must not be copied or saved and must be returned to staff at the conclusion of the executive session. No member of the Council, employee of the town, or anyone else present should disclose to any other person the intent or substance of any discussion that takes place in an executive session unless authorized by the Council.

(B) Permissible topics or issues for a executive session discussion are limited to those topics or issues outlined in state law (currently, A.R.S. § 38-431.03), which generally are:

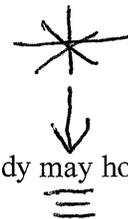
- (1) Town staff employment matters;
- (2) Records exempt by law from public inspection;
- (3) Legal advice from the town's attorneys;
- (4) Legal instructions to the town's attorneys regarding contracts being negotiated, litigation, or settlement;
- (5) Labor agreement negotiations;
- (6) International, tribal, and interstate negotiations; and
- (7) Real property purchase negotiations.

(C) All public statements, information and press releases relating to executive session items should be handled by the Town Attorney or as otherwise directed by the Council majority.

(D) Executive session meetings are closed to the public and the press.

(E) Any suspected violation of the confidentiality of an executive session discussion shall be reported to the Town Attorney. CONFIDENTIAL INFORMATION means a communication, verbal or written, made in executive session that is specifically related to the legal basis for conducting the executive session.

(Ord. 09-49, passed 4-7-2009)



### 38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.
2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.
3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.
5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

B. Minutes of and discussions made at executive sessions shall be kept confidential except from:

1. Members of the public body which met in executive session.
2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.
3. The auditor general on a request made in connection with an audit authorized as provided by law.
4. A county attorney or the attorney general when investigating alleged violations of this article.

C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.

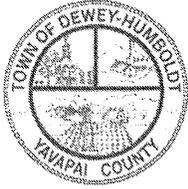
D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.

E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.



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**TOWN OF DEWEY-HUMBOLDT**  
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**HUMBOLDT, AZ 86329**  
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Dewey-Humboldt

SEP 12 2019

Received

**COUNCIL AGENDA ACTION REQUEST FORM**

Meeting Type:  Regular     Special     Work Session

Meeting Date: 10-1-19

Date of Request: 9-12-19

Type of Action:  Routine/Consent     Regular

Requesting:  Action     Report Only

Agenda Item Text (a brief description for placement on the agenda; please be exact):

Discuss town code 30.086(attached); request advise on best practices, direct our attorney as needed.

Purpose and Background Information (Detail of requested action). We have no code on this; we need one. Can we do as emergency?

Staff Recommendation(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Budgeted Amount: \_\_\_\_\_

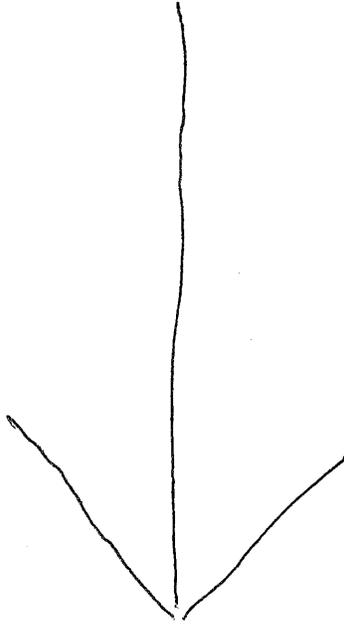
List All Attachments: \_\_\_\_\_

Type of Presentation: Oral

Special Equipment needed:  Laptop     Remote Microphone  
 Overhead Projector     Other: \_\_\_\_\_

Contact Person: Lynn Collins

**Note: Per Town Code §30.105(D): Any new item will be placed under "New Business" for the council to determine its disposition. It can be acted upon at that meeting, sent to staff for more work, sent to the appropriate board or commission, set for a work session or tabled for a future date, etc.**



30.086 ATTORNEY-CLIENT RELATIONSHIP.

[Reserved]

1. **Purpose:** To establish guidelines for individual council members, and all boards, commissions and committees to obtain legal services from the Town Attorney. This policy is to update and replace PG No. TC 12-02 which was modified in November 2013 at the Town Council's direction.
2. **Scope:** This policy applies to all town councilmembers and public bodies of the Town. In this Policy, "public bodies" shall mean the Town Council and all boards, commissions and committees of the Town.

3. **Background:**

3.1 The Town does not have a full time attorney on staff but contracts with a qualified legal firm to perform legal services for the Town on an as-needed basis. The town attorneys represent the Town of Dewey-Humboldt Town Council and the Town as a governmental entity. The Town Attorneys do not represent individual members of the Town Council, staff or citizens of the Town. Town Council recognizes the necessity of obtaining legal opinions for decision deliberation and legal services with respect to other matters such as contracts, employment issues, public records, elections, ordinances and other legal issues that may arise from time to time. The Town Council also recognizes that as public bodies of the Town, the Town's boards, commissions, and committees and its members may encounter legal issues and have specific questions for the attorneys. In order to conserve Town funds and avoid obtaining unnecessary or redundant legal services, the Town Council hereby establishes a centralized and unified process for contacting the Town Attorney.

3.2 Pursuant to Town Code Sections 32.15 and 32.16 the Town Council is authorized to establish written policies outlining and defining town matters within the powers and duties granted to the Town council under state law and town ordinances.

4. **Policies:**

4.1 Nonessential contacts with the City Attorney are prohibited for all staff members and members of public bodies.

4.2 All staff members shall obtain permission from the Town Manager prior to contacting the town attorneys for services.

4.3 All requests for legal advice regarding an issue related to a committee, commission or board shall be made through the chair. The chair may submit a request form stating the specific question the public body needs answered to the Town Clerk for the Town Manager to process. If the Town Manager believes that the amount of time required is more than 15 minutes, the question will be put on the agenda for Council approval. Otherwise, it will be forwarded to the Town Attorney to answer without the Council approval.

4.4 The Town Manager is the Council's point of contact to contact the attorneys. Councilmembers' requests for legal advice shall be directed to the Town Manager.

4.5 If the matter is urgent or time-sensitive and the Town Manager is unavailable due to sickness or otherwise out of the office, the Town Manager's designee or the Town Clerk will assume the duties outlined in this policy relating to Town Attorney services.

4.6 Legal research results and opinions on specific questions directed by the Council will be disseminated to all Council members.