

ORDINANCE No. 15-115

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION CHAPTER 30 TOWN COUNCIL AND OFFICIALS, SUBCHAPTER TOWN OFFICIALS, § 30.031 MAYOR AND VICE MAYOR; APPOINTMENT, POWER AND DUTIES RELATED TO RENAMING THE SECTION AND CLARIFYING THE DUTIES AND RESPONSIBILITIES OF THE MAYOR; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING PENALTIES

Now, Therefore, Be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

Section I. In General.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council and Officials, Subchapter Town Officials, Section 30.031 Mayor and Vice Mayor is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

§ 30.031 Mayor and Vice Mayor; ~~Appointment, Powers and Duties;~~ APPOINTMENT OF VICE MAYOR.

(A) ~~The Mayor is the official head of the town for all ceremonial purposes.~~ PREAMBLE. PURSUANT TO ARIZONA REVISED STATUTES, IN ADDITION TO BEING A MEMBER OF THE TOWN COUNCIL, THE MAYOR IS THE TOWN'S CHIEF EXECUTIVE OFFICER. ALL AUTHORITY IN TOWN GOVERNMENT ULTIMATELY RESIDES WITH THE TOWN COUNCIL OF WHICH THE MAYOR COMPRISES ONE-SEVENTH OF ITS MEMBERSHIP. EXCEPT AS SET FORTH IN THE ARIZONA CONSTITUTION AND THE ARIZONA REVISED STATUTES, THE MAYOR HAS NO DUTIES, RESPONSIBILITY OR AUTHORITY NOT DELEGATED BY THE COUNCIL. THIS SECTION SETS FORTH THE DUTIES, RESPONSIBILITIES AND AUTHORITY DELEGATED BY THE COMMON COUNCIL TO THE MAYOR.

(B) THE MAYOR SHALL PERFORM SUCH DUTIES AS PRESCRIBED BY TOWN ORDINANCE, AS IMPOSED BY THE TOWN COUNCIL, OR AS REQUIRED BY THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA, INCLUDING THE FOLLOWING:

- (1) THE MAYOR IS THE OFFICIAL HEAD OF THE TOWN FOR ALL CEREMONIAL PURPOSES.

- ~~(B)~~(2) The Mayor does not possess any power of veto.
- (3) THE MAYOR (AND ANY OTHER MEMBER OF COUNCIL) SHALL NOT USE TOWN LETTERHEAD FOR ANY CORRESPONDENCE WITHOUT THE EXPRESS APPROVAL OF A MAJORITY OF THE TOWN COUNCIL AND UNLESS IT REFLECTS THE VIEW OF THE MAJORITY OF THE COUNCIL AS EXPRESSED BY EITHER VOTE OR CONSENSUS.
- (4) THE MAYOR SHALL NOT ACT AS A REPRESENTATIVE OF THE TOWN BEFORE ANY OTHER TOWN, CITY, COUNTY, STATE, OR FEDERAL GOVERNMENT OR AGENCY WITHOUT THE EXPRESS APPROVAL OF A MAJORITY OF THE TOWN COUNCIL. IF COUNCIL HAS PREVIOUSLY APPOINTED A COUNCILMEMBER TO ACT AS THE TOWN'S REPRESENTATIVE TO SUCH A BODY OR MEETING, THE MAYOR MAY ATTEND AS AN OBSERVER AND SHALL NOT PARTICIPATE IN THE MEETING UNLESS ACTING AS AN ALTERNATE REPRESENTATIVE OF THE TOWN.
- (5) ~~(C)~~The Mayor AND VICE MAYOR, OR THEIR ~~Council~~ designee[S], SHALL ~~coordinates~~ with the Town Manager ~~in the TO development of~~ agendas for meetings of the Town Council.
- ~~(E)~~ ~~The Mayor may perform such other duties consistent with the mayoral office as may be prescribed by town ordinance, as may be imposed by the Council, or as required by state law. Specific duties include:~~
- ~~(16)~~ The Mayor shall act as the chairman of the Council and preside over its meetings in accordance with Robert's Rules of Order AND WITH THE COUNCIL PROCEDURES SET FORTH IN §§ 30.107 AND 30.109 OF THIS CODE. ~~However,~~
- (7) AS A MEMBER OF THE COUNCIL, THE MAYOR SHALL HAVE THE SAME RIGHTS AND PRIVILEGES AS ALL OTHER COUNCILMEMBERS, INCLUDING THE ABILITY TO MAKE, SECOND, AND VOTE ON MOTIONS MADE BY THE COUNCIL.
- (8) THE MAYOR MAY MAKE INQUIRIES TO TOWN STAFF BUT SHALL NOT INTERFERE WITH THE TOWN MANAGER'S AUTHORITY, EITHER BY GIVING ORDERS OR EXPLICIT DIRECTIONS, SUGGESTIONS, OR REQUESTS, PUBLICLY OR PRIVATELY, REGARDING TOWN MATTERS TO ANY

SUBORDINATES OF THE TOWN MANAGER WHETHER IT BE FINANCIAL, BUDGETARY, HUMAN RESOURCES, OR OPERATIONAL IN MANNER. THE MAYOR SHALL NOT ATTEMPT TO EXERT INFLUENCE ON THE TOWN MANAGER ON ISSUES RELATING TO THE HIRING OR REMOVAL OF PERSONS EMPLOYED BY THE TOWN OR ON ISSUES YET TO BE DECIDED ON BY THE COUNCIL.

(2)(9) The Mayor shall sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring the mayor's signature within five business days from the date the council took action requiring the mayor's signature or from notification by the town manager that such document requires the mayor's signature. If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument authorized to be signed and requiring his signature, then the vice-mayor shall sign such ordinance, resolution, contract, warrant, demand or other document or instrument and when so signed such document shall have the same force and effect as if signed by the mayor. If the vice mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument within five days from notification by the town manager that such document requires his signature, then any member of the council may sign such document and when so signed such document shall have the same force and effect as if signed by the mayor.

(310) The Mayor may, by proclamation, declare a local emergency to exist due to any natural or man-made calamity or disaster. The Mayor may also declare such an emergency in the event of a threat of occurrence of riot or other acts of civil disobedience which endanger life or property within the town. After declaration of any such emergency, the Mayor shall govern by proclamation and impose any and all necessary regulations to preserve the peace and order of the town, including but not limited to:

- (a) Imposition of a curfew for all or any portion of the town;
- (b) Ordering the closing of any business;
- (c) Closing to the public access to any public building, street or other public place; or

- (d) Calling upon regular or auxiliary law enforcement agencies and organizations within or without the town for assistance in providing for the safety of the town, its citizens and property.

{4}(11) As the Mayor may deem appropriate, and upon request by an organization or individual, the Mayor may prepare proclamations that identify particular days or events to be of special interest to the town and its citizens.

(12) THE MAYOR SHALL PREPARE AND SUBMIT TO THE COUNCIL AN ANNUAL UPDATE ON THE EXTERNAL MEMBERSHIPS AND COMMITTEES THAT THE MAYOR PARTICIPATES IN OR SERVES ON IN HIS OR HER OFFICIAL CAPACITY. THE UPDATE SHALL INCLUDE THE ENTITY'S MISSION AND PURPOSE, ASSOCIATED COSTS, THE ROLE OF THE MAYOR, AND THE TOWN'S POSITION/POLICY FOR EACH OF THE EXTERNAL MEMBERSHIPS OR COMMITTEES. THE REPORT SHALL BE SUBMITTED AT THE FIRST REGULAR COUNCIL MEETING IN DECEMBER.

(13) THE MAYOR MAY PERFORM SUCH OTHER DUTIES CONSISTENT WITH THE MAYORAL DUTIES SET FORTH HEREIN AND AS REQUIRED BY TOWN ORDINANCE OR RESOLUTION, ACTION OF COUNCIL, OR ARIZONA STATE LAW.

(C) *ACTION IN EXCESS OF DELEGATION.* IF A MAJORITY OF THE TOWN COUNCIL POSSESSES A REASONABLE BELIEF THAT THE MAYOR HAS ACTED IN EXCESS OF THE TOWN COUNCIL'S DELEGATION OF DUTIES, RESPONSIBILITIES, OR AUTHORITY, THE TOWN COUNCIL SHALL DIRECT THE TOWN PROSECUTOR TO CONSIDER CHARGING THE MAYOR WITH A CIVIL VIOLATION OF THIS SECTION. IF THE TOWN PROSECUTOR BRINGS SUCH A CHARGE AND IF THE TOWN MAGISTRATE DETERMINES BY A PREPONDERANCE OF EVIDENCE THAT THE MAYOR HAS EXCEEDED HIS OR HER DELEGATED AUTHORITY, THE MAGISTRATE SHALL IMPOSE A FINE WITHIN THE GUIDELINES OF HIS OR HER AUTHORITY AND THE GENERAL PENALTIES SET FORTH IN SECTION 10.99 OF THE TOWN CODE.

(D) *FAILURE TO PERFORM.* IF A MAJORITY OF THE TOWN COUNCIL POSSESSES A REASONABLE BELIEF THAT THE MAYOR HAS FAILED TO PERFORM ANY DUTY OR RESPONSIBILITY IMPOSED ON HIM OR HER BY THIS SECTION, ANY OTHER ORDINANCE, STATUTE, OR LAW, THE TOWN COUNCIL SHALL DIRECT THE TOWN PROSECUTOR TO CONSIDER CHARGING THE MAYOR WITH A CIVIL VIOLATION UNDER THIS SECTION OR A CRIMINAL CHARGE OF NONFEASANCE IN PUBLIC OFFICE AS DEFINED BY ARIZONA REVISED STATUTES, OR THE TOWN PROSECUTOR

MAY, OF HIS OR HER OWN VOLITION, CHARGE THE MAYOR WITH A CIVIL VIOLATION UNDER THIS SECTION OR A CRIMINAL CHARGE OF NONFEASANCE IN PUBLIC OFFICE AS DEFINED BY ARIZONA REVISED STATUTES. IF THE TOWN PROSECUTOR BRINGS A CIVIL CHARGE AND IF THE TOWN MAGISTRATE DETERMINES BY A PREPONDERANCE OF EVIDENCE THAT THE MAYOR HAS FAILED TO PERFORM AS REQUIRED BY THIS SECTION, THE MAGISTRATE SHALL IMPOSE A FINE WITHIN THE GUIDELINES OF HIS OR HER AUTHORITY AND GENERAL PENALTIES SET FORTH IN THE TOWN CODE. IF THE TOWN PROSECUTOR BRINGS A CRIMINAL CHARGE OF NONFEASANCE IN PUBLIC OFFICE AND THE TOWN MAGISTRATE FINDS THE MAYOR GUILTY, THE MAYOR SHALL BE SUBJECT TO THE MAXIMUM CRIMINAL PENALTY AVAILABLE FOR SUCH A VIOLATION. IF THE TOWN PROSECUTOR BRINGS BOTH A CIVIL AND A CRIMINAL CHARGE AND THE MAYOR IS FOUND RESPONSIBLE FOR THE CIVIL CHARGE AND GUILTY OF THE CRIMINAL CHARGE, THE MAYOR SHALL BE SUBJECT TO BOTH THE CRIMINAL PENALTIES AND THE CIVIL FINE, BUT IF FINES ARE IMPOSED FOR THE CRIMINAL OFFENSE, THEY SHALL OFFSET ANY FINES IMPOSED FOR THE CIVIL OFFENSE.

~~(D)~~(E) *APPOINTMENT OF VICE MAYOR; TERM.* ~~In the Mayor's absence, the Vice Mayor shall perform the duties of the Mayor.~~ Absent a vote of no-confidence, AT THE SECOND COUNCIL MEETING IN DECEMBER EACH YEAR, the TOWN Council ~~will~~SHALL appoint the most senior Councilmember who has not already been the Vice Mayor to the Vice Mayor position FOR A ONE-YEAR TERM OR UNTIL A NEW VICE MAYOR IS APPOINTED. ~~A Council Member will serve in the role of Vice Mayor for a single year or until removed.~~

(F) *DUTIES OF VICE MAYOR.* THE VICE MAYOR SHALL PERFORM THE DUTIES OF THE MAYOR IN THE MAYOR'S ABSENCE AND SHALL PERFORM SUCH OTHER DUTIES AS MAY BE, FROM TIME TO TIME, DELEGATED BY THE TOWN COUNCIL.

Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 1st day of September, 2015, by the following vote:

AYES: Five (5)

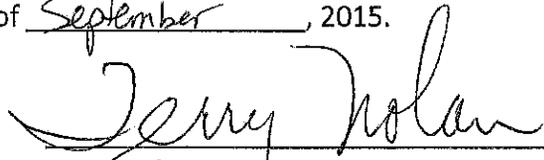
NAYES: Two (2)

ABSENT: Zero (0)

EXCUSED: Zero (0)

ABSTAINED: Zero (0)

APPROVED this 1st day of September, 2015.


Terry Nolan, Mayor

ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By Susan D. Goodwin

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 15-115 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 1ST DAY OF SEPTEMBER, 2015, WAS POSTED IN THREE PLACES ON THE 2ND DAY OF SEPTEMBER, 2015.


Judy Morgan, Town Clerk