

**CITY OF WILLCOX
MAYOR AND CITY COUNCIL MEETING
AGENDA**

Monday, November 1, 2010

7:00 p.m.

**City Council Chambers
300 W. Rex Allen Drive
Willcox, AZ 85643**

(Mayor or Designee will read only **BOLD** print of each agenda item,
except for Public Hearings, Petitions and Communications.)

**Resolution No. 2010-113
Ordinance NS303**

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE TO THE FLAG

4. CALL TO THE PUBLIC

Mayor and Council consideration of comments or complaints from the public. Those wishing to address the Council are required to register by completing an individual speaker's form and filing it with the Clerk before the meeting. The speaker must be recognized by the Mayor before speaking. Time permitting each presentation will be given approximately three (3) minutes. It is probable that each organization will be limited to one speaker. Action taken as a result of public comment will be limited to directing staff to study or reschedule the matter for further consideration at a later date.

5. DECLARATION ON CONFLICT OF INTEREST

Council members and staff have a right to declare a conflict of interest. The declaration of a conflict of interest must be made prior to discussion of any agenda item in which Council members or staff member determine they have a conflict of interest.

6. ADOPTION OF THE AGENDA

The Council will at this time either adopt the agenda as presented or may remove or table any of the listed agenda items. Tabled items, unless otherwise directed, will appear on the next regular agenda. Council may not add any items to the agenda at this time. Should staff have any recommendations concerning the exclusion or tabling of agenda items they will voice these recommendations at this time.

**7. DISCUSSION/DECISION ENTER EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED STATUTES Tab 1
§ 38-431.03A(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF
THE PUBLIC BODY; AND §38-431.03(A)(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.**

Consideration, discussion and/or decision to enter into an Executive Session pursuant to ARS §38-431.03A(3), as stated, relating to consultation for legal advice with the attorney(s) of the public body; and ARS §38-431.03A(4), as stated regarding the public body's position regarding contracts that are the subject of negotiations, or in settlement discussions conducted in order to avoid or resolve litigation.

8. RECESS TO EXECUTIVE SESSION, IF APPROVED

9. RECONVENE FROM EXECUTIVE SESSION

10. CONSENT AGENDA

Items that are considered to be routine by the City Council will be enacted by one motion without discussion. The consent agenda is a timesaving device and Council members have received documentation on these items for their review prior to the open meeting. Any Councilmember may remove any item from the consent agenda for discussion and a separate vote as deemed necessary. The public may view the documentation relating to the consent agenda 24 hours prior to the meeting at the City Clerk's Office, 101 S. Railroad Avenue, Suite B, Willcox, AZ from 8:30 a.m. to 4:30 p.m. or at the Elsie S. Hogan Library, 100 N. Curtis Avenue during normal working hours Monday-Saturday.

10A. THE REGULAR MEETING HELD ON JULY 19, 2010 AND OCTOBER 18, 2010 AND THE WORK SESSION HELD ON OCTOBER 18, 2010 Tab 2

10B. REQUEST FROM WILLCOX CHAMBER OF COMMERCE & AGRICULTURE TO CLOSE RAILROAD AVENUE TO HOST THEIR CHRISTMAS LIGHTED PARADE ON SATURDAY, DECEMBER 4, 2010 FROM 5:00 P.M. TO 9:00 P.M. Tab 3

10C. RESOLUTION NO. 2010-108 APPROVING THE GRANT AWARD IN THE AMOUNT OF \$37,000 FROM THE GOVERNOR'S OFFICE OF ECONOMIC RECOVERY ("GOER"), PUBLIC SAFETY STABILIZATION PROGRAM ("PSSP") FOR THE PURCHASE OF ONE (1) PATROL VEHICLE WITH POLICE PACKAGE AND DECLARING AN EMERGENCY TO EXIST. Tab 4

10D. RESOLUTION NO. 2010-111 APPROVING AND ADOPTING THE U.S. DEPARTMENT OF INTERIOR, BLM RURAL FIRE ASSISTANCE GRANT ["RFA 10-006"] IN THE AMOUNT OF \$9,000.00 TO BE USED FOR TRAINING, PURCHASING EQUIPMENT, PPE'S, AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST. Tab 5

10E. RESOLUTION NO. 2010-112 APPROVING THE PARKING LEASE AGREEMENT BETWEEN THE CITY OF WILLCOX ["LESSEE"] AND ROBERT BRUCE AND SANDRA KAY YUNGWELTER ["LESSORS"] FOR PARKING LOT KNOWN AS PARCEL NO: 203-28-187 AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST Tab 6

11. PUBLIC HEARINGS, PETITIONS AND/OR COMMUNICATIONS

Communications: First Reading of Ordinance NS301 Creating, Approving And Adopting City Code Title 6, Chapters 1 Through 6 [Police And Public Safety], By Reference, Repealing Title(S), Chapter(S), Section(S) , And All Ordinances Passed And Adopted Relating To All Repealed Title(S), Chapter(S), Section(S) , And All Ordinances Enumerated In Section 2 Below; and Tab 7

First Reading of Ordinance NS302 Amending The Willcox City Code, Title 4, Chapter 1, Article A [Business Permit Regulations], Section 4-1A-11 [Sunset Clause], By Reference, Repealing The Current Section 4-1A-11 And Part Of Ordinance NS298 Relating To Repealed Section 4-1A-11 With All Remaining Provisions Remaining Unchanged As Enumerated Herein. Tab 8

Public Hearing: The Mayor and Council will hold two (2) public hearings on Monday, November 15, 2010 at 7:00 p.m., 300 W. Rex Allen Drive, regarding Ordinance NS301 Creating, Approving And Adopting City Code Title 6, Chapters 1 Through 6 [Police And Public Safety], By Reference, Repealing Title(S), Chapter(S), Section(S) , And All Ordinances Passed And Adopted Relating To All Repealed Title(S), Chapter(S), Section(S) , And All Ordinances Enumerated In Section 2 Below; and

Ordinance NS302 Amending The Willcox City Code, Title 4, Chapter 1, Article A [Business Permit Regulations], Section 4-1A-11 [Sunset Clause], By Reference, Repealing The Current Section 4-1A-11 And Part Of Ordinance NS298 Relating To Repealed Section 4-1A-11 With All Remaining Provisions Remaining Unchanged As Enumerated Herein.

All members of the public are invited to attend. For those persons wishing to comment and are unable to attend the public hearing written comments will be accepted in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, until 4:00 p.m. the day of the public hearing.

12. **PRESENTATION BY NATHAN RUNDHAUG LIFE SCOUT AND EAGLE SCOUT PROJECT ON THE COLLECTION AND RETIRING CEREMONY OF TATTERED FLAGS** Tab 9
Consideration and/or discussion on the presentation by Nathan Rundhaug, Life Scout and Eagle Scout Project, on the collection and retiring ceremony of tattered flags.
13. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-106 APPROVING AND ADOPTING REVISIONS TO SECTION 517 (FLEET SAFETY POLICIES AND PROGRAM) OF THE WILLCOX EMPLOYEE HANDBOOK FOR THE PURPOSE OF REVISING THE MOTOR VEHICLE RECORD GUIDELINES; ADOPTING THE VEHICLE POLICY; ESTABLISHING THE EFFECTIVE DATE AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.** Tab 10
Consideration, discussion and/or decision regarding Resolution NO. 2010-106, as stated, relating to the revisions to Section 517 (Fleet Safety Policies and Program) of the Employee Handbook-Vehicle Policy.
14. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-107 FOR THE PURPOSE OF APPROVING AND AUTHORIZING A SELECTED OPTION FROM AMONG FOUR OPTIONS RELATED TO CITY EMPLOYEES AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.** Tab 11
Consideration, discussion and/or decision regarding Resolution No. 2010-107, as stated relating to the selection option from among four options related to City employees.
15. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-109 APPROVING AND ADOPTING THE USDA RURAL HOUSING SERVICE ["RHS"] AGREEMENT UNDER THE COMMUNITY FACILITY GRANT PROGRAM IN THE AMOUNT OF \$117,700.00 TO BE USED FOR PUBLIC LIBRARY IMPROVEMENTS AND EQUIPMENT, AUTHORIZING AND DECLARING AN EMERGENCY TO EXIST.** Tab 12
Consideration, discussion and/or decision regarding Resolution No. 2010-109, as stated, relating to the USDA Rural Housing Service Agreement to be used for Public Library Improvements and equipment.
16. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-110 APPROVING AND ADOPTING THE PAYMENT PLAN AGREEMENT ["AGREEMENT"] BETWEEN THE CITY OF WILLCOX ["CITY"] AND RONALD & CORRINE STOUT D.B.A. STOUT'S CIDER MILL ["STOUT'S"] AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND THE PAYMENT PLAN AGREEMENT AND DECLARING AN EMERGENCY TO EXIST.** Tab 13
Consideration, discussion and/or decision regarding Resolution No. 2010-110 as stated relating to the Stout's payment plan agreement.
17. **DISCUSSION REGARDING CITY'S FINANCIALS AS OF SEPTEMBER 30, 2010** Tab 14
Consideration and/or discussion regarding the City's Financials as of September 30, 2010.
18. **REPORTS BY THE CITY MANAGER PAT McCOURT** Tab 15
Consideration, discussion and/or decision regarding the following topics by the City Manager:
 - **Report on the Willcox High School Football Team**-the Cowboys beat Thatcher 21-20! Next game is the final against the Willcox Cowboys rivals the Benson Bobcats!
 - **Report on Library New Technology Tools Presentation**-Library staff presenting information on New Technology Tools.
 - **Report on change meet with Council members and public** -November 11th is Veteran's Day Holiday and the meeting with the City Manager and Council members and/or public is changed from Thursday, November 11th to Wednesday, November 10th at 4:00 p.m.
 - **Report on Work Session Sales Tax Collection**-Revenue Delivery Services representative and invited LACT's Representative Tom Belsche to the work session on Monday, November 15, 2010 at 6:00 p.m.
 - **Report on Septage**-staff reporting on update to the Septage.
 - **Report hold vacant position**-Public Services & Works Department is holding another position vacant in Streets Department pending Election results.

19. COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

20. ADJOURN.

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, Willcox, AZ or the Elsie S. Hogan Community Library during regular business hours Monday-Saturday and on the City's website www.cityofwillcox.org .

NOTE: People with disabilities may request reasonable accommodations. Requests must be made 48 hours prior to the meeting by contacting City Hall at 384-4271 during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday.

TAB 1

**CITY OF WILLCOX
EXECUTIVE SESSION**

AGENDA

MONDAY, NOVEMBER 1, 2010

7:00 p.m.

300 W. REX ALLEN DRIVE

Willcox, Arizona

1. CALL TO ORDER
2. ROLL CALL
3. CONSIDERATION OF ARIZONA REVISED STATUTES 38-431.03(A)(3) – DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; AND §38-431.03(A)(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.

Consideration and/or discussion pursuant to Arizona Revised Statutes §38-431.03(A)(3), as stated relating to consultation with the City Attorney(s) of the public body; and §384-431.03(A)(4), as stated relating to the public body's position regarding contracts that are subject of negotiations, or in settlement discussions conducted in order to avoid or resolve litigation.

4. ADJOURN

"Mine, Yours, Ours"

TAB 1



NOTICE OF EXECUTIVE SESSION

CITY COUNCIL

In accordance with Resolution No. 370 of the City of Willcox, and Section 38-431.01 of the Arizona Revised Statutes **NOTICE IS HEREBY GIVEN** that the **MAYOR AND COUNCIL** of the City of Willcox, County of Cochise, Arizona, will hold an **EXECUTIVE SESSION**, if approved, during the **REGULAR** meeting on **MONDAY**, the **1ST** day of **NOVEMBER** 2010 at **7:00 p.m.**, in the **CITY COUNCIL CHAMBERS, 300 W. REX ALLEN DRIVE, Willcox, AZ**

Item for Consideration and Discussion are:

- A.R.S. §38.431.03A(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; AND
- §38-431.03(A)(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.

Consideration and/or discussion regarding consultation for legal advice with the Attorney or Attorney's of the public body; and consider public body's position regarding contracts that are subject of negotiations, or in settlement discussions conducted in order to avoid or resolve litigation.

DATED AND POSTED this 28TH day of OCTOBER 2010 at 3:00 P.M.

CITY OF WILLCOX, ARIZONA
Cristina G. Whelan, CMC
ISI CRISTINA G. WHELAN, CMC
CITY CLERK CRISTINA G. WHELAN, CMC

"Mine, Yours, Ours"

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19TH DAY OF JULY 2010**

CALL TO ORDER-Mayor Gerald W. Lindsey called the regular meeting to order on Monday, July 19, 2010 at 7:00 p.m. and welcomed all to this meeting, welcomed the rain and electricity shortage on the end of town.

ROLL CALL -City Clerk Cristina G. Whelan, CMC, called the roll:

TAB 2

PRESENT

Mayor Gerald W. Lindsey
Vice Mayor Monika Cronberg
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman William "Bill" Holloway
Councilman Robert "Bob" Irvin

STAFF

City Manager Pat McCourt
City Attorney Hector Figueroa
City Clerk Cristina G. Whelan, CMC
Library Director Tom Miner
Public Safety Director Jake Weaver
Public Services & Works Director Dave Bonner
Development Services Jeff Stoddard

PLEDGE OF ALLEGIANCE TO THE FLAG- Mayor Lindsey.

CALL TO THE PUBLIC- Mayor Lindsey asked Paul Sheats if he wished to speak at this time and Mr. Sheats requested to wait for agenda item #13 regarding the Skate Park. The Mayor asked if anyone else wished to comment and hearing no further response Call to the Public was closed.

DECLARATION ON CONFLICT OF INTEREST-There was no response from the Mayor and Council members or staff.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda.

SECONDED: Vice Mayor Cronberg seconded the motion. **CARRIED.**

**DISCUSSION/DECISION ENTER EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED STATUTES § 38-431.03A(3)
DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC
BODY**

Mayor Lindsey asked if any item for Executive Session and City Attorney Hector Figueroa stated "not at this time." (Agenda items relating to recess and reconvene from Executive Session were not considered.)

CONSENT AGENDA

- 10A. **WILLCOX CHAMBER OF COMMERCE & AGRICULTURE REQUESTS FEES BE WAIVED FOR THE COMMUNITY CENTER ON JANUARY 12-16, 2011 FOR THE WINGS OVER WILLCOX BIRDING & NATURE FESTIVAL**
- 10B. **RESOLUTION NO. 2010- 79 APPROVING AND AUTHORIZING THE EXECUTION OF THE PLEDGEE AGREEMENT FORM TO BE FILED WITH THE FEDERAL RESERVE BOARD, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST**
- 10C. **RESOLUTION NO. 2010-80 APPROVING AND ADOPTING AMENDMENT NUMBER ONE TO THE INMATE WORK CONTRACT BETWEEN THE CITY AND THE STATE OF ARIZONA, DEPARTMENT OF CORRECTIONS, I["ASPC-SAFFORD"] FOR THE PURPOSE OF DELETING SECTION 1.15 AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION, AMENDMENT NUMBER ONE AND DECLARING AN EMERGENCY TO EXIST.**

MOTION: Councilman Johnson moved to adopt the consent agenda items as presented.

SECONDED: Councilman Holloway seconded the motion. **CARRIED.**

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19TH DAY OF JULY 2010**

PUBLIC HEARINGS PETITIONS AND COMMUNICATIONS

PUBLIC HEARING: The Mayor read and announced that the Mayor and Council will hold a public hearing on (1) Monday, July 19, 2010 at 7:00 p.m. 300 W. Rex Allen Drive, Willcox, AZ, regarding the City of Willcox and the Elsie S. Hogan Community Library has applied to the USDA Rural Development for Funding Assistance to Complete the Library Renovation Project. Residents may provide comments on such items as economic and environmental issue that may impact the area or discuss any alternatives to the proposed project;

All members of the public are invited to attend such meeting. For those persons unable to attend, written comments will be accepted until 4 p.m. the day of the public hearing in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, Willcox, AZ 85643.

Mayor Lindsey opened the public hearing regarding the City of Willcox and the Elsie S. Hogan Community Library relating to funding assistance to complete the Library Renovation Project at 7:05 p.m. The Mayor asked if there were any comments. Hearing none he asked again are there any comments. Hearing no comments from the Council members, staff and public present Mayor Lindsey closed the public hearing at 7:06 p.m.

DISCUSSION/DECISION RELATING TO THE APPOINTMENTS TO THE PLANNING & ZONING COMMISSION

The Mayor asked legal counsel to brief them on this. City Attorney Figueroa addressed the Mayor and Council and general public and while on vacation had request to review issue heard on July 6th. According to the City Code the Mayor and Legal Counsel are the parliamentarians and if Council followed Roberts Rule of Order. The questioned posed to him was whether the action taken on July 6th meet the requirements to Robert Rules of Order. In particular he requested minutes and City Clerk provided the exact minutes of the action that was taken. Overview of Roberts Rules of Order there is a category of motions that have to take a look at. Some require second and some do not. Motions are broken down into categories: Main Motions or it is called Classification of Motions or Main or Principal Motions; Incidental Main Motions; Subsidiary Motions; Incidental Motions; Privileged Motions and Unclassified Motions. The City Attorney covered applicable classifications relating to subject matter that was handled on July 6th. It is clear there was a main motion. It was made and seconded to appoint Nancy Guerrero and Sharon Nigh to the Planning and Zoning Commission. The minutes do not reflect that the motion was voted upon. If it had been amended the amendment is voted first then the original motion is voted second. There was not a vote on original motion. Procedural motion by Mayor and any time Point of Order is raised all other things cease until that question is answered. Seems like from that point then it proceeded to nominations but before nominations there was a motion to rescind. A motion to rescind is allowed under Robert Rules of Order and requires a second and there was no second, therefore, motion to rescind died for lack of second. Then it proceeds to nominations and the two candidates were nominated but somebody asked for a second and nominations do not require a second under Roberts Rules of Order. A third motion was made for nominations and appointment of Nancy Guerrero and Councilman Holloway asked if a second was needed and the answer was no. Rules do not require second to make nominations. As a legal matter he made determination that the original motion was never voted upon; motion to rescind was not seconded and failed for lack of second; the nominations were in place without a second which was not required, however, in order to do that have to look at Roberts Rules of Order. How are nominations to any committee or anybody or officers of a private, non-profit or corporation etc., proper procedure is: (1) the item was on the agenda; (2) open nominations by Mayor; (3) any council member makes motion to open to make nominations and at that point nominations are made and there is no second required. Upon no further nominations the Mayor asks are there any further nominations to be made and if none then someone has to make motion to close nominations and that requires a second. Then once nomination are closed then someone makes motion made to appt person and second required and vote. Then another motion made for the next and vote. That is procedure and recommending that tonight. Now action taken on July 6 there are 2-scenarios if motion is made that does not comply with statute or rules adopted by Mayor and Council and Mayor & Council operating under Roberts Rules of Order, and if not in keeping, therefore, the motion is not in order that conflicts with those rules. If such motion is adopted it is null and void. Another also rescinds previous motion on July 6 or declare null and void or rescind. Because part of the action taken did comply which was nomination without a second and did not close and recommended someone rescinds the July 6th action and proceed as stated. Pat if motion to rescind needs second and voted first.

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
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MOTION: Mayor Lindsey moved to rescind action taken on July 6th according to item on agenda concerning the appointments to the P&Z Commission

SECONDED: Councilman Holloway seconded the motion. **CARRIED.**

Mayor Lindsey asked for nominations to the Planning & Zoning Commission.
Councilman Johnson nominates Nancy Guerrero. Mayor Lindsey asked any further nominations.
Councilman Johnson nominates Mr. Doyle Miller. Mayor Lindsey asked any further nominations.
Councilman Klump nominates Sharon Nigh.

MOTION: Councilman Johnson moved to close nominations to the Planning & Zoning Commission.

SECONDED: Vice Mayor Cronberg seconded the motion. **CARRIED.**

Councilman Klump asked if candidates would like to speak for about 2-minutes.

Mayor Lindsey asked Ms. Guerrero first to speak. Ms. Guerrero thanked the Mayor and Council for opportunity and thanked them for considering her letter of interest and resume. She worked for the City for 25 years and has been in Real Estate for the last five (5) years and her interest is to help the City where she can and if she can.

Mr. Miller has served on the Planning & Zoning Commission for the past three (3) years and appreciates the opportunity to continue to serve.

Ms. Nigh's background is basically Economic Development on National level; she is a certified paralegal, certified and graduated in Real Estate also with "30 certifications." Has owned property in Willcox for five (5) years and has lived here a short period of time. Ms. Nigh had opportunity to go other places and chose Willcox because the people here are wonderful. Thank You.

MOTION: Vice Mayor Cronberg moved to appoint Doyle Miller to the Planning & Zoning Commission.

SECONDED: Councilman Johnson seconded the motion. **VOTE SHOW OF HANDS:** Mayor Lindsey stated unanimous. (Note: Mayor did not say **CARRIED** although vote reflects that outcome.) Thank You.

MOTION: Councilman Johnson moved to appoint Nancy Guerrero to the Planning & Zoning Commission.

SECONDED: Councilman Holloway seconded the motion. **VOTE SHOW OF HANDS:** Mayor Lindsey stated 4-3 **CARRIED.**

MOTION: Vice Mayor Cronberg moved to appoint Sharon Nigh to the Planning & Zoning Commission.

SECONDED: Councilman Klump seconded the motion. **VOTE SHOW OF HANDS:** Mayor Lindsey stated 3 Ayes and asked for oppose 3-Opposed. Mayor Lindsey reminded the members that they could only vote twice. Mayor Lindsey asked Councilman Donahue if he voted and stated he kept his hand down. The Mayor asked Legal Counsel for assistance and Mr. Figueroa asked what the vote was. Mayor Lindsey said had 3-favor and 3-opposed. Councilman Donahue apologized and stated he missed the opposed vote and his vote is opposed. The Mayor explained we have vote of 3-4 **Failed.**

The Mayor apologized for last meeting and asked for all support we have four (4) great candidates and only three (3) positions and appreciates their service and hopes to have their continued support.

DISCUSSION/DECISION REGARDING THE SKATE PARK FUNDING

City Manager McCourt reported this project has been in the works for quite awhile. Original site was selected and then suggested old police station site and save money because there is already a large concrete slab and approved to move the site. Have approximately \$16,000 funds to work with and did go out to bid on the Skate Board Park. Reported 2-bids and both exceeded the funds that were available and we could not proceed with the award of the bid. Not sure what can be done at this time with the funds to move forward or try to secure additional funds. Public Services & Works Director Dave Bonner handed out proposed site sheets to the Mayor and Council to aide in discussion and will proceed with the discussion. Mr.

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Bonner explained this plan is something staff drew up and had another set of plans for Keiller Park and drew as overlay over existing concrete. Discussion to whether to use Police Department site and Skate Park Committee stated that it would be adequate. Fence drawn has opening for couple of gates to allow for vehicle equipment to enter for maintenance. Thought perhaps put in fence and concrete during first phase and bids \$23,000 well over amount budgeted. At this point we can not make it much smaller and not sure we should take the fence off because potential for problems of having people driving on it. Staff thinks there could be a number of issues. Councilman Johnson asked if received quote from original site at Keiller Park at \$10,900 if he remembers right. Also were the "cement folks" to see if donated a portion and what was the response. Mitchell Rios stated he can not remember and this is something they have been trying for over three (3) years and over 27 years when initially started. They are being patient because they do not have a choice. Honestly he stated he can not ask any more children to do more than what they have done. They are disgusted and have lost faith and hope in the City of Willcox. He does not fault the children and his heart bleeds for them and if going to talk that the City needs more money there is a Tony Hawk Fund that can be written by City although last year it was voted not to be written. As President of Skate Park he has not received any phone call from anyone from the City. Mr. Rios agrees that he is probably a "pain in the side" but these kids may not be his personal children but these kids "deserve the right to skate." He is a skater himself and is sure Ontario, CA can attest to that and they had a park. He has asked kids to be respectful of the laws and they just need help to getting it done. Mayor Lindsey asked Mr. Sheats to address this and stated he has only helping past three (3) years. At least one (1) year prior saw it on agenda and saw it in the budgeting that matching funds up to \$40,000 or combined \$20,000 but not close to it anyway. Previous Council sent kids away to raise funds and told they could have a park. Members from community and Chamber have donated large sums of money to help out and contractors said they will help and every time ready to do something they have been stopped. When bids went out told potential that the Tennis Court lighting fund would not be all used up by the Tennis Courts and asked if they as Skate Park could take those funds. Come to the Mayor and Council and ask for those funds which are budgeted for activities. Now understands that money is gone due to new budget year. New budget need to figure it out. Realize contract people \$23,000 are being generous and they need to make money too. Have not had much success in donation maybe they would. Wants to know what happened to that \$6,000 and understands the school system will be coming to Mayor and Council to help build more baseball and softball fields and probably most likely Mayor and Council will help them and once again they are put on the back burner. They have kids like to skate and not allowed in certain parts of the City and need direction. Does not know whose hands are getting tied, and Mayor and Council need to shake some trees, and see what falls out because "they need some help." Councilman Johnson asked Councilman Klump if it would be cheaper to lay a fresh slab of cement. We built façade at old police station. Councilman Klump stated he submitted a bid and thinks bid was dropped because the City did not have the money and thinks this is all he can speak without being in conflict of interest. Mr. Sheats shouted "does that mean we have to go out to bid again?" The City Attorney asked if bids were rejected. Councilman Klump replied he received a copy that said bids were rejected because there is no money. City Attorney said if bid going out again and if decision comes before Mayor and Council then Councilman Klump submits a bid he needs to consider then conflict of interest. If bids rejected by Mayor and Council and bid re-let then no problem. If presented for consideration Councilman Klump would have to recuse himself. Councilman Klump asked Councilman Johnson if his question is it cheaper to start over. Councilman Klump said having a slab currently is that it is fully compacted and the way the bid was written there was a rebar grid on top that was basically engineered according to another park somewhere else. It would be fast work, little gravel or sand on top to keep from shifting and concrete would be held together with the rebar grid. Prices were to do the first phase which he thinks were very reasonable because it is a big slab, and will take time and manpower to finish. He would not say it would be cheaper to go somewhere else. When he originally talked about this as a spot thought use some of that slab and would be cheaper. Councilman Johnson asked Jeff Stoddard, Building Inspector, what is the original size of slab (Keiller Park) and Mr. Stoddard replied 90'x90' or 90'x60'. Mr. Bonner said original is 75'x45'. Mr. Sheats said he thinks Mr. Stoddard is closer to size and more than 90'. Looked at length 90' and then broken up so that they could go certain width and later go further. Mr. Bonner added area over there is basically the same so probably 90'x95' grid or 70'x91' and took it in half. Councilman Johnson asked if Skate Park goes in there does it need compaction. When the suggestion came back to Council as idea or thought at the old police site talked about putting in slab for smooth service, build fence and then the additional slabs. If do that in phases as well instead of 91.4 x70.5' cut that in half and do it and then fence the area and then do 2nd half and move fence and add more cement and asked if that could be part of first phase since. Councilman Johnson stated he is not a contractor and if that would have an impact on the cement slab as far as it being a skating facility and smoothness. Mr. Sheats thinks fence whole area and cement at the same time would be of better interest. Councilman Johnson concern is skating on bad cement we have chance of liability. Mr. Sheats wants to

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know why bids were rejected before bringing to Mayor and Council and asked if that was not being proper protocol. Councilman Holloway explained probably because it is matching funds situation and asked if they quit getting donations when they reached \$8,000.00. Matching Funds are matching funds. If Mayor and Council agreed to match for example \$20,000 they are matching what the group raised. If Mr. Bonner gets bid \$23,000 and \$33,000 and Council has promised to match what you raised it "would be ludicrous" to bring that to Mayor and Council if commitment was to match your funds. Mr. Rios said they tried their best and especially with a Tony Hawk Fund that would help them tremendously. That is a \$25,000 fund and does not understanding why it was rejected to not be bid out and sent off. Mr. Rios asked if that is a 17 month ordeal they are trying to deal with. Person responsible for that decision that he is aware of she is not here in the Chamber. Question is should this be brought back to the City to have the City write for that Grant and asked will the City honor it, will they fulfill it and send it off for that \$25,000 and Mayor Lindsey asked Mr. Rios to explain what he is talking about. Mr. Rios said it is Tony Hawk Foundation which is set up by Profession Skater for rural areas to help raise money and funds to build Skate Parks. They had entertained that twice and second time brought it to Ruth Graham (Finance Director) and several weeks later she told them it was not going to be done and that was that. Mayor Lindsey asked if matching funds required. Mr. Rios said the grant from Tony Hawk Foundation to Skate Park. Vice Mayor Cronberg thinks part of the problem over the past several years with the Tony Hawk was some sort of letter or commitment from City on file in order to process. It has been several years discussed and recalls that at that time there was some letter of commitment from the City and we were unable to do it because of funding. The Skate Park Committee was encouraged to do fund raising on their part and match from City to progress for that letter of commitment and that is what she remembers. Councilman Johnson said another portion was we needed dedicated park and we dedicated a site at Keiller Park and thought the Skate Park Committee had to write it. Mr. Rios said it has to be written by City with a 501-C. City Manager McCourt stated he is not familiar with that (Tony Hawk) and will certainly pursue that information and does not know amounts available and is happy to work with this committee. Councilman Johnson said when we did matching fund we did \$20,000 for Senior Center and \$20,000 for the Skate Park and match up to those numbers. The Senior Center and did we match and continued to budget for Skate Park.

Mr. Don Ulses asked Councilman Klump the condition of that slab is not that great in his opinion. Concern slab over that and it moving and Councilman Klump explained that is the reason for the sand. He has put in few slabs on top of another and we will not be driving cement trucks over it. Can reduce rebar and thickness but slab will move and crack. Crack is natural and minimal but shifting is not because it will be a lift. Mr. Sheats asked if Tennis Court money was "still floating" and could they get their hands on it. Vice Mayor Cronberg said she works for school and has no idea and Mr. Sheats asked who they should talk to because it was never brought to Council. City Manager McCourt explained because funds are so tight on our budget we do not spend the budget just because funds are there and consistently we do not spend it all every year. Understands the need because son and grandson are skaters but if do not put money toward it and it is matching fund and again stated he is more than willing to pursue the Tony Hawk Grant. Mr. McCourt does not know if any matching and is willing to pursue that with this money we have and see if we can leverage. Vice Mayor Cronberg said we are in better position because we have area and do have money and have not totally blocked the idea. It is truly a worthwhile foundation it is world-wide and excellent programs throughout the County.

Mayor Lindsey thinks we are not in any position to make a decision directed staff to work with their group to see if there is something we can do as far as the Grant and some work with phases to work towards completion and knowing that all we have is \$16,000. Directed staff to proceed in that direction and get back with staff to see how to make this work.

DISCUSSION/DECISION REGARDING PARTNERING WITH WILLCOX WINE COUNTRY (WWC) AND CHAMBER TO PROMOTE ECONOMIC DEVELOPMENT IN THE WILLCOX AREA

City Manager McCourt explained that in the interest of pursuing Economic Development the Mayor and Council set aside a sum of \$20,000 in the budget. So far staff has allocated \$325 of that for attendance to the Governor's Conference on Tourism. Cochise County has indicated they will be requesting \$2,500 to support Economic Development Assessments needs in Cochise County and including our area. The City has been working with the WWC which is an association of growing grapes and making wines. Currently we have two (2) tasting rooms established in the City and two (2) more are in the process in the City, and two (2) more in our immediate vicinity. The WWC is an association within the Willcox Chamber of Commerce and Agriculture and they would like to do is to have a yearly media campaign using the Tucson Guide at a cost of about \$3,000/year. Their association will raise half of that money and we looked to see if locate some from Cochise County

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Tourist Committee. That Committee has lost over half of their Advertising budget and trying to hold on to what they can and hope it come back. They do promote wineries in Cochise County and mentioned in several of their ads. Question is: is the City willing to participate. The Chamber of Commerce at their board meeting said that they would match City up to \$2,000 and since that time SSVEC (Sulphur Springs Valley Electric Cooperative) said they will put \$500 into this campaign which would reduce the City's and Chamber share equally. Deadline is approaching because Tucson Visitor Guide is getting ready to go to press and they need to know if the City is willing to participate.

The Vice Mayor has been actively working with this group much more than the City Manager by taking minutes and we have representative here this evening. This industry Mr. McCourt feels is exactly what we want to do in this area. We have agriculturally based area and taken that to raise the value we grow grapes and growing them now and shipped to another area to make the wine. This is strategy step one is promoting the development of that industry; and step two ties into tourism bringing people down to visit us in day trip from Tucson to market. Current media using is upscale magazine that means it will not be just thrown away and will have long term benefit for years. Bring people into our City and presumably spend some money and we will get sales tax and also spend other money. This project is new industry, promotion of new and different and request that the mayor and Council will match with the Chamber from Economic Development Fund and he will continue to peruse other attempts of funding sources. We are facing a deadline to get notice into the Tucson Visitor Guide.

MOTION: Councilman Johnson moved to approve the partnering with Willcox Wine County and Chamber to promote Economic Development in the Willcox area.

SECONDED: Councilman Holloway seconded the motion. **DISCUSSION:** Councilman Johnson tourism is lifeline besides I-10 and we need to capitalize on all aspects on how to get people off the interstate, how do we get them into Willcox, and spend their money here. It is nice to have people come during Rex Allen Day's and drop their money and leave. If we can maintain and grow with the wine group and they have had several successful Wine Tasting Events and he has said it before for several years that Willcox could be the next Napa Valley. Need to plan years ahead rather than immediately. When it comes to Economic Development Tourism is the key right now in all aspects. Mayor Lindsey asked about the \$500 SSVEC if it comes off the \$4,000 or if it comes off of the \$2,000.00. City Manager McCourt said since Chamber going to match and take it off the City's portion and find out we don't have enough money. Vice Mayor Cronberg said it does say "up to \$2,000.00." City Manager McCourt said the \$8,000 is the cap. Councilman Holloway when goes to son-in-law in Tucson there is a Visitor's Guide it is very "cool and very nice." Vice Mayor Cronberg stated it draws you in to look at it and we need to be in it. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-82 APPROVING AND ACCEPTING THE PATTE ROAD DEEDS OF DEDICATION FROM PROPERTY OWNERS FOR PORTIONS OF LAND AS DESIGNATED IN EACH DEED TO THE CITY OF WILLCOX AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION FOR THE PURPOSE OF ACCEPTING THE DEEDS OF DEDICATION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Johnson moved to approve Resolution NO. 2010-82, as presented, relating to accepting the Patte Road Deeds of Dedication.

SECONDED: Vice Mayor Cronberg seconded the motion. **CARRIED.**

REPORTS BY THE CITY MANAGER PAT McCOURT

Consideration, discussion and/or decision regarding the following topics by the City Manager:

- **Report on Attendees to the League of Arizona Cities & Towns**-Pat McCourt, City Manager, and the City Clerk needs to know who the coordinator and co-coordinator are for the Festival and the Flag Bearer for the Parade of Flags. Someone from Council to work with staff.
- **Report on Mayor/Manager Luncheon**-City of Tombstone will host on Tuesday, July 27, 2010 at 12:00 noon RSVP are due to City Clerk Wednesday, July 21, 2010. Also need meal selection.
- **Report City Manager attending training**-Pat McCourt, City Manager, will be attending the City Manager's Annual Conference in Tucson beginning on Wednesday, July 27, 2010 and returning late Friday the afternoon of July 30, 2010. Overlaps Council session and asked permission to cancel or have staff sit in. Mayor will out of town on that Thursday too. Suggested to cancel.

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- Cover on dug out-Pat McCourt, City Manager - reported the temporary dug out roof they have bent metal and working on that at this time.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson stated we need the rain! Thanks rain! Hopes the Skate Park Committee can be resolved soon and thanked the members for coming this evening.

Mayor Lindsey expressed his congratulations to those newly appointed to the Planning & Zoning Commission and hopes to get something going as far as the Skate Park is concerned. They understand it has been a long and difficult road and something happens. Thank you for coming.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 8:04 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Willcox held on the 19th day of July 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 25th day of October 2010

City Clerk Cristina G. Whelan, CMC

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2010.

MAYOR GERALD W. LINDSEY
Signed: _____

ATTEST:

City Clerk Cristina G. Whelan, CMC

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
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CALL TO ORDER-Mayor Gerald W. Lindsey called the regular meeting to order on Monday, October 18, 2010 at 7:08 p.m.

ROLL CALL-City Clerk Cristina G. Whelan, CMC, called the roll:

PRESENT

Mayor Gerald W. Lindsey
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman William "Bill" Holloway
Councilman Robert "Bob" Irvin

ABSENT

Vice Mayor Monika Cronberg

STAFF

Public Safety Director Jake Weaver
City Attorney Hector M. Figueroa
City Clerk Cristina G. Whelan, CMC
Library Director Tom Miner
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
HR Generalist Sherry Van Allen
Building Inspector Jeff Stoddard

PLEDGE OF ALLEGIANCE TO THE FLAG-Mayor Lindsey.

CALL TO THE PUBLIC

Ms. Kathy Smith, Executive Director, Willcox Chamber of Commerce & Agriculture, had conversation with staff i.e. Community Center utility cost. When they asked for fees waived for the rental of the Community Center its because they can to events if had to pay the set rental fee. Although they do feel they should pay the utility cost and has a check for 2-days and apologized did not do that in the past and will here on do it in the future. **APPLAUSE!**

Mr. Kelly Rowden asked if the Council is still thinking about Skate Park at the old Police Station location. He read a prepared statement and said he does not think the Skate Park in that spot is viable. Concerned with lighting; concrete slab is useless, it was poured in 3-levels; possibly it would take lots of work to make it usable; area is far from hub and very little adults around after dark and users will probably cause vandalism after dark in this area. Physical hazards need to be removed and best use is for public parking lot for events such as Rex Allen Day's. The Parks & Recreation Commission (P&R) made very good progress last 10 years at Keiller Park with the walking trails, basketball courts and ball fields. There is a lot of adult presence and P&R have suggested keeping the ball rolling at Keiller Park and to construct a Skate Park at this location. Thanked the Mayor and Council for their time.

DECLARATION ON CONFLICT OF INTEREST

There was no response from the Mayor, Council members or staff.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented.

SECONDED: Councilman Holloway seconded the motion. **CARRIED.**

**DISCUSSION/DECISION ENTER EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED STATUTES § 38-431.03A(3)
DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC
BODY**

Mayor Lindsey asked Legal Counsel if there was a need to enter into an Executive Session pursuant to ARS § 38-431.03A(3), as stated, relating to consultation for legal advice with the attorney(s) of the public body. City Attorney Hector Figueroa replied "no."

CONSENT AGENDA

Items that are considered to be routine by the City Council will be enacted by one motion without discussion. The consent agenda is a timesaving device and Council members have received documentation on these items for their review prior to the open meeting. Any Councilmember may remove any item from the consent agenda for discussion and a separate vote as deemed necessary. The public may view the documentation relating to the consent agenda 24 hours prior to the meeting at

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the City Clerk's Office, 101 S. Railroad Avenue, Suite B, Willcox, AZ from 8:30 a.m. to 4:30 p.m. or at the Elsie S. Hogan Library, 100 N. Curtis Avenue during normal working hours Monday-Saturday.

10A. THE REGULAR MEETING HELD ON OCTOBER 4, 2010 AND THE WORK SESSIONS HELD ON JUNE 21, 2010, OCTOBER 2, AND 4, 2010 Tab 2

10B. RESOLUTION NO. 2010-105 APPROVING AND AUTHORIZING THE CITY OF WILLCOX TO PARTICIPATE IN THE ARIZONA STATE RETIREMENT SYSTEM (ASRS) SECTION 457(b) SUPPLEMENTAL SALARY DEFERRAL PLAN (SSDP) FOR THOSE CITY EMPLOYEES DESIRING TO ELECT SUCH PLAN, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST. Tab 3

MOTION: Councilman Holloway moved to adopt the Consent Agenda items as presented.

SECONDED: Councilman Donahue seconded the motion. **CARRIED.**

DISCUSSION/DECISION REGARDING APPOINTMENT TO THE PARKS & RECREATION ADVISORY COMMISSION (Note: Should be Committee) TO FILL UNEXPIRED TERM, TERM TO EXPIRE DECEMBER 31, 2010

MOTION: Councilman Johnson moved to approve the appointment of RaeAnn Kiesling to the Parks & Recreation Advisory Committee to fill the unexpired term, term to expire December 31, 2010.

SECONDED: Councilman Holloway seconded the motion. **DISCUSSION:** Mayor Lindsey thanked Ms. Kiesling for her interest in serving on this Committee. The Mayor also announced that there will be three (3) vacancies on this Committee as of December 31, 2010 and all are welcomed to resubmit letters of interest to continue serving. **CARRIED.**

DISCUSSION/DECISION REGARDING REQUEST FOR EXTENSION OF TIME TO MAKE RENT PAYMENTS BY STOUT'S CIDER MILL (RON STOUT)

MOTION: Councilman Johnson moved to accept the request for Extension of Time to make rent payments by Stout's Cider Mill.

SECONDED: Councilman Klump seconded the motion. **DISCUSSION:** Mr. Ron Stout addressed the Council and stated his letter was written in haste and can not do it by November although he can make \$500 payments every two (2) weeks. Mayor Lindsey asked if talked with Finance and have exactly what is owed. The Mayor asked him if his Sales Tax is current and Mr. Stout replied it is and their business provides salary for eight (8) families in Willcox and hopes the recession ends. Mr. Stout is very excited about his new campaign which started with customers that came in and son is in Iraq and sold her jars of Apple Pie in A Jar. She sent them to him and had great response from the service men. Anyone can purchase the jars of Apple Pie in A Jar and mailed them especially for those in the service. Mayor Lindsey said if pay \$500 every two (2) weeks until the end of March. He asked if this included Sales Tax for the next three (3) months and Mr. Stout said talking about 21 months right now. Councilman Klump suggested waiting to make decision until obtain information. City Attorney Figueroa advised the Mayor and Council that they have already gone past the dead line. Demand letter sent was not his idea that was requested by City staff and some to Council members when made demand and said Mr. Stout's option tonight does not comply with time frame in contract and the Council have a right to terminate lease or amend. The Lessee has to be in compliance with the Lease in order to Amend. Now asking to wait to do amendment to lease in writing and specify actual history of payments of Utilities and report he received from the Finance Director showed Stout's only paid when they have shut-off notice and that has been going on for 1-2 years or longer. As Legal Counsel has to comply with Lease or Mayor and Council if do make determination to terminate (1) utilities have to be paid on time or pay additional deposits; and (2) insurance request from Finance Department to Stout's there has been no response. If Mayor and Council decide to do this we need exact terms in writing and no deviations. We can not waive right for the future although can direct him and City Manager to work out terms and amend this agreement and accommodate. The original contract, which he did not write, the Mayor and Council have right to default. It is a very hard decision. Mr. Figueroa reminded the Mayor and Council that this is tax payer property and they were elected to safe guard that property. We can work it out but it will not work with letter in November now difficult and Mr. Stout needs to understand if get letter he will have to abide by the Lease and if not will have to terminate lease. Mayor Lindsey asked if they could extend the lease and Mr. Figueroa said only if he is in compliance but they can do a payment plan and worked out in writing.

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Mayor Lindsey directed staff to look at terms and conditions with Mr. Stout present and bring back to mayor and Council for consideration. City Attorney Figueroa stated that a motion and second has been made and can vote it down and direct staff as stated. Mayor Lindsey asked for **Vote: Ayes 0-6-1 Absent Vice Mayor Cronberg. Nays-6-0-1 Absent Vice Mayor Cronberg. Motion failed.** Mayor Lindsey again directed staff to put together an agreement and bring back to the Mayor and Council for decision.

DISCUSSION REGARDING CONSENT ORDER FROM ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY & CONTROL (AZDEQ) CONCERNING THE WASTEWATER TREATMENT PLANT (WWTP)

Public Services & Works Director Dave Bonner handed out a copy of the letter sent to AzDEQ on October 8th and reported staff held a teleconference with them last Wednesday. The Mayor, City Manager and he participated and found AzDEQ to be more amiable for their time line proposed for the WWTP. Once signed withdraw application and apply for new APP for the new system. Mr. Bonner does not believe ready without Engineer. AzDEQ wanted reasonable time frame. Talked with Tetra Tech and W.C. Scoutten Engineer today and asked if we have to revise the Consent Order. Once get time frame then move forward so that we do not get into fiscal trouble. Mayor Lindsey added there are thinks in Consent Order detrimental to the City of Willcox and through conference call able to work out some difference and looking to work with us and gave us leeway. Once conditions changed then we will have to sign Consent Order. Mr. Bonner stated the Mayor and Council have to do this by the second meeting in November.

DISCUSSION REGARDING CITY VEHICLE FLEET POLICY

HR Generalist Sherry Van Allen reported modifications on terms and definitions were made to the policy. Section 517.3 defines and outlines maintenance, minimum standards, all drivers, abuse, and administration and how property to report if involved in an accident. Some Cities, Towns and School Districts have reported decrease in Workman Compensation Claims and hopes approved in the near future.

Councilman Johnson asked if involved in an accident are they drug tested. Ms. Van Allen replied it is in the City policy and can be added to section 517.10. Chief Weaver said only to CDL's required to be drug tested and can be added and bring that back to Mayor and Council. City Attorney Figueroa stated it may conflict with policy and in regards to Drug Treatment. If employee suspected of having substance abuse he or she can be enrolled in program for treatment. He will look into that. Ms. Van Allen believes the policy says "employee knowingly admits to problem" then directed to proper channel. Councilman Klump stated if Zero Tolerance Drug Policy for all employees to sign when employed and if get into accident know they will be tested. The Councilman does not accept it on his job site and why should it be by the City. Ms. Van Allen also stated added provision to check Driver Licenses to see that tit is valid once a year.

REPORTS BY THE CITY MANAGER PAT McCOURT (in his absence Chief Weaver)

Consideration, discussion and/or decision regarding the following topics by Chief Weaver:

- Report on the Willcox High School Football Team**-the Cowboys beat Tombstone 69-0; next game was against Bisbee and Cowboys won 34-0. Next game is against Thatcher and finale with Benson in Willcox. He also reported that the Willcox Soccer Team will host Desert Christian at 4:00 p.m., Thursday here in Willcox.
- Report on next Solid Waste Ordinance work session**-the next work session on the Solid Waste Ordinance will be held on Monday, November 1, 2010 at 6:00 p.m.
- Report on Wine Festival**-held on 16-17 in Railroad Park and he heard there were lots of positive comments and buses that came in from the Phoenix area.
- Report on new items on web**-the Business Permits and Home Occupancy information is now on the web!
- Report on Business Permits**-Ordinance will be presented and public hearing scheduled for November 1, 2010
- Report on Revenue Discovery Systems**-will be presented on the November 1, 2010 agenda.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson reported the Wine Festival was successful with lots of people locally and outside the City. There were 9-Wineries represented.

Mayor Lindsey read Proclamation from the Rotary "World Polio Day" on Sunday, October 24, 2010. This is a great organization and they have done a lot of good work in the projects they have undertaken.

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Councilman Holloway feels better about his purchase of Windows Software from Bill Gates which contributed to the Rotary Polio Campaign.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 7:57 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Willcox held on the 18th day of October 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 26th day of October 2010

City Clerk Cristina G. Whelan, CMC

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2010.

MAYOR GERALD W. LINDSEY
Signed: _____

ATTEST:

City Clerk Cristina G. Whelan, CMC

**THE MINUTES OF THE WORK SESSION MEETING OF THE MAYOR
AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
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CALL TO ORDER-Mayor Gerald W. Lindsey called the work session to order on Monday, October 18, 2010 at 6:06 p.m. and due to technical problems the meeting will not be recorded.

ROLL CALL-City Clerk Cristina G. Whelan, CMC, called the roll:

PRESENT

Mayor Gerald W. Lindsey
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman William "Bill" Holloway
Councilman Robert "Bob" Irvin

STAFF

Public Safety Director Jake Weaver
City Attorney Hector M. Figueroa
City Clerk Cristina G. Whelan, CMC
Library Director Tom Miner
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
Building Inspector Jeff Stoddard

ABSENT

Vice Mayor Monika Cronberg

PLEDGE OF ALLEGIANCE TO THE FLAG-Mayor Lindsey

DECLARATION ON CONFLICT OF INTEREST

There was no response from the Mayor and Council members or staff.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented.

SECONDED: Councilman Donahue seconded the motion. **CARRIED.**

DISCUSSION REGARDING THE PUBLIC SAFETY ORDINANCE

Chief Jake Weaver reported the Public Safety Ordinance we have had for many years and looking to re-add and include ordinance newly written. Tonight staff is looking for input and direction and recommendation from the Mayor and Council on any changes. Title 6 Chapter 1 Willcox Department of Public Safety establishes the Willcox Police Department and this was not previously codified along with Sections 1-11. The Chief read each section and the City Attorney Hector Figueroa explained the changes. Prior to 2008 Code the Department of Public Safety was established under the City Manager and not as a separate department. Adopted was Ordinance NS283, Chapter 7, Article (A) (B), amended to create Department of Public Safety like most City's in Arizona have. Once this particular Ordinance is adopted then City Attorney will plug in the dates adopted and the effective dates. Only difference in Powers and Duties of Department were changed to allow Municipal Code violations and Statute violations we have now consolidated Court Criminal offenses go to Justice of the Peace Court and Civil cases will be handled by City Attorney. Numbering will be corrected from 6-2-7 to 6-1-7 on Chapter 1 Page 1 of 3 which is the Rule Making Authority section with approval from the City Manager.

Chapter 2 existed previously and outlines the Volunteer Police Reserve. Some of the changes made were to US citizens who are residents of the State of Arizona, minimum age changed from 18 to 21 years of age (which is the same age required to be a Police Officer) and they must meet the minimum standards as established by the Arizona Peace Officer Standards Training Board. In the past some reserve officers lived outside the City limits. Chief explained that currently we do not have an active Reserve but have had them in the past and they are certified Police Office and lived in Phoenix and used for special functions and not cost to the City except for minor expenses. The minor changes due reflect State law and governed by Arizona Police Officer Standards and Training Board and regulates Full Tim Police Officers. The terms Jailer and Police Matron were removed and also modified Dispatcher.

City Attorney Figueroa commended the Police Chief for his work on this Ordinance and has had the most input from his department on preparing this Ordinance. Concern by Department Heads and employees was Rabies to see that State law requirements are and what they want to do in their department. Chief Weaver has provided the City Attorney with information to do changes.

**THE MINUTES OF THE WORK SESSION MEETING OF THE MAYOR
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HELD ON THIS 18TH DAY OF OCTOBER 2010**

Chapter 3 Volunteer Fire Department ((Note correction to Volunteer Fire Department Page 5 of 6 Chapter 6-3-9 change "alarm1" to "alarm.") minor changes made to the number of personnel that can be brought on Board and command structure such as 2-Assistant Fire Chiefs and "as many other officers and firefighters as may be deemed necessary. Insignia on private vehicles will not be issued because we do not want firefighters responding to an alarm thinking that they can run stop signs.

Chapter 4 Police Alarm Systems already in place and carried forward. Minor adjustment was made in Alarm Businesses for the response time by the property owners. Fire Alarm installed responsibility party needs to respond within 15 minutes on notification of need, to assist police department personnel in determining the reason alarm set and the securing of the premises so that our employees are not just waiting. Those alarm system users that have outside audible alarm, siren, bells or horn can be very loud. Those nearby might complain disturbing their peace and because the Police Officer does not have access to turn it off they have to wait for responsible party to respond and shut it off. The penalty for that is decision to be made by Mayor and Council and staff is looking for their input. That concern staff will take into consideration and bring information back to Mayor and Council. Mayor Lindsey suggestion made 15 minutes and then it automatically shuts itself off and Chief's concern is that after the 15 minutes it could reset itself and turn the alarm back on. The Mayor also suggested some type of mechanism to have that outside audible system removed if Police Department receives repeated false alarms. Councilman Holloway asked if 5. Non-Monitored alarm systems that depend solely on audible devices outside of a business or residence to summon help are prohibited if that is new and Chief replied in the affirmative. The Chief does not know of any residences with this type of system and knows of only one business in town that has one. Mayor Lindsey knows of some in-house alarm systems that are very loud and loud enough to disturb neighborhood. City Attorney Figueroa explained that on Page 9 of 11 Section 5.a. All assessments shall be set by resolution of the City Council. Also on Page 9 of 11 and Page 10 of 11 C.1. An alarm user permit revoked and within 3-days after receipt discontinue use of the alarm system or the alarm coordinator may assess charges against the alarm user as stated in 6-4-5F2 and also set by resolution of the City Council. The Mayor and Council have the prerogative to set penalties. Resolution is needed if violated has to go to Consolidated Court and the City Clerk has to attest to them and send to Magistrate Court and the Judge reports to Superior Court and placed on system and all know what the fine and penalty is.

Chapter 5-Animal Control is in place and made some definition changes. Also explained rabies testing by State Law on any animal except wild rodents and rabbits can be euthanized. There is no reliable anti-mortem testing. Page 10 of 16 numbered 3. Wild Animals exception of a wild rodent or rabbit, any wild animal that bites any person may be killed to preserve the brain tissue and send to appropriate diagnostic laboratory. Changed made to the number of dogs kept from six (6) to three (3) unless kennel permit is issued. If a dog is not on a leash while outside its kennel or fenced yard it is considered Dog At Large. Exception is Police K-9 6-7-C.4. "If said dog is used as Police Working Dog during training or actively engaged in official police work." The animal is Deemed Not At Large. The City Manager Pat McCourt sent his concern to the City Attorney regarding undue risk to capture rodents or rabbits. Mr. Figueroa explained he can not insert language not in State Law. He can not put into the Code "to shoot it" and that wording is not in the State Law and, therefore, he can not do it. Chief Weaver checked it out and only deal with this in case if rodent or rabbit is observed to have signs of rabies. The City Attorney stated this can be always revisited and agrees with the Chief deal with what is there and come back if needed.

Chapter 6-Miscellaneous Offenses. Already existed 6-6-1 through 12 and added new #13 through 17. This includes Social Hosting which is in community have underage persons that are allowed to consume alcohol or drugs and other illegal activity. Ms. Sally White, WASA Coordinator, approached the Chief to bring this issue to the Mayor and Council. The Chief talked with the City Manager and City Attorney and 6-6-13 A. No person of 18 years of age in Arizona may knowingly permit or fail to take reasonable action to prevent the unlawful consumption of alcoholic beverages by an underage person... and B. A person who violates this section is guilty of a class 1 misdemeanor. There is a billboard between Benson and Willcox which deals with State Statute and was brought about due to the high number of incidences with underage drinking. The City Attorney recommends adopting that and gives local Police Department authority. Page 6 of 13 6-6-14 Restricted Smoking Materials defined and restricted smoking material sold by Smoke Houses as incense but laced with THC same as Marijuana. (2) a. through k different items kids are using or smoking. We will be able to restrict paraphernalia and punish adults that buy it for the kids. This is something that needs to be addressed for the future. Mayor Lindsey asked about B.5. Location of Sale asked if that is in reference to the referendum to legalize Marijuana. City Attorney Figueroa explained not in this Ordinance although the City of Tucson is adopting as policy because only 124 dispensaries will be licensed in the State and more than

**THE MINUTES OF THE WORK SESSION MEETING OF THE MAYOR
AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 18TH DAY OF OCTOBER 2010**

likely the majority will be in Maricopa County. Then would be dealing with Zoning Codes. Statute has no dispensary radius if person has prescription and dispensary nearby then that person can grow six (6) plants! Mr. Figueroa talked with the City Manager and we are going to have to deal with that. South Tucson is limiting where grown and prescriptions and the City of Willcox deals only with smoking. 6-6-15 Fireworks Rules & Regulations-this is new. Arizona Revised Statutes §36-1602 allows the Department of Public Safety restrict permits due to fire danger, display fireworks i.e. Willcox High School football games, 4th of July. Staff is asking prohibit use of fireworks or permits and City can not restrict the sale per State Law but can regarding signage fireworks sold and warnings and can not be sold to those under the age of 18 years. On Page 10 of 13 concern C(1) states sixteen years of age and Page 11 of 13 D(1)(b) age of 16. City Attorney Figueroa explained the statute permits denial of permit when there is a fire danger but not prohibition of all fireworks. Other than with permit all fireworks are prohibited. The largest Fireworks Company is TNT and on October 25th Mayor and Council and others interested are invited by them to attend a presentation to go over the Sale of Fireworks. The Mayor and Council can prohibit all fireworks discharged in the City limits but can not prohibit the sale. Councilman Johnson asked if we know the County's position and Mr. Figueroa said he does not think they have made one. The State does not have the safety and welfare of our kids only looking at revenue sources. Those things are coming and how do we restrict, manage and how dictate what to do to the Willcox Department of Public Safety.

Councilman Irvin asked the Chief if it is his recommendation to prohibit the sale. Chief explained the State made it clear we can not restrict the sale only the use and does not want them to be used due to fire danger, we have fuel for it year around and ER response liability rather do everything we can to prevent that and the potential loss of property or life. Fireworks are discharged in the City does occurs now and it is illegal. If Mayor and Council say it is "Okay" to use in certain circumstances opening up for them to do it and tasked to respond and mitigate response and it is very expensive.

Councilman Johnson asked if fireworks are sold in Willcox and fire occurs outside the City limits we could respond. The Chief explained we have State Law Agreements upon their request we respond outside the City limits. Councilman Johnson asked if we are looking at rockets and projectiles. Chief Weaver replied the State said "consumer" fireworks or anything that gives off sparks. Display or large shells used during 4th of July or at football games.

Councilman Holloway said this is like when your Mother said "prohibit" and it is what you would do. He is not comfortable with prohibiting and Councilman Johnson said during extreme fire danger can prohibit and restrict use. Chief Weaver does not know time stipulation. The Mayor and Council have to make decision and is here to give his input. Fire danger is here all year around and if we can need to restrict its use.

Councilman Klump asked for the State Statute and City Attorney Figueroa said Arizona State Statue 36-1601 or Title 36.

Mayor Lindsey announced we are out of time and adjourned the meeting followed by a 5-minute recess before beginning the regular meeting.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 7:08 p.m. Mayor Lindsey requested a 5-minute recess before starting the regular meeting.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the work session meeting of the City Council of the City of Willcox held on the 18th day of October 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 21st day of October 2010

City Clerk Cristina G. Whelan, CMC

**THE MINUTES OF THE WORK SESSION MEETING OF THE MAYOR
AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 18TH DAY OF OCTOBER 2010**

PASSED, APPROVED AND ADOPTED this _____ day of _____ 2010.

MAYOR GERALD W. LINDSEY
Signed _____

ATTEST:

City Clerk Cristina G. Whelan, CMC

CITY OF WILLCOX
Request for Council Action

Agenda Item: 10B
Tab Number: 3
Date: 11-01-2010

Date Submitted:
October 21, 2010
Date Requested:
November 01, 2010

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject:
Request from Willcox
Chamber of
Commerce and
Agriculture to close
Railroad Avenue
December 4, 2010

To: Honorable Mayor and City Council

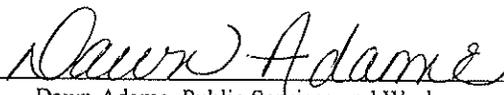
From: Dave Bonner, Director Public Services & Works

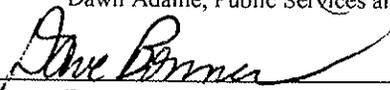
Discussion: The Willcox Chamber of Commerce and Agriculture will be holding their Christmas Lighted Parade on Saturday, December 4, 2010, from 5:00 PM to 9:00 PM. They would like for Railroad Avenue to be closed from Haskell Avenue to Maley Street. Float staging will be from Haskell Avenue to Fremont Street. Parade organizers will make arrangements for obtaining and placing barricades from Public Services and Works.

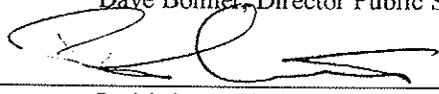
Jake Weaver, Chief of Police and Arnold Arvizu, Streets Supervisor have both been sent information about the requested street closure and event. In the past Chief Weaver and Mr. Arvizu have agreed that closing Railroad Avenue would not be a problem.

Recommendation: Public Services and Works recommend that The Willcox Chamber of Commerce and Agriculture be allowed to close Railroad Avenue on Saturday, December 4, 2010, from 5:00 PM to 9:00 PM .

Fiscal Impact: \$0

Prepared By: 
Dawn Adame, Public Services and Works

Approved By: 
Dave Bonner, Director Public Services and Works

Approved By: 
Pat McCourt, City Manager

Street Closure Request Form

Name of Applicant

Kathy Smith

Date of Request

10/21/2010

Address

1500 N. Circle I Rd

Phone Number

384-2272

Event or Event Sponsor for Street Closure

Christmas Lighted Parade

Date(s) Requested for Street Closure

December 4th, 2016

Times for Street Closure

5:00 PM - 9:00 PM

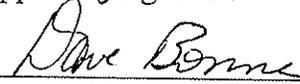
Street(s) to be closed - Beginning and ending points.

Close Railroad Ave from Haskell Ave. to Maley St.
Float Staging will be from Haskell to Fremont St.
Parade organizers will make arrangements for barricades from
Public Services & Works

The applicant understands that a certificate of liability insurance for \$1,000,000 naming the City of Willcox as additionally insured must be supplied with this application in order for the request to be fully executed and processed. Additionally, the City of Willcox requests that all adjacent property owners be notified of the intent to close the street and offered an opportunity to make comments to the Mayor and City Council. Comments may be submitted to the City Clerk prior to the council meeting or may be stated in the public meeting.

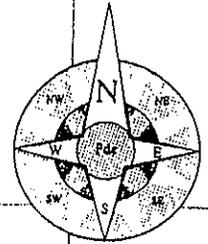

Applicant Signature

10/31/2010
Date


Received By

10/21/2010
Date

WILLCOX ARIZONA



ROAD CLASSIFICATION	
	Primary highway
	Main roads
	Light-duty roads
	Dirt roads
	Railroads

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 100
Tab Number: 4
Date: 11-01-2010

Date Submitted:
10/27/2010

Date Requested:

Action:
 Resolution
 Ordinance
 Formal
 Other

**Subject: Acceptance of ~
Governors Office of Economic
Recovery (GOER) Public
Safety Stabilization Program
(PSSP) Grant in the amount of
\$37,000**

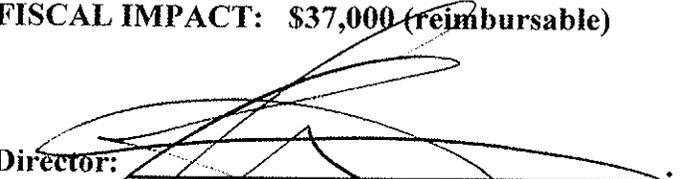
TO: MAYOR AND COUNCIL

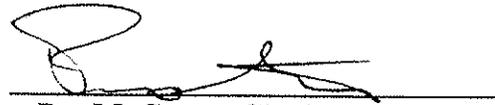
FROM: Jake Weaver, Willcox Department of Public Safety Director

DISCUSSION: The Willcox Department of Public Safety has received notification that it has been awarded \$37,000 through the Governors Office of Economic Recovery (GOER), Public Safety Stabilization Program (PSSP), CFDA#84.397 OER 11-IGA-GS-180, for the purchase of (1) vehicle with police package.

RECOMMENDATION: Request Mayor and Council approve grant award in the amount of \$37,000 from Governors Office of Economic Recovery (GOER) Public Safety Stabilization (PSSP), CFDA#84.397 OER 11-IGA-GS-180

FISCAL IMPACT: \$37,000 (reimbursable)

Director: 
Jake Weaver, Director of Public Safety

Approved by: 
Pat McCourt, City Manager

**CITY OF WILLCOX, COCHISE COUNTY, ARIZONA
RESOLUTION NO: 2010-108**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA APPROVING THE GRANT AWARD IN THE AMOUNT OF \$37,000 FROM THE GOVERNOR'S OFFICE OF ECONOMIC RECOVERY ("GOER"), PUBLIC SAFETY STABILIZATION PROGRAM ("PSSP") FOR THE PURCHASE OF ONE (1) PATROL VEHICLE WITH POLICE PACKAGE AND DECLARING AN EMERGENCY TO EXIST.

WHEREAS, the City of Willcox is empowered pursuant to A.R.S. § 9-240(12) to establish and regulate the police of the city and is vested with all powers of incorporated cities and towns as set forth in Title 9; and

WHEREAS, pursuant to Resolution No: 2010-97, the Willcox Department of Public Safety ["WDPS"] was authorized to submit an application to the Governor's Office, through its Public Stabilization Program for the purchase of patrol vehicles; and

WHEREAS, the WDPS has received notification that an award in the amount of \$37,000 has been approved through GOER and is identified as CFDA#84.397 OER 11-IGA-GS-180 for the purchase of one (1) vehicle with police package; and

WHEREAS, the Mayor and Council of the City of Willcox, Cochise County, Arizona have determined that it is in the best interest of the City, the WDPS and its citizens to approve the grant award and to authorize the WDPS to proceed with the grant process as presented; and

WHEREAS, the Mayor and Council and the WDPS desire to have this item presented at the next Council Meeting on November 1st, 2010; and

WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Willcox, Cochise County, Arizona, that an emergency be declared to exist to assure timely approval of the grant award, and that this Resolution be effective immediately upon its passage and adoption.

BE IT RESOLVED by the Mayor and Council of the City of Willcox, Cochise County, Arizona, that the City formally approves the GOER/PSSP grant award CFDA#84.397 OER 11-IGA-GS-180 for the purchase of one (1) vehicle with police package; authorizes the Mayor to execute this Resolution; and directs and authorizes the City Staff to take necessary action to carry out the intent of this Resolution.

BE IT FURTHER RESOLVED by the Mayor and Council that, due to an existing emergency declared herein, the immediate effectiveness of this Resolution is necessary to preserve the peace, health, and safety of the City of Willcox, Cochise County, Arizona, and this Resolution shall therefore be effective upon its passage and adoption.

PASSED AND ADOPTED by the Mayor and Council of the City of Willcox, Cochise County, Arizona this _____ day of November, 2010

APPROVED/EXECUTED

MAYOR, GERALD W. LINDSEY

Signed: _____.

ATTEST:

APPROVED AS TO FORM:

City Clerk, Cristina G. Whelan, CMC

City Attorney, Hector M. Figueroa, Esq.

RESOLUTION NO: 2010-108



October 20, 2010

Mr. Jacob Weaver, Chief of Police
City of Willcox Police Department
320 W. Rex Allen Dr.
Willcox, AZ 85643

Re: Public Safety Stabilization Program, CFDA #84.397
OER-11-IGA-GS-180

Dear Chief Weaver:

The Governor's Office of Economic Recovery (GOER) is pleased to inform you that the City of Willcox Police Department has been awarded a Public Safety Stabilization Program (PSSP) Grant in the amount of \$37,000.00 for the period of October 1, 2010 through September 30, 2011.

A committee, selected by the Governor, reviewed each application and made necessary adjustments based on the rules and funding parameters stated in the grant application. Attached are two original Intergovernmental Agreements (IGAs) that include your budget (Attachment 1) resulting from the application review. Both signed IGAs must be returned to us by November 30, 2010, in order to ensure an October 1, 2010, contract and project start date. Once finalized, an original will be returned to you.

Please mail the two originals of the IGA and the requested information to the following address:

Office of Economic Recovery
1700 West Washington, Suite 300
Phoenix, AZ 85007

Please submit an electronic copy to dmartinez@az.gov.

All agencies must provide a monthly programmatic activity report and financial report to GOER that provides updates on the goals and performance measures outlined in the original proposal as well as how funding was utilized. These reports are due to GOER by the 15th of each month for the previous month (copies attached). Both templates will be forwarded to you via email next week. Subgrantees shall be paid on a cost-reimbursement basis. All PSSP grant funds must be utilized for public safety enhancement/protection and expended in the state of Arizona.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Hanson".

Matthew Hanson
Assistant Director, Programs and Performance

Encl.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE GOVERNOR'S OFFICE OF ECONOMIC RECOVERY
AND
City of Willcox Police Department
CONTRACT #OER-11-IGA-GS-180**

This INTERGOVERNMENTAL AGREEMENT (the "AGREEMENT") is entered into by and between the Governor's Office of Economic Recovery ("GOER"), established by Governor Brewer to oversee and discharge funds granted under the American Recovery and Reinvestment Act of 2009 ("Recovery Act" or "ARRA"), and located at 1700 West Washington, Suite 300, Phoenix, Arizona 85007, and the City of Willcox Police Department, located at 320 W. Rex Allen Dr., Willcox, AZ 85643 in accordance with A.R.S. § 41-2701 et seq., authorizing the State of Arizona, GOER to execute and administer grants for Title XIV of the ARRA, known as the State Fiscal Stabilization Fund (as amended by Public Law 111-8 (H.R. 1105), the Omnibus Appropriations Act, 2009; Division A, Section 523; March 11, 2009; 123 Stat. 524). The Catalog of Federal Domestic Assistance (CFDA) Number is 84.397, Government Services Fund, administered by the U.S. Department of Education.

I. PURPOSE OF THE AGREEMENT

GOER is tasked with oversight and swift distribution of Economic Recovery Funding. In this capacity, GOER has agreed to provide funding to the City of Willcox Police Department for the purpose of supporting local public safety agencies to provide basic public safety activities, a project that GOER has determined meets the requirements of projects suitable for Recovery Act funding. The jurisdiction agrees to comply with all terms of the proposal as approved, submitted in response to the grant opportunity that emerged from Governor Brewer's Public Safety Stabilization Program. Attachment 1, detailing the jurisdiction's allowable expenditures, is made part of this agreement by reference herein. GOER will fund the jurisdiction up to \$37,000.00 for this purpose.

II. WORK STATEMENT AND GENERAL PROVISIONS

The parties mutually agree as follows:

A. Scope of Work

1. The jurisdiction shall provide GOER, within five business days of GOER's request, all information, data and supporting documentation requested by GOER or, if not requested by GOER, determined relevant by the jurisdiction to assist GOER in reconciling award amounts.
2. The jurisdiction shall comply with all ARRA requirements including the following 1512 reporting requirements:
 - a. Provide the following information, as required by GOER by the 15th day of the month following the end of a quarter or as requested by GOER:
 - b. Grants and Projects
 - c. Financial Transactions
 - d. DUNS
 - e. Prime Vendor/Sub-recipients
 - f. 1512 Report Update

3. The jurisdiction shall make relevant personnel available for contact and meetings with Federal or State oversight agencies, when requested by GOER and shall make relevant jurisdiction personnel available to contact and meet with GOER when requested by GOER. The jurisdiction shall provide to GOER contact names, addresses, telephone numbers, e-mail addresses, and any other relevant contact information available to the jurisdiction regarding the jurisdiction's personnel considered by the jurisdiction relevant to the activities described in this section. GOER shall not reimburse the jurisdiction for any costs associated with the jurisdiction's personnel participation in these activities.
4. GOER may monitor the jurisdiction's compliance with ARRA requirements regarding Recovery Act funds, in addition to any monitoring that other oversight agencies may decide to conduct. The jurisdiction shall cooperate with GOER regarding all monitoring activities related to ARRA funds. The jurisdiction may be required to provide information, data and supporting documentation of their ARRA transactions to GOER. GOER shall not reimburse the jurisdiction for any costs associated with these activities of the jurisdiction.
5. The jurisdiction shall inform GOER when the jurisdiction is contacted by any Federal or State oversight agency regarding Recovery Act dollars within five business days of contact, including:
 - a. When an oversight agency requests any documents, data and information from the jurisdiction. The jurisdiction shall provide copies of the jurisdiction's responses to oversight agencies to GOER, if requested by GOER, within five business days of GOER's request.
 - b. When an oversight agency issues reports to the jurisdiction or about the jurisdiction. The jurisdiction shall provide copies to GOER, if available to the jurisdiction and if requested by GOER, within five business days of GOER's request.
 - c. When the jurisdiction responds to follow-up requests for documents, data and information from oversight agencies. The jurisdiction shall provide copies of the jurisdiction's responses to oversight agencies to GOER, if requested by GOER, within five business days of GOER's request.
6. The jurisdiction shall allow GOER to review the jurisdiction's fraud, waste and abuse prevention programs and ARRA transactions, if requested by GOER in the manner requested by GOER.
7. The jurisdiction shall comply with ARRA requirements as described in the following quotation: "Recipients who have failed to submit a Section 1512 report as required by the terms of their award are considered to be non-compliant. Non-compliant recipients, including those who are persistently late or negligent in their reporting obligations, are subject to Federal action, up to and including the termination of Federal funding or the ability to receive Federal funds in the future." EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET, Peter R. Orszag.

B. Method and Terms of Reimbursement

Recovery Act funds will be transferred to the jurisdiction on a cost reimbursement basis upon receipt and approval of a Payment Request Form showing cumulative expenditures by line item. Items to be reported on are, dollar amount requested, name of project worked on, any Davis-Bacon reports and project status compared to timeline submitted. Travel expenses shall be at State rates (see website at www.gao.az.gov/travel/default.asp) and reimbursable at cost. State rates as established by the Arizona Department of Administration, General Accounting Office are made part of this agreement

by reference herein. The jurisdiction will submit to GOER an estimated payment schedule and timeline for the project and the jurisdiction will be responsible for paying vendors associated with this project. GOER may provide to the jurisdiction a master template for the Payment Request Form. GOER will reimburse expenses to the jurisdiction using a warrant, transfer or by direct deposit of Recovery Act funds to the jurisdiction. Method of payment will be at the discretion of GOER and the jurisdiction will allow seven to ten working days for completion of payment of Recovery Act funds after receipt of a Payment Request Form. Any unspent funds associated with this agreement will be refunded to GOER at completion of stated agreement term. Final payment for this agreement will be released upon receipt of any final reporting requirements which are yet to be determined.

C. Reporting and Compliance Requirements

Payments by GOER to the jurisdiction shall be in strict compliance with OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments (2 CFR 225 A-87) and shall adhere to the Federal Cash Management Improvement Act (CMIA) and comply with guidelines of the State Fiscal Stabilization Fund (SFSF), established under Recovery Act through Public Law 111-5 (H.R.1) and amended by Public Law 111-8 (H.R. 1105).

In addition, the Recovery Act specifically provides that funds may not be used by any state or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. The Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate, to meet the reporting and other requirements of the Recovery Act and other applicable law.

The accounting systems of all recipients and sub-recipients must ensure that funds from any award under this Recovery Act solicitation are not commingled with funds from any other source. Misuse of grant funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under a grant, and civil and/or criminal penalties.

Consistent with the special purposes and goals of the Recovery Act, and its strong emphasis on accountability and transparency, it is essential that all funds from a Recovery Act grant be tracked, accounted for, and reported on separately from all other funds. Recipients must also be prepared to track and report on the specific outcomes and benefits attributable to use of Recovery Act funds.

Funds associated with this AGREEMENT shall only be used to reimburse the jurisdiction for the purposes set forth on section I of this agreement. The jurisdiction must understand and comply with all applicable Federal and State policies, procedures, and requirements related to Recovery Act monies including, but not limited to, the following:

1). **“Buy American Act” Est. 1933**

The recipient understands that this award is subject to the provisions of section 1605 of the Recovery Act (“Buy American Act”). No award funds may be used for non-American sources of iron, steel, or manufactured goods for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless the recipient provides advance written notification and upon approval of the federal grant agency, a waiver is issued allowing this activity.

2.) **Davis-Bacon and Related Acts: Wage Rate Requirements**

All applicants should be aware that the Recovery Act contains a provision on wage rate requirements that concerns projects funded or assisted by Recovery Act funds that employ laborers and mechanics. See section 1606 of the Recovery Act for the full text of this requirement.

3.) ARRA Infrastructure Investment: Preference for Quick-Start Activities

Pursuant to section 1602 of the Recovery Act, recipients of funds under this solicitation for infrastructure investment are to give preference to activities that can be started and completed expeditiously, and also are expected to use grant funds in a manner that maximizes job creation and economic benefit. For the details of this requirement, please refer to the text of section 1602 of the Recovery Act.

4.) Recovery Act: Contracts

Generally speaking, the Recovery Act places special emphasis on the use of fixed-price contracts awarded through competitive procedures.

5.) National Environmental Policy Act Requirements

Under section 1609 of the American Recovery and Reinvestments Act of 2009 all recipients must comply with any applicable environmental impact requirements of the National Environmental Policy Act of 1970 (NEPA), as amended, (42 U.S.C. 4371 et seq.), 40 CFR parts 1500 through 1508 and any State government requirements that implement NEPA.

III. EFFECTIVE DATE, TERM, TERMINATION, RENEWAL, AMENDMENT

A. Effective Date

This AGREEMENT shall become immediately effective only upon the following: (1) execution by GOER and the jurisdiction, and (2) execution by GOER's and the jurisdiction's attorneys, whose execution shall determine that this AGREEMENT is in proper form and within the powers and authority granted to GOER and the jurisdiction under the laws of the State of Arizona.

B. Term, Termination, Renewal

This AGREEMENT shall begin on October 1, 2010 and terminate on September 30, 2011, unless terminated as provided herein, or extended. Either party may terminate this AGREEMENT at any time by providing thirty (30) days written notice to the other party. If this AGREEMENT is extended by mutual written consent of the parties, all terms, conditions and provisions of the original AGREEMENT shall remain in full force and effect and apply during any extension period.

C. Amendment

This AGREEMENT may be modified, altered, extended or amended only in writing signed by, or on behalf of, both parties.

IV. NOTICES

Any and all notices, requests or demands given or made upon the parties hereto, pursuant to or in connection with this AGREEMENT, unless otherwise noted, shall be delivered in person or sent by United States Mail, postage prepaid, to the parties at their respective addresses as set forth immediately below:

<p>GOER James J. Apperson, Director Governor's Office of Economic Recovery 1700 West Washington, Suite 300 Phoenix, Arizona 85007 Phone: (602) 542-6402</p>	<p>City of Willcox Police Department Jacob Weaver, Chief of Police City of Willcox Police Department 320 W. Rex Allen Dr. Willcox, AZ 85643 Phone: 520-766-4231</p>
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V. ARBITRATION

This AGREEMENT is subject to arbitration to the extent required by A.R.S. § 12-1518.

VI. NON-AVAILABILITY OF FUNDS

Every payment obligation of GOER under this AGREEMENT is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this AGREEMENT, either party may terminate this AGREEMENT at the end of the period for which funds are available. No liability shall accrue to GOER or the State of Arizona in the event this provision is exercised, and GOER and the State of Arizona shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

VII. CANCELLATION FOR CONFLICT OF INTEREST

This AGREEMENT is subject to cancellation pursuant to Arizona Revised Statutes § 38-511, the provisions of which herein incorporated by reference.

VIII. AUDIT OF RECORDS

Pursuant to Arizona Revised Statutes § 41-1351, GOER shall retain all data, books, and other records relating to this AGREEMENT. The jurisdiction is subject to all audit oversight policies and procedures established by GOER.

IX. GOVERNING LAW

This AGREEMENT is made under, and is to be construed in accordance with, the laws of the State of Arizona. In the event of litigation arising under, out of, or relating to, this AGREEMENT, GOER and The jurisdiction hereby stipulate to the exclusive jurisdiction and venue of the Maricopa County Superior Court in Phoenix, Arizona.

X. ENTIRE AGREEMENT

This AGREEMENT contains the entire agreement and understanding of the parties hereto. There are no representations or provisions other than those contained herein, and this AGREEMENT supersedes all prior agreements between the parties, whether written or oral, pertaining to the same subject matter of this AGREEMENT.

XI. INVALIDITY OF PART OF THIS AGREEMENT

The parties agree that, should any part of this AGREEMENT be held to be invalid or void, the remainder of the AGREEMENT shall remain in full force and effect and shall be binding upon the parties.

XII. COUNTERPARTS

This AGREEMENT may be executed in any number of duplicate originals, photocopies or facsimiles, all of which (once each party has executed at least one such duplicate original, photocopy, or facsimile) will constitute one and the same document.

XIII. INTERPRETATION

This AGREEMENT is not to be construed or interpreted for or against either of the parties on the grounds of sole or primary authorship or draftsmanship.

XIV. PARAGRAPH HEADINGS

The paragraph headings in this AGREEMENT are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this AGREEMENT or any of its provisions.

XXXXXXXXXXXXXXXXXXXX

THIS SECTION INTENTIONALLY LEFT BLANK

XXXXXXXXXXXXXXXXXXXX

XV. IN WITNESS WHEREOF, the parties agree to execute this AGREEMENT.

Governor's Office of Economic Recovery
1700 W. Washington, Suite 300
Phoenix, Arizona 85007

City of Willcox Police Department
320 W. Rex Allen Dr.
Willcox, AZ 85643

James J. Apperson, Director
Governor's Office of Economic Recovery

Jacob Weaver, Chief of Police
City of Willcox Police Department

This AGREEMENT is in proper format and is within the powers and authority granted to the respective public agency.

Joseph Kanefield
General Counsel
Governor's Office

Name: _____
Legal Counsel

ATTACHMENT 1

Allowable Expenditures:

City of Willcox

Description	Qty	Unit Cost	Total Allowable Cost
Vehicle w/police package	1		\$37,000.00
<i>Total Award Amount</i>			<i>\$37,000.00</i>

Jurisdiction Initials: _____

GOER Initials: _____

CITY OF WILLCOX
Request for Council Action

Agenda Item: 10D.
Tab Number: 5
Date: 11-01-2011

Date Submitted:
10/26/10
Date Requested:
11/01/10

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject:
Approval to accept
Grant Agreement from
Rural Fire Assistance
Bureau of Land
Management

To: Honorable Mayor and City Council
From: Pat McCourt, City Manager

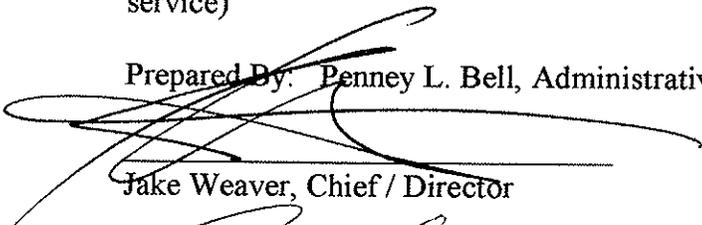
Discussion: The Willcox Fire Department has received approval for grant funding from the U.S. Department of Interior, Bureau of Land Management for the Rural Fire Assistance (RFA) Grant in the amount of \$9,000. Funding provided from this grant award will provide training, equipment, PPE's.

Recommendation:
To accept the Grant Agreement No. RFA 10-006 for \$9,000 in grant funds awarded to the Willcox Fire Department. Copy of the grant agreement is appended

Motion:

Fiscal Impact:
\$1,000 Match (\$500 to be paid from the Wildland account and \$500 from in-kind service)

Prepared By: Penney L. Bell, Administrative Assistant



Jake Weaver, Chief / Director



Pat McCourt, City Manager

RESOLUTION NO: 2010-111

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, APPROVING AND ADOPTING THE U.S. DEPARTMENT OF INTERIOR, BLM RURAL FIRE ASSISTANCE GRANT [“RFA 10-006”] IN THE AMOUNT OF \$9,000.00 TO BE USED FOR TRAINING, PURCHASING EQUIPMENT, PPE’S, AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

WHEREAS, the 2010 BLM Rural Fire Assistance Grant Program allocates funds that are available to eligible local governments for training and equipment for firefighting units; and

WHEREAS, the City of Willcox, on behalf of the Willcox Fire Department, submitted a grant proposal to the 2010 Rural & Volunteer Fire Assistance Grant Program in the amount of \$9,000.00; and

WHEREAS, pursuant to Resolution 2010-42, Mayor and Council approved and authorized the use of \$3,000.00 to pay for training and attendance at the Wildland Firefighters Academy; the use of \$6,000.00 to purchase new equipment; the use of \$1,000.00 dollar match as required with \$500.00 coming from the fire department’s wildland account and the other \$500.00 to be provided by “in-kind” services; and

WHEREAS, the Willcox Fire Department has received approval for grant RFA 10-006 in the amount of \$9,000.00 and request Mayor and Council approval to accept the Grant; and

WHEREAS, the Mayor and Council of the City of Willcox have determined that it is in the best interest of the City, the Fire Department and its citizens to approve and adopt the RFA Grant Award; and

WHEREAS, the Mayor and Council desire to have this item presented on November 1st, 2010 at the Regular Council Meeting; and

WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Willcox, Cochise County, Arizona, that an emergency be declared to exist to assure timely approval of the RFA Grant, and that this Resolution be effective immediately upon its passage and adoption.

THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Willcox, Cochise County, Arizona, that the City hereby formally approves and adopts the Rural Fire Assistance Grant [RFA 10-006] and City Staff are authorized and directed to act and to proceed with carrying out the intent of the Resolution.

BE IT FURTHER RESOLVED by the Mayor and Council that, due to an existing emergency declared herein, the immediate effectiveness of this Resolution is necessary to preserve the peace, health, and safety of the City of Willcox, Cochise County, Arizona, and this Resolution shall therefore be effective upon its passage and adoption.

PASSED AND ADOPTED by the Mayor and Council of the City of Willcox, Cochise County, Arizona this _____ day of November, 2010.

APPROVED/EXECUTED:

MAYOR, GERALD W. LINDSEY

ATTEST:

APPROVED AS TO FORM:

City Clerk, Cristina G. Whelan, CMC

City Attorney, Hector M. Figueroa

RESOLUTION NO: 2010-111

State Forester Grant Agreement No. RFA 10-006
Rural Fire Assistance Grant

August 6, 2010

Asst. Fire Chief, Patricia Ackerson-Rodriquez
Willcox Fire Department
320 W. Rex Allen Drive
Willcox, AZ 85643

Dear Ms. Ackerson-Rodriquez:

The U.S. Department of Interior, Bureau of Land Management has provided funds to the State Forester, hereinafter "SF or "State" to fund this Rural Fire Assistance (RFA) Grant Agreement with the **Willcox Fire Department** hereinafter "Grantee" and as described in the Grant Application (Attachment A).

Coordination of this project will be provided by Ms. Ackerson-Rodriquez for Grantee, and Mr. Pat Cirincione or his representative for SF.

Compensation is contingent upon fulfilling the project commitments as identified in the Grant Application (Attachment A), as amended by the Detailed Project Plan (Attachment B), and conformance with the General Provisions of this Grant Agreement (Attachment C). Compensation shall be reimbursed for 90% percent of eligible costs incurred during the Term of this Agreement. Costs submitted to the Office of the State Forester must be accompanied with detailed supporting documentation (Attachment D). Payments will be made by check to the Grantee, normally within ninety days of receipt of the reimbursement request. Grantee will submit a Quarterly Performance Report (Attachment E) as defined by the Document of Expenses no later than 30 days after the close of each fiscal year quarter (Sept 30, Dec 31, Mar 31, June 30). Grantee will submit enclosed W-9 form (Attachment F). Attachments A, B, C, D, E, and F are part of this Agreement.

All payments are contingent upon the availability of funds and reimbursement by the United States Department of Interior, Bureau of Land Management and if applicable, appropriation by the Arizona State Legislature.

All project expenditures are subject to the Single Audit act of 1984, and all relevant Office of Management and Budget (OMB) Circular. Grantees or sub-grantees are subject to audit if their share or federal financial assistance is \$25,000.00 or more for a single fiscal year. Grantee must comply with ARS §35-181.03 provisions for financial and compliance audits.

State Forester Grant Agreement No. RFA 10-006
Rural Fire Assistance Grant

Total compensation under this agreement shall not exceed **\$9,000.00** which shall not exceed ninety percent of the total eligible costs of the project. Invoices for eligible materials and work shall be submitted quarterly to the following address for reimbursement:

Mr. Pat Cirincione, Grants Manager
Office of the State Forester
3650 Lake Mary Road
Flagstaff, AZ 86001

Term of this Agreement shall be a period beginning on the date of the State Forester's signature and ending on December 31, 2010.

*This Grant is awarded under the authority of P.L. 106-291 making appropriations for fiscal year ending September 30, 2006. Which states, in part, the Department of Interior will provide rural fire assistance. Cost sharing for this agreement shall be in accordance with 43 CFR, Subpart C, Section 12.64. The required cost share is 90% *[Department of Interior and 10% Rural Fire Department].*

Please sign below indicating your acceptance of this Rural Fire Assistance Grant Agreement. Retain a copy for your records, and **return both signed originals along with the W-9 form** to the address above. If you have any questions regarding this agreement, please call Pat Cirincione at (928) 774-1425.

STATE OF ARIZONA

ACCEPTED BY GRANTEE

Gary Hahn
Procurement Officer

Date: _____

Scott Hunt, Acting State Forester

Date: _____

Signature

Print or Type Name of Signature

Date: _____

Attachments:

- A. Grant Application
- B. Detailed Project Plan
- C. General Provisions
- D. Document of Expenses
- E. Quarterly Performance Report
- F. W-9 Form

Attachment A
Grant Application

Attachment C

2010 RURAL & VOLUNTEER FIRE ASSISTANCE GRANT PROGRAM QUESTIONNAIRE

Community Name:		City of Willcox/Willcox Fire Department
Total Project Costs		\$10,000.00
Requested Grant Amount		\$9,000.00
Contact Person		
Contact:	Name	Patricia Ackerson-Rodriguez, Assist Fire Chief
	Address	320 W Rex Allen Drive Willcox, AZ 85643
	Phone	520-384-4673 x 4235 or 520-766-4235
	E-Mail	par@willcoxcity.org
1. Is your community under 10,000 population? (Circle One)		

- A. Yes (See Item 2 below)
- B. No (Does not qualify)

2. Is the request for assistance for organizing, training, equipping or prevention? (Circle One)

- A. Yes
- B. No (Does not qualify)

3. Which program grant is your community applying for? (Circle One)

- A. Rural Fire Assistance Grant
- B. Volunteer Fire Assistance Grant
- C. Both

4. Is your community fire organization a: (Circle One)

- A. Legal Fire District under A.R.S., Title 48.
- B. Non-profit corporation listed with the Arizona Corporation Commission.
- C. Entity of an incorporated town or city.
- D. Tribal Community Fire Department _____
- E. Other (please list) _____

12. How many wildland engines does your department have? (Circle One)

- A. More than one engine per 1000 acres protected.
- B. Less than one engine per 1000 acres protected.

13. Does your community/fire department initial attack or fight fires on Department of the Interior lands? (Circle One)

- A. Yes
 - B. No
- If yes, circle DOI agencies involved: BIA, BLM, USFWS & NPS

14. Does your community border Federal lands? (Circle One)

- A. Yes
If yes, what Federal Agency administers these lands? __ BLM _____
- B. No

15. Number of times your department was awarded either RFA or VFA Grants in the last 3 Federal Fiscal Years? (2007, 2008 & 2009) (Circle One)

- A. Never
- B. Once
- C. Twice
- D. 3+

16. What percentage of your firefighting personnel are non-paid volunteers? (Circle One)

- A. 0-25%
- B. 26-50%
- C. 51+%

17. What is your annual budget? (Circle One)

- A. \$0 - \$100,000
- B. \$101,000 - \$200,000
- C. \$201,000 - \$300,000
- D. \$301,000+

18. What is the total number of firefighting personnel you have on your department?

- A. ___ 18 - Volunteers

19. Circle the number firefighting personnel not fully equipped with wildland fire personal protective equipment.

- A. 0
- B. 1-5
- C. 6-10
- D. 11-20
- E. 20+

Attachment B
Detailed Project Plan

Attachment D

2010 RURAL & VOLUNTEER FIRE ASSISTANCE GRANT PROGRAM PROJECT PROPOSAL/BUDGET

Grantee Name :		City of Willcox/Willcox Fire Department
Contact:	Name	Patricia Ackerson-Rodriguez, Asst Fire Chief
	Address	320 W Rex Allen Drive Willcox, AZ 85643
	Phone	520-384-4673 or 520-766-4235
	E-Mail	par@willcoxcity.org
1.	Community Description	<p>Willcox is a small Rural Community with a population of approximately 4000. The Community has numerous vacant lots throughout the city and we are surrounded largely by unimproved lands, including 30 miles of Interstate 10, from MP 320 to MP 352. Two State Highways; Hwy 186 & Hwy 191, and we have Union Pacific Railroad that runs through the middle of the City. The Willcox Fire Dept is part of the Cochise County Mutual Aide Agreement. Has an agreement with the Arizona State Forester Dept. to answer fire calls when dispatched. We also assist three smaller agencies in the surrounding area; Willcox RURAL Fire Dept, Sunsites/Pearce Fire Dept. and Bowie Fire Dept.</p>
2.	Project Category	<input checked="" type="checkbox"/> Training <input type="checkbox"/> Organizing <input checked="" type="checkbox"/> Equipping <input type="checkbox"/> Prevention
3.	Project Category	<ol style="list-style-type: none"> 1. Training - To provide training from the newest Firefighters to the most seasoned Firefighter. Basic Wildland Firefighting - \$130/190 and Advanced Wildland Training - \$215, as well as some specialty classes. We have 6 or 7 new firefighters that need Basic Wildland Training and 5 or 6 for Advanced Wildland Training, and Specialty Classes (Air-Ops, Finance, etc.) 4 or 5 Firefighters be able to attend the Wildland Academy. 2. Equipping - Obtain new equipment. Replace old, broken and outdated equipment & hand tools (5-Sets), PPE's for all Firefighters. Safety Vests - Class 2 or 3 ANSI/ASEA 107-2004 compliant reflective safety vests - 20 vests, one for each firefighter. New Generation Fire Shelters - 10 Shelters - to be able to outfit each firefighter with the required NEW shelters and retire all of the old ones.

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RFA Detailed Project Budget					
Part A Project Fund Sources by Organization*					
	Grant \$	Willcox Fire			Total
Dollars	\$9,000.00	\$500.00			\$9,500.00
Donations					
Volunteer		\$500.00			\$500.00
Total	\$9,000.00	\$1,000.00			\$10,000.00

*Organization examples: Home Owners, Local Gov., Tribes, State, Federal, etc. List actual names of cities, fire departments etc. in the column headings.

Part B Project Expenditures By Organization					
Project Expenditures	Grant \$	Willcox Fire	In-Kind		Total
Firefighter Training	\$3,000.00	\$400.00	\$100.00 *		\$3,500.00
Equipping	\$6,000.00	\$500.00			\$6,500.00
* In-Kind will be In-house Instructor for Wildland Refresher Training					
Total	\$9,000.00	\$900.00	\$100.00		\$10,000.00

List Expenditures or work activities in the left column i.e. Training and Equipping. See Attachment A for Volunteer Fire Assistance and Attachment B for Rural Fire Assistance.

10,000.00 *
 15% *
 1,500.00 *

***PLEASE NOTE: THIS GRANT WAS APPROVED AND AWARDED UNDER THE 2010 RURAL FIRE ASSISTANCE GRANT PROGRAM WHICH IS A 90/10 COST SHARE. A TOTAL OF \$10,000.00 WILL BE SPENT BY THE GRANTEE AND REIMBURSED AT \$9,000.00. In Kind Labor Match Dollars can not exceed 15% or \$1,500 of your total grant award of \$9,000.00. In Kind Labor costs must be related to your grant project proposal as outlined your grant project proposal.**

RFA GRANT 2010-2011

WILLCOX FIRE DEPARTMENT

WILDLAND HAND TOOLS FOR GRANT

#	ITEM	AMOUNT	TOTAL COST
6	- FIRE LINE COMBI TOOLS	\$ 52.16	\$ 312.96
5	- MCLEOD TOOLS	\$ 71.57	\$ 357.85
4	- FOREST LINE SHOVELS	\$ 40.49	\$ 161.96
10	- MCLEOD TOOL SHEATHS	\$ 2.76	\$ 27.60
10	- SHOVEL SHEATHS	\$ 3.80	\$ 38.00
5	- PULASKI SHEATHS	\$ 4.98	\$ 24.90
4	- BACK PACK PUMP OUTFITS (Complete)	\$120.42	\$ 481.68
8	- NEW GENERATION FIRE SHELTER (REG)	\$248.50	\$1988.00
2	- NEW GENERATION FIRE SHELTER (TALL)	\$351.61	\$ 703.22
2	- FIRST AIDE KITS (Complete)	\$ 85.11	\$ 170.22
15	- NEW SAFETY VESTS (M-XL)	\$ 19.99	\$ 299.85
10	- NEW SAFETY VESTS (2X-3X)	\$ 22.99	\$ 229.90
2	- CASES FUSES	\$ 90.04	\$ 180.08
	Replacement of Gloves and Boots		\$1000.00
		APPROXIMATE TOTAL:	\$5976.22

Gallo

ATTACHMENT C
GRANT AGREEMENT
General Provisions

COVENANT AGAINST CONTINGENT FEES

The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the State shall have the right to annul this agreement without liability, or, in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

CHANGES IN WORK

Significant changes in the scope, character, or complexity of the work may be negotiated if it is mutually agreed that such changes are desirable and necessary. Changes defining and limiting the work and compensation must be authorized by the State Forester or his duly authorized representative.

DELAYS AND EXTENSIONS

If, during the course of this work, situations arise which prevent its completion within the time allotted, an extension of time may be granted. However, any extension of time granted shall not constitute or operate as a waiver by the State of any of its rights herein.

RESPONSIBILITY FOR CLAIMS AND LIABILITIES

The Grantee agrees to assume all risk of loss to indemnify and hold, the State, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suites, losses, damages causes or action, fines or judgments, including costs, attorney's and witnesses' fees and expenses incident thereto, for injuries or death to persons and for loss of, damage to, theft of or destruction of any property including loss of use thereof arising out of or in connection with the performance of duties required by agreement, all whether or not authorized or agreed to by Grantee.

RETENTION OF RECORDS

The Grantee and any subcontractor shall maintain all documents, papers, accounting records; other evidence pertaining to costs incurred for this work, and shall make all such materials available at any reasonable time during the term of work and for five (5) years from the date of final payment to the Grantee.

**ATTACHMENT C
GRANT AGREEMENT
General Provisions**

TERMINATION FOR CONVENIENCE

The Office of the State forester, by written notice, may terminate this contract, in whole or in part, when it is deemed in the best interest of the State. If this contract is so terminated, Grantee will be compensated for work performed up to the time of the termination notification. In no event shall payment for such costs exceed the current grant amount.

CANCELLATION OF STATE CONTRACTS

All parties hereby are put on notice that this agreement is subject to cancellation by the Governor pursuant to A.R.S. 38-511, the provisions of which are incorporated herein by reference.

COMPLIANCE WITH EXECUTIVE ORDER 75-5

The Grantee shall comply with the above stated regulations relative to non-discrimination. These regulations are herein incorporated by reference and made a part of this addendum.

ARBITRATION

To the extent required by A.R.S. 12-1518, the parties agree to use arbitration, after exhausting applicable administrative review, to resolve disputes arising out of this agreement.

ANTITRUST VIOLATIONS

The Grantee and the State recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by the purchaser or ultimate user. Therefore, Grantee acting as a vendor, hereby assigns to State any and all claims for such overcharges.

Compliance Requirements for A.R.S. § 41-4401, Government Procurement:
E-Verify Requirement

1. The contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After March 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.")

2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
3. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
4. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty under paragraph 1.

ATTACHMENT D DOCUMENTATION OF EXPENSES

To be reimbursed in-kind and actual expenses incurred during the term of the Agreement and associated with the project, the following guidelines must be adhered to:

In-kind volunteers

A sign-in sheet must be used showing the date, time, place, name of the volunteer printed and signed by the volunteer. Volunteers must sign in with the time of arrival and sign out when they leave. The supervisor of the volunteer must sign the volunteer's time. Each project and day must have this documentation and it must be sent to the SF attached to an invoice. The sign-in sheet should also show the type of work accomplished. For general labor, calculate volunteer services at \$18.77 per hour. Professional services can be billed at the persons hourly rate. Amounts exceeding these general rates are permissible, but must be justified in a budget narrative.

In-kind contributions

An in-kind contribution from a business or organization may be invoiced with proper documentation. This consists of a letter on their letterhead, signed by the proper person showing the amount of donation. The letter needs to show what was contributed and a dollar amount for the service. Goods and services donated from individuals, corporations, and others must be documented in the same way, with a signed letter, stating the value of the donated materials or services. Property or use thereof shall be assigned a fair market rate and valued at such with a letter attached from the donating party.

The purchase of or in-kind donation of food or beverages are not reimbursable.

Actual Expenditures

Costs submitted must be accompanied with detailed supporting documentation.

Examples, (but not limited to) support documents are:

Payroll sheets

Time Sheets

Purchase orders

Signed memos/letters detailing staff time

Invoices

Equipment usage records

Receipts

Aircraft flight records

Material usage records

Material issue records

Hotel Receipts

Job sheets to which labor, equipment, and material charges are made

ATTACHMENT E
Quarterly Performance Report

Year: _____

Quarter ending (circle one): Mar 31 June 30 Sept 30 Dec 31

Project Name: _____ Project No: _____

Grantee Name & Address: _____

Name of Person Filing This Report: _____

Narrative Report: (List activity for the quarter. Include appropriate comments regarding expenditures for employees or equipment, volunteers, donated time or materials etc.)

Project Objectives Accomplishment: (What progress has been made toward meeting the project objectives stated in the Detailed Project Plan?)

Measurement Criteria: (What is the percentage of success in meeting the measurement criteria stated in the Detailed Project Plan?)

ATTACHMENT E
Quarterly Performance Report
(continued)

List all claimed project work and expenditures for the quarter. If you are requesting a partial payment for the quarter also include an invoice signed by an authorized agent of the grantee along with all detailed supporting documentation.

Contributed Staff Hours: (List by name)	_____ hrs @ \$ _____	= \$ _____
	_____ hrs @ \$ _____	= \$ _____
Volunteer Hours: (List by name)	_____ hrs @ \$ _____	= \$ _____
	_____ hrs @ \$ _____	= \$ _____
Donated Time: (list by name)	_____ hrs @ \$ _____	= \$ _____
	_____ hrs @ \$ _____	= \$ _____
Equipment Purchased: (Descriptions with model and serial Nos)		= \$ _____
Equipment Use: (Describe or explain)	_____ hrs @ _____	= \$ _____
	_____ hrs @ \$ _____	= \$ _____
Donated Equipment Time: (Describe)	_____ hrs @ \$ _____	= \$ _____
	_____ hrs @ \$ _____	= \$ _____
Supplies Purchased: (List)		= \$ _____
Supplies Donated: (List)		= \$ _____
Other: (Describe)		= \$ _____
Other: (Describe)		= \$ _____
Other: (Describe)		= \$ _____
Total claimed labor, equipment and supplies this quarter		= \$ _____

Note: Quarterly reports must be completed and mailed to Pat Cirincione, Grants Manager, at the end of each quarter.

Attachment F
W-9 Form



State of Arizona Substitute W-9 & Vendor Authorization Form

Purpose: Establish or update a vendor account with the State of Arizona. This form meets the Federal requirements to request a taxpayer identification number (TIN), request certain certifications and claims for exemption, as well as the State of Arizona requirements for vendor establishment.

Instructions: Complete form if

1. You are a U.S. person (including a resident alien);
2. You are a vendor that provides goods or services to an Arizona state agency; AND
3. You will receive payment from the State of Arizona.

Return completed form to the state agency with whom you do business, for review and authorization.

See instructions below or refer to the IRS instructions at www.irs.gov for details on completing this form.

Type of Request (Must select at least ONE)

New Request New Location (Additional Mail Code) Change (Select the type(s) of change from the following:

Tax ID Legal Name Entity Type Minority Business Ind
 Main Address Remittance Address Contact Information

Taxpayer Identification Number (TIN) (Provide ONE Only)

Social Security Number (SSN) _____ OR Federal Employer Identification Number (FEIN) 86 - 6000-270

Entity Name Must Provide Legal Name (*Must match SSN or FEIN given. If Individual or Sole Proprietorship enter First, Middle, Last Name.)

Legal Name* City of Willcox

Entity Type Must Select One of the Following (Coding (X#) is for Internal Purposes Only)

Individual/Sole Proprietor or Sole Proprietor organized as LLC, PLLC (6I) State of Arizona employee (1E) STATE HRIS EIN _____

Corporation NOT providing health care, medical or legal services (5A) LLC, PLLC organized as corporation NOT providing health care, medical or legal services (5J)

Corporation providing health care, medical or legal services (5M) LLC, PLLC organized as corporation providing health care, medical or legal services (5M)

Partnership, LLP or Partnership organized as LLC or PLLC (5C) A state, a possession of the US, or any of their political subdivisions or instrumentalities (4G)

An international organization or any of its agencies/instrumentalities (5U) Other: Tax Reportable Entity (5P) Description City Government

The US or any of its political subdivisions or instrumentalities (2G) Other: Tax Exempt Entity (5H)

Minority Business Indicator Must select one of the following (Coding (X#) is for internal purposes only)

Small Business (01) Small, Woman Owned Business- Hispanic (31) Minority Owned Business- African American (04)

Small Business- African American (23) Small, Woman Owned Business- Native American (33) Minority Owned Business- Asian (32)

Small Business- Asian (24) Small, Woman Owned Business- Other Minority (11) Minority Owned Business- Hispanic (74)

Small Business - Hispanic (25) Woman Owned Business (03) Minority Owned Business- Native American (15)

Small Business- Native American (27) Woman Owned Business- African American (17) Minority Owned Business- Other Minority (02)

Small Business- Other Minority (05) Woman Owned Business- Asian (18) Non-Profit, IRC §501(c) (88)

Small, Woman Owned Business (06) Woman Owned Business- Hispanic (19) Non-Small, Non-Minority or Non-Woman Owned Business (00)

Small, Woman Owned Business- African American (29) Woman Owned Business- Native American (21)

Small, Woman Owned Business- Asian (30) Woman Owned Business- Other Minority (08) Individual, Non-Business (00)

Main Address Where tax information and general correspondence is to be mailed **Remittance Address** Where payment is to be mailed Same as Main

DBA/Branch/Location Willcox Fire Dept DBA/Branch/Location _____

Address 320 W Rex Allen Drive Address _____

City Willcox State Arizona Zip code 85643 City _____ State _____ Zip code _____

Vendor Contact Information

Name Patricia Ackerson-Rodriguez Title Asst Fire Chief

Phone # 520-384-4673 Ext. 4235 Fax 520-384-2587 Email par@willcoxcity.org

Certification Exempt from backup withholding

Under Penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me) AND
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding AND
3. I am a U.S. person (including U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

Signature Patricia Ackerson-Rodriguez Title Asst Fire Chief Date 8-12-2017

STATE OF ARIZONA AGENCY USE ONLY - AGENCY AUTHORIZATION **VENDOR DO NOT WRITE BELOW THIS LINE**

State HRIS EIN _____ Print Name _____ Signature _____

AGY _____ Title _____ Phone # _____ Email _____ Date _____

STATE OF ARIZONA GAO USE ONLY **VENDOR & STATE AGENCY DO NOT WRITE BELOW THIS LINE**

IRS TIN Matching Corporation Commission Vendor Number _____ Processed by _____ Date Processed _____

HRIS GAO-03 Other

Instructions for the State of Arizona Substitute W-9 & Vendor Authorization Form

Main Address cont.-Required and Remittance Address-Optional Check 'Same as Main' if the Remit to Address is the same as the Main Address entered.

Address

Required. Enter under the 'Main Address' an address where tax information and general correspondence is to be mailed. Enter under Remittance Address an address where payments should be made. Foreign addresses should enter full address here.

City

Required. Enter your city.

State

Required. Select your state from the drop-down list. If you are using an address outside of the U.S., select XX- Foreign address.

Zip code

Required. Enter your 5 digit zip code. A 4 digit add on is optional. If completing online, do not enter a dash. If foreign address, do not complete field and enter full address in the address line.

Contact Information-Required

Name

Required. Enter contact name. The person indicated will be contacted for payment related questions or issues.

Title

Optional. If the form is completed on behalf of a business, please enter your title.

Phone#

Required. Enter the contact's phone number including area code. If competing online, enter 9 numeric characters ONLY, do not enter any dashes, parenthesis or other special characters.

EXT

Optional. Enter the contact's phone number extension, if applicable.

email

Optional. Enter the contact's email address. Must be in the format: email@address.com.

Fax

Optional. Enter the contact's fax number. If completing online, enter 9 numeric characters ONLY, do not enter any dashes, parenthesis or other special characters.

Certification

Exempt from backup withholding

Optional. Check box if you are exempt from backup withholding (Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments). Refer to IRS W-9 instructions for additional information.

Signature

Required. Signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

Title

Required. Enter the title of the person who signed/certified the form.

Current Date

Required. This field will default to the current date if form is completed electronically.

Do not complete any remaining fields; they are reserved for use by the State of Arizona.

Additional Information

For additional information concerning certification requirements for the substitute W-9 form, refer to the instructions for the Internal Revenue Service form W-9 at: www.irs.gov.

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 10E
Tab Number 6
Date: 11/01/10

Date Submitted:

October 27, 2010

Action:

Resolution
 Ordinance
 Formal

Subject:

**YUNGEWAELTER
PARKING LOT LEASE
RENEWAL**

TO: MAYOR AND COUNCIL
FROM: Finance Director Ruth Graham

DISCUSSION:

Each year since 1989, the City of Willcox has leased a lot owned by Bruce Yungewaelter and Sandra Yungewaelter in downtown Willcox for the cost of the annual property taxes on the lot. For the lease period of December 4, 2010 to December 4, 2011, the cost will be \$401.64.

The lot on the block of 100 South Haskell, and listed on the Cochise County tax rolls as Parcel 203-28-187 is marked as public parking provided by the City of Willcox, and it is used by the public for event parking and for business downtown. As with any downtown area, parking is limited and it is a convenience for the public to have parking available.

RECOMMENDATION:

Motion to approve Resolution No. 2010-112 Approving the Parking Lease Agreement Between the City of Willcox (Lessee) and Robert Bruce Yungewaelter and Sandra Kay Yungewaelter (Lessors) For Parking Lot Known as Parcel No: 203-28-187.

FINANCIAL IMPACT: Cost of \$401.64 for Fiscal Year 2010-2011.

Submitted by:



Ruth Graham, Finance Director

Approved by:

Pat McCourt, City Manager

RESOLUTION NO. 2010-112

A RESOLUTION OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, APPROVING THE PARKING LEASE AGREEMENT BETWEEN THE CITY OF WILLCOX ["LESSEE"] AND ROBERT BRUCE AND SANDRA KAY YOUNGWALTER ["LESSORS"] FOR PARKING LOT KNOWN AS PARCEL NO: 203-28-187 AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

WHEREAS, the CITY is authorized pursuant to A.R.S. § 9-240, et seq. to exercise control of the property of the corporation and to erect, purchase or lease property for the purposes of the corporation and is vested with all powers of incorporated towns as set forth in A.R.S Title 9.; and

WHEREAS, the LESSEE and LESSORS have a contractual relationship as parties to Lease Agreements since August 15th, 1989 for a specific amount equal to the annual tax assessment with an option to renew every year and desire to renew the Lease Agreement for the period of December 4, 2010 to December 4, 2011; and

WHEREAS, the LESSEE and the LESSORS executed the Parking Lot Lease Agreement for the period of December 4, 2009 to December 4, 2010; and

WHEREAS, the Original Parking Lease Agreement included one parcel of real property described as follows: **PARCEL NO: 203-28-187** for a parking lot property located in Willcox, Arizona on the East side of Haskell Avenue, between Maley and Grant Streets; and

WHEREAS, the City of Willcox, Cochise County, Arizona desires to have this Resolution presented at its November 1st, 2010 Council Meeting and has determined that approval of another "Lease Agreement Renewal" between the LESSEE and LESSORS is in the best interest of the CITY and its residents; and

WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Willcox, Cochise County, Arizona, that an emergency be declared to exist to assure continued use of the parking lot, and that this Resolution shall be effective immediately upon its passage and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, as follows:

Section 1: The approval of the Parking Lot Lease Renewal for **PARCEL NO: 203-28-187** in the amount of \$401.64 is in the best interests of the residents of the City of Willcox.

Section 2: That the CITY formally approves the Parking Lot Lease Renewal for 2010-2011 as outlined in Exhibit "A" attached hereto to Resolution No. 2010-112.

Section 3: That the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage by the City of Willcox, Cochise County, Arizona.

Section 4: The Mayor is authorized and empowered to execute this Resolution for the purpose of executing the 2010-2011 Parking Lot Lease Renewal thereto.

PASSED AND ADOPTED by the Mayor and Council of the City of Willcox, Cochise County, Arizona, this ____ day of November, 2010.

APPROVED/EXECUTED:

MAYOR, GERLD W. LINDSEY

ATTEST:

City Clerk, Cristina G. Whelan, CMC

APPROVED AS TO FORM:

City Attorney, Hector M. Figueroa, Esq.

RESOLUTION NO. 2010-112

RESOLUTION NO. 2010-112
EXHIBIT A
YUNGEWAELTER PARKING LOT LEASE RENEWAL

This Parking Lot Agreement is made and entered into this _____ day of November, 2010 by and between **Robert Bruce Yungewaelter and Sandra Kay Yungewaelter**, hereinafter referred to as Lessors, and the **City of Willcox**, a municipal corporation, hereinafter referred to as Lessee.

WITNESSETH,

WHEREAS, the parties desire to enter into a Parking Lot Agreement for the use of a parcel of real property located on the east side of the 100 block of South Haskell Avenue, between Maley and Grant Streets, in Willcox, Arizona, and further described as Willcox Lots 4 and 5, Block 30. It is also known as Parcel No. 203-28-187 on the rolls of the Cochise County Treasurer. The said property is to be used as a public parking lot.

NOW, THEREFORE, it is hereby agreed that Lessee exercises the option to renew the annual lease for a twelve-month term commencing December 4, 2010 and ending on December 4, 2011. This agreement may be terminated by either party with a sixty day written notice.

IT IS FURTHER AGREED that Lessee has the option to renew the Parking Lot Agreement for an additional term under the same terms and conditions stated herein.

In exchange for the use of the property, Lessee shall maintain the property, maintain liability insurance coverage for the property and name the Lessors as additional insured parties, and indemnify the Lessors and hold them harmless from any liability which may result from the use of the said property by Lessee's employees, officers or invitees.

The rental payment shall be the sum of the property tax assessment on Parcel No. 203-28-187 by the Cochise County Treasurer for the property described as Willcox Lots 4 and 5, Block 30, Willcox, Cochise County, Arizona. Said rental payment for 2010 totals \$401.64, and payment shall be made by the Lessee on the first day of this agreement.

Upon expiration of the term of this agreement or any prior termination thereof, peaceable possession of the property shall be delivered to Lessors.

IN WITNESS WHEREOF, the parties hereby enter into this Parking Lot Agreement as of the day and year written above.

City of Willcox, Lessee

Robert Bruce Yungewaelter, Lessor

Mayor, Gerald W. Lindsey

Sandra Kay Yungewaelter, Lessor

Hector M. Figueroa, City Attorney

ATTEST:

Cristina G. Whelan, CMC, City Clerk

2010 PROPERTY TAX NOTICE

ARIZONA

PARCEL #	AREA CODE	PRIMARY TAX RATE PER \$100 ASSESSED VALUE	SECONDARY TAX RATE PER \$100 ASSESSED VALUE	IRRIGATION DISTRICT \$ PER ACRE	PRIMARY PROPERTY TAX	
203-28-187 4	1320	7.8475	3.0044		290.44	
					LESS STATE AID TO EDUCATION	0.00
					NET PRIMARY PROPERTY TAX	290.44
					SECONDARY PROPERTY TAX	111.20
					SPECIAL DISTRICT TAX	0.00
					TOTAL TAX DUE FOR 2010	401.64

VALUE IN DOLLARS	ASSMT %	ASSESSED VALUE	EXEMPTIONS	TAX RATE	TAX	2009 TAXES	2010 TAXES
LIMITED LAND, BLDGS, ETC	23,131	16.0	3,701	0	7.8475	290.44	97.25
LIMITED PERSONAL PROPERTY	0	0.0	0	0	0.0000	0.00	13.19
LIMITED TOTALS	23,131		3,701	0		290.44	35.99
FULL CASH LAND	22,500	16.0	3,600	0	3.0044	108.17	139.88
FULL CASH BUILDINGS, ETC	631	16.0	101	0	3.0044	3.03	59.16
FULL CASH PERSONAL PROPERTY	0	0.0	0	0	0.0000	0.00	36.41
FULL CASH TOTALS	23,131		3,701	0		111.20	2.93
							5.37
							9.61
							1.85

0072578
 STATUS ADDRESS
 LEGAL DESCRIPTION
 WILLCOX LOTS 4 & 5 BLK 20
 1702 W SOTO STREET

**THIS IS A
 CALENDAR YEAR
 TAX NOTICE**

TOTALS 388.62 401.64

203-28-187 4
 0027407 01 AV 0.332 **AUTO T2 0 0786 85643-250720 PAGE 0001 OF 0001 00031938

**YOUNGWALTER SANDRA KAY
 YOUNGWALTER ROBERT BRUCE
 620 W SOTO STREET
 WILLCOX AZ 85643-2507**

PAYMENT INSTRUCTIONS
 To pay the 1st half installment and full year tax notices of \$100 or less, send the 1st half coupon with your payment postmarked no later than Nov. 1, 2010. To pay the 2nd half installment, send the 2nd half coupon with your payment postmarked no later than May 2, 2011. To pay taxes for the full year if the entire amount billed per notice exceeds \$100, send the 1st half coupon with your payment postmarked no later than Jan. 3, 2011 and no interest will be charged for current year.

Make your check payable to and mail to:
 Marsha Bonham
 Cochise County Treasurer
 PO Box 1778
 Bisbee AZ 85603-2778

PLEASE INCLUDE YOUR PARCEL NUMBER ON YOUR CHECK.

THERE WILL BE A CHARGE FOR EACH RETURNED CHECK AND YOUR TAXES WILL REVERT TO AN UNPAID STATUS.

2010 FIRST HALF PAYMENT COUPON

DETACH AND RETURN WITH PAYMENT

Make check payable to:
 Marsha Bonham
 Cochise County Treasurer
 PO Box 1778
 Bisbee AZ 85603-2778

Payment in U.S. FUNDS ONLY

Due October 1, 2010
 YOUNGWALTER SANDRA KAY
 Parcel Number: 203-28-187 4 Roll Number: 0072578

1

TO PAY 1ST HALF ONLY	PAY	200.82
TO PAY FULL YEAR TAX	PAY	401.64

Delinquency Date First Half Payment
 Penalty for late payment is 16% per year prorated monthly as of the 1st day of the month for payments postmarked after **5:00 P.M. November 1, 2010** (ARS 42-18052 and ARS 42-18053).

If your mortgage company makes your property tax payments consider this notice as a courtesy copy for your records only.



Any total property tax notice of \$100 or less must be paid in full using the first payment coupon, no later than **November 1, 2010 at 5:00 P.M.**



Remit one full year payment for billed amounts over \$100 by **Jan. 3, 2011** and no interest will be charged for current year. Mail full year payment with 1st half coupon.

**Marsha Bonham
 Cochise County Treasurer
 PO Box 1778
 Bisbee AZ 85603-2778**

2010 2032818704 1 00000004016400000020082

ORDINANCE NS301

AN ORDINANCE OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, CREATING, APPROVING AND ADOPTING CITY CODE TITLE 6, CHAPTERS 1 THROUGH 6 [POLICE AND PUBLIC SAFETY], BY REFERENCE, REPEALING TITLE(S), CHAPTER(S), SECTION(S) , AND ALL ORDINANCES PASSED AND ADOPTED RELATING TO ALL REPEALED TITLE(S), CHAPTER(S), SECTION(S) , AND ALL ORDINANCES ENUMERATED IN SECTION 2 BELOW.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA AS FOLLOWS:

Section 1: Adoption by Reference, A.R.S. § 9-801.

That a certain document, three (3) copies of which is on file in the office of the City Clerk of the City of Willcox, being marked and designated as Title 6, Chapters 1, 2, 3, 4, 5, and 6 of the Willcox City Code, be and is hereby adopted, by reference, as "Police and Public Safety" governing all general and miscellaneous regulations governing the Willcox Department of Public Safety, Volunteer Police Reserve, Volunteer Fire Department, Police Alarm Systems, Animal Control, and Miscellaneous Offenses; providing for permits; providing for enforcement; and providing for penalty clauses.

Section 2: Revisions, Additions, Changes and Renumbering.

That the following Titles, Chapters and Sections are created, added, changed and renumbered:

Title 6, Chapter 1, is created and numbered as §§6-1-1 to 6-1-7

Title 6, Chapter 2, is created and numbered as §§6-2-1 to 6-2-10

Title 6, Chapter 3, is created and numbered as §§6-3-1 to 6-3-14

Title 6, Chapter 4, is created and numbered as §§6-4-1 to 6-4-9

Title 6, Chapter 5, is created and numbered as §§6-5-1 to 6-5-17

Title 6, Chapter 6, is created and numbered as §§6-6-1 to 6-6-18

Title 2, Chapter 2.32, §§ 2.32.010; 2.32.020; 2.32.030; 2.32.040; 2.32.050; 2.32.060; 2.32.070; 2.32.080; 2.32.090 are repealed and replaced by Title 6, Chapters 1 and 2.

Title 2, Chapter 2.28, §§ 2.28.010; 2.28.020; 2.28.030; 2.28.040; 2.28.050; 2.28.060; 2.28.070; 2.28.080; 2.28.090; 2.28.100; 2.28.110; 2.28.120; 2.28.130; 2.28.140 are repealed and replaced by Title 6, Chapter 3.

Title 9, Chapter 9.08.160 is repealed and replaced, in its entirety, by Title 6, Chapter 4.

Title 6, Chapter 6.04 is repealed and replaced, in its entirety, by Title 6, Chapter 5.

Title 8, Chapter 8.04, §8.04.210 is repealed and replaced by Title 6, Chapter 5, § 6-5-12.

Title 9, Chapter 9.08, §§ 9.08.010; 9.08.020; 9.08.050; 9.08.070; 9.08.080; 9.08.100; 9.08.110; 9.08.120; 9.08.140; 9.08.150 are repealed and replaced by Title 6, Chapter 6.

Title 9, Chapter 9.12, § 9.12.010 is repealed and replaced by Title 6, Chapter 5, § 6-5-15.

Title 9, Chapter 9.12, §§ 9.12.030; 9.12.040 are repealed and replaced by Title 6, Chapter 6, §§ 6-6-12 and 6-6-13.

Section 3: Adoption of Title 6, Chapters 1, 2, 3, 4, 5 and 6 and Penalty Clause.

Any person or any other legal entity violating any of the provisions of Title 6, herein adopted, shall be subject to the penalties as provided in Title 1, § 1-4-1; and Title 6, §§ 6-5-4 (D); 6-5-5 (D); 6-5-8 (B); 6-5-17; 6-6-9; 6-6-10 (D); 6-6-11(E); 6-6-13 (D); 6-6-14 (B); 6-6-15 (7); 6-6-16 (B)(4) and (D)(4); 6-6-17 (B) and 6-6-18, shall be subject to the penalties as provided in those provisions of this code: Minimum fine of one hundred dollars (\$100.00) up to and not exceeding three hundred dollars (\$300.00) for offenses designated as petty offenses pursuant to A.R.S. § 13-601 or a fine not exceeding two thousand five hundred dollars (\$2,500.00) for offenses designated as misdemeanors plus statutory surcharges as mandated by the legislature on/after **December 15, 2008** or as amended; a probationary period and imprisonment/ confinement up to 180 days or any combination thereof or **as otherwise provided elsewhere in the Code, by Resolution of Mayor and Council, or by statute**, including suspension or revocation of a license, permit or franchise, or other equitable relief.

Section 4: That the following Ordinances are repealed: NS64; NS143; NS175; NS210; NS 211; NS218; NS219 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance, the City of Willcox, Cochise County, Arizona hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase, irrespective of the fact that any sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6: That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of actions acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7: That the various City Officers and Official(s) and/or any other duly appointed deputy are authorized and directed to perform all acts necessary or desirable to give effect and to carry out

out all the duties authorized under this Ordinance and the City Code.

Section 8: That where this Ordinance conflicts or overlaps with any other Ordinance, Code provision or regulation, whichever imposes the more stringent restrictions for the health, safety and welfare of the public shall prevail.

Section 9: The City Clerk is ordered and directed to cause this ordinance to be published.

Section 10: The City Clerk shall attest to the adoption of this Ordinance and cause same to be maintained as a public record as required by law. This Ordinance shall become effective thirty (30) days after the Mayor and Council perform two readings, conduct a public hearing, publication as required by law, passage and adoption thereof.

PASSED AND ADOPTED by the Mayor and Council of the City of Willcox, Cochise County, Arizona, this _____ day of November, 2010.

APPROVED/EXECUTED

MAYOR, GERALD W. LINDSEY

ATTEST:

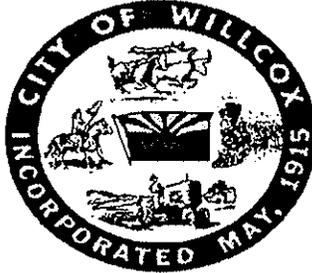
City Clerk, Cristina G. Whelan, CMC

APPROVED AS TO FORM:

City Attorney, Hector M. Figueroa

Publish: Arizona Range News November 3 & 10, 2010
Public Hearing: Monday, November 15, 2010,

ORDINANCE NS301



**NOTICE OF PUBLIC HEARING
MAYOR AND CITY COUNCIL**

In accordance with Resolution No. 370 of the City of Willcox, and Section 38-431.01 of the Arizona Revised Statutes **NOTICE IS HEREBY GIVEN** that the **MAYOR AND COUNCIL** of the City of Willcox, County of Cochise, Arizona, will hold a **PUBLIC HEARING**, during the **REGULAR** meeting, on **MONDAY** the **15th** day of **NOVEMBER** 2010 at **7:00 p.m.**, in the **CITY COUNCIL CHAMBERS**, **300 W. REX ALLEN DRIVE, WILLCOX, AZ.**

Public Hearing on:

ORDINANCE NS301

AN ORDINANCE OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, CREATING, APPROVING AND ADOPTING CITY CODE TITLE 6, CHAPTERS 1 THROUGH 6 [POLICE AND PUBLIC SAFETY], BY REFERENCE, REPEALING TITLE(S), CHAPTER(S), SECTION(S), AND ALL ORDINANCES PASSED AND ADOPTED RELATING TO ALL REPEALED TITLE(S), CHAPTER(S), SECTION(S), AND ALL ORDINANCES ENUMERATED IN SECTION 2 BELOW.

All members of the public are invited to attend such meeting. For those persons unable to attend, written comments will be accepted until 4 p.m. the day of the public hearing in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, Willcox, AZ 85643.

DATED AND POSTED this 28th day of OCTOBER 2010 AT 3:00 P.M.

CITY OF WILLCOX, ARIZONA

Cristina G. Whelan, CMC

/s/Cristina G. Whelan, CMC

CITY CLERK

Publichearing/ord NS301 Title 6 public safety

TITLE 6

CHAPTER 1

WILLCOX DEPARTMENT OF PUBLIC SAFETY

SECTION:

- 6-1-1: Department of Public Safety Created**
- 6-1-2: Definitions**
- 6-1-3: Qualifications; Appointment**
- 6-1-4: Oath of Office**
- 6-1-5: Powers and Duties of the Department**
- 6-1-6: Powers and Duties of the Director**
- 6-1-7: Rule Making Authority**

6-1-1: Department of Public Safety Created:

There is created a Department of Public Safety for the city. The director of public safety shall serve as the Chief of Police and Fire Chief and shall be in charge of the department under the control and administrative supervision of the city manager. The director shall have authority and control of the police and fire departments and the volunteer reserve units established under this title.

(2010 Code, Ord. NS301, 11-15-2010, eff. 12-16-2010)

State law reference - Adoption by reference, A.R.S. Sec. 9-801

Cross reference - 2008 Code, Ord. NS 283, Chapters 7, Article (A), §1-7A-4(B); 2-18-2008)

6-1-2: Definitions:

As used in this title, the following words and terms shall have the meanings ascribed to them in this section. All words and phrases defined in this section shall also include their usual and natural meanings, as well as those herein specifically given.

Director of Public Safety: "Director of Public Safety" means the director hired to oversee the department and act as the Chief of Police and Fire Chief.

Police Reserve: "Police Reserve" means the volunteer police reserve of the city.

Willcox Department of Public Safety: "Willcox Department of Public Safety" means the police department of the City of Willcox.

(1979 Code, Ord. NS-64 §2, prior code § 2.32.020 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 2 and 3; 11-15-2010, eff. 12-16-2010)

6-1-3: Qualification; Appointment:

The director of the department qualifications shall consist of being a United States citizen who is a resident of the State of Arizona, twenty-five (25) years of age or over and meets minimum standards as established by the Arizona peace officer standards training board, pursuant to Arizona Revised Statutes section 41-1823. The director of public safety who shall serve as police chief and fire chief shall be appointed by the City Manager.

(1979 Code, Ord. NS-64 §3, prior code § 2.32.030 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 2 and 3; 11-15-2010, eff. 12-16-2010)

Cross reference - 2008 Code, Ord. NS 283, Chapters 7, Article (A), §1-7A-4(B); 2-18-2008)

6-1-4: Oath of Office:

The director of public safety shall, before entering upon her/his duties, be required to take an appropriate oath.

2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 2 and 3; 11-15-2010, eff. 12-16-2010)

6-1-5: Powers and Duties of the Department:

It is the duty of the department, under the direction of the director acting as chief of police or fire chief to:

- A. Enforce the Willcox Municipal Code and the statutes of the State of Arizona within jurisdictional limits as conferred by law or mutual aid agreement(s) including exercising and enforcing police powers and fire prevention and suppression powers.
- B. Enforce the traffic regulations of the city as specified in the Willcox Municipal Code and enforce the traffic laws of the State of Arizona within jurisdictional limits as conferred by law.

C. Enforce the animal control regulations of the city as specified in the Willcox Municipal Code and enforce the traffic laws of the State of Arizona within jurisdictional limits as conferred by law.

D. Perform such additional duties as may be required by the City Manager, municipal code, and statutes.

(2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 2 and 3; 11-15-2010, eff. 12-16-2010)

Cross reference - 2008 Code, Ord. NS 283, Chapters 7, Article (A), §1-7A-4(B); 2-18-2008)

6-1-6: Powers and Duties of the Director:

A. The director of public safety shall serve as chief of police and fire chief to the Willcox Department of Public Safety under such rules and regulations as the City Manager may prescribe.

B. The director may be called to duty by the City Manager during the time of or in anticipation of any emergency situation or other occasion which, in the opinion of the city manager, will reasonably require the aid of police and/or fire personnel to maintain peace and good order in the city.

C. The director acting as police chief shall have the powers and authority of a peace officer.

(2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-1-7: Rule Making Authority:

The director of public safety acting as chief of police and/or fire chief, with the advice, consent and approval of the City Manager, shall adopt rules and regulations expressly defining the powers and duties of the police and fire departments and the reserve units established under Title 6.

(1979 Code, Ord. NS-64 §7, prior code § 2.32.070 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - (2008 Code, Ord. NS 283, Chapters 7, Article (A), §1-7A-4(B); 2-18-2008)

Cross reference - (2010 Code, Ord. NS 301, Chapters 2 and 3; 11-15-2010, eff. 12-16-2010)

TITLE 6

CHAPTER 2

VOLUNTEER POLICE RESERVE

SECTION:

- 6-2--1: Volunteer Police Reserve Established**
- 6-2--2: Definitions**
- 6-2--3: Qualifications; Appointment**
- 6-2--4: Limitation On Membership**
- 6-2--5: Oath Of Office**
- 6-2--6: Command And Control; Dismissal**
- 6-2--7: Powers And Duties**
- 6-2--8: Rule Making Authority**
- 6-2--9: Uniform And Insignia**
- 6-2-10: Insurance Benefits**

6-2-1: Volunteer Police Reserve Established:

There is established a volunteer police reserve for the city as auxiliary to the Willcox Department of Public Safety and as a component thereof. (1982 Code § 2.32.010)
(1979 Code, Ord. NS-64 §1, prior code § 2.32.010 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-2-2: Definitions:

As used in this title, the following words and terms shall have the meanings ascribed to them in this section. All words and phrases defined in this section shall also include their usual and natural meanings, as well as those herein specifically given.

Director of Public Safety: "Director of Public Safety" means the director hired to oversee the volunteer police reserve in his capacity and as the Chief of Police.

Police Reserve: "Police Reserve" means the volunteer police reserve of the city.

Willcox Department of Public Safety: "Willcox Department of Public Safety" means and includes the police department of the city of Willcox.

(1979 Code, Ord. NS-64 §2, prior code § 2.32.020 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-3: Qualification; Appointment:

The members of the reserve shall consist of United States citizens who are residents of the state of Arizona, twenty-one (21) years of age or over and meet minimum standards as established by the Arizona peace officer standards training board, pursuant to Arizona Revised Statutes section 41-1823. Classification of reserve status shall be consistent with Arizona peace officer standards training board approved certification. Minimum standards for police officers shall not apply to persons applying for dispatcher position. Persons applying for positions who meet minimum requirements shall be appointed by the city manager upon the recommendation of the chief of police.

(1979 Code, Ord. NS-64 §3, prior code § 2.32.030 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-4: Limitation on Membership:

The membership of the reserve shall not exceed two (2) persons for each regular member of the police department.

(1979 Code, Ord. NS-64 §4, prior code § 2.32.040 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-5: Oath of Office:

Each member of the reserve shall, before entering upon her/his duties, be required to take an appropriate oath.

(1979 Code, Ord. NS-64 §6, prior code § 2.32.060 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-6: Command and Control; Dismissal:

The reserves shall be under the command and subject to the direction and control of the chief of police or his designated representative. Dismissal from the reserve force shall be by the chief of police subject to confirmation of the City Manager.

(1979 Code, Ord. NS-64 §5, prior code § 2.32.050 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-7: Powers and Duties:

A. The members of the reserve shall render auxiliary support, without compensation, to the Willcox Department of Public Safety under such rules and regulations as the chief of police may prescribe.

B. Members of the reserve may be called to duty by the chief of police during the time of or in anticipation of any emergency situation or other occasion which, in the opinion of the chief of police, will reasonably require the aid of personnel other than that of the regular police department to maintain peace and good order in the city. Members of the reserve may also be called to duty at other times for training with the regular police department.

C. Each member shall have the powers and authority of a peace officer during such time, and only such time, as she/he is on duty in response to a call by the chief of police, subject however, to such limitations as may be prescribed under rules and regulations adopted by the chief of police.

(1979 Code, Ord. NS-64 §6, prior code § 2.32.060 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-8: Rule Making Authority:

The chief of police, with the advice, consent and approval of the city manager, shall adopt rules and regulations expressly defining the powers and duties of the reserve, but such powers and duties shall not be in excess of those accorded to the police nor inconsistent therewith.

(1979 Code, Ord. NS-64 §7, prior code § 2.32.070 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-9: Uniform and Insignia:

A. The chief of police shall issue to each member of the reserve a badge of authority to be used by the member while on duty. The badge shall be of such design as the chief of police may determine, but shall bear the word "Reserve" across the face thereof.

B. The uniform shall be the same as a regular police officer of the city and be furnished at the individual's expense.

(1979 Code, Ord. NS-64 §8, prior code § 2.32.080 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

6-2-10: Insurance Benefits:

While on duty, members of the reserve shall be deemed employees of the city for the purpose of securing to such members liability insurance and the benefits of the workers' compensation laws of the state in accordance with Arizona Revised Statutes section 23-901.06.

(1979 Code, Ord. NS-64 §9, prior code § 2.32.090 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 3; 11-15-2010, eff. 12-16-2010)

TITLE 6

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT

SECTION:

- 6-3--1: Volunteer Fire Department Created
- 6-3--2: Rules And Regulations
- 6-3--3: Compensation
- 6-3--4: Powers And Duties Of Director
- 6-3--5: Appointment, Qualifications And Supervision Of Firefighters
- 6-3--6: Entry And Police Powers
- 6-3--7: Equipment
- 6-3--8: Vehicle Right Of Way; Duties Of Other Drivers
- 6-3--9: Alarm Arrangements; False Alarms Prohibited
- 6-3-10: Agreements For Protection Outside City
- 6-3-11: Fire Duties Of Police Officers
- 6-3-12: Obedience To Director Required
- 6-3-13: Badge
- 6-3-14: Insurance benefits

6-3-1: Volunteer Fire Department Created:

There is created a volunteer fire department of the city which shall be under the supervision of the Willcox director of public safety (WDPS), two assistant fire chiefs, and as many other officers and firefighters as may be deemed necessary.

(1994 Code, Ord. NS175, prior code § 2.28.010 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-3-2: Rules and Regulations:

The fire department shall be operated and managed in accordance with such departmental rules and public safety regulations as may from time to time be approved by the Council.

(1994 Code, Ord. NS175, prior code § 2.28.020 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-3: Compensation:

Volunteer firefighters shall be compensated in an amount set by resolution of the council.

(1994 Code, Ord. NS175, prior code § 2.28.030 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-4: Powers and Duties of Director:

The director shall ensure that firefighters are technically qualified by training and experience and shall have the ability to command people and hold their respect and confidence. It shall be the duty of the director to:

A. Be accountable to the City Manager for the personnel, morale and general efficiency of the volunteer fire department.

B. Direct the operations of the volunteer fire department subject to the rules and regulations thereof.

C. Be present at all fires, if possible, and receive assistance from the assistant fire chiefs and other officers in planning and directing the extinguishment thereof. During the progress of a fire, the authority of the director or his designee shall be absolute in all matters directly concerning the extinguishment of the fire and the disposition of property endangered by it.

D. Conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city, water supplies and all other matters generally considered essential to good firefighting practice and safety of life and property from fire.

E. Assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.

F. Direct the inspection of buildings and premises and serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found. For the purpose of conducting such inspection, the director, or his designee, is empowered to enter any and all buildings and premises within the city at any reasonable hour. Any person served with such written notice shall comply and notify the director or his designee of his compliance within a reasonable time.

G. Keep complete records of all fires, inspections, apparatus and equipment, personnel and other information about the work of the department open to inspection and furnish to the City Manager such information upon request.

H. Make a complete annual report, in writing, to the City Manager at such time as may be specified by the council, and such report shall include the information specified in subsection G of this section, together with comparative data for previous years and recommendations for improving the effectiveness of the department.

I. Enforce or cause to be enforced all ordinances, laws and regulations of the city and state, insofar as they pertain to fire and safety.

J. Demote, dismiss or expel any officer or member of the volunteer fire department for neglect or refusal to perform departmental duties.

(1994 Code, Ord. NS175, prior code § 2.28.040 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-5: Appointment, Qualifications and Supervision of Firefighters:

Firefighters shall be appointed at such time and in such manner as the director may deem necessary subject to City Manager's approval. Such appointees shall have a telephone in their homes and/or a cell phone. Firefighters shall be subject to supervision by the director, the assistant fire chiefs and other officers.

(1994 Code, Ord. NS175, prior code § 2.28.050 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-6: Entry and Police Powers:

A. Right Of Entry: It is lawful for any firefighter, acting under the direction of the director or another officer in command, to enter upon the premises adjacent to or in the vicinity of any building or other property that is on fire for the purpose of extinguishing such fire, and no person shall hinder, resist or obstruct any firefighter in the discharge of his duty as provided in this subsection.

B. Police Powers: All regularly appointed members of the department are given the necessary special police powers for the purpose of enforcing the provisions of this chapter.

(1994 Code, Ord. NS175, prior code §§ 2.28.060; 2.28.130 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-7: Equipment:

A. Required Equipment: The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

B. Purchase Of Equipment: Recommendations concerning apparatus and equipment needed shall be made by the director, approved by the City Manager and after approval by the council, such apparatus and equipment shall be purchased in accordance with the procurement policy and in such manner as may be approved by the council.

C. Storage: All equipment of the department shall be safely and conveniently housed in such place or places as may be designated by the director.

D. Prohibited Use:

1. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully take away or conceal any article used in any way by the department.

2. No person shall enter any place where the fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having special permission of, an officer or authorized member of the department.

3. No fire apparatus or equipment shall be hired out or permitted to leave the fire station except in response to a call for aid at a fire within the corporate limits of the city or in response to a call for aid at a fire in an area authorized for fire protection service or mutual aid under the provisions of section 6-3-10 of this chapter unless otherwise directed by the director or his designee.

(1994 Code, Ord. NS175, prior code § 2.28.070 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-8: Vehicle Right of Way; Duties of Other Drivers:

A. All motor equipment of the department shall have right of way over all other traffic when responding to an alarm.

B. No unauthorized vehicle shall follow within five hundred feet (500') of any apparatus belonging to the department, nor park any

vehicle or otherwise cause any obstruction to be placed within twenty feet (20') of the driveway entrance to a fire station and on the side of a street opposite the entrance to any fire station, within seventy five feet (75') of the entrance when properly posted, or within fifteen feet (15') of any fire hydrant.

C. No person shall drive any vehicle over fire hose except upon specific orders from the director or other officer in charge where the hose is used.

(1994 Code, Ord. NS175, prior code § 2.28.090 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-9: Alarm Arrangements; False Alarms Prohibited:

Suitable arrangements or equipment shall be provided for citizens to turn in an alarm and for notifying all members of the department so that they may promptly respond. It is unlawful for any person to knowingly turn in or cause to be turned in a false alarm.

(1994 Code, Ord. NS175, prior code § 2.28.100 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1, 2 and 4; 11-15-2010, eff. 12-16-2010)

6-3-10: Agreements for Fire Protection Outside City:

The council may enter into agreements or contracts to furnish fire protection outside the city or enter into mutual aid agreements, and the fire department is authorized to render firefighting service pursuant to the terms of such agreements or contracts. The council shall prescribe by resolution the methods and terms under which the director may enter into agreements with individual property owners for fire protection.

(1994 Code, Ord. NS175, prior code § 2.28.080 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-11: Fire Duties of Police Officers:

It is made the special duty of the director and/or other peace officers who may be on duty and available for fire duty to respond to all fire alarms and assist the department in the protection of life and property, in regulating traffic and maintaining order, and in enforcing the observance of this chapter.

(1994 Code, Ord. NS175, prior code § 2.28.140 as amended by 2010

Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-12: Obedience to Director Required:

It is unlawful for any firefighter or citizen to refuse to obey an order issued by the director or his designee pursuant to his authority.

(1994 Code, Ord. NS175, prior code § 2.28.110 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-13: Badge:

Each member of the department shall be issued a badge designating his rank.

(1994 Code, Ord. NS175, prior code § 2.28.120 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-3-14: Insurance Benefits:

While on duty, members of the volunteer fire department shall be deemed employees of the city for the purpose of securing to such members liability insurance and the benefits of the workers' compensation laws of the state in accordance with Arizona Revised Statutes section 23-901.06.

(1994 Code, Ord. NS175, prior code § 2.28.020 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

TITLE 6

CHAPTER 4

POLICE ALARM SYSTEMS

SECTION:

- 6-4-1: Purpose**
- 6-4-2: Scope And Applicability**
- 6-4-3: Definitions**
- 6-4-4: Alarm Businesses**
- 6-4-5: Alarm Subscribers And Owners**
- 6-4-6: False Alarm Assessments And Permit Revocation**
- 6-4-7: Appeals**
- 6-4-8: Intentional False Alarms**
- 6-4-9: Confidentiality Of Information**

6-4-1: Purpose:

This chapter is intended to regulate the activities and responsibilities of those persons who purchase, own, lease or rent a place of business within the city which have installed, leased, or rented service on monitored alarm systems. It is further intended to encourage the improvement in reliability of these systems, devices and services to reduce false alarms and to ensure that the police department will not be unduly diverted from responding to actual criminal activity as a result of responding to false alarms.

(1999 Code, Ord. NS219, §1, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-2: Scope and Applicability:

A. This chapter specifically encompasses burglar alarms, robbery alarms, panic alarms, fire alarms and medical assistance alarms.

B. This chapter shall apply to all governmental agencies and facilities, including, but not limited to, offices and agencies of the city to the extent necessary to recover costs incurred.

(1999 Code, Ord. NS219, §§I; VII, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-3: Definitions:

As used in this title, the following words and terms shall have the meanings ascribed to them in this section. All words and phrases defined in this section shall also include their usual and natural meanings, as well as those herein specifically given:

Act of Nature: "Act of Nature" means an unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight.

Alarm Business: "Alarm Business" means any person, partnership, or corporation who owns or conducts the business of installing, leasing, renting, maintaining, servicing or monitoring of alarm systems devices or services.

Alarm Coordinator: "Alarm Coordinator" means Public Safety Department individual designated to coordinate police/fire relations with the licensed alarm users and to enforce the provisions of this chapter.

Alarm or Alarm System: "Alarm or Alarm System" means any medical or electrical device which is used to detect unauthorized entry into buildings or onto premises or to warn or alert others of an emergency or fire or of the commission of an unlawful act.

Alarm User: "Alarm User" means any person, firm, partnership or corporation which leases, rents or purchases any monitored alarm system, device or service from an alarm business.

Alarms: "Alarms" means the following alarm definition list was prepared by members of the public safety committee of the Arizona Burglar and Fire Alarm Association (ABFA) to provide all users with general guidelines for the various industry terms to facilitate improved communications and expedite response.

Burglary/Intrusion: A signal received from a monitored alarm that indicates a forced or unauthorized entry. Can be used for either commercial or residential and can be audible or silent.

Fire: A signal received from a monitored alarm that indicates fire, smoke, heat, or water flow through a sprinkler system. These detectors may be connected directly to the alarm system which will automatically activate the alarm, or the alarm can be manually activated. Is used for commercial and residential and is primarily an audible signal.

Medical: A signal received from a monitored alarm that is

manually activated and indicates a medical emergency. This alarm is normally a residential alarm, and the signal is primarily audible.

Panic/Holdup: A signal received from a monitored alarm to indicate a manual activation designed for the detection of a robbery, holdup or the commission of an unlawful act at the alarm location, false activation of which can only be construed as user error.

Audible Alarm: "Audible Alarm" means a device which, when activated, generates an audible sound on the premises.

Automatic Dialer: "Automatic Dialer" means a device which is interconnected to a telephone line, cellular telephone service or radio link and is programmed to select a predetermined telephone number and transmit an emergency message indicating a need for emergency response either by voice methods or code signals or by maintaining an open line with emergency services. CANNOT BE 911.

False Alarm: "False Alarm" means any activation of an alarm eliciting a response by police personnel when a situation requiring a response does not in fact exist. The term does not include activation for testing purposes when the police department has been given advance notice of such testing. The term also does not include activation caused by police department personnel.

Monitored Alarm: "Monitored Alarm" means an alarm system that transmits signals to an alarm business or monitoring agency for the purpose of alerting public safety personnel.

Monitoring Agency: "Monitoring Agency" means any person or organization, including, but not limited to, alarm businesses or answering services that are legally or contractually responsible for monitoring one or more alarm systems in the jurisdiction.

Non-Monitored Alarm System: "Non-Monitored Alarm System" means those alarms that are not monitored by a monitoring agency and depend on local audible devices to summon help.

Primary Alarm User: "Primary Alarm User" means the person or persons who contract for the lease, purchase or rental of an alarm system; or who are responsible for the premises where an alarm system is located; or otherwise arrange for the installation or service of an alarm system.

Self-Installer: "Self-Installer" means any property owner, proprietor, partnership, or corporation who may elect to install his own alarm system. A "self-installer" will be liable for all

provisions of this chapter, the same as an alarm business.

(1999 Code, Ord. NS219, §II, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-4: Alarm Businesses:

A. Equipment, Technical And Operation Standards: The following equipment standards, technical standards, and standards of operation shall be followed by the alarm business or any individual installing an alarm system:

1. All alarm systems shall be installed using good workmanship and shall be designed to reduce false alarms.

2. Control panels, motion detectors, smoke detectors, photoelectric beams and glass breakage detectors shall be Underwriters Laboratories (UL) or Factory Mutual (FM) approved or pending approval.

3. Alarm systems shall be designed to alert the user of possible system problems when the user tests or attempts to activate the system.

4. Audible alarm systems shall be designed to emit audible sounds no longer than fifteen (15) minutes from the time the alarm is activated.

5. Non-Monitored alarm systems which depend solely on audible devices located on the outside of a business or residence to summons help are prohibited.

6. No person or business shall use or cause to be used any automatic dialing device that:

a. Automatically selects a public safety or emergency services telephone line (911) of the Willcox police department; or

b. Prevents termination of a call by public safety or emergency service personnel.

7. No alarm business shall place in service or monitor an alarm system that is known to be defective or contains defective components. The alarm business is responsible for inspecting the alarm system and for determining to the best of its ability that the system is operating as designed and will not be a source of additional false alarms caused by system or component failure prior

to placing the system in service or commencing monitoring services.

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B. Responsibilities: The following are responsibilities of any alarm business conducting alarm activities in Willcox:

1. An alarm business that installs an alarm system shall provide the primary alarm user with complete instruction, including specific written operating instructions or a videotape presentation of the same that provides reasonable guidelines to aid the user in correctly using the alarm system installed by the alarm business. Documentation of such training shall be retained by the alarm business as long as the business services, maintains or monitors the alarm system for the primary alarm user.

2. Upon completion of the installation of a new alarm system, the alarm business shall immediately notify the primary alarm user of:

- a. The need for an alarm permit for any system;
- b. The intent of the police department to reduce false alarms and the important aspects of the fine assessment process; and
- c. The existence of this chapter and how to obtain a copy.

3. At the completion of the installation of an alarm system, the alarm business shall inspect and test all equipment and features and take or cause to be taken corrective action necessary to prevent the occurrence of false alarms. The results of such tests and corrective actions shall be documented and maintained by the alarm business as long as services or monitoring is provided to users of the alarm system.

4. Attempt to arrange for either, the alarm subscriber, responsible party or alarm agent to go to the premises of an activated alarm system within fifteen (15) minutes of notification of need, in order to be able to assist the police department personnel in determining the reason for activation and the securing of the premises.

5. Promptly notify the alarm coordinator in the event the alarm business ceases to lease, rent, maintain, service or monitor any alarm system. Said notice shall be sent within thirty (30) days of the date service or responsibility is discontinued.

(1999 Code, Ord. NS219, §III, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-5: Alarm Subscribers and Owners:

A. Permit Required:

1. All alarm subscribers and owners of existing alarm systems shall obtain an alarm user permit from the police department within ten (10) days of the effective date hereof.
2. Alarm subscribers and owners installing new alarm systems shall obtain an alarm user permit within ten (10) days of the activation of any new alarm system.

B. Application For Permit: Application for an alarm permit or renewal must be made by the alarm subscriber or alarm owner at the police department upon forms prepared and approved by the police department and shall contain the following information:

What about a business permit for the installer????

1. Name, address and telephone number of the applicant and the primary user (if different);
2. Location of the alarm system and types of emergencies reported by the system and which features are audible and which are silent;
3. Name of the alarm business installing and/or servicing, inspecting, maintaining and/or monitoring the alarm system;
4. Date of installation if a new alarm system, or date of last inspection if not a new installation;
5. Certification that the primary user and all others authorized regarding control of the system have been properly trained in the use of the system by an alarm business, the subscriber or by the proprietor of the system; and
6. The names of at least two (2) alternative responsible parties who can be notified to assist the police department personnel as set forth above.

C. Fees:

1. Fees are set by resolution of the city council. Fees for initial permit application or renewal shall not be refundable or prorated.
2. If a residential alarm subscriber or owner is over the age of sixty five (65) and is the primary resident of the residence, and if no business is conducted in the residence, a user permit may be obtained from the coordinator without the payment of a fee.

D. Duration Of Permit: Permits issued pursuant to this section shall be for a period of one year and shall be renewable on the anniversary of the permit, subject to the terms and conditions provided in this section.

E. Non-Transferability Of Permit: Permits may not be transferred from person to person or from address to address.

F. Failure To Obtain Permit; Continued Use After Revocation:

1. If an alarm subscriber or owner fails to obtain a permit as provided herein, the alarm coordinator shall notify him that an assessment for each alarm resulting in the dispatch of police department personnel will be charged until such time as the permit is obtained. All such service fees must be paid in full before a permit will be issued.

2. If an alarm subscriber or owner operates an alarm system in Willcox, resulting in the response of police department personnel after having a permit revoked as provided herein, an assessment for each alarm response will be charged.

G. Duties Of Subscribers And Owners: The following are the duties and responsibilities of all alarm subscribers, alarm owners or primary users operating alarm systems in Willcox:

1. To inactivate or cause to be inactivated an audible alarm within fifteen (15) minutes, in compliance with subsection 6-4-4A4 of this chapter;

2. To train or cause to be trained any and all persons who might have reason and authority to control the alarm system in the proper operation of the system;

3. To inform persons who are authorized to place the alarm system into operation of the provisions of this chapter, emphasizing the importance of avoiding false alarms;

4. To notify the alarm coordinator when the alarm is deactivated, the alarm business is changed or the applicant has moved from the location of the alarm system and is no longer responsible for its operation;

5. To maintain or to cause to be maintained the alarm system in good working order and to take reasonable measures to prevent the occurrence of false alarms; and

6. To inspect or cause to be inspected the alarm system at least once each twelve (12) months as a means to prevent activations resulting in false alarms.

(1999 Code, Ord. NS219, §IV, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-6: FALSE ALARM ASSESSMENTS AND PERMIT REVOCATION:

A. New Alarm Systems Exempt: The following alarm systems shall not be subject to the provisions of this section:

1. Newly leased, rented, purchased and/or monitored alarm systems shall not be subject to the provisions of this section relating to the counting and assessment of false alarms for a "grace period" of thirty (30) days from the date the alarm system becomes operational.

2. The grace period shall apply only if the alarm subscriber or proprietor notifies the coordinator in writing within ten (10) days of the completion of installation or reinstallation. The written notice shall specify the date the system was installed or reinstalled. Notification should be mailed to the attention of the alarm coordinator at:

Willcox Police Department
320 W. Rex Allen Drive
Willcox, AZ 85643

3. For reinstalled alarm systems, the notice shall also describe the nature and extent of the reinstallation and how the reinstallation relates to any previous false alarm history.

B. Assessment Provisions: Any alarm system which has four (4) or more false alarms within a consecutive three hundred sixty five (365) day period shall be subject to assessment as follows:

1. The alarm coordinator shall notify the alarm subscriber or owner by regular mail when police department records indicate that an alarm system has four (4) false alarms and direct that a report be submitted to the coordinator within ten (10) days containing:

a. A description of the action taken or to be taken to discover and eliminate the cause of the false alarms.

b. Specific defenses, if any, why the alleged false alarms should not be considered false alarms. Evidence that a false alarm was

caused by acts of nature or action of the telephone company shall constitute affirmative defenses to an assessment for the particular false alarm.

2. If the report referenced in subsection B1 of this section is not received by the alarm coordinator, any notified party shall be deemed to have waived his rights to any further review or hearing as provided herein, and the alarm subscriber or proprietor operating the offending alarm system will be assessed pursuant to this section.

3. The alarm coordinator shall review the report of specific defenses. If it is determined that there is a valid defense, a notice shall be sent to the alarm subscriber or proprietor that no assessment will be made at that time. The notice shall specifically set forth the findings and conclusions of the coordinator with respect to the review of the report submitted.

4. If the alarm coordinator determines that the defense to the initial determination of false alarms has not been accepted, a notice shall be sent by certified mail to the alarm subscriber or owner that he will be assessed a false alarm assessment pursuant to this section. The notice of decision shall contain the specific findings and conclusions of the alarm coordinator with respect to the review report submitted.

5. Assessments will be imposed pursuant to the following:

- a. All assessments shall be set by resolution of the city council.
- b. All such assessment monies shall be deposited into the city general fund.
- c. The alarm coordinator may revoke an alarm user's permit at any time after the occurrence of the fifteenth false alarm within the permit year.

6. If the alarm subscriber or owner fails to pay the assessment within thirty (30) days after receipt of written notification, the coordinator may summarily revoke the alarm user's permit.

C. Revocation Of Permit:

1. An alarm user whose permit has been revoked shall be furnished written notification, certified mail, of such revocation and shall, within three (3) days after the receipt of such written notification, discontinue the use of the alarm system, or the alarm coordinator may assess charges against the alarm user as noted in

subsection 6-4-5F2 of this chapter and set by resolution of the city council.

2. In the event the police department finds it necessary to order the revocation of a permit which necessitates discontinuing the use of an alarm or alarm system, the city shall incur no liability by such action.

(1999 Code, Ord. NS219, §V, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-7: APPEALS:

A. Any alarm user dissatisfied with a decision of the alarm coordinator made pursuant to this chapter may, within ten (10) days of receipt of notice of the decision, appeal in writing to a hearing officer designated by the city manager. A copy of the appeal request shall be sent to the alarm coordinator.

B. The request for an appeal shall set forth the specific objections to the decision of the alarm coordinator which form the basis of the appeal. Specific objections may include:

1. Acts of nature.
2. Action of the telephone company.
3. Actual emergency situations.
4. Police department personnel did not arrive at the premises.

C. The hearing officer shall review the subscriber's objections to coordinator's notice of decision within ten (10) working days of receipt of the appeal request. All assessments shall be stayed until completion of the review. The decision of the hearing officer shall be based upon the evidence presented and shall pertain to that hearing only.

D. The hearing officer shall make one of the following rulings:

1. Affirm the decision of the alarm coordinator, in which case, any assessment or permit revocation imposed pursuant to this chapter shall be sustained; or

2. Reverse the decision of the alarm coordinator, in whole or in part, in which case, no assessment shall be imposed.

(1999 Code, Ord. NS219, §VI, prior code § 9.08.160 as amended by

2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-8: INTENTIONAL FALSE ALARMS:

It shall be unlawful for any person to intentionally activate any alarm or alarm system or cause signals to be transmitted to a monitoring agency indicating the activation of an alarm system for any reason other than to warn of an actual emergency. This section shall not apply to the testing of alarms or alarm systems by the installing or monitoring alarm business or by the alarm user; provided, however, that the police department has been appropriately notified of the test.

(1999 Code, Ord. NS219, 6-22-1999, SVII, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

6-4-9: CONFIDENTIALITY OF INFORMATION:

The information furnished by an alarm business or by an alarm user to the alarm coordinator pursuant to this chapter shall be confidential and shall not be subject to public inspection.

(1999 Code, Ord. NS219, SVII, prior code § 9.08.160 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

Cross reference - 2010 Code, Ord. NS 301, Chapters 1 and 2; 11-15-2010, eff. 12-16-2010)

TITLE 6

CHAPTER 5

ANIMAL CONTROL

SECTION:

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- 6-5--2: Definitions
- 6-5--3: Enforcement Agent
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- 6-5--5: Kennels
- 6-5--6: At Large Animals
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6-5-1: Purpose:

This chapter serves to set forth the regulations for animal control and enforcement. The Willcox Department of Public Safety, through the animal control agents, shall be authorized and empowered to enforce the regulations enumerated in this chapter.
2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-2: Definitions:

As used in this title, the following words and terms shall have the meanings ascribed to them in this section. All words and phrases defined in this section shall also include their usual and natural meanings, as well as those herein specifically given.

Animal: "Animal" means any animal of any species that is susceptible to rabies, except human beings.

At Large: "At Large" means any animal not confined within a building, shelter, walled or fenced area or under the control of a

person, either by leash, cord, chain or other physical restraint, whether on or off the premises of the owner or person acting for the owner; in a manner such as to keep the dog exclusively on the premises where secured.

Attack: "Attack" means a violent or aggressive physical contact or violent or aggressive behavior that confines the movement of a person or domestic animal. An attack by an animal may include biting or an attempt to bite.

Department: "Department" means the Arizona Department of Health Services.

Collar: "Collar" means a band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.

Dog: "Dog" means a member of the *Canis familiaris* family.

Enforcement Agent: "Enforcement Agent" means that person or persons designated by the city that is/are responsible for the enforcement of this chapter and any regulations promulgated hereunder.

Impound: "Impound" means the act of taking or receiving into custody, by the enforcement agent, any dog or animal for the purpose of confinement in an authorized pound in accordance with the provisions of this chapter.

Kennel: "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors, or maintains from five (5) to a maximum of ten (10) dogs over the age of three (3) months under controlled conditions.

License: "License" means a tag to be attached to a collar or harness which shall be worn by a dog over the age of three (3) months at all times.

Livestock: "Livestock" means neat animals, horses, sheep, goats, swine, mules, and donkeys.

Owner: "Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by said person or legal entity.

Pound: "Pound" means any establishment authorized for the confinement, maintenance, safekeeping, and control of dogs and other animals that come into custody of the enforcement agent in the performance of official duties.

Rabies Quarantine Area: "Rabies Quarantine Area" means any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to this area.

Rabies Vaccination Certificate: "Rabies Vaccination Certificate" means a method of recording and duplicating rabies information that is in compliance with the city enforcement agent's licensing system and/or city enforcement agent's prescribed forms.

Stray Dog: "Stray Dog" means any dog three (3) months of age or older running at large that is not wearing a valid license tag.

Vaccination: "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian or in authorized pounds by employees properly trained by a veterinarian.

Veterinarian: "Veterinarian", unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

Veterinary Hospital: "Veterinary Hospital" means any establishment operated by a veterinarian licensed to practice in this state that provides clinical facilities and houses animals or birds for dental, medical, or surgical treatment. A "veterinary hospital" may have adjacent to it or in conjunction with it or as an integral part of it pens, stalls, cages, or kennels for quarantine, observation, or boarding.

Vicious Animal: "Vicious Animal" Any animal of the order carnivora, that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings without provocation, or that has been so declared after a hearing before a justice of the peace/city magistrate.

(1999 Code, Ord. NS218, prior code § 6.04.010 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Definitions, A.R.S. § 11-1001

State law reference - Dogs; liability, A.R.S. § 11-1020

6-5-3: Enforcement Agent:

A. Powers and Duties: The director of public safety or his designated enforcement agent(s) shall:

1. Enforce the provisions of this chapter and the regulations promulgated hereunder.

2. Be responsible for declaring a rabies quarantine area

within an area of jurisdiction. When a quarantine area has been declared, the enforcement agent shall meet with the state veterinarian and representative from the department of health services and the game and fish department to implement an emergency program for the control of rabies within an area. Any regulations restricting or involving movements of livestock within an area shall be subject to approval by the state veterinarian.

B. Interference with Prohibited: It is unlawful for any person to interfere with the enforcement agent in the performance of his/her duties.

(1999 Code, Ord. NS218, prior code § 6.04.020 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-4: Dog Licensing and Vaccination:

A. Anti-rabies Vaccination Required:

1. Before a license is issued for any dog, the owner or a veterinarian must present a paper or electronic copy or facsimile of the vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, manufacturer and serial number of the vaccine used and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the enforcement agent within two weeks of the date the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with Title 11, ARS, the provisions of this chapter and the regulations promulgated hereunder.

2. A dog vaccinated in any other state prior to entry into Arizona may be licensed in Arizona provided that, at the time of licensing, the owner of such dog presents a vaccination certificate, signed by a veterinarian licensed to practice in that state or a veterinarian employed by the governmental agency in that state, stating the owner's name and address and giving the dog's description, date of vaccination and type, manufacturer and the serial number of the vaccine used. The vaccination must be in conformity with the provisions of Title 11, ARS, this chapter and the regulations promulgated hereunder.

3. The enforcement agent shall make provisions for vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian.

(1999 Code, Ord. NS218, prior code §§ 6.04.030 and 6.04.050 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Anti-rabies vaccination, A.R.S. § 11-1010

B. License Required; Fees:

1. A license fee shall be paid for each dog three (3) months of age or over that is kept, harbored, or maintained within the boundaries of the city for at least thirty (30) consecutive days of the calendar year. The license fee for dogs shall be set by city council resolution.

2. An applicant for a license for a dog claimed to be incapable of procreation shall furnish a proof of surgical sterilization certificate, signed by a licensed veterinarian, as proof that the dog has been surgically altered to be permanently incapable of procreation. License fees shall be paid within thirty (30) days of obtaining and maintaining a dog within the boundaries of the city.

3. A penalty shall be added to the license fee in the event that application is made subsequent to the date on which the dog is required to be licensed under the provisions of this chapter. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession less than thirty (30) consecutive days.

C. Tags: Each dog licensed under the terms of this chapter shall receive at the time of the licensing such a tag on which shall be inscribed the name of the city and the number of the license and the year in which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times, except as otherwise provided in this chapter. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner. The fee of the duplicate tag shall be established by resolution.

D. Violations: **The following are violations of this chapter. Violators will be guilty of a petty offense or class 2 Misdemeanor as provided herein or by statute.**

1. Any person who fails, within fifteen (15) days after written notification from the enforcement agent, to obtain a license for a dog required to be licensed.

2. Any person who counterfeits or attempts to counterfeit an official dog tag.

3. Any person who removes a dog tag from any dog for the purpose of willful and malicious mischief.

4. Any person who places a dog tag upon a dog, unless the tag

was issued for that particular dog.

(1999 Code, Ord. NS218, prior code § 6.04.030 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Violation; classification, A.R.S. § 11-1019

6-5-5: Kennels:

A. Permit And Proper Zoning Required: A person operating a kennel within the city limits shall obtain a permit issued by the city except if each individual dog is licensed. The kennel must be located at a properly zoned location.

B. Permit Fee: An annual fee for the kennel permit shall be set by council resolution.

C. Licensing Requirements: A dog remaining within the kennel is not required to be licensed individually. A dog leaving the controlled kennel conditions shall be licensed, except if the dog is only being transported to another kennel which has a permit issued under this section.

D. Denial: The City shall deny a kennel permit to any person who has been convicted of a violation of A.R.S. §§ 13-2910 or 13-2910.01 or any other state, county or municipal animal welfare law, except violations of license and leash laws.

D. Violations:

1. A person who fails to obtain a kennel permit under this section is subject to a penalty of twenty-five dollars or as set forth by council resolution, in addition to the annual fee.

2. A person who knowingly fails, within thirty (30) days after written notification from the enforcement agent, to obtain a kennel permit is guilty of a class 2 Misdemeanor.

1999 Code, Ord. NS218, prior code § 6.04.040 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Kennel; denial; violation; classification, A.R.S. § 11-1009

6-5-6: AT LARGE ANIMALS:

A. Dogs:

1. No dog shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property or secured so that the dog is confined entirely to the owner's property or on a leash not to exceed six feet (6') in length and directly under the owner's

control when not on the owner's property.

2. Any dog over the age of three (3) months running at large shall wear a collar or harness to which is attached a valid license tag. Dogs that are used for the control of livestock, being used or trained for hunting, being exhibited or trained at kennel club events, or engaged in races approved by the Arizona racing commission, and such dogs while being transported to and from such events, need not wear a collar or harness with a valid license attached; provided, that they are properly vaccinated, licensed, and controlled.

B. Violations By Owner Or Custodian: When any dog or animal is at large on the public streets, public parks, or public property, then said dog's owner or custodian or animal's owner or custodian is in violation of this chapter. **License fees shall be paid within thirty (30) days of obtaining and maintaining a dog within the boundaries of the city and shall be renewed every January.**

C. Animals Deemed Not At Large: A dog or animal is not at large:

1. If said dog or animal is restrained by a leash, chain, rope, or cord of not more than six feet (6') in length of sufficient strength to control the actions of said dog or animal or is confined entirely to the owner's property by adequate fence or other method.

2. If said dog is used to control livestock, being used or trained for hunting, or being exhibited or trained at a kennel club event, or engaged in races approved by the Arizona racing commission.

3. If said dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer; provided, that the person training said dog has in his possession a dog leash of not more than six feet (6') in length and of sufficient strength to control said dog; and further, that said dog is actually enrolled in or has graduated from dog obedience training school.

4. If said dog is used as a Police Working Dog during training or actively engaged in official police work.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Dogs at Large; Licenses, A.R.S. § 11-1012

6-5-7: IMPOUNDMENT, REDEMPTION AND DISPOSAL OF ANIMALS:

A. Impoundment Official:

1. Any dog(s) or animal(s) at large may be apprehended and impounded by an enforcement agent.

2. Said agent shall have the right to enter upon private property when it becomes necessary to do so in order to apprehend any dog or animal that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such dog(s) or animal(s) and not include entry into a domicile or enclosure which confines a dog unless it is at the invitation of the occupant.

3. If, in the judgment of the enforcement agent, a dog at large or an animal at large is dangerous and **furious**, an immediate threat to human safety and cannot be safely impounded, the dog or animal may be destroyed by the enforcement agent for transmission to an appropriate diagnostic laboratory.

B. Impoundment Of Animals: All stray animals may be impounded.

C. Report Required: The enforcement agent shall, within twenty four (24) hours of impounding an animal, make a written report stating the kind of animal, describing it by species, breed, color, and brand and the time it was impounded.

D. Notice To Owner: If the identity and address of the owner of an impounded animal is known to the department of public safety, the enforcement agent shall notify the owner of such animal personally or by letter within twenty four (24) hours after such animal has been impounded. The notice shall contain a description of the animal and shall state that unless reclaimed, such animal shall be eligible for adoption or destruction.

E. Period Of Impoundment; Reclamation, Adoption Or Disposal:

1. Each stray animal impounded shall be kept and maintained at the pound for a minimum of seventy two (72) hours unless claimed by the owner in accordance with subsection E2 of this section. Any person may adopt such animal upon expiration of the impoundment period, provided the person pays all pound fees which include spaying and neutering fees, rabies vaccination and city licensing as provided by this chapter. If the animal is not claimed within the impoundment period, the enforcement agent may place the animal for adoption or may dispose of the animal in a humane manner in accordance with subsection E3 of this section. The enforcement agent may destroy impounded sick or injured animals whenever such destruction is necessary to prevent such animal from suffering or to prevent the spread of disease.

2. Any impounded licensed animal may be reclaimed by its owner or such owner's agent; provided, that the person claiming the animal furnishes proof of right to do so and pays all pound fees. If the animal is not reclaimed within the impoundment period, the enforcement agent may place the animal for adoption or dispose of the animal in a humane manner.

3. A dog or animal destroyed while impounded shall be destroyed by the use of one of the following:

- a. Sodium pentobarbital or a derivative of sodium pentobarbital.
- b. Nitrogen gas.
- c. T-61 euthanasia solution or its generic equivalent.

4. If an animal is destroyed by means specified in subsection E3a of E3c of this section, it shall be done by a licensed veterinarian or in accordance with procedures established by the state veterinarian pursuant to Arizona Revised Statutes section 3-1213.

F. Care Of Animals: All animals impounded shall be given proper care and maintenance in a safe, convenient and comfortable place within or conveniently near the city limits, and such animals shall be fed at least once every twenty four (24) hours and treated in a humane manner during the time they are impounded.

G. Removing Impounded Animals Prohibited: No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the enforcement agent except in accordance with the provisions of this chapter and the regulations promulgated hereunder.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Impoundment; reclaiming, A.R.S. § 11-1013

6-5-8: RABIES CONTROL; DESTRUCTION OF ANIMALS:

A. Bites From Animals:

1. Dogs:

a. An unlicensed or unvaccinated dog that bites any person shall be confined and quarantined in an authorized pound or, upon request of and at the expense of the owner, at a veterinary hospital, for a period of not less than fourteen (14) days.

b. A dog properly licensed and vaccinated pursuant to this chapter

that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent.

c. Any dog subject to licensing under this chapter found without a tag shall be deemed un-owned.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Handling; classification, A.R.S. § 11-1014(G)

2. Animals Other Than Dogs: An animal, other than a dog, that bites a person shall be confined and quarantined in an authorized pound or, upon the request of and at the expense of the owner, at a veterinary hospital, for a period of not less than fourteen (14) days; provided, that livestock shall be confined and quarantined for the fourteen (14) day period in a manner regulated by the Arizona department of agriculture. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained for the required period of time with the consent of and in a manner prescribed by the enforcement agent.

(Ord. NS218, 4-27-1999, eff. 7-1-1999; amd. 2007 Code as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Handling; destruction, A.R.S. § 11-1014

3. Wild Animals: With the exception of a wild rodent or rabbit, any wild animal that bites any person or directly exposes any person to its saliva may be killed and submitted to the county/city enforcement agent for transmission to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic, as determine by the department of health services.

B. Report Required: When an animal bites any person, the incident shall be reported to the enforcement agent immediately by any person having direct knowledge. **A person who knowingly fails to report the incident is guilty of a petty offense.**

C. Destruction Of Animals:

1. The enforcement agent may destroy any animal confined and quarantined pursuant to this chapter prior to the termination of the minimum confinement period for laboratory examination for rabies if:

a. The animal shows clear clinical signs of rabies.

b. The owner of such animal consents to its destruction.

2. The enforcement agent shall destroy a vicious animal, except a dog found to be vicious under subsection 6-5-10A of this chapter, upon an order of the justice of the peace/city magistrate. The justice of the peace/city magistrate may issue such an order after notice to the owner, if any, and the person who was bitten, and a hearing. The justice of the peace/magistrate may impose additional procedures to protect all parties in the interest of justice, and any decision by the justice of the peace/magistrate may be appealed to the superior court.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Handling; destruction, A.R.S. § 11-1014

6-5-9: UNLAWFUL KEEPING OF DOGS:

It is unlawful for a person to keep, harbor, or maintain more than three (3) dogs within the city except as provided by the terms of this chapter. (Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Violation; classification, A.R.S. § 11-1017

6-5-10: VICIOUS DOGS:

A. Determination Of Vicious Dog:

1. In the event that the enforcement agent or law enforcement officer has probable cause to believe that a dog is vicious and may pose a threat of serious harm to human beings or other domestic animals, the enforcement agent or law enforcement officer may require the seizing and impoundment of the dog pending a hearing. The hearing will be presided over by a city magistrate. Dog owners are guaranteed due process hearings in the initial determination and in the completion of any appeal process with regard to said determination that their animal is a "vicious dog" as defined by this chapter.

2. Written notice, in the form of a citation, informing the owner of the charged viciousness and of the hearing shall be served by the director of public safety or his designee pursuant to the rules of civil procedure. A hearing date shall be held not later than ten (10) calendar days from the date notice was served to the owner.

3. The due process hearing will be conducted by a city magistrate. The city magistrate will make findings of fact and conclusions of law. The city magistrate shall provide the owner with a written

copy of the findings.

4. The hearing shall be open to the public. At the hearing, both oral and documentary evidence may be taken from any interested person and considered in determining whether the dog is vicious. Any owner who fails to appear after notice is given without obtaining a continuance from the city magistrate may be deemed to have waived any right to introduce evidence or object to any order made by the city magistrate. The city magistrate's decision shall be based on the preponderance of evidence.

5. If the animal is deemed to be a vicious dog, the city magistrate will advise the owner of the decision at the hearing or send a registered letter advising the owner of such within ten (10) days.

B. Control Of Vicious Dog: Once a dog is declared vicious, the following steps will be required to continue ownership of such an animal:

1. Immediate Steps: Immediate steps that must be complete within one calendar day upon completion of notification of a determination of viciousness:

a. Leash And Muzzle: No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet (6') in length. No person shall permit a vicious dog to be kept on a chain, rope, or other type of leash outside confinement unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all vicious dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent a dog from biting persons or other animals. Kennels or pens must meet the requirements of subsection B3a of this section.

b. Confinement Indoors: No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on the dog's own volition.

2. Reporting Requirements: The following types of information must be reported by the owner of the dog to the director of public safety or his designee within ten (10) calendar days of occurrence:

a. Death of dog. A written notice from a veterinarian confirming the death of the dog must be provided to the director of public safety or his designee.

b. Yearly renewal of liability insurance.

c. The new address of a registered vicious dog owner should the owner move within the city limits.

d. The new address of a registered vicious dog that has been moved permanently outside the city limits.

3. Time Schedule Steps: A time schedule for completion of the following steps is to be set by the city magistrate, but in no case will it be longer than ten (10) calendar days from the date of the city magistrate's decision:

a. Confinement:

(1) All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides.

2) All structures used to confine vicious dogs must be locked when animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet (2').

(3) The pen or kennel may not share common fencing with the area of the perimeter fence.

(4) All structures erected to house vicious dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted, ventilated, and kept in a clean and sanitary condition and any other condition that provides for humane care.

b. License And Registration: A declared vicious dog shall be licensed annually, as well as permanently registered as a vicious dog with the Willcox department of public safety.

c. Signs: All owners of vicious dogs within the city shall display, in a prominent place on their premises, a sign in three inch (3") letters, easily readable by the public, using the words "Vicious Dog". In addition, a similar sign is required to be posted on the kennel or pen of the vicious dog.

d. Insurance: All owners of vicious dogs must obtain public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property or animals owned by any persons resulting from the vicious dog. All owners must provide

proof of insurance and effective dates to the director or his designee. Cancellation of liability insurance by the dog's owner is allowed only in the event that the dog dies. The owner of a dog must notify the director or his designee within ten (10) days if insurance coverage is cancelled by the insurance carrier and provide proof that substitute insurance coverage has been obtained.

e. Failure To Comply: The purpose of complying with these guidelines for a dog declared vicious is to prevent attacks, injuries, or deaths by mandating the use of control methods. Owners have the opportunity to keep their dogs if this section is complied with.

C. Responsibility Of Owner; Violations:

1. An owner whose dog fits the definition of a vicious dog in subsection A of this section must comply with this section, register the dog with the director of public safety or his designee, confine and control the dog in accordance with subsection B of this section, and post warning signs.

2. It shall be unlawful for the owner of a vicious dog registered in the city to fail to comply with the requirements and conditions set forth in this section. Any dog determined to be a vicious dog pursuant to subsection A of this section that is found to be in violation of this section shall be subject to immediate seizure and impoundment and may be destroyed upon order of a city magistrate.

D. Destruction Of Vicious Dog: Any dog that has been determined to be a vicious dog pursuant to subsection A of this section that injures or kills a human being or a domestic animal and is in violation of this section shall be destroyed.

E. Penalties:

1. Any owner of a dog that has been declared vicious pursuant to subsection A of this section who violates or permits the violation of any provision of this section shall, upon conviction in the city court, **be fined as set by council resolution**. Said owner may also be charged according to state statutes governing vicious dogs.

2. The court may order the vicious dog impounded and destroyed.

3. The court may order any person who violates this section to pay all expenses related to the impounding of the vicious dog, including shelter, food, handling, and veterinary care, to the city.

4. The court may order any person who violates this section to pay

restitution to a victim or victims whose person, animal or property was injured, killed or damaged.

5. In the event that the owner of the vicious dog is a minor, the parent or guardian in physical control of such minor at the time of the acts giving rise to the determination of viciousness shall be liable: a) for all injuries and property damage sustained by a person or domestic animal caused by an unprovoked attack by said vicious dog; and b) all violations of this section.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-10: NOISY ANIMALS:

It is unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of the day or night. Owners of said animals in violation of this section shall be issued a citation.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-11: EXCREMENT DISPOSAL:

Any person owning, possessing harboring, or having the care, charge, control, or custody of any dog or other animal shall immediately remove and thereafter dispose of any fecal matter deposited by the dog or other animal on public or private property unless the property owner has given prior approval to use said property for this purpose. Owners of animals in violation of this section shall be issued a citation. This section shall not apply to disabled individuals who, due to their disability, are unable to comply.

(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-12: DISEASED ANIMALS:

No person shall keep or retain, or allow or cause to be kept or retained, at any place within the city, any animal having any of the diseases known as glanders, farcy, tuberculosis or any other contagious disease, but shall forthwith report the fact to the enforcement agent, and under the direction of the enforcement agent, shall destroy or cause to be destroyed and removed, or cause to be removed, such animal or animals in a manner designated by the enforcement agent.

(1982 Code § 8.04.210 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-14: SWINE:

A. Swine Prohibited; Exceptions: No swine shall be kept within the city limits, except registered miniature Vietnamese purebred potbelly pigs and other similar registered purebred miniature pigs.

B. Size And Number Restricted: Miniature pigs shall not exceed one hundred (100) pounds. No more than two (2) miniature pigs shall be allowed per household.

C. Fees And Fines: **Licensing fees** and running at large fines will be assessed per ordinances and resolutions utilized at the time by the Willcox Department of Public Safety, Humane Division.
(Ord. NS210, 2-10-1998 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-15: KEEPING BEES PROHIBITED:

It is unlawful to keep or care for bees or maintain any stands or hives of bees within the corporate limits of the city.
(1982 Code § 9.12.010 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-16: LIABILITY FOR DAMAGES:

Injury to any person or damage to any property by an animal shall be the responsibility of the animal's owner or person or persons responsible for the animal when such damage was inflicted.
(Ord. NS218, 4-27-1999, eff. 7-1-1999 as amended by 2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

6-5-17: PENALTIES; VIOLATION; CLASSIFICATION:

Any person, who fails to comply with the requirements of Title 11, Article 6 [Animal Control] or violates any of its provisions or this Chapter, is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this Article or in this Chapter.

(2010 Code, Ord. NS 301, 11-15-2010, eff. 12-16-2010)

State law reference - Violation; Classification, A.R.S. § 11-1019