

**NOTICE OF MEETING OF THE
COUNCIL OF THE TOWN OF KEARNY
AGENDA**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the Members of the Town Council of the Town of Kearny and the general public, that the Town Council will hold a Regular Meeting open to the public on Monday, August 17, 2020 beginning at 6:30 p.m. at the Kearny Town Hall, 912-C Tilbury Drive, Kearny, Arizona.

The agenda for the special meeting is as follows:

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. INVOCATION

Bishop Brian Coleman of The Church of Jesus Christ of Latter-Day Saints

4. ROLL CALL

5. APPROVAL OF MINUTES

Special Meeting July 13, 2020

6. CALL TO THE PUBLIC

This is the time for citizens who would like to address the Town Council on any non-Agenda item. The Mayor and Council will listen to comments, but may take any one of the following actions:

1. Respond to criticism
2. Request that staff investigate and report on the matter
3. Request that the matter be scheduled on a future agenda

7. NEW BUSINESS

A. Consideration and Possible Approval of a Mutual Aid Agreement for Emergency Services Involving Dispatch Centers and Operations Centers.

- a. Council Letter No. 1793
- b. Action_____

B. Consideration and Possible Approval of a Proposal to Modify Scheduling Practices for the Kearny Ambulance Service in Order to Ensure Compliance with the Fair Labor Standards Act and Minimize Overtime.

- a. Council Letter No. 1794
- b. Action_____

C. Consideration and Possible Approval of Resolution No. 20-06 to Declare a Public Record of Kearny Town Code Section 10-3: Public Nuisances, Abandoned and Junk Vehicles, and Adopt Enforcement and Abatement Codes for Violations of the Ordinance

- a. Council Letter No. 1795
- b. Action _____

D. Consideration and Possible Approval of Ordinance No. 20-15 to Amend Kearny Town Code to Add Section 10-3: Public Nuisances, Abandoned and Junk Vehicles, and Adopt Enforcement and Abatement Codes for Violations of the Ordinance.

- a. Council Letter No. 1795
- b. Action _____

8. INFORMATIONAL ITEMS

9. DEPARTMENT REPORTS

10. ADJOURNMENT

Posted by: J. McLaughlin

Date: 8/13/2020 Time: 12:00

The Mayor and Town Council may require an Executive Session pursuant to ARS Section 38-431.03 for consultation with Staff and Counsel for discussion and advice for any of the above matters, personnel matters and real estate.

Individuals with special accessibility needs may contact the ADA Coordinator for the Town of Kearny, at (520) 363-5547 or (800) 367-8938 (TDD Relay). If possible, such requests should be made 72 hours in advance.

Persons who require materials in accessible format or require a foreign language interpreter or materials in a language other than English for this event, call (520) 363-5547 or (800) 367-8938 (TDD Relay) at least five business days in advance.

Las personas que requieran materiales en un formato accesible o que requieran un interprete de un idioma extranjero o materiales en un lenguaje que no sea ingles para este evento, hablen al (520) 363-5547 o al (800) 367-8938 (TDD) al menos cinco dias laborables por adelantado.

**TOWN OF KEARNY
SPECIAL MEETING MINUTES**

**A SPECIAL MEETING OF THE TOWN COUNCIL OF THE TOWN OF KEARNY, ARIZONA,
AT THE KEARNY TOWN HALL LOCATED AT 912-C TILBURY DRIVE ON
MONDAY, JULY 13, 2020, AT 6:30 P.M.**

COUNCILMEMBERS PRESENT

Mayor	Debra Sommers
Vice Mayor	Daniel Radcliffe
Councilmember	Rose Bradford
Councilmember	Nancy Hinojos (absent, excused)
Councilmember	Rudy Flores
Councilmember	Samantha Misita (telephonically)
Councilmember	Sheila Stephenson

TOWN STAFF PRESENT

Town Manager	Jeff McCormick
Town Clerk	Martina Burnam
Accounts Payable Clerk	Amanda Kenney
Town Librarian	Janet Danilow

VISITORS PRESENT

Pat Walker Consulting LLC.	Pat Walker (telephonically)
The Lighthouse Assembly of God	Pastor Wade
Carol Lewis	Jamie Ramsey

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Sommers called the meeting to order at 6:33 p.m. followed by the Pledge of Allegiance.

INVOCATION

Pastor Wade of The Lighthouse Assembly of God

ROLL CALL

Mayor Debra Sommers requested Town Clerk, Martina Burnam, to call the roll. Quorum was present.

APPROVAL OF MINUTES FOR:

Special Meeting June 29, 2020

Motion by Councilmember Bradford, **second** by Vice Mayor Radcliffe to approve the Minutes for Special Meeting June 29, 2020. **Vote** – Mayor Debra Sommers, Vice Mayor Daniel Radcliffe, Councilmembers Samantha Misita, Rudy Flores, Rose Bradford and Sheila Stephenson all voted in favor of the motion.

MOTION PASSED.

NEW BUSINESS

CONSIDERATION AND POSSIBLE APPROVAL PROPERTY TAX LEVY AND ADOPTION OF ORDINANCE 20-214.

Consideration and Possible Approval of an Ordinance to Levy Upon the Assessed Valuation of the Property Within the Town of Kearny Arizona, Subject to Taxation, a Certain Sum Upon Each One Hundred Dollars (\$100.00) of Assessed Valuation, Sufficient to Raise the Amount Estimated to be Required in the Annual Budget, Less the Amount Estimated to be Received From Other Sources of Revenue; Providing Funds for General Municipal Expenses, All for the Fiscal Year Ending the 30th Day of June 2021.

State law requires that the tax levy necessary for funding the adopted budget be established by ordinance and be adopted fourteen (14) days following the public hearing and the final adoption of the budget not later than the third Monday in August (8/17/21). As this tax levy ordinance is an administrative method of setting apart funds necessary for use and maintenance, it does not require an extraordinary (3/4) vote to make it effective immediately. This determination is based on a Supreme Court decision and is fully explained in the Municipal Budget and Financial Manual provided by the Arizona League of Cities and Towns.

Ordinance No. 20-214 which follows prescribed form recommended for adoption and establishes a tax levy of an estimated \$125,976 set forth in the 2020-2021 budget. In these ordinances, the Kearny Town Council directs the County of Pinal to levy the amount allowed by law. The total tax rate will be \$2.1772 per \$100 of assessed valuation. Property value estimates have been received from the County Assessor's office and are available for public inspection in the Town of Kearny office of the Town Clerk.

Public Hearing Opened at 6:37 PM:

Consultant Pat Walker, explained the levy the primary property tax for operations for the Town of Kearny for fiscal year 2020-2021 to \$125,976.00 does not require Truth in Taxation Notice. The current Tax Levy \$2.2929 per \$100.00 of value will be decreased to \$ 2.1772 per \$100.00 of value due to the increase value of property and an increase in tax property bill.

Public Hearing is closed: 6:40 PM.

Motion by Vice Mayor Radcliffe, second by Councilmember Bradford to Approve the Property Tax Levy and Adoption of Ordinance 20-214. Vote – Mayor Debra Sommers, Vice Mayor Daniel Radcliffe, Councilmembers Sheila Stephenson, Rudy Flores, Rose Bradford and Samantha Misita all voted in favor of the motion. MOTION PASSED.

CONSIDERATION AND POSSIBLE APPROVAL OF PURCHASING A CONEX SHIPPING CONTAINER FOR THE LIBRARY, IN AN AMOUNT NOT TO EXCEED \$4,500.00

The Kearny Library was granted \$5,500.00 from an estate and the Library Director wishes to use a portion of the estate award to purchase a Conex shipping container for extra storage.

The Conex container would be placed on the East side of the Library, painted to match the Library's exterior, with interior lighting and ventilation to allow heat to escape.

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Town Librarian Janet Danilow provided a quote for \$3716.60 for a painted CONEX storage unit, which included shipping, setup, and wind turban. A quote is needed for the installation of the wind turban, cameras, door locks and shelving.

Councilmember Misita asked why we need more extra storage. Town Librarian Danilow explained how she is currently storing items in bathrooms at the KLAC due to lack of storage. Councilmembers Stephenson and Bradford were grateful to the resident who left the library funds from his estate.

Motion by Councilmember Stephenson, **second** by Councilmember Bradford to approve the purchase of a CONEX Shipping Container for the Library in an amount not to exceed \$4,500. **Vote** – Mayor Debra Sommers, Vice Mayor Daniel Radcliffe, Councilmembers Rudy Flores, Rose Bradford, Samantha Misita and Sheila Stephenson all voted in favor of the motion. **MOTION PASSED**

CONSIDERATION AND POSSIBLE APPROVAL OF A RESPONSE TO THE GOVERNOR'S JUNE 17, 2020 EXECUTIVE ORDER 2020-40 REGARDING WEARING FACE MASKS.

A continuation of the Council's previous discussion on wearing face masks.

Mayor Sommers facilitated a discussion and exchange of productive ideas about the Governor's Executive Order and the Statement Drafted by the Town to inform residents of Kearny's perspective on whether to require people to wear face masks or not.

Another response, in addition to the Statement published in the Copper Area News, is possible, though not necessary. The Council can give Staff direction on how they wish to proceed.

As of Thursday July 9, there are 19 positive COVID cases in the 85137-zip code, and 13 positive COVID cases in Kearny town limits. 10 of the positive cases have been reported within the previous week. This suggests people are failing to make physical distancing a priority.

Public Response:

No Public Response at this time.

No New Action was taken.

INFORMATIONAL ITEMS

ASARCO Strike ended, possible loss of 3 employees (2 laborers and 1 Part-time Dispatch). Jobs posted on website.

Ferguson Waterworks and Pace Engineering began with a kickoff meeting 7/7/20.

Meter installations began 7/13/20.

Installers complete about 15 per day.

Notice is given to residents 10 days prior of dates and time ranges they will be shutting off their water.

If current water meter is spinning, the workers will come back to that house another time.

Notice was printed in the Copper Basin this week.

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Pace Engineering will be starting their system evaluation of the Water Filtration Plant this week.

REPORTS

- a. Ambulance
- b. Fire Department
- c. Library

Motion by Councilmember Bradford, **second** by Councilmember Stephenson to approve the reports from the Ambulance, Fire Department and Library. **Vote** – Mayor Debra Sommers, Vice Mayor Daniel Radcliffe, Councilmembers Rudy Flores, Rose Bradford, Samantha Misita and Sheila Stephenson all voted in favor of the motion. **MOTION PASSED**

ADJOURNMENT

Motion by Councilmember Bradford **second** by Councilmember Stephenson to adjourn the Special Meeting. **Vote** – Mayor Debra Sommers, Vice Mayor Daniel Radcliffe, Councilmembers Rudy Flores, Rose Bradford, Samantha Misita and Sheila Stephenson all voted in favor of the motion. **MOTION PASSED.**

Meeting was adjourned at 6:58 p.m.

Debra Sommers, Mayor

ATTEST:

Jeff McCormick, Town Manager

Martina Burnam, Town Clerk

**OFFICE OF THE TOWN MANAGER
TOWN OF KEARNY, ARIZONA**

COUNCIL LETTER NO. 1793

AUGUST 17, 2020

**HONORABLE MAYOR AND
MEMBERS OF THE TOWN COUNCIL
TOWN OF KEARNY, ARIZONA**

**SUBJECT: A MUTUAL AID AGREEMENT FOR EMERGENCY SERVICES
INVOLVING DISPATCH CENTERS AND OPERATIONS CENTERS**

As the text of the agreement states, no single community has sufficient resources to respond to all emergencies and mutual aid agreements are an essential component of preparedness planning.

Staffing and equipping of an emergency operations center is essential to effective response, recovery and mitigation efforts when emergencies and disasters strike. The continuous and uninterrupted receipt, processing, dispatching and monitoring of emergency calls for assistance is necessary for an effective emergency response system.

The Mutual Aid Agreement allows resources to be shared for staffing and equipping a local Public Safety Answering Center (PSAP), a.k.a. a 911 Call Center, or an Emergency Operations Center, during and after an emergency incident in the Copper Corridor region; including though not limited to natural disasters, acts of terrorism, man-made disasters, and other emergencies where shared resources and mutual support would be required to effectively respond and recover from such emergency incidents.

This is the first year Pinal County requested a Mutual Aid Agreement from municipalities in the County. Should an emergency incident occur, the Agreement allows Pinal County to better distribute resources, staffing and equipment to manage the incident and facilitate communication and coordination among responding public safety agencies.

Respectfully submitted,



Jeff McCormick
Town Manager

**MUTUAL AID AGREEMENT
FOR
EMERGENCY SERVICES**

RECITALS

This Agreement is made and entered into by and among the signatory political jurisdictions and Pinal County, Arizona.

WHEREAS, an effective emergency response system is dependent upon the efficient sharing of resources; and

WHEREAS, the continuous and uninterrupted receipt, processing, dispatching and monitoring of emergency calls for assistance is essential to an effective emergency response system; and

WHEREAS, the staffing and equipping of an emergency operation center plays a vital role in emergency and disaster preparedness, response, recovery and mitigation activities; and

WHEREAS, no single community has sufficient resources to respond to all emergencies and mutual aid agreements are an essential component of preparedness planning; and

WHEREAS, it is desirable that an agreement be executed for the interchange of such mutual aid;

AGREEMENT

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the signatories hereto as follows:

1. Any participant in this Agreement, upon request, may furnish emergency services or resources. It is specifically agreed that no participant is obligated or required to furnish any service or take any action pursuant to this Agreement. No participant shall present any claim against another participant for compensation for any cost, loss, damage, personal injury, nor death occurring in consequence of the performance of the services called for in the Agreement.
2. This Agreement shall apply to the following circumstances and/or situations:
 - A. The staffing or equipping of a Public Safety Answering Point, Public Safety Dispatch Point, or Emergency Operations Center affected by an actual or threatened disaster, emergency, incident, or event.
 - B. The provision of Public Safety Answering Point or Public Safety Dispatch Point services, in whole or in part, to any participant affected by an actual or threatened disaster, emergency, incident, or event.

- C. The transfer of the authority and responsibility for the receipt, processing, dispatching, and monitoring of emergency calls for assistance, to another participant for a given period of time, by any participant whose capability to provide those functions are affected by an actual or imminent disaster, emergency, or event.
- D. The participation of personnel in activities that support coordinating and integrating all activities necessary to build, sustain, and improve the capability of participants to mitigate against, prepare for, respond to, and recover from emergencies, disasters, acts of terrorism, or other man-made disasters.

3. Any request for aid shall specify the specific resources requested, however, an authorized representative of the responding organization shall determine the specific resources to be furnished.

4. Personnel providing assistance to another agency, at any facility, shall be subject to the orders and operational control of the requesting organization's officer in charge.

5. Personnel and resources shall be released when they are no longer required or when they are recalled by their home agency.

6. Each participant shall retain ownership of any equipment or property it brings to the performance of this Agreement and shall retain ultimate control of its employees.

7. Participants agree to provide systems technical support during activations of this Agreement.

8. Participants agree to meet on a regular basis to develop, review, and revise interagency assistance plans and the provisions of this Agreement.

9. Participants agree to meet on a regular basis to develop, review, and revise Standard Communication Procedures. Standardized Communication Procedures provide for efficient management of an emergency and for the safety of responders through the use of standard terminology, dispatching, reporting, and support structures.

10. Participants agree to meet on a regular basis to develop, review, and revise minimum public safety dispatcher qualification standards. Standardized qualifications and training ensures the safety of responders and the public.

11. Participants agree to develop, update, test, and exercise a Continuity of Operations plan on a regular basis.

12. This Agreement shall encourage the development of additional cooperative procedures and protocols, including but not limited to, the possibility of joint purchasing, operational coordination, and other activities that will enhance the ability of the Public Safety Answering Point, Public Safety Dispatch Point, or the Emergency Operations Center to fulfill their missions.

13. Nothing in this Agreement shall limit the ability of any or all of the parties from agreeing to participate in more specific contracts for services, mutual assistance or automatic response; nor shall this prohibit any party from providing assistance to another jurisdiction which is not a participant in this Agreement.

14. Except as specifically agreed to by both parties for a particular incident, neither party shall be reimbursed by the other party for any costs incurred pursuant to this Agreement. In the event of declared disasters, participants may apply for reimbursements from County, State and Federal agencies.

15. The term of this Agreement shall be five (5) years. Any one party to this Agreement may terminate their participation in this Agreement by submitting thirty days written notice to all signatories.

16. This Agreement shall be effective on the date it is recorded with the Pinal County Recorder's Office.

17. The parties to this Agreement hereby agree that other agencies may be added to this Agreement upon approval of their governing body and the filing of its signature page with this agreement at the Pinal County Recorder's Office.

18. Any modification of this Agreement shall be by formal written amendment.

19. No term or provision in this agreement is intended to create a partnership, joint venture or agency arrangement between any of the parties.

MUTUAL AID AGREEMENT FOR EMERGENCY SERVICES

SIGNATURE PAGE

TOWN OF KEARNY, AZ

IN WITNESS WHEREOF, the Participating Parties hereto each sign this Mutual Aid Agreement for Emergency Services signature page. The signor warrants that he or she has been duly authorized to commit the jurisdiction to participate in the Agreement by formal approval of the jurisdiction's governing body.

W. Kennedy
(Signing Authority for the Town of Kearny)

08/03/2020
Date

ATTEST: _____

Date

Date of formal approval by governing body:

Date

Pursuant to A.R.S. § 11-952(D) or applicable Tribal law, the attorney for the above entity has determined that the foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State and the applicable Tribal government.

(Attorney for the Town of Kearny)

Date

**OFFICE OF THE TOWN MANAGER
TOWN OF KEARNY, ARIZONA**

COUNCIL LETTER NO. 1794

AUGUST 17, 2020

**HONORABLE MAYOR AND
MEMBERS OF THE TOWN COUNCIL
TOWN OF KEARNY, ARIZONA**

**SUBJECT: A PROPOSAL TO MODIFY SCHEDULING PRACTICES FOR THE
KEARNY AMBULANCE SERVICE IN ORDER TO ENSURE COMPLIANCE WITH
THE FAIR LABOR STANDARDS ACT AND MINIMIZE OVERTIME.**

Modified policies on scheduling practices for the Ambulance is enclosed in your Council packets, along with a spreadsheet of financial data, starting with Fiscal Year 2015-16.

Looking at the trends of financial activity, and the negative balance of expenses versus revenues, the financial urgency of reversing those trends makes the policy changes necessary.


Working with an attorney who specializes in labor law, we fine-tuned the policies to be compliant with the Fair Labor Standards Act (federal labor laws) and minimize overtime.

As can be seen from the enclosed spreadsheet, overtime hours jumped more than 1,000 hours during the last year, from Fiscal Year 2018-19 to Fiscal Year 2019-20. The jump in overtime hours increased the totals for overtime accrued and paid to Ambulance employees.

Sick hours increased, starting in Fiscal Year 2017-18.

Fiscal Year Audit Totals began to incur deficits in Fiscal Year 2016-17, where expenses exceeded revenues. This data was taken from Auditor Reports generated after each annual audit.

Respectfully submitted,


Jeff McCormick
Town Manager

POLICIES ON SCHEDULING PRACTICES FOR THE KEARNY AMBULANCE SERVICE

1. **OVERTIME PROHIBITED:** Effective on August 29, 2020, overtime is no longer authorized for any part-time employee of the Ambulance Service unless approved in advance by the Town Manager. Overtime is defined as working more than 40 hours in a workweek. If unauthorized overtime is incurred by a part-time employee, the Town will pay all wages owed, but disciplinary action may result.
2. **SHIFT TIME LIMITS – FULL TIME:** Full-time Ambulance employees are limited to working 80 regular hours and 4 hours of overtime in any two-week pay period (for a total 84 hours maximum), unless advance approval is given by the Town Manager.
3. **FULL-TIME POSITIONS:** The Town of Kearny Ambulance Service is authorized two (2) full-time positions / two (2) full-time employees. These two (2) full-time employees are authorized to work up to 4 hours of overtime per payroll period, unless advance approval for additional overtime is given by the Town Manager.
4. **SHIFT TIME LIMITS – PART TIME:** Part-time Ambulance employees are limited to working 72 total hours in any two-week pay period, unless advance approval is given by the Town Manager.
5. **ON-CALL STATUS:** Full-time and part-time employees may be scheduled to be on-call for 12 hours in any 24-hour period. The length of the assigned on-call shift shall be determined in the discretion of management. While on-call, employees are free to remain at their homes, sleep, run errands, attend to off-duty activities, or otherwise use their time for personal pursuits, so long as employees comply with the response time requirements in Section 7 below.
6. **SCHEDULING SHIFTS:** The Ambulance Department Director shall schedule employees to work a maximum of 12 hours on-duty followed by a maximum of 12 hours on-call in a 24-hour period.
7. **REQUIRED RESPONSE TIME:** Both on-duty and on-call employees are required to arrive at the Ambulance Base Station on Alden Road within 15 minutes after being alerted of a service call by Dispatch. The employee is required to be prepared to respond to the call upon arrival. This means that the employee must be in appropriate condition to operate a vehicle and perform his/her duties. A response time of less than 10 minutes is preferred, following the first alert of a service call by Dispatch.

8. **RADIOS & PHONES:** Both on-duty and on-call employees are required to have both a mobile dispatch radio and mobile phone in their possession during all hours they are in on-duty or on-call status.
9. **COMPENSATION:** If an employee is required to report to work while on-call, the employee shall be paid his or her regular hourly rate for the hours actually worked; except, that an employee shall receive a minimum of two hours of pay if called out by Dispatch to work during an on-call shift.
10. **SEPARATION OF SHIFTS (On-Duty):** If an Ambulance employee maintains secondary employment (whether in a different position for the Town of Kearny or for another employer), at least 12 hours must pass between the end of any shift for the employee's secondary employment and the commencement of the employee's on-duty shift as an Ambulance employee for the Town of Kearny
11. **SEPARATION OF SHIFTS (On-Call):** If an Ambulance employee maintains secondary employment (whether in a different position for the Town of Kearny or for another employer), at least 12 hours must pass between the end of any shift for the employee's secondary employment and the commencement of the employee's on-call shift as an Ambulance employee for the Town of Kearny
12. **EFFECTIVE DATE:** These policies are effective on August 29, 2020.

Ambulance Payroll Analysis

	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20
Regular Hours	18,469	17,490	17,983	17,576	16,093
Overtime Hours	775	1,169	469	715	1,750
Vacation Hours	575	407	368	564	313
Sick Hours	72	72	376	419	380
Holiday Hours	280	288	304	212	144
Comp Time	84		15	16	
Total Hours	20,256	19,425	19,516	19,501	18,679

Regular Pay	\$ 184,832	\$ 190,772	\$ 209,774	\$ 234,592	\$ 214,848
Overtime Pay	\$ 11,845	\$ 20,486	\$ 8,561	\$ 15,754	\$ 36,024
Vacation Pay	\$ 7,798	\$ 4,736	\$ 4,907	\$ 7,688	\$ 4,985
Sick Pay	\$ 1,030	\$ 901	\$ 4,403	\$ 5,563	\$ 5,742
Holiday Pay	\$ 2,872	\$ 3,217	\$ 596	\$ 2,891	\$ 2,225
Comp Time	\$ 1,201		\$ 223	\$ 262	
EDC Incentive Pay	\$ 1,199	\$ 1,340	\$ 1,234	\$ 1,416	\$ 1,432
Total Pay	\$ 210,777	\$ 221,452	\$ 229,699	\$ 268,166	\$ 265,256

Operating Revenues (Per Caselle)

Ambulance Billing*	\$ 652,111	\$ 623,846	\$ 566,248	\$ 649,297	\$ 331,760
Other Mun. Payments	\$ 299	\$ 715	\$ 1,204	\$ 617	
Misc. Revenues	\$ -		\$ 11,589		\$ 47,028
Total Revenues	\$ 652,410	\$ 624,560	\$ 579,041	\$ 649,914	\$ 378,789

Operating Expenses (Per Caselle)

Salaries & Benefits	\$ 255,982	\$ 295,377	\$ 339,369	\$ 350,184	\$ 342,118
Collection Agency Fees	\$ 29,609	\$ 34,449	\$ 24,442	\$ 26,871	\$ 25,132
Operating Expenses	\$ 39,646	\$ 46,159	\$ 60,140	\$ 44,933	\$ 146,524
Total Expenses	\$ 325,237	\$ 375,985	\$ 423,951	\$ 421,987	\$ 513,774

FY Actual Audits**

	FY15-16	FY16-17	FY17-18	FY18-19	FY19-20
Revenues	\$ 388,791	\$ 391,943	\$ 320,718	\$ 377,655	\$ 378,789
Grant Revenue			\$ 11,589		
Total Revenues	\$ 388,791	\$ 391,943	\$ 332,307	\$ 377,655	\$ 378,789
Expenditure	\$ 352,835	\$ 393,965	\$ 460,518	\$ 460,503	\$ 504,943
Interest Expense		\$ 34	\$ 8,333	\$ 6,335	\$ 8,831
Transfer to GF			\$ 37,000	\$ 30,833	
Total Expenditures	\$ 352,835	\$ 393,999	\$ 505,851	\$ 497,671	\$ 513,774
Net Totals	\$ 35,956	\$ (2,056)	\$ (173,544)	\$ (120,016)	\$ (134,985)
Depreciation	\$ 10,634	\$ 289	\$ 25,027	\$ 37,408	\$ -
Net Totals W/O Depreciation	\$ 46,590	\$ (1,767)	\$ (148,517)	\$ (82,608)	

NOTES:

* Billing not actual collections

** Audited through FY19, FY20 is Estimate

**OFFICE OF THE TOWN MANAGER
TOWN OF KEARNY, ARIZONA**

COUNCIL LETTER NO. 1795

AUGUST 17, 2020

**HONORABLE MAYOR AND
MEMBERS OF THE TOWN COUNCIL
TOWN OF KEARNY, ARIZONA**

**SUBJECT: RESOLUTION NO. 20-06 TO DECLARE A PUBLIC RECORD OF
KEARNY TOWN CODE SECTION 10-3: PUBLIC NUISANCES, ABANDONED AND
JUNK VEHICLES, AND ADOPT ENFORCEMENT AND ABATEMENT CODES FOR
VIOLATIONS OF THE ORDINANCE**

**SUBJECT: ORDINANCE NO. 20-215 TO AMEND KEARNY TOWN CODE TO ADD
SECTION 10-3: PUBLIC NUISANCES, ABANDONED AND JUNK VEHICLES, AND
ADOPT ENFORCEMENT AND ABATEMENT CODES FOR VIOLATIONS OF THE
ORDINANCE**

The Resolution allows the titles of sections being added into Town Code to be published, rather than publishing the lengthy addition of the Ordinance's language. In addition, the Resolution mitigates the expense of publishing a lengthy public notice.


The Ordinance proposal before the Town Council is intended to address abandoned and junk vehicles, provide enforcement measures for abandoned and junk vehicles, and provide penalties for violations involving abandoned and junk vehicles.

The language of the Ordinance is largely borrowed from Property Maintenance Codes adopted by the Town of Superior, and modified slightly to meet the long-term needs of Kearny.

The Ordinance also addresses litter, and provides enforcement measures and penalties for litter on properties in Town limits. The same penalties for litter are also the same for abandoned and junk vehicle violations. Both are misdemeanor offenses with identical penalties.

This Ordinance is the first part of a larger effort to update and amend Town Codes for Property Maintenance and Public Nuisance Abatement. The next part includes provisions for dilapidated structures, in an effort to address unsafe buildings and unsanitary conditions.

Respectfully submitted,


Jeff McCormick
Town Manager

RESOLUTION NO. 2020-06

A RESOLUTION OF THE COUNCIL OF THE TOWN OF KEARNY, ARIZONA, DECLARING AS A PUBLIC RECORD CERTAIN DOCUMENTS FILED WITH THE TOWN CLERK AND ENTITLED “PROPERTY MAINTENANCE AND PUBLIC NUISANCES”

BE IT RESOLVED by the Town Council of the Town of Kearny, Arizona as follows:

That certain documents known as the Town of Kearny Town Property Maintenance and Public Nuisances Rules and Regulations which are titled:

Article 10-3 of Kearny Town Code Property Maintenance and Public Nuisances

- Section 10-3-1 Litter, Abandoned or Junk Vehicles**
- Section 10-3-2 Definitions**
- Section 10-3-3 Owner to Maintain Premises**
- Section 10-3-4 Emergency Action to Relieve Threat of Imminent Hazard**
- Section 10-3-5 Declaration of Public Nuisances**
- Section 10-3-6 Restrictions**
- Section 10-3-7 Authority to Inspect**
- Section 10-3-8 Failure to Provide Evidence of Identity**
- Section 10-3-9 Habitual Offender**
- Section 10-3-10 Petition for Judicial Abatement**
- Section 10-3-11 Administrative Procedure to Abate Public Nuisances**
- Section 10-3-12 Notice to Abate**
- Section 10-3-13 Removal by Town**
- Section 10-3-14 Violations**
- Section 10-3-15 Penalties**
- Section 10-3-16 Each Day Separate Violation**

Are hereby declared to be a public record, and three (3) copies shall remain on file in the office of the Town Clerk of the Town of Kearny and the Kearny Public Library for examination by the public.

PASSED AND ADOPTED by the Town Council of the Town of Kearny, Arizona this ___ day of August, 2020.

Debra Sommers, Mayor

ATTEST:

Martina Burnam, Town Clerk

APPROVED AS TO FORM:

Stephen R. Cooper, Town Attorney

ORDINANCE NO. 20-215

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF KEARNY, ARIZONA, AMENDING CHAPTER 10, ADDING ARTICLE 10-3 TO THE KEARNY TOWN CODE, RELATING TO REGULATION OF ABANDONED AND JUNK VEHICLES, SETTING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE AND SETTING AN EFFECTIVE DATE OF 30 DAYS AFTER ADOPTION

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF KEARNY, ARIZONA, as follows:

Section 1. That Chapter 10 of the Kearny Town Code is hereby amended to add Article 10-3 to read as follows:

Article 10-3 of Kearny Town Code Property Maintenance and Public Nuisances

Section 10-3-1 Litter, Abandoned or Junk Vehicles

No person shall throw, deposit, allow or maintain litter, abandoned or junk vehicles or any other public nuisance on any occupied or unoccupied private premises within the Town, except that the owner or person in control of said private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any other property within the Town

Section 10-3-2 Definitions:

Abandoned or Junk Vehicle: Is any vehicle or any major portion thereof, which is incapable of movement under its own power and will remain so without repair and/or reconstruction. It shall also mean a vehicle being repaired when such repairs take in excess of thirty (30) days. It shall be presumed the vehicle or part thereof is “abandoned” or is a “junk vehicle” if any of the following conditions exist for more than three (3) consecutive days:

1. The vehicle cannot be started with its own battery, or
2. The vehicle is on blocks or similar devices, or
3. The vehicle has a deflated tire or tires,
4. A wheel or tire has been removed on the vehicle, or
5. The vehicle does not have a current, fully paid registration from the State of Arizona;
or

6. It is a partially or wholly dismantled vehicle.
7. Abandoned or Junk Vehicles shall not include vehicles fully covered and located on private property.

Litter: Is any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety, and shall include all putrescible and non-putrescible solid wastes including garbage, trash, ashes, street cleaning, dead animals, abandoned or junk vehicles or appliances, and industrial waste; any deposit, accumulation, pile, or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever. The term "litter" shall also include any growth of weeds, brush, grass, or other vegetable growth of a height and condition which causes a high risk of fire or a breeding place for rodents or other unhealthy or unsanitary animals.

Section 10-3-3 Owner to Maintain Premises

The owner and person in control of any private premises shall at all times maintain the premises free of litter, abandoned or junk vehicles or any public nuisance and in compliance with the Property Maintenance Code; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 10-3-4 Emergency Action to Relieve Threat of Imminent Hazard

- A. When a currently existing violation of this Article poses an imminent hazard, then the Town may immediately enter the property and take the minimum action necessary to relieve the threat of serious harm.
- B. As soon as reasonably practicable under the circumstances, the Town shall serve a civil or criminal citation or summons and complaint on the person or persons responsible for the violation.
- C. Promptly after service of the citation or complaint the magistrate shall set an expedited hearing on the matter. At the hearing, the Town must establish by a preponderance of the evidence that the Town complied with all of the requirements of this Section. If the Town fails to meet this burden, the court shall require the Town to pay the responsible party for the reasonable cost of any physical damage caused to that party's property by failing to comply with one or more of the requirements of this Section.

Section 10-3-5 Declaration of Public Nuisances

In addition to any other nuisances described in this Code, the following are declared to be public nuisances and prohibited:

1. Unsafe Conditions

2. Unsafe Buildings
3. Unsanitary Conditions
4. Dilapidated Structures
5. Abandoned or Junk Vehicles
6. Violations of this Article.
7. Litter

Section 10-3-6 Restrictions

- A. It shall be unlawful for any person to violate of any of the following restrictions which shall also be a public nuisance:
 1. In residential areas and in business areas where the storage of a particular vehicle is not necessary for the operation of the business enterprise, all vehicles being restored or repaired, shall be stored safely within a lawful building or structure or behind a fence in such a manner as to not be visible from beyond the lot boundaries from adjacent public ways, or covered with a car cover made of opaque material if said repairs or restoration takes twenty (20) days or longer. Where the storage of a vehicle is necessary to the operation of a business enterprise, it shall be stored on the premises in accordance with the applicable provisions of this Code, including but not limited to the Zoning Code.
 2. No person shall park, or (in case of owner of occupant) allow or permit any person to park on the owners or occupant's land, any commercial vehicle or heavy equipment having a gross vehicle weight rating (GVWR) exceeding thirteen thousand (13,000) pounds on any undeveloped and un-surfaced private property in the Town except when necessarily required while actually conducting an authorized commercial purpose.

Section 10-3-7 Authority to Inspect

- A. Town enforcement agents, are hereby authorized to make inspections for violations of this Article in the normal course of job duties; or in response to a citizen complaint that an alleged violation of the provisions of this Article may exist; or when there is a reason to believe that a violation of this Article has been or is being committed.
- B. In order to determine compliance with this Article, private property may be entered with:
 1. the consent of the owner or occupant;

2. as authorized by an administrative or other search warrant issued by the Kearny Court, or an order from the Town Magistrate Court authorizing the Town to enter the property and relieve the harm. The magistrate court shall issue such an order only upon a showing that probable cause exists to believe that a violation of this Article which poses an imminent hazard exists on the property.
3. When a violation of this Article is apparent from outside the boundary lines of the property, Town enforcement agents may enter the property for the purpose of issuing a notice of abatement or a citation and to document said violation.

Section 10-3-8 Failure to Provide Evidence of Identity

A person who fails or refuses to provide evidence of his/her identity to a duly authorized Enforcement Agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of this Article, is guilty of a misdemeanor. Evidence of identity under this Section shall consist of a person's full name, residence address, and date of birth.

Section 10-3-9 Habitual Offenders

- A. A person who commits a violation of this Chapter after previously having been found responsible for committing two (2) or more violations of this Article within a twenty-four (24) month period --- whether by admission, by payment of the fine, by default or by judgment after hearing --- shall be guilty of a class one (1) misdemeanor. The Town Attorney, or a police officer under direction of the Town Attorney, is authorized to file a criminal misdemeanor complaint in the Town or County Court against habitual offenders who violate this Chapter. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Section, the Court may impose a sentence as set forth in Section 10-3-15 of this Code. The Magistrate shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred (\$500) dollars for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of any sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.
- C. Every action or proceeding against a habitual offender, under this Section, shall be commenced and prosecuted in accordance with the rules of criminal procedure relating to criminal misdemeanors.

Section 10-3-10 Petition for Judicial Abatement

In addition to any civil sanction or criminal penalty, the Town Attorney may petition and the court may in its discretion order the responsible party to correct and abate the violation by a specified

date. The Town may also petition the court for an order allowing the Town to enter the property and correct the violation if the responsible party fails to comply with the court's correction order. Petitions for judicial abatement shall generally follow the requirements of A.R.S. 9-499, to the extent applicable.

Section 10-3-11 Administrative Procedure to Abate Public Nuisances

- A. Subject to the provisions of Subsection B of this Section, the Town Manager shall compel the removal of all litter, or abandoned or junk vehicles and any other public nuisance as defined herein, by the procedures provided in this Article, or such other procedure authorized by this Code or State law. The procedures established by this Article shall be in addition to, and not exclusive of, all other procedures or remedies established by this Code for the removal of litter, or abandoned or junk vehicles, or any other public nuisance.1

Section 10-3-12 Notice to Abate

- A. If a person owning or controlling any private premises fails, neglects or refuses to remove or properly dispose of litter, or abandoned or junk vehicles, or any other public nuisance located on premises owned or controlled by such person, he/she shall be given written notice by the Town Manager to remove same from such premises within thirty (30) days from the date the notice was received or deemed received by him/her.
- B. Such notice shall be received not less than thirty (30) days before the date set therein for compliance. The notice shall be deemed received five (5) days after posting same on the property or mailing same, whichever is the earlier.
- C. Said notice shall contain the date of mailing, name and address of the owner, the address of the property and shall further contain:
 - 1. A Statement of what the owner or occupant must do to comply with the notice and this Article.
 - 2. An estimate of the cost of removal by the Town,
 - 3. A Statement that unless the person owning or controlling such premises complies therewith, prior to the time established in the notice, that the Town may, at the expense of the person owning or controlling said premises, perform the necessary work at a cost not to exceed the estimate given in the notice.
 - 4. Inform the owner and occupant, if any, that he/she may appeal in writing to the council within thirty (30) days from the date the notice was mailed to him/her and prior to the date set for compliance, unless abatement has been ordered by a court.

Editors' Notes: Statutory reference: A.R.S. 9-499

5. A legal description or county assessor's parcel number of the property.

Section 10-3-13 Removal by Town

When any person to whom notice has been given, pursuant to this Article, fails, neglects or refuses to remove from such premises any or all litter, or abandoned or junk vehicles, or other public nuisance, in a timely manner, the Town Manager is authorized and directed to cause same to be removed and disposed of at the expense of the owner or person controlling such premises. Upon completion of the work, the Manager shall prepare a verified Statement of account of the actual cost of such removal or abatement, the date the work was completed, and the street address and the legal description of the premises on which said work was done, including ten (10%) percent for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified Statement upon the person owning or controlling such premises.

Section 10-3-14 Violations

- A. Any person, firm or corporation who is found to have violated any provision of this Article on premises owned or controlled by said person, firm or corporation is guilty of a violation punishable as provided in Section 10-3-15, and in addition to any fine which may be imposed, shall be liable for all costs of removal which may be assessed pursuant to this Article.
- B. Any person, firm or corporation who shall place or keep any litter, or abandoned or junk vehicles upon any private or public premises not owned or under the control of said person, firm or corporation, or who violates any provision of this Article, shall be guilty of a violation punishable as provided in Section 10-3-15 and, in addition to any fine which may be imposed for violation of any provision of this Section, shall be liable for all costs which may be assessed pursuant to this Article for the removal of said litter, or abandoned or junk vehicle.

Section 10-3-15 Penalties

Any person found guilty of violating any provision of this Code that is declared to be a misdemeanor shall be guilty of a class one misdemeanor and upon conviction thereof shall be punished by a fine not to exceed the limits authorized by A.R.S. 9-240, as amended from time to time, or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. The court may place a violator on probation for up to six (6) months.

Section 10-3-16 Each Day Separate Violation

Each day in which a violation of this Article continues, or the failure to perform any act or duty required by this Article or by the Town Manager continues, shall constitute a separate offense.

Section 2. Pursuant to the Kearny Town Charter, ordinances are effective thirty (30) days after adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF KEARNY,
ARIZONA** this _____ day of _____, 2020.

DEBRA SOMMERS, Mayor

ATTEST:

MARTINA BURNAM, Town Clerk

APPROVED AS TO FORM:

STEPHEN R. COOPER, Town Attorney

Information for Councilmembers

I reached out to two Fire Chiefs and obtained contact information for Steve Turcotte on June 30, the day following the June 29 Council meeting when a fire district was discussed.

I also reached out to a third Fire Chief in Pinal County. He and his administrator were very helpful. They made it clear the process to begin a fire district is complex and lengthy.

Spoke at length with the League of Arizona Cities and Towns. Details include the following:

1. There are 20 municipal fire districts in Arizona. The 20 fire districts were created when municipalities were incorporated.
2. When a municipality wishes to create a fire district after incorporation, the same rules coincidentally apply as annexing property.
3. Property owners must initiate the petition to create a fire district. The municipality cannot initiate the petition.
4. 51% of the total number of property owners in the municipality AND 51% of assessed property owners in the municipality must sign the petition. 51% from both sets of property owners is required.
5. The initiative to create a fire district must then be placed on a ballot measure and approved by voters in the municipality.
6. This process has never been successful for a municipality in Arizona, after the municipality was incorporated.
7. One reason is funds generated for the fire district originate from a secondary property tax, which residents are often hesitant to adopt and property owners hesitant to subscribe to and support.

I'm told the process to create a fire district was attempted in Kearny in 1984 and it failed. Arizona's economy in 1984 was booming, with employment, household income, the housing price index and population growth all at or above the national average.

Considering current economic conditions, with the ASARCO strike, layoffs at Hayden facilities, and the COVID pandemic, there is very little chance anyone would want to be faced with a secondary property tax to subsidize the fire department or ambulance service.

Save the Date

A work study session is scheduled for Monday, **August 31st at 1:00** to review the recent financial trends attributed to the Ambulance's deficit.

Pat Walker will be here to walk the Council through the financial trends and discuss what brought the Town to the current deficit incurred.