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RESOLUTION NO: 2008-79

A RESOLUTION BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, APPROVING AND ADOPTING THE BUSINESS PERMIT FEE/FINE SCHEDULES IN ACCORDANCE WITH TITLE 1, CHAPTER 4, SECTION 1-4-1; AND TITLE 4, CHAPTER 1, ARTICLE A, SECTIONS 4-1A-1 AND 4-1A-7.

WHEREAS the City of Willcox is empowered pursuant to A.R.S. § 9-240(29) to adopt ordinances, within its corporate limits, needful for the good government and order of the municipality; to provide the manner of prosecution; and to define the punishment for violations thereto; and

WHEREAS the City of Willcox is empowered pursuant to A.R.S. §§ 9-240(18) to fix the amount of license taxes to be paid by any such person, firm, corporation or association for carrying on any business, game, amusement, calling, profession or occupation, and prescribe the method of collection or payment of same, for a stated period in advance, and fix penalties for failure to comply by fine or imprisonment, or both; and

WHEREAS the City of Willcox may, pursuant to A.R.S. §§ 9-240(19), authorize the clerk to issue licenses, to direct the manner of issuing and registering same, and the fees of the clerk thereto. No license shall be granted for more than one year, and not less than ten dollars nor more than five thousand dollars shall be charged for any license so issued; and

WHEREAS the fee and fine schedules are required to be set by city resolution; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Willcox, Cochise County, Arizona:

SECTION 1: The Mayor and Council hereby adopt (Exhibit A) Business Permit Fee/ Fine Schedules, by reference, pursuant to City Code, Titles 1 and 4; and

SECTION 2: The Mayor and Council acknowledge the economic state of our Nation and the hardships of local businesses and hereby fix the Business Permit fees at \$25.00 for new business permits; \$12.00 for annual renewal permit; and \$10.00 for temporary business permits effective 1-1-2009.

SECTION 3: The Mayor and Council may revise the Fee Schedule on a periodic basis pursuant to Resolution as provided by Title 4, Chapter 1, Article A, Section 4-1A-7.

SECTION 4: All related and conflicting resolutions or parts of resolutions are hereby repealed and replaced as adopted herein.

SECTION 5: That if any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this resolution.

**PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE
CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, on this 15th day of
December, 2008.**

APPROVED/EXECUTED

/S/ GERALD W. LINDSEY
Mayor Gerald W. Lindsey
Signed: December 16, 2008

ATTEST:

APPROVED AS TO FORM:

/s/ Cristina G. Whelan, CMC
City Clerk Cristina G. Whelan, CMC

/s/ Hector M. Figueroa
Hector M. Figueroa, City Attorney

Resolution No. 2008-79

**BUSINESS PERMIT FINE SCHEDULE
PURSUANT TO RESOLUTION 2008-79
TITLE 1, CHAPTER 4, § 1-4-1
TITLE 4, CHAPTER 1, § 4-1A-1**

**VIOLATION
AMOUNT**

BOND/FINE

Petty Offense

\$300.00/Maximum

Misdemeanor

\$1,000.00/Maximum
Plus 84% Surcharges
Probationary Period
Up to 180 Days Jail Time

WCC- §§ 1-4-1; 4-1A-1

Petty Offenses
\$0 to \$300.00

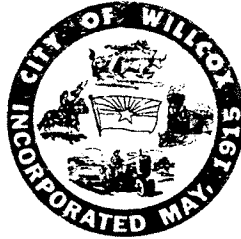
WCC- §§ 1-4-1; 4-1A-1

Misdemeanor Offenses
\$0 to \$1,000.00 (+) Surcharges
1-3 Year Probation
1-30 Days Jail Time

COMPLIANCE IN 10 DAYS

Dismiss Complaint/No Penalty

CITY OF WILLCOX
Finance Department



101 S Railroad Avenue, Suite B
Willcox, Arizona 85643-2198
(520) 766-4202 Fax: (520) 384-6034
rgraham@willcoxcity.org

"Mine, Yours and Ours"

EXHIBIT "A"

THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX HAS CONSIDERED AND ADOPTED THE FINE/FEE SCHEDULES ATTACHED TO RESOLUTION 2008-78 PURSUANT TO TITLE 1, CHAPTER 4, § 1-4-1 AND TITLE 4, CHAPTER 1, §§ 4-1A-1 AND MAY, FROM TIME TO TIME, REVISE THE SCHEDULES IN ACCORDANCE WITH NEED AND STATUTORY REVISIONS OR AS MAY BE REQUIRED BY NEW STATUTES.

BUSINESS PERMIT FEE SCHEDULE PURSUANT TO RESOLUTION 2008-79

A.R.S. §9-240(19)	\$25.00 NEW BUSINESS ANNUAL FEE
A.R.S. §9-240(19)	\$12.00 RENEWAL ANNUAL FEE
A.R.S. §9-240(19)	\$10.00 TEMPORARY BUSINESS FEE

**BUSINESS PERMIT FINE SCHEDULE
PURSUANT TO RESOLUTION 2008-79
TITLE 1, CHAPTER 4, § 1- 4- 1
TITLE 4, CHAPTER 1, § 4-1A-1**

**VIOLATION
AMOUNT**

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Probationary Period
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WCC- §§ 1-4-1; 4-1A-1

Petty Offenses
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WCC- §§ 1-4-1; 4-1A-1

Misdemeanor Offenses
\$0 to \$1,000.00 (+) Surcharges
1-3 Year Probation
1-30 Days Jail Time

COMPLIANCE IN 10 DAYS

Dismiss Complaint/No Penalty

TITLE 4

CHAPTER 1: ARTICLE A

BUSINESS PERMIT REGULATIONS

SECTION:

- 4-1A-1: Violations; Penalty; Enforcement
- 4-1A-2: Issuance/Compliance Official(s)
- 4-1A-3: Definitions
- 4-1A-4: Compliance; Permit Required
- 4-1A-5: Separate Permit Required
- 4-1A-6: Application For Permit; Issuance
- 4-1A-7: Permit Fees And Exemptions; Renewals
- 4-1A-8: Home Based Permit
- 4-1A-7: Posting Permit
- 4-1A-8: Non-transferability Of Permit; Change Of Location
- 4-1A-9: Refusal Of Issuance; Revocation Of permit; Appeals
- 4-1A-10: Appeals process Adopted
- 4-1A-11: Sunset Clause

4-1A-1: Violation of Code Compliance; Penalty; Enforcement:

It shall be unlawful for any person, business association, partnership, corporation, or any other legal entity to operate a business without first obtaining a Business Permit as provided in Title 4.

Violations: Any person, business association, partnership, corporation, or any other legal entity who shall:

- (1) Violate any of the provisions of the City Code adopted as the "**Business Permits and Regulations**" as set forth in Title 4, Chapter 1, Articles A, §§ 4-1A-1 through 4-1A-11 or who shall fail to comply therewith; or
- (2) Violate or fail to comply with any lawful order of any duly appointed issuance/compliance official(s) thereto; or
- (3) Operate a business not in conformance with regulations adopted under this Chapter or Business Permit issued thereto; or
- (4) Fail to comply with any other Ordinance, as affirmed or modified by the Mayor and City Council or any order of a Court of competent jurisdiction with the time fixed, or from

an order which no appeal is taken; SHALL respectively be guilty of a petty offense or a misdemeanor as prescribed in Title I, Chapter 4, § 1-4-1 and herein.

Penalty:

Any Person or any other legal entity violating any of the provisions of Title 4, herein adopted shall be subject to the penalties as provided in Title 1, Chapter 1, §1-4-1 of this code: Fine 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, including suspension or revocation of a license, permit or franchise or other equitable relief except as otherwise provided elsewhere in the Code.

The application of the penalty as set forth in Title 4 shall not, in any event, preclude an enforcement order to assure compliance with the code regulations, and the Issuance/Compliance Official may issue a citation (complaint) to any person, business association, partnership, corporation, or other legal entity in violation of, or not in complete compliance with any provision of this Title. Upon issuance of any citation (complaint), the person, business association, partnership, corporation, or other legal entity so cited, shall be provided a copy of the citation (complaint) as provided by law. Said citation (complaint) shall be thereafter filed with the Consolidated Court by the Compliance Officer issuing such citation (complaint).

Enforcement:

The enforcement powers and duties of the Compliance Official and of any other administrative authority as may be referenced in any section of the City Code, for any and all matters pertaining to any business permits. The Mayor and City Council and/or the City Manager may, from time to time, authorize such appointments and duties as needed to perform any and all code compliance and enforcement or other duties that may be required by this Article.

(Ord. NS246, prior code §5.01.020, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS283, Title 1, Chapter 4, §1-4-1, 2-18-2008) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

State law reference - Licensing authority, A.R.S. § 9-240(18)

4-1A-2: Issuance/Compliance Official(s):

A. Office Created; Supervision:

1. The office of "Issuance/Compliance Official(s)" is created, and the City Clerk and the Office of Finance and Budget are designated to act and to be known as the Issuance/Compliance Official(s).

2. The Issuance/Compliance Official(s) shall be city employees under the direction of the city manager.

(Ord. NS246, prior code §5.01.040, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

State law reference - Licensing authority, A.R.S. § 9-240(18)

B. Duties:

1. Generally:

a. The Issuance/Compliance Official(s) shall have the authority and responsibility to perform all the requirements specified Title 4 and Arizona Revised Statutes or as required by this code, ordinances and resolutions as adopted by Mayor and Council.

b. **Issuance of Permits:** The Issuance Official shall direct the manner of issuing and registering the business permits. He/she shall enforce all provisions of the regulations adopted herein.

c. **Enforcement:** The Compliance Official(s) shall issue such Notices of Determination and Orders of Corrective Action as may be necessary to enforce compliance with state law, city code business regulations.

2. **Records Kept:** The Issuance/Compliance Official(s) shall keep comprehensive records of applications, of permits issued, of certificates issued, of inspections made, or reports rendered, and of notices or orders issued.

C. Cooperation From Other Officials: The Issuance/Compliance Official(s) may request and shall receive necessary assistance and cooperation from other city officials in the discharge of his/her duties.

(Ord. NS246, prior code §5.01.040, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

State law reference - Licensing authority, A.R.S. § 9-240(18)

4-1A-3: DEFINITIONS:

In this article, unless the context otherwise requires, the following words and terms shall have the meanings ascribed to them in this section:

BUSINESS: Any trade, calling, profession, or occupation, which regularly provides goods and/or services within the corporate limits of the city. "Business" does not include schools, churches, athletic groups, non-profit organizations, persons fulfilling work under a warranty or professionals performing work within their profession, on an itinerant basis, within the city limits of Willcox, who are licensed by the state of Arizona.

PERMANENT BUSINESS: means a business use which occurs for a period of more than six (6) months a year.

HOME BASED BUSINESS: means a temporary business use, which occurs for a period of less than six (6) months a year from a temporary location or structure and includes peddlers, solicitors and transient merchants.

PERSON: An individual, firm, partnership, joint venture, association, corporation, or any other group, organization, or entity acting as a unit in the plural as well as the singular number.

REGULARLY: At least once a month.

SPECIAL EVENT: An event which:

A. Is operated in a temporary structure or in the out of doors.

B. Includes, but is not limited to, circuses, fairs, carnivals, festivals, religious revivals, political rallies, vehicle shows and displays, swap meets, rodeos, and similarly recognized temporary activities.

C. Does not include wedding and funeral ceremonies, elections, private yard sales, car washes, activities exempt under section 4-1A-7A of this Article and activities such as retail sales promotions conducted under an existing business permit that could otherwise be lawfully conducted in accordance with the provisions of the zoning restrictions in the district where such promotion takes place.

TEMPORARY BUSINESS: A temporary business use which occurs for a period of less than six (6) months a year from a temporary

all taxes on transactions subject to said taxes, the primary person is responsible for obtaining a business permit for said business.

D. For special events, the sponsor of the primary event shall be required to obtain a permit or temporary business permit. The city council requires all vendors participating in the event (unless exempted by city council) to obtain a permit and deems it necessary for preserving the general health, welfare and safety of the community.

E. If the proposed use will be conducted on property not owned by the applicant, the applicant is responsible for notifying the owner of the property where the proposed use will take place of the intention to conduct a temporary business on said owner's property and enlist permission to conduct business on said property.

(Ord. NS246, prior code §§5.01.030; 5.02.040, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

4-1A-6: APPLICATION FOR PERMIT; ISSUANCE:

A. It shall be the duty of the issuance official to provide the appropriate application form and to prepare and issue a business permit under this Article for every person liable to obtain such a permit hereunder. If the proposed use involves a temporary business or a special event, the issuance official shall also provide the applicant with a temporary business permit application. The business permit application shall include, but not necessarily be limited to, the following information:

1. Name of business.
2. Name of applicant and relationship to the business or entity.
3. Complete permanent and local address.
4. A brief description of the nature and type of the business.
5. List of the type of product(s) produced or sold or the service(s) rendered. Specify if the materials and products will include flammable or toxic materials.
6. If the business is a corporation, the state where incorporated, and provide the name and address for the Arizona statutory agent.
7. Names and addresses of officers/owners of the business.
9. The length of time for which the right to do business is desired.

location or structure. "Temporary business" shall include peddlers, solicitors and transient merchants. (Ord. NS246, prior code §5.01.010, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

State law reference - Licensing authority, A.R.S. § 9-240(18)

4-1A-4: COMPLIANCE AND PERMIT REQUIRED:

A. Generally: It shall be unlawful for any person to operate a business, either from a permanent structure or a mobile structure or by personal solicitation or contact, or to conduct a special event, without complying with the regulations specified in this article and obtaining an annual business permit from the city.

B. Non-Business Enterprises: Institutions, organizations, enterprises and agencies classified as "non-business" (schools, churches, athletic groups or nonprofit organizations) conducting business like activities are required to obtain a permit in order to collect documentation of exempt status and vital business statistics utilized in development of a community business profile. Upon receipt of an application from a "non-business" enterprise, the city will review the application and determine if the applicant qualifies to be issued an exemption of fees under section subsection 4-1A-7A of this article.

C. Temporary Businesses; Special Events: It shall be unlawful for any person to operate or conduct a temporary business or special event without first obtaining a temporary business permit as provided in Title 4.

4-1A-5: SEPARATE PERMITS REQUIRED:

A. A separate permit must be obtained for each branch establishment or location where a permanent or temporary business is conducted.

B. When more than one business is operated, transacted or practiced in the same location by the same person, only one permit shall be required for such person.

C. When more than one business is operated, transacted, or practiced in one location by a person other than the primary person, a separate permit shall be obtained for each person conducting such business. For example, for construction jobs, the general contractor and each subcontractor will be required to obtain separate permits. In the case of an establishment in which merchandise, goods and services are placed on consignment by persons and where the primary person is issued the state tax ID license and accepts responsibility for collection and payment of

10. If applicable, state sales tax number and a copy of the applicant's Arizona transitional sales tax license or documentation of exemption.

11. If applicable, the county, state or national licensing information for all businesses, trades and professions deemed necessary to conduct business.

12. Registration number or copy of any other license deemed necessary to conduct business (health, state, local or national certification, etc.).

B. Upon receipt of a completed business permit application, the city shall:

1. Review, verify and process the application.

2. Forward the application to the Development Services Department "DSD" which shall review to verify that all zoning requirements are satisfied.

3. Upon receipt of a temporary business permit application, the city shall review, verify and process the application, including review by the Department of Public Safety "DPS" and the "DSD", which shall review said application to verify that all safety and zoning requirements are satisfied.

B. If a temporary business permit is issued, the permit shall indicate the time period for which it is valid. A temporary business permit shall be valid for a period not to exceed six (6) months.

C. If the temporary business permit involves a special event, the applicant shall be provided with an information sheet listing guidelines for special events. The "DSD" and the "DPS" shall have the right to impose conditions on the permit, including, but not limited to, conditions relating to insurance, parking, health and sanitation, hours of operation, permissible noise levels, and other public safety concerns.

C. Once the city has reviewed and verified the application and the departmental review for the issuance official, the permit shall be issued within a period of seventy two (72) hours (3 working days).

(Ord. NS246, prior code §§5.01.040; 5.02.040, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

4-1A-7: PERMIT FEES AND EXEMPTIONS; RENEWALS:

A. A person applying for a business permit under this article shall pay an annual processing fee as may from time to time be set by Resolution by Mayor and Council. Any organization operated exclusively for educational, religious, charitable, public service, fraternal or other nonprofit purposes and having a permanent address within the confines of Cochise County may be exempted from the fee provisions of this subsection.

B. All permanent business permits shall be renewed on an annual basis. The permit holder shall file with the city a renewal form supplied by the city, no later than the first working day of January of each year, with current information. Permits not filed by that date will be suspended, and a new permit will be required. If there are no changes in the information that the permit holder provided to the city the previous year, the permit holder may check the box next to "No changes in information provided last year", sign the renewal application and submit it to the city.

C. A new business permit fee shall become due and payable on or before the day of commencement of the business or event for which a permit is required.

D. A person who has an existing business permit and changes the type or nature of business or the ownership of business shall be required to apply for and obtain a new business permit.

E. Renewal of the temporary business permit is the sole responsibility of the permit holder.

(Ord. NS246, prior code §§5.01.040; 5.02.040, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

State law reference - License Fee, A.R.S. § 9-240(19)

4-1A-8: HOME BASED PERMIT:

A. Permit Required: An approval for a home based permit is required prior to issuance of a business permit.

B. Conditions:

1. The total number of employees other than family members shall not exceed one full time (40 hours per week) employee or equivalent.

2. The home based occupation may not involve the use of more than one additional building. Yard space may not be used for storage or activities outside the dwellings not normally associated with residential use, unless approved by the city planning and zoning commission.

3. One commercially licensed vehicle shall be allowed.

4. The home based occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling.

5. All signs must comply with the city sign ordinance.

6. Not more than the equivalent of twenty five percent (25%) of the ground floor area of the dwelling may be devoted to the home based occupation.

7. Entrance to the home based business from the outside shall be the same entrance normally used by the residing family, except when required otherwise by regulation of the state health services department or other public agency.

8. The physical appearance, traffic and any other activities in connection with the home occupation may not be contrary to the objectives and characteristics of the one in which the home occupation is located.

9. The home based business shall not be operated in such a manner as to be a safety or fire hazard; nor shall there be emitted into the atmosphere smoke, soot, dust, radiation, odor, noise, heat, glare, toxic fumes or other condition that would be deemed harmful to the neighborhood in which the business is operated.

10. A home based business may be open for business during the hours of seven o'clock (7:00) A.M. to nine o'clock (9:00) P.M. Surrounding neighbors may need to be notified if hours of operation are extended.

(Ord. NS246, prior code §5.01.050, 3-17-2003, eff. 1-1-2004)
(2007 Code, Ord. NSX290, 12-15-2008, eff. 1-1-2009)

4-1A-9: POSTING PERMIT:

Every permit holder operating a business at a fixed location shall keep such permit posted and exhibited, while in force, in some conspicuous part of the place of business. Every permit holder not having a fixed place of business shall carry the permit with him/her at all times while operating the business for which the same

was granted. Every sponsor of a special event shall post the business permit and the temporary business permit required under this article in a conspicuous location during all hours of the special event.

No permit issued under the provisions of this article shall be assignable or transferable to any other person. No permit issued under the provisions of this article shall apply to any business location other than the location designated in the permit application.

No permit holder hereunder shall have any exclusive right to any location in a public street, nor shall the permit holder be permitted to operate in any congested area where the operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police and/or code enforcement officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(Ord. NS246, prior code §§5.01.080; 5.02.070; 5.02.080; 5.02.090, 3-17-2003, eff. 1-1-2004) (2007 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

4-1A-9: REFUSAL OF ISSUANCE; REVOCATION OF PERMIT:

A. Refusal Of Issuance: The city shall have the authority to refuse to issue a new business or temporary permit if the person applying for the permit fails to comply with the requirements of this article.

B. Revocation Of Permit: An existing business permit issued under the provisions of this article may be revoked by the city for any of the following reasons:

1. Fraud, misrepresentation, or false statement made in the course of applying for a permit;
2. Judicial finding of fraud, misrepresentation, or false statement made in the course of operating the business;
3. Any violation of this article;
4. Judicial finding that the permit holder conducted a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public; and/or
5. Failure to comply with terms or conditions of approval as

specified in the permit application, including, but not limited to, building permits, tent permits, signage schedules, and development.

(Ord. NS246, prior code §§5.01.060; 5.02.050, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

4-1A-10: APPEALS PROCESS ADOPTED:

Board of Appeals: In order to hear and decide appeals of determinations, corrective actions, and/or decisions by the Issuance/Compliance Official(s) relative to the application and interpretation of this code provisions, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

Limitations on authority: An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Qualifications: the board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to code regulations and enforcement who are not employees of the jurisdiction.

Designation: The City of Willcox Planning and Zoning Commission shall constitute a board of appeals for all purposes described in this Willcox Municipal Code and all Titles adopted by the City.

Duties and Authority: The board of appeals shall determine the alternative materials and methods of construction and provide reasonable interpretation of the provisions of this code. For such purposes, the building inspector shall be an ex-officio member. **Notice of appeal shall be given upon a form provided by the building inspector and shall be perfected within ten (10) days after receipt of disapproval, notice of determination or notice corrective action.**

Decisions and Findings: The board of appeals shall adopt reasonable rules and regulation for conducting its investigations and shall render all decisions and findings, in writing, to the building inspector with a duplicate copy to the appellant. The board may recommend, to the Mayor and Council, such new legislation as is

consistent therewith.

(Ord. NS246, prior code §§5.01.070; 5.02.060, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)

Cross reference: 2008 Code, Ord. NS283, 2-18-2008

Cross reference: 2008 Code, Ord. NS289, 11-17-2008

4-1A-11: SUNSET CLAUSE:

The provisions of this Chapter will terminate December 31, 2010, unless otherwise extended by action of the Willcox City Council.

(Ord. NS246, prior code §5.01.130; 5.02.130, 3-17-2003, eff. 1-1-2004) (2008 Code, Ord. NS290, 12-15-2008, eff. 1-1-2009)