

**VILLAGE OF RUIDOSO**

**RESOLUTION 2014-25**

**A RESOLUTION RELATED TO VILLAGE COUNCIL MEETINGS;  
CODIFYING ITS POLICY REGARDING INVOCATIONS BEFORE  
MEETINGS OF THE VILLAGE OF RUIDOSO COUNCIL; MAKING  
FINDINGS; PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Village Council of the Village of Ruidoso, (“the Council”) is an elected legislative and deliberative public body, serving the citizens of Ruidoso, New Mexico); and

**WHEREAS**, the Council wishes to maintain a tradition of solemnizing its proceedings by allowing for an opening invocation before each meeting, for the benefit and blessing of the Council; and

**WHEREAS**, the Council now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

**WHEREAS**, our Country’s Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our Council, upon which we desire to invoke divine guidance and blessing; and

**WHEREAS**, such invocation before deliberative public bodies has been consistently upheld as constitutional by American courts, including the United States Supreme Court; and

**WHEREAS**, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court rejected a challenge to the Nebraska Legislature’s practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, “The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.” *Id.*, at 786; and

**WHEREAS**, the Council desires to avail itself of the Supreme Court’s recognition that it is constitutionally permissible for a public body to “invoke divine guidance” on its work. *Id.*, at 792. Such invocation “is not, in these circumstances, an ‘establishment’ of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country.” *Id.*; and

**WHEREAS**, the Supreme Court affirmed in *Lynch v. Donnelly*, 465 U.S. 668 (1984), “Our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders.” *Id.*, at 675; and

**WHEREAS**, the Supreme Court further stated, that “government acknowledgments of religion serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society. For that reason, and because of their history and ubiquity, those practices are not understood as conveying government approval of particular religious beliefs.” *Id.*, at 693 (O’Connor, J., concurring); and

**WHEREAS**, the Supreme Court also famously observed in *Zorach v. Clauson*, 343 U.S. 306, (1952), “We are a religious people whose institutions presuppose a Supreme Being.” *Id.*, at 313-14; and

**WHEREAS**, the Supreme Court acknowledged in *Holy Trinity Church v. United States*, 143 U.S. 457 (1892), that the American people have long followed a “custom of opening sessions of all deliberative bodies and most conventions with prayer . . .” *Id.*, at 471; and

**WHEREAS**, the Supreme Court has determined, “The content of [such] prayer is not of concern to judges where . . . there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Marsh*, 463 U.S. at 794-795; and

**WHEREAS**, The Supreme Court also proclaimed that it should not be the job of the courts or deliberative public bodies “to embark on a sensitive evaluation or to parse the content of a particular prayer offered before a deliberative public body. *Id.*; and

**WHEREAS**, in *Pelphrey, et al v. Cobb County, Georgia, et al*, 547 F.3d 1263 (11<sup>th</sup> Cir., Oct. 28, 2008), the United States Court of Appeals for the Eleventh Circuit, which includes Florida, held that the practice of allowing clergy to offer uncensored religious invocations at the beginning of sessions of a county commission and county planning commission did not violate the Establishment Clause, as long as the invocations did not advance or disparage a belief or affiliate government with specific faith; and

**WHEREAS**, most recently in *Town of Greece, New York v. Galloway* decided May 5, 2014 the United States Supreme Court reversed a second circuit court opinion declaring an invocation policy unconstitutional in a very thoughtful, thorough eighty (80) page opinion that detailed the significant judicial history of opening prayers before legislative bodies in American history; and

**WHEREAS**, the Council intends, and has intended in past practice, to adopt a policy that does not proselytize or advance any faith, or show any purposeful preference of one religious view to the exclusion of others; and

**WHEREAS**, the Council recognizes its constitutional duty to interpret, construe and amend its policies and ordinances to comply with constitutional requirements as they are announced; and

**WHEREAS**, the Council accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and New Mexico Constitutions and statutes.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF RUIDOSO, NEW MEXICO:**

**SECTION 1.** The foregoing findings are incorporated herein by reference and made a part hereof.

**SECTION 2.** In order to solemnize proceedings of the Council, it is the policy of the Council to allow for an invocation or prayer to be offered before its meetings for the benefit of the Council.

**SECTION 3.** The invocation shall not be listed or recognized as part of the consent or regular business items or as part of the public business.

**SECTION 4.** No member or employee of the Council or any other person in attendance at the meeting shall be required to participate in any invocation that is offered.

**SECTION 5.** The invocation shall be voluntarily delivered by an eligible member of the clergy, as specified below. To ensure that such person (the “invocation speaker”) is selected from among a wide pool of local clergy, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

- a. The Village Clerk to the Village Council (the “Village Clerk”) shall compile and maintain a database (the “Congregations List”) of the religious congregations with an established presence in the local community of Ruidoso and Lincoln County.
- b. The Congregations List shall be compiled by referencing the listing for “churches,” “congregations,” or other religious assemblies in the annual Yellow Pages phone book(s) published for the Village of Ruidoso and Lincoln County, research from the Internet, churches or congregations listed in the local print news media and consultation with local chambers of commerce. All religious congregations with an established presence in the local community of Ruidoso and Lincoln County are eligible to be, and shall be, included in the Congregations List. Any such congregation not otherwise identified for participation may request its inclusion by specific written communication to the Village Clerk.
- c. This policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious congregation in Ruidoso and Lincoln County. The Congregations List is compiled and used for purposes of logistics, efficiency and equal opportunity for all of the community’s religious leaders, who may themselves choose whether to respond to the Council’s invitation and participate. Should a question arise as to the authenticity of a religious congregation, the Village Clerk may refer to criteria used by the Internal Revenue Service in its determination of those religious organizations that would legitimately qualify for Section 501( c ) (3) tax-exempt status.
- d. The Congregations List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of Ruidoso and Lincoln County.
- e. The Congregation List shall also include the name and contact information of any religious congregation located outside the Ruidoso and Lincoln County, if such religious congregation is attended by a resident or residents of Ruidoso and

Lincoln County, and such resident requests the inclusion of said religious congregation by specific written communication to the Village Clerk.

- f. The Congregations List shall be updated, by reasonable efforts of the Village Clerk, on or about the month of November of each calendar year.
- g. Within sixty (60) days of the effective date of this policy, and on or about December 1 of each calendar year thereafter, the Village Clerk shall mail an invitation addressed to the “religious leader” of each congregation listed on the Congregations List, as well as to the individual chaplains included on the Congregations List.
- h. The invitation shall be dated at the top of the page, signed by the Village Clerk at the bottom of the page, and read as follows:

*Dear Religious Leader,*

*The Village of Ruidoso Council makes it a policy to invite members of the clergy in Ruidoso and Lincoln County to voluntarily offer an invocation before the beginning of its meetings, for the benefit and blessing of the Council. As the leader of one of the religious congregations with an established presence in the local community, or in your capacity as a chaplain for one of the local fire departments or law enforcement agencies, or as the religious leader of one or more Ruidoso and Lincoln County residents, you are eligible to offer this important service at an upcoming meeting of the Council.*

*If you are willing to assist the Council in this regard, please send a written reply at your earliest convenience to the Village Clerk at the address included on this letterhead. Clergy are scheduled on a first-come, first-serve basis. The dates of the Council’s scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state the request in your written reply.*

*This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect and ecumenism, the Council requests only that the invocation opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker, nor to disparage any faith or belief different than that of the invocation speaker.*

*On behalf of the Village Council of the Village of Ruidoso, I thank you in advance for considering this invitation.*

*Sincerely,*

*Village Clerk*

**SECTION 6.** As the invitation letter indicated, the respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocations.

**SECTION 7.** No invocation speaker shall receive compensation for his or her service.

**SECTION 8.** The Village Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Council meetings. In any event, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Council, or at more than three (3) Council meetings in any six month period of time.

**SECTION 9.** Neither the Council nor the Village Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.

**SECTION 10.** Shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Chairman of the Council shall introduce the invocation speaker and the person selected to recite the Pledge of Allegiance following the invocation, and invite only those who wish to do so to stand for those observances of and for the Council.

**SECTION 11.** This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Council with, nor express the Council's preference for or against, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of Ruidoso and Lincoln County.

**SECTION 12.** To clarify the Council's intentions, as stated herein above, the following disclaimer shall be included in at least 10 point font at the bottom of any printed Council meeting agenda: "Any invocation that may be offered before the official start of the Village Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council is not allowed by law to endorse the religious beliefs or views of this, or any other speaker."

**PASSED AND ADOPTED** on this the 9th day of September, 2014.

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TOM BATTIN, MAYOR

SEAL

ATTEST: \_\_\_\_\_  
IRMA DEVINE, VILLAGE CLERK

APPROVED AS TO FORM AND CORRECTNESS:

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DANIEL A. BRYANT  
VILLAGE ATTORNEY