TUCSON, ARIZONA

Supp. No. 109 – Instruction Sheet

Enclosed with this instruction sheet are new and replacement pages for your loose-leaf copy of the Code, bringing the Code current through December 31, 2015. In order to keep your copy of the Code up to date, you must remove the following indicated obsolete pages from your Code and replace them with the indicated revised pages. The current revision number appearing on the lower left corner of each page revised in this package is "Supp. No. 109" If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

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TUCSON CODE

CONTAINING
THE CHARTER AND GENERAL ORDINANCES
CITY OF TUCSON, ARIZONA

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

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4. *Real estate directional sign.* An off-site sign that is intended to direct prospects to the unit (non-subdivision) for sale.

5. *Real estate for sale or lease sign.* An on-site wall or freestanding sign placed upon a property advertising that property for sale, rent or lease.

6. *Real estate project identity entrance sign.* An on-site sign displaying the name of the subdivision or development at the major street entrances to the subdivision or development.

7. *Real estate rental development sign.* An off-site sign placed at a location other than the premises of a new rental or for lease project offering housing for lease or rent.

8. *Real estate subdivision sign.* An on-site sign advertising a subdivision as having lots, townhouses, houses or condominiums for sale.

GGG. *Repair.* To mend, renovate or restore a sign structure to its original existing condition.

HHH. *Scenic route.* A roadway designated as a scenic route in the Major Streets and Routes Plan.

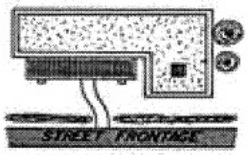
III. *School.* Any public, parochial or private school for teaching accredited courses of instruction as approved by the Arizona Department of Education.

JJJ. *Sign.* Every advertising message, announcement, declaration, display, illustration, insignia, surface or space erected or maintained in a location outside any building and visible to the public for identification, advertising or promotion of the interest of any person, entity, product or service. Signs attached to the interior wall of a shopping mall for identification, advertisement or promotion of the interest of any person, entity, product or service are required to obtain a sign permit to ensure compliance with applicable building, fire, electrical and technical codes but are not otherwise subject to this sign code. Signs within individual mall stores or inside individual business establishments are excluded from this definition.

KKK. *Sign code administrator.* The person designated and authorized to enforce and administer the provisions of this sign code, or that person's authorized representative or designee. The sign code administrator is the zoning administrator as described in A.R.S. § 9-462 for the purpose of interpreting this code.

LLL. *Site.* The land area consisting of a lot or contiguous lots, not including dedicated public property, designated for development as a single entity through an approved site plan, plat or development plan.

MMM. *Street frontage.* The length of a lot or development fronting on a public or private street.



Street Frontage

NNN. *Subdivision.* Improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediate or future, into four (4) or more lots, tracts or parcels of land, or, if a new street is involved, any such property that is divided into two (2) or more lots, tracts or parcels of land, or, if any such property, the boundaries of which have been fixed by a recorded plat, that is divided into more than two (2) parts. "Subdivision" also includes any condominium, cooperative, community apartment, townhouse, or similar project containing four (4) or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon.

OOO. *Temporary sign.* Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic or other light material and not rigidly and permanently installed in the ground or attached to a building. Political election signs are not included in this definition. The definition includes but is not limited to the following sign types:

1. *Grand opening, sales and civic events banner.* Temporary on-site banner advertising the grand opening, reopening, new management, sales event or civic event at a specific location.

2. *Banner used as temporary signage.* Temporary on-site banner used to advertise events lasting for a limited time. This type of banner may also be used to temporarily advertise a business location while permanent signage is being constructed, or during a change of business name, exterior remodeling of tenant space or entire center, or periods of road construction.

PPP. *Tenant.* The occupant of a portion of a site or structure with exclusive control over that portion, regardless of whether it is by individual ownership or lease.

QQQ. *Time, temperature and weather display.* A sign that displays the current time, temperature or current or forecast weather conditions.

RRR. *Total allowable sign area.* The length of a site fronting on a public or private street multiplied by the allowable sign area in each district or as outlined in each district. The total allowable sign area for a site in each district can never be exceeded regardless of the number of lots or tenants in a development.

SSS. *Traffic directional sign.* An on-site sign directing the reader to the location or direction of any place or area.

TTT. *Unoccupied.* A premises or structure:

1. That is not occupied, or

2. That is not being put to those uses authorized by the last business privilege license issued by the City of Tucson for that address and business, or

3. Where the public utilities are not in service.

UUU. *Vacant.* A premises or structure:

1. From which the fixtures utilized in conjunction with the business activities as authorized by the last business privilege license for that address issued by the City of Tucson have been removed, or

2. Where the public utilities are not in service.

VVV. *Vehicle signs.* Signs mounted upon, painted upon or otherwise erected on or affixed to trucks, cars, boats, trailers and other motorized vehicles or equipment.

WWW. *Wall.* An exterior building surface thirty (30) degrees or less from vertical including, interior and exterior window and door surfaces.

XXX. *Wall sign.* Any sign that is fastened, attached, connected or supported in whole or in part by a building or structure, other than a sign structure supported wholly by the ground, with the exposed face of the sign in a plane parallel to the plane of the wall.

YYY. *Window sign.* Any sign affixed to the interior or exterior window surface.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 2, 6-28-11; Ord. No. 11076, § 2, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

Editor's note – Ord. No. 11166 provides that the provisions of Ord. No. 10903 shall cease to be effective on May 29, 2017, unless extended by the Mayor and Council by a separate ordinance. Ord. No. 11329 provides that the provisions of Ord. No. 10903 shall cease to be effective on December 31, 2018, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to Ord. No. 10903.

Secs. 3-12 – 3-15. Reserved.

ARTICLE III. PERMITS, FEES AND INSPECTIONS

Sec. 3-16. Permits required.

A. It shall be a civil infraction for any person to erect, reinstall, alter, change the copy of, repair or relocate a sign within the city limits, or cause

A. *Animated and intensely lighted signs:*

1. No sign shall be permitted that is animated by any means, including flashing, scintillating, blinking, or traveling lights, or any other means not providing constant illumination, except as allowed as a historic landmark sign (HLS) per Sec. 3-71.

2. No sign shall be permitted that because of its intensity of light constitutes a nuisance or hazard to vehicular traffic, pedestrians or adjacent properties.

B. *Electronic message center:* An electronic or electronically controlled message board, where scrolling or moving copy changes are shown on the same message board or any sign which changes the text of its copy electronically or by electronic control more than once per hour.

C. *Fixed balloon signs:*

1. Except as allowed as a temporary sign, as provided in this Article V.

2. Prohibition does not apply to manned hot air balloons.

D. *Flags or pennants:*

1. Flags, other than those of any nation, state or political subdivision, except as allowed as a temporary sign, as provided in this Article V.

2. Propellers, hula strips and pennants, except as allowed as a temporary sign, as provided in this Article V.

E. *Miscellaneous signs, posters and satellite disks:* The tacking, painting, pasting or otherwise affixing of signs or posters of a miscellaneous character, visible from a public way, on the walls of a building, barns or sheds, or on trees, poles, posts, fences or other structures, is prohibited. No signage of any type is permitted on satellite dishes or disks.

F. *Moving signs:*

1. No sign or any portion thereof shall be permitted that moves or assumes any other motion constituting a non-stationary or non-fixed condition, except as allowed as a historic landmark sign (HLS) per Sec. 3-71.

G. *Roof signs:* Signs that are erected upon, against, or directly above a roof, or on top of or directly above the parapet of a building, except as allowed as a canopy sign per Sec. 3-59, or a historic landmark sign (HLS) per Sec. 3-71.

H. *Sound, odor or visible matter:* Any advertising sign or device that emits audible sound, odor or visible matter.

I. *Vehicle signs:* Signs mounted upon, painted upon, or otherwise erected on trucks, cars, boats, trailers or other motorized vehicles or equipment are prohibited, except as specifically provided in section 3-51.H.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 3, 6-28-11; Ord. No. 11076, § 3, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

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Sec. 3-54. Signs creating traffic hazards.

No sign shall be permitted at the intersection of any street in such a manner as to obstruct free and clear vision of motor vehicle operators. No sign shall be located at any location where by reason of its position, shape, or color it may interfere with or be confused with any authorized traffic sign, signal or device. No sign may make use of a word, symbol, phrase, shape or color in such a manner as to interfere with, mislead, or confuse traffic.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-55. Signs in public areas.

No sign shall be permitted on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on public property or over or across any street or public

thoroughfare, except as expressly authorized by this sign code.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-56. Awning signs.

A sign constructed of cloth, plastic or metal and permanently affixed to a structure intended to provide shade.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-57. Banners.

A piece of fabric permanently attached by one or more edges to a pole, rod or cord. Banners may be attached to a building, where permitted, or placed along a curb.

A. Not allowed for nonresidential or home occupation uses.

B. The area of curbside banners shall not be included in the calculation of total allowable sign area.

C. Removal: Faded or tattered banners must be replaced or removed at the direction of the sign code administrator.

D. Right-of-way: Banners may extend or project over a public right-of-way or public property only as provided in section 3-43B.

E. Copy limitation: Banners may include logos and pictographs but shall not contain any other lettered copy, except:

1. They may include festive or seasonal proclamations or may announce cultural or civic events that are open to the public. In such case, the banner may devote up to twenty-five (25) percent of the surface area to the name and/or logo of one public, private or commercial sponsor.

2. A banner meeting the criteria for festive or seasonal proclamations may be displayed for sixty (60) days or less and shall be removed within forty-eight (48) hours after the seasonal, cultural or civic event.

F. Maximum area: Twenty-five (25) square feet.

G. Minimum area: Six (6) square feet.

H. Maximum number: One (1) for every fifteen (15) feet of building length per street frontage. On buildings having more than one street frontage, the maximum allowable number of banners is not transferable from one street frontage to another.

I. Minimum distance from ground level to bottom of banner: Ten (10) feet.

J. Allowable height: May not extend above the facade or eave of the building or structure and shall not exceed forty (40) feet above grade.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-58. Billboards.

A. *Permitted locations:* On undeveloped property in the C-2, C-3, I-1, and I-2 zoned property and only within the general business district and the industrial district as set forth in section 3-77 and section 3-80 of Article VI of this sign code.

B. *Maximum area per face, including embellishments:*

1. Generally: Six (6) feet by twelve (12) feet.

2. Within two hundred fifty (250) feet of a freeway: Three hundred seventy-eight (378) square feet.

3. Limitations:

a. No more than two (2) faces per sign.

b. Vertical or horizontal stacking is not permitted.

C. *Maximum height:*

1. Generally: Sixteen (16) feet from grade to top of sign.

2. Within two hundred fifty (250) feet of freeway: Thirty-five (35) feet from freeway grade to top of sign.

b. Legislative: The planning and development services director will prepare a written recommendation to approve or deny the treatment Plan within ten (10) days of receiving the T-PCHC Plans Review Subcommittee recommendation and forward it to the mayor and council for a public hearing and decision at the earliest practical date. In granting approval, the mayor and council must find that preservation of the sign will contribute to Tucson's unique character, history, and identity.

H. *Review of permits for HLS.* All permits for the installation, repair/restoration, adaptive reuse, relocation, or replication of HLS shall be consistent with an approved HLS treatment plan.

I. *Maintenance.* All maintenance activities relating to HLS shall be consistent with an approved HLS treatment plan.

J. *Demolition.* Demolition of HLS shall be consistent with an approved treatment plan for relocation or subject to a maximum thirty (30) day waiting period to facilitate salvage of the sign. The sign owner shall allow reasonable access to the sign to facilitate documentation and salvage activities.
(Ord. No. 10903, § 3, 6-28-11; Ord. No. 11076, § 3, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

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ARTICLE VI. SIGNS BY DISTRICT

Sec. 3-72. Sign districts.

The regulations in this Article VI establish the number, size, type, location, and other provisions relating to signs as permitted in the various sign districts of the city. No sign shall be allowed unless expressly permitted within a particular district by this Article VI or otherwise permitted or exempt under this sign code. In case of a conflict between the regulations in this article and the regulations in other articles of this sign code, the more restrictive regulation shall apply. The application and interpretation of sign districts shall be in conformance with section 3-4.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 11076, § 4, 5-29-13)

DIVISION 1. RESIDENTIAL DISTRICTS

Sec. 3-73. Single family residential district.

A. *Location:* The single family residential district includes all property in the rural residential zones, the RX-1, RX-2, R-1 and MH-1 zones, Tucson Land Use Code (LUC) Article II, Division 2 and LUC Sec. 2.3.2, 2.3.3, 2.3.4 and 2.3.8. The single family residential district also includes property in less restrictive zones where the approved site plan, development plan or plat is for a single family dwelling as the principal use. The establishment of a more intensive use in conformance with an approved site plan, development plan or plat shall re-designate the property to the applicable sign district.

B. *Maximum total sign area:*

1. Nonresidential uses: Twenty (20) square feet of total sign area per street frontage. On buildings having more than one street frontage, the maximum allowable number and square footage of on-site signs are permitted for each street frontage. The maximum allowance, however, is not transferable either in whole or in part from one street frontage to another.

2. Home occupation uses: No more than one (1) sign may be visible from the exterior of the property used as a home occupation. The sign shall not exceed one (1) square foot in size, as permitted by the Tucson Land Use Code.

C. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs: For nonresidential and home occupation uses only.

3. Banners, curbside only. Allowed for residential uses only. Not allowed for nonresidential or home occupation uses.

4. Freestanding signs.

   a. Nonresidential and home occupation uses.

   b. Monument and low profile only.

   c. Freestanding signs that include or consist of a three-dimensional representation of a figure or object are prohibited.

5. Real estate signs. Not permitted for home occupation uses.

6. Temporary signs.

   a. Allowed uses: Residential and nonresidential uses only. Not allowed for home occupation uses.

   b. Maximum area: Six (6) square feet.

7. Wall signs. Nonresidential and home occupation uses only. Not allowed for residential uses.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 11076, § 5, 5-29-13)

Sec. 3-74. Multiple family residential district.

A. *Location:* The multiple family residential district includes all property in the R-2, R-3 and MH-2 residential zones, Tucson Land Use Code Sec. 2.3.5, 2.3.6 and 2.3.8. The multiple family residential district also includes property in less restrictive zones where the approved site plan, development plan or plat is for a multiple family dwelling as the principal use. The establishment of a more intensive use in conformance with an approved site plan, development plan or plat shall re-designate the property to the applicable sign district.

B. *Maximum total sign area:*

1. Residential and nonresidential uses: Fifty (50) square feet.

2. Home occupation uses: No more than one (1) sign may be visible from the exterior of the property used as a home occupation. The sign shall not exceed one (1) square foot in size, as permitted by the Tucson Land Use Code.

C. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Banners, curbside only, for nonresidential uses only.

4. Freestanding signs, monument and low profile only.

   a. Freestanding signs that include or consist of a three-dimensional representation of a figure or object are prohibited.

   b. Low profile type sign. Maximum area: Fifty (50) square feet.

5. Real estate signs. Not permitted for home occupation uses.

6. Temporary signs.

   a. Not permitted for home occupation uses.

   b. Maximum area: Six (6) square feet.

7. Traffic directional signs. Not permitted for home occupation uses.

8. Wall signs.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 11076, § 5, 5-29-13)

Sec. 3-75. Park district.

The park district is property containing public parks that are either neighborhood parks, district parks or regional parks.

(3) For each sign placed on the frontage of a local street, the total allowable number of freestanding signs for the arterial or collector street frontage shall be reduced by one.

(4) A "stand-alone premises" for the purposes of this subsection is a piece of land with definite boundaries, which includes the property and the buildings on it, and is separately owned from any other property. A stand-alone premises must meet the on-site parking requirements under the Tucson Land Use Code without sharing parking with another premises and must provide its own ingress from and egress to the public right-of-way.

b. Strip development:

(1) One freestanding sign per major arterial or collector street to identify the name of the strip development shopping center or for use as an occupant directory. In addition, one freestanding sign will be permitted for each self-contained premises, not to exceed thirty-two (32) square feet in area.

(2) For the purpose of this subsection, a "self-contained premises" is a piece of land with definite boundaries, which includes the property and the buildings on it, and is separately owned from any other property. A self-contained premises must meet the onsite parking requirements under the Tucson Land Use Code without sharing parking with another premises.

(3) For the purpose of this subsection, a "strip development" is a development or group of buildings that meets the definition of "premises" found at section 3-34, but shall not include any area treated as a "stand-alone premises" for purposes of this section.

(4) Malls: One freestanding sign per major arterial or collector street to identify the name of the mall. One freestanding sign not to exceed twenty (20) square feet will be permitted for each detached building included on the same development plan. A "mall" is a shopping center anchored by two (2) or more major department stores with various specialty stores totaling five hundred thousand (500,000) square feet or more of gross building area.

6. Freeway signs.

7. Menu boards.

8. Portable signs are permitted subject to the provisions of section 3-51.F, except that use in this district is not limited to advertisement related to road or water construction.

9. Real estate signs.

10. Temporary signs.

11. Traffic directional signs.

12. Wall signs.

a. Maximum size:

(1) Generally: No more than thirty (30) percent of the area of each wall may be utilized for wall signs.

(2) A wall sign within two hundred fifty (250) feet of a freeway shall be no more than forty (40) percent of the area of each wall.

13. Historic landmark signs (HLS), all types. The first HLS on a premise does not count toward the maximum total sign area.

14. Canopy signs.

D. *Design review:* Within effectuated Urban Overlay Districts (UOD) mapped per the Unified Development Code (i.e. with "U" zoning), any single sign 50 square feet in area or larger, or any site where the total sign area exceeds 50 square feet, shall be reviewed under the design review procedure established by the specific UOD.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 4, 6-28-11; Ord. No. 11076, § 6, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11164, § 1, 5-6-14; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

Editor's note – Ord. No. 11166 provides that the provisions of Ord. No. 10903 shall cease to be effective on May 29, 2017, unless extended by the Mayor and Council by a separate ordinance. Ord. No. 11329 provides that the provisions of Ord. No. 10903 shall cease to be effective on December 31, 2018, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to Ord. No. 10903.

Sec. 3-78. Planned area development (PAD) district.

A. *Location:* The boundaries of a planned area development (PAD) district are coextensive with each approved PAD, a comprehensively planned development approved by ordinance by mayor and council. The development may combine commercial, administrative, professional, residential, business and other compatible land uses to create an internally oriented, high intensity, mixed use activity center.

B. *PAD compliance:* Sign plans proposed in planned area developments and redevelopment plan areas will be reviewed for consistency with qualitative plan objectives and approved by the city planning director prior to issuance of a sign permit.

C. *Maximum on-site sign area:* Three (3) square feet per foot of street frontage.

D. *Developments with more than one street frontage:* The maximum allowable number and square footage of on-site signs are permitted for each street frontage. The maximum allowance, however, is not transferable either in whole or in part from one street frontage to another, except as provided in subsection E.9, below.

E. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Banners, building and curbside.

4. Directory signs: One (1) per five (5) acres of complex with one additional directory sign per each additional five (5) acres of complex.

5. Freestanding signs, all types. Maximum number: One (1) per building or cluster of buildings (when located on the same lot) per street frontage to be located at the building's street frontage. The allowance for freestanding signs is not transferable either in whole or in part between street frontages, buildings, or lots within the district.

6. Portable signs are permitted subject to the provisions of section 3-51.F, except that use in this district is not limited to advertisement related to road or water construction.

7. Real estate signs, all types.

   a. Real estate project identity entrance sign, general requirements:

      (1) If integrated with landscaping:

         (a) Maximum number: Two (2).

         (b) Maximum faces: One (1) per sign.

         (c) Maximum size: One hundred (100) square feet per sign.

      (2) If not integrated with landscaping:

         (a) Maximum number: One (1).

         (b) Maximum faces: Two (2) per sign.

(c) Maximum size: One hundred (100) square feet per face.

(d) Maximum height: Ten (10) feet measured from the average top of curb of adjacent streets.

8. Temporary signs.

9. Traffic directional signs.

10. Wall signs:

a. Maximum size: No more than thirty (30) percent of the area of each wall.

b. Any portion of wall sign allowance for a building may be transferred from one street frontage to another for wall sign usage on that specific building.

c. The allowance for wall signs is not transferable between buildings or lots within the district.

d. The total square feet of wall sign area for a building may be allocated by the building owner among the occupants/ tenants of a building.

e. Sign placement:

(1) Tenant identification signage shall be placed only on a sign band as delineated in building elevation drawings approved with the related development plan.

(2) The sign band shall not be located more than three (3) stories above the average finished grade at the building line, except that building and/or tenant signage may be placed within discernible parapets.

11. Historic landmark signs (HLS), all types. The first HLS on a premise does not count toward the maximum total sign area.

12. Canopy signs.

13. Freeway signs to the extent permitted under section 3-62.

14. Menu boards.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 4, 6-28-11; Ord. No. 11076, § 6, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11175, § 2, 6-3-14, eff. 7-4-14; Ord. No. 11329, § 1, 12-15-15)

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Sec. 3-79. Medical-business-industrial park district.

A. *Location:* The medical-business-industrial park district is property within a planned medical, business, or industrial complex of two (2) or more acres and consisting of multiple buildings and tenants that share parking, private streets and signage.

B. *Maximum total sign area:* Two (2) square feet per foot of street frontage.

C. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Banners, building and curbside.

4. Directory signs: One (1) per two (2) acres of development.

5. Freestanding signs, all types.

a. One (1) per street frontage.

b. One freestanding sign per building to be located at the building's parking entrance.

c. The allowance for freestanding signs is not transferable either in whole or in part from one street frontage to another or one building to another.

6. Real estate signs, all types.

7. Temporary signs.

8. Traffic directional signs.

9. Wall signs. Maximum size: Eight (8) square feet.

10. Canopy signs.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 11076, § 6, 5-29-13)

Sec. 3-80. Industrial district.

A. *Location:* The industrial district includes property in the industrial zones, Tucson Land Use Code Sec. 2.7.1, 2.7.2 and 2.7.3. The industrial district does not include property where an approved site plan, development plan or plat provides for a single family dwelling or multi-family dwelling as the principal use, or property in the historic districts, the medical-business-industrial park district, the pedestrian business district, the scenic corridor zone (SCZ) district, or the planned area development (PAD) district.

B. *Maximum total sign area:* Four (4) square feet per foot of street frontage.

C. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Banners, building and curbside.

4. Billboards.

5. Freestanding signs, all types. One (1) per street frontage; except, where a developed parcel has in excess of three hundred (300) feet of street frontage, one (1) additional freestanding sign may be erected for each additional one hundred fifty (150) feet of street frontage in excess of the first three hundred (300) feet of street frontage abutting the developed portion of said parcel.

6. Freeway signs.

7. Menu boards.

8. Portable signs are permitted subject to the provisions of section 3-51.F, except that use in this district is not limited to advertisement related to road or water construction.

9. Real estate signs.

10. Temporary signs.

11. Traffic directional signs.

12. Wall signs. Maximum size: no more than forty (40) percent of the area of each wall.

13. Historic landmark signs (HLS), all types. The first HLS on a premise does not count toward the maximum total sign area.

14. Canopy signs.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 4, 6-28-11; Ord. No. 11076, § 6, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

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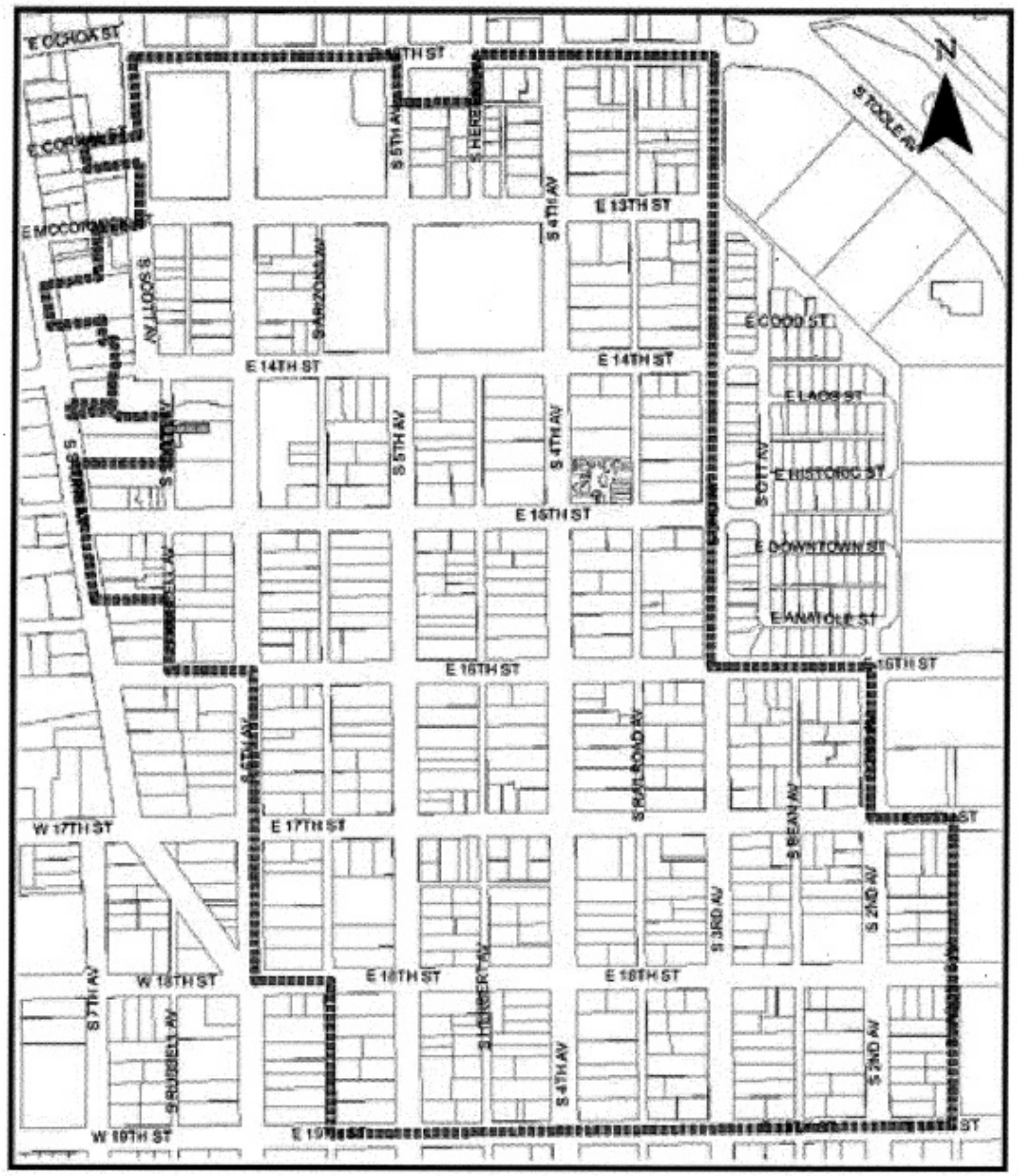
DIVISION 3. SPECIAL DISTRICTS

Sec. 3-81. Historic district.

A. *Location:* Historic districts include property established as historic preservation zones pursuant to Sec. 2.8.8 of the Land Use Code and designated with the preface "H" which is added to the assigned residential, office, commercial, or industrial zone designation, i.e., R-1 becomes HR-1. For purposes of this sign code, historic districts are treated as specific mapped districts and are not treated as overlay zones. The established city historic districts are as follows:



Amory Park Historic District

B. *Intent:* Signs in the pedestrian business district should provide clear and understandable identification for buildings, businesses and parking. Signs on historic buildings should be carefully designed and located to respect the visual integrity of the historic architecture, including building scale, proportions, surface texture and decorative ornamentation.

C. *Maximum total sign area:* Three (3) square feet per foot of street frontage.

D. *Permitted signs.*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Banners, building and curbside.

4. Freestanding signs, low profile and monument type only.

   a. Maximum number: One (1) per building per street frontage where a building facade is set back at least ten (10) feet from a public right-of-way, or one (1) per street frontage for a surface parking lot where parking is the primary use of the property.

   b. Maximum area: Twenty (20) square feet per sign.

   c. Parking lots: Where used to identify a commercial parking facility, each freestanding sign must display the standard Parking I.D. symbol.

   d. Maximum height: Twelve (12) feet above grade.

5. Parking signs.

6. Portable signs are permitted subject to the provisions of section 3-51.F, except that use in this district is not limited to advertisement related to road or water construction.

7. Projecting signs.

   a. Allowed for commercial uses only.

   b. Maximum area: Twenty (20) square feet.

   c. Maximum height: Twelve (12) feet from grade (pedestrian surface) to top of sign.

   d. Minimum clearance: Eight (8) feet between grade and bottom of sign.

   e. Maximum projection from building: Five (5) feet.

8. Real estate signs, all types.

9. Temporary signs.

10. Traffic directional signs.

11. Wall signs. Maximum size: Thirty (30) percent of the area of each wall.

12. Historic landmark signs (HLS), all types. The first HLS on a premise does not count toward the maximum total sign area.

13. Canopy signs.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 4, 6-28-11; Ord. No. 11076, § 7, 5-29-13; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11188, § 2, 8-5-14, eff. 9-5-14; Ord. No. 11329, § 1, 12-15-15)

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Sec. 3-83. Scenic corridor zone (SCZ) district.

A. *Location:* The scenic corridor zone (SCZ) district includes any portion of property or parcels within four hundred (400) feet, measured in any direction, of the future right-of-way lines of a scenic route, as designated on the Major Streets and Routes (MS&R) Plan map. If any portion of a development is within the SCZ district, the entire development will be treated, for sign purposes only, as though it were entirely within the SCZ district.

B. *Maximum total attached sign area:*

1. For commercial or industrial uses: one and one-fourth (1.25) square feet per foot of building frontage with a minimum allowance of not less than twenty-five (25) square feet and a maximum of two hundred fifty (250) square feet per tenant. Signs must be oriented toward a scenic route, arterial street, collector street, or the interior of the premises.

2. For multifamily complexes: Twenty (20) square feet per street frontage.

C. *Land Use Code compliance:* All signs in this District shall comply with applicable provisions of the Land Use Code and must be approved through the applicable review process.

D. *Colors:* All signs shall use colors that are predominant within the surrounding landscape, such as desert and earth tones, as required in the scenic corridor zone provisions of the Land Use Code.

E. *Permitted signs:*

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.

2. Awning signs.

3. Freestanding signs, monument and low profile only.

a. Maximum number per premises:

(1) Scenic route: One (1) for the first four hundred fifty (450) feet of scenic route street frontage with one (1) additional sign for every four hundred (400) feet of additional scenic route street frontage.

(2) Arterial street: One (1) for the first four hundred fifty (450) feet of arterial street frontage with one (1) additional sign for every two hundred fifty (250) feet of additional arterial street frontage.

(3) Collector Street: One (1) for the first four hundred fifty (450) feet of collector street frontage within the premises, with one (1) additional sign for every two hundred fifty (250) feet of additional collector street frontage.

b. Maximum area:

(1) Multifamily residential uses: Twenty (20) square feet per street frontage.

(2) Commercial or industrial uses: Thirty-five (35) square feet per sign if located within the SCZ buffer, fifty (50) square feet per sign if located outside the SCZ buffer.

c. Maximum height: Ten (10) feet.

d. Location:

(1) Scenic route: Maximum height signs shall be located no less than seven and one-half (7.5) feet behind the leading edge of the SCZ buffer and within fifty (50) feet of the right-of-way line. Signs may be located one (1) foot closer to the leading edge of the SCZ buffer for each foot (below the maximum) they are reduced in height.

(2) All other streets: Within twenty (20) feet of the right-of-way line and at least one hundred fifty (150) feet from the centerline of the scenic route.

e. Freestanding signs that include or consist of a three-dimensional representation of a figure or object are prohibited.

f. Lighting: Sign panels shall be opaque. Light shall be emitted through individual translucent letters and/or symbols only, or individual letters and/or symbols may be halo illuminated.

6. The new sign and structure configuration must be equipped with pole covers or architectural embellishments that hide or conceal all structural components or braces (such as pipes, angle iron, cables, internal or back framing, bracing, etc.). The pole cover or architectural embellishment may require plan check for construction purposes.

7. No part of the relocated sign and/or structure may occupy or overhang public right-of-way.

8. The sign may be relocated, subject to the following:

   a. If the sign is ten (10) feet tall or less, the sign shall be at least twenty (20) feet behind the existing or future curb whichever is greater.

   b. If the sign is greater than ten (10) feet tall, the sign shall be at least thirty (30) feet behind the existing or future curb whichever is greater.

9. The sign has not been declared abandoned, illegal or prohibited.

10. Any nonconforming sign that is relocated, altered, removed and reinstalled, or replaced pursuant to the provisions of this section retains its classification as a nonconforming sign and shall be treated as such.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10903, § 5, 6-28-11; Ord. No. 10954, § 1, 1-10-12, eff. 7-10-12; Ord. No. 11131, § 1, 12-2-13; Ord. No. 11166, § 1, 5-6-14; Ord. No. 11329, § 1, 12-15-15)

Editor's note – Section 3 of Ord. No. 10954 provides: "The provisions of the Tucson Code, Chapter 3, Article VIII, Section 3-96(D) shall end and be of no effect on July 10, 2013."

Ord. No. 11166 provides that the provisions of Ord. No. 10903 shall cease to be effective on May 29, 2017, unless extended by the Mayor and Council by a separate ordinance. Ord. No. 11329 provides that the provisions of Ord. No. 10903 shall cease to be effective on December 31, 2018, unless extended by the Mayor and Council by a separate ordinance. If not extended, the sections shall revert to the language as it existed prior to Ord. No. 10903.

Sec. 3-97. Change of use.

A. Any nonconforming sign may continue to be utilized as long as the occupancy of the use within the structure remains the same. When a use changes from one occupancy category to another, all signs shall be brought into conformance with the provisions of this chapter.

B. Any occupancy not mentioned specifically or about which there is any question shall be classified by the sign code administrator and included in the group which its use most nearly resembles.

C. Occupancy categories:

1. Assembly uses such as theaters, churches, stadiums, review stands and amusement park structures.

2. Educational uses such as nurseries, child-care and other educational purposes.

3. Institutional uses such as hospitals, sanitariums, nursing homes, mental hospitals and sanitariums, jails, prisons and reformatories.

4. Manufacturing and industrial uses such as storage of materials, dry cleaning plants, paint shops, woodworking, printing plants, ice plants, power plants and creameries.

5. Service facilities such as repair garages, aircraft repair hangers, gasoline and service stations.

6. Wholesale uses.

ises where horses, cows, donkeys, goats or other domestic animals or dogs, cats or other domestic pets are kept within the city shall deposit, cause to be deposited or allow to accumulate within or about such premises for a longer time than twenty-four (24) hours, any manure, animal bedding or body wastes from domestic animals and pets. Such person shall provide a receptacle of sufficient size for the reception of such manure, animal bedding or body wastes of domestic animals and pets.

Sec. 4-28(2). Such receptacle shall be so constructed that the contents thereof will not be accessible to flies; and such receptacle shall be placed upon the premises owned, occupied or controlled by such person in a location as remote as possible from any surrounding dwelling or street. Such person shall empty and cleanse the same as often as necessary, but not less than twice each week, and oftener when directed to do so by the health officer.

Sec. 4-28(3). Nothing contained in this section shall operate to prevent the owner, proprietor, agent or occupant of a residential premises from placing animal manure produced by herbivorous animals into a residential compost pile or residential compost windrow, provided it is placed into the compost pile or windrow within twenty-four (24) hours from the time it is deposited and provided it is maintained under the conditions set forth in section 15-16(4) of the Tucson Code.

Sec. 4-28(4). When applicable, the definitions contained in section 15-1 shall apply to the provisions of chapter 4 of the Tucson Code.

Sec. 4-28(5). It shall be a civil infraction for any person to violate the provisions of this section.
(1953 Code, ch. 4, § 41; Ord. No. 4374, § 1, 7-7-75; Ord. No. 8028, § 1, 4-19-93; Ord. No. 8170, § 1, 12-6-93; Ord. No. 8174, § 1, 12-13-93)

Sec. 4-29. Animals attached to vehicles to be hitched.

If any person shall leave any horse or other animals attached to any carriage, wagon, cart or other vehicle in any street, avenue, alley or lane within the corporate limits of the city without securely fastening the same, or without the same being fastened by a chain or strap from the bit to a metal weight upon the ground, such weight weighing fifteen (15) pounds at least for a single horse and twenty-five (25) pounds for a team, every such person shall be deemed guilty of a misdemeanor.
(1953 Code, ch. 4, § 40)

Sec. 4-30. Penalties.

A violation of this article is punishable by a fine of not less than fifty dollars ($50.00) nor more than two thousand five hundred dollars ($2,500.00). No judge may suspend the imposition of the minimum fine prescribed herein. In addition to the fine amount, the penalty may include not more than six (6) months in jail and not more than three (3) years probation, or any combination thereof.
(Ord. No. 7241, § 8, 7-3-89; Ord. No. 8174, § 2, 12-13-93; Ord. No. 8996, § 8, 12-8-97)

Secs. 4-31 – 4-39. Reserved.

ARTICLE III. DISEASED ANIMALS

Sec. 4-40. Keeping diseased animals prohibited; destruction authorized.

It shall be unlawful for any person to harbor or keep within the city any animal afflicted with any contagious or infectious disease unless such animal is under the control of a certified veterinarian. It shall be the duty of the county humane officer to immediately take possession of any such animal not so controlled. After confirmation of such disease by a certified veterinarian, the humane officer shall immediately destroy the animal and dispose of the carcass thereof, unless the owner shall forthwith place such animal under the control of a certified veterinarian.
(1953 Code, ch. 4, § 20)

Sec. 4-41. Diseased animals running at large prohibited; impounding or confinement enforced.

Sec. 4-41(1). It is hereby declared unlawful for any animal, infected with, or suffering from, a communicable or infectious disease such as ringworm

or other disorder, to run at large or to be on public streets, alleys or other public property; any such dog, cat or other animal shall be impounded when found in any such places or when running at large.

Sec. 4-41(2). The expense of impounding and keeping and the procedure for keeping, disposing and returning the animal shall be the same as is provided in A.R.S. sections 24-371, 24-372, and the other sections contained in A.R.S. title 24, chapter 2, article 8.

Sec. 4-41(3). The owner of any such infected or diseased animal shall keep same segregated and confined and not knowingly allow or permit it to run at large or be off the premises upon which it is customarily kept until it shall have fully and completely recovered from the infectious disease or disorder.

Sec. 4-41(4). It shall be the duty of all police officers of the city to enforce the provisions of this section 4-41, and the county humane officer is hereby empowered and authorized to apprehend and impound such animals.
(1953 Code, ch. 4, § 20a; Ord. No. 2019, §§ 1, 2, 4-18-60)

Sec. 4-42. Animals suspected of rabies – Report required.

Subject to the provisions of article V of this chapter relating to dogs, any animal suspected of having rabies shall immediately be reported to the county humane officer or his deputies.
(1953 Code, ch. 4, § 21)

Sec. 4-43. Same – Refusal to deliver to enforcement officer.

Subject to the provisions of article V of this chapter relating to dogs, after a showing has been made that any animal has symptoms of rabies, it shall be unlawful for any person having care or control of such animal to refuse to deliver such animal to the county enforcement officer or his deputies.
(1953 Code, ch. 4, § 22; Ord. No. 4530, § 1, 6-28-76)

Sec. 4-44. Same – Impounding biting animals; disposition.

Biting animals shall be impounded and quarantined as set forth at A.R.S. section 24-372, as amended from time to time; and all owners of such biting animals shall be responsible for any and all applicable impoundment and boarding fees incurred in connection therewith.
(1953 Code, ch. 4, § 23; Ord. No. 6043, § 8, 6-25-84)

Sec. 4-45. Violations; penalties.

An owner or other person violating any provision of this article shall be guilty of a misdemeanor, and each such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of this article is committed or permitted; and, except as otherwise specified in this article, upon conviction of any such violation, such person shall be punished by a fine of not less than two hundred dollars ($200.00) and not more than two thousand five hundred dollars ($2,500.00), or by imprisonment for not more than four (4) months, or by both such fine and imprisonment. No judge may suspend the imposition of the minimum fine prescribed herein.

In addition, the judge shall order abatement as necessary.
(Ord. No. 4530, § 2, 6-28-76; Ord. No. 6043, § 9, 6-25-84; Ord. No. 7241, § 3, 7-3-89; Ord. No. 8996, § 9, 12-8-97)

Secs. 4-46 – 4-54. Reserved.

ARTICLE IV. FOWL

Sec. 4-55. Running at large prohibited.

It shall be unlawful for any person to permit any chickens, ducks, geese or turkeys to run at large within the city.
(1953 Code, ch. 4, § 32)

Sec. 4-56. Limit on number kept.

Except as to the extent permitted by chapter 23B, Unified Development Code, of the Tucson Code or as

otherwise provided, it shall be unlawful for any person to keep or maintain within the city more than twenty-four (24) fowl.
(1953 Code, ch. 4, § 33; Ord. No. 2178, § 1, 6-1961; Ord. No. 11328, § 10, 12-8-15)

Sec. 4-57. Proximity of coop or place kept to dwellings.

Except as otherwise provided, it shall be unlawful for any person to keep or maintain, within fifty (50) feet of the dwelling house of any other person within the city, any coop, house, shed or other structure, or yard, corral or enclosure for housing, keeping or caring for any pigeons or fowl of any kind.
(1953 Code, ch. 4, § 34)

Sec. 4-58. Coop or place kept to be clean, sanitary.

Every person keeping or maintaining any fowl of any kind within the city shall keep and maintain the coops, houses, sheds, structures, yards, corrals or enclosures wherein such fowl are kept in a clean and sanitary condition.
(1953 Code, ch. 4, § 35)

Sec. 4-59. Keeping male fowl or guinea fowl prohibited.

Except as to the extent permitted by chapter 23B, Unified Development Code, of the Tucson Code, or as otherwise provided, it shall be unlawful for any person to keep, house or feed any male fowl or guinea fowl within the city.
(1953 Code, ch. 4, § 36; Ord. No. 2178, § 2, 6-19-61; Ord. No. 11328, § 10, 12-8-15)

Sec. 4-60. Keeping pigeons.

Except as otherwise provided, it shall be unlawful for any person to keep any pigeons within the city unless they are securely housed or cooped so as to prevent them going at large; however, pigeons bearing a seamless leg band, issued by a recognized association of pigeon fanciers, may be released for exercise, performance or the commencement of races, within the corporate limits of the city, upon the condition that the owner or person who has possession of such pigeons shall not permit them to alight upon buildings or property of others.
(1953 Code, ch. 4, § 37; Ord. No. 2997, § 2, 4-24-67)

Sec. 4-61. Penalties.

A violation of this article is punishable by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00). No judge may suspend the imposition of the minimum fine prescribed herein. In addition to the fine amount, the penalty may include not more than six (6) months in jail and not more than three (3) years' probation, or any combination thereof.

In addition, the judge shall order abatement as necessary.
(Ord. No. 7241, § 9, 7-3-89)

Secs. 4-62 – 4-70. Reserved.

ARTICLE V. DOGS

Sec. 4-71. Definitions.

In this article, unless the context otherwise requires:

Sec. 4-71(1). At large means 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. Tieouts are prohibited. (Ord. No. 6043, § 10, 6-25-84; Ord. No. 8713, § 3, 6-10-96)

Sec. 4-71(2). City enforcement agent means any peace officer or any county animal control officer. (Ord. No. 6043, § 11, 6-25-84)

Sec. 4-71(3). Collar means a band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.

Sec. 4-71(4). Dog means a member of the *Canis familiaris* family.

Sec. 4-71(5). Owner means any person owning, keeping, possessing, harboring, maintaining or

having custody or otherwise having control of a dog within the city. (Ord. No. 4531, § 2, 6-28-76; Ord. No. 6043, § 12, 6-25-84)

Sec. 4-71(6). Vaccination means an anti-rabies vaccination using a type of vaccine approved by the state veterinarian. (Ord. No. 6043, §§ 14, 15, 6-25-84)

Sec. 4-71(7). Household means all those persons who regularly dwell together at the same place of residence. (Ord. No. 6043, § 15, 6-25-84)

Sec. 4-71(8). Altered dog means a spayed female or neutered male. (Ord. No. 7998, § 3, 6-7-93)
(1953 Code, ch. 4, art. II, § 1; Ord. No. 2558, § 1, 12-16-63; Ord. No. 5095, § 1, 1-28-80; Ord. No. 5219, § 1, 9-22-80; Ord. No. 4531, § 2, 6-28-76; Ord. No. 6043, §§ 10 – 15, 6-25-84)

Sec. 4-72. Authority of city manager.

The city manager is hereby authorized and may enter into a cooperative agreement with the county board of supervisors for the establishment and operation of a city-county pound, to designate the city enforcement agent, and to do all things necessary to ensure the enforcement of this article.
(Ord. No. 2558, § 2, 12-16-63)

Sec. 4-73. Violations; penalties.

(a) Any owner or other person violating any provisions of this article shall be guilty of a misdemeanor; and such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of this article is committed or permitted; and, except as otherwise specified in this article, upon conviction of any such violation, such person shall be punishable by a fine of not less than fifty dollars ($50.00) and not more than seven hundred fifty dollars ($750.00). No judge may suspend the imposition of the minimum fine prescribed herein. In addition to the fine amount, the penalty may include imprisonment for not more than four (4) months and not more than two (2) years probation, or any combination thereof.

(b) Any person convicted of violating section 4-76 and/or section 4-81 shall be fined not less than one hundred fifty dollars ($150.00) for each offense; however, the fine shall be reduced to seventy-five dollars ($75.00) for each offense upon a showing to the court of proof of vaccination and/or licensing, as required of such dog or dogs, within fifteen (15) working days of issuance of the complaint. No judge may suspend the imposition of the minimum fine prescribed herein. In addition to the fine amount, the penalty may include imprisonment for not more than four (4) months and not more than two (2) years probation, or any combination thereof.

(c) In addition, the judge shall order abatement as necessary.
(1953 Code, ch. 4, art. II, § 10; Ord. No. 2558, § 1, 12-16-63; Ord. No. 4529, § 1, 6-28-76; Ord. No. 5010, § 1, 9-10-79; Ord. No. 5219, § 2, 9-22-80; Ord. No. 6043, § 16, 6-25-84; Ord. No. 7241, § 4, 7-3-89; Ord. No. 9159, § 1, 11-9-98)

Sec. 4-74. Issuance of citations for violations.

The city enforcement agent is hereby authorized to issue citations to owners for any violation of this article.
(1953 Code, ch. 4, art. II, § 8; Ord. No. 2558, § 1, 12-16-63)

Sec. 4-75. Reserved.

Editors Note: Former § 4-75 was repealed by § 17 of Ord. No. 6043, adopted June 25, 1984; the section had pertained to the duty to care for dogs and the prohibition of mistreatment of dogs. The repealed provisions had been derived from the 1953 Code, ch. 4, art.II, § 9, as amended by Ord. No. 2558, § 1, adopted Dec. 16, 1963, and Ord. No. 5219, § 3, adopted Sept. 22, 1980.

Sec. 4-76. Vaccination required.

It shall be unlawful to own, keep, possess, harbor or maintain a dog over the age of three (3) months in the city without having such dog vaccinated in accordance with the provisions of this article.
(1953 Code, ch. 4, art.II, § 2.1; Ord. No. 2558, § 1, 12-16-63; Ord. No. 9916, § 1, 12-8-03)

Chapter 11

CRIMES AND OFFENSES*

Art. I.	**In General, §§ 11-1 – 11-70.2**
Art. II.	**Methamphetamine, §§ 11-71 – 11-87**
Art. III.	**Smoking, §§ 11-88 – 11-99**
Art. IV.	**Civil Emergencies – Powers of the Mayor, §§ 11-100 – 11-109**
Art. V.	**Interference with Fire Department, §§ 11-110 – 11-120**
Art. VI.	**Obstruction of Enforcement of Civil Infractions, §§ 11-121 – 11-129**
Art. VII.	**Nitrous Oxide, §§ 11-130 – 11-139**
Art. VIII.	**Reserved, §§ 11-140 – 11-159**
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Article I. In General

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***Cross references –** General penalty and continuing violation, § 1-8; treatment of prisoners generally, § 1-9 et seq.; motor vehicles and related offenses, ch. 20.

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Article VIII. Reserved

Secs. 11-140 – 11-159. Reserved.

Article IX. Reserved

Secs. 11-160 – 11-160.3. Reserved.

(i) Public area means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
(Ord. No. 8674, §§ 1, 2, 4-8-96; Ord. No. 8891, § 1, 9-15-97)

Editors Note: Ordinance No. 8674, § 1, deleted § 11-33 in its entirety. Formerly, such section pertained to loitering and derived from ch. 18, § 24 of the 1953 Code; Ord. No. 3094, § 1, 3-11-68; Ord. No. 3599, § 1, 1-25-71. Subsequently, section 2 of same ordinance added a new § 11-33 pertaining to legislative findings; definitions.

Sec. 11-33.1. Prohibited acts.

Section 11-33.1(1) Aggressive solicitation prohibited. It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area;

(2) In any public transportation vehicle, or bus, vantran or trolley station or stop;

(3) Within fifteen (15) feet of any entrance or exit of any bank or check cashing business or within fifteen (15) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business, without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility; or

(4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

Section 11-33.1(2) Obstruction of doorways entrances on a public sidewalk prohibited. It shall be unlawful for any person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, to remain within ten (10) feet of a doorway entrance on a public sidewalk or any other public right-of-way if that person's continued presence obstructs a doorway entrance.

Section 11-33.1(3) Exceptions to 11-33.1(2) above. An exception to the prohibition in the preceding subsection against obstructing a public sidewalk or other public right-of-way within ten (10) feet of a doorway entrance shall be made in circumstances involving physical emergencies or the administration of medical assistance; sidewalk cafes, parades, rallies, demonstrations, performances or meetings for which street use permits have been issued; chairs or benches provided by a public agency or abutting private property owner; and seats in bus zones occupied by persons waiting for the bus.

Section 11-33.1(4) Solicitation of children. It shall be unlawful for any person to solicit money or other things of value from any person under the age of sixteen (16) years who is unaccompanied by an adult.
(Ord. No. 8674, § 2, 4-8-96; Ord. No. 8891, § 1, 9-15-97; Ord. No. 11331, § 2, 12-8-15)

Sec. 11-33.2. Penalties.

(a) A person convicted of a first offense for a violation of this ordinance may be ordered to perform community service or fined in an amount up to two hundred and fifty dollars ($250.00).

(b) A person convicted of a second or subsequent violation of this ordinance may be ordered to perform community service or fined up to five hundred dollars ($500.00); may be sentenced to jail for not more than ten (10) days; and shall be placed on probation for not less than one (1) year and no more than three (3) years.

(c) A person convicted of a violation of this ordinance may be required to perform community service work as described by the court in lieu of, or in addition to, the fine imposed under this Section. The rate of substitution of community service work for the fine amount shall be calculated at ten dollars ($10.00) per hour.
(Ord. No. 8674, § 2, 4-8-96)

Sec. 11-34. Juveniles; curfew.

Sec. 11-34(1). Definitions. As used in this section:

(a) Juvenile is any person who has not yet reached eighteen (18) years of age.

(b) *Parent* is any natural, adoptive, or step-parent of a juvenile.

(c) *Guardian* is any person, other than a parent, who has legal guardianship of a juvenile; or any person over eighteen (18) years of age who has been authorized by a parent or legal guardian to have temporary care and custody of a juvenile.

(d) *Emancipated minor* is any juvenile who is married, serving in the military, or is otherwise legally recognized as emancipated.

(e) *Emergency* is an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation that requires immediate action to prevent serious bodily injury or loss of life or property.

(f) *Establishment* is any privately-owned place of business, and all property appurtenant thereto, to which the public or a substantial portion of the public is invited, including, but not limited to, any place of amusement or entertainment.

(g) *Public place* is any place to which the public or a substantial portion of the public has access and includes, but is not limited to, streets, sidewalks, alleys, rights-of-way, parks, playgrounds, or government buildings or facilities; vacant lots; and the common and/or parking areas of government buildings and facilities, schools, hospitals, apartment homes and complexes, office buildings, shops, malls, and other establishments.

(h) *Residence* is the dwelling house or usual place of abode of a juvenile and his parent or legal guardian.

Sec. 11-34(2) Curfew – Juveniles under age 16. It is unlawful for any juvenile, prior to his sixteenth birthday, to be present in, about or upon any public place or establishment in the city between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

Sec. 11-34(3) Curfew – Juveniles age 16 and older. It is unlawful for any juvenile, on or after his sixteenth birthday to be present in, about or upon any public place or establishment in the city between the hours of 12:00 midnight and 5:00 a.m. of the following day.

Sec. 11-34(4). Parental responsibility. It is unlawful for the parent or guardian of any juvenile to permit, or by insufficient control allow, the juvenile to be present in, about or upon any public place or establishment in the city in violation of this section.

Sec. 11-34(5). Exceptions. The provisions of this section shall not apply to any juvenile who:

(a) Is accompanied by his parent or guardian;

(b) Is an emancipated minor;

(c) Is involved in an emergency;

(d) Has permission from his parent or guardian to travel to, or be in or at, a specific public place or establishment for a reasonable, legitimate and specific purpose;

(e) Is exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, speech, and assembly.

(f) Is engaged in interstate travel;

(g) Is attending, or travelling to or returning from, an official school, religious or other civic or recreational event supervised by adults and sponsored by a governmental entity, a civic organization, or another similar entity that takes responsibility for the juvenile;

(h) Is engaged in employment activity, or travelling to or returning from such activity; or

(i) Is on the sidewalk immediately abutting the juvenile's residence.

Sec. 11-34(6). Enforcement of provisions of this section. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the public place or establishment.
(1953 Code, ch. 18, § 25; Ord. No. 3224, § 1, 3-10-69; Ord. No. 9182, § 3, 1-4-99)

Sec. 11-35. Vapor releasing substances containing toxic substances.

The dispensing of certain vapor releasing substances containing a toxic substance is regulated and prohibited as follows:

Sec. 11-35(1). Definition In this series of sections unless the context otherwise requires, "vapor releasing substances containing a toxic substance" means paints, varnishes and like coating substances releasing vapors or fumes containing benzene, toluene, volatile ketones, isophorone, acetone, chloroform, methylene chloride, mestiyl oxide, xylene, cumene, ethylbenzene, trichloroethylene, MIBK, MIAK, MEK, and diacetone alcohol dispensed by the use of aerosol spray devices.

Sec. 11-35(2). Dispensing such substances prohibited.

(a) No person shall sell or offer for sale, deliver or provide, or give to any person under eighteen (18) years of age any vapor releasing substances containing a toxic substance.

(b) No sale or transfer of possession of any vapor releasing substances containing a toxic substance shall be made except by a person who is at the time of sale actively employed or engaged in operating a bona fide commercial establishment at a fixed location.

Sec. 11-35(3). Exceptions. Nothing contained in this series of sections shall be applicable to the transfer of any vapor releasing substances containing a toxic substance, from a parent to a child, from a guardian to his ward, from an employer to employee, from a teacher to a student or in any other similar relationship when such transfer is for a lawful and bona fide purpose.

Sec. 11-35(4). Commercial establishments. Every bona fide commercial establishment selling vapor releasing substances containing a toxic substance shall conspicuously display an English/Spanish bilingual sign of not less than eleven (11) inches by fourteen (14) inches in size which states: "Warning – Deliberate Inhalation of Spray Paint Vapors Can Be Dangerous." Such printed warning shall be easily legible.
(Ord. No. 4141, § 1, 2-25-74)

Sec. 11-36. Sitting and lying down on public sidewalks in downtown and neighborhood commercial zones.

Sec. 11-36.1. Purpose and intent. Pursuant to Chapter IV, Sections 1(19) and (21) of the Charter, mayor and council find as follows:

(a) Public sidewalks in business districts are created and maintained for the primary purpose of enabling pedestrians to safely and efficiently move about from place to place, facilitating deliveries of goods and services, and providing potential customers with convenient access to goods and services.

(b) During normal business hours, the public sidewalks in downtown and neighborhood commercial areas are prone to congestion, and should be kept available to serve these primary purposes.

(c) Except in places provided therefor or where reasonably necessary, sitting or lying on the public sidewalks in downtown and neighborhood commercial areas during the hours of greatest congestion interferes with the primary purposes of the public sidewalks, threatens public safety, and damages public welfare.

(d) Pedestrians, particularly the elderly, disabled, or vision-impaired, are put at increased risk when they must see and navigate around individuals sitting or lying upon the public sidewalk.

(e) The public welfare is promoted by economically healthy downtown and neighborhood commercial areas which attract people to shop, work and recreate. These areas provide easily accessible goods and

services, employment opportunities, the tax revenues necessary to maintain and improve property within these areas.

(f) In some circumstances people sitting or lying on the sidewalks deter many members of the public from frequenting those areas, which contributes to undermining the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts which contribute to a spiral of deterioration and blight which harms the public health, safety and welfare. An important factor in protecting public safety is attracting people to the streets and sidewalks of the city's business districts, because the presence of many law abiding citizens serves as a deterrent to crime and increases the public's sense of security and the safety to all.

(g) There are numerous other places within the downtown and neighborhood commercial areas where sitting or lying down can be accommodated without unduly interfering with the safe flow of pedestrian traffic, impairing commercial activity, threatening public safety or harming the public welfare. These other places include city parks and plazas, arcades, and common areas open to the public, and generally on private property with the permission of the property owner. In addition, public sidewalks outside the designated hours are available for sitting or lying down.

Therefore, the limited regulation of sitting or lying down on sidewalks is both reasonably necessary and appropriately balances the public interest and individual rights.

Section 11-36.2. Prohibited conduct; exceptions.

(a) No person shall sit or lie down upon a public sidewalk or upon a blanket, chair, stool, or any other object placed upon a public sidewalk or median during the hours between 7:00 a.m. and 10:00 p.m. in the following zones:

(1) The Downtown Zone, defined as the area bounded by Interstate 10 on the West, 6th Street on the North, Fourth Avenue on the East and 17th Street on the South.

(2) The Fourth Avenue Business Zone, defined as the area bounded by University Blvd. on the North, Congress Street on the South, 3rd Avenue on the East and 5th Avenue on the West.

(3) The University Zone, defined as the area bounded by Speedway Blvd. on the North, 6th Street on the South, Park Avenue on the East, and Euclid Avenue on the West.

(b) The prohibition in subsection (a) shall not apply to any person:

(1) Sitting or lying down on a public sidewalk due to medical emergency;

(2) Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;

(3) Operating or patronizing a commercial establishment conducted on the public sidewalks pursuant to a permit;

(4) Who is exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, speech and assembly; provided, however, that the person sitting or lying on the public sidewalk remains at least ten (10) feet from any doorway or business entrance, leaves open a five (5) foot path and does not otherwise block or impede pedestrian traffic. This exception applies only to persons and does not create an exception to sections 16-35 or 25-51 of this Code, or any other provisions of this Code, that prohibit the placement of items or objects on a public sidewalk that prevent full, free and unobstructed public use in any manner.

(5) Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner; or

(6) Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these stated exceptions shall be construed to permit any conduct which is otherwise prohibited by law.

(c) No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

Section 11-36.3. Penalty. Violation of this ordinance shall constitute a misdemeanor punishable by community service or fines not to exceed two hundred fifty dollars ($250.00), by imprisonment not to exceed ten (10) days, and by probation not to exceed one (1) year or both such fine and imprisonment. The rate of substitution of community service work for the fine amount shall be calculated at ten dollars ($10.00) per hour.
(Ord. No. 8978, § 1, 11-10-97; Ord. No. 9360, § 1, 3-20-00; Ord. No. 11331, § 2, 12-8-15)

Editor's note– Ord. No. 3224, § 3, adopted Mar. 10, 1969, amended this Code by repealing former §§ 11-35 and 11-36 derived from 1953 Code, ch. 18, §§ 26 and 27. Said former §§ 11-35 and 11-36 contained provisions relative to the responsibility of parents or guardians for minors and penalty provisions. Subsequently, Ord. No. 8978, § 1, 11-10-97, added a new § 11-36 to read as herein set out.

Sec. 11-37. Minors: Playing, loitering about railroad property.

It shall be unlawful for any minor, under the age of eighteen (18) years, to play or loiter about any railroad depot, roundhouse, machineshop or freight house, or to play or loiter about or ride upon any railroad car, engine, truck or other vehicle belonging to or used upon or in connection with any railroad within the corporate limits of the city without the consent of the owner or lessee of such railroad, or of the agent of such owner or lessee. Any such minor violating the provisions of this section shall be guilty of a misdemeanor and proceedings shall be taken in accordance with and pursuant to the laws of the state regulating juveniles.
(1953 Code, ch. 18, § 28)

Sec. 11-38. Prompt payment.

(a) *Violation.* It shall be a civil infraction and punishable as provided in this section if in bad faith: a) an owner fails to pay for work performed by a general contractor or contractor, or b) a general contractor fails to pay for work performed by a subcontractor, or c) a subcontractor fails to pay for labor or materials provided, within fourteen (14) days or within the time otherwise agreed upon between the parties following the completion of the work or labor or delivery of materials, and delivery of an initial written request for payment evidenced by an affidavit of service or return receipt of certified mail.

A separate violation may be charged for each segment of completed work, or labor or delivery of materials for which payment is not made. Each day for which payment is not made may be charged as a separate violation after the violation accrues.

Bad faith may be established by the conduct between the parties or other means as allowed by the court but shall at a minimum be evidenced by two subsequent written requests for payment delivered not sooner than two weeks after the initial request and at least two weeks apart and testimony that payment in full has not been made and there is no reasonable basis to delay payment which together shall constitute prima facie evidence of bad faith. A party who acts in compliance with applicable contract provisions shall not be deemed to act in bad faith under this section.

(b) *Definitions.* As used in this section:

Completion of work or labor means, unless otherwise agreed upon between the parties, the date upon which the work or labor for which payment is requested has been completed, or if an inspection is required by the city for the work or labor, the date such work or labor passed inspection.

Contractor includes any person, firm, entity, partnership, corporation, association, or other organization licensed under Title 32 of the Arizona Statutes and that undertakes to perform work directly for an owner.

General contractor is synonymous with the terms "commercial contractor" and "contractor"

as used in A.R.S. § 32-1101(A) and includes any person, firm, entity, partnership, corporation, association, or other organization or any combination thereof that uses subcontractors and engages in construction, repair or alteration.

Owner means the person, firm, entity, partnership, corporation, association or other organization or combination thereof possessing either a fee or lesser interest that enters into a contract, arrangement or agreement with a general contractor or contractor for the construction, repair or alteration of a structure. Owner includes all assigns and successors in interest of the owner.

Subcontractor means any person, firm, entity, partnership, corporation, association or other organization or any combination thereof that undertakes to perform work for a general contractor and has a direct contractual relationship with the general contractor.

(c) *Penalty.* A violation of this section shall result in a fine of not less than two hundred fifty dollars ($250.00) for the first offense and not less than five hundred dollars ($500.00) for the second offense.

(d) *Scheduling of hearing.* A violation charged under this section shall be heard by the construction special magistrate not more than sixty (60) days after the violations set forth in the complaint have been answered. For good cause shown, the construction special magistrate may continue the hearing.

(e) *Defenses.* Justification is a defense to a prosecution under this section. Justification means money is unavailable to make payment due to nonpayment by an owner, general contractor, contractor or subcontractor, bankruptcy, force majure, operation of a stop notice or bonded stop notice or a prima facie showing that any claim for moneys due for work completed, labor performed or materials provided is subject to a legal or equitable defense.

Unavailability of money due to nonpayment is not a defense unless the party asserting nonpayment: a) files an action in a court of competent jurisdiction seeking payment or enters arbitration seeking payment unless to do so would be a futile act in that it would not likely result in the recovery of funds to provide payment, or b) initiates or seeks to initiate an action under this section.

Nonpayment based upon poor quality of work may not be asserted as a defense where there is an agency with jurisdiction over quality issues and a written complaint has not been filed with that agency.

(f) *Limitation on action.* No violation chargeable under this section may be filed more than one (1) year after the violation accrues. A violation accrues under this section on the date of delivery of the last request for payment required by this section. No action may be brought on behalf of any person, firm, corporation or entity that does not hold a license if a license is required by Title 32 of the Arizona Statutes.
(Ord. No. 9158, § 2, 11-9-98)

Sec. 11-39. Permitting or encouraging underage drinking.

(a) No person of legal drinking age in Arizona may knowingly permit or fail to take reasonable action to prevent the illegal consumption of spirituous liquor by an underage person on premises owned by the person or under the person's control. This subsection does not apply to spirituous liquor used exclusively as part of a religious service.

(b) A person who violates this section is guilty of a class 1 misdemeanor.
(Ord. No. 10396, § 1, 5-1-07)

Editor's Note: Prior to the reenactment of § 11-39 by Ord. No. 10396, Ord. No. 4520, § 1, adopted June 21, 1976, repealed § 11-39 which had pertained to the frequenting of places where narcotics were used and derived from the 1953 Code, ch. 18, § 32.

Sec. 11-40. Narcotics – Keeping paraphernalia; acting as lookout.

If any person shall keep or exhibit any box, pipe, cup, hypodermic needle, thing or apparatus used for unlawfully smoking, eating, inhaling, injecting or consuming any substance defined as a narcotic by A.R.S. section 13-3401, or if any person shall act as a lookout or tender at any place where such acts are practiced or carried on, he shall be guilty of a misdemeanor.
(1953 Code, ch. 18, § 33; Ord. No. 5974, § 2, 3-26-84)

Sec. 11-41. Same – Seizure, destruction of paraphernalia.

It shall be the duty of the police officers of the city to seize and safely keep all cups, pipes, apparatus, boxes, hypodermic needles and things used for the purpose of unlawfully eating, smoking, inhaling, injecting or otherwise consuming any substance defined as a narcotic by A.R.S. section 13-3401, and produce the same in court.

the immediate return of all seized items. If the court finds that the products were properly seized pursuant to this section, the court shall order that the products are forfeited to the city, and shall direct the city to destroy and dispose of the products.

(i) An operator who violates a provision of this section is guilty of a class 1 misdemeanor.

(j) The requirements of this section are in addition to any requirements under state and federal law.
(Ord. No. 10735, § 1, 11-24-09, eff. 2-1-10)

Sec. 11-131. Retail establishment's right to refuse sale.

Any operator of a retail establishment may refuse to sell any nitrous oxide product to any person if the operator has reason to believe that the product will be used in any manner contrary to federal, state or local law. Facts that give reason to believe that the product will be used unlawfully include, but are not limited to, the following:

(1) The circumstances would lead a reasonable person to believe that any person is attempting to possess nitrous oxide products for the purpose of unlawful distribution to persons under the age of eighteen (18) as prohibited by state law.

(2) The transaction involves payment for nitrous oxide products in a total amount of more than one hundred dollars ($100.00).

Any person who refuses to make a retail sale in accordance with this subsection is not liable to its customer or any other person for any loss or damage caused in whole or in part by the refusal to sell.
(Ord. No. 10735, § 1, 11-24-09, eff. 2-1-10)

Sec. 11-132. Possession and use of nitrous oxide by persons under the age of 18.

(a) A person under the age of eighteen (18) commits an offense if the person possesses a nitrous oxide product unless the person under eighteen (18) years of age is delivering or accepting delivery in the person's capacity as an employee. Such an offense is a class 3 misdemeanor.

(b) A person under the age of eighteen (18) commits an offense if the person inhales, ingests uses or otherwise consumes a nitrous oxide product. Such an offense is a class 1 misdemeanor.

(c) This section shall not apply to any person who inhales, ingests uses or otherwise consumes nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent.
(Ord. No. 10735, § 1, 11-24-09, eff. 2-1-10)

Secs. 11-133 – 11-139. Reserved.

ARTICLE VIII. RESERVED*

Secs. 11-140 – 11-159. Reserved.

ARTICLE IX. RESERVED**

Secs. 11-160 – 11-160.3. Reserved.

* **Editor's Note:** Ord. No. 9816, § 8, adopted Feb. 24, 2003, repealed Art. VIII, §§ 11-140 – 11-145, and enacted similar provisions set out in new § 16-32. Former Art. VIII pertained to loud or unruly gatherings and derived from Ord. No. 8683, § 1, adopted May 6, 1996; Ord. No. 9041, § 1, adopted April 13, 1998. See the Code Comparative Table.

** **Editor's Note:** Ord. No. 11331, § 1, adopted Dec. 8, 2015, repealed Art. IX, §§ 11-160 – 11-160.3. Former Art. IX pertained to crimes on library grounds and derived from Ord. No. 8770, § 1, adopted Nov. 4, 1996. See the Code Comparative Table.

Chapter 12

ELECTIONS*

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***Editor's note –** Former Chapter 12 was repealed and replaced in its entirety by Ord. 11245, adopted February 18, 2015
Charter references – Power of city to regulate elections, ch. IV, § 1(20); elections generally, ch. XVI.
Cross references – Description of wards, § 1-19; additions to wards upon annexation, § 1-20.
State law reference – Municipal election and voters, A.R.S. §§ 9-821 – 9-825.

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Sec. 12-175. Supplemental reporting of independent expenditures in city limits.

ARTICLE I.
VOTER QUALIFICATIONS AND REGISTRATIONS

Sec. 12-1. City clerk to compile and keep register of persons entitled to vote.

(a) For every city election, the city clerk shall compile, from the information in the general county voting register, a complete record of all persons entitled to vote at that city election under the provisions of this article, which shall be known as the "City of Tucson Register of Voters. City of Tucson, Arizona", and be open to inspection at all times during the city clerk's office hours.

(b) In a polling place election the City Clerk shall use the permanent early voting list provided by the Pima County Recorder to assist in the administration of elections.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-2. Qualifications of city electors.

Every resident of the city may become a qualified elector and may register to vote at all city elections if the resident:

(a) Is a current resident of the city and will have been a resident of the state for twenty-nine (29) days; and

(b) Is a resident of the ward in which they claim the right to vote thirty (30) days, next preceding any primary, general, or special election; and

(c) Is a citizen of the United States; and

(d) Will be eighteen (18) years of age or more on or before the date of the election next following his registration; and

(e) Is able to write their name or make their mark, unless prevented from doing so by physical disability; and

(f) Has not been convicted of treason or a felony, unless restored to civil rights; and

(g) Has not been adjudicated an incapacitated person as defined in A.R.S. § 14-5101; and

(h) For purposes of this section, "resident" means an individual who has actual physical presence in the City, or for purposes if a political subdivision actual physical presence in the political subdivision, combined with intent to remain. A temporary absence does not result in a loss of residence if the individual has an intent to return following his absence. An individual has only one residence for purposes of this section.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-3. Change of residence from one address to another.

A qualified elector who moves from one address to another during the twenty-nine (29) day period preceding a City election is deemed to be a resident and registered elector at the address from which they have moved, until the day after the City election, whichever applies, and must vote within that precinct.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-4. Registration, residence in ward required.

All persons whose names appear on the "City of Tucson Register of Voters", as herein provided, and who are qualified voters of the city and of the ward in which they claim the right to vote, under the provisions of this article, shall be entitled to vote in their respective wards at any primary, general or special city election, but any person whose name does not so appear shall not be entitled to vote in city elections.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-5. Active registered voters.

The terms "registered voters," "persons who are registered to vote," "registered electors" and "voters registered" as used in the following sections include only active registered voters for the purpose of the following:

(a) Calculating petition signature requirements.

(b) Mailing and distributing election-related notices, pamphlets or ballots.

(c) Providing voting machines.

(d) Furnishing ballots.

(e) Determining qualification for political parties' continued representation on the ballot.

(Ord. No. 11316, § 1, 11-4-15)

Secs. 12-6 – 12-10. Reserved.

ARTICLE II. CONDUCT OF ELECTIONS

Sec. 12-11. Applicability of general election laws; duties of the mayor and council and city clerk.

(a) The provisions of the Arizona Constitution and the general laws of the State of Arizona, governing the elections of state and county officers, not inconsistent with the provisions of the Tucson Charter, shall govern City of Tucson elections. In matters for which no provision is made in the Tucson Charter, or this code, the mayor and council and city clerk, respectively, shall exercise the powers and perform the duties conferred or imposed by these laws on the secretary of state, board of supervisors and county election officials concerning elections.

All references hereinafter referred to as "controlling legislation," except where a reference to a specific provision is necessary, all of these controlling provisions will hereinafter be referred to as "controlling legislation."

(b) The provisions of article III shall apply to all elections under the Charter and this Code, and shall be enforced as provided in those laws.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-12. Definitions.

"Business day" means any day that is not a Saturday, Sunday, or legal holiday.

"Campaign Contract" is a signed agreement between a candidate and the City wherein the candidate agrees to abide by limitations on candidate's contributions, limitations on campaign expenditures, and limitations on the use of all contributions as specified in the City Charter, in exchange for public matching funds.

"Campaign period" means the entire time from the date on which an individual becomes a candidate until the election or defeat of the candidate. The campaign period ends on the date the mayor and council canvass and declare the results of the election at which the candidate is elected or defeated.

"Contribution" means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election including supporting or opposing a candidate for public office, or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer. See also A.R.S. § 16-901, or any of its successor provisions and Code of Federal Regulations, Title 11, Chapter I, Subchapter A, Section 100.94, regarding Uncompensated Internet activity by individuals that is not a contribution.

"Direct Campaign Expense" means expenses related directly to further the campaign of the individual candidate, such as printing campaign literature, media space or time, mailings, campaign headquarters rent, or paying for campaign staff salaries.

"Election Campaign Account" is a restricted account in the general fund into which shall be deposited such sums as may be appropriated from time to time in the annual budget, gifts and donations made to the city for the support of public election campaign financing, and such sums as may otherwise be appropriated to said account.

"Expenditure" includes any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer and a contract, promise or agreement to make an expenditure resulting in an extension of credit and the value of any in-kind contribution received. See also A.R.S. § 16-901, or any of its successor provisions and Code of Federal Regulations, Title 11, Chapter I, Subchapter A, Section 100.94, regarding Uncompensated Internet activity by individuals that is not an expenditure.

"Identification" means:

(a) For an individual, his name and mailing address, his occupation and the name of his employer.

(b) For any other person, including a political committee, the full name and mailing address of the person. For a political committee, identification includes the identification number issued on the filing of a statement of organization pursuant to A.R.S. § 16-902.01.

"Permanent Early Voting List" or *"PEVL"* is a permanent list of voters, maintained by the county voter registrar, that elect to AUTOMATICALLY receive an early ballot for any election for which the voter is a qualified elector.

"Political Committee" means any of the following:

(a) A candidate or a candidate's campaign committee.

(b) A separate, segregated fund established pursuant to State law.

(c) An association or combination of persons that circulates petitions in support of the qualification of a ballot measure, question or proposition.

(d) An association or combination of persons that circulates a petition to recall a public officer.

(e) A political party.

(f) An association or combination of persons that meets both of the following requirements:

(1) Is organized, conducted or combined for the primary purpose of influencing the result of any election in the City of Tucson.

(2) Knowingly receives contributions or makes expenditures of more than five hundred dollars ($500) in connection with any city election during a calendar year.

(g) A political organization.

(h) An exploratory committee.

"Qualified Elector": A person who is qualified to register to vote pursuant to section A.R.S. § 16-101.

- Citizen of the United States
- Will be eighteen (18) years of age or more on or before the date of the next regular general election
- Will have been a resident of the state twenty-nine (29) days before the election
- Is able to write his or her name or make a mark, unless prevented from doing so by a physical disability
- Has not been convicted of treason or a felony, unless restored to civil rights.
- Has not been adjudicated an incapacitated person

"Qualified Signer" for purposes of nominating petitions, means any of the following:

(a) A qualified elector who is a registered member of the party from which the candidate is seeking nomination.

(b) A qualified elector who is a registered member of a political party that is not entitled to continued representation on the ballot.

(c) A qualified elector who is registered as independent or no party preferred.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 2, 11-4-15)

Sec. 12-13. Mayor and council to adopt ordinance calling all municipal elections.

The conducting and carrying on of all city elections shall be under the control of the mayor and council, and they shall, by ordinance, subject to the provisions of the Tucson Charter, provide for the holding of all municipal elections. The ordinance calling each election shall be published in the same manner and in the same publications as all other ordinances requiring publication.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-14. All special elections to be conducted in same manner and under same provisions as general elections.

All special elections provided for in the Tucson Charter, including, but not limited to, those involving initiative, referendum or recall, shall be conducted in the same manner and under the same provisions as are provided for the holding of general elections, including the qualifications of electors, the nomination of candidates and campaign contribution and expenditure requirements set forth in the Tucson Charter, this Code, or Arizona Revised Statutes.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-15. Voting locations for city elections.

Pursuant to Tucson City Charter, there shall be at least one (1) voting location provided in each ward in the city for the casting of votes, or in the case of a Vote by Mail election, for the replacement of ballots and such voting locations shall be kept open on the day of the election from 6:00 a.m. to 7:00 p.m. The mayor and council may increase the number of voting locations from time to time as necessity may require.

The following criteria will be used in determining voting locations and which precincts to combine for a specified election:

(a) Selection of facilities already in use as polling places so as to cause a change in voting location for as few voters as possible.

(b) Selection of facilities which will provide the greatest convenience to the greatest number of voters.

(c) Selection of facilities located on or near major streets with adequate ingress and egress as well as ample voter parking capacity.

(d) When determining voting locations, every attempt should be made to secure locations that are compliant with the Americans with Disabilities Act (ADA) and utilize the checklist authorized by the Department of Justice when surveying.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-16. City clerk may promulgate rules, regulations, procedures, and forms necessary to conduct city elections and carry out provisions of this chapter and of the Tucson Charter.

The city clerk is authorized to promulgate rules, regulations, procedures, and forms necessary to conduct city elections and to carry out the provisions of this chapter and of Tucson Charter Chapters XVI, XIX, XX, and XXI, with the exception of campaign finance rules and regulations which shall be approved by mayor and council.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-17. Form; preparation of ballot.

The city clerk shall prescribe the form of the ballot. The ballot for early ballot voters shall be identifiable as an early ballot.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-18. City clerk to prescribe form of early ballot application and form of early or mail ballot affidavit.

The city clerk shall prescribe the form of the application for an early ballot, and the form of the affidavit for an early or mail ballot.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-19. Rotation of names of candidates.

(a) In any primary election when there are two (2) or more candidates of the same political party on the ballot, the names of such candidates shall be so alternated on the ballots used in each election precinct that the name of each candidate shall appear substantially an equal number of times in each possible position.

(b) In any general election, the list of candidates of the several parties shall be arranged with the names of the parties in descending order according to the votes cast for governor for that county in the most recent general election for the office of governor.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-20. City clerk authorized to conduct hand counts.

(a) In any city election, the city clerk is authorized to perform any hand count(s) the city clerk deems necessary to check the accuracy of the count produced by the central vote tabulating equipment, or to cause, authorize, or direct others to perform such hand count(s), including any county officer in charge of elections who is administering any consolidated election in which the city is participating.

(b) The percentage of ballots or voting areas subject to any hand count(s) shall be at the discretion of the city clerk.

(c) A hand count authorized by this section does not supersede the count produced by the central vote tabulating equipment, which is the official count.

(d) The city clerk shall promulgate rules, regulations, procedures, and forms necessary to carry out the provisions of this section.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-21. City to bear costs incurred by city clerk.

All necessary expenses incurred by the city clerk in carrying out the provisions of this article, including all equipment, and supplies, shall be a city charge.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-22. Displaying United States flag at voting locations.

The city clerk shall provide for the display of the flag of the United States in or near every voting location on election days during the hours the polls are open.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-23. Appointment of voting location boards; vote by mail or early ballot boards, write-in boards; other election boards.

(a) Not less than twenty (20) days prior to Election Day the mayor and council shall appoint the number of election boards necessary to process ballots.

(1) Each early ballot processing board shall consist, at a minimum, of two (2) judges from each of the two (2) largest political parties in the city, to be selected upon the recommendation of their county party chairs, made not less than thirty (30) days prior to election day. In the event that a party chair does not timely submit recommendations, the city clerk shall proceed to appoint the boards.

(2) Each voting location election board shall consist, at a minimum, of one (1) inspector or deputy city clerk, one (1) marshal, and two (2) judges from each of the two (2) largest political parties in the city, to be selected upon the recommendation of their county party chairs, made not less than thirty (30) days prior to election day. In the event that a party chair does not timely submit recommendations, the city clerk shall proceed to appoint the boards. Additionally, clerks may be selected as deemed necessary by the City Clerk.

(3) Each write-in ballot board shall consist of one (1) inspector and two (2) judges drawn from those members serving on ballot processing boards and shall be from each of the two (2) largest political parties in the city.

(4) Each hand count board shall consist of two (2) judges drawn from those members serving on ballot processing boards and shall be from each of the two (2) largest political parties in the city.

(5) The accuracy and certification board shall consist of one member of each of the major political parties. "Major political party" means the two parties receiving the highest number of votes for governor or presidential electors at the last general election.

(b) The mayor and council shall make all such appointments. The city clerk is authorized to fill such vacancies or appoint additional boards or members as deemed necessary.

(c) Members of all election boards ballot processing shall be qualified and registered electors of the city and appointments shall be made so as to provide as equal as practicable representation of members of the two (2) largest political parties of the city.

(d) The election boards shall serve at a place and time to be designated by the city clerk to process and prepare all early and mail ballots for tabulation.

(e) At any time within twenty (20) days prior to the election, the city clerk may appoint additional members to election boards as deemed necessary, or dismiss those that are not needed.

(f) The necessary printed blanks for poll lists, tally lists, lists of voters, ballots, oaths and returns shall be furnished to each board appointed at the expense of the city.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-24. Authorized persons in voting locations during voting hours.

No person shall be allowed to remain inside the seventy-five (75) foot limit while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county chairman of that political party and the challengers allowed by law, may remain inside and no electioneering may occur within the seventy-five (75) foot limit.

Voters having cast their ballots shall promptly move outside the seventy-five (75) foot limit.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-25. Prohibited electioneering within seventy-five (75) feet of city voting locations or sites where mail ballots may be cast.

(a) Electioneering occurs when an individual knowingly, intentionally, by verbal expression and in order to induce or compel another person to vote in a particular manner or refrain from voting expresses support for or opposition to a candidate who appears on the ballot, a ballot question that appears on the ballot, or a political party with one or more candidates who appear on the ballot in that election.

(b) There shall be no electioneering, photography, or videography within the seventy-five (75) foot limit of any city voting location as posted by the election marshal, or within seventy-five (75) feet of the main outside entrance to any city voting location or site where mail ballots may be cast.

(c) An election official, a representative of a political party who has been appointed by the county chairman of that political party or a challenger who is authorized by law to be within the seventy-five (75) foot limit, shall not wear, carry or display materials that identify or express support for or opposition to a candidate, a political party or organization, a ballot question or any other political issue and shall not electioneer within the seventy-five (75) foot limit of a voting location.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 2, 11-4-15)

Sec. 12-26. Limits on permitted activities within the seventy-five (75) foot limit.

(a) Permitted materials means written or printed material or items that express support for or opposition to a candidate who appears on the ballot in that election, a ballot question that appears on the ballot in that election or a political party with one or more candidates who appear on the ballot in that election.

(1) Permitted materials must be displayed prior to the opening of the voting location. No additional materials will be allowed after 6:00 a.m.

(2) No permitted materials may be displayed inside the physical voting location itself.

(3) Permitted materials may only be displayed inside the seventy-five (75) foot limit in the area marked by city clerk staff prior to Election Day.

(4) Displays in this area must comply with the following:

a. signs posted in this area shall not exceed four (4) square feet;

b. prevent any interference with or danger to the movement of voters or city clerk election staff going into and out of the voting location;

c. provide equal access to all candidates, campaigns or other persons wishing to display permitted materials;

(5) Permitted materials displayed inside the seventy-five (75) foot limit must be secured to prevent accidental dispersion or scattering. If the volume, concentration, or positioning of materials is deemed to create a potential hazard to the movement of persons, city clerk elections staff shall have the right to reposition the materials.

(6) Any permitted material left or found inside the seventy-five (75) foot limit, and not located in the designated area, will be removed by city clerk election staff.

(b) No person shall do any of the following within the seventy-five (75) foot limit:

(1) Obstruct electors from entering or leaving the area provided for balloting.

(2) Impede orderly balloting.

(3) Otherwise interfere with the rights of electors.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 2, 11-4-15)

Sec. 12-27. Grounds for challenging a voter.

A person offering to vote may be orally challenged by any registered elector of the City upon any of the following grounds:

(a) The voter is not the person whose name appears on the register.

(b) The voter has not resided in the precinct for at least twenty-nine (29) days prior to the election.

(c) The voter is not properly registered at an address permitted by the Tucson Charter and State law.

(d) The individual is not a qualified registrant pursuant to State law.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-28. Challenging of voters at a voting location; procedure.

(a) Upon challenge being made, if the person challenged appears to be registered, the person shall take and subscribe to the oath prescribed in the affidavit of registration and, if the person so elects, may be at once sworn to answer fully and truly all questions material to the challenges as are put to the person by the inspector of the voting location.

(b) Any returned United States mail addressed to the person challenged or the spouse of the person challenged, or both, and to the address appearing on the precinct register or affidavit shall be considered as sufficient grounds to proceed under this section.

(c) If after the examination on the challenge, a majority of the election board is satisfied that the challenge is not valid, the person challenged shall be permitted to vote.

(d) If the person challenged refuses to be sworn or affirmed, or refuses to answer questions material to the challenge or if a majority of the election board finds that the challenge is valid, the person challenged shall be permitted to vote a provisional ballot pursuant to State law.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-29. Challenging of vote by mail and early ballots; procedure.

(a) The county chairman of each political party represented on the ballot may, by written appointment addressed to the early ballot board, designate party representatives and alternates to act as early ballot challengers for the party.

(b) No party may have more than the number of such representatives or alternates which were mutually agreed upon by each political party to be present at one time. If such agreement cannot be reached, the number

of representatives shall be limited to one for each political party.

(c) An early ballot may be challenged on any grounds set forth in section 12-29. All challenges shall be made in writing with a brief statement of the grounds prior to the early ballot being placed in the ballot box.

(1) If an early or mail ballot is challenged, it shall be set aside and retained in the possession of the early ballot board or other officer in charge of early ballot processing until a time that the early ballot board sets for determination of the challenge.

(2) The early ballot board shall hear the grounds for the challenge and shall decide what disposition shall be made of the early ballot by majority vote. If the early ballot is not allowed, it shall be handled pursuant to rejection procedures promulgated by the city clerk.

(d) Within twenty-four (24) hours of receipt of a challenge, the ballot board or other officer in charge of early ballot processing shall mail, by first class mail, a notice of the challenge including a copy of the written challenge, and also including the time and place at which the voter may appear to defend the challenge, to the voter at the mailing address shown on the request for an early ballot or, if none was provided, to the mailing address shown on the registration rolls.

(1) Notice shall also be mailed to the challenger at the address listed on the written challenge and provided to the county chairman of each political party represented on the ballot.

(2) The board shall meet to determine the challenge at the time specified by the notice but, in any event, not earlier than ninety-six (96) hours after the notice is mailed, or forty-eight (48) hours if the notifying party chooses to deliver the notice by overnight or hand delivery, and not later than 5:00 p.m. on the Monday following the election.

(3) The board shall provide the voter with an informal opportunity to make, or to submit, brief statements regarding the challenge. The board may decline to permit comments, either in person or in writing, by anyone other than the voter, the challenger and the party representatives.

(4) The burden of proof is on the challenger to show why the voter should not be permitted to vote. The fact that the voter fails to appear shall not be deemed to be an admission of the validity of the challenge.

(5) The ballot board or other officer in charge of early ballot processing is not required to provide the notices described in this subsection if the written challenge fails to set forth at least one of the grounds listed in section 12-27 as a basis for the challenge. In that event, the challenge will be summarily rejected at the meeting of the board.

(6) Except for election contests pursuant to state law, the board's decision is final and may not be appealed.

(e) If the vote is allowed, the board shall open the envelope containing the ballot in such a manner that the affidavit thereon is not destroyed, take out the ballot without unfolding it or permitting it to be opened or examined and show by the records of the election that the elector has voted.

(f) If the vote is not allowed, the affidavit envelope containing the ballot shall not be opened and the board shall mark across the face of such envelope the grounds for rejection. The affidavit envelope and its contents shall then be deposited with the opened affidavit envelopes and shall be preserved with official returns.

(1) If the voter does not enter an appearance, the board shall send the voter a notice stating whether the ballot was disallowed and, if disallowed, providing the ground for the determination.

(2) The notice shall be mailed by first class mail to the voter's mailing address as shown on the registration rolls within three (3) days after the board's determination.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-30. Release of unofficial election returns.

Unofficial Returns for ballots that have been counted may be released to the public at any time after 8:00 p.m. on Election Day.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-31. Adoption of official canvass of election.

As provided by the City Charter, the mayor and council shall convene on the first Monday after Election Day in order to adopt the official canvass of the election. If, at the time, the returns from the election are incomplete, the official canvass shall be postponed from day to day, not to exceed twenty (20) days following the election. The results printed by the vote tabulating equipment, to which have been added write-in votes, shall, when certified by the city clerk, constitute the official canvass of each precinct.

(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-32 – 12-37. Reserved.

ARTICLE III. VOTE BY MAIL ELECTIONS AND EARLY VOTING

Sec. 12-38. Vote by mail elections authorized.

(a) The City of Tucson shall conduct all elections as vote by mail elections, unless otherwise prescribed by mayor and council. All city elections held on the same date shall use the same method of voting.

(b) For any city election conducted as a vote by mail election, the city clerk, with the approval of the mayor and council, shall designate voting locations as prescribed in section 12-15 of this code.

(c) The laws of the State of Arizona relative to violations of the election laws, specifically including those prohibiting coercion or intimidation of voters, shall apply to vote by mail elections under the Tucson Charter and this Code, and shall be enforced as provided in those laws.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-39. Vote by mail notices; primary election political party selection.

The provisions of vote by mail elections for this article are pursuant to A.R.S. Title 16, and unless specifically prescribed otherwise in this code, are conducted in a similar manner as early voting provisions.

(a) Within ninety-three (93) days before any city election, the city clerk shall mail a vote by mail notice to every registered voter within the city limits, indicating the city will be holding a vote by mail election. The notice shall be mailed by non-forwardable mail that is marked with the statement required by the postmaster to receive an address correction notification.

(b) For voters registered with a political party that is entitled to continued representation on the ballot, the notice shall include the following information:

(1) The date of the upcoming primary and general elections.

(2) The name and address of the registered voter.

(c) For a primary election, if the voter is not registered as a member of a political party that is recognized for purposes of that primary, the notice shall allow the voter to designate the ballot of only one recognized political party. The elector may then receive and vote the ballot of only that political party. In these instances, the vote by mail notice shall include the following:

(1) The date of the upcoming primary and general elections.

(2) The name and address of the registered voter.

(3) Indication if the voter requires the ballot to be mailed to an alternate address.

(4) Indication for the voter's signature.

(5) Indication for the voter's birth date.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-40. Mailing vote by mail ballots.

(a) Not more than twenty-seven (27) days before the election and not fewer than fifteen (15) days before the election, the city clerk shall send by non-forwardable mail all official ballots with printed instructions and a return envelope bearing a printed ballot affidavit to each qualified elector entitled to vote in the election. The envelope in which the ballot is mailed shall be clearly marked with the statement required by the postmaster to receive an address correction and notification.

(b) The mayor and council shall determine whether the voter or the city will pay for the postage for the return of electors' marked ballots. An elector who votes in a vote by mail election shall return the elector's marked ballot to the city clerk or to a designated depository site no later than 7:00 p.m. on the day of the election.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 3, 11-4-15)

Sec. 12-41. Request for early ballots; on site early voting; emergency voting of electors.

(a) Within ninety-three (93) days before any city election not being conducted as vote by mail, an elector may make a request to the city clerk for an early ballot.

(b) If a request is made by a qualified and registered elector within twenty-seven (27) days before the election, the city clerk shall mail the ballot together with the affidavit postage prepaid to the elector within forty-eight (48) hours after receipt of the request.

(c) All requests must be received by 5:00 p.m. on the eleventh (11th) day before the election. If the request indicates that the elector desires a general election ballot as well as a primary election ballot, the city clerk shall honor the request.

(d) Upon specific request by a qualified elector, or where the city clerk deems hand delivery appropriate, the city clerk may, in lieu of mailing, authorize deputy city clerks to hand deliver the ballot, together with the affidavit, to the elector.

(e) Any qualified elector who is unable to go to the voting location because of confinement due to a continuing illness or physical disability, may request that the city clerk have a special election board personally deliver a ballot to the qualified elector at their place of confinement. Such requests must be made by 5:00 p.m. on the second Friday before the election. This paragraph shall not be construed to limit the city clerk's powers regarding emergency voting under subsection (f) below.

(f) At the city clerk's discretion, a qualified elector may request to vote early, between 5:00 p.m. on the eleventh (11th) day before the election and 5:00 p.m. on the Monday preceding the election, as a result of an emergency. For purposes of this section, "emergency" means any unforeseen circumstances that would prevent the elector from voting.

(g) The city clerk may, in the city clerk's discretion, establish on site early voting locations. Any qualified elector who appears no later than 5:00 p.m. on the Friday before the election at an on site early voting location shall be permitted to vote at the on site location.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 3, 11-4-15)

Sec. 12-42. Early ballot request forms distributed by candidates or political committees.

(a) A candidate, political committee or other organization may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return, the addressee shall be the city. Failure to use the city as the return addressee is punishable by a civil penalty of up to three (3) times the cost of the production and distribution of the request.

(b) All original and completed early ballot request forms that are received by a candidate, political committee or other organization shall be submitted to the city clerk within six (6) business days after receipt by a candidate, political committee or other organization or eleven (11) days before the election day, whichever is earlier.

(c) Any person, political committee or other organization that fails to submit a completed early ballot request form to the city clerk within the prescribed time is subject to a civil penalty of up to twenty-five dollars ($25.00) per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed early ballot request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 3, 11-4-15)

Sec. 12-43. Permanent early voting list.

(a) Not less than ninety (90) days before any regularly scheduled city primary election not being conducted as vote by mail, the city clerk shall mail an election notice to all eligible city voters who are included on the Pima County Permanent Early Voting List. The notice shall be mailed by non-forwardable mail that is marked with the statement required by the postmaster to receive an address correction notification. The notice shall include:

(1) The date(s) of the election(s) that are the subject of the notice.

(2) The date(s) that the voter's ballot is expected to be mailed.

(3) The address where the ballot will be mailed.

(b) If the upcoming election is a partisan open primary election and the voter is not registered as a member of one of the political parties that is recognized for purposes of that primary, the notice shall include information on the procedure for the voter to designate a political party ballot.

(c) The notice shall be delivered with return postage prepaid and shall also include a means for the voter to do any of the following:

(1) Change the mailing address for the voter's ballot for the upcoming election or elections indicated on the notice.

(2) Update the voter's residence address.

(3) Request that the voter not be sent a ballot for the upcoming election or elections indicated on the notice.

(d) If a voter who is on the permanent early voting list is not registered as a member of a recognized political party and fails to notify the city clerk of the voter's choice of a political party ballot within forty-five (45) days before a partisan open primary election, the following apply:

(1) The voter shall not automatically be sent a ballot for that partisan open primary election only and the voter's name shall remain on the permanent early voting list for future elections.

(2) To receive an early ballot for the primary election, the voter shall submit the voter's choice for political party ballot to the city clerk.

(e) If the notice that is mailed to the voter is returned undeliverable by the postal service, the city clerk shall forward the notice to the county recorder to update the voter's registration as appropriate.

(f) The city clerk shall mail an early ballot to all eligible voters included on the permanent early voting list. If the voter has not returned the notice or otherwise notified the city clerk within forty-five (45) days before the election that the voter does not wish to receive an early ballot by mail for the election or elections indicated, the ballot shall automatically be scheduled for mailing.

(g) A voter may make a written request to the Pima County Recorder at any time to be removed from the permanent early voting list.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-44. Mailing early ballots.

(a) The city clerk shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five (5) days after receipt of the printed ballots, except that early ballot mailings shall not begin more than twenty-seven (27) days before and not later than twenty-four (24) hours before the election.

(b) If a request is made by the elector within twenty-seven (27) days before the election, the mailing of the early ballot must be made within forty-eight (48) hours after receipt of the request. Saturdays, Sundays and legal holidays are excluded from the computation of the forty-eight (48) hour period prescribed by this subsection.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 3, 11-4-15)

Sec. 12-45. Instructions to vote by mail and early voters.

(a) The city clerk shall supply printed instructions to vote by mail and early voters in substantially the following form that direct them to:

(1) sign the affidavit

(2) mark the ballot

(3) place the ballot inside the signed affidavit

(4) return both in the enclosed tamper-evident, self-addressed envelope

(b) The instructions shall include the following statement:

"In order to be valid and counted, the ballot and the affidavit must be delivered to the city clerk or deposited at any voting location in the city no later than 7:00 p.m. on election day. WARNING - it is a felony to offer or receive any compensation for a ballot."

(c) Only the elector may be in possession of that elector's unvoted ballot.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 3, 11-4-15)

Sec. 12-46. Duties of city clerk on receiving a returned vote by mail or early ballot.

(a) Upon receipt of the affidavit containing a returned vote by mail or early ballot, the city clerk shall compare that signature with the signature on any of the following:

(1) A signature roster from a prior election which was prepared and certified as required by law.

(2) A verified vote by mail or early ballot affidavit from a prior election.

(3) Any other current form of reliable signature maintained as an official public record.

(b) At the sole discretion of the city clerk, in place of the procedures in subsection (a), contract with the Pima County Recorder to act as the agent to the city for comparing voter signatures.

(c) The city clerk shall then secure the affidavit unopened in the city clerk vault until delivery to the ballot board.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-47. Voting provisional ballot after receiving vote by mail or early ballot.

Any elector who receives a vote by mail or early ballot may vote a provisional ballot, subject always to verification by the city clerk that the elector has not already voted. The elector shall be permitted to vote a provisional ballot as follows:

(a) In a vote by mail election:

(1) The elector may request a replacement ballot from the city clerk; or

(2) The elector may vote in person at a voting location on election day.

(b) In a polling place election:

(1) At an on-site early voting location on or before the Friday preceding election day; or

(2) At the qualified elector's designated voting location on election day.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-48 – 12-53. Reserved.

ARTICLE IV. FINANCIAL DISCLOSURE

Sec. 12-54. Duty to file financial disclosure statement; exceptions.

(a) In addition to other statements and reports required by law, every elected city officer, as a matter of public record, shall file with the city clerk on a form prescribed by the city clerk a verified financial disclosure statement as prescribed by state law covering the preceding calendar year ending December 31.

(b) The statement required to be filed pursuant to subsection (a) shall be filed by all persons who qualified as elected city officers at any time during the preceding calendar year on or before January 31 of each year, with the exception that a local public officer appointed to fill a vacancy shall, within sixty (60) days following the taking of such office, file a financial disclosure statement covering the twelve (12) month period ending with the last full month prior to the date of taking office.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-55. City clerk to provide forms and guidelines.

The city clerk shall prepare written guidelines, forms and samples for completing the financial disclosure statement required by this section. A copy of the guidelines, forms and samples shall be distributed to each elected city officer and shall be made available to each candidate required to file a financial disclosure statement pursuant to section 12-56 of this code.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-56. Duty to file financial disclosure statement by a candidate for local public office.

A candidate for elected city office shall file a financial disclosure statement covering the preceding twelve (12) month period on a form prescribed by the city clerk at the time of filing nomination papers, and at any other time prescribed by statute.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-57. Violation; classification.

(a) Any elected city officer or candidate who knowingly fails to file a financial disclosure statement required by this article, who knowingly files an incomplete financial disclosure statement or who knowingly files a false financial disclosure statement is guilty of a class 1 misdemeanor.

(b) Any elected city officer or candidate who violates this article is subject to a civil penalty of fifty dollars ($50) for each day of noncompliance but not more than five hundred dollars ($500) that may be imposed as prescribed in A.R.S. § 16-924.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-58 – 12-63. Reserved.

ARTICLE V. NOMINATIONS; CANDIDATES

Sec. 12-64. Qualifications of candidates.

(a) Candidates for the office of mayor and council member shall be duly qualified electors of the city under the laws of the State of Arizona and under the provisions of the Tucson Charter. Candidates shall be qualified electors of the city for not less than three (3) years immediately prior to becoming a candidate.

(b) Candidates for council member shall have resided in their respective ward for at least one (1) year prior to becoming a candidate.

(c) Time of residence and being a qualified elector shall be counted as residence and electoral qualifications within the city of Tucson one (1) year after said area becomes annexed to the city.

(d) At the time a candidate files nomination petitions, the city clerk shall obtain the candidate's voter registration history from the County Recorder.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-65. Form of nomination petition.

(a) The nomination petitions shall be in substantially the following form:

(1) Petitions shall be on paper eleven (11) inches wide and eight and one-half (8½) inches long.

(2) Petitions shall be headed by a caption stating the purpose of the petition, followed by the body of the petition stating the intent of the petitioners.

(3) There shall be ten (10) lines spaced one-half (1/2) of an inch apart and consecutively numbered one through ten.

(4) The signature portion of the petition shall be divided into columns headed by the following titles:

a. Signature.
b. Printed name.
c. Actual residence address, description of place of residence or Arizona post office box address, city or town.
d. Date of signing.

(5) A photograph of the candidate may appear on the nomination petition.

(b) The following shall appear on the petition:

Instructions for circulators

(1) All petitions shall be signed by the circulator.

(2) Circulator is not required to be a resident of this state but otherwise must be qualified to register to vote in this state and, if not a resident of this state, shall register as a circulator with the secretary of state.

(3) Circulator's name shall be typed or printed under the circulator's signature.

(4) Circulator's actual residence address or, if no street address, a description of residence location shall be included on the petition.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-66. Number of signatures required.

Signatures obtained before a candidate files a completed statement of organization with the city clerk pursuant to section 12-81 of this code, are void and shall not be counted.

Number of signatures required for candidate nomination:

(a) Candidates for the office of mayor must obtain signatures from qualified signers of the city equal to at least five percent (5%) and not more than ten percent (10%) of the designated party vote in the city in the preceding mayoral election.

(b) Candidates for the office of council member must obtain signatures from qualified signers of the city equal to at least five percent (5%) and not more than ten percent (10%) of the designated party vote in the ward in the preceding election for that ward.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 4, 11-4-15)

Sec. 12-67. Nomination other than by primary.

(a) The nomination petition shall conform as nearly as possible to the provisions relating to nomination petitions of candidates to be voted for at primary elections pursuant to section 12-65 of this code.

(b) The number of valid signatures must be at least three percent (3%) of the total number of registered voters who are NOT members of a qualified political party. For council member candidates, the total is calculated using the total number of registered voters in the ward for which the candidate is seeking office.

(c) The percentage of registered voters necessary to sign the nomination other than by primary petition shall be determined by the total number of registered voters as of March 1 of the year in which the general election is held.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-68. Nomination petition signers.

(a) Each signer of a nomination petition must be a qualified signer and member of the political party from which the candidate is seeking nomination, or a member of a political party that is not qualified for representation on the ballot pursuant to State law or the signer is registered as independent or party not determined.

(b) Each signer of a nomination petition may sign only one petition for the same office.

(c) A signature shall not be counted on a nomination petition unless the signature is upon a sheet bearing the form prescribed by the city clerk.

(d) Each signer of a nomination petition for the office of mayor shall, at the time of signing, be a qualified elector residing in the city of Tucson.

(e) Each signer of a nomination petition for the office of council member shall, at the time of signing, be a qualified elector residing in the ward the candidate is seeking to represent.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 4, 11-4-15)

Sec. 12-69. Nomination petition circulators.

The circulator, before whom the signatures were written on the signature sheet, shall:

(a) Certify that the circulator is qualified to register to vote in the State of Arizona.

(b) Certify, if the circulator is not a resident of Arizona, that prior to circulating the petition the circulator registered as an out of state circulator with the Secretary of State.

(c) Certify that each of the names on the petition was signed in the circulator's presence on the date indicated.

(d) Certify that in the circulator's belief each signer was a qualified elector who resided at the address given as the signer's residence on the date indicated.

(e) Circulators must sign the petition and type or print the circulator's name under the circulator's signature.

(f) Type or print the circulator's actual residence address or, if no street address, a description of the circulator's residence location.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-70. Nomination petition signature withdrawal.

Qualified electors wishing to withdraw their signatures from a nomination petition may do so by notifying the city clerk by a signed, written statement any time prior to the time the petition is filed with the city clerk.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-71. Filing of nomination papers and petitions.

(a) To become a candidate for any city office, a qualified elector of the city of Tucson must file the following with the city clerk as one instrument:

(1) Nomination paper in a form prescribed by the city clerk stating the exact manner in which the candidate desires to have their name printed on the ballot and which contains a notarized statement signed by the candidate affirming that the candidate is qualified to hold the office they seek.

(2) Nomination petitions in a form prescribed by the city clerk containing the required number of signatures of qualified electors.

(3) Financial Disclosure Statement covering the preceding twelve (12) month period.

(4) A Statement of Organization or $500 Threshold Exemption Statement, if required.

(b) Nomination papers and petitions must be filed not less than ninety (90) nor more than one hundred twenty (120) days before the primary election day. Write-in candidates shall comply with section 12-72 of this code.

(c) A person who does not file timely nomination papers that comply with this section is not eligible to have the person's name printed on the official ballot for that office.

(d) The city clerk will not accept supplements to nomination petitions.

(e) Except in cases where the liability is being appealed, the city clerk shall not accept the nomination paper of a candidate if the person is liable for an aggregation of one thousand dollars ($1,000.00) or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of this code.

(f) Nomination papers and petitions shall be filed at the city clerk's office, or at a location specified by the city clerk.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-72. Filing of nomination papers for write-in candidates.

(a) To become a write-in candidate for any city office, a qualified elector of the city of Tucson must file the following with the city clerk as one instrument:

(1) Nomination paper in a form prescribed by the city clerk which contains a notarized statement signed by the candidate affirming that the candidate is qualified to hold the office they seek.

(2) Financial Disclosure Statement covering the preceding twelve (12) month period.

(3) A Statement of Organization or $500 Threshold Exemption Statement, if required.

(b) A write-in candidate shall file the nomination paper not later than 5:00 p.m. on the fortieth (40th) day before the election.

(c) Any person who does not file a timely nomination paper shall not be counted in the tally of ballots.

(d) Except in cases where the liability is being appealed, the city clerk shall not accept the nomination paper of a write-in candidate if the person is liable for an aggregation of one thousand dollars ($1,000.00) or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of this code.

(e) A candidate may not file pursuant to this section if any of the following applies:

(1) For a candidate in the general election, the candidate ran in the immediately preceding primary election and failed to be nominated to the office sought in the current election.

(2) For a candidate in the general election, the candidate filed a nomination petition for the immediately preceding primary election for the office sought and failed to provide a sufficient number of valid petition signatures.

(3) For a candidate in the primary election, the candidate filed a nomination petition for the current primary election for the office sought and failed to provide a sufficient number of valid petition signatures.

(4) For a candidate in the general election, the candidate filed a nomination petition for nomination other than by primary for the office sought and failed to provide a sufficient number of valid petition signatures.

(f) A write-in candidate shall not be declared nominated unless he receives a number of votes equivalent to at least the same number of signatures required for nominating petitions for the same office.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-73. Penalty for petition forgery.

In addition to the procedures set forth in this article, all petitions that have been submitted by a candidate who is found guilty of petition forgery shall be disqualified and that candidate shall not be eligible to seek election to a public office for a period of not less than five (5) years.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-74. Limitations on appeals of validity of nomination petitions; disqualification of candidate.

(a) Any elector filing any court action challenging the nomination of a candidate as provided for in this chapter shall do so no later than 5:00 p.m. of the tenth (10th) day, excluding Saturday, Sunday and legal holidays, after the last day for filing nomination papers and petitions.

(b) Any elector may challenge a candidate for any reason relating to qualifications for the office sought as prescribed by law, including age, residency, or failure to fully pay fines, penalties or judgments.

(c) For the purposes of an action challenging nomination petitions, the city clerk acts as the person's agent to receive service of process. Process in an action challenging a nomination petition shall be served immediately after the action is filed and in no event more than twenty-four (24) hours after filing the action, excluding Saturdays, Sundays and legal holidays.

(d) Immediately on receipt of process served on the city clerk as agent for a person filing a nomination petition, the city clerk shall mail the process to the person and shall notify the person by telephone of the filing of the action.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-75 – 12-80. Reserved.

ARTICLE VI. CAMPAIGN FINANCE; CANDIDATES AND POLITICAL COMMITTEES

The provisions of this article shall apply to all political committees making contributions to candidates for the offices of mayor or council member, and all candidate committees in any city election. Petition drive political committees must also comply with provisions of article VII of this code.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-81. Registration of political committees.

(a) A political committee shall file a statement of organization in the form prescribed by the city clerk within five (5) days after meeting the definition of political committee and prior to accepting a contribution, making an expenditure, distributing campaign literature or circulating petitions. Signatures obtained before a candidate files a completed statement of organization with the city clerk are void and shall not be counted.

(b) The statement of organization shall include all of the following:

(1) The name, address, telephone number, email address and type of committee.

(2) The name, address, relationship and type of any sponsoring organization.

(3) The names, addresses, telephone numbers, occupations and employers of the chairperson and treasurer of the committee.

(4) In the case of a candidate's campaign committee, the name, address, office sought and party affiliation of the candidate.

(5) A listing of all banks, safety deposit boxes or other depositories used by the committee.

(6) A statement that the chairperson and treasurer have read all of the applicable laws relating to campaign finance and reporting.

(c) A political committee intending to accept contributions or make expenditures of five hundred dollars ($500.00) or less, shall file a signed exemption statement in the form prescribed by the city clerk.

(d) If a political committee that has filed a five hundred dollar ($500.00) exemption statement receives contributions or makes expenditures of more than five hundred dollars ($500.00), the committee shall file a statement of organization with the city clerk within five (5) business days after exceeding the limit.

(e) On the filing of a statement of organization a political committee shall be issued a city identification number.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 5, 11-4-15)

Sec. 12-82. Organization of political committees.

(a) Each political committee shall have a chairperson and treasurer. The position of chairperson and treasurer of a single political committee may not be held by the same individual, except that a candidate may be chairperson and treasurer of their own campaign committee.

(b) The name of each political committee shall include the name of any sponsoring organization, and, in the case of a candidate's campaign committee, the committee's name shall include the name of the candidate, or, if for an exploratory committee, the individual who designated the committee.

(c) A political committee that accepts contributions or makes expenditures shall deposit contributions and make expenditures from a bank, federally chartered depository institution or depository institution the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration. The political committee shall notify the city clerk of the name of the financial institution at the time of filing the statement of organization.

(d) The political committee shall file an amended statement of organization reporting any change in the information prescribed in this article within five (5) business days after the change.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 5, 11-4-15)

Sec. 12-83. Contribution limits.

(a) No person shall make a contribution of more than five hundred dollars ($500.00) to any candidate for mayor or council member during any campaign period.

(b) A political committee may contribute up to one thousand dollars ($1,000.00) to any candidate for mayor or council member. No individual member of such committee shall contribute more than five hundred dollars ($500.00) toward the contribution, nor an aggregate amount of more than five hundred dollars ($500.00) to any candidate whether through a committee contribution or a personal contribution.

(c) No candidate for mayor or council member shall accept or receive a campaign contribution of more than five hundred dollars ($500.00) from any person or more than one thousand dollars ($1,000.00) from any political committee during any campaign period.

(d) The limits imposed by this section shall not apply to contributions by a candidate's own resources to the candidate's own campaign.

(e) The limits imposed by this section shall not apply to independent expenditures.

(f) The limits imposed by this section shall not apply to the value of in-kind labor.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-84. Personal use of campaign contributions prohibited.

Candidates shall not use contributions for indirect campaign purposes such as, donating to another's campaign, or making independent expenditures. Candidates may use contributions only for direct campaign expenses including, but not limited to, printing campaign literature, media space or time, mailings, campaign headquarters rent or telephones, or paying for campaign staff salaries.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-85. Public matching funds program; campaign contract.

(a) In exchange for public matching funds, a candidate for mayor or council member may file a signed, notarized contract with the city agreeing to abide by limitations on the candidate's contributions, limitations on campaign expenditures, and limitations on the use of all contributions as specified in the City Charter, and pursuant to the Campaign Finance Administration Rules and Regulations adopted by the mayor and council.

(b) An individual wishing to become a public funding candidate must sign a campaign contract within thirty (30) days after the first of any of the following events occur:

(1) The individual circulates or files nomination papers for a specified election; or

(2) The individual publicly or formally declares candidacy for a specified election; or

(3) The individual accepts a contribution or makes an expenditure for a specified election.

(c) A candidate who signs a contract shall comply with all contribution and expenditure limitations, even if the candidate never qualifies to receive public funds.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-86. Campaign finance administrator; duties thereof.

(a) The city clerk or other officer appointed by the mayor and council shall administer the public matching funds program as the "campaign finance administrator." The office of the campaign finance administrator shall not be included in the classified civil service.

(b) The campaign finance administrator shall be responsible for the management of said office, shall administer the program, and is authorized to adopt, promulgate, amend, and rescind administrative rules and regulations to carry out the policies and purposes of the program. Prior to becoming effective, such rules and regulations shall be approved by the mayor and council.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-87. Campaign literature and advertisements.

(a) A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that make any solicitation of contributions to any political committee shall include on the literature or advertisement the words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar ($500.00) exemption statement.

This requirement does not apply to:

(1) Bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection (a) of this section cannot be conveniently printed; or

(2) Signs paid for by a candidate with campaign monies or by a candidate's campaign committee; or

(3) A solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to state law.

(b) Any person purchasing literature or advertisements for the purpose of making an independent expenditure must also comply with A.R.S. § 16-914.02 (F), (G), and (L), or any successor provision(s).

(c) The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner. The disclosure statement shall include the words "paid for by" followed by the name of the entity making the expenditure and shall state that it is not authorized by any candidate or candidate's campaign committee. Disclosure statements shall also comply with the following:

(1) If the communication is broadcast on radio, the disclosure shall be spoken at the end of the communication.

(2) For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed clearly and legibly in a conspicuous manner.

(3) If the communication is broadcast on a telecommunications system, the following apply:

a. The disclosure shall be both written and spoken at the end of the communication, except that if the written disclosure statement is displayed for at least five (5) seconds of a thirty (30) second communications broadcast or ten (10) seconds of a sixty (60) second communications broadcast, a spoken disclosure statement is not required.

b. The written disclosure statement shall be printed in letters that are displayed in a height that is equal to or greater than four percent (4%) of the vertical picture height.

(d) A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in A.R.S. Title 16, Chapter 6, or any successor provision(s).
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 5, 11-4-15)

Sec. 12-88. Deceptive mailings.

(a) An individual or committee is prohibited from attempting to influence the outcome of an election by delivering or mailing any document that:

(1) Purports to be authorized, approved, required, sent or reviewed by the state government, a county, city, or town, or any other political subdivision, or

(2) Falsely simulates a document from any of these governmental entities.

(b) The penalty for deceptive mailings (civil penalty) is equal to twice the total cost of the mailing, or five hundred dollars ($500.00), whichever amount is greater.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-89. Contribution restrictions.

(a) An individual or political committee may not use economic influence to induce members of an organization to make contributions to a candidate, collect contributions from members of an organization for transmittal to a candidate, make payments to candidates for public appearances or services which are ordinarily uncompensated, or use any similar device to circumvent any of the limits of the Tucson Charter, this code, or A.R.S. § 16-905, or any successor provision(s).

(b) As provided in A.R.S. § 16-907(A), or any successor provision(s), any person who makes a contribution in the name of another person or who knowingly permits their name to be used to effect such a contribution and any person who knowingly accepts a contribution made by one person in the name of another person is guilty of a class 6 felony.

(c) If an anonymous contribution is accepted because it is received in a non-returnable form, it must be segregated from other funds and not be spent on the candidate's campaign. These funds must be disposed of pursuant to A.R.S. § 16-915.01, or any successor provision(s).

(d) A contribution by an individual or a political committee to two (2) or more candidates in connection with a joint fund-raising effort shall be divided among the candidates in direct proportion to each candidate campaign committee's share of the expenses for the fund-raising effort.

(e) An unemancipated minor shall not make a contribution. Any such contribution shall be treated as a contribution by the child's parent(s).
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-90. Campaign finance reports required; failure to file; penalties.

All reporting shall be: (1) pursuant to the provisions of the A.R.S. Title 16, Chapter 6, or any successor provision(s); (2) on forms prescribed by the city clerk; and (3) filed by the dates specified.

(a) If a political committee fails to file a report in a timely manner as required by this chapter, the city clerk shall send written notice of the delinquency of the report to the political committee, the candidate, the treasurer, or the designating individual, whichever applies. The notice shall be sent by certified mail within fifteen (15) days after the city clerk determines there may be a failure to file a campaign finance report. The notice shall provide with reasonable particularity the nature of the failure and a statement of the penalties provided in this section.

(b) A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, is liable for a late penalty of ten dollars ($10.00) for each business day after failure to make or file a campaign finance report that is

required pursuant to this chapter up to a maximum of four hundred fifty dollars ($450.00). The city clerk shall not refuse a campaign report unless any penalties imposed pursuant to section 12-91 of this code remain unpaid at the time of filing the report. The late penalty accrues only until the day the late report is filed. Beginning on the thirty-first (31) day after the due date, the city clerk may notify the city attorney that a violation has occurred and that late fees and civil penalties are owed as prescribed in subsection C of this section and may be collected in an enforcement action pursuant to section 12-91.

(c) A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, that has failed to file within fifteen (15) days after receiving a notice of delinquency pursuant to subsection (a) of this section is liable for a civil penalty of twenty-five dollars ($25.00) for each subsequent day that the filing is late. This penalty shall be assessed pursuant to section 12-91 of this code.

(d) For the purposes of this section, there is a failure to make and file a campaign finance report if any of the following occurs:

(1) The report is not filed by 5:00 p.m. pursuant to the schedule prescribed by the city clerk.

(2) The report is not signed under penalty of perjury by the committee treasurer, the candidate, or the designating individual if the treasurer is unavailable.

(3) A good faith effort is not made to substantially complete the report as prescribed by A.R.S. § 16-915, or any successor provision(s).

(e) It is a defense to an enforcement action brought pursuant to this section if good cause is shown for the failure to make and file a campaign finance report. For the purposes of this subsection, "good cause" includes an illness or absence from this state at the time the campaign finance report was due or the written notice of delinquency was delivered if the illness or absence reasonably prevented the treasurer, designating individual or candidate from filing the report or receiving the written notice.

(f) In addition to the enforcement actions prescribed by this section, a person who was a candidate for nomination or election to any local or state office and who after written notice pursuant to this section failed to make and file a campaign finance report as required by this chapter is not eligible to be a candidate for nomination or election to any local or state office for five (5) years after the last failure to make and file a campaign finance report occurred. This penalty shall be imposed as follows:

(1) A candidate's failure to make and file a campaign finance report with a filing officer for a jurisdiction is grounds for that filing officer to refuse the candidate's nomination paper for any local office in that jurisdiction as described in this subsection.

(2) A candidate's failure to make and file a campaign finance report with any filing officer is grounds for a filing officer from another jurisdiction to refuse the candidate's nomination paper for any public office on presentation of a certified copy of a final order issued pursuant to A.R.S. § 16-924, or any successor provision(s).

(g) For any political committee that has failed to file three (3) consecutive campaign finance reports with the city clerk, the city clerk shall send the committee chairperson and treasurer a written notice of intent to suspend the political committee. The notice of intent to suspend shall state that failure of the political committee to fully comply with all filing requirements for that committee, including any required payments, within thirty (30) days of the date of the notice shall result in suspension of the political committee's authority to operate in the city. On suspension of the political committee's

authority to operate, the city clerk is no longer required to provide any further notice of delinquency to the political committee. This subsection does not reduce or eliminate the political committee's continuing obligation to make campaign finance filings and pay any fines, penalties, civil penalties or other sanctions that may continue to accrue as otherwise provided by law.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 5, 11-4-15)

Sec. 12-91. Civil penalties.

If the city clerk has reasonable cause to believe that a candidate or person is violating any provision of A.R.S. Title 16, Chapter 6, or any successor provisions, then the city clerk shall notify the city attorney, unless another penalty is specifically prescribed in this chapter.

(a) The city attorney may serve on the person an order requiring compliance with that provision. The order shall state with reasonable particularity the nature of the violation and shall require compliance within twenty (20) days from the date of issuance of the order. Or due to the nature of the violation, no corrective action is possible, the city attorney shall assess a civil penalty of not more than one thousand dollars ($1,000.00). The alleged violator has twenty (20) days from the date of issuance of the order to request a hearing pursuant to A.R.S. Title 41, Chapter 6, or any successor provision(s).

(b) If a person fails to take corrective action within the time specified in the compliance order, the city attorney shall assess a civil penalty of not more than one thousand dollars ($1,000.00). The person alleged to have violated the compliance order has thirty (30) days from the date of issuance of the order assessing the civil penalty to request a hearing pursuant to A.R.S. Title 41, Chapter 6, or any successor provision(s).

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-92. Political committee termination statement.

(a) A political committee may terminate only when the chairperson and treasurer file a termination statement with the city clerk. The committee must certify under penalty of perjury that it will no longer receive any contributions or make any expenditures, that the committee has no outstanding debts or obligations, and that any surplus monies have been disposed of pursuant to A.R.S. § 16-915.01 or any successor provision(s).

(b) The committee must also file a campaign finance report stating the manner of disposition of the surplus, the name and address of each recipient of surplus monies, and date and amount of each disposition of surplus monies.

(c) A committee that has filed a five hundred dollar ($500) threshold exemption statement must terminate at the end of the campaign period for which the committee was formed. If such committee fails to file its termination statement within ninety (90) days of the end of the campaign period, it shall pay a civil penalty of one hundred dollars ($100).

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-93. Establishment of a restricted election campaign account.

The mayor and council shall establish an election campaign account in the general fund into which shall be deposited such sums as may be appropriated from time to time in the annual budget, gifts and donations made to the city for the support of public election campaign financing, and such sums as may otherwise be appropriated to said account. Money in said account shall be restricted, and expended for the purpose of assisting the financing of the public matching funds program.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-94. Additional powers of mayor and council.

The mayor and council may enact ordinances as may be necessary or desirable to carry out the provisions of this chapter.

(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-95 – 12-100. Reserved.

ARTICLE VII. CAMPAIGN FINANCE; PETITION DRIVE POLITICAL COMMITTEES

Sec. 12-101. Definitions.

As used in this article, unless otherwise stated:

Petition means any City of Tucson initiative, referendum, or recall petition.

Petition drive means the circulation of any City of Tucson initiative, referendum or recall petition. A petition drive is deemed to be occurring independent of whether the petition is being actively circulated at any particular point(s) in time, is actually submitted to or filed with the city clerk for examination and certification.

Petition drive political committee means a political committee organized, conducted, or combined for the purpose of influencing the result of any petition drive. The term includes, but is not necessarily limited to, political committees organized to circulate or oppose petitions.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-102. Requirements for petition drive political committees; no receipt of contributions or expenditures until requirements met; financial records to be preserved.

(a) A petition drive political committee applying for the issuance of a serial number, and not previously registered with the city clerk as a political committee, shall file a statement of organization pursuant to sections 12-81 and 12-82 of this code, with the city clerk at the same time the committee files the application for a serial number. No petition drive political committee shall receive any contribution, or make or promise to make any expenditure prior to filing a statement of organization.

(b) All other petition drive political committees, specifically including those previously registered as political committees, shall file a statement of organization pursuant to sections 12-81 and 12-82 of this code, as a petition drive political committee with the city clerk no later than five (5) days after becoming a petition drive political committee, and in any event prior to receiving or expending any funds for the purpose of influencing the result of any petition drive.

(c) The petition drive political committee shall file an amended statement of organization reporting any change in the information prescribed in this article within five (5) days after the change.

(d) The name of each petition drive political committee shall include the name of any sponsoring organization and the official serial number for the petition, if assigned.

(e) The statement of organization shall include a statement as to whether the petition drive political committee supports or opposes the passage of the ballot measure. Upon completion of the designation of the ballot proposition number, the city clerk is authorized to and shall amend the name of the political committee by attaching to the statement of organization the ballot proposition number as a substitute for the official serial number in the name of the political committee. The city clerk shall promptly notify the political committee of the amended political committee name and shall make that information available to the public.

(f) A petition drive political committee shall have a chairperson and treasurer. The position of chairperson and treasurer of a single petition drive political committee may not be held by the same individual.

(g) On the filing of a statement of organization, a petition drive political committee shall be issued a city identification number.

(h) Before any petition drive political committee accepts a contribution or makes an expenditure it shall also designate one (1) or more state banks, federally chartered depository institutions or depository institutions the deposits or accounts of which are insured by the federal deposit insurance corporation or the national credit union administration as its campaign depository or depositories. The petition drive political committee shall notify the city clerk of the designation of the financial institution either at the time of filing its statement of organization or within five (5) business days after opening an account.

(i) All petition drive political committees shall preserve all their financial records regarding contributions and expenditures for not less than thirty-six (36) months from the date of issuance by the city clerk of the serial number to which the financial records relate.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-103. Time for filing of campaign finance reports by petition drive political committees; opening and closing reporting dates.

(a) In addition to filing campaign finance reports required under A.R.S. § 16-913, or any successor provision(s), the petition drive political committee that applied for the serial number shall also file campaign finance reports with the city clerk at all the following points in time:

(1) Sixty (60) days after the date of issuance of the serial number by the city clerk, or on the date of filing the petition, whichever is earlier.

(2) At the time of filing a petition filed more than sixty (60) days after the date of issuance.

(3) Thirty (30) days after the filing of the petition.

(4) On or before January 31st and June 30th of each year until there are no contributions or expenditures received or made and a termination statement has been filed.

(b) In addition to filing campaign finance reports required under A.R.S. § 16-913, or any successor provision(s), all other petition drive political committees shall also file campaign finance reports with the city clerk at all the following points in time:

(1) Thirty (30) days after the filing of the petition to which the petition drive political committee's activities relate.

(2) On or before January 31st and June 30th of each year until there are no contributions or expenditures received or made and a termination statement has been filed.

(c) If the date for filing any statement, notice or report required by this chapter is a Saturday, Sunday or legal holiday, the filing deadline is the next day that is not a Saturday, Sunday or legal holiday.

(d) In the case of any petition not filed with the city clerk within the deadline for filing established by the Tucson Charter or this code, all petition drive political committees shall file campaign finance reports twenty (20) days after the expiration of said deadline.

(e) A campaign finance report filed pursuant to this section shall show the aggregate sum of all contributions received, and of all expenditures made, between the opening reporting date and the closing reporting date, and shall itemize all expenditures and those contributions with a monetary value of more than fifty dollars ($50.00), showing the specific amount and the identification of the contributor.

(f) The opening reporting date to be included in any campaign finance report filed pursuant to this section is the date on which the first previously unreported contribution or expenditure was received or made by a petition drive political committee.

(g) The closing reporting date to be included in any campaign finance report filed pursuant to this section is ten (10) days prior to the filing of the report.

(h) Each campaign finance report required to be filed pursuant to this section shall be signed by the petition drive political committee's treasurer and shall contain the certification of the signer under penalty of perjury that the report is true and complete.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-104. Notification requirements.

(a) In addition to the requirements relating to election contributions prescribed in section 12-103 of this code, a petition drive political committee shall give notice to the city clerk of any contribution or group of contributions to the committee that is made from a single source less than twenty (20) days before the day of the election if it exceeds two thousand five hundred dollars ($2,500.00).

(b) In addition to the requirements in section 12-103 of this code, a petition drive political committee shall give notice to the city clerk each time any of the following occurs:

(1) The committee has received contributions totaling ten thousand dollars ($10,000.00) or more.

(2) The committee has made expenditures totaling ten thousand dollars ($10,000.00) or more.

(3) The committee has received contributions totaling ten thousand dollars ($10,000.00) or more from a single source.

(4) The committee has received contributions totaling ten thousand dollars ($10,000.00) or more from different additional single sources.

(c) The notices prescribed by this section shall be filed within twenty-four (24) hours, excluding Saturdays, Sundays and legal holidays. All notices shall include the identification of the contributors, the dates of receipt and the amounts of the contributions or the amount, recipient and purpose of the expenditures. Contributions subject to the notification requirements of this section shall be included in the next report filed pursuant to section 12-103 of this code.

(d) For the purposes of this section, "single source" includes principals of the same partnership, corporation, limited partnership, limited liability company, limited liability partnership or association.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-105. Regulations for administration and enforcement; preservation of filings by city clerk; interpretation of reporting provisions.

(a) The city clerk is authorized and directed to promulgate regulations for the administration of this article.

(b) The city clerk shall preserve all filings made pursuant to this article in accordance with the retention schedules prescribed by the Arizona State Library, Archives and Public Records.

(c) It is the intent of this article that the procedures for reporting shall, to the extent possible, be consistent with those found in A.R.S. Title 16, Chapter 6 or any successor provision(s).
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-106. Failure to comply a civil infraction.

(a) If a petition drive political committee fails to file a report in a timely manner as required by section 12-103 of this code, the report is not signed, or a good faith effort is not made to complete the report, it shall be a failure to file and penalties shall be assessed pursuant to section 12-90 of this code.

(b) Where a petition drive political committee has failed to file, improperly filed, or refused to file any notice as required by section 12-104 of this code, it shall be liable in a civil action for a civil penalty up to three (3) times the amount improperly reported or unreported. Additionally, the petition drive political committee shall not continue its activities, receive contributions, or make or promise to make any expenditure until the required notice is filed properly.

(c) It shall be a civil infraction for any person or petition drive political committee to make any statement or report required by this article, and therein knowingly misrepresent, misstate or fail to fully disclose the facts of any contribution or expenditure required to be reported pursuant to this article. Penalties shall be pursuant to section 12-91 of this code.

(d) The provisions of this section supplement, and do not supersede, any civil or criminal penalties provided under state law, and are in addition to any other rights or remedies available to the city.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-107 – 12-111. Reserved.

ARTICLE VIII. INITIATIVE

Any proposed ordinance or amendment to the Charter of the City of Tucson may be submitted to the mayor and council by a petition signed by fifteen (15) percent of the qualified electors of the city, computed on the vote for the candidates for mayor at the last preceding general municipal election at which a mayor was elected.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-112. Application to circulate petitions; filing of statement of organization.

(a) A person or persons intending to circulate an initiative petition shall, before causing the petition to be printed and circulated, file with the city clerk an application on a form to be provided by the city clerk, stating an intent to circulate and file a petition and setting forth the names, addresses and signatures of three (3) individuals ("petitioners") who are responsible for the petition and who are to be notified of all proceedings and actions taken in reference to the petition.

(b) The application shall be accompanied by the complete title and text of the proposed measure to be initiated.

(c) On receipt of the application, the city clerk shall assign an official serial number to the petition, which number shall appear in the lower right-hand corner of each side of each page thereof, and issue that number to the applicant. The serial numbers shall be assigned in numerical sequence. The city clerk shall maintain a record of each application received, the numbers assigned, and the applicant and petitioners to whom issued.

(d) The statement of organization required in section 12-102 of this code, and listing the chairperson and treasurer of the committee shall be filed with the city clerk at the time of application and before making any expenditures, accepting any contributions, distributing any campaign literature or circulating petitions. Signatures obtained before the filing of a completed statement of organization with the city clerk are void and shall not be counted in determining the legal sufficiency of any initiative petition(s).

(e) The name of the political committee on the statement of organization must include the official serial number for the petition, if assigned, and indicate whether the political committee supports or opposes the passage of the ballot measure.

(f) Each political committee that intends to accept contributions or make expenditures of five hundred dollars ($500) or less, shall file a signed exemption statement in a form prescribed by the city clerk that states that intention before making any expenditures, accepting any contributions, distributing any campaign literature or circulating petitions.

(g) A political committee that has filed a five hundred dollar ($500) threshold exemption statement receives contributions or makes expenditures of more than five hundred dollars ($500) shall file a statement of organization with the city clerk in the format prescribed by the city clerk within five (5) business days after exceeding the five hundred dollar ($500) limit.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-113. Form of petition.

The term "petition," as used in this article, means the title and text of the proposed measure, the signature sheets, and the affidavit of circulator.

(a) Any initiative petition desired to be submitted to the mayor and council shall be presented upon a petition which has been printed and numbered in the form prescribed by the city clerk.

(b) The referendum and recall petitions filed with the city clerk must strictly comply with the constitutional and statutory requirements for the referendum and recall process. This includes the form of petition and the requirement that the ward number shall be filled in on the signature sheet.

(c) It is the responsibility of the petitioners of the initiative petition to ensure that at all times during circulation, the petition is in the required form, that it contains all required information, and that all of its pages are fully legible. Any deficiencies are subject to challenge by the public as well as the city clerk.

(d) No additional information, instructions, symbols, or markings of any kind are to be printed on any portion of the petition, including the back or margins of any of the petition documents (title/text, signature sheet, affidavit of circulator).

(e) The title and text of the measure proposed or referred by the petition shall be printed in at least eight (8) point type on either 8 ½" x 11" or 8 ½" x 14" paper, portrait or landscape orientation, and shall include both the

original and (if applicable) amended text. The title and text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material, and shall indicate material added or new material by printing the letters of the material in capital letters. The eight (8) point type requirement does not apply to maps, charts, or other graphics.

(f) If the full printing of the title and text of the initiative or referendum measure requires multiple pages, the title and text may be printed either on the front of each page or on the front and back of each page, at the option of the petitioners. Each and every page of the title and text shall be numbered sequentially (e.g. Page 1 of 5, Page 2 of 5, etc.) and the number shall appear in the upper right-hand corner of each page, immediately below the words "Tucson, Arizona" and the date of issuance.

(g) The initiative petition shall be printed in black ink on white or recycled white pages.

(h) The signature sheets shall be fourteen (14) inches in width by eight and one-half (8 1/2) inches in length.

(i) All pages of the petition shall have a margin of at least one-half (1/2) inch at the top and one-fourth (1/4) inch at the bottom of each page.

(j) The title of the petition shall read "CITY OF TUCSON" in the left margin followed by "INITIATIVE DESCRIPTION" centered.

(k) The following language shall appear in the uppermost right-hand corner of the signature sheet: "It is unlawful to sign this petition before it has a serial number."

(l) Immediately below the statement required in subsection (k) of this section, each signature sheet shall have printed in capital letters in no less than twelve (12) point bold-faced type the following:

"_____ PAID CIRCULATOR"
"_____ VOLUNTEER"

(m) Immediately below the heading required in subsection (j) of this section, the petition shall include a description of no more than one hundred (100) words.

(n) Immediately below the description required in subsection (m) of this section, the following language shall be included: "Notice: This is only a description of the proposed measure (or charter amendment) prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing."

(o) Immediately below the notice required in subsection (n) of this section, the following language shall be included in eight (8) point centered type "Initiative Measure to be Submitted Directly to Electors". Immediately below this centered heading, the following language shall be included: "To the Honorable Mayor and Council, and the Clerk of the City of Tucson: We, the undersigned, residents of the City of Tucson, Arizona, and duly qualified electors therein, do hereby submit and propose to you, for adoption, the following ordinance, and request that action be taken by you relative to the adoption or rejection of such proposed ordinance, at the earliest possible moment, and that the same be forthwith submitted to a vote of the people, to-wit: , as described in the attached Title and Text. Each signer says: I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the City of Tucson, State of Arizona".

(p) Immediately following the language described in section (o) above, the following language shall be included: "Warning: It is a class 1 misdemeanor for any person to knowingly sign an initiative or referendum

petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the same measure, or to knowingly sign such petition when he is not a qualified elector."

(q) The signature sheet shall include columns with the following headings:

(1) Signature

(2) Name (First and Last Name Printed)

(3) Actual Address (Street & Number, if no street address, describe residence location)

(4) Ward No.

(5) Date Signed

(r) Each signature sheet shall contain fifteen (15) numbered lines for signatures spaced three-eighths (3/8) inch apart and numbered one through fifteen.

(s) Immediately below the fifteen (15) numbered lines described in section (r) above, the following language shall be included: "The validity of the signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet."

(t) The official serial number shall appear in the lower right-hand corner, immediately preceded by the words "SERIAL NUMBER" on both sides of the signature sheet and the title and text page(s).

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-114. Affidavit of circulator.

(a) The affidavit shall be in the following form printed on the reverse side of each signature sheet: "INITIATIVE AFFIDAVIT OF CIRCULATOR".

(b) The words "Tucson, Arizona" and the date of issuance shall appear in the upper right-hand corner.

(c) In the upper left-hand corner include the following:

STATE OF ARIZONA)

County of Pima)

(d) Immediately below the language described in subsection (c), the following language shall be included:

I, _____, a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the County of _____, in the State of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that subject to section 19-115, Arizona Revised Statutes, each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the City of Tucson and that at all times during circulation of this signature sheet a copy of the title and text was attached to the signature sheet (Ariz. Const. Art. IV, Pt. 1, §§ 1, ¶ 9, Arizona Revised Statutes § 19-112 (B), (C), (D), 19-114 (A) Tucson Charter, Chapter XIX, § 2, Tucson Code § 12-117 (h)). The signatures appearing on this petition sheet are the genuine signatures of the persons whose names they bear (Tucson Charter, Chapter XIX, § 2). I retained direct custody and control of this signature sheet, and personally observed each signer of this signature sheet actually sign it (Tucson Code § 12-117 (c), (j)). I crossed out and initialed blank signature lines on this signature sheet prior to or at the time my signature on this affidavit was notarized (Tucson Code § 12-117(l)).

(e) Immediately following the language in subsection (d), the following shall be included: "The names of the petitioners who should be notified of all proceedings and action taken in reference to this petition are:"

(f) Immediately below the information required in subsection (e), the following shall be included: the petitioners' printed names, residence addresses, street and number (if no street address, describe residence location).

(g) Immediately below the statement described in subsection (f), the following shall be included: the circulator signature, printed name, actual residence address, street and number (if no street address, describe residence location).

(h) Immediately following the circulator signature required in subsection (g), the following shall be included:

> Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20___.
>
> Notary Public Signature:
> _____
>
> Printed Name of Notary Public:
> _____

Designated location for notary stamp:

(i) Immediately below the notarial certificate, the following language shall be included: "Warning: A person commits perjury by making a false sworn statement in regard to a material issue believing it to be false. Perjury is a class 4 felony. (Arizona Revised Statutes § 13-2702)"

(j) The official serial number shall appear in the lower right-hand corner, immediately preceded by the words "SERIAL NUMBER" on both sides of the signature sheet and the title and text page(s).

(k) The affidavit of circulator shall not be modified. Any petition that contains a partially completed affidavit or any affidavit that has been modified is invalid.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-115. Final version of petition.

Prior to the circulation of an initiative petition, the petitioners shall file with the city clerk, as a public record, a blank final printed version of the initiative petition to be circulated, showing the official serial number. The city clerk shall time and date stamp the filed version. The initiative petition must include the full and correct copy of the title and text of the proposed measure to be initiated. The petition filed with the city clerk is the only valid version for circulation.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-116. Right of city clerk to review.

The city clerk shall have the right, at any time, to review, challenge or reject an initiative petition on the basis of any legal or procedural insufficiency, including but not limited to the petition's failure to address legislation that is subject to the initiative process. The city clerk's administration of the initiative process does not represent an acceptance or review of the petition, and the absence of objection at any particular time does not bar subsequent rejection of the initiative petition by the city.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-117. Circulation of petition.

(a) Prior to circulating the initiative or referendum petition, the circulator shall state whether they are a paid circulator or a volunteer by checking the appropriate line on the signature sheet. For the purposes of this chapter, "paid circulator:"

(1) Means a natural person who receives monetary or other compensation that is based on the number of signatures obtained on a petition or on the number of petitions circulated that contains signatures.

(2) Does not include a paid employee of any political committee organized pursuant to Arizona Revised Statutes Title 16, Chapter 6, unless that employee's primary responsibility is circulating petitions to obtain signatures.

(b) At all times during circulation, each signature sheet shall be attached to a complete copy of the title and text of the proposed measure.

(c) For purposes of this section, the term "at all times during circulation" means the entire period from the time the circulator receives any blank initiative petition for circulation until the time the petition is filed with the city clerk.

(d) With the exceptions listed in subsections (e) and (f), any person who is qualified to register to vote in the State of Arizona may circulate an initiative or referendum petition.

(e) No county recorder or justice of the peace and no person other than a person qualified to register to vote in the State of Arizona shall circulate an initiative petition and all signatures verified by any such person shall be void and shall not be counted in determining the legal sufficiency of the petition.

(f) A person who is not a resident of the State of Arizona and who wants to circulate any petition is required to register with the Secretary of State's office prior to circulation.

(1) The removal or disqualification of any one or more circulators does not invalidate the random sample of signatures made pursuant to section 12-124 and the city clerk shall not be required to conduct any additional random sampling of signatures.

(2) The city clerk shall disqualify all signatures collected by a circulator who fails to register pursuant to this subsection as provided for in section 12-121(h)(3).

(3) If a registered circulator is properly served with a subpoena to provide evidence in an action regarding circulation of petitions and fails to appear or produce documents as provided for in the subpoena, all signatures collected by that circulator are deemed invalid. The party serving the subpoena may request an order from the court directing the city clerk to remove any signatures collected by the circulator as provided for in section 12-69.

(4) Any person may challenge the lawful registration of circulators in the superior court. A challenge may not be commenced more than five (5) days after the date on which the petitions for which the circulator is required to be registered are filed with the city clerk. The person challenging signatures may amend that complaint after the city clerk has removed signatures and signature sheets as prescribed in section 12-69. An action pursuant to this section shall be advanced on the calendar and decided by the court as soon as possible. Either party may appeal to the supreme court within five (5) calendar days after entry of judgment. The prevailing party in an action to challenge the registration of a circulator under this section is entitled to reasonable attorney fees.

(5) The removal or disqualification of any one or more circulators does not invalidate the random sample of signatures made pursuant to section 12-124 and the city clerk shall not be required to conduct any additional random sampling of signatures.

(6) The city clerk shall disqualify all signatures collected by a circulator who fails to register pursuant to this subsection as provided for in section 12-69.

(7) For the purposes of this chapter, "paid circulator":

a. Means a natural person who receives monetary or other compensation that is based on the number of signatures obtained on a petition or on the number of petitions circulated that contain signatures.

b. Does not include a paid employee of any political committee organized pursuant to A.R.S. Title 16, Chapter 6, unless that employee's primary responsibility is circulating petitions to obtain signatures.

(g) Signatures obtained on initiative petitions by a political committee proposing the initiative or any of its officers, agents, employees or members prior to the filing of the committee's statement of organization or prior to the filing of the five hundred dollar ($500) threshold exemption statement pursuant to A.R.S. § 16-902.01 are void and shall not be counted in determining the legal sufficiency of the petition.

(h) Each circulator of any petition page shall personally receive sufficient information from each signer of the signature sheet, at the time the signature is obtained, to ensure that the circulator can, as to all signers of that page, depose and state in the affidavit required by the Tucson charter that each signature is genuine, and that each signer is a resident and qualified elector of the city of Tucson.

(i) Every qualified elector signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification.

(1) At the time of signing, the qualified elector shall sign his first and last names in the spaces provided and the elector so signing shall print his first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street and number, and if he has no street address, a description of his residence location.

(2) In the case of strict compliance of the referendum, the qualified elector shall also print their ward number. (see Tucson Code 12-142, subsection (a))

(3) The elector so signing shall write, in the appropriate spaces following the elector's address, the date on which the elector signed the petition.

(j) The circulator of any petition page shall retain direct custody and control of the page at all times during circulation, except when a signer is signing; personally give the page to, and take it from, each signer; and personally observe each signer of the petition page actually sign the petition.

(k) Abandoned or stray petition sheets that are not or at any time have not been under the direct custody and control of the circulator shall be rejected in their entirety.

(l) Each circulator of an initiative petition shall cross out and initial any blank signature lines on the signature sheet including those in the middle of the sheet, prior to, or at the time, the circulator's signature on the affidavit for that signature sheet is notarized.

(m) In the event that a circulator fails to cross out and initial any blank signature lines before notarization then the entire signature sheet shall be rejected and all signatures on that page will be void.

(n) The provisions of this section shall also apply to the circulation of any referendum or recall petition. (Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-118. Procedure for withdrawing signatures.

Qualified electors desiring to withdraw their signatures may do so by executing and filing with the city clerk an affidavit in the form prescribed by the city clerk.

(a) A withdrawal of signature must occur no later than 5:00 p.m. on the date the petition containing their signature is actually filed.

(b) To withdraw a petition signature, a person may do any of the following:

(1) Verify the withdrawal by signing a simple statement of intent to withdraw at the office of the city clerk.

(2) Mail a signed, notarized statement of intent to withdraw to the city clerk.

(3) Draw a line through the signature and printed name on the petition at any time prior to filing.

(c) A signature withdrawn pursuant to subsections (a) and (b) of this section shall not be counted in determining the legal sufficiency of the petition.

(d) A person who knowingly gives or receives money or any other thing of value for signing a statement of signature withdrawal pursuant to subsection (b) of this section is guilty of a class 1 misdemeanor.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-119. Filing initiative petition.

The city clerk is responsible for, and shall exercise final control over, all aspects of the certification process relating to city initiative petitions. In the event of evidence of fraud or other circumstances that the city clerk determines may affect the security or integrity of the initiative petition, the city clerk shall consult with the city attorney to take additional steps necessary to ensure the security and integrity of the initiative petition process and the proper validation of signatures. The precise steps will be determined on a case-by-case basis.

(a) All signature sheets with the complete copy of the title and text of the proposed measure to be initiated attached shall be filed with the city clerk as one (1) instrument. For purposes of this chapter, a petition is filed when the petition is tendered to the city clerk, and the city clerk takes custody of the petition.

(b) The petitioners shall organize the signature sheets and group them by circulator and are solely responsible for compliance with this section. The city clerk may return as unfiled any signature sheets that are not so organized and grouped.

(c) Initiative petitions which have not been filed with the city clerk as of 5:00 p.m. on the day four (4) months prior to the ensuing general election after their issuance, shall be null and void.

(d) In no event shall the city clerk accept an initiative petition which was issued for circulation more than twenty-four (24) months prior to the date of the city general election at which the measure is to be included on the ballot.

(e) Initiative petitions must be filed at a location specified by the city clerk.

(f) A representative of the petitioners shall be present from the time the city clerk begins processing the petition to the time the city clerk either issues interim receipt of sufficiency or rejects the petition for insufficiency.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-120. Issuance of a petition filing receipt to the petitioners.

When a petition is filed, a receipt is immediately issued by the city clerk containing:

(a) Part I- The petitioners' estimate of purported number of sheets and signatures filed.

(b) Part II- The city clerk's estimate of purported number of sheets and signatures filed.

(1) If the signature sheets appear to contain a number of signatures equal to or exceeding the minimum number required, the city clerk shall commence a verification process, examining the petition to determine if it contains the requisite number of signatures of qualified electors as prescribed by Chapter XIX of the Tucson City Charter and this chapter of the Tucson Code in order to proceed with certification.

(2) If the number of estimated signatures does not appear to equal or exceed the minimum number required. The city clerk shall reject the initiative petition and immediately return it to the petitioners, without prejudice to the filing of a new petition for the same purpose. The city clerk shall indicate the reason for the rejection on the receipt.

After the city clerk issues the receipt, no additional petition sheets may be accepted for filing, and no additions, corrections, or adjustments to the filed petition sheets are permitted.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-121. Examination of petitions.

Within ten (10) days after issuing the receipt, the city clerk shall ascertain whether the petition is signed by the requisite number of qualified electors to forward to the Pima County Recorder for further processing pursuant to applicable state law along with a receipt specifying the number of signature sheets and random sample signatures as determined by the city clerk.

(a) The city clerk shall examine the petition for improper formatting. Examples of improperly formatted pages include, but are not necessarily limited to, the following:

(1) Signature sheets that are not attached to a complete copy of the title and text of the measure being proposed or referred;

(2) Failure by the petitioners to organize the signature sheets and group them by circulator as requested by Section 12-119(b) of this code. The city clerk may return as unified any signature sheets that are not so organized and grouped;

(3) Any petition page that does not bear the words "Tucson, Arizona" and the date of issuance of the serial number in the upper right-hand corner;

(4) Signature sheets that either do not themselves bear the city clerk's official serial number in the lower right-hand corner, or that are attached to title and text pages which do not bear the official serial number, or that have both of these defects;

(5) Signature sheets which are themselves, or whose attached title and text pages are, damaged in such a manner that the format or legibility of the petition is both in violation of this chapter and beyond correction (e.g. the official serial number is torn off, the title and text is missing, etc.);

(6) Statutory language is missing from the signature sheet, including but not limited to the "Notice", the "Warning" and the statement beginning with "we the undersigned…."

(b) Signatures on a signature sheet with a defective circulator's affidavit shall not be included in the count of signatures eligible for verification, and shall be ineligible for inclusion in the total number of valid signatures.

(c) The city clerk shall examine the petition for defects. A signature sheet is subject to rejection where the circulator's affidavit contains the following defects:

(1) Is not completed or signed by the circulator;

(2) Is missing the designated county of the circulator;

(3) Is not notarized;

(4) Is missing the notary's signature;

(5) Has been notarized by a notary whose commission has expired;

(6) Does not have the notary's seal affixed or whose seal is not in compliance with the Arizona Revised Statutes relating to notaries public and the Secretary of State's Arizona Notary Public Reference Manual;

(7) Does not bear a notarization date;

(8) Contains a notary signatures that is dated earlier than the dates on which any electors signed the signature sheet of the initiative or referendum signature sheet;

(9) Is attached to a page where the circulator failed to cross out and initial any blank signature lines at the time of or prior to notarization;

(10) The circulator is prohibited from participating in any election, initiative, referendum or recall campaign pursuant to A.R.S. § 19-119.01(D);

(11) The circulator did not mark whether they are a paid circulator or a volunteer;

(12) In the opinion of the city clerk, it is otherwise defective.

(d) The disqualification of a signature sheet results in the invalidity and removal of all signatures on that signature sheet, but not necessarily all signature sheets circulated by that circulator without an independent reason for disqualification for each signature sheet.

(e) Signatures on or attached to improperly formatted pages of the petition shall not be included in the count of signatures eligible for verification.

(f) Individual signature sheets that are damaged, illegible or improperly formatted may be accepted for examination and verification at the city clerk's discretion.

(g) The city clerk shall examine the individual signatures (or signature lines) contained on each numbered signature sheet of the petition. A signature is not eligible for verification, and is ineligible for inclusion in the total number of valid signatures, if it meets any of the following criteria:

(1) The original signature is missing from the signature line;

(2) The residence address or description of the residence location is missing (street and number; and/or if no street address, described residence location) or the column contains only a post office box;

(3) The date of signing is missing;

(4) There is more than one signature placed on the numbered signature line, in which case only the signature which is actually on the line will be eligible for verification and all other signatures shall be rejected;

(5) There is an excess of fifteen (15) signatures on the signature sheet, in which case the one(s) in excess shall be rejected;

(6) The signature has been withdrawn, pursuant to controlling legislation;

(7) The date of signature is after the date on which the Affidavit of Circulator was notarized;

(8) The date the circulator or notary signed is earlier than the date the sheet was signed.

(9) The signature has been crossed out, or otherwise defaced, prior to being received by the city clerk.

(10) Ditto marks in any column except the signature column are acceptable as long as the reiterated information is valid.

(11) The circulator has printed the elector's first and last name (or other information) in violation of controlling legislation.

(12) The signature or accompanying information is, in the opinion of the city clerk, otherwise insufficient or defective.

(h) The city clerk shall also examine the petition for void signatures. Void signatures are ineligible for inclusion in the count of sufficient signatures and shall not be counted in determining the legal sufficiency of the petition. As used in this chapter, a signature is void if:

(1) The signature appears on a signature sheet that was circulated by a county recorder, a justice of the peace, or a circulator who is not qualified to register to vote in the State of Arizona at the time of circulation of the signature sheet;

(2) The signature was obtained prior to the filing with the city clerk of the Statement of Organization or $500 Threshold Exemption Statement by the political committee proposing the initiative or referendum.

(3) Signatures obtained by a person who is not a resident of the State of Arizona and who failed to register with the city clerk's office.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-122. Interim receipt of sufficiency.

If, after the examination and removal of ineligible signatures, the number of facially eligible signatures remaining on the signature sheets appears to equal or exceed the minimum number required, the city clerk shall issue an interim receipt of sufficiency to the petitioners, which shall list the number of signature sheets in the possession of the city clerk, and also the total number of signatures eligible for further examination and verification. The issuance of an interim receipt of sufficiency to the petitioners shall not preclude:

(a) The continuation or repetition of any examinations carried out prior to its issuance;

(b) The initiation of examinations or verifications not yet begun;

(c) Any other activities the city clerk deems necessary to make a thorough, accurate and complete examination of the petition;

(d) The exclusion from the total of valid signatures of any additional signatures found ineligible, invalid or void under the criteria of this chapter.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-123. Receipt of insufficiency.

If, after completion of the procedures described in this chapter, the number of signatures remaining on the sheets which are eligible for verification does not appear to equal or exceed the minimum number required, the city clerk shall reject the initiative petition and immediately return it to the petitioners, without prejudice to the filing of a new petition for the same purpose.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-124. Generation of random sample.

(a) After issuing the interim receipt of sufficiency to the petitioners for the initiative petition, the city clerk shall, at random, select five percent (5%) of the signatures determined to be eligible for verification. The random sample signatures to be verified shall be drawn in such a manner that every signature filed with the city clerk has an equal chance of being included in the sample.

(b) Upon generation of the random sample, the city clerk shall reproduce a facsimile of the front of each signature sheet containing a random sample signature and shall forward those facsimile signature sheets to the county recorder, who shall have fifteen (15) days, excluding Saturdays, Sundays, and legal holidays, to complete their examination and certify the results of the random sample.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-125. Disposition of petitions by city clerk.

Within seventy-two (72) hours, excluding Saturdays, Sundays and legal holidays, after receipt of the facsimile signature sheets and the certification of the results of the random sample from the county recorder, the city clerk shall determine the total number of valid signatures in the following manner:

(a) Subtract all signatures from the total number of eligible signatures on petitions containing a defective circulator's affidavit.

(b) If a signer has signed more than once, subtract all but one otherwise valid signature;

(c) Subtract all signatures that were found to be ineligible by the county recorder or found to be ineligible by the city clerk that were not previously subtracted;

(d) After determining the percentage of all signatures found to be invalid in the random sample, subtract a like percentage from those signatures remaining after all previous subtractions have been performed.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-126. Certificate of sufficiency.

If the actual number of signatures on the remaining sheets after all subtractions equals or exceeds the minimum number required by the constitution or if the number of valid signatures as projected from the random sample is at least one hundred per cent (100%) of the minimum number required by the constitution, the city clerk shall issue the following receipt to the person or organization that submitted them:

_____ signature sheets bearing _____ signatures for initiative petition serial number ____ have been refused for filing in this office as provided by law. A total of _____ signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of _____ signatures, a total of _____ signatures were invalidated by the county recorder resulting in a failure rate of _____ per cent. The actual number of remaining signatures for such initiative petition number _____ are equal to or in excess of the minimum required by the constitution to place a measure on the next ensuing city general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred per cent (100%) of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.
Date:_____
_____ city clerk (Seal)

The city clerk shall then forthwith notify the mayor and council that a sufficient number of signatures has been filed and that the initiative shall be placed on the ballot in the manner provided by law.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-127. Certificate of insufficiency.

If the number of valid signatures as projected from the random sample is less than one hundred per cent (100%) of the minimum number required by the constitution or if the actual number of signatures on the remaining sheets after all subtractions from the random sample or after certification fails to equal or exceed the minimum required by the constitution, the city clerk shall immediately return the original signature sheets, in the form filed under A.R.S. § 19-121, to the person or organization that submitted them, together with a certified statement that, for the following reasons, the petition lacks the minimum number of signatures to place it on the general election ballot:

(1) Signature sheets bearing city clerk page numbers _____ and bearing signatures of _____ persons appeared on petitions that were required to be removed.

(2) A total of _____ signatures on the remaining petition sheets were found to be ineligible.

(3) A total of _____ signatures included in the random sample have been certified by the county recorder as ineligible at the time such petition was signed and a projection from such random sample has indicated that _____ more signatures are ineligible to appear on the petition.

A facsimile of the certification of the county recorder under A.R.S. § 19-121.02 shall accompany the signature sheets returned to the person or organization that submitted them.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-128. City clerk to certify sufficient petitions to mayor and council; mayor and council adopt ordinance or call an election.

When the petition shall be found by the city clerk to be sufficient, the city clerk shall submit the same, with the certificate of sufficiency without delay, to the mayor and council; and the mayor and council shall either:

(1) Pass said initiative, without alteration, within twenty (20) days after the attachment of the city clerk's certificate of sufficiency of the accompanying petition, or

(2) Within twenty-five (25) days after the city clerk shall have attached the certificate of sufficiency to the petition, the mayor and council shall proceed to call a special election to be held in conjunction with the next ensuing city general election at which said initiative without alteration shall be submitted to the vote of the people.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-129. Disposition of sufficient petitions.

The original copy of all petitions filed with the city clerk, and subsequently certified as sufficient, shall be kept by the city clerk pursuant to the retention schedule prescribed by the Arizona State Library, Archives and Public Records.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-130. Disposition of insufficient petitions.

Insufficient petitions shall be retained by the city clerk until after the conclusion of any litigation regarding the measure or until the time has expired for any litigation to proceed.

(Ord. No. 11316, § 6, 11-4-15)

Sec. 12-131. Number of proposed initiative measures to be voted on not limited.

Any number of proposed initiative measures may be voted upon at the same election.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-132. Limit on number of initiative special elections.

There shall not be more than one (1) initiative special election in any period of twelve (12) months. In no event shall an initiative special election be called where the initiative petition has not been filed with the city clerk at least four (4) months prior to the date of the special election.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Sec. 12-133. Arrangement for and conduct of election.

Whenever any ordinance is required to be submitted to the voters of the city at any election, the mayor and council shall order such ordinance to be printed in the official newspaper of the city, for three (3) consecutive days and posted in the official posting locations of the city. The mayor and council shall make, or cause to be made, all arrangements for holding such election; and the same shall be conducted, returned and result thereof declared, in all respects as are other city elections.

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 6, 11-4-15)

Secs. 12-134 – 12-138. Reserved.

ARTICLE IX. REFERENDUM

Sec. 12-139. Applicability of referendum to city ordinances; 30-day period for referendum to be calculated from the date ordinance is made available from the city clerk.

Referendum shall apply to City ordinances as provided in Chapter XX of the City Charter. If petitioners file an application for referendum with the clerk relating to an ordinance, or any item, section, or part thereof that is subject to referendum, and the city clerk is unable to provide petitioners with a copy of the ordinance at the time of application for an official serial number or on the same business day of the application, the thirty (30) day period for filing the referendum petition shall be calculated from the date such ordinance is made available from the city clerk.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-140. Form of petition.

The term "petition," as used in this article, means the title and text of the proposed measure, the signature sheets, and the affidavit of circulator.

(a) Any referendum petition desired to be submitted to the mayor and council shall be presented upon a petition which has been printed and numbered in the form prescribed by the city clerk.

(b) The referendum and recall petitions filed with the city clerk must strictly comply with the constitutional and statutory requirements for the referendum and recall process.

(c) It is the responsibility of the petitioners of the referendum petition to ensure that at all times during circulation, the petition is in the required form, including a complete copy of the measure sought to be referred, that it contains all required information, and that all of its pages are fully legible.

(d) No additional information, instructions, symbols, or markings of any kind are to be printed on any portion of the petition, including the back or margins of any of the petition documents (title/text, signature sheet, affidavit of circulator).

(e) The title and text of the measure proposed or referred by the petition shall be printed in at least eight (8) point type on either 8 ½" x 11" or 8 ½" x 14" paper, portrait or landscape orientation, and shall include both the original and (if applicable) amended text. The title and text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material, and shall indicate material added or new material by printing the letters of the material in capital letters. The eight (8) point type requirement does not apply to maps, charts, or other graphics.

(f) If the full printing of the title and text of the initiative or referendum measure requires multiple pages, the title and text may be printed either on the front of each page or on the front and back of each page, at the option of the petitioners. Each and every page of the title and text shall be numbered sequentially (e.g. Page 1 of 5, Page 2 of 5, etc.) and the number shall appear in the upper right-hand corner of each page, immediately below the words "Tucson, Arizona" and the date of issuance.

(g) The referendum petition shall be printed in black ink on white or recycled white pages.

(h) The signature sheets shall be fourteen (14) inches in width by eight and one-half (8 1/2) inches in length.

(i) All pages of the petition shall have a margin of at least one-half (1/2) inch at the top and one-fourth (1/4) inch at the bottom of each page.

(j) The title of the petition shall read "CITY OF TUCSON" in the left margin followed by "Referendum Description" centered.

(k) Immediately below the title required in subsection (j) of this section, the petition shall include a description of no more than one hundred (100) words of the principal provisions of the measure sought to be referred.

(l) The following language shall appear in the uppermost right-hand corner of the signature sheet: "It is unlawful to sign this petition before it has a serial number."

(m) Immediately below the statement required in subsection (l) of this section, each signature sheet shall have printed in capital letters in no less than twelve (12) point bold-faced type the following:

"_____ PAID CIRCULATOR"
"_____ VOLUNTEER"

(n) The words "Tucson, Arizona" and the date of issuance shall appear in the upper right-hand corner of both sides of the signature sheet.

(o) Immediately below the description required in subsection (k) of this section, the following language shall be included: "Notice: This is only a description of the measure sought to be referred prepared by the sponsor of the measure. It may not

include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing."

(p) In eight (8) point centered type, the following language shall be included "Petition for Referendum".

(q) Immediately below the language required in subsection (p) above, the following language shall be included: "To the City Clerk of the City of Tucson: We, the undersigned, residents of the City of Tucson, Arizona, and duly qualified electors therein, respectfully order that City of Tucson Ordinance No. _____ entitled (*title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used*) passed by the Mayor and Council on _____ (date) and petition that this ordinance be reconsidered by the Mayor and Council and, if not repealed at the time of such reconsideration the same shall be referred to a vote of the qualified electors of the City of Tucson for their approval or rejection at the next city general or special election. Each signer for himself says: I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the City of Tucson."

(r) Immediately following the language in subsection (q) above, the following language shall be included: "Warning: It is a class 1 misdemeanor for any person to knowingly sign an initiative or referendum petition with a name other than his own, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the same measure, or to knowingly sign such petition when he is not a qualified elector."

(s) The signature sheet shall include columns with the following headings in bold-faced type:

(1) Signature

(2) Name (first and last name printed)

(3) Actual address (street & no. and if no street address, describe residence location)

(4) Arizona post office address & zip code

(5) City or town (if any)

(6) Ward No.

(7) Date signed

(t) Each signature sheet shall contain fifteen (15) numbered lines for signatures spaced three-eighths (3/8) inch apart and numbered one through fifteen.

(u) Immediately below the fifteen (15) numbered lines described in subsection (t) above, the following language shall be included: "The validity of the signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet."

(v) The official serial number shall appear in the lower right-hand corner, immediately preceded by the words "SERIAL NUMBER" on both sides of the signature sheet and the title and text page(s).

(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 7, 11-4-15)

Sec. 12-141. Affidavit of circulator.

(a) The affidavit shall be in the following form printed on the reverse side of each signature sheet: "Referendum Affidavit of Circulator".

(b) The words "Tucson, Arizona" and the date of issuance shall appear in the upper right-hand corner.

(c) In the upper left-hand corner include the following:

State of Arizona)
) ss.:
County of ( )
(Where notarized)

(d) Immediately below the language described in subsection (c) above, the following language shall be included:

I, _____(print name)_____, a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the county of _____, in the state of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that subject to section 19-115, Arizona Revised Statutes, each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the City of Tucson and that at all times during circulation of this signature sheet a copy of the title and text was attached to the signature sheet (Ariz. Const. Art. IV, Pt. 1, § 1, ¶ 9, A.R.S. §§ 19-112 (B), (C), (D), 19-114(A) Tucson Charter, Chapter XIX, § 2). The signatures appearing on this petition sheet are the genuine signatures of the persons whose names they bear and each and all of them are residents and duly qualified electors of the City of Tucson (Tucson Charter, Chapter XIX, § 2).

(e) Immediately following the language in subsection (d), the following language shall be included: "The names of the persons procuring this petition and who should be notified of all proceedings and action taken in reference to this petition are (Tucson Charter, Chapter XIX, § 2):".

(f) Immediately below the information required in subsection (e), the following shall be included: the petitioners' printed names, residence addresses, street and number (if no street address, describe residence location).

(g) Immediately below the information required in subsection (f), the following shall be included:

Signature of affiant _____
Typed or Printed Name of affiant (Circulator) _____
(Residence address, street and number of affiant, or
if no street address, a description of residence location) _____

(h) Immediately following the circulator signature required in subsection (g), the following shall be included:

Subscribed and sworn to (or affirmed) before me on _____ (date)

_____
Notary Public

_____, Arizona
(county where notarized)

My Commission expires on _____.
(date)

Designated location for notary stamp:

(i) The official serial number shall appear in the lower right-hand corner, immediately preceded by the words "SERIAL NUMBER" on both sides of the signature sheet and the title and text page(s).
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 7, 11-4-15)

Sec. 12-142. Provisions applicable to referendum.

(a) Pursuant to the strict compliance provisions relative to referendum, and the specific provisions to the Tucson Charter, the qualified elector shall print their ward number on the referendum petition.

(b) The title and text of a referendum petition must include a complete copy of the ordinance, item, section, or part of the ordinance sought to be repealed or referred, and all attachments.

(c) The provisions of article VI of this chapter, "Campaign Finance; Candidates and Political Committees," insofar as they relate to campaign literature and advertisements, deceptive mailings, and political committee termination statement, as therein set out, shall apply to referendum petitions.

(d) The provisions of article VII of this chapter, "Campaign Finance; Petition Drive Political Committees," shall apply to referendum petitions.

(e) The provisions of article VIII of this chapter, "Initiative," insofar as they relate to applications to circulate petitions, circulation of petitions, procedure for withdrawing signatures, filing petitions, examination and certification and disposition of petitions, as therein set out, shall apply to referendum petitions. The provision shall not be construed to affect the strict compliance standard imposed by the Arizona Supreme Court under the Arizona Constitution and Arizona Revised Statutes.
(Ord. No. 11245, § 2, 2-18-15; Ord. No. 11316, § 7, 11-4-15)

Sec. 12-143. Right of city clerk to review.

The city clerk shall have the right, at any time, to review, challenge or reject a referendum petition on the basis of any legal or procedural insufficiency, including but not limited to the petition's failure to address legislation that is subject to the referendum process. The city clerk's administration of the referendum process does not represent an acceptance or review of the petition, and the absence of objection at any particular time does not bar subsequent rejection of the referendum petition by the City.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-144. Submission of sufficient petitions to mayor and council; mayor and council repeal the part(s) protested or call an election.

When the petition shall be found by the city clerk to be sufficient, the city clerk shall submit the same, with the certificate, to the mayor and council. It shall be the duty of the mayor and council to reconsider such ordinance; and if the same, or item, section or part thereof protested be not repealed, the mayor and council shall submit the ordinance or item, section or part thereof protested to the electors of the city, either at the next ensuing city general election or at a special election to be called for that purpose. No special election shall be held less than one hundred twenty (120) days prior to or following a city primary or general election, and such protested ordinance or protested item, section or part thereof shall not go into effect or become operative unless a majority of the qualified electors, voting on the same, shall vote in favor thereof, and until the proclamation of the mayor is issued.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-145. Insufficient petitions; effective date of ordinance.

The ordinance, item, section, or part thereof shall become effective if the petition is determined to be insufficient and the effective date has passed.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-146 – 12-149. Reserved.

ARTICLE X. RECALL

Sec. 12-150. Petition authorized, number of signatures.

Every public officer holding an elective office, either by election or appointment, is subject to recall. The proposed recall of a public officer may be submitted to the mayor and council by a petition signed by qualified electors of the city equal in number to at least twenty-five (25) percent of the total number of votes cast for all of the candidates including valid write-in candidates for the office held by the officer sought to be removed, at the last preceding general election.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-151. Affidavit to circulate recall petitions.

(a) Any qualified elector of the city may make and submit to the city clerk an affidavit containing the name of the officer to be removed and a general statement, not to exceed two hundred (200) words, stating the grounds for removal.

(b) The affidavit shall include an endorsement which shall set forth the names, residence addresses, and signatures of three (3) persons who are responsible

for endorsing the petition and who are to be notified of all proceedings and actions taken in reference to the petition. The three (3) persons making the endorsement in the affidavit will be deemed, and referred to collectively as, the "petitioners of the recall petition" or simply "petitioners."
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-152. Form of recall petition.

(a) The city clerk shall provide the elector submitting an affidavit to circulate recall petitions a sufficient number of copies of petitions prepared by the city clerk for such recall and removal.

(b) At the time of submission of the affidavit, the affiant or petitioners intending to circulate a recall petition shall deposit with the city clerk the fees sufficient to cover the printing and preparation of the recall petitions.

(c) The recall petition issued by the city clerk shall bear the electronic signature of the city clerk and the official embossed seal of the City of Tucson; shall be dated and addressed to the mayor and council and the city clerk; and shall contain the names and residence addresses of the three petitioners responsible for endorsing the petition, the number of recall petition forms issued, the name of the person sought to be removed, the office from which such removal is sought, and the grounds for removal, as stated in the affidavit.

(d) Only original recall petitions which have been printed and issued by the city clerk can be circulated and submitted for verification.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-153. Circulation of recall petitions.

(a) No recall petition shall be circulated against any officer until the officer has actually held the office for at least six (6) months. The commencement of a subsequent term in the same office does not renew the six (6) month period delaying the circulation of a recall petition.

(b) A recall petition shall not be accepted for verification if more than one hundred twenty (120) days have passed since the date of issuance of the petition by the city clerk.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-154. Notice to officer of issuance of recall petition.

The city clerk shall notify the officer sought to be removed of the submission of the affidavit and the issuance of a recall petition.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-155. Provisions applicable to recall.

(a) The provisions of article VI of this chapter, "Campaign Finance; Candidates and Political Committees," insofar as they relate to campaign literature and advertisements, deceptive mailings, and political committee termination statement, as therein set out, shall apply to recall petitions.

(b) The provisions of article VII of this chapter, "Campaign Finance; Petition Drive Political Committees," shall apply to recall petitions.

(c) The provisions of article VIII of this chapter, "Initiative," insofar as they relate to circulation of petitions, procedure for withdrawing signatures, submitting petitions, and examination and certification thereof shall apply to recall petitions.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-156. Notice of insufficient petition.

If the certificate shows the petition to be insufficient, the city clerk shall at once notify in writing one (1) or more of the persons designated on the petition as submitting the same. The city clerk shall return the petition to one of the persons designated as submitting it, without prejudice, however, to the submitting of a new petition for the same purpose.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-157. Filing of sufficient petition; notice to officer; statement of defense.

(a) When the petition shall be found by the city clerk to be sufficient, the city clerk shall officially file the petition and shall submit the same with the certificate to the mayor and council, without delay, and the mayor and council shall immediately notify the officer sought to be removed;

(b) Within forty-eight (48) hours, excluding Saturdays, Sundays or legal holidays, of the filing of

the recall petition, the city clerk shall give written notice to the person against whom it is filed of the following:

(1) The notice shall state that a recall petition has been certified as sufficient, shall set forth the grounds of the recall, and shall notify the person to whom it is addressed that the officer has the right to prepare and have printed on the ballot a statement containing not more than two hundred (200) words defending the person's official conduct.

(2) The notice shall also state that if the officer fails to deliver the defensive statement to the city clerk within ten (10) days thereafter, the right to have a statement printed on the ballot shall be considered waived.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-158. Resignation of officer.

If a person against whom a recall petition is filed desires to resign, the person may do so by filing a written tender thereof with the city clerk within five (5) days, excluding Saturdays, Sundays and legal holidays, after the official filing of the petition. In such event, the person's resignation shall be accepted and effective immediately, and the vacancy shall be filled as provided by law.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-159. Failure to resign; call of election.

If the officer does not resign within five (5) days after notification by the mayor and council, the mayor and council shall, not less than twenty (20) nor more than thirty (30) days from the date of the city clerk's certificate that a sufficient petition is filed, order an election to be held on a date, not less than one hundred twenty (120) days after the certification.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-160. Candidacy of officer sought to be removed.

An officer sought to be removed shall have their name placed on the official ballot without nomination unless otherwise requested in writing to the city clerk not less than sixty (60) days prior to the election.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-161. Nomination of recall candidates.

(a) Candidates seeking nomination during a recall election must meet the qualification requirements pursuant to section 12-52 of this code.

(b) In the situation that the incumbent was elected to office, candidates other than the incumbent shall be placed upon the official recall ballot after filing a nomination petition that is signed by a number of qualified electors that is equal to at least two per cent of the total votes cast for all candidates for that office at the last general election.

(c) In the situation that the incumbent was appointed to the office, candidates other than the incumbent shall be placed upon the official recall ballot after filing a nomination petition that is signed by a number of qualified electors that is equal to at least one-half of one per cent of the total active registered voters in the district represented by that elective officer as determined on the date of the last general election.

(d) Nomination petition signers shall be qualified electors of the city for mayoral candidates and in the ward of the officer against whom the recall petition is filed for council member candidates.

(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-162. Form of recall nomination petition.

(a) The title and body of the nomination petition shall be substantially in the following form:

> Nomination Petition--Recall Election
> We, the undersigned electors, qualified to vote in the recall election mentioned herein, residents of the precinct indicated by the residence addresses given, and residents of the City of Tucson, county of Pima, state of Arizona, hereby nominate _____, who resides at _____, in the City of Tucson to be a candidate in the recall election for the office of _____ to be held on _____(date)_____, and we further declare that we have not signed and

will not sign any nomination paper for any other person for such office. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

(b) The remainder of the petition shall be substantially in the form prescribed in section 12-55 of this code.

(c) Circulators of a Recall Nomination petition shall comply with the provisions of section 12-57 of this code.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-163. Filing of recall nomination petitions and papers.

Recall nomination petitions must be filed with the city clerk pursuant to section 12-66 of this code, except that such nomination petition shall be filed not more than ninety (90) days nor less than sixty (60) days prior to the date of the recall election.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-164. Arrangement for and conduct of election.

The mayor and council shall make, or cause to be made, publication of notice, and all arrangements for holding such election; and the same shall be conducted, returned and result thereof declared, in all respects as are other city elections. If any vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as herein provided.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-165. Form of ballot.

(a) Ballots for the election shall contain the qualified elector's grounds for the officer's recall.

(b) Ballots shall also contain the officer's justification of their conduct in office, if timely filed pursuant to section 12-157 of this code.

(c) There shall be no party designation upon the recall ballot.

(d) The form of the ballot shall conform as nearly as practicable to the ballot prescribed for general elections.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-166. Incumbent to continue in office; costs for additional recall effort.

(a) The incumbent shall continue to perform the duties of the office until the result of said election shall have been officially declared. The candidate receiving the highest number of votes shall be declared elected for the remainder of the term. If the incumbent is not elected, they shall be deemed removed from office upon the canvassing and declaring the results of the election.

(b) If the officer sought to be recalled is elected, then no further recall petition shall be filed against the same officer during the term elected, unless petitioners first pay all expenses of the preceding election.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 12-167. Appointing recalled officers to public office.

No person who has been removed from an office by recall, or who resigned from such office while recall proceedings were pending against that officer, shall be appointed to any office within one (1) year after such removal or resignation.
(Ord. No. 11245, § 2, 2-18-15)

Secs. 12-168 – 12-174. Reserved.

ARTICLE XI. REPORTING OF INDEPENDENT EXPENDITURES

Sec. 12-175. Supplemental reporting of independent expenditures in city limits.

(a) *Statement of purposes.* This article's purposes are to:

(1) Allow voters access to information about who supports or opposes candidates financially;

(2) Allow the city clerk to more effectively distinguish independent expenditures from expenditures made by candidates or candidates' campaign committees; and

(3) Deter corruption and the appearance of corruption.

This article is intended to supplement, and not supersede or conflict with, any state law regarding the reporting of independent expenditures in city elections.

Corporations, limited liability companies and labor organizations making independent expenditures relating to the City of Tucson candidates must comply with the provisions of A.R.S. Title 16.

(b) *Definitions.* As used in this article:

"Campaign period" means the entire time from the date on which an individual becomes a candidate until the election or defeat of the candidate. The campaign period ends on the date the mayor and council canvass and declare the results of the election at which the candidate is elected or defeated.

"Identification" means:

(1) For an individual, their name and mailing address, their occupation and the name of their employer.

(2) For any other person, including a political committee, the full name and mailing address of the person. For a political committee, identification includes the identification number issued on the filing of a statement of organization pursuant to A.R.S. § 16-902.01.

"Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of A.R.S. § 16-917, which requires a copy of the campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement.

"Person" includes a political committee as defined in A.R.S. § 16-901, as well as a natural person.

(c) *Registration.* Any person who makes independent expenditures related to a particular city office cumulatively exceeding one thousand dollars ($1,000.00) during a campaign period, shall register with the city clerk, indicating the name, title, electronic mail address and telephone number of the person authorizing the independent expenditure.

(d) *Original report.* Any person who makes independent expenditures related to a particular city office cumulatively exceeding one thousand dollars ($1,000.00) during a campaign period, shall file reports with the city clerk in accordance with subsection (g) so indicating.

(1) The name and address of the person making the independent expenditure.

(2) The amount of the expenditure and the name of the vendor or other payee receiving the expenditure.

(3) The name of the candidate(s) and race(s) in which the expenditure was made and whether the expenditure was in support of or opposition to the candidate(s).

(4) The communication medium and description of what was purchased with the expenditure.

(5) The date of the expenditure. For the purposes of this article, an expenditure occurs on the date on which literature or advertisements are deposited at the post office for mailing, submitted to a communications system for broadcast or

submitted to a newspaper or similar print medium for printing and, with respect to an expenditure for signs, the date on which a sign is first posted.

(e) *Supplemental report.* Any person who has previously reached the dollar amount specified in subsection (d) for filing an original report shall file a supplemental report in accordance with subsections (d) and (g) each time previously unreported independent expenditures specified by subsection (d) exceed one thousand dollars ($1,000.00).

(f) *Exception for independent expenditures previously reported.* Subsections (d) and (e) shall not apply to any independent expenditure already reported by the person making the independent expenditure pursuant to the requirements of A.R.S. §§ 16-913 and 16-915, and the amount of that already reported independent expenditure shall not be used in calculating the trigger amounts for original and supplemental reports set forth in subsections (d) and (e).

(g) *Time of filing.* Any person who must file an original report pursuant to subsection (d), or who must file a supplemental report for previously unreported amounts pursuant to subsection (e), shall file the report with the city clerk not later than one day after making the expenditure, excluding Saturdays, Sundays and legal holidays.

(h) *Literature or Advertisements.* Any person purchasing literature or advertisements for the purpose of making an independent expenditure must also comply with A.R.S. § 16-914.02(F), (G), (L), or any successor statutes.

(i) *Additional notification.* In addition to the reporting required in subsections (d) and (e), a person that makes independent expenditures for literature or advertisement relating to any one candidate or office within sixty (60) days shall:

(1) Send by certified mail a copy of the campaign literature or advertisement to each candidate named or otherwise referred to in the literature or advertisement twenty-four (24) hours after depositing it at the post office for mailing, twenty-four (24) hours after submitting it to a telecommunications system for broadcast or twenty-four (24) hours after submitting it to a newspaper for printing.

(2) The copy of the literature or advertisement sent to a candidate pursuant this section shall be a reproduction that is clearly readable, viewable or audible.

A person who violates this subsection is subject to a civil penalty of three (3) times the cost of the literature or advertisement that was distributed in violation of this subsection. This civil penalty shall be imposed as prescribed in A.R.S. § 16-924.

(j) *Contents of report.* Any report by a political committee under this article shall, in addition to providing all other required information, identify any person who has contributed five hundred dollars ($500.00) or more.

(k) *Penalty for failure to file required report.* Any person who fails to register as required, file a report as required, or provide information, as required by this article shall be subject to a civil penalty of up to three (3) times the total amount of independent expenditures not reported. In the case of a political committee, the civil penalty may be assessed against the political committee's chairperson, its treasurer, or both. All civil penalties paid under this subsection shall be appropriated to the election campaign account established under Tucson Charter Chapter XVI, Subchapter B, Section 6.

(l) *Misdemeanor.* Any person who makes a knowingly false filing relating to an independent expenditure pursuant to this section is guilty of a class 1 misdemeanor.

(m) *Determining whether expenditure is for communication that expressly advocates the election or defeat of a clearly identified candidate.* In determining whether an expenditure should have been reported pursuant to subsections (d) and (e), the city clerk shall consider whether the expenditure was for a communication that expressly advocates the election or defeat of a clearly identified candidate and was not made with prior consent, cooperation, or consultation with any candidate or committee or agent of the

candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. In determining that a communication expressly advocates the election or defeat of a candidate, rather than a communication that advocates in favor of or against an issue, the city clerk will consider the following three (3) components:

(1) Even if it is not presented in the clearest, most explicit language, speech is express if its message is unmistakable, unambiguous, and suggestive of only one plausible meaning.

(2) Speech may only be termed advocacy if it presents a clear plea for action, and thus speech that is merely informative is not covered by this article.

(3) It must be clear what action is advocated. Speech cannot be considered express advocacy of the election or defeat of a clearly identified candidate when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. If any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to this section's disclosure requirements.

(n) *Severability.* If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.
(Ord. No. 11245, § 2, 2-18-15)

Sec. 16-34. Public nuisance.

(a) Anything that is injurious to health, or is indecent or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, is hereby declared to be a public nuisance. Any act or thing that affects an entire community or neighborhood, or any considerable number of persons, as herein described, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(b) Any person who knowingly maintains or commits a public nuisance, or who knowingly fails or refuses to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.
(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-35. Obstructing streets, alleys or sidewalks prohibited.

No person shall obstruct any public sidewalk, street or alley in the city, or any portion of any public sidewalk, street or alley in the city, by placing, maintaining or allowing to remain thereon any item or object that prevents full, free and unobstructed public use in any manner, except as otherwise specifically permitted by law. Under this section, an item or thing that is placed on a sidewalk shall not be in violation if all of the conditions established in subsection 25-51(b) are satisfied.
(Ord. No. 10126, § 10, 3-1-05; Ord. No. 11331, § 3, 12-8-15)

Sec. 16-36. Posting of handbills prohibited.

(a) *Posting prohibited.* No person shall post, affix, display, paint or attach; or direct, permit, or cause any other person to attach any handbill upon any street lamp post, street sign, traffic sign or signal, traffic control device, curb, sidewalk, hydrant, tree, shrub, utility pole or any other public building, structure or object except as may otherwise be required or authorized by law; or upon any private structure or building, without the consent of the owner or person in control thereof.

(b) *Presumption.* For purposes of this section, there shall be a rebuttable presumption that any person or entity whose name, address, telephone number, e-mail address or other identifying information is indicated on the handbill, and any owner, manager, or responsible party of any business, product or service which is the subject of the handbill, has directed or caused the posting or attaching of the handbill in violation of subsection (a).

(c) *Penalty.* A violation of this section is a civil infraction. In addition to any other penalties prescribed by law, any person found responsible for violating this section shall be fined not less than two hundred fifty dollars ($250.00). Each handbill illegally posted shall constitute a separate violation, and shall be subject to a separate fine. In addition to the minimum fine(s), upon finding any person responsible for violating this section, the court shall order that person to reimburse the city for its costs in the removal of the illegal handbill(s) pursuant to subsection (d), as documented by a statement of costs presented to the court by the city.

(d) *Enforcement and abatement by code official.* The code official is authorized to enforce the provisions of this section. The code official may, but is not required to, initiate enforcement by issuing a notice of violation pursuant to section 16-45 to the person(s) responsible for a violation of this section, and therein direct and order the responsible person(s) to remove of the unlawful handbill(s). The code official is further authorized to remove or cause the removal of any handbills posted in violation of this section, with or without giving prior notice to the person(s) responsible for the violation.
(Ord. No. 10126, § 11, 3-1-05)

Sec. 16-37. Group dwelling public nuisance; abatement.

(a) *Definition of a group dwelling public nuisance.* A dwelling unit may be designated by the code official as a group dwelling public nuisance if all of the following apply:

(1) The dwelling unit is treated as a lawful nonconforming group dwelling under LUC Section 3.5.7.1.I; and

(2) The dwelling unit is the location of a documented pattern of nuisance activity which shall consist of at least three (3) incidents on separate dates within a two (2)

year period resulting in criminal charges, or in civil infraction citations involving nuisance conduct; and

(3) At least one (1) of the violations is a criminal offense or a violation of section 16-31 (excessive noise) or section 16-32 (unruly gatherings) of this code.

(b) *Maintaining a group dwelling public nuisance unlawful.* It is unlawful for a property owner to maintain a dwelling unit as a group dwelling public nuisance; and a group dwelling public nuisance shall be abated as provided in this section.

(c) *Property owner notification.* The code official shall first notify the property owner and an occupant that the dwelling unit may be designated as a group dwelling public nuisance. Such notice shall include the identification of the dwelling unit in violation; a description of the charges or citations upon which the designation is based; the address and phone number of a city representative to contact; and a description of the appeal rights that apply. The notice shall be delivered in the same manner as provided under section 16-45(e) for notices of violation. The notice shall provide the property owner ten (10) working days to respond to the proposed designation or to submit to the code official a remediation plan that will voluntarily abate the alleged violation(s). Within ten (10) working days of the date of property owner responds to the notice, or in the absence of a response within ten (10) working days of the expiration of the response period, the code official shall notify the property owner of the decision as to whether the dwelling unit is a group dwelling public nuisance. A property owner may appeal a designation of a group dwelling as a public nuisance under this paragraph within thirty (30) days of the designation by filing an appeal in accordance with section 16-73.

(d) *Abatement by remediation plan; appeal.* Where the code official has designated a dwelling unit as a public nuisance as provided above, the nuisance shall be abated as follows:

(1) The code official shall first attempt to consult with the property owner in which the dwelling unit is located to determine appropriate steps to abate the group dwelling public nuisance through a remediation plan. Within fifteen (15) working days, the code official shall determine the appropriate remediation plan to abate the group dwelling public nuisance. The code official may extend the time for completing the remediation plan by up to fifteen (15) days. By the same date, the remediation plan shall be delivered to the property owner, and shall be effective for one (1) year. Within five (5) days of delivery to the property owner, the designation as a group dwelling public nuisance and the remediation plan shall also be delivered to property owners within fifty (50) feet of the subject site and mailed to any registered neighborhood association that includes the subject site. Failure to deliver the designation and/or remediation plan to these nearby property owners shall not affect the validity of the designation or remediation plan. The code official shall keep and maintain any nuisance designation or remediation plan issued under this section as a public record, and shall make such documents available to any person upon request.

(2) A property owner may file an administrative appeal to appeal the requirements of the remediation plan in accordance with section 16-70 of this chapter.

(e) *Subsequent violations a civil infraction; abatement by court order.* If, within twenty-four (24) months of the designation of a dwelling unit as a group dwelling public nuisance and the issuance of a remediation plan, the dwelling unit is the location of an additional violation or violations of the City Code or of any criminal laws or statutes, the property owner is responsible for a civil infraction. Upon finding a property owner responsible for a violation under this subsection, the court shall order such person to correct and abate the violations. Such order may include an order to reduce or limit the number of unrelated tenants in the dwelling unit to not more than four (4), except that any order limiting occupancy in this manner can only apply for a time period not to exceed six (6) months. A reduction of the number of tenants as a result of a court order issued pursuant to this paragraph shall not terminate or discontinue the nonconforming use of the dwelling unit.

Sec. 20-74 – 20-76. Reserved.
Sec. 20-77. Reserved.
Sec. 20-78. Records of chief magistrate.
Sec. 20-79. Reserved.
Sec. 20-80. Disposition of civil sanctions.
Secs. 20-81 – 20-90. Reserved.

Article III. Pedestrians

Sec. 20-91. Obedience to traffic-control signals and this article.
Sec. 20-92. Prohibited crossings.
Secs. 20-93 – 20-108. Reserved.

Article IV. Traffic-Control Devices

Sec. 20-109. Installation of devices by traffic engineer; existing devices ratified.
Sec. 20-110. Conformance to state specifications required; uniformity; declared official.
Sec. 20-111. Obedience required.
Sec. 20-112. Observance of flashing yellow arrow display.
Sec. 20-112.1. Bicycle traffic control signals.
Sec. 20-113. Required stops for pedestrians in crosswalks.
Sec. 20-114. Displaying unauthorized or confusing signs, signals, markings; obstructing view of devices.
Sec. 20-115. Authority to prohibit or require turns; obedience to signs; public transit buses exempted from same.
Sec. 20-115.1. Authority to exempt bicyclists from required or prohibited turns.
Sec. 20-116. Authority to designate crosswalks.
Sec. 20-117. Authority to designate safety zones.
Sec. 20-118. Authority to mark lanes.
Sec. 20-119. Traffic engineer authorized to establish school crossings.
Sec. 20-120. Authority to prohibit entry onto streets and alleys from intersections; obedience to “do not enter” signs; authority to exempt bicyclists.
Secs. 20-121 – 20-134. Reserved.

Article V. Operation

Sec. 20-135. Reserved.
Sec. 20-136. State speed laws applicable generally.
Sec. 20-137. Intersections where fifteen miles per hour speed limit imposed.
Sec. 20-138. Speed limit in all city parks.
Sec. 20-139. Speed limit in alleys.
Sec. 20-140. Where thirty miles per hour speed limit imposed.
Sec. 20-141. Where thirty-five miles per hour speed limit imposed.
Sec. 20-142. Where forty miles per hour speed limit imposed.
Sec. 20-143. Where forty-five miles per hour speed limit imposed.
Sec. 20-144. Where fifty miles per hour speed limit imposed.
Sec. 20-145. Where fifty-five miles per hour speed limit imposed.
Secs. 20-145.1 – 20-145.4. Reserved.
Sec. 20-146. Special speed restrictions on certain streets.
Sec. 20-146.1. Special speed limit reductions in temporary traffic control zones.
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(1953 Code, ch. 17, § 98; Ord. No. 1924, § 3, 7-6-59; Ord. No. 3653, § 1, 1-24-72; Ord. No. 3753, § 1, 12-13-71; Ord. No. 4003, § 1, 4-2-73; Ord. No. 4132, § 1, 2-19-74; Ord. No. 4150, § 2, 6-21-76; Ord. No. 4275, § 1, 1-20-75; Ord. No. 5050, § 1, 10-15-79; Ord. No. 6120 § 1, 11-19-84; Ord. No. 6565, § 1, 11-3-86; Ord. No. 6590, §§ 1 and 2, 12-8-86; Ord. No. 6705, §§ 1 and 2, 5-18-87; Ord. No. 6797, §§ 1 and 2, 9-21-87; Ord. No. 6950, §§ 1 and 2, 5-16-88; Ord. No. 6974, §§ 1 and 2, 6-6-88; Ord. No. 7066, §§ 1 and 2, 10-17-88; Ord. No. 7080, §§ 1 and 2, 10-24-88; Ord. No. 7137, §§ 1 and 2, 2-6-89; Ord. No. 7251, §§ 1 and 2, 8-7-89; Ord. No. 7442, §§ 1 and 2, 7-2-90; Ord. No. 7484, §§ 1 and 2, 9-17-90; Ord. No. 7542, §§ 1 and 2, 1-7-91; Ord. No. 7750, §§ 1 and 2, 1-13-92; Ord. No. 7903, § 2, 9-14-92; Ord. No. 7914, § 2, 10-5-92; Ord. No. 7972, §§ 1 and 2, 1-11-93; Ord. No. 7979, §§ 1 and 2, 2-1-93; Ord. No. 8342, § 2, 8-1-94; Ord. No. 8687, § 2, 5-6-96; Ord. No. 8788, §§ 1 and 2, 12-16-96; Ord. No. 8927, §§ 1 and 2, 9-2-97; Ord. No. 9133, § 2, 10-5-98; Ord. No. 9435, § 2, 8-7-00; Ord. No. 9760, § 2, 9-3-02; Ord. No. 10181, § 1, 8-2-05; Ord. No. 10940, § 1, 10-25-11; Ord. No. 11091, § 2, 7-9-13)

Secs. 20-180 – 20-199. Reserved.

ARTICLE VII. STOPPING, STANDING AND PARKING*

DIVISION 1. GENERALLY

Sec. 20-200. Unlawful parking prohibited; classification; parking defined; parties liable; applicability of regulations; continuous violations; mandatory fines and fees; community service.

(a) *Classification.* Violation of any provision of this article which regulates the time, place, or method of parking shall constitute a civil infraction.

(b) *Definition.* Parking means the standing of a vehicle, whether occupied or not.

(c) *Parties liable.* The owner(s) of the vehicle and the person who parked or placed the vehicle where the violation occurred shall be jointly and individually liable for the violation and for the fine and fees prescribed therefor.

(d) *Applicability of regulations.* The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the directions of a police officer or official traffic-control device.

(e) *Continuous violations.* Where parking is time restricted, each full time period the vehicle is unlawfully parked shall constitute a separate violation. In all other cases, each day the violation continues shall constitute a separate offense.

(f) *Mandatory fines and fees.* Unless otherwise specifically provided by this article, the fines and fees for violating any provision of this article shall be mandatory, no part of which may be suspended or waived by the court.

(g) *Community service.* Community service work may be substituted for fines and fees in accordance with section 1-8(4) of this Code.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07)

Sec. 20-201. Reserved.

Editor's note – Ord. No. 9492, § 3, adopted Nov. 27, 2000, repealed § 20-201, which pertained to administrative enforcement fee. See the Code Comparative Table.

Sec. 20-202. Prima facie evidence of parking infraction.

No civil infraction may be established except upon proof by a preponderance of the evidence; provided, however, that a parking violation notice, or copy thereof, issued in accordance with this chapter and the Local Rules of Practice and Procedure in City Court Civil Proceedings shall be prima facie evidence thereof and shall be admissible in any judicial or administrative proceeding as to the correctness of the facts specified therein.
(Ord. No. 9196, § 1, 1-25-99)

***Editor's note –** Ord. No. 9196, § 1, adopted Jan. 25, 1999, repealed the former Art. VII, §§ 20-193 – 20-277, which pertained to stopping, standing and parking, and enacted a new Art. VII, §§ 20-200 – 20-282 to read as herein set out. For more information, see the Code Comparative Table.

Sec. 20-203. Failure to respond to citation; default fee; booting and impounding vehicle authorized, booting and impound fees; damages to boot.

(a) *Arizona registered vehicles.* When a citation is issued to a vehicle registered within the State of Arizona, Park Tucson shall within seven (7) working days send a citation letter to the owner address on file with the Arizona Department of Motor Vehicles advising the owner of the citation and containing the date, time, and location of the violation as well as the vehicle description and violation description; or a duplicate copy of the citation.

(b) *[Failure to respond.]* If the owner or operator of the vehicle involved in a civil parking violation or infraction fails to respond within thirty (30) calendar days from the day the citation was issued by one (1) of the prescribed methods in Rule 7 of the Local Rules of Practice and Procedure in City Court Civil Proceedings, a default fee pursuant to section 8-6.7 shall be assessed and the court shall within seven (7) working days of the default date send a default letter to the owner address on file with the Arizona Department of Motor Vehicles, advising the owner that the citation is in default and that the vehicle may be subject to boot or impoundment as set forth in subsection (d).

(c) *Foreign registered vehicles.* If the owner or operator of the vehicle, registered in a state or jurisdiction other than Arizona, involved in a civil parking violation or infraction fails to respond within thirty (30) calendar days from the day the citation was issued by one (1) of the prescribed methods in Rule 7 of the Local Rules of Practice and Procedure in City Court Civil Proceedings, a default fee pursuant to section 8-6.7 shall be assessed.

(d) *[Booting, impoundment.]* In addition to actions taken under section 20-203(b) or (c) above, the citing authority may boot, impound or cause to be booted or impounded any motor vehicle owned by a person who has three (3) or more unpaid civil parking infractions or has failed to respond to the civil parking infractions as set forth in section 20-203(b) or (c), giving notice that there shall be a hearing before a limited special magistrate within forty-eight (48) hours of the booting or impoundment, excluding weekends and holidays. The owner of the vehicle which was booted or impounded may post a bond in the amount of the booting and/or impound fees, damages or replacement cost of the boot if any, and potential fines in order to have the vehicle released pending the hearing. The limited special magistrate shall conduct the hearing as follows:

(1) The limited special magistrate shall conduct a hearing where the sole issue shall be to determine whether the vehicle was owned by the person at the time of the civil parking infractions, determine whether the infractions have been paid or otherwise responded to, and determine whether the boot was damaged or taken from the vehicle.

(2) If the owner fails to appear as directed by the citing authority, the limited special magistrate shall enter a default judgment in the amount of the unpaid fines, booting fees, impound fees, other costs imposable under this section and order the vehicle impounded until all fines, fees and other costs imposable under this section are paid or the vehicle is disposed of pursuant to sections 20-13 and 20-14 of this Code.

(3) For purposes of this hearing, the transference of title of the vehicle from the owner of the vehicle when the civil parking infraction occurred to another person after the vehicle was booted or impounded is not a defense to nonpayment of the fines and the vehicle will not be released until the unpaid fines, booting and/or impound fees and any other costs imposable under this section are paid, except pursuant to subsections (d)(6) and (7) of this section.

(4) If a continuance is granted to the defendant for good cause, the booted or impounded vehicle may be released upon the posting of a cash bond in the amount of the booting and/or impound fees, other costs imposable under this section and potential fines. If a continuance is granted to the city for good cause, the impounded or booted vehicle shall be released forthwith without the necessity of a bond.

(5) If the case is continued, the limited special magistrate shall set the hearing within thirty (30) days.

(6) If judgment is entered in favor of the owner, the booted/impounded vehicle shall be released forthwith to the operator or owner of the vehicle, unless the boot was damaged or taken, without any booting and/or impound fees, and any bond posted shall be returned to the person posting the bond unless the boot was damaged or taken, then the vehicle shall not be released nor the bond released until the repair or replacement cost for the boot is paid.

(7) If judgment is entered in favor of the city, the limited special magistrate shall order the payment of unpaid fines and fees booting and/or impound fees and damages or replacement cost of the boot, if any. The limited special magistrate may order the vehicle impounded until all fines, fees and damages or replacement cost of the boot, if any, are paid or the vehicle disposed of pursuant to sections 20-13 and 20-14 of this Code. The limited special magistrate may allow the vehicle released if the owner shows good cause and agrees to make payments. However, the booting and/or impound fees and any damages or replacement cost of the boot, if any, shall be paid before the vehicle is released to the owner.

(8) The booting fee shall be in the amount of seventy-five dollars ($75.00) and the impound fee shall be in the amount of the towing or removal costs plus storage fees. These fees are hereby declared to be cost recovery measures, administrative in nature, separate from and in addition to any civil penalty imposed.

(9) Any person who damages a boot on a vehicle either by attempting to remove the boot or by trying to drive off with the boot or by taking the boot is responsible for the repair or replacement cost of the boot. The limited special magistrate shall order the repair or replacement cost of the boot be paid before the release of any vehicle.

(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07; Ord. No. 11324, § 1, 12-8-15)

Sec. 20-204. Booting or impounding list.

(a) When a vehicle has three (3) or more unpaid civil parking infractions or the vehicle owner has failed to respond to the civil parking infractions as set forth in section 20-203(b) or (c), the city court shall place that vehicle on the booting/impound list.

(b) After a vehicle has been placed on the booting/impound list, any other vehicle owned by the owner of that vehicle is also subject to booting and/or impoundment. Prior to the booting or impoundment of any vehicle registered in a state or jurisdiction other than the State of Arizona, where such booting or impoundment is based solely on section 20-204(b) or (c), a boot/impound notice shall be affixed to the vehicle at least twenty-four (24) hours in advance of any booting or impoundment advising the owner and/or operator of the vehicle that the vehicle has been placed on the booting/impound list and is now subject to booting or impoundment without further notice.

(c) Twenty-four (24) hours after a boot/impound notice has been affixed to a vehicle pursuant to section 20-203(d), that vehicle, as well as any other vehicle owned by the same owner, shall be subject to booting or impoundment without further notice.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07)

Secs. 20-205 – 20-209. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 20-210. Director of transportation; duties; Park Tucson Administrator duties; authorization to issue citations and collect violation fines.

(a) The director of transportation, or the director's designee, shall establish, change, remove, or prohibit, as conditions may require, boulevard stops, pedestrian lanes, parking spaces, parking time limits, safety and loading zones, public carrier stands and other necessities of facilitating parking.

(b) The Administrator of Park Tucson shall regulate parking and may issue citations and collect violation fines for any regulation relating to stopping, standing, or parking motor vehicles contained in any chapter of this Code.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07; Ord. No. 10918, § 2, 8-9-11; Ord. No. 11324, § 2, 12-8-15)

Sec. 20-211. Administrative guidelines.

The director of transportation has authority to prepare such administrative guidelines as may be deemed necessary and desirable to implement the provisions of this article. Three (3) copies of these guidelines will be kept on file by the city clerk.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-212. Civilian volunteer police assist specialists authorized to issue citations.

Civilian volunteer police assist specialists appointed at the discretion and under the direction of the chief of police are hereby authorized to issue citations enforcing any regulation relating to the stopping, standing or parking of motor vehicles contained in any chapter of this Code.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-213. Parking enforcement agents exempt.

Any stopping, standing or parking restrictions provided in this article shall not apply to any police officer, peace officer, or parking enforcement agent when such stopping, standing or parking is for the purpose of actual performance of law enforcement duty.
(Ord. No. 9196, § 1, 1-25-99)

Secs. 20-214 – 20-219. Reserved.

DIVISION 3. PARKING FOR INDIVIDUALS WITH PHYSICAL DISABILITIES

Sec. 20-220. Parking for individuals with physical disabilities; designation; enforcement.

Parking spaces subject to these provisions shall be clearly and conspicuously designated as being reserved for individuals with physical disabilities. Such designation shall include a standard symbolic disabled parking sign bearing the number of this section of this Code and conforming to specifications for design and placement as approved by the director of transportation. The posting of such sign or signs shall authorize enforcement of the provisions of this division and shall thereby constitute consent by the owner of the property to enforcement of this division.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-221. Penalty.

Unless otherwise specifically provided, the penalty for violating any ordinance or provision of article VII, division 3, which regulates the time, place, or method of parking a vehicle shall be a mandatory base fine of two hundred eleven dollars and forty-eight cents ($211.48), no part of which may be suspended or waived by the court, plus any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00; Ord. No. 9867, § 1, 6-23-03; Ord. No. 11295, § 1, 8-5-15; Ord. No. 11324, § 3, 12-8-15)

Sec. 20-222. Parking prohibited in spaces reserved for individuals with physical disabilities.

(a) It shall be unlawful to park any motor vehicle, other than one bearing a license plate with the international wheelchair symbol or displaying a placard issued under state law for this purpose, in a parking space reserved for use by individuals with physical disabilities whether on public property or private property available for public use, when such space is designated as described in section 20-220 above.

(b) If the owner or operator of the vehicle involved in a violation of this section, subsequently produces to the court proof of possession of a valid placard issued under state law for these purposes, the fine shall be reduced to twenty dollars ($20.00), no part of which may be suspended or waived by the court. This fine includes any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00)

Sec. 20-222.1. Parking prohibited in access aisles of spaces reserved for individuals with physical disabilities.

It shall be unlawful for any vehicle, including one with a disabled plate or placard, to park in the access aisle of such space as designated by diagonal white or yellow lines spaced at approximately two-foot intervals.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-222.2. Paratransit loading zones.

When signs are erected giving notice thereof, it is unlawful to stop, stand, or park a vehicle in any provisional paratransit loading zone. The provisions of this section shall not apply to vehicles bearing a license plate with the international wheelchair symbol or displaying a placard issued under state law for this purpose, or to authorized commercial paratransit vehicles, when any such vehicles are actively engaged in loading or unloading of passengers. In no case shall the stop for the loading or unloading of passengers exceed twenty (20) minutes.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-223. Wheelchair curb access ramps.

It is unlawful to stop, stand, or park a vehicle in such a manner as to block or deny access to a wheelchair curb access ramp. A violation of this section is punishable by a fine of one hundred dollars ($100.00) and such fine shall not be suspended. This fine includes any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00)

Sec. 20-224. Reserved.

DIVISION 4. BASIC PARKING CONTROLS

Sec. 20-225. Penalty.

Unless otherwise specifically provided, the penalty for violating any provision of article VII, division 4, which regulates the time, place, or method of parking a vehicle shall be a mandatory base fine of fourteen dollars and seventy-five cents ($14.75), no part of which may be suspended or waived by the court, plus any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00; Ord. No. 9867, § 2, 6-23-03; Ord. No. 11324, § 4, 12-8-15)

Sec. 20-226. Designation of places angle parking permitted.

The director of transportation shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking

shall not be indicated upon any federal aid or state highway within the city unless the state highway commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

Angle parking shall not be intended or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of a two-way street.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-226.1. Obedience to angle parking signs, marking.

Upon those streets which have been signed or marked by the director of transportation for angle parking, it is unlawful to park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or marking.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-226.2. Parking at angle to load or unload merchandise.

When a vehicle is stopped for the purpose of loading or unloading merchandise, it is unlawful to park such vehicle at an angle to the curb or freight curb loading zone designated by appropriate signs and markings for such purpose.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-226.3. Angle parking.

Where signs are posted specifying the direction of a vehicle for angle parking, it shall be unlawful to park a vehicle not in accordance with the signs.
(Ord. No. 9434, § 1, 8-7-00)

Sec. 20-226.4. Angle parking, direction.

Unless signs are posted directing otherwise, vehicles shall pull into angled parking spaces while traveling in the same direction as the travel flow of the nearest traffic lane and shall park facing the curb.
(Ord. No. 10418, § 3, 6-12-07)

Sec. 20-227. Designation of common-carrier passenger vehicle stands.

The director of transportation is hereby authorized and required to establish bus stops and stands for other passenger common-carrier motor vehicles other than taxicabs on such public streets, in such places and in such number as the director of transportation shall determine to be of the greatest benefit and convenience to the public; and every such bus stop or other stand shall be designated by appropriate signs.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-228. Taxicab stands – application for; location; signs required.

Upon receipt of a written application, the director of transportation is hereby authorized to determine the location of taxicab stands and shall place and maintain appropriate signs and/or markings indicating same. The written application shall define the area wherein the taxicab stand is requested, the size of zone requested, the hours of day during which the zone is needed, and such other pertinent information as may be necessary for the director of transportation to determine whether the application should be granted.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-228.1. Same – Revocation.

The director of transportation may at any time, without notice, remove, relocate or alter any taxicab stand issued under this section.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-229. Time limit parking.

When signs are erected giving notice thereof, it is unlawful to park a vehicle for longer than the time period posted. It shall be unlawful to park a vehicle in the same time restricted space, or same type time restricted space within the same block, for any portion of two (2) consecutive time periods.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07)

Sec. 20-234. Hazard flashers mandatory.

Where signs are erected, giving notice thereof, it shall be illegal to park a vehicle without utilizing the vehicle's emergency hazard flashers. This restriction may be posted in conjunction with, and in addition to, any other section of this article.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-235. Public parking prohibited in parking lots or spaces reserved for city officers or employees.

(a) It is unlawful for any person not an officer or employee of the city to stand or park a vehicle on city parking lots or parking spaces reserved for or allocated to city employees or officers.

(b) It is unlawful for any officer or employee of the city to stand or park a vehicle on city parking lots or parking spaces reserved for or allocated to another city employee or officer without that officer's or employee's permission.

(c) The provisions of this chapter relating to parking meters, and to the enforcement of parking violations set forth in section 20-230, unless the context otherwise requires, shall apply to public use designated parking spaces on such lots having city parking meters.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-236. Height limit restriction.

It shall be unlawful to park a vehicle of height in excess of the clearly and conspicuously posted height limit of an off-street parking facility.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-237. Obedience to markings; double parking prohibited.

It shall be unlawful to park a vehicle in off-street parking facilities, designed and maintained in accordance with Tucson Code chapter 23, except within the individually marked parking spaces. It shall be unlawful to park a vehicle in such a manner as to block ingress or egress to another legal parking space.
(Ord. No. 9196, § 1, 1-25-99)

Secs. 20-238 – 20-245. Reserved.

DIVISION 5. NUISANCE PARKING CONTROLS

Sec. 20-246. Penalty.

Unless otherwise specifically provided, the penalty for violating any provision of article VII, division 5, which regulates the time, place, or method of parking a vehicle shall be a mandatory base fine of twenty-five dollars and sixty-eight cents ($25.68), no part of which may be suspended or waived by the court, plus any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00; Ord. No. 9867, § 3, 6-23-03; Ord. No. 11295, § 2, 8-5-15; Ord. No. 11324, § 5, 12-8-15)

Sec. 20-247. Parking for certain purposes prohibited.

It is unlawful to park a vehicle upon any roadway for the purpose of:

(1) Washing, greasing or repairing such vehicle, except for immediate repairs necessitated by an emergency and necessary to be made before the vehicle can be moved; or

(2) Displaying commercial exhibits, except by special permit lawfully issued by the city.

(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-248. Parking regulations for peddlers.

No peddler shall park a vehicle or alternating vehicles or series of vehicles on any public street for the purpose of peddling food or wares for a period in excess of sixty (60) continuous minutes, or in excess of one hundred twenty (120) minutes in any 24-hour period at one (1) location. The parking of such vehicle within a distance of three hundred (300) feet from the original parking space shall be deemed one (1) location. No service from such vehicle to the public shall be made from the traffic side or the side of the vehicle which faces the center of the public street. However, such vehicle may park for such purposes in the vicinity of a special event, such as a football game or other sporting event, circus, fair, rodeo or parade, during the period of the event, plus one (1) hour, prior to and after the event.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-248.1. Parking regulations for peddlers in certain central business district streets.

(a) Peddlers may not park a vehicle for the purpose of peddling food or wares in the central business district upon Stone Avenue between Franklin Street and 14th Street, and upon Congress Street and upon Pennington Street between Sixth Avenue and Church Avenue, except in the red painted street zones at the following designated areas:

(1) North side of Pennington Street, east of Stone Avenue;

(2) West side of Stone Avenue, north of Pennington Street;

(3) South side of Congress Street, east of Stone Avenue.

Parking for such purposes at permitted areas is limited from 9:00 a.m. to 4:00 p.m., Monday through Friday, and is not permitted on sidewalks.

(b) The permitted area may not be used for peddlers' vehicles all day on special event days when the named streets are blocked off to vehicle traffic.

(c) Peddlers' vehicles must be removed immediately in event of an emergency, and must be at least fifty (50) feet from any objecting business.

(d) Only one (1) peddler's vehicle is permitted for each permitted designated area. The first peddler at the area each day shall have prior right to the area until the vehicle is removed.

(e) The maximum size of a peddler's vehicle shall be forty-eight (48) inches high, forty-eight (48) inches wide, and seventy-two (72) inches long.

(f) All items relating to the peddling activity must be kept in or under the peddler's vehicle, and nothing placed on any public area adjacent to the vehicle, including signs.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-249. Freight curb loading zones; location of provisional zones in parking meter zones.

The director of transportation is hereby authorized to determine the location of provisional freight curb loading zones within any parking meter zone. The director of transportation may at any time, without notice, remove, relocate or alter any freight curb loading zone issued under this section.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-249.1. Same – When nonauthorized vehicles prohibited in provisional zones.

When signs are erected giving notice thereof, it is unlawful to stop, stand or park a vehicle in any provisional freight curb loading zone between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday except public holidays, however the provisions of this section shall not apply, when the vehicle's hazard warning flashers are in operation, if the authorized commercial vehicle or government-plated truck is parked in any provisional freight curb loading zone for a period of time not to exceed thirty (30) minutes.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-250. Parking on property of another prohibited without permission.

It is unlawful for the driver of a motor vehicle to park the vehicle in or upon property of another without having in the driver's possession the written permission of the person legally entitled to possession of the property. However, a citation charging violation of this section shall be dismissed if the aforesaid written permission is subsequently presented to the department of transportation or to the city court.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-251. Parking in parks and playgrounds.

It is unlawful to park a motor vehicle in or upon the parks and playgrounds of the city except in designated and signed parking areas.
(Ord. No. 9196, § 1, 1-25-99)

stand, or park a vehicle in an unimproved pedestrian area adjacent to roadways less than or equal to twenty-six (26) feet wide.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9434, § 5, 8-7-00; Ord. No. 11063, § 2, 3-27-13)

Sec. 20-261. Unattended and inoperable vehicles prohibited.

(a) It shall be unlawful to park, or leave unattended, on any street or roadway or right-of-way thereof, any vehicle for a period in excess of twenty four (24) hours.

(b) Any operable, currently registered, non-commercial, passenger vehicle registered to a resident of a property immediately adjacent to the parked vehicle shall be exempt from section 20-261(a) provided the vehicle is not in violation of any other section of this code.

(c) It shall be unlawful to park or leave unattended, on any street or roadway or right-of-way thereof, any vehicle exempt from section 20-261(a) as described in section 20-261(b) for a period in excess of seven (7) calendar days.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 10418, § 3, 6-12-07)

Sec. 20-262. Truck parking on streets not designated as truck routes prohibited.

(a) It is unlawful to park any vehicle having a total gross vehicle weight rating in excess of twenty thousand (20,000) pounds, including, but not limited to, trucks, truck tractors, road tractors, trailers, semi-trailers, vehicle transporters, or any combination of such vehicles:

(1) On a street not designated as a truck route under article I section 20-15 of this chapter; or

(2) On a street posted pursuant to section 20-15.1(b) with a sign or signs limiting the gross weight of vehicles permitted on the street; or

(3) Within a residence district.

(b) Notwithstanding the prohibition in section 20-272(a) above, a restricted vehicle may park, except as otherwise prohibited by this article:

(1) On any street within a business district, unless the street is posted pursuant to section 20-15.1(b) with a sign or signs limiting the gross weight of vehicles on the street; or

(2) On any street to perform the following activities, except that, upon completion of such activity, the vehicle must return to the nearest designated truck route:

(i) Deliver, pickup, load, or unload merchandise, materials, or equipment, including furniture and other household goods; or

(ii) Provide construction, repair, or similar services to a property.

(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00)
Note: Formerly § 20-272.

Sec. 20-263. Recreational vehicles; commercial vehicles.

It shall be unlawful to park any recreational vehicle, or any commercial vehicle, on the same block of any street or roadway or right-of-way thereof for any portion of any two (2) consecutive calendar days.
(Ord. No. 10418, § 3, 6-12-07)

Secs. 20-264 – 20-270. Reserved.

DIVISION 6. SAFETY ISSUES

Sec. 20-271. Penalty.

Unless otherwise specifically provided, the penalty for violating any provision of article VII, division 6, which regulates the time, place, or method of parking a vehicle shall be a mandatory base fine of sixty dollars and eleven cents ($60.11), no part of which may be suspended or waived by the court, plus any assessments imposed under state law.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9492, § 3, 11-27-00; Ord. No. 9867, § 4, 6-23-03; Ord. No. 11295, § 3, 8-5-15; Ord. No. 11324, § 6, 12-8-15)

Sec. 20-272. Reserved.

Editor's note – Ord. No. 9492, § 3, adopted Nov. 27, 2000, renumbered the provisions of former § 20-272 as current § 20-262. The user is directed to § 20-262 for provisions concerning truck parking on streets not designated as truck routes prohibited. See the Code Comparative Table.

Sec. 20-273. Parking in alleys.

It is unlawful to park a vehicle within an alley, whether posted or not, except for the loading or unloading of merchandise and materials, and then not unless such loading or unloading can be accomplished without blocking the alley to the free movement of vehicular traffic. Notwithstanding the foregoing provision, the director of transportation may authorize limited alley blockage for periods not to exceed twenty (20) minutes at locations where such blockage is necessary for the immediate loading or unloading of persons, merchandise, or materials, provided that vehicles shall remain attended at all times and shall be immediately moved if necessary to accommodate the passage of emergency or city service vehicles.
(Ord. No. 9196, § 1, 1-25-99; Ord. No. 9424, § 1, 7-10-00; Ord. No. 9434, § 6, 8-7-00)

Sec. 20-274. Hazardous areas adjacent to schools.

The director of transportation is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property where and when such parking would, in his opinion, interfere with traffic or create a hazardous situation. When official signs are erected indicating no parking upon such side of a street adjacent to any school property, it is unlawful to stop, stand, or park a vehicle in any such designated place.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-275. Standing or parking outside of business or residence district.

Upon any highway outside of a business or residence district, it is unlawful to stand or park any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practical to stand or park the vehicle off that part of the highway, but in every event an unobstructed width of the highway opposite the vehicle shall be left for the free passage of other vehicles; and a clear view of the standing or parked vehicle shall be available from a distance of two hundred (200) feet in each direction upon the highway. This section shall not apply if the vehicle is disabled while on the paved or main-traveled part of a highway and is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-276. Buses stopping on crosswalks, within intersections prohibited.

It shall be unlawful for any bus to stop within an intersection or on a crosswalk for the purpose of receiving or discharging passengers.
(Ord. No. 9196, § 1, 1-25-99)

Sec. 20-277. Stopping, standing or parking prohibited in specified places.

Except for public buses, which may stop in a no-parking zone marked or sign posted as a bus loading zone, or authorized commercial vehicles or government-plated trucks as defined in section 20-249 in freight curb loading zones, or disabled or handicapped vehicles in disabled zones, or passengers or their effects in passenger curb loading zones, it is unlawful to stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with law or directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) On a crosswalk, whether marked or unmarked.

(4) Within twenty (20) feet of a crosswalk at the departing side of an intersection whether marked or unmarked.

(5) In red zones.

(6) Where "no-parking" signs are specifically posted.

(7) Within five (5) feet of a driveway.

(8) Within ten (10) feet of an alleyway.

(Ord. No. 9196, § 1, 1-25-99; Ord. No. 11063, § 3, 3-27-13)

Chapter 21

PARKS AND RECREATION*

Art. I.	**Operation and Regulation of Parks, §§ 21-1 – 21-18.1**
Art. II.	**Randolph Park Golf Courses, §§ 21-19 – 21-37**
Art. III.	**Reserved, §§ 21-38 – 21-50**
Art. IV.	**Gene Reid Park Zoo Admittance Fees, §§ 21-51 – 21-54**
Art. V.	**Reserved**

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***Charter reference –** Department of parks and recreation, ch. XXXI.

Sec. 21-25.4. Resident senior citizen golfer.
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Article III. Reserved

Secs. 21-38 – 21-50. Reserved.

Article IV. Gene Reid Park Zoo Admittance Fees

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Sec. 21-52. Reserved.
Secs. 21-53, 21-54. Reserved.

Article V. Reserved

ARTICLE I. OPERATION AND REGULATION OF PARKS*

Sec. 21-1. Definitions.

In this article, unless the context otherwise requires:

Sec. 21-1(1). Camping means the placement of any tent, temporary shelter or structure, blanket, cloth, or other sleeping implements on park property for the purpose of protection from the elements for any persons remaining in the park.

Sec. 21-1(2). Director means the director of parks and recreation.

Sec. 21-1(3). License means a permit for more than a one-time event.

Sec. 21-1(4). Park means any public park or recreation or playground area within or outside the corporate limits of the city, owned and maintained by the city as a public park, or recreation or playground area, including Randolph and El Rio golf courses, and Hi Corbett field.

Sec. 21-1(5). Park ranger means a city employee under the supervision of the director, authorized by his commission to enforce all park rules and regulations and all criminal and traffic laws within a park.

Sec. 21-1(6). Permit means authority issued by the director granting a named person or persons permission to perform a specified activity in a parks and recreation department facility or any portion thereof.

Sec. 21-1(7). Pollution means the contamination or other alteration of the physical, chemical or biological properties of park waters, including change in temperature, taste, color, turbidity or odor of the waters, or discharge of any liquid, gaseous, solid radioactive or other substance into any park waters as will or is likely to create a public nuisance or render park waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, recreational or other beneficial uses, or to wild animals, birds, fish or other aquatic life.

Sec. 21-1(8). Reservation means authority issued by the director for named persons to use a parks and recreation department facility or any portion thereof for a specified time and purpose.

Sec. 21-1(9). Resident is hereby defined as any person who is in possession of a valid proof of residency within the Tucson city limits pursuant to the rules and regulations established by the director of parks and recreation. Persons qualified as residents as set forth shall be permitted to use any city-owned parks and recreation department facility and fee based programs upon payment of the resident fee, proper identification as determined by the director of parks and recreation.

Sec. 21-1(10). Vehicle means any wheeled conveyance, whether motor-powered, animal-drawn, or personally propelled, including any trailer in tow of any size, kind or description. Not included are baby carriages, vehicles in the service of the city, and vehicles authorized and properly equipped for emergency duties.
(Ord. No. 4610, § 2, 1-10-77; Ord. No. 9850, § 1, 5-12-03)

Sec. 21-2. Operation of parks under director.

(a) *Powers of the director.* The control, supervision, and operations of all parks is vested in the director of parks and recreation. The director or his or her deputy may make such reasonable rules and regulations as are necessary to manage, control, supervise, operate, use, preserve and govern park property and activities, and may designate hours of operation and opening and closing times of the various parks which may be different as to individual parks.

(b) *Closed Areas.* Any section or part of any park or parks and recreation department facility may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and either entirely or merely to certain uses, as the director

***Editor's note –** Ord. No. 4610, § 1, adopted Jan. 10, 1977, specifically amended the Code by repealing §§ 21-1 – 21-8. Those sections, which contained general provisions, had been derived from 1953 Code, ch. 18, §§ 40a, 47a – 49, 58, and Ord. No. 2369, § 1, adopted Nov. 19, 1962. Section 2 of Ord. No. 4610 revised the title of art. I and added new §§ 21-1 – 21-7 as herein set out.

shall find in the public health, safety or welfare, or for proper operation of the park or facility.
(Ord. No. 4610, § 2, 1-10-77; Ord. No. 9850, § 2, 5-12-03; Ord. No. 11331, § 4, 12-8-15)

Sec. 21-3. Regulations regarding park use.

It shall be unlawful for any person to violate any of the provisions set forth in the following series of this section:

Sec. 21-3(1). Relating to park grounds and park property. No person in a park shall:

(1) *Disfigure or remove buildings, structures or facilities.* Wilfully mark, deface, disfigure, injure, destroy, tamper with, or displace or remove any building, bridge, table, bench, fireplace, railing, paving or paving material, waterline or other public utility or parts or appurtenances thereof; sign, notice or placard whether temporary or permanent; monument, stake, post or other boundary marker; or other structure or equipment, facility or park property or appurtenances whatsoever, either real or personal.

(2) *Restrooms and washrooms*. Enter any restroom or washroom to engage in any unlawful act or to use the facilities for other than their primary purpose; or use the restrooms and washrooms designated for the opposite sex, unless under six (6) years of age.

(3) *Natural resources.* Dig, remove or damage soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

(4) *Erect structures, install utility services.* Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across park land.

Sec. 21-3(2). Relating to wild animals. No person in a park shall:

(1) *Hunting.* Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird or fish; the young of any wild animal; or the eggs or nest, or young of any reptile, bird or fish.

(2) *Feeding.* Give or offer, or attempt to give to any animal, reptile, bird or fish any tobacco, alcohol or other noxious substances.

(3) *Fishing.* Fish, fishnet, spear or catch in any manner fish in any waters in a park without proper licensing as required by the director or the Arizona Fish and Game Department.

Sec. 21-3(3). Relating to sanitation. No person in a park shall:

(1) *Pollution of waters.* Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in a park any substance, matter or thing, liquid or solid, which may result in the pollution of park waters.

(2) *Refuse and trash.* Dump, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash unless placed in the proper receptacles where provided; where receptacles are not so provided, all such rubbish or waste shall be carried for its presence and properly disposed of elsewhere.

(3) *Glass beverage containers.* Have a glass beverage container in his possession.

(4) *Throwing or breaking glass.* Throw, toss or otherwise propel, or either knowingly or recklessly break any glass object. (Ord. No. 5558, §§ 1, 2, 5-3-82)

display of any article or thing. A regularly licensed concessionaire acting by and under the authority and regulation of the director, and vendors of food and refreshments who are in possession of a current vendor's permit issued by the director are excepted from this provision.

(3) *Advertising.* Announce, advertise or call the public attention in any way to any article or service for sale or hire, except by such regulations as may be designated by the director.

(4) *Signs.* Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription.

(5) *Handbills.* Distribute or attempt to distribute business or commercial literature to persons, or place them upon vehicles. (Ord. No. 5678, § 1, 11-8-82)

Sec. 21-3(7). Relating to miscellaneous activities. No person in a park shall:

(1) *Domestic animals.* Bring or escort a dog or any other domestic animal or pet into any area within park boundaries which is clearly marked by signs bearing the words: "Domestic Animals and Pets Prohibited in This Area." This provision shall not be construed as permitting the running of dogs, domestic animals or pets at large. Bring in or escort any dog, domestic animal or pet in those areas where such animals are permitted unless restrained at all times on leashes not to exceed six (6) feet in length and unless they wear a collar and display thereon a valid city license.

(2) *Fires.* Build, or attempt to build, kindle or ignite a fire except in such areas and under such rules and regulations as may be designated by the director; or drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, charcoal or coals, or other flammable or flaming materials within any park area.

(3) *Closed areas.* Enter or remain in any park or park facility, or place or leave any items or objects in any park or park facility, where such park or facility is posted as "Closed to the Public," or posted "No Trespassing;" or use or abet the use of any park area or facility in violation of posted notices, unless otherwise expressly permitted by the director pursuant to section 21-2 or 21-4 of this chapter.

(4) *Interfere with permittees.* Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit license or reservation.

(5) *Excreta.*

(a) Emit, eject or cause to be deposited any excreta of the human body, except in those places designated for such purposes.

(b) Permit to be deposited and allow to remain in a park any untreated solid excreta of a dog, domestic animal or pet, except in those places which may be designated for such purposes.

(6) *Improper admission.* Gain admission to, attempt admission to, to make use of park facilities for which a charge is made without paying the fixed charge or admission, unless otherwise authorized by the director.

(7) *Athletic events.* Interfere with any of the authorized participants of any game, contest or athletic event conducted on any playing field from the time the event starts until its conclusion, and any time in between.

(8) *Horses and livestock.* Bring or permit horses, cattle or any other livestock in a park without advanced written permit from the director. (Ord. No. 5204, § 2, 8-4-80)

(Ord. No. 4610, § 2, 1-10-77; Ord. No. 11331, § 4, 12-8-15)

Sec. 21-4. Permits, licenses and reservations.

(a) *Permit.* A person seeking issuance of a permit, license or reservation for use of a park area or facility shall make such request in writing to the director/district administrator. The request shall state the park name, date and time of use and all information pertaining to the proposed use of the park facility.

(b) *Issuance.* A permit, license or reservation for use shall be obtained from the director/district administrator by persons conducting, operating, presenting or managing any of the following activities:

(1) Picnics, outings or gatherings, sponsored by an organization or individuals that are attended by two hundred (200) or more persons; or

(2) An organization or individual holding a special event in the park. Special events include contests, exhibits, dramatic performances, spectacles, plays, motion pictures, radio or television broadcasts, fairs, circuses, jumping castles, shows, musical events such as a band, glee club, choir or orchestra concert, the use of public amplification systems, or any similar event; or

(3) The sale of alcoholic beverages as a regularly licensed concessionaire at Tucson City golf courses, Reid Park Zoo and Hi Corbett field; or

(4) The sale, distribution or service of food, beverages, or any other articles or things to the public in any park or on any street, sidewalk or other public property adjacent to a park if the event is intended to attract, does attract, or is likely to attract ten (10) or more people; and subject to the additional requirement that in the case of the sale, distribution or service of food or beverages that requires a separately obtained health permit from the Pima County Health Department, the person shall also provide proof of obtaining that permit. No fee shall be charged for a permit issued under this subsection for distribution of food, beverages or other things to the public for free. A permit issued under this subsection for the distribution of food, beverages or other things to the public for free will be valid for a period of ten (10) days, and will automatically renew for five (5) additional consecutive ten (10) day periods, without the need for a new permit request, unless the director or the director's designee determines that renewal of the permit would not satisfy the standards for issuance described in subsection (c) below, in which instance the director or designee will notify the permitee that the permit is not renewed and is no longer in effect. No permit is required for the distribution of food, beverages or other things to the public for free on Easter, Thanksgiving, or Christmas; or for the free distribution of water on any date; or

(5) Announce, advertise or call to the public's attention articles or services for hire; or

(6) The reservation of any park facilities for a certain person or group of persons to the exclusion of others.

(c) *Standards for issuance.* The director/district administrator shall issue a permit, license or reservation on a city form upon making the following findings:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park or cause annoyance or the disturbance of any other person's reasonable use of park facilities, or cause annoyance or disturb the peace of persons residing near the park, or interfere with the maintenance of the park or its facilities;

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation. In making this finding in connection with any permit for the sale, distribution or service of food or beverages, the director shall consider the existing conditions of the park and adjacent properties, including any unsanitary or otherwise unsafe conditions that are attributable to the proposed activity or would be caused by the proposed activity; and shall consider any complaints submitted to the city relating to public health, welfare and safety associated with the proposed activity;

(3) That the proposed activity or use is not unreasonably anticipated to incite violence, crime or disorderly conduct;

(4) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police supervision by the city. If an activity requires additional expense or security, the sponsor/promoter shall pay the additional costs.

(5) That the facilities desired have not been reserved for other use at the day and hour required in the application;

(6) In the case of vendors of food and refreshments who are not regularly licensed concessionaires, that the required fees have been paid. Those fees shall be as follows:

(i) *Vendors selling on a regular basis:*

Regional Park (per month):

Regular.. . . . . $ 200.00

Non-profit. 120.00

District Park (per month):

Regular.. . . . . 100.00

Non-profit. 60.00

(ii) *Vendors selling at special events (per day):*

Regular 60.00

Non-profit 20.00

(iii) *Vendors providing amusement equipment:*

Monthly 50.00

(iv) *Youth concession stands:*

Mobile/temporary units (monthly). 25.00

Permanent snack bar building (monthly) 35.00

(7) In the case of fairs, that vendors have paid required fees. These fees shall be per daily space as follows:

(i) *Arts and crafts fairs (per booth space):*

Regular $45.00

Non-profit 35.00

(ii) *Antique fairs:*

Regular 60.00

Non-profit 50.00

(iii) *Food vendors at fairs:*

Regular 65.00

Non-profit 45.00

(d) *Appeal.* If the permit is denied the director shall notify the applicant in writing within thirty (30) days after receipt of the request for permit of the reasons for refusing a permit or reservation. An aggrieved person may either appeal in writing within fourteen (14) days to the city manager, who shall consider the application under the standards set forth in subsection (c) above and sustain, modify, or overrule the director's decision within fourteen (14) days.

(e) *Effect of Permit.* Any person using a permit, reservation or license shall be bound by all park rules and regulations and all applicable state statutes and the city codes as fully as though they were inserted in the form. The applicant shall retain the form in his possession at all times while utilizing the park and shall show the form to any authorized Parks and Recreation Department representative or peace officer upon request.

(f) *Liability of Permittee.* The person or persons to whom a permit, license or reservation is issued shall be liable for any loss, damage or injury to any person or property whatever by reason of negligence of the person or persons, their agents or employees, to whom such permit, license or reservation shall have been issued.

(g) *Revocation.* The director may revoke a permit, license or reservation upon finding of violation of this Code, state statute, or a park rule or regulation, or upon good cause shown. All reservations are voidable if the reserved area is not in use within thirty (30) minutes after the reservation period starts.
(Ord. No. 4610, § 2, 1-10-77; Ord. No. 5678, §§ 2, 3, 11-8-82; Ord. No. 7104, § 1, 12-12-88; Ord. No. 9261, § 1, 8-2-99; Ord. No. 9341, § 1, 1-31-00; Ord. No. 9757, § 1, 8-5-02; Ord. No. 9850, § 3, 5-12-03; Ord. No. 10260, § 1, 3-7-06; Ord. No. 11331, § 4, 12-8-15)

Editor's note – It should be noted that § 15 of Ord. No. 10260 provides for an effective date of July 1, 2006.

Sec. 21-5. Regulation of activities in areas adjacent to or affecting parks.

No person shall;

(1) *Sanitation.* Throw, discharge or otherwise place or cause to be placed in any tributary, stream, storm sewer or drain adjacent to any park or flowing into park waters any substance, matter or thing, liquid or solid, which may result in the pollution of park waters.

(2) *Bathing and swimming.* Swim, bathe, wade in any waters or waterways adjacent to any park that lie in public areas except in areas designated for such purposes.

(3) *Signs.* Erect or cause to be erected any sign on any public land or on highways or roads adjacent to a park except with permission from the director.

(4) *Fires.* Build, or attempt to build, kindle or ignite a fire, or drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, charcoal or coals, or other flammable or lighted materials on any highway, road or street or public property adjacent, abutting or contiguous to a park except in areas designated for such purposes.

(Ord. No. 4610, § 2, 1-10-77; Ord. No. 9757, § 2, 8-5-02)

Sec. 21-6. Enforcement.

(a) *Officials.* The director, an authorized Parks and Recreation Department representative, and peace officers may enforce this article, this Code, state laws and park rules and regulations, and may when deemed necessary call upon the city police or other law enforcement officers and agencies for assistance.

(b) *Ejectment.* The director, an authorized Parks and Recreation Department representative, and peace officers may eject from the park any person acting in violation of this article.

(c) *Seizure of property.* The director, an authorized Parks and Recreation Department representative, and peace officers may seize and confiscate any property, thing or device in the park used in violation of this article.

(d) *No limitation.* No provision in this article shall preclude any peace officers from the enforcement of any law, statute or provision of this Code in the routine performance of their duties.
(Ord. No. 4610, § 2, 1-10-77; Ord. No. 9757, § 3, 8-5-02)

Sec. 21-7. Penalties.

(a) Any person violating any provision of this article or the rules and regulations relating to parks established by the director and filed with the city clerk, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months, by not more than three (3) years probation or by any combination thereof. In addition, a person convicted of a violation of section 21-3(3)(3), 21-3(3)(4) or 21-8 shall be punished by a fine of not less than ten dollars ($10.00); and no judge may suspend the imposition of this minimum fine.

(b) Notwithstanding the provisions of subsection 21-7(a), a violation of section 21-4 shall constitute a misdemeanor punishable by community service or fines not to exceed two hundred and fifty dollars ($250.00), by imprisonment not to exceed ten (10) days, and by probation not to exceed one (1) year or both such fine and imprisonment. The rate of substitution of community service work for the fine amount shall be calculated at ten dollars ($10.00) per hour.

(c) Notwithstanding the provisions of subsection 21-7(a), possession of a firearm in violation of section 21-3(5)(2) shall constitute a class two misdemeanor and shall be punishable by a fine of not less than three hundred dollars ($300.00) and not exceeding seven hundred fifty dollars ($750.00), by imprisonment of not more than four (4) months, by not more than two (2) years probation or by any combination thereof. No judge may suspend the imposition of the minimum fine prescribed herein.
(Ord. No. 5558, § 4, 5-3-82; Ord. No. 9341, § 2, 1-31-00; Ord. No. 9417, § 1, 7-10-00; Ord. No. 9757, § 4, 8-5-02)

Sec. 21-8. Consumption of spirituous liquor.

(a) It shall be unlawful for any person to consume or have in their possession any spirituous liquor in a public park. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one per cent of alcohol by volume.

(b) "Malt beverage" includes any beverage containing more than one-half of one (0.5) percent of alcohol by volume obtained by the alcoholic fermentation, infusion or decoration of barley malt or hops, including but not limited to beer, ale and malt liquor.

(c) Subsection (a) shall not apply to the consumption or possession of beer or malt beverage by those persons or groups who possess a valid permit under subsection (f) below.

(d) Notwithstanding subsection (b) of this section, it is unlawful for any person to consume or have an open container of any spirituous liquor within parking lots or vehicles within a city park.

(e) The following areas are exempt from this section:

(1) City golf courses during established hours of operation;

(2) Hi Corbett Field;

(3) Reid Park Zoo.

(f) The parks director is empowered to issue permits authorizing the consumption and possession of malt beverages in public parks and to adopt rules and procedures for the issuance of such permits.
(Ord. No. 5558, § 3, 5-3-82; Ord. No. 7530, § 1, 12-17-90; Ord. No. 9261, § 2, 8-2-99; Ord. No. 9757, § 5, 8-5-02; Ord. No. 9850, § 4, 5-12-03; Ord. No. 11331, § 4, 12-8-15)

Sec. 21-9. Adult major sports; fees; rosters; minimum number of players per sponsor team; disposition of fees.

Sec. 21-9(1). The adult basketball, softball, volleyball, and baseball programs shall be self-supporting as far as direct costs of personnel, space rental, and supplies are involved. Therefore, once each year, or more often in the discretion of the department of parks and recreation, the department shall publish and make available to members of the general public a schedule of team and player fees for the adult basketball, softball, volleyball, and baseball programs.

Fees – adult sports leagues. The fees for adult sports leagues (per team, per season) shall be:

Baseball	$980.00
Basketball	$449.00
Basketball (fall)	$191.00
Flag football	$680.00
Sand volleyball	$102.00
Softball fastpitch (spring)	$400.00
Softball fastpitch (fall)	$338.00
Softball fastpitch (women)	$338.00
Softball slowpitch (spring)	$293.00
Softball slowpitch (spring)	$235.00
Softball slowpitch (fall)	$277.00
Ultimate Frisbee	$150.00
Volleyball	$465.00

Placement of teams in divisions shall be in accordance with regulations or rules of the city parks and recreation director. All fees shall be received by the city on or before the annual league inception date.

Track and Field/Road Races
(per adult) $3.00
(per child) $2.00
(Ord. No. 5213, § 1, 8-4-80; Ord. No. 6758, § 1, 8-3-87; Ord. No. 9261, § 3, 8-2-99; Ord. No. 9757, § 6, 8-5-02; Ord. No. 9850, § 5, 5-12-03; Ord. No. 10260, § 2, 3-7-06; Ord. No. 10748, § 1, 1-5-10)

Sec. 21-9(2). The minimum number of players for sponsored league teams shall be at the discretion of the parks director.
(Ord. No. 6758, § 1, 8-3-87)

Sec. 21-9(3). On or before the league inception date, the city parks and recreation director shall receive from each team a roster of participants from whom a fee is required by this section. The director shall be promptly notified of any changes in the roster during the season; and no person shall play who has not paid the required fee, or who is a replacement for such person and notice thereof has not been so given the director. No team shall utilize city facilities until these roster requirements have been fulfilled. Appropriate league sanction shall be imposed for any violation of this minor section and shall include forfeiture of any game in, or in connection with which, such violation occurred. A second violation of this minor section during a league season shall result in immediate expulsion from the league of that team and forfeiture of all sponsor and participant fees paid to the city.

Sec. 21-9(4). All fees paid pursuant to this section shall be deposited in the general fund.
(Ord. No. 9757, § 6, 8-5-02)
(Ord. No. 3557, § 1, 11-23-70; Ord. No. 4466, § 1, 4-12-76; Ord. No. 9757, §§ 5, 6, 8-5-02; Ord. No. 9850, § 5, 5-12-03)

Sec. 21-10. Fees – Tennis courts.

The fees for use of city tennis courts at the Randolph Tennis Center, the Ft. Lowell Park, and the Himmel Park tennis courts shall be:

Daytime:

Adults: Two dollars and fifty cents ($2.50) per person per one and one-half (1 1/2) hour increment*.

Seniors (62 and older): Two dollars ($2.00) per person per one and one half (1 1/2) hour increment*.

Youth (17 and under): One dollar ($1.00) per person per one and one-half (1 1/2) hour increment*.

Adult monthly daytime pass. $30.00

With reservation (per court, per use).. . . . . $4.00

Junior (youth 17 and under) monthly daytime pass. $15.00

Senior monthly daytime pass. $20.00

Evening:

Ten dollars ($10.00) per court for each one and one-half (1 1/2) hour increment.

**Note:* Unlimited play will be allowed during daytime hours on Monday through Friday. If all courts are in use, play will be limited to the one and one-half (1 1/2) hour increment. Saturday mornings from opening to 11:00 a.m., the adult and youth rates are two dollars and fifty cents ($2.50).

(Ord. No. 4348, § 1, 5-12-75; Ord. No. 4658, § 1, 5-23-77; Ord. No. 5785, § 1, 6-13-83; Ord. No. 7104, § 2, 12-12-88; Ord. No. 7859, § 1, 7-6-92; Ord. No. 9261, § 4, 8-2-99; Ord. No. 9757, § 7, 8-5-02; Ord. No. 11000, § 1, 6-26-12, eff. 7-1-12)

Sec. 21-11. Same – Handball courts.

The fees for use of city handball courts at the Randolph Park center shall be:

Daytime: Five dollars ($5.00) per court for each one and one-half (1 1/2) hour increment.

Evening: Six dollars ($6.00) per court for each one and one-half (1 1/2) hour increment.

(Ord. No. 4348, § 1, 5-12-75; Ord. No. 4658, § 2, 5-23-77; Ord. No. 5213, § 2, 8-4-80; Ord. No. 5785, § 2, 6, 3.83; Ord. No. 7104, § 3, 12-12-88; Ord. No. 7859, § 2, 7-6-92; Ord. No. 9261, § 5, 8-2-99)

Sec. 21-12. Same – Swimming pool admission, swim lesson, competitive swimming program, and synchronized swimming program fees and rental rates.

Fees for admission to and use of city swimming pools and swim lessons shall be as follows:

(1) *Daily admission:*
Adults (18 years and older). $2.00
Includes wading pools
Youth (17 and under).. . . . . $1.00
Includes wading pools

(2) *Multiple admission punch pass (30 visits):*
Adults (18 years and older)
Resident. $51.00
Non-resident. $63.00
Youth (17 years and under)
Resident. $21.00
Non-resident. $24.00

(3) *Swimming passes:*
Adults (18 years and older). $75.00
Youth (17 years and under). $30.00
Family (includes 2 adults/2 children). $100.00
Each additional child, same family. $20.00
Annual pass:
Adults (18 years and older). $100.00
Juniors (under 18 years). $40.00
Family (includes 2 adults/2 children). $150.00
Each additional child, same family. $25.00
Unlimited use during pool hours subject to available water space.

Sec. 22-30(g). "Alternate payee" means member's spouse, former spouse or dependent children/step-children or person identified as an alternate payee in a plan approved domestic relations or child support order.

Sec. 22-30(h). "Annual required contribution" or *"ARC"* means the annual amount necessary to fund all employee segment normal cost amounts plus that amount necessary to satisfy the annual amortization requirements for the system's unfunded accrued liability, as determined by the system's actuary in accordance with sound actuarial principles, and as set by the board on a fiscal year basis. The annual required contribution is expressed as a percentage of the city's active member payroll costs for a fiscal year. Changes in accrued liabilities and actuarial experience may increase or decrease the annual required contribution.

Sec. 22-30(i). "Average final monthly compensation" or "AFMC" means the member's average compensation for the applicable employment period, as defined below, within the one hundred twenty (120) months immediately preceding the member's termination date, during which the member's compensation was the highest. The "applicable employment period" for a tier I member shall be a period of thirty-six (36) consecutive calendar months of employment with the city and the "applicable employment period" for a tier II member shall be a period of sixty (60) consecutive calendar months of employment with the city. If the member has less than the number of consecutive calendar months of employment required for the applicable employment period calculation (thirty-six (36) months or sixty (60) months), the AFMC shall be the average of the compensation earned by the member during the period of employment with the city. For tier I members, accumulated unused vacation and sick leave hours shall be included in the thirty-six (36) month period at the member's final pay rate, with an equal number of hours subtracted from the beginning of the thirty-six (36) month period, provided that the member contribution requirements of section 22-34(f) are satisfied and that the inclusion of the accumulated unused vacation and sick leave hours does not result in a decrease in the AFMC. Accumulated unused vacation and sick leave hours shall not be included in the calculation of average final monthly compensation for tier II members. The calculation of average final monthly compensation is subject to the special adjustment rules set forth in section 22-43(b) (part-time employment) and section 22-43(c) (unpaid authorized leave). For the period beginning on July 1, 2009, and ending on June 30, 2010, any active member who is subject to a reduction in pay in lieu of furlough shall continue to receive compensation credit for purposes of AFMC calculation during the reduction period at the rate of pay in effect for the member immediately preceding the pay reductions in lieu of furlough.

Sec. 22-30(j). "Beneficiary" means any person(s) or estate entitled to receive benefits under this article as designated by a member of the system in accordance with section 22-33(f).

Sec. 22-30(k). "Board" means the Tucson Supplemental Retirement System Board of Trustees.

Sec. 22-30(l). "Code" means the Internal Revenue Code of 1986, as amended.

Sec. 22-30(m). "Compensation" means base salary, vacation and sick leave pay and worker's compensation pay equal to base salary for which an employee in a covered position receives credited service. In certain cases and pursuant to the provisions of this article, compensation may be imputed to hours included in credited service for which no services are performed. Compensation cannot be earned after retirement.

Sec. 22-30(n). "Credited service" means the accrued service and additional service to which the member or the member's beneficiary shall be entitled.

Sec. 22-30(o). "Death benefit" means the cash lump sum payable upon the death of a vested member and equal to two (2) times the value of the deceased member's accumulated contributions account.

Sec. 22-30(p). "Disability retirement benefit" means the retirement benefit payable to a member who is qualified for disability retirement as set forth in section 22-39(a) and which is calculated in accordance with section 22-39(c).

Sec. 22-30(q). "Domestic relations order" means any judgment, decree, order or approval of a property settlement agreement entered in a court of competent jurisdiction and issued pursuant to a state domestic relations law that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a member.

Sec. 22-30(r). "Early retirement benefit" means the retirement benefit payable to a member who is eligible for early retirement as set forth in section 22-37(a)(1)(B) and which is calculated in accordance with section 22-37(b).

Sec. 22-30(s). "Employee segment normal cost" means the annual amount necessary to fund the benefits accrued under the system in a particular year based on member service and compensation, by each employee segments eligible for membership in the system for which the system actuary shall perform employee segment normal cost calculations: (i) members hired by the city prior to July 1, 2006, (ii) tier I members hired by the city on or after July 1, 2006, and (iii) tier II members.

Sec. 22-30(t). "Employer contribution" means the difference between the annual required contribution and the member contribution rate, determined on a fiscal year basis.

Sec. 22-30(u). "Interest" means the annual rate or rates of interest declared by the board from time to time in accordance with the provisions of section 22-44(h) and credited to the members' accumulated contributions accounts in accordance with the board's declaration. Interest is credited as simple interest with no compounding and is deposited two (2) times per year, subject to the authority of the board to modify the Interest crediting method from time to time.

Sec. 22-30(v). "Legal or personal representative" means the court appointed or duly authorized legal representative of an employee, a member, an estate or a minor child.

Sec. 22-30(w). "Member" means an employee who is eligible to accrue retirement benefits under the system or, as the context may indicate, a former employee who has accrued refund rights or retirement benefits under the system.

Sec. 22-30(x). "Member contribution rate" means the portion of the annual required contribution to be paid by the members in any particular fiscal year, determined in accordance with section 22-34(a) or section 22-34(b), as applicable.

Sec. 22-30(y). "Normal retirement age" means the age at which a member is eligible for a normal service retirement. For tier I members hired by the city prior to July 1, 2009, the normal retirement age is sixty-two (62). For tier I members hired by the city on or after July 1, 2009, and prior to July 1, 2011, the normal retirement age is the later of the member's sixty-second (62nd) birthday or the date on which the member is credited with at least five (5) years of accrued service. For tier II members, the normal retirement age is the later of the member's sixty-fifth (65th) birthday or the date on which the member is credited with at least five (5) years of accrued service.

Sec. 22-30(z). "Normal retirement benefit" means the retirement benefit payable to a member who is eligible for a normal service retirement as set forth in section 22-37(a)(1)(A). For tier I members, the normal retirement benefit shall equal two and twenty-five one hundredths (2.25) percent of the member's average final monthly compensation multiplied by the number of years of the member's total credited service. For tier II members, the normal retirement benefit shall equal two and no one hundredths (2.00) percent of the member's average final monthly compensation multiplied by the number of years of the member's total credited service.

Sec. 22-30(aa) "Prior government or military service" means time as an employee of the United States government, a state of the United States, a political subdivision of a state, this political subdivision, a tribal government (with the exception of any services rendered to the tribal government after January 1, 2007, which were commercial in nature), the Armed Forces of the United States, a state's National Guard, the reserves of any military establishment of the United States or any state whether on active or reserve duty; and, such service is not treated as credited service with any other retirement system for which the member is entitled to receive a benefit.

Sec. 22-30(bb). "Qualified military service" means service in the uniformed services of the United States, as defined in section 414(u)(5) of the Code.

Sec. 22-30(cc). "Retirement benefit" means the monthly benefit payable to a member who satisfies the conditions for normal retirement, early retirement, deferred retirement or disability retirement.

Sec. 22-30(dd). "Retirement points rule" means, for tier I members, the rule of eighty (80). The rule of

eighty (80) is defined as the sum of the member's age and years of credited service equaling at least eighty (80). For tier II members, the "retirement points rule" means the rule of eighty-five (85). The rule of eighty-five (85) is defined as the sum of the member's age and years of crediting service equaling at least eighty-five (85); provided, however, that the member is at least sixty (60) years of age.

Sec. 22-30(ee). "Spouse" means the lawfully recognized husband or wife of a member. The term "spouse" also includes the domestic partner of a member, provided that the member files a valid a domestic partnership registration statement with the city's finance department, in accordance with chapter 17, article IX of the Tucson Code, as amended. With regard to domestic partners, the system administrator may rely exclusively on the finance department's domestic partnership records. In its discretion, the system administrator may require any member or purported spouse to produce reasonable documentation of an individual's status as a spouse hereunder.

Sec. 22-30(ff). "System" means the Tucson Supplemental Retirement System, as set forth in the chapter 22, article III of the Tucson City Code, as amended.

Sec. 22-30(gg). "Termination date" means the member's last day of active employment with the city as the result of resignation, discharge, layoff, retirement, death or total and permanent disability.

Sec. 22-30(hh). "Tier I member" means a member who was hired by the city prior to July 1, 2011. A rehired member shall reenter the system as a tier I member only if all of the following conditions are satisfied as of the date of rehire: (1) The rehired employee was a tier I member of the system during the employee's previous employment with the city, (2) the rehired employee was a vested member as of the most recent termination date, and (3) the rehired employee has not requested a refund of the member's accumulated contributions account or a transfer of his accrued benefit in accordance with section 22-41. All other rehired members shall reenter the system as tier II members.

Sec. 22-30(ii). "Tier II member" means a member who was hired by the city on or after july 1, 2011, or a rehired member who is not entitled to be a tier I member as set forth in section 22-30(gg).

Sec. 22-30(jj). "Total and permanent disability" means the inability to engage in any substantial gainful activity with the city by reason of any medically determinable physical or mental impairment that can be expected to result in death or continue for a long and indefinite duration. If the Social Security Administration determines that a member is totally and permanently disabled for purposes of Social Security Disability Insurance, the Social Security Administration's determination shall be treated as strong evidence of total and permanent disability; provided, however, that the Board shall make an independent determination of the date on which any disability retirement benefit shall commence in accordance with section 22-39(b).

Sec. 22.30(kk). "Trust fund" means the custodial or trust account(s) maintained under the system as set forth in section 22-31.

Sec. 22-30(ll). "Vested" means a member who has accumulated a minimum of five (5) years of accrued service. A vested member is entitled to receive a retirement benefit under the system.
(Ord. No. 10657, § 1, 4-28-09, eff. 7-1-09; Ord. No. 10696, § 1, 8-5-09, eff. 7-1-09; Ord. No. 10711, § 1, 9-9-09, eff. 7-1-09; Ord. No. 10712, § 1, 9-9-09, eff. 7-1-09; Ord. No. 10915, § 1, 6-21-11, eff. 7-1-11; Ord. No. 11020, § 1, 9-11-12, eff. 7-1-09; Ord. No. 11062, §§ 1, 2, 3-27-13, eff. 7-1-13; Ord. No. 11327, § 1, 12-8-15, eff. 1-1-16)

Sec. 22-31. Trust fund.

The trust fund maintained in connection with the system which is intended to constitute a tax-qualified retirement plan trust fund as described in Section 401(a) and 501(a) of the Code and shall consist of all the assets of the system to be held in trust for the benefit of its members and their beneficiaries. The board shall select an appropriate custodial financial institution for deposit of the system's trust fund.
(Ord. No. 10657, § 1, 4-28-09, eff. 7-1-09)

Sec. 22-32. Exclusive benefit.

The Tucson Supplemental Retirement system shall operate for the exclusive purpose of providing benefits to the members and their beneficiaries. It is prohibited for any part of the corpus or income of the trust fund to be used for, or diverted to, purposes other than for the exclusive benefit of the members or their beneficiaries.
(Ord. No. 10657, § 1, 4-28-09, eff. 7-1-09)

Sec. 22-33. Membership.

Sec. 22-33(a). Mandatory membership. All permanent employees in the classified service who are employed by the city on a full time basis shall be contributing members of the system upon their date of hire by the city as a condition of their employment. For purposes of this chapter, full time basis is defined by the Tucson City Code Civil Service Rules and Regulations. Additionally, certain permanent part-time employees hired by the city before October 4, 2004, entered the system as contributing members and shall remain grandfathered members pursuant to city Ordinance 10047. Permanent full time employees who, without a break in service, elect to work less than full time shall remain contributing members of the system.

Sec. 22-33(b). Optional Membership. Full-time appointed officers, full-time employees in the offices of the Mayor and City Council and full-time unclassified employees in the City Manager's office (collectively, "appointed positions") may elect membership in the system within ninety (90) days of their formal appointment to an appointed position. Accrued service accrues from the beginning of the first payroll period commencing after an application for participation in the system has been accepted by the system administrator. An individual who is appointed to a second or successive appointed position shall be afforded an additional opportunity to apply for participation in the system as a result of the second or successive appointment only if the individual commences the new appointed position at least thirty (30) days after his most recent termination date. Similarly, a member who transfers directly from a mandatory membership position defined in section 22-33(a) above to an appointed position without a termination date may elect to waive membership in the system within ninety (90) days of their formal appointment to the appointed position. In the case of an individual who waives membership while serving in an appointed position, accrued service and member contributions shall cease on the effective date of the membership waiver, as determined by the system administrator in a uniform and non-discriminatory manner. A waiver of membership pursuant to this section shall not constitute a termination of membership for purposes of determining a member's right to a refund of accumulated contributions or entitlement to retirement benefits.

Sec. 22-33(c). Termination of membership. Should any member leave city employment with less than five (5) years of accrued service and for any reason other than death, the member shall cease to be a member of the system and will receive a refund of the member's accumulated contributions account in accordance with section 22-41(b). As set forth in section 22-41(e), the refund of the accumulated contributions account triggers an immediate forfeiture of credited service.

Sec. 22-33(d). Exclusion from membership. The following individuals are excluded from membership: (1) nonpermanent city employees and permanent part-time city employees whose membership has not been grandfathered by the city in accordance with section 22-33(a); (2) employees occupying positions covered by the State of Arizona Public Safety Personnel Retirement System; (3) leased employees, as defined in Section 414(n) of the Code, and (4) independent contractors.

Sec. 22-33(e). Reentry into membership. Any former member who is reemployed by the city in an eligible job classification shall become a member of the system. The member contributions required from a rehired member shall be determined in accordance with section 22-34(c) and credited service accrued by the rehired member shall be determined in accordance with section 22-36(h). The accrued benefit earned by a rehired member shall be determined based on the member's status as a tier I member or a tier II member, as those terms are defined in section 22-30(hh) and 22-30(ii), respectively. The rules set forth herein regarding rehired members shall apply to members who return to employment with the city following a layoff or any other event which constitutes a termination date under section 22-30(gg).

Sec. 22-33(f). Designation of beneficiary(ies). Each employee, or designated legal representative, shall file a statement designating a beneficiary(ies) or contingent beneficiary(ies) within thirty (30) days after becoming a member of the system. Any member who is married and wishes to designate a non-spouse beneficiary must provide spousal consent to the beneficiary designation. Until such statements are filed, any death benefit, survivor annuity or refund of member contributions payable upon the member's death shall be paid to the member's spouse, if the member was married at death, or to the member's estate, if the member is not married at death. Upon

receipt and acceptance of a statement designating a beneficiary(ies) by the system administrator, the designation shall become effective and shall remain in effect until an updated statement is received and accepted by the system administrator. A change in the marital status of a member does not impact the validity or enforceability of a beneficiary designation on file with the system administrator. A member must update the beneficiary designation to reflect changes in marital status, as necessary. Upon ratification by the board of a member's application for retirement benefits, the member's beneficiary designation shall become irrevocable with regard to any joint and survivor annuity elected in accordance with section 22-42(c). All other beneficiary designations become irrevocable upon the member's death. There shall be no liability on the part of the city, the board or the system administrator with respect to any payment made in accordance with the most recent beneficiary designation on file with the system administrator.
(Ord. No. 10657, § 1, 4-28-09, eff. 7-1-09; Ord. No. 10711, § 2, 9-9-09, eff. 7-1-09; Ord. No. 10712, § 2, 9-9-09, eff. 7-1-09; Ord. No. 10915, § 2, 6-21-11, eff. 7-1-11; Ord. No. 11020, § 2, 9-11-12, eff. 7-1-09; Ord. No. 11327, §§ 2, 3, 12-8-15, eff. 1-1-16)

Sec. 22-34. Membership contributions.

Sec. 22-34(a). Fixed contribution rate. Each member hired prior to July 1, 2006, shall make mandatory member contributions to the system for every pay period during which the member receives compensation in an amount equal to five (5) percent of the member's compensation. The finance director shall deduct this amount and credit it to the member's accumulated contributions account.

Sec. 22-34(b). Variable contribution rates. Each member hired on or after July 1, 2006, shall make mandatory member contributions to the system for every pay period during which the member receives compensation in an amount equal to the applicable percentage of the Employee Segment Normal Cost: For purposes of this Section 22-34(b), the applicable percentage shall equal the percentage determined by the City on an annual basis prior to the beginning of each fiscal year, and which shall equal no less than fifty (50) percent and no more than one hundred (100) percent. Notwithstanding the foregoing, the member's annual contribution rate (1) shall in no event be less than five (5) percent of compensation and (2) shall be subject to an annual fiscal year adjustment (increase or decrease) equal to no more than two and one-half (2 1/2) percent of member compensation. The finance director shall deduct the applicable member contributions from each member's compensation and credit it to the member's accumulated contributions account.

Sec. 22-34(c). Contribution rates for rehired members. If a member separates from employment with the city and is later re-hired, the rate of mandatory member contributions applicable to the rehired member shall be determined in accordance with this section. Any member who was originally hired by the city prior to July 1, 2006, who was a vested member at the time of separation from employment with the city and who does not request a refund of member contributions in accordance with section 22-41 prior to his date of reemployment with the city shall make mandatory member contributions to the system in accordance with section 22-34(a) above. All other rehired members shall make mandatory member contributions in accordance with section 22-34(b) above.

Sec. 22-34(d). Employer pick-up/member contributions. All member contributions to the system are mandatory and are picked up by the city in accordance with Code Section 414(h). As a result of the city's pick-up arrangement, the member contributions are contributed to the system on a pre-tax basis and shall not be included in the member's gross income until the member requests a refund of contributions or receives retirement benefit payments. All member contributions are deposited into the individual accumulated contributions account maintained by the system administrator on behalf of each contributing member.

Sec. 22-34(e). Qualified military service. A member who leaves employment for qualified military service and is timely reinstated by the city and meets all other applicable requirements for benefits following qualified military service including, without limitation, the requirements set forth in the city's Administrative Directive 2.01-7G regarding military leave, as amended, shall be permitted (but not required) to make up missed member contributions to the system. Any reinstated member who wishes to make up missed member contributions shall contribute all or a portion of the member contributions that would have been made by the member but for the qualified military service, calculated at the compensation rate in effect for the member immediately preceding the

commencement of the qualified military service and the member contribution rate in effect during the qualified military service, and without interest or any other adjustment. The missed member contributions shall be contributed to the system during a period that begins on the date of reinstatement and ends on the earliest of (1) the date that is five (5) years from the date of reinstatement; (2) the date that marks the end of a period which is three (3) times the length of the member's most recent period of qualified military service; or (3) the member's termination date. Any and all member contributions made up pursuant to this section shall be treated as regular member contributions made in accordance with section 22-34(d). Following the contribution of missed member contributions to the system, the system administrator shall take all steps necessary to increase the member's accrued benefit to include the portion of the member's qualified military service covered by the missed member contributions. Notwithstanding the foregoing, to the extent the member is paid his full city salary during military leave in accordance with Section IV of the city's Administrative Directive 2.01-7G, as amended (Paid Military Leave Not to Exceed 30 Calendar Days in any Two (2) Consecutive Federal Fiscal Years), member contributions shall be deducted from the member's military leave pay on the same basis as member contributions would be made by the member under section 22-34 if the member was actively employed.

Sec. 22-34(f). Accrued vacation cash out. All hours of accumulated vacation earned by a tier I member and cashed out by the city as of the earlier of the member's termination date or election to enter the end of service program shall be included in a member's compensation for member contribution purposes, provided that member contributions are made in accordance with this section. The member contributions applicable to accumulated vacation shall be calculated using the tier I member's compensation and member contribution rate as in effect immediately preceding the tier I member's termination date. The calculation and collection of member contributions under this section shall trigger the city's obligation to make corresponding employer contributions under section 22-35(a) for the accumulated vacation hours.

Sec. 22-34(g). Non-forfeiture and refund of contributions. It is the right of each member to request a refund of the member's accumulated contributions, plus interest, upon separation from city service and the right of each beneficiary to be paid the member's accumulated contributions, plus interest, upon the member's death before retirement or unused contributions, plus interest, upon the member's death after retirement, whichever is applicable. All refunds, and the related forfeiture of credited service, shall be administered in accordance with section 22-41.

Sec. 22-34(h). Employment status changes. Effective July 1, 2011 and notwithstanding any provision of the Code to the contrary, the mandatory member contribution rate for an employee who first becomes a member in the system after the employee's date of hire or rehire with the city will be determined pursuant to this section. If an employee is hired or rehired by the city in an employment position that does not qualify for membership in the system and later becomes a member, the applicable member contribution rate shall be determined as of the date on which the employee first satisfies the requirements for membership under section 22-33, as opposed to the employee's date of hire or rehire. The member contribution rate for a reemployed member shall be determined in accordance with section 22-34(c).
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10915, § 3, 6-21-11, eff. 7-1-11; Ord. No. 11062, § 3, 3-27-13, eff. 7-1-13; Ord. No. 11243, § 1, 2-18-15, eff. 7-1-15; Ord. No. 11327, §§ 4, 5, 12-8-15, eff. 1-1-16)

Sec. 22-35. City contributions.

Sec. 22-35(a). Contribution by the city. At the end of each payroll period, the finance director shall cause the city to contribute to the trust fund an amount equal to the employer contribution for the particular payroll period, plus any and all member contributions picked up by the city in accordance with section 22-34(d) and section 22-36(g)(2).

Sec. 22-35(b). Certification of rates and charges. The board shall certify to the city manager, on a fiscal year basis, the annual required contribution, the member contribution rate and the employer contribution for the system.

Sec. 22-35(c). City's funding requirement for system. The city council shall appropriate no less than one hundred (100) percent of the employer contribution for a particular fiscal year.

Sec. 22-35(d). Determination and deposit of employer contributions. The finance director at the end of each pay period shall apply the appropriate employer

contribution and member contribution rates to the total compensation of members for such period and shall transfer this amount to the trust fund.
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09)

Sec. 22-36. Accumulation of credited service.

Sec. 22-36(a). Credited service generally. A member will receive credited service for purposes of determining the benefits to which the member or the member's beneficiary(ies) will be entitled. Credited service is the total of the member's accrued service and additional service. Accrued service shall be used to determine whether a member is vested, as well as to determine the member's accrued benefit. Additional service shall be considered for benefit accrual purposes only.

Sec. 22-36(b). Accrued service for city employment.

(1) *Employment periods.* A member shall earn 1/2080 of one (1) year of accrued service credit for each hour of regular time compensation, including authorized periods of absence for which the member receives compensation. A member who is compensated for two thousand eighty (2,080) or more hours of regular time during twelve (12) consecutive calendar months shall receive one (1) year of accrued service. A member who is compensated on less than a full-time basis shall receive credit for a proportionate part of a full year of accrued service.

(2) *Periods of leave.* With regard to tier I members, all service and periods of leave with pay, accrued and unused vacation and sick leave at the date of retirement, workers compensation and qualified military service shall be used in calculating a member's total accrued service. The accrued service of tier II members shall include all service and periods of leave with pay, workers compensation and qualified military service, but shall exclude all accrued and unused vacation and sick leave at the date of retirement. Special rules regarding qualified military service are set forth in subparagraph three (3) below. Notwithstanding the foregoing, accumulated vacation earned by a tier I member and cashed out by the city as of the member's termination date shall be treated as accrued service only if the member makes member contributions on the value of the leave that is cashed out by the city as set forth in section 22-34(f).

(3) *Military leave during active employment.* An active city employee who leaves employment to complete qualified military service, makes a timely return to the city following an honorable discharge (as defined below), and who makes up missed member contributions in accordance with section 22-43(e) may receive accrued service for periods of qualified military service. Accrued service credited to a member who satisfies the conditions of this section and section 22-43(e) shall not exceed sixty (60) months of accrued service for qualified military service, plus accrued service for reasonable periods of absence from employment which are necessitated by the qualified military service, except as provided by applicable federal law. The member's return to city service shall be deemed to be timely if the member is reinstated or requests reinstatement in accordance with the following time frames: (A) The first full regularly scheduled work period on the first full calendar day following completion of the qualified military service for periods of qualified military service of less than thirty-one (31) days; (B) not later than fourteen (14) days after completing qualified military service for periods of qualified military service of at least thirty (30) days and not more than one hundred eighty (180) days; or (C) not later than ninety (90) days after completing qualified military service for periods of qualified military service of more than one hundred eighty (180) days. If the member is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of qualified military service, the member's return to city service shall be deemed to be timely if the member returns as of the earlier of the end of the period of recovery or the date which is two (2) years after the completion of qualified military service. Notwithstanding the foregoing, an active city

employee who leaves employment for military leave in accordance with Section IV of the city's Administrative Directive 2.01-7G, as amended (Paid Military Leave Not to Exceed 30 Calendar Days in any Two (2) Consecutive Federal Fiscal Years) shall be credited with accrued service for the period of military leave during which member contributions are made, regardless of the employee's subsequent return or failure to return to employment.

(4) *Furlough.* An active city employee who is subject to a city mandated furlough during the period beginning on July 1, 2009, and ending on June 30, 2010, shall be credited with accrued service for the furlough period(s), up to a maximum of seventy-two (72) hours of accrued service credit. This shall include reductions in pay which correlate with furlough hours.

Sec. 22-36(c). Transfers from other Arizona Systems.

(1) *ASRS.* A contributing member who has service credits in the Arizona State Retirement System may have such retirement service credits transferred to the system in accordance with Arizona Revised Statute Sections 38-730, as amended. In no event shall any transfer of service credit processed in accordance with this section create a significant detriment to the funded status of the system. Any service credit transferred pursuant to this section shall be accrued service hereunder.

(2) *Other systems.* A contributing member who has service credits in a public retirement system maintained by the State of Arizona (other than ASRS) or any municipality of the State of Arizona may have such retirement service credits transferred to the system in accordance with Arizona Revised Statute Sections 38-923 and 38-924, as amended. In no event shall any transfer of service credit processed in accordance with this section cause the system to incur any unfunded accrued liabilities as a result of the transfer. Any service credit transferred pursuant to this section shall be additional service hereunder.

Sec. 22-36(d). Additional service – Unpaid authorized leave from city employment. A member who has not requested a refund from the system in accordance with section 22-41 may purchase up to one (1) year of additional service for any period of unpaid authorized leave from city employment (excluding furloughs). To purchase such additional service, a member shall pay to the system the contribution cost associated with the leave period, determined based on the compensation imputed in accordance with section 22-43(c) and the member and employer contribution rates in effect during the leave period. Any election to purchase additional service pursuant to this section must be completed within six (6) months of the termination of the leave period. A member may pay the costs associated with a purchase of additional service under this section by any method described in section 22-36(g) below.

Sec. 22-36(e). Additional service – Prior government or military service. Subject to the provisions of section 22-36(g), a member who has not requested a refund of the member's accumulated contribution account or filed a retirement application may elect to purchase additional service in the system for periods of prior government or military service. Additional service will be used for benefit accrual purposes only, and will not be considered in the determination of whether a member is vested. Any member wishing to purchase additional service shall furnish all documentation required by the system administrator, in its discretion, to substantiate the prior service at the time of making an application to purchase the additional service. This provision shall govern the repurchase of prior city service credit forfeited upon receipt of a refund pursuant to section 22-41, subject to the special redeposit rules of section 22-36(h). It is the stated and declared purpose of this section to allow for the purchase of all prior government or military service for which a member is not entitled to receive, presently or in the future, a benefit from another retirement system. To this end, the provisions of this section shall be liberally construed.

Sec. 22-36(f). Additional service – Nonqualified permissive service credit. Subject to the provisions of section 22-36(g), any vested member who is actively contributing to the system may purchase additional service for nonqualified service in accordance with Code Section 415(n)(3). Effective January 1, 2011, the purchase of nonqualified permissive service shall be limited to a total of five (5) years, regardless of the

member's payment method and notwithstanding the special rules set forth in Code Section 415(n) regarding direct rollovers and transfers from Code Section 403(b) and 457 plans. For purposes of the foregoing five (5) year limitation on permissive service purchases, additional service purchased by a member prior to January 1, 2011, shall be taken into account.

Sec. 22-36(g). Purchase terms for additional service. The cost and method of purchasing any additional service in accordance with section 22-36(e) or section 22-36(f) above shall be determined pursuant to this section.

(1) *Cost to purchase.* Purchases of additional service are designed and administered in a manner intended to prevent the system from incurring any unfunded accrued liability as a result of the purchase. The cost for each year of additional service purchased shall equal a percentage of the member's highest annual salary, as determined in accordance with a purchase of service credit table designed by the system's actuary and approved by the board. An administrative fee as determined by the board shall be imposed for the processing of purchase of service requests. The date of purchase shall be the day the member delivers to the system administrator an executed irrevocable purchase of service agreement.

(2) *Payment for time purchased.* A member may fund the purchase of additional service with one or a combination of the following payment methods: (A) payment of after-tax cash lump sum; (B) tax-deferred rollover contribution from a tax-qualified retirement plan or individual retirement account(s) as authorized by the Code; (C) after-tax payroll deduction agreement; or (D) irrevocable pre-tax payroll deduction agreement designed to comply with the employer pick-up arrangement requirements of Code Section 414(h)

Sec. 22-36(h). Reentry into service. A former member who reenters service shall become a member of the system in accordance with section 22-33(e). If the member's accumulated contributions account has not been refunded and his accrued benefit has not been transferred in accordance with section 22-41, credited service shall be given for all prior accrued and additional service. A former member who reenters service within twenty-four (24) months and who received a refund of his accumulated contributions account pursuant to section 22-41 shall, upon redeposit of the amount withdrawn plus applicable interest, as determined by the system administrator, be credited with all prior credited service. Any redeposit made in accordance with this provision must be completed within six (6) months of the former member's reentry into service.

(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10696, § 2, 8-5-09, eff. 7-1-09; Ord. No. 10775, § 1, 4-6-10; Ord. No. 10915, § 4, 6-21-11, eff. 7-1-11; Ord. No. 11327, §§ 6, 7, 12-8-15, eff. 1-1-16)

Editor's note – Section 8 of Ord. No. 10915, adopted June 21, 2011, provides that the amendments made to Sec. 22-36(f) are effective retroactively to July 1, 2009.

Sec. 22-37. Retirements.

Sec. 22-37(a). Retirements generally.

(1) *Types of service retirements.* Subject to the minimum requirements set forth in paragraph (a)(2) below, there are three (3) types of service retirements available under the system:

(A) Normal retirement. Members are eligible to receive a normal retirement benefit upon attainment of the applicable (A) retirement points rule or (B) normal retirement age.

(B) *Early retirement.* Tier I members are eligible to receive an early retirement benefit after completing twenty (20) years of credited service and attaining age fifty-five (55). Tier II members are eligible to receive an early retirement benefit after completing twenty (20) years of credited service and attaining age sixty (60).

(C) *Deferred retirement.* Vested members who experience a termination date before reaching normal or early retirement eligibility are eligible for deferred retirement and the member's accrued benefit is paid when the member later becomes eligible for normal or early retirement.

(2) *Minimum requirements.* In addition to the standard eligibility conditions set forth above, all members hired on or after July 1, 2009, must complete at least five (5) years of accrued service before reaching normal or early retirement eligibility under section 22-37(a)(1)(A) or (1)(B) above.

Sec. 22-37(b). Early retirement. The early retirement pension shall be calculated in the same manner as the normal retirement benefit and shall be reduced in accordance with this paragraph to reflect the earlier and longer benefit payment period. The early retirement reduction shall equal one-half of one (0.5) percent for each month prior to the date the member would have attained the applicable retirement points rule (rule of 80 or rule of 85).

Sec. 22-37(c). Deferred retirement. As of a termination date, a vested member shall be deemed to have elected a deferred retirement calculated in the same manner as the normal retirement benefit or the early retirement benefit and payable upon the member's satisfaction of the conditions for normal or early retirement, as set forth in paragraph (a) above. A member who is in deferred retirement status and who has not reentered city service may request a refund of his accumulated contributions account any time before the payment of retirement benefits commence.

Sec. 22-37(d). Payment of benefits; deferred commencement. Retirement benefits are paid monthly in arrears. Generally, a member may delay the date payments begin as permitted by law provided; however, that no actuarial adjustment or retroactive adjustment shall be made to the retirement benefit as a result of the delayed commencement. Notwithstanding the foregoing, if a member delays commencement of retirement benefits beyond normal retirement age, by affirmative election or failure to file a retirement application, an actuarial adjustment to the retirement benefit shall be made to reflect only the delayed commencement after the normal retirement age.

Sec. 22-37(e). Retirement application; withdrawal of retirement application. A member may submit an application for retirement benefits within ninety (90) days of the member's proposed termination date or, if applicable, the member's proposed end of service participation date, subject to the system administrator's discretion to make nondiscriminatory timing exceptions as necessary. Except as required by law, no retirement benefits shall commence under the system until a member files a retirement application with the system administrator and the retirement application is ratified by the board. The board's ratification of any retirement benefit application may be based on a reasonable estimate of the member's retirement benefit, as prepared by the system administrator. In the event that a member's actual retirement benefit varies significantly from an estimate presented to the board for ratification, the system administrator shall present the actual retirement benefit calculation to the board for its reconsideration as soon as administratively feasible. Any application for an early, normal, deferred or disability retirement may be withdrawn at any time prior to ratification by the board.

Sec. 22-37(f). Post retirement benefit payments. The board shall determine, pursuant to its formal policy and in its discretion, whether the system shall fund an annual supplemental post retirement benefit payment to retired members and beneficiaries. The board's formal policy shall include the methods and procedures to be followed by the board in making its annual determination. The policy shall include the requirements that allocations to a post retirement benefits reserve shall not occur in years where any of the following conditions occur: the actuarial target funded ratio for that year is not achieved, there are no excess returns (based on the rolling average), or the allocation to a post retirement benefits reserve would directly cause an increase in the annual required contribution for that year.

Sec. 22-37(g) Suspension of pension benefits upon reemployment. Retirement benefits payable to a retired member shall be suspended during the retired member's period of reemployment with the city unless (1) at least twelve (12) months have elapsed between the member's retirement from the city and the retired member's reemployment date; and (2) the retired member is engaged to work in a non-permanent employment classification. The retired member shall be permitted to work in consecutive or successive non-permanent employment classifications without triggering a suspension of retirement benefits provided that (A) the member satisfied the twelve (12) month break rule set forth above; (B) the non-permanent employment classifications are separate and distinct employment positions; and (C) the retired member's period of continuous reemployment does not exceed eighteen (18) months. In no event shall any re-employed retired

member acquire credited service or credited compensation or contribute to the system.
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10915, § 5, 6-21-11, eff. 7-1-11; Ord. No. 11327, §§ 8, 9, 12-8-15, eff. 1-1-16)

Sec. 22-38. End of service program.

Sec. 22-38(a). Purpose. The end of service program allows retirement eligible members to earn lump sum benefits in addition to the members' retirement benefit, in exchange for a waiver of up to twelve (12) months of additional benefit accruals under the system. The end of service program is entirely voluntary.

Sec. 22-38(b). Eligibility for end of service program. Any member eligible for normal retirement may elect to participate in the end of service program by entering into a participation agreement in accordance with section 22-38(c) and accepting the terms and conditions of the end of service program. Participation in the end of service program shall remain open only until December 31, 2010, and no members shall be permitted to enroll in the end of service program after that date.

Sec. 22-38(c). Irrevocable agreement to participate. A member's agreement to participate in the end of service program is (1) a voluntary agreement to forego benefit accruals under the retirement provisions of the system, (2) a voluntary election to terminate from employment with the city before or upon completion of the end of service program participation period and (3) a retirement application for purposes of section 22-37(e). The member's participation election shall be evidenced by the member's execution of the board's end of service program agreement and shall include the member's proposed effective date of participation. The member's effective date of participation in the end of service program shall be the later of the first day of the month following the board's ratification of the member's end of service participation agreement or the participation date selected by the member and approved by the system administrator. The system administrator may, in its discretion, adopt reasonable and uniform procedures governing the deadlines for submission of end of service participation agreements and the acceleration of end of service participation dates. A member's agreement to participate in the end of service program shall be irrevocable upon ratification by the board.

Sec. 22-38(d). Cessation of benefit accrual. On the date the member begins to participate in the end of service program, mandatory member contributions to the system cease and all benefit accruals under the system terminate. A member's final average monthly compensation and credited service are determined as of the member's end of service participation date and shall not increase or decrease thereafter. The member also is not entitled to receive any retirement benefit increases implemented during the end of service participation period.

Sec. 22-38(e). Accumulation of end of service benefits. End of service program benefits will be credited to an end of service program account established under the system and shall be paid to the member following the member's termination date at the same time and in the same manner as otherwise prescribed in this article. A member's end of service program participation account shall be credited with the following:

(1) An amount, credited monthly, that is computed in the same manner as a normal retirement benefit using the member's credited service, average final monthly compensation and retirement benefit payment elections as of the member's effective date of end of service program participation.

(2) An amount, credited monthly, that represents assumed earnings at a rate determined by the board, annually at the beginning of the plan year. As of the effective date of the end of service program, the earnings rate credited pursuant to this section is the ninety-day treasury bill rate.

Sec. 22-38(f). Termination of end of service program participation. Participation in the end of service program terminates on the first occurrence of either of the following: (1) twelve (12) months from the date of entry; or (2) the member's termination date. If a member's participation in the end of service program is terminated as a result of the city's just cause termination of the member's employment and such just cause is later reversed, a member's participation in the end of service program, minus any benefits previously distributed pursuant to this article, shall be reinstated for the duration of the original end of service program participation period designated by the member on the appropriate end of service program participation form.

Upon termination of the member's end of service program participation, the retirement benefit payable to any member who fails to terminate in connection with the end of service program shall commence in accordance with the retirement provisions of this article. Notwithstanding the foregoing, if a member fails to terminate from employment with the city at the end of the member's end of service program participation period, the member shall forfeit all rights to any end of service benefits and assumed earnings and shall not accrue any additional credited service during the end of service participation period.

Sec. 22-38(g) Payment of end of service program benefits. Following termination of the member's participation, a member is entitled to receive a lump sum distribution of all amounts credited to the member's end of service program participation account. The end of service program distribution shall be processed in accordance with section 22-43(g). The member also shall commence receipt of retirement benefits, calculated and paid in accordance with the retirement provisions of the system. If a member dies during the end of service program participation period, all amounts in the member's end of service program participation account shall be paid to the member's beneficiary. If the beneficiary(ies) predecease the member, all distributions pursuant to the end of service program shall be paid to the member's spouse, if the member was married at death, or to the legal representative of the member's estate, if the member is not married at death.
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09)

Sec. 22-39. Disability retirement.

Sec. 22-39(a). Qualification. If a member is not yet eligible for normal retirement, the member may apply for disability retirement benefits. To be eligible to receive disability retirement benefits, the member must (1) apply for disability retirement benefits within twelve (12) months of the date of termination from employment; (2) be credited with ten (10) or more years of accrued service, inclusive of accrued vacation and sick leave; (3) establish that he or she terminated from employment with the city as a result of disabling mental or physical impairment; and (4) be determined, in accordance with applicable rules, to have a total and permanent disability.

Sec. 22-39(b). Application process. An application for disability retirement benefits may be filed by the member in accordance with the policies and procedures of the system administrator. Unless waived by the board in light of a Social Security Administration determination of total and permanent disability, the board's physician shall examine the member and certify in a written report to the board whether the member suffers from a total and permanent disability. The report shall also state when the member should be reexamined. If the board determines that the member should receive disability retirement benefits, the disability retirement benefits shall commence as of the date determined by the board in its discretion. Disability retirement benefits shall not be paid for periods the member elects to receive sick and vacation leave pay.

Sec. 22-39(c). Disability benefit. Disability retirement benefits are calculated in the same manner as normal retirement benefits, with no reduction for early commencement.

Sec. 22-39(d). Termination of disability benefit. A disability retirement benefit shall be terminated by the board upon a determination that the member no longer suffers from a total and permanent disability or upon the member's reemployment with the city. If the member reenters city service, any credited service included in the calculation of the disability retirement benefit shall be restored to the member's credit; but the member's accrued benefit shall be subject to an actuarial reduction at the time of retirement based on the number of months that the member received disability retirement benefits. The excess, if any, of the member's accumulated contributions as of the date of total and permanent disability over the aggregate of the disability retirement benefits received by the member shall be credited to the member's accumulated contributions account.

Sec. 22-39(e). Requirements to maintain disability benefit. The member shall provide to the system administrator no later than May 31 of each calendar year all information requested by the system administrator regarding the member's total and permanent disability. The board may suspend disability retirement benefits if the member fails to provide any of the required information. Following the retirement of a member as the result of a total and permanent disability, the board may require the member, prior to the member's eligibility for normal retirement and no more frequently than annually, to undergo a medical examination by a licensed physician, as directed by the

system administrator. Should the member refuse, the member's disability retirement benefit shall be discontinued until such time as they submit to the required examination. Should the refusal continue for one (1) year, all rights to any further disability retirement benefits shall cease. Upon the member attaining the age required for a normal retirement, no further medical exams will be required.

Sec. 22-39(f). Prior requirements to maintain disability benefit. Any member who qualified for a disability retirement prior to July 1, 2009, is subject to the benefit limitations and disability verification requirements of this subsection, as well as the nondiscriminatory policies and procedures of the system administrator.

(1) *Disability verification requirements.* Not later than May 31 of each calendar year, the member shall provide to the system administrator all information requested by the system administrator regarding the member's earned income (wages and self-employment income) for the previous calendar year. The board may suspend disability retirement benefits if the member fails to provide any of the required information. Following the disability retirement of a member, the board may require the member to undergo a medical examination by a licensed physician. Should the member refuse, the disability retirement benefit shall be discontinued until such time as the member submits to the required examination. Should the refusal continue for one (1) year, all rights to any further disability retirement benefits shall cease. Upon the member's attainment of the age required for receipt of a normal retirement benefit, no further medical exams or information relating to earned income will be required.

(2) *Disability benefit adjustments.*

(A) *Earned income based adjustment.* Based on the verification procedures described above, the disability retirement benefit may be subject to annual adjustment in accordance with this section. If the member's earned income for the preceding calendar year exceeded fifty (50) percent of the member's adjusted income base for that calendar year, then the member's disability retirement benefit will be reduced during the twelve-month period commencing on the effective date of the system administrator's adjustment (the "adjustment period") as follows. The monthly disability retirement benefit payable in the adjustment period will be reduced by one-twelfth (1/12) of the excess of the member's earned income for the preceding calendar year over fifty (50) percent of the member's adjusted income base. If the adjustment required by the preceding sentence would reduce the monthly disability retirement benefit to a negative amount, the disability retirement benefit shall be suspended for the adjustment period and any excess amount not offset by the disability retirement benefit suspension shall be taken into account in the next annual adjustment procedure. From time to time, the board also may increase or decrease the member's disability retirement benefit to recapture overpayments or to restore any deficiencies in payments to the member which may have accrued prior to the board's receipt of information under the disability verification procedures. When a member becomes eligible for a normal retirement benefit, no further adjustments shall be made.

(B) *Earned income and/or worker's compensation benefits.* In the event a disabled member receives earned income and/or worker's compensation benefits during the calendar year, that member's disability retirement benefit may be adjusted so that the member's total income received from employer provided benefits does not exceed 100% of the members' adjusted income base. Any adjustment made shall only be up to the amount of the full disability retirement benefit paid by TSRS. For purposes of this paragraph, employer provided benefits means social security benefits, worker's compensation

payments, TSRS pension benefits or long term disability payments.

(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10696, § 3, 8-5-09, eff. 7-1-09; Ord. No. 10775, § 2, 4-6-10, eff. 7-1-10; Ord. No. 11327, §§ 10, 11, 12-8-15, eff. 1-1-16)

Sec. 22-40. Death benefits.

Sec. 22-40(a). Generally.

(1) If the member dies prior to the board's ratification of the member's application for retirement benefits, if any, the death benefit or survivor annuity payable as the result of the member's death shall be determined in accordance with this section. If the member dies after the board has ratified the member's application for retirement benefits, including an end of service participation agreement, any survivor benefits payable as a result of the death of the member shall be determined in accordance with the member's retirement benefit payment election. Notwithstanding any other provision herein to the contrary, a member who satisfied the conditions for normal or early retirement and filed the appropriate paperwork with the system administrator to pre-select retirement benefits prior to July 1, 2009, shall be treated as a member whose application for retirement benefits has been ratified by the board for purposes of this paragraph.

(2) If a member dies while performing qualified military service on or after January 1, 2007, the member shall be treated as if he returned to employment with the city on the day before the date of death.

Sec. 22-40(b). Spouse as beneficiary. If the spouse is the member's beneficiary and the spouse dies before the death benefit is paid, the available death benefit shall be paid to the beneficiary of the spouse, and if none, then to the legal representative of the spouse's estate.

Sec. 22-40(c). Death before vested interest. Should a member with less than five (5) years of accrued service die, the member's accumulated contributions account balance, determined as of the member's date of death, shall be paid in a lump sum to the member's beneficiary. If the beneficiary(ies) predeceases the member, the member's accumulated contributions account balance shall be paid to the member's spouse, if the member was married at death, or to the legal representative of the member's estate, if the member is not married at death.

Sec. 22-40(d). Death after vested interest. If a member who is credited with five (5) or more years of accrued service dies before reaching normal or early retirement, a death benefit will be paid to the member's beneficiary(ies). If the beneficiary(ies) predeceases the member, the death benefit shall be paid to the member's spouse, if the member was married at death, or to the legal representative of the member's estate, if the member is not married at death.

Sec. 22-40(e). Death while eligible for retirement. If a vested member dies after attaining normal or early retirement eligibility (determined in accordance with sections 22-37(a)(1)(A) or (B), as applicable) but prior to the board's ratification of the member's application for retirement benefits, a death benefit or survivor annuity will be paid as follows:

(1) *Default for spouse.* If the member's spouse is the beneficiary (and except as set forth in paragraph (3) below), a survivor annuity will be paid to the spouse and will equal the benefit the spouse would have received if the member had retired on the day before death and had elected to receive a joint and 100% survivor annuity. In determining the amount of the survivor annuity, the retirement benefit payable on account of the member's presumed retirement shall be calculated in accordance with the early retirement reduction provisions of section 22-37(b), if applicable. The survivor annuity described in this paragraph is payable only to a spouse of a deceased member.

(2) *Default for single non-spouse beneficiary.* If the member has designated a single beneficiary other than a spouse, a survivor annuity will be paid to the beneficiary and will equal the benefit the beneficiary would have received if the member had retired on the day before death and had elected to receive an annuity certain and for life with a period certain of one hundred eighty (180)

months, commencing in the month following the date of the member's death and paid until the end of the period certain. If the beneficiary dies prior to the completion of the period certain, a one-time lump sum payment equal to the present value of the remaining period certain payments to the estate of the beneficiary. In determining the amount of the survivor annuity, the retirement benefit payable on account of the member's presumed retirement shall be calculated in accordance with the early retirement reduction provisions of section 22-37(b), if applicable.

(3) *Default for multiple beneficiaries.* The survivor annuities described in paragraphs (1) and (2) above are payable only to a spouse or single beneficiary. If the member has designated multiple beneficiaries, a death benefit will be paid to the multiple beneficiaries in accordance with the member's designation, regardless of whether the spouse is named as one of the multiple beneficiaries.

(4) *Death benefit election.* A spouse or single beneficiary entitled to receive a survivor annuity under paragraph (1) and (2) above may elect, in his or her discretion, to waive the survivor annuity and receive a death benefit. To make the death benefit election, the spouse or beneficiary shall sign a statement acknowledging that the survivor annuity and death benefit options have been satisfactorily explained and shall make a written election to receive the death benefit, all in accordance with the policies and procedures of the system administrator.

Sec. 22-40(f). Refund guarantee. A member who elects a single life annuity pursuant to section 22-42(b) or a joint and survivor annuity pursuant to section 22-42(c) shall be guaranteed a refund if the named recipients on the selected annuity die before the monthly retirement benefits paid equal or exceed two (2) times the value of the member's accumulated contributions with interest at time of retirement. The amount of the refund shall equal two (2) times the value of the member's accumulated contributions account at the time of retirement, reduced by the retirement benefits paid to date (the "refund amount"). If the member elected a single life annuity and the member dies, or the member elected a joint and survivor annuity and both the member and the named survivor die, the member's beneficiary (or the member's estate, if the beneficiary is not then living) will receive the refund amount.

Sec. 22-40(g). Payment following death. Following the death of a member, the system administrator will notify the beneficiary(ies) or the surviving spouse, as applicable, regarding the right to receive a refund of member contributions, a death benefit or a survivor annuity. Any lump sum benefit available to a spouse or beneficiary(ies) under this article shall be paid in accordance with sections 22-43(f) and (g).

(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10696, § 4, 8-5-09, eff. 7-1-09; Ord. No. 10711, § 3, 9-9-09, eff. 7-1-09; Ord. No. 10712, § 3, 9-9-09, eff. 7-1-09; Ord. No. 10915, § 6, 6-21-11, eff. 7-1-11; Ord. No. 11327, § 12, 12-8-15, eff. 1-1-16)

Editor's note – Section 8 of Ord. No. 10915, adopted June 21, 2011, provides that the amendments made to Sec. 22-40(f) are effective retroactively to July 1, 2009.

Sec. 22-41. Refund of accumulated contributions accounts; transfers to other systems.

Sec. 22-41(a). Member's request for refund. A member may request a refund of the member's accumulated contribution account following the member's termination date by filing the appropriate refund application with the system administrator. If the member was dismissed from city service, the member's application for a refund shall not be approved and disbursed until the member's separation from employment with the city becomes final and is no longer subject to any administrative or judicial review.

Sec. 22-41(b). Refund to Non-Vested Member. Any Member who terminates from City service prior to becoming a Vested Member shall cease to be a Member and shall be eligible to request a refund of his Accumulated Contributions Account as set forth in Section 22-33(c). The System Administrator shall contact the former Member as soon as reasonably possible following the Termination Date and shall provide information regarding the available refund. In the event that the former Member's termination is subject to administrative or judicial review, no refund shall be processed until such termination is final and

binding. In the event the former Member does not consent to receipt of the refund of the Member's Accumulated Contributions Account within a reasonable period following notification by the System Administrator and the Member's Accumulated Contributions Account balance is more than one thousand dollars ($1,000.00), but does not exceed five thousand dollars ($5,000.00), the System Administrator may transfer the Accumulated Contributions Account balance to an individual retirement account established for the benefit of the Member in accordance with Code Section 401(a)(31)(B). If the Member's Accumulated Contributions Account balance equals one thousand dollars ($1,000.00) or less and the Member fails to consent to receipt of the refund, the System Administrator may, in its discretion, issue a refund check to the Member without the Member's consent. If the Member's Accumulated Contributions Account balance equals five thousand dollars ($5,000.00) or more and the former Member fails to consent to receipt of the refund, the System Administrator shall hold the Accumulated Contributions Account in the System for a period of three (3) years from the Termination Date, at which time the System Administrator shall escheat the Accumulated Contributions Account to the State of Arizona. The amount escheated to the State of Arizona shall not include Interest credited to the Accumulated Contributions Account after the Termination Date.

Sec. 22-41(c). Beneficiary's request for refund. Upon the death of a member, a beneficiary may request a refund of the member's accumulated contributions account or a death benefit. The beneficiary's right to receive a refund or a death benefit shall be determined in accordance with the provisions of this chapter and such determination shall take into account any retirement benefit payments made to the member prior to death, if any.

Sec. 22-41(d). Transfer to other Arizona Systems. Following a member's termination date and prior to the member's retirement or request for a refund of the member's accumulated contribution account, the member may request a transfer of the member's vested accrued benefit and/or the member's accumulated contributions account to a public retirement system maintained by the State of Arizona or any municipality of the State of Arizona, to be processed in accordance with Arizona Revised Statute Sections 38-730, 38-923 and 38-924, as amended. A transfer from the system shall not cause the system to incur any unfunded accrued liability, except in the case of a transfer to the Arizona State Retirement System in accordance with the reciprocity rules in effect with regard to transfers between the system and ASRS and which shall not cause any significant detriment to the funded status of the system.

Sec. 22-41(e). Forfeiture of credited service and tier I status. Any refund or transfer of a member's accumulated contributions account or a transfer of member's accrued benefit shall trigger an immediate forfeiture of all credited service earned by the member. In the case of a vested member, a refund or transfer under this section 22-41 and the related forfeiture of credited service will result in the loss of the member's (or beneficiary's) retirement pension rights under the system. If a former member requests a refund of the member's accumulated contributions account or a transfer of the member's accrued benefit, the former member shall forfeit any and all rights to tier I member status and, if the former member is rehired by the city, may reenter the system only as a tier II member, subject to all applicable participation requirements.
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10915, § 7, 6-21-11, eff. 7-1-11; Ord. No. 11020, § 3, 9-11-12, eff. 7-1-09)

Sec. 22-42. Retirement benefit payment options.

Sec. 22-42(a). Explanation of benefit options. A member who is eligible to receive a retirement benefit may request from the system administrator information regarding the retirement benefit payment options available. No pension is automatically payable hereunder, and all eligible members must make appropriate retirement elections under the system. The member and spouse, if any, shall sign a statement acknowledging that the retirement benefit payment options have been satisfactorily explained and shall make a written election of one (1) of the retirement benefit payment options, all in accordance with the policies and procedures of the system administrator. The benefit election can be revoked or changed by the member by filing a written notice of revocation or change with the system administrator, subject to any applicable spousal acknowledgement requirements, any time prior to ratification of the retirement benefit by the board. The benefit election is irrevocable upon board ratification of the member's application for retirement benefits, regardless of any changes in the member's marital status.

Sec. 22-42(b). Single life annuity. A member eligible for retirement may elect to receive his retirement benefit payable in a single life annuity, ending with the monthly payment made in the month of the member's death. The single life annuity shall be the normal form of benefit for purposes of calculating the retirement benefits under the system. Any election of an alternative annuity option under the system shall result in the payment of an annuity which is the actuarial equivalent of the single life annuity payable to the member.

Sec. 22-42(c). Joint and survivor annuity. A member eligible for retirement may elect to receive his retirement benefit payable in a joint and survivor annuity which provides payments to the member for the remainder of the member's life and then provides payments to the surviving beneficiary for the remainder of the beneficiary's life. In making this election, the monthly benefit to be paid to the surviving beneficiary following the death of the member may be one hundred percent (100%), seventy-five percent (75%) or fifty percent (50%) of the monthly benefit the member had been receiving. All payments will cease upon the death of the member or the beneficiary, whichever shall occur last. The member's designation of a beneficiary to receive any survivor benefit payable under a joint and survivor annuity shall be subject to the requirements of section 22-43(f) and Code section 401(a)(9), including the limitations on non-spouse beneficiaries, any joint and survivor annuity election shall be adjusted as necessary for compliance with the Code.

Sec. 22-42(d). Annuity certain and for life. A member eligible for retirement may elect to receive his retirement benefit payable in an annuity for a term certain and for life. This benefit allows a member to ensure payment of a benefit over the member's lifetime, and in the event of the member's death before the end of a "period certain," continuing payment of the benefit until the end of the "period certain" to a surviving beneficiary or contingent beneficiary. A member may elect to receive a term certain annuity with a guaranteed payment period of sixty (60) months, one hundred twenty (120) months or one hundred eighty (180) months. For purposes of the annuity for a term certain and for life, the guaranteed payment period shall begin with the earlier of the first monthly benefit payment made to the member or the first monthly end of service program accrual, if applicable. Should the member live beyond the period certain elected, no survivor benefits shall be paid to the member's beneficiary(ies). Should the member, the beneficiary and any contingent beneficiary die before the expiration of the term certain, the board shall make a one-time lump sum payment equal to the present value of remaining period certain payments to the estate of the person last receiving a benefit under the annuity.

Sec. 22-42(e). Failure to elect benefit option or commencement date. Failure to elect a benefit option will result in the member receiving a single life annuity, assuming the member survives until the pension commencement date. Failure to elect a date on which payment begins will result in payments made in accordance with the minimum required distribution provisions of section 22-43(e) and Code Section 401(a)(9). Notwithstanding the foregoing, the provisions of section 22-40 apply when a vested member dies while eligible for retirement and prior to the board's ratification of the member's application for retirement benefits.

(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10711, § 4, 9-9-09, eff. 7-1-09; Ord. No. 10712, § 4, 9-9-09, eff. 7-1-09; Ord. No. 11327, §§ 13, 14, 12-8-15, eff. 1-1-16)

Sec. 22-43. Administration of benefit payments; benefit calculations.

Sec. 22-43(a). Payment of small accounts. If the accrued benefit of a member, including any refund of an accumulated contributions account, has a present value of five thousand dollars ($5,000.00) or less at the time the benefit becomes payable, a lump sum distribution shall be paid to the member within thirty (30) days following their benefit election and the satisfaction of any applicable spousal consent requirements.

Sec. 22-43(b). Special rules for members with part-time employment. When a member has earned accrued service during part-time employment or both full-time and part-time employment, the monthly retirement benefit, in the form of benefit elected, will be computed using the following special rules.

(1) Special rules for computing average final monthly compensation for a member who had part-time or both full-time and part-time employment. Average final monthly compensation shall be determined by:

(A) For periods of full-time hours worked, the average of the highest thirty-six (36) consecutive months of compensation of the last one hundred twenty (120) consecutive months of compensation divided by thirty-six (36), or if the member has less than thirty-six (36) consecutive months of compensation divided by the actual number of months of compensation.

(B) For periods of part-time hours worked, the average of the highest annualized thirty-six (36) consecutive months of compensation of the last one hundred twenty (120) consecutive months of compensation divided by thirty-six (36), or if the member has less than thirty-six (36) consecutive months of compensation divided by the actual number of months of compensation.

(2) Special rules for computing annualized months of compensation for a member who had a part-time or both full-time and part-time employment.

(A) Determine the actual compensation paid to an employee during a two thousand eighty-hour (2,080) period in any consecutive twelve-month calendar period.

(B) Divide the actual number of hours for which an employee was compensated by two thousand eighty (2,080).

(C) Divide the result obtained in "A" by the result obtained in "B."

Annualized monthly compensation shall be the result obtained under "C" divided by twelve (12).

Sec. 22-43(c). Special rule for members with authorized leave without pay. When a member has taken authorized leave without pay, including periods of qualified military service, the member's average final monthly compensation shall be computed by imputing compensation for the authorized leave period, at the compensation rate in effect for the member immediately preceding the commencement of the leave period. For the period beginning on July 1, 2009, and ending on June 30, 2010, furlough periods shall be considered periods of authorized leave without pay for purposes of this section 22-43(c).

Sec. 22-43(d). Limitation on compensation. In no event may the compensation of a member considered under this system exceed the limit set forth in Section 401(a)(17) of the Code, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any fiscal year period, not exceeding twelve (12) months, over which compensation is determined beginning in such calendar year.

Sec. 22-43(e). Maximum benefit allowable. Notwithstanding anything hereunder to the contrary, the annual benefit payable to a member in the form of a straight life annuity shall not exceed the annual dollar limitation in effect under Code Section 415(b), as adjusted in accordance with paragraph (1) below (the "annual dollar limitation"). For the 2009 Limitation Year, the annual dollar limitation is $195,000.00. If the benefit the member would otherwise accrue in a limitation year would produce an accrued benefit in excess of the annual dollar limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the annual dollar limitation. For purposes of this section, the annual benefit shall not include the annual benefit attributable to either mandatory member contributions or rollover contributions.

(1) *Cost of living adjustments.* The annual dollar limitation shall be adjusted for each calendar year to take into account any cost-of-living increase adjustments for that calendar year allowable pursuant to applicable regulations or rulings of the United States Treasury Department under Section 415(d) of the Code. Any such adjustment shall be effective only as of the first day of the calendar year for which such adjustment is announced. Cost-of-living adjustments to the annual dollar limitation made after a member retires shall apply to that member, provided that in no event shall such cost-of-living adjusted amounts exceed the Code Section 401(a)(17) limitation on compensation for that member determined as of the member's termination of employment.

(2) *Minimum benefits.* Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under the system shall be deemed not to exceed the annual dollar limitation if:

(A) The benefits payable for a limitation year under any form of benefit with respect to such member do not exceed ten thousand dollars ($10,000.00) multiplied by a fraction: (i) the numerator of which is the member's number of years (or part thereof, but not less than one (1) year) of credited service (not to exceed ten (10)), and (ii) the denominator of which is ten (10); and

(B) The city has not at any time maintained a defined contribution system in which the member participated (for this purpose, mandatory employee contributions under a defined benefit system are not considered a separate defined contribution system).

(3) *Service and participation reductions.* If the member has less than ten (10) years of participation in the system, the annual dollar limitation shall be multiplied by a fraction: (1) the numerator of which is the number of years (or part thereof, but not less than one (1) year) of participation in the system, and (2) the denominator of which is ten (10).

(4) *Early payment adjustments.* The annual dollar limitation shall be adjusted if the member's benefit commencement date is before age sixty-two (62).

(A) *Limitation Years Beginning on or after July 1, 2007.* With regard to annuities commencing in Limitation Years beginning on or after July 1, 2007 and when the Member's benefit commencement date is before age 62, the Annual Dollar Limitation for the Member's benefit commencement date shall be the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's benefit commencement date that is the actuarial equivalent of the lesser of (i) the Annual Dollar Limitation (adjusted under Section 22-43(d)(3), if required) computed using a 5% interest rate and the applicable mortality table under Code Section 417(e)(3) and expressing the Member's age based on completed calendar months as of the benefit commencement date and (ii) the Annual Dollar Limitation (adjusted under Section 22-43(d)(3), if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the Member's benefit commencement date to the annual amount of the immediately commencing straight life annuity under the System at age 62.

(B) *Limitation Years Beginning Before July 1, 2007.* With regard to annuities commencing in Limitation Years beginning before July 1, 2007 and when the Member's benefit commencement date is before age 62, the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's benefit commencement date that is the actuarial equivalent of the Annual Dollar Limitation (adjusted under Section 22-43(d)(3), if required) computed using a 5% interest rate and the mortality table described in Rev. Rul. 2001-62.

(C) Notwithstanding the other requirements of this Section, no adjustment shall be made to the Annual Dollar Limitation to reflect the probability of a Member's death between the Member's benefit commencement date and age 62 if benefits are not forfeited upon the death of the Member prior to the benefit commencement date. To the extent benefits are forfeited upon death before the benefit commencement date, such an adjustment shall be made.

(5) *Alternative benefit payment options.* Except as provided below, if a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at

the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this section.

(A) (i) *Limitation Years Beginning on or After July 1, 2007.* With regard to annuities commencing in Limitation Years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a) the annual amount of the straight life annuity (if any) payable to the Member under the System commencing at the same benefit commencement date as the Member's form of benefit; and

(b) the annual amount of the straight life annuity commencing at the same benefit commencement date that has the same actuarial present value as the Member's form of benefit, computed using a 5% interest rate assumption and the applicable mortality table under Code Section 417(e)(3).

(ii) *Limitation Years Beginning Prior to July 1, 2007.* With regard to annuities commencing in Limitation Years beginning prior to July 1, 2007, the actuarial equivalent straight life annuity is equal to the greater of:

(a) the annual amount of a straight life annuity (if any) payable to the Member under the System commencing at the same benefit commencement date as the Member's form of benefit; and

(b) the annual amount of the straight life annuity commencing at the same benefit commencement date that has the same actuarial present value as the Member's form of benefit, computed using a 5% interest rate assumption and the mortality table described in Rev. Rul. 2001-62.

(6) *Definitions.* For purposes of this section, the term "limitation year" shall mean the calendar year beginning on January 1 and ending on December 31. The term "applicable mortality table" shall mean the mortality table prescribed by the Internal Revenue Service based on the actual experience of pension plans and projected trends in such experience.

(7) *Incorporation by reference.* The additional requirements of Code Section 415(b) and the treasury regulations promulgated there under, as applicable to governmental plans maintained in accordance with Code Section 414(d), are hereby incorporated by reference.

(8) *Late Payment Adjustments.* The Annual Dollar Limitation shall be adjusted if the Member's benefit commencement date is after age 65.

(A) *Limitation Years Beginning on or after July 1, 2007.* With regard to annuities commencing in Limitation Years beginning on or after July 1, 2007 and when the Member's benefit commencement date is after age 65, the Annual Dollar Limitation for the Member's benefit commencement date shall be the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's benefit commencement date that is the actuarial equivalent of the Annual Dollar Limitation (adjusted under Section 22-43(e)(3), if required), computed with a 5% interest rate and the applicable mortality table under Code Section 417(e)(3) (and expressing the Member's age based on completed calendar months as of the benefit commencement date).

(B) *Limitation Years Beginning Before July 1, 2007.* With regard to annuities commencing in Limitation Years beginning before July 1, 2007 and when the Member's benefit commencement date is after age 65, the Annual Dollar Limitation shall be the amount calculated in accordance with (A) above, but without adjusting the Member's age based on completed calendar months as of the benefit commencement date.

(C) Notwithstanding the other requirements of this Section, no adjustment shall be made to the Annual Dollar Limitation to reflect the probability of a Member's death between age 65 and the Member's benefit commencement date if benefits are not forfeited upon the death of the Member prior to the benefit commencement date. To the extent benefits are forfeited upon death before the benefit commencement date, such an adjustment shall be made.

Sec. 22-43(f). Minimum required distributions. The board and the system administrator shall make reasonable and good faith efforts to comply with the requirements of the treasury regulations promulgated pursuant to Code Section 401(a)(9), notwithstanding any provision herein to the contrary. The obligations of the board and the system administrator shall be interpreted and construed in a manner consistent with the relief afforded to governmental plans under Section 823 of the Pension Protection Act of 2006 and the Treasury Department's proposed regulations promulgated pursuant thereto, at Treas. Reg. Sec. 1.401(a)(9)-1, Q&A-2(d). When processing distributions required by Code Section 401(a)(9), the system administrator shall make reasonable and good faith efforts to begin the payment of such distributions no later than the April 1 of the calendar year following the later of the calendar year in which the member attains the age of 70½ or the calendar year containing the member's termination date. Death benefit distributions also shall be processed in accordance with a reasonable and good faith interpretation of the requirements of Code Section 401(a)(9).

Sec. 22-43(g). Eligible rollover distributions. Notwithstanding anything herein to the contrary, the member or distributee may elect to have any portion of an eligible rollover distribution received from the system paid directly to an eligible retirement plan. An eligible rollover distribution shall be made pursuant to the requirements of Code Section 401(a)(31) and Code Section 402, and the applicable regulations promulgated there under, and in the manner prescribed by the board.

(1) *Distributee.* A "distributee" includes a member or former member. In addition, the member's or former member's surviving spouse and any alternate payee under a domestic relations order, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes the member's non-spouse designated beneficiary. In the case of a non-spouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 409(a) or Section 408(b) of the Code that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Code. Section 402(c)(11) of the Code provides that a direct rollover of a distribution to a non-spouse beneficiary is a rollover of an eligible rollover distribution only for purposes of Section 402(c) of the Code. Accordingly, the distribution to a non-spouse beneficiary is not subject to the direct rollover requirements of Section 401(a)(31) of the Code, the notice requirements of Section 402(f) of the Code, or the mandatory withholding requirements of Section 3405(c) of the Code.

(2) *Eligible retirement plan.* An "eligible retirement plan" is an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the system, an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an

annuity contract described in Section 403(b) of the Code, or a qualified plan described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to an alternate payee under a domestic relations order. An "eligible retirement plan" also is a Roth IRA described in Section 408A(b) of the Code, provided that any distribution to such Roth IRA is made in accordance with the provisions of Section 408A of the Code.

(3) *Eligible rollover distribution.* An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (iii) the portion of any distribution that is not includible in gross income; and (iv) any other distribution that is reasonably expected to total less than two hundred dollars ($200.00) during a year. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax member contributions which are not includible in gross income. However, such portion may be transferred only to (1) an individual retirement account or annuity described in Section 408(a) or (b) of the Code, (2) to a qualified defined contribution plan described in Section 401(a) of 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or (3) for taxable years beginning after December 31, 2006, to a qualified trust or to an annuity contract described in Section 403(b), if such trust or contract provides for separate accounting for amounts so transferred (including interest thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

Sec. 22-43(h). Assignments prohibited. Except as set forth in section 22-43.1, none of the money, pensions or other benefits payable by the system shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment or other legal process.
(Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 11020, § 4, 9-11-12, eff. 7-1-09)

Sec. 22-43.1. System approved domestic relations orders.

Sec. 22-43.1.(a). Benefits subject to domestic relations orders. The right of a member to a retirement benefit, to the refund of a member's accumulated contributions account, or any other benefit under the provisions of the system shall be subject to award pursuant to a system approved domestic relations order.

Sec. 22-43.1(b). System administrator review and approval. The system administrator is responsible for the review and approval of any domestic relations order impacting benefits or rights of a member under this system and which is presented to the system administrator in a timely fashion. The system administrator shall determine whether the domestic relations order can be administered and benefits paid in accordance with the applicable requirements of the order, the system and the Code. Any domestic relations order accepted by the system administrator shall be referred to as a system approved domestic relations order. To the extent permitted by law, the system administrator's decision regarding a domestic relations order shall be final and binding. The city, the board, and the system administrator shall not be responsible for the payment of any system benefits in contravention of a domestic relations order when the domestic relations order is not timely presented to the system administrator for review. Additionally, upon ratification of a member's retirement application by the board, all benefit payment elections (including those filed by the member, ordered pursuant to a system approved domestic relations order or filed by an alternate payee) shall become irrevocable and no

change in benefit options shall be permitted, regardless of any changes in the marital status of the member or the alternate payee.

Sec. 22-43.1(c). System approved domestic relations order. No domestic relations order shall be accepted by the system administrator if the order requires the system to provide any type, form or time of payment that is not provided under this Code, as determined by the system administrator in its discretion. Additionally, any system approved domestic relations order must reasonably identify the Tucson Supplemental Retirement System and specify all of the following: (1) the name and last known mailing address of the member; (2) the name and last known mailing address of each alternate payee covered by the order; (3) the method of determining the amount of the member's system benefits to be paid to each alternate payee covered by the order; (4) the number of payments or period to which the order applies; and (5) whether survivor benefits are payable to the alternate payee upon the death of the member.
(Ord. No. 10657, § 3, 4-28-09, eff. 7-1-09; Ord. No. 11327, § 15, 12-8-15, eff. 1-1-16)

DIVISION 2. ADMINISTRATION OF THE SYSTEM

Sec. 22-44. Board of trustees.

Sec. 22-44(a). Administration. The board of trustees shall be responsible for, and shall have the power and authority necessary to effectuate the administration, management and operation of the system. The board shall construe, interpret and implement the provisions of this article, in its discretion and pursuant to uniform and non-discriminatory rules, policies and procedures.

Sec. 22-44(b). Membership. The membership of the board shall be exempt from all provisions of section 10A-134 of the Tucson Code. The board shall consist of the following seven (7) members:

(1) A chairman, to be appointed by the mayor, subject to the approval of the city council;

(2) The city's human resources director or his/her designee;

(3) The city's finance director or his/her designee;

(4) Two (2) contributing members nominated and elected by the contributing members of the system in a manner that the board shall prescribe by regulation;

(5) One (1) retired member nominated and elected by the retired members of the system in a manner that the board shall prescribe by regulation;

(6) One (1) member appointed by the city manager.

Sec. 22-44(c). Qualifications. The individuals appointed to the board by the mayor, as chairman of the board, and by the city manager shall be appointed based on the individual's business experience with emphasis on a discipline such as law, retirement administration, accounting or investments.

Sec. 22-44(d). Compensation. The members of the board shall serve without compensation but shall be reimbursed for expenses incurred by them in the performance of their board duties.

Sec. 22-44(e). Term of office. The term of office of board members nominated and elected by members in accordance with section 22-44(b)(4) and (5) above shall be three (3) years. The chairman of the board shall serve a term of four (4) years. The city manager's appointee shall serve at the discretion of the city manager or until the appointee resigns by providing advance notice to the board and the city manager. The directors of human resources and finance shall be standing members of the board and not subject to annual terms. Any employee or retiree representative board member who is elected to two (2) consecutive terms shall not be eligible to succeed themselves.

Sec. 22-44(f). System budget. The board shall annually prepare and maintain a budget setting forth the administrative costs of the system. The system budget shall include separate line items for the primary administrative expenses of the system, including, but not limited to, recordkeeping, accounting fees, actuarial expenses, investment fees and expenses, audit expenses, staffing costs, other independent professional expenses, and professional development fees and expenses for board members and the system administrator. The system budget shall be presented to mayor and council in connection with the board's annual report on the system.

Sec. 22-44(g). Employment of professionals. The board may employ managers, consultants, actuaries, technical advisors and professionals, including legal counsel and medical practitioners, and staff personnel as may be necessary for the proper administration of the system. Professionals employed by the board shall discharge their duties in accordance with and be subject to the highest prevailing industry standard of care for their respective disciplines.

Sec. 22-44(h). Establishing interest rates and actuarial assumptions; actuarial studies. The board shall establish, from time to time, the interest rate(s) applicable to member accumulated contributions accounts and the assumed earnings rate applicable to end of service program benefits, as well as the applicable crediting methodologies. The board also shall adopt from time to time such mortality, service and other tables, as well as the assumed interest rate, as are necessary and proper for the administration and funding of the system. Additionally, the board shall cause an actuarial study to be completed with regard to all of the experience of the system no less frequently than every five (5) years. Upon receipt and review of the results of the actuarial study(ies), the board shall if necessary revise the actuarial assumptions used in the calculation of contributions and/or the preparation of the annual valuations.

Sec. 22-44(i). Retirement incentives. The board may, pursuant to duly adopted board policies, recommend retirement incentive programs and/or an extension of the scheduled termination date of incentive programs such as the end of service program; provided that the recommended action shall have no significant detrimental effect on the annual required contribution or the funded status of the system and is consistent with the employment and retention goals and objectives of the city, as determined by the board in consultation with the system's actuary and the city manager's office.

Sec. 22-44(j). Prohibited interest and fiduciary responsibility. No member of the board shall have any interest, direct or indirect, in the gains or profits of an investment made by the board, except as a member or beneficiary of the system. No member of the board shall, directly or indirectly, for himself or as an agent, in any manner use the moneys or other assets of the system, except to make such payments from the system as are authorized by the board; nor shall any member of the board become an endorser or surety or in any manner an obligor for moneys loaned by or

borrowed from the board. The board shall discharge its duties with respect to the system solely in the interest of, and for the exclusive purpose of providing benefits to, members and beneficiaries.

Sec. 22-44(k). Additional powers and duties. In addition to all other powers and duties, the board shall:

(1) Keep a record of all of its proceedings, and such record shall be open to inspection by members and the public;

(2) Determine the credited service, the compensation, the average final monthly compensation, and the age of all members; and when the same cannot be determined from the records, it may make the best available estimates thereof;

(3) Make annually a report to the mayor and city council covering the operations of the system for the preceding fiscal year, including its financial conditions as of fiscal closing;

(4) Review and provide written recommendations to the mayor and city council on all proposed ordinances and resolutions not originating from the board that amend, modify or delete provisions of the system. The board shall be given forty-five (45) days advance notice prior to any such mayor and council action regarding the system;

(5) Invest the assets of the system;

(6) Adopt necessary rules and regulations governing the administration of the system;

(7) Hear and resolve employee, member and beneficiary claims relating to the system; and

(8) Do all other things necessary for the proper administration of the provisions of the system.

Sec. 22-44(l). Advisory committees and subcommittees. The board may establish advisory committees and subcommittees consistent with the needs of administering the system. Advisory committees and subcommittees shall report directly to the board and have no authority to make decisions on behalf of the board.
(Ord. No. 10657, § 4, 4-28-09, eff. 7-1-09; Ord. No. 11327, § 16, 12-8-15, eff. 1-1-16)

Sec. 22-45. Investments.

Sec. 22-45(a). Investments. The board shall have full power to invest and reinvest all moneys belonging to the system's trust fund and to hold, purchase, sell, assign, transfer or dispose of the securities or investment in which such moneys have been invested. The board or any agents employed by the board may:

(1) Invest and reinvest the principal and income of the trust fund without distinction between principal and income;

(2) Sell, exchange, convey, transfer or otherwise dispose of any investments of the trust fund held in the name of the system by private contract or at public auction;

(3) And with regard to trust fund investments:

(A) Vote upon any stocks, bonds or other securities;

(B) Give general or special proxies or powers of attorney with or without power of substitution;

(C) Exercise any conversion privileges, subscription rights or other options and make any payments incidental thereto;

(D) Consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities and delegate discretionary powers and pay any assessments or charges in connection therewith;

(E) Generally exercise any of the powers of any owner with respect to securities or other investments held in the trust fund;

(4) Make, execute, acknowledge and deliver any and all other instructions that may be necessary or appropriate to carry out the powers herein granted;

(5) Register any investment held in the trust fund in the name of the system or in the name of the nominee;

(6) At the expense of the system, enter into agreement with a trustee or manager for the acquisition and safekeeping and handling of securities and other investments coming into the possession of the board; the agreement shall be entered into under such terms and conditions as shall secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments; no access to, and no deposit or withdrawal of, the securities from any place of deposit selected by the board shall be permitted or made except as the terms of the agreement may provide; and

(7) Do all other acts and engage in other transactions whether or not expressly authorized which may be deemed necessary or proper for the growth and protection of the investment held in the trust fund.

Sec. 22-45(b). Due diligence. In making each and all such investments, the board shall exercise the judgment and care under the circumstances then prevailing which persons of ordinary prudence, discretion and intelligence exercise in management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of the capital. The board shall not be held liable for the exercise of more than ordinary care and prudence in the selection of investments and shall not be limited to so-called "legal investments for trustees"; but all assets of the system shall be invested subject to all conditions, limitations and restrictions imposed by law.
(Ord. No. 10657, § 4, 4-28-09, eff. 7-1-09)

Sec. 22-46. Finance director duties.

The finance director or his/her designee shall deposit the system's assets in the trust fund held by the custodial financial institution selected by the board to maintain the assets in trust for the benefit of the members. The finance director shall be responsible for maintaining a system of accounts for the assets in accordance with generally accepted accounting principles for pension funds. The finance director also shall be responsible for oversight of the payroll procedures connected to the system administration, such as the collection of contributions pursuant to section 22-35(d). The finance director shall serve as the secretary of the board.
(Ord. No. 10657, § 4, 4-28-09, eff. 7-1-09; Ord. No. 11327, § 17, 12-8-15, eff. 1-1-16)

Sec. 22-47. Human resources director duties.

The human resources director or his/her designee shall provide the board with all relevant information available in the city's human resources department concerning the employment status of members.
(Ord. No. 10657, § 4, 4-28-09, eff. 7-1-09; Ord. No. 11327, § 18, 12-8-15, eff. 1-1-16)

Sec. 22-48. System administrator.

The system administrator is charged with the day to day administration of the system and oversight of the city's retirement office and personnel. The system administrator shall be an individual having a demonstrated familiarity with one or more disciplines such as finance, accounting, actuarial evaluations, investments or tax law. The system administrator shall attend board meetings, consult with other professionals employed by the board and shall report to the board on such matters as may affect the administration of the system. The system administrator shall make all such decisions as are necessary for the daily operation of the system, exercise the discretion necessary to carry out its functions hereunder and supervise such employees who may be assigned to assist in the operation of the system.
(Ord. No. 10657, § 5, 4-28-09, eff. 7-1-09)

Sec. 22-49. Indemnification.

To the extent permitted by law, the board, the individual members of the board and the system administrator shall be indemnified and held harmless against any and all liabilities (including defense costs and expenses) arising by reason of an act or failure to act in their fiduciary and administrative capacities to the system, and for liability and costs resulting from the acts and omissions of their duly appointed agents, except

(b) If the property does not front on a through or major street, only the following provisions shall prevail:

Minimum distance of curb cut from street light standards or catch basins .. . . . . 5 feet

Minimum distance from a fire hydrant or city water hydrant .. . . . . 20 feet

Minimum distance from end of a curb return . . . . . 4 feet

OR

from the curbline on a cross street at a street intersection . . . . . 23 feet

whichever is the more restrictive.
(Ord. No. 2657, § 1, 10-19-64)

Sec. 25-41. Variances from curb cuts and driveway requirements.

The director of public works may grant written variances from the minimum and maximum requirements set forth for the location of curb cuts and driveways in section 25-38 through 25-40 upon written approval by the traffic engineer, provided:

(1) The area has peculiar, visible conditions not ordinarily existing in similar areas; or

(2) The nature of the business on the property is exceptional; or

(3) The nature of the abutting property is exceptional; and

(4) The variance is not against the public interest, safety, convenience or general welfare.

(Ord. No. 2657, § 1, 10-19-64)

Sec. 25-42. Driveways may be denied.

(a) No property owner shall be denied a reasonable driveway access to his property. However, where there is not an adequate extension of a driveway within the private property to park a vehicle entirely off the right-of-way, a curb cut shall be denied.

(b) Where there is not adequate parking area for the use to which the property is put, to park off the right-of-way, or where there is not adequate area to maneuver safely in and out, and to preclude backing into the street, a curb cut shall be denied. A minimum of forty (40) feet of depth for right-angle parking shall be required from all street property lines for this purpose.
(Ord. No. 2657, § 1, 10-19-64)

Sec. 25-43. Curb cut replacements.

Where private property use has been modified so that an existing curb cut is no longer needed, or where Code provisions do not permit curb cuts at existing locations, the traffic engineer, for the promotion of traffic safety and public convenience, may require the abutting property owner to replace the curb at his expense as follows:

(1) The traffic engineer shall order the abutting property owner to replace the curb stating the reason.

(2) The owner shall either protest, and show cause in writing why the curb should not be replaced within thirty (30) days, or commence the work within sixty (60) days.

(3) The protest shall be reviewed by the director of public works and city manager, who may uphold the traffic engineer or revoke or modify his order.

(4) If the abutting owner fails to comply with the order the city may do the work and bill the owner for the cost.

(Ord. No. 2657, § 1, 10-19-64)

Sec. 25-44. Permit and fee curb cut replacements.

A permit but no fee shall be required for curb cut replacements.
(Ord. No. 2657, § 1, 10-19-64)

ARTICLE II. DUTIES AND PROHIBITIONS*

Sec. 25-45. Destroying grade or line stakes; trespassing on closed streets.

No person shall displace or destroy any grade line stakes set up by or under the order and direction of the city engineer, and no person shall trespass on any street closed for construction purposes.
(1953 Code, ch. 24, § 23; Ord. No. 6195, § 1, 3-11-85)

Sec. 25-45.1. Violation declared civil infraction.

It shall be a civil infraction for any person to violate any of the provisions of this chapter.
(Ord. No. 6195, §, 3-11-85)

Sec. 25-46. Obstructing streets prohibited.

No person shall place, cause to be placed, maintain or cause to be maintained any fence, building, post or other obstruction in any street or alley of the city.
(1953 Code, ch. 24, § 9; Ord. No. 6195, § 3, 3-11-85)
Cross Reference–Obstructing intersections or crosswalks, § 20-156.

Sec. 25-47. Duty to remove street obstruction after notice.

All persons having, keeping or maintaining any building or part of building, or any fence or part of fence or post or other obstruction in any street or alley of the city shall remove such obstruction within five (5) days after receipt of notice from the city engineer. Each day that any fence or part of fence, building or part of building, or post or other obstruction is kept or maintained in any street or alley of the city after the expiration of such five-day period shall constitute a separate violation.
(1953 Code, ch. 24, § 10; Ord. No. 6195, § 3, 3-11-85)

Sec. 25-48. Injuring, tearing up pavement or sidewalks.

No person shall injure or tear up any pavement or sidewalk without a permit from the city engineer.
(1953 code, ch. 24, § 13; Ord. No. 6195, § 3, 3-11-85)
Cross reference–Injuring lampposts, hydrants or bracket prohibited, § 11-31.

Sec. 25-49. Digging, removing earth from streets, public places.

No person shall, without first having obtained permission from the city engineer, dig, remove or carry away or cause or procure the same to be done, any sod, stone, earth, sand, or gravel from any street, alley, or public ground in the city.
(1953 Code, ch. 24, § 14; Ord. No. 6195, § 3, 3-11-85)
Cross reference– Injuring public property, § 11-49.

Sec. 25-50. Selling, displaying merchandise on streets near schools.

No person shall sell, solicit or receive an order for, keep or expose for sale, deliver for value, peddle, keep with intent to sell, or traffic in, any goods, wares or merchandise whatsoever on any public street or alley of the city within three hundred (300) feet of a public or parochial school between the hours of 7:00 a.m. and 5:00 p.m. on Monday, Tuesday, Wednesday, Thursday or Fridays, except during legal holidays or school holidays when such holidays fall on those days.
(1953 Code, ch. 24, § 15; Ord. No. 6195, § 3, 3-11-85; Ord. No. 7329, § 2, 12-18-89)
Cross reference– Bond required for transient peddlers, solicitors, etc., § 19-27; fees for peddlers, § 19-28(110).

Sec. 25-51. Obstructing sidewalks prohibited; placing benches on sidewalks.

(a) No person shall obstruct any portion of any public sidewalk in the city, by placing, depositing or allowing to remain thereon any item or object such that the item or object interferes, in any manner with the full, free and unobstructed public use of any portion of the public sidewalks; however, after approval by the

* **Editor's note**–See footnote, article I. Ord. No. 2657, § 2, redesignated §§ 23, 9, 10, 13 – 15, 12, 23, 16 – 17, 6 – 7, 12a – 12d and 25 of the 1953 Code as article II, §§ 45 – 61 respectively. These sections have been assigned numbers 25-45 – 25-61 of this Code by the editor. Prior to codification of this ordinance, these sections appeared in article I of this chapter of this Code in the same sequence they presently appear in article II. The comparable sections of this Code which were repealed by § 1 of Ord. No. 2657 are §§ 25-13, and 25-18 – 25-29 (see Code Comparative Table, page 3719 and footnote, article I).

mayor and council suitable benches for the convenience of city residents and visitors may be located upon the public sidewalks with the written approval of the city manager or manager's designee. Such approval shall be duly filed with the city clerk, shall be cancellable for good cause shown, and may be subject to such requirements and conditions as to type of bench, location upon the sidewalk and otherwise, as the city manager or designee may deem necessary or desirable in the interest of the public safety and convenience; further, where it is necessary to place garbage and trash containers upon a public sidewalk to allow the removal of such garbage and trash, such containers may be placed upon a public sidewalk for the reasonable period of time necessary for such removal.

(b) Under this section, any item or object that is placed on a sidewalk shall be deemed an obstruction and in violation of subsection (a) above, if the item or object is on the sidewalk between 7 a.m. and 10 p.m. During the hours between 10 p.m. and 7 a.m., an item or object will not be deemed an obstruction if all of the following conditions are satisfied:

(1) The item(s) or object(s) are, in aggregate, four (4) cubic feet or smaller; and

(2) The item or object is personally attended by its owner; and

(3) The item or object is not affixed in any manner; and

(4) The item or object is placed at least five feet (5') back from the edge of the sidewalk that is adjacent to the street; and

(5) Where the sidewalk is wider than eight feet (8'), the item or object is placed only within the three feet (3') of width of the portion of the sidewalk that is furthest back from the adjacent street. By way of example, if the sidewalk is twelve feet (12') wide, the item or object can only be placed such that the nine feet (9') of sidewalk that is closest to the adjacent street is left entirely free and unobstructed; and

(6) The sidewalk is not part of an underpass (for example, the Fourth Avenue Underpass) or overpass, as provided in subsection (c) below.

(c) If a sidewalk is designed for the use of pedestrians or bicyclists to travel through an underpass or across an overpass, no person shall obstruct any portion of such sidewalk by placing or leaving any item or object upon such sidewalk at any time, unless the person has first obtained a permit from the Director of Transportation. This prohibition also applies to any portion of a sidewalk within twenty-five feet (25') of an underpass or overpass. The exception provided under subsection (b) above does not apply to the prohibitions in this subsection (c).
(1953 Code, ch. 24, § 12; Ord. No. 6195, § 3, 3-11-85; Ord. No. 11331, § 5, 12-8-15)

Sec. 25-52. Obstructing water flow in streets, gutters, conduits.

No person shall obstruct the flow of water by the deposit of building materials, or in any other manner, in the streets, alleys or gutters, or water conduits of the streets, alleys or other public ways of the city.
(1953 Code, ch. 24, § 24; Ord. No. 6195, § 3, 3-11-85)

Cross reference– Obstructing or depositing offensive matter in water ditches or natural drainage channels, § 11-58 et seq.

Sec. 25-52.1. Planting within pedestrian area right-of-way.

Sec. 25-52.1(1). "Pedestrian area of right-of-way" defined. For purposes of this section, the "pedestrian area of the right-of-way" means that portion of the public right-of-way from the private property line to the curb, or, where there is no curb, to the improved or traveled part of the roadway.

Sec. 25-52.1(2). Permits required. No person shall plant any tree, shrub, or other vegetation in the pedestrian area of the right-of-way without first obtaining a written permit from the city. A permit may be issued upon the terms and conditions hereinafter prescribed.

Sec. 25-52.1(3). Application for permit. The applicant will complete and sign a written applica-

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