

TUCSON, ARIZONA
 Supp. No. 94 – 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, 2011. 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. 94” If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

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TUCSON, ARIZONA
Supp. No. 94 – Instruction Sheet

TUCSON CODE

CONTAINING
THE CHARTER AND GENERAL ORDINANCES
CITY OF TUCSON, ARIZONA

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Checklist of Up-to-Date Pages

(This checklist will be updated with the printing of each Supplement)

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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Sec. 2-126. Dismissal.

The chief of police shall have the authority to dismiss reserve police officers when he finds such dismissal to be in the best interests of the city, or when such officer fails to maintain active reserve police officer status.
(Ord. No. 4454, § 1, 3-1-76)

Sec. 2-127. Relation to other police officers.

The provisions of this article shall not be construed as altering, limiting or expanding the powers, duties and authority of either regular police officers or special police officers of the city.
(Ord. No. 4454, § 1, 3-1-76)

Secs. 2-128, 2-129. Reserved.

ARTICLE VIII. SPECIAL DUTY POLICE SERVICES PROGRAM

Sec. 2-130. Definitions.

In this chapter unless the context otherwise requires:

Chief or police chief means the chief of police of the Tucson Police Department, or the police chief's authorized designee(s).

Officer means a police officer, police detective, police sergeant, or police lieutenant employed by the City of Tucson, and a volunteer reserve police officer appointed pursuant to Tucson Code section 2-120.

Special duty police services means law enforcement or related activities voluntarily performed at the option of Tucson police department officers to employers other than the City of Tucson. Such services may be provided only outside of an officer's regular duty hours.
(Ord. No. 9118, § 1, 11-16-98)

Sec. 2-131. Special duty police services; authorizing police chief to execute agreements with employers that set forth the wages and conditions for special duty police services; authorizing use of city resources for billing, accounting, and payment; authorizing police chief to charge an administrative fee; and permitting use of city vehicles.

(a) Notwithstanding any other provision of this Code, the police chief is authorized to prepare, enter into, implement and administer special duty police services agreements with such non-city employers as may be deemed appropriate when employing special duty police services.

(b) The police chief is authorized to use city resources to accomplish billing, accounting, collection, and payment to officers participating in the special duty police services program.

(c) The police chief is authorized to establish a minimum rate of pay for police officers providing special duty police services, and to recover all or part of the administrative costs associated with administering the special duty police services program.

(d) The police chief is authorized to permit the use of city vehicles and other specialized equipment for special duty police services provided that such use does not conflict with the needs of regular duty police services and provided that the use meets the criteria established by police department for use of city vehicles.
(Ord. No. 9118, § 1, 11-16-98)

Secs. 2-132 – 2-139. Reserved.

ARTICLE IX. DISPOSITION OF PROPERTY, MONEY, AND FIREARMS BY THE POLICE DEPARTMENT

Sec. 2-140. Disposition of property obtained by the police department.

(a) Property received and taken into the custody of the police department's property and evidence unit, excluding property held as evidence or contraband,

shall be retained for a minimum of thirty (30) calendar days from the date of receipt in an attempt to identify the owner of such property and notify the owner that such property is in the custody of the police department. The notice shall advise the owner that the property must be claimed by a specified date, which shall be no sooner than thirty (30) calendar days after the date of mailing. The notification to the owner shall be by regular mail to the last known address, as listed by either the Motor Vehicle Division of the Arizona Department of Transportation or police department records.

(b) Property with an estimated market value of over one hundred fifty dollars (\$150.00) that is uniquely identifiable by means of serial numbers or markings, for which the name and the address of the owner are not known, shall have a notice of disposition posted in a publication of general circulation by the police department. Claimants shall have thirty (30) calendar days to respond to this notice with proof of ownership.

(c) In the event a response is not received from the owner, or if the owner disclaims interest in or ownership of the property, or if the property has an estimated market value of under one hundred fifty dollars (\$150.00) and the owner is unknown, the property shall be offered to the finder who delivered the property to the police department. The finder shall be notified by regular mail at the address provided by the finder. It shall be the responsibility of the owner or finder of the property to notify the police department of any address changes associated with the return of property.

(d) If there is no finder and no one has come forward with a claim after thirty (30) calendar days, or if the finder fails to respond to the notification within thirty (30) calendar days from the date the notification is mailed, the property shall be considered forfeited and shall be disposed of as provided by Subsection (f).

(e) The police department shall maintain appropriate property invoice records concerning all property received. The police department shall list all items of property indicating descriptive nomenclature, make or manufacturer, and serial number. In the absence of identifying criteria, an adequate description of the property shall suffice.

(f) Property with an estimated value of twenty-five dollars (\$25.00) or less shall be donated to a local charitable organization or disposed of. Property with a value of more than twenty-five dollars (\$25.00) shall be delivered to the director of procurement for disposition in accordance with Tucson Code sections 28-70 and 28-71. The chief of police shall issue regulations implementing the disposition of property required by this article. Such regulation shall include the method of value appraisal, choice of charitable organizations, maintenance of property invoice records, and any other regulation that insures the integrity of property in the custody of the police department. Property delivered to the director of procurement shall be accompanied by a list of the items transferred, to include the corresponding invoice record number as indicated in subsection (e).

(Ord. No. 10146, § 1, 4-19-05; Ord. No. 10934, § 1, 10-12-11)

Sec. 2-141. Disposition of unclaimed money by the police department.

(a) Following the completion of notification as specified in section 2-140, any money or currency remaining in the custody of the police department, except rare coins or currency of numismatic value covered in subsection (b) or otherwise needed for evidentiary purposes, shall be deposited with the city finance director. The deposit of such monies or currency with the city finance director shall pass the title of the monies or currency to the city.

(b) Disposition of rare coins or currency of numismatic value shall be in accordance with section 2-140.

(Ord. No. 10146, § 1, 4-19-05)

Sec. 2-142. Disposition of unclaimed and forfeited firearms by the police department.

(a) Unless needed as evidence, and except as provided in subsection (b) of this section, after either forfeiture in accordance with section 2-140, forfeiture to the police department pursuant to a court order, or a determination that a firearm is contraband, the police department shall dispose of such firearm by destroying the firearm.

(b) The police department may also dispose of any firearm after forfeiture by any of the following means:

- (1) Use any firearm for the police department's own purposes.
- (2) Lend or transfer any firearm to any local, state, or federal law enforcement agency, with expenses for keeping and transferring the firearm to be paid by the recipient.
- (3) Lend or transfer any firearm to a museum as part of its collection or to an educational institution for educational purposes.

(c) For purposes of this section, "firearm" means any pistol, revolver, rifle, shotgun, or other weapon which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, including weapons in a permanently inoperable condition.

(Ord. No. 10146, § 1, 4-19-05)

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committee shall review proposed amendments to the sign permit fees and make recommendations to the mayor and council. The mayor and council shall make the final decision to approve, deny or modify the sign permit fees.

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

Secs. 3-25 – 3-30. Reserved.

ARTICLE IV. GENERAL REQUIREMENTS

Sec. 3-31. Regulations established.

The sign regulations of this sign code shall be subject to the additional requirements, conditions and exceptions specified in this article.

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

Sec. 3-32. Sign area.

The area of a sign shall be determined as follows (see Figure 1: Area of a Sign):

A. *Single face sign:*

1. The entire area within a single continuous perimeter composed of squares or rectangles that enclose the extreme limits of the advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space of a similar nature, together with any frame or other material, color, or condition that forms an integral part of the display and is used to differentiate such sign from the wall against which it is placed, excluding the necessary supports or uprights on which such sign is placed.
2. Where a sign consists only of individual letters, numerals, symbols or other similar components and is painted on or attached flat against the wall of a building, and where such individual components are without integrated background definition and are not within a circumscribed frame area, the total area of the sign shall be the area of the square or rectangle that circumscribes the entire message.

B. *Two (2) or more faced sign:* Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that only one face of a double-faced sign shall be considered in determining the sign area when both faces are parallel and the farthest distance between faces does not exceed five (5) feet, or when the interior angle of the sign faces does not exceed 45° if the boards are in a “V” configuration.

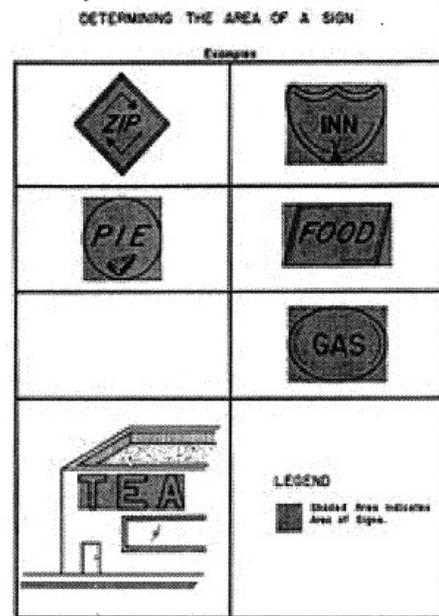


Figure 1: Area of a Sign

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

Sec. 3-33. Grade.

A. *General:* The grade of a sign is the elevation of the outside edge of the street or roadway travel lane nearest to the sign measured perpendicular to the travel lane, except as provided in paragraphs B. through D., below.

B. The grade of a sign more than forty (40) feet from the outside edge of the street or roadway travel lane is the lowest point of elevation of a finished surface within a twenty (20) foot radius of the base of the sign.

C. *Freeway grade:* For freeway signs and billboards, the freeway grade is the elevation of the outside edge of the freeway travel lane nearest to the freeway sign or billboard.

D. A Sign Code Administrator's determination, taking into consideration the surrounding conditions, location of vehicular access points, and topography, is required for any sign located on a finished surface which is five (5) or more feet below the elevation of the outside edge of the street or roadway travel lane nearest to the sign measured perpendicular to the travel lane. (Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10864, § 1, 12-14-10; Ord. No. 10951, §§ 1 and 2, 12-20-11, eff. 1-20-12*)

***Editor's note** – Section 3 of Ord. No. 10864, as amended by Section 2 of Ord. No. 10951, provides: "The provisions of this Ordinance amending Sections 3-33 and 3-82 of the Sign Code shall cease to be effective on January 31, 2013, 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 this amending Ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement Sections 3-33 and 3-82, as amended or to revert to those provisions existing prior to this Ordinance."

Sec. 3-34. Premises.

A premises is all contiguous land used and occupied by a use or business. All buildings, parking, storage and service areas, and private roads or driveways that are an integral part of the use or business are considered part of the premises. Commercial shopping centers, office complexes, commercial or industrial subdivisions, or similar developments are a premises to the extent such lands are identified as a single site for zoning under an approved development plan.

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

Sec. 3-35. Maximum sign area.

Maximum sign area is determined in accordance with Article V, except that the maximum on-site total sign area for commercial, office or industrial uses located within two hundred fifty (250) feet of a freeway shall be four (4) square feet per foot of those portions of street frontage located within two hundred fifty (250) feet of the freeway.

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

Sec. 3-36. Setback.

The sign and structure must be installed on private property and set back at least twenty (20) feet from the face of the curb, unless otherwise specified in this sign code.

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

Sec. 3-37. Signs near residences.

No off-site sign shall be permitted if such sign faces the front or side yard of any lot within any residential district and is located within one hundred fifty (150) feet of such lot line.

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

Sec. 3-38. Multiple frontage lots.

On corner lots and other lots 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 allowances, however, are not transferable either in whole or in part from one street frontage to another.

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

Sec. 3-39. Intersection corner sign.

A. When a sign is erected at the street intersection corner of the lot and is placed in such a manner so as to be readable from both streets or both frontages, the sign shall not exceed the maximum area allowed for the longest street frontage.

B. The sign shall count as one sign for each street frontage.

C. The area of the sign shall be deducted from the allowable sign area for each street frontage.

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

Sec. 3-40. Signs per street frontage.

A. *General rule:* For premises having more than one street frontage, the maximum allowable number and square footage of on-site signs are permitted for each street frontage and are not transferable either in whole or in part from one street frontage to another.

B. *Freestanding sign exception:* The more stringent restrictions of the sign district shall apply to freestanding signs.

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

Sec. 3-41. Access regulated.

No sign or its supporting members shall be erected, altered or relocated so as to interfere with or restrict access to a window or other opening in a building in such a manner as to unduly limit air circulation or obstruct or interfere with the free use of

a fire escape, exit, standpipe, stairway, door, ventilator, window or similar opening, provided however that the sign code administrator may approve another form of sign or its attachment when, in his or her judgment, that sign will not restrict access to the openings.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-42. Integrated architectural features.

To encourage and promote a harmonious relationship between buildings and signs, the sign code advisory and appeals board is authorized to approve a special permit in accordance with Article XI of this sign code for signs that are designed into and constructed as part of an integrated architectural feature of a building where strict application of the provisions of this sign code would otherwise prohibit such signs.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08)

Sec. 3-43. Signs over public rights-of-way.

A. Except as provided in paragraph B below, a sign or sign structure shall not project over a public right-of-way or public property unless the mayor and council grant a special license. Signs licensed pursuant to this section may be displayed for up to sixty (60) days. The licensee shall remove the sign within forty-eight (48) hours after the advertised event.

B. The city manager may grant a special license for building and curbside banners and for across-the-street banners that project or extend over a public right-of-way or over public property, subject to the following:

1. The sign shall relate only to city-wide civic events sponsored by non-profit organizations or by individuals conducting the event on a non-profit basis (with fundraising proceeds used for a community benefit). For purposes of this section, a city-wide civic event is one that:
 - a. Is open to the public and does not discriminate against patrons in any manner; and
 - b. Celebrates or commemorates the historical, cultural and ethnic heritage of the city and the nation; increases the community's knowledge and understanding of critical issues, with the purpose of improving citizens' quality of life; or enhances the educational opportunities of the community; or
 - c. Generates broad community appeal and participation; or
 - d. Instills civic pride in the city, state or nation; or
 - e. Contributes to tourism; or
 - f. Is identified as a unique community event.
2. No sign shall be attached to electric wiring or be energized by electricity.
 3. No sign shall be placed upon traffic signal posts or signs, and no sign shall obstruct a motorist's view of traffic signals.
 4. Any application for a license for a sign attached to utility poles or lamp poles shall include the written approval of the department of transportation of the city and the authorized official of the public utility company owning the poles to which the devices would be attached as to the size and weight of the sign and the manner of attachment to the poles. Building and curbside banners shall comply with the applicable requirements of Article V. No sign shall be attached to any utility pole carrying primary circuits or to any wooden pole or public property.
 5. Signs licensed pursuant to this section may be displayed for up to sixty (60) days. The licensee shall remove the sign within forty-eight (48) hours after the advertised event.
 6. In no event may signs relating to more than one event be attached to any single pole.
 7. The license shall state the location where the sign may be placed.
 8. By accepting any license granted under this section, the licensee and its heirs, successors and assigns shall agree to indemnify the city as provided in section 3-116 and shall provide proof of liability insurance as provided in section 3-117.

- 9. The city manager may impose such additional administrative requirements as may be necessary to give effect to this sign code.

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

Sec. 3-44. Illumination.

Unless otherwise prohibited in this sign code, all signs may be illuminated subject to the provisions of Tucson Code, Chapter 6, Article IV, Division 2, “Outdoor Lighting Code.”

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

Secs. 3-45 – 3-50. Reserved.

ARTICLE V. SIGN TYPES AND GENERAL REGULATIONS

This Article V describes the basic sign types that are either permitted or prohibited in the specific sign districts established in Article VI. A sign type that is listed in this Article V that is not expressly permitted in a sign district by Article VI, is prohibited in that district. Any specific regulation of a sign type that is listed in Article VI for a specific sign district supersedes the general requirement for the sign type listed in this article for that sign district.

Sec. 3-51. Generally permitted signs.

A. The signs contained in this section are permitted throughout the city, regardless of sign district, unless otherwise designated.

B. *Reserved.*

C. *Emergency site locator.*

- 1. No permit is required.
- 2. Not included in the calculation of total allowable sign area.
- 3. Emergency site locators shall:
 - a. Identify each building in accordance with the requirements of the building code as adopted by this jurisdiction.

- b. Be located at each vehicle entrance into a complex.
- c. Be either mounted on building walls (or other structures) or placed as freestanding structures.
- d. Be readily visible and readable by emergency vehicle operators entering the complex.
- e. Be easily readable at night, either by individual illumination, color or area illumination.
- f. Be oriented in the same direction as the complex it describes (*i.e.*, if north is to the right, north will be on the right of the sign).
- g. Include a round, red disc “you are here” symbol.
- h. Designate all the entryways, driveways, fire department access points, buildings and other pertinent structures in the complex.
- i. Identify, if existing on site:
 - (1) Buildings and other structures by address, numerical, alphabetical or other symbol designation.
 - (2) Fire hydrants.
 - (3) Electrical main disconnects.
 - (4) Gas shutoff valves.
 - (5) Elevators.
 - (6) Special hazards, such as chemical generators, fuel storage tanks, etc.
 - (7) Stairs.
 - (8) Swimming pools.
 - (9) Bodies of water with bridges noted.

- g. Within SCZ buffer electronic message signs and exposed neon signs are prohibited.
4. Menu boards.
5. Medical services directional sign.
- a. Maximum area: Eight (8) square feet.
- b. Maximum height: Four (4) feet to top of sign.
- c. Permitted: Only if no frontage on collector or arterial street.
6. Real estate signs, only types listed.
- a. Real estate for sale or lease signs.
- (1) Maximum area:
- (a) Residential properties: Four (4) square feet.
- (b) Vacant land: Sixteen (16) square feet.
- (c) Commercial and industrial development: Eight (8) square feet. Must be placed on the building for sale or lease and not on any buffer wall, landscape element, etc.
- b. Real estate project identity entrance sign.
- c. Real estate subdivision sign.
- (1) Maximum faces: Two (2).
- (2) Maximum area: Sixteen (16) square feet.
- (3) Maximum height: Ten (10) feet from grade to top of sign.
7. Temporary signs.
8. Traffic directional signs:
- a. Within the scenic corridor thirty (30) foot landscape buffer the following shall apply:
- (1) Minimum site area: Ten (10) acres.
- (2) Maximum area: Three (3) square feet; tenant identification or logo not to exceed one (1) square foot.
- (3) Maximum number: One (1) per vehicular entrance.
- (4) Location: Within twenty (20) feet of the entrance.
9. Wall signs.
(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10864, § 2, 12-14-10; Ord. No. 10951, § 2, 12-20-11, eff. 1-20-12*)
- *Editor's note** – Section 3 of Ord. No. 10864, as amended by Section 2 of Ord. No. 10951, provides: “The provisions of this Ordinance amending Sections 3-33 and 3-82 of the Sign Code shall cease to be effective on January 31, 2013, 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 this amending Ordinance. The purpose of this sunset clause is to give the City the opportunity to decide whether to continue to implement Sections 3-33 and 3-82, as amended or to revert to those provisions existing prior to this Ordinance.”

Secs. 3-83 – 3-90. Reserved.

ARTICLE VII. SIGN MAINTENANCE

Sec. 3-91. Maintenance.

A. Each sign shall be maintained in a safe, presentable and good condition, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of said sign, without altering the basic copy, design or structure of the sign. Any painted sign that is painted out and repainted exactly as it previously existed is considered maintenance of a sign. The sign code administrator shall require compliance or removal of any sign determined by said official to be in violation of this section.

B. In addition to satisfying the requirements of subsection A, any sign that is constructed of paper,

cloth, canvas, light fabric, cardboard, wallboard, plastic or other light material, and that is not rigidly and permanently installed in the ground or permanently attached to a building, must be removed or replaced within one hundred (100) days after it is installed or erected.

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

Sec. 3-92. Dangerous or defective signs.

No person shall maintain or permit to be maintained on any premises owned or controlled by him or her any sign that is in a dangerous or defective condition. Any such sign shall be promptly removed or repaired by the owner of the sign or the owner of the premises.

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

Sec. 3-93. Removal of dangerous or defective signs.

The sign code administrator shall remove or cause to be removed any dangerous or defective sign pursuant to the provisions for the unsafe structures and equipment in the International Building Code.

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

Secs. 3-94, 3-95. Reserved.

ARTICLE VIII. NONCONFORMING SIGNS AND CHANGE OF USE

Sec. 3-96. Signs for legal nonconforming uses.

A. Subject to the provisions of this section, signs for a legal nonconforming use, as defined in the Land Use Code, are allowed. Such signs shall be allowed only so long as the nonconforming use is allowed. A final determination by the zoning administrator that a nonconforming use has been discontinued or abandoned shall also be the final determination of the nonconforming status of the related sign.

B. Any such sign legally existing on the effective date of this sign code but that does not comply with the regulations of this sign code adopted after the sign was legally permitted shall be deemed to be a nonconforming sign and shall be subject to the provisions of this article.

C. Except for reasonable repairs and alterations, no nonconforming sign shall be moved, altered, removed and reinstalled or replaced, unless it is brought into compliance with the requirements of this sign code, except under the following conditions:

1. If the freestanding or detached sign is a legally permitted on-site freestanding or detached sign, and there is no roof or projecting sign other than designated historic landmark signs (HLS) existing on that business establishment, the sign may be moved, repaired, altered, removed and reinstalled or replaced, subject to the following conditions:
 - a. A sign permit must be obtained prior to commencing any such alteration, replacement or relocation. The following information must be attached to the sign permit application:
 - (1) Photographs of all existing signs on the property.
 - (2) Scaled drawings showing copy, height, sizes and location of all existing signs on the property.
 - (3) Scaled drawings showing the new configuration of the sign and setback.
 - b. All signs that are twenty (20) feet in height or less must be decreased a minimum of ten (10) percent in height and sign area. All signs above twenty (20) feet in height must be decreased in height at least twenty (20) percent and in sign area at least twenty (20) percent.
 - c. If the sign shares a common structure with other tenants, the area of all tenant signs must be reduced to a smaller total aggregate area and the height of the common structure must be reduced.
 - d. 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

Chapter 6

BUILDINGS, ELECTRICITY, PLUMBING, AND MECHANICAL CODE*

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Article I. In General

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Article II. Tucson-Pima County Joint Consolidated Code Committee

Sec. 6-10.	Created; qualifications; appointment, term of members.
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Secs. 6-19 – 6-30.	Reserved.

***Charter reference** – General authority over buildings, plumbing and electricity, ch. VII, § 1(12).

Cross references – Building safety division created under administration of chief inspector, § 2-5; advertising and outdoor signs generally, ch. 3; fire protection and prevention, ch. 13; privilege tax on construction contracting, §§ 19-415 – 19-418; planning and zoning, ch. 23; sewerage and sewage disposal, ch. 24.

TUCSON CODE

Article III. Buildings

Division 1. Building Code

- Sec. 6-31. Office of building inspection supervisor established.
- Sec. 6-32. Qualifications; assistants.
- Sec. 6-33. General duties.
- Sec. 6-34. Building code adopted.
- Sec. 6-35. Clerk to keep copies of building code.
- Sec. 6-36. Amendments to building code.
- Sec. 6-37. Applicability of administrative and building codes.
- Sec. 6-38. Residential code adopted.
- Sec. 6-39. Reserved.
- Sec. 6-40. Energy conservation code adopted.
- Secs. 6-41 – 6-65. Reserved.

Division 2. Existing Building Code

- Sec. 6-66. Existing building code adopted.
- Secs. 6-67 – 6-70. Reserved.

Division 3. Reserved

- Secs. 6-71 – 6-80. Reserved.

Article IV. Electricity

Division 1. Electrical Code

- Sec. 6-81. Electrical inspection supervisor – Office created.
- Sec. 6-82. Same – Qualifications; assistants.
- Sec. 6-83. Same – General duties.
- Sec. 6-84. Electrical code adopted.
- Sec. 6-85. Clerk to keep copies of electrical code.
- Sec. 6-86. Amendments to the electrical code.
- Sec. 6-87. Reserved.
- Secs. 6-88 – 6-100. Reserved.

Division 2. Outdoor Lighting Code

- Sec. 6-101. Outdoor lighting code adopted.
- Sec. 6-102. Clerk to keep copies of outdoor lighting code.
- Sec. 6-103. Amendments to outdoor lighting code.
- Sec. 6-104. Penalty.
- Secs. 6-105 – 6-120. Reserved.

Article V. Plumbing Code

- Sec. 6-121. Office of plumbing inspector established.
- Sec. 6-122. Qualifications of inspectors.
- Sec. 6-123. General duties of inspectors.
- Sec. 6-124. Plumbing code adopted.
- Sec. 6-125. Clerk to keep copies of plumbing code.
- Sec. 6-126. Amendments of plumbing code.
- Secs. 6-127 – 6-159. Reserved.

BUILDINGS, ELECTRICITY, PLUMBING, AND MECHANICAL CODE

Article VI. Mechanical Code

- Sec. 6-160. Reserved.
- Sec. 6-161. Office of mechanical inspection supervisor established.
- Sec. 6-162. Qualifications; assistants.
- Sec. 6-163. General duties.
- Sec. 6-164. Mechanical code adopted.
- Sec. 6-165. Clerk to keep copies of mechanical code.
- Sec. 6-166. Amendments of the mechanical code.
- Sec. 6-167. Fuel gas code.
- Secs. 6-168 – 6-170. Reserved.

Article VII. Solar System Code

- Sec. 6-171. Solar system code adopted.
- Sec. 6-172. Clerk to keep copies of the solar system code.
- Sec. 6-173. Amendments to the solar system code.
- Sec. 6-174. Reserved.
- Secs. 6-175 – 6-180. Reserved.

Article VIII. Rainwater Collection and Distribution Requirements

- Sec. 6-181. Definitions.
- Sec. 6-182. Rainwater harvesting plan.
- Sec. 6-183. Construction of rainwater harvesting system; minimum landscape budget requirements; request for rainwater harvesting plan revision.
- Sec. 6-184. Restrictions on installation of rainwater harvesting system invalid.
- Sec. 6-185. Exceptions.
- Sec. 6-186. Annual report.
- Sec. 6-187. Violation.
- Sec. 6-188. Applicability.
- Secs. 6-189 – 6-190. Reserved.

Article IX. Reserved

- Secs. 6-191 – 6-193. Reserved.

TUCSON CODE

ARTICLE I. IN GENERAL**Sec. 6-1. Reserved.**

Editor's note – Ord. No. 10417, § 1, adopted June 12, 2007, repealed § 6-1, which pertained to Administrative Code adopted and derived from Ord. No. 5334, § 2, adopted May 11, 1981; Ord. No. 5770, § 1, adopted May 23, 1983; Ord. No. 6566, § 1, adopted Nov. 10, 1986; Ord. No. 7180, § 1, adopted April 24, 1989; Ord. No. 7791, § 1, adopted April 13, 1992; Ord. No. 8606, § 1, adopted Nov. 20, 1995; Ord. No. 9813, § 1, adopted Feb. 10, 2003.

Sec. 6-2. Clerk to keep copies of Administrative Code.

Three (3) copies of the Building Safety Administrative Code of the City of Tucson adopted in section 6-1 shall be filed in the office of the city clerk and are made public records and shall be available for public use and inspection during regular office hours. (Ord. No. 5334, § 2, 5-11-81)

Sec. 6-3. Amendments of Administrative Code.

The Building Safety Administrative Code adopted in section 6-1 may be amended from time to time by the mayor and council. Three (3) copies of current ordinances amending the Building Safety Administrative Code shall be kept on file by the city clerk as public records and shall be kept available for public use and inspection during regular office hours. (Ord. No. 5334, § 2, 5-11-81)

Sec. 6-4. Reserved.

Editor's note – Former § 6-4, pertaining to self regulating building and electrical permits, was repealed by Ord. No 5770, § 2, adopted May 23, 1983. The former section was derived from Ord No. 4914, § 1, adopted Dec. 18, 1975.

Sec. 6-5. Violation.

It shall be a civil infraction for any person to violate any of the provisions of chapter 6 of the Tucson Code. (Ord. No. 5334, § 3, 5-11-81; Ord. No. 5718, § 2, 2-28-83)

Cross reference – General penalty, § 1-8.

Sec. 6-6. Records of applications, permits, inspections required.

A complete record of all applications for permits, of all permits issued and of all inspections made under

each permit shall be kept in the building safety division of the city in accordance with applicable law. (Ord. No. 5531, § 3, 3-22-82)

Secs. 6-7 – 6-9. Reserved.**ARTICLE II. TUCSON-PIMA COUNTY JOINT CONSOLIDATED CODE COMMITTEE****Sec. 6-10. Created; qualifications; appointment, term of members.**

(a) *Created.* There is created, in joint action with Pima County, a committee to be called the “Tucson-Pima County Consolidated Code Committee”. The committee shall consist of seven (7) members.

(b) *Membership.* The membership of the committee shall not be employees of the city or the county, except that the city and the county may each appoint one (1) staff person to serve as an ex officio, nonvoting member. The committee shall consist of seven (7) members, each of whom shall possess one (1) or more of the following qualifications:

- (1) An architect registered in the State of Arizona;
- (2) A professional structural engineer registered in the State of Arizona;
- (3) A design professional registered in the State of Arizona with mechanical and plumbing engineering experience or a mechanical contractor with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;
- (4) A design professional registered in the State of Arizona with electrical engineering experience or an electrical contractor with at least ten (10) years of experience, five (5) of which shall have been in responsible charge of work;
- (5) A general residential contractor;
- (6) A general commercial contractor;
- (7) A contractor engaged in the electrical, mechanical or plumbing trade.

The city manager shall recommend qualified individuals for appointment by the mayor and council. Members shall serve staggered terms. In January of 2012 there shall be appointed seven (7) committee members, three (3) of whom shall be appointed for a term of two (2) years, and four (4) of whom shall be appointed for a term of four (4) years. All subsequent appointments shall be appointed for a term of four (4) years or until a Committee member's successor is appointed. Pursuant to Tucson Code, section 10A-134(b), members are not limited to a maximum of eight (8) years of continuous service.*

(c) *Failure to attend meetings.* If a member of the committee fails to attend four (4) consecutive meetings for any reason, or fails to attend at least forty (40) percent of the meetings called in a calendar year, that member's appointment shall be terminated, and the member shall be automatically and immediately removed as a member of the committee. This provision does not apply to a nonvoting or ex-officio member of the committee appointed by the city or Pima County.

(d) *Filling of vacancies.* An appointment to fill a vacancy resulting other than from expiration of a term shall be for the unexpired term only.

(e) *Chairperson and vice-chairperson.* The committee shall elect from its membership a chairperson and a vice-chairperson, who shall serve for terms of two (2) years. The vice-chairperson shall act as chairperson in the absence or disability of the chairperson, or in the event of a vacancy in that office.

(f) *Compensation.* Members of the committee shall serve without compensation.

(g) *Requirements for quorum and for committee action.* A majority of the authorized membership of the committee shall constitute a quorum. The concurrence of the majority of the members present and constituting a quorum shall be the act of the committee.

(h) *Rules and regulations.* The committee shall be subject to the official rules, regulations, and bylaws for code committees functions and duties in the performance of its advisory duties and the rules of the board of appeals when performing its duty in hearing appeals except where provided to the contrary herein, and may adopt other rules and regulations consistent with this article, as it deems necessary or advisable

regarding additional advisory duties and responsibilities. One copy of all applicable rules will be filed with and available through the Tucson city clerk's office.

(i) *Limitation of powers.* Neither the committee nor any of its members shall incur expenses, or obligate the city and/or the county in any way, without prior authorization from both the mayor and council and the Pima County board of supervisors.

(Ord. No. 10950, § 2, 12-20-11, eff. 1-20-12)

***Editor's note** – Section 4 of Ord. No. 10950 provides: "Concurrent Service Permitted. T.C. § 10A-134(c) does not apply to the Committee. Members of the Committee may serve concurrently on other City committees, boards or commissions."

Sec. 6-11. Purpose and functions.

(a) *Advisory and monitoring functions.* The committee shall hear, review, and make recommendations to the elected officials of the city regarding, amendments being studied for adoption to the latest: Building Code, Residential Code, Existing Building Code, Electrical Code, Energy Conservation Code, Mechanical Code, Plumbing Code, and any swimming pool and/or spa code or any code that may be adopted by the City of Tucson in the future and made the purview of the committee by separate ordinance. The committee shall act as standing committee between the time of adoption of a new code and the time a newer edition of the code is under review. The standing committee shall monitor the performance of the code in effect and shall record and recommend changes in future codes. In the event that a conflict in the newest adopted code becomes evident, and can only be resolved by code amendment, the standing committee may convene in order to prepare such amendment for adoption by the governing bodies.

(b) *Board of appeals.* The committee shall also act as the board of appeals, in order to determine the suitability of alternate materials or alternate types or methods of construction and of installation of building service equipment under the provisions of the building, residential, existing building, electrical, energy conservation, fire, outdoor lighting, mechanical, plumbing, solar system and spa/pool codes of the city, or any code that may be adopted by the City of Tucson in the future and made the purview of the committee by separate ordinance and to provide for reasonable interpretations of the provisions of such codes. (Ord. No. 10950, § 2, 12-20-11, eff. 1-20-12)

Sec. 6-12. Purposes; created; qualifications; appointment, term of members.

In order to determine the suitability of alternate materials or alternate types or methods of construction and of installation of building service equipment under the provisions of the Building Safety Administrative Code, building, electrical, fire, light pollution, mechanical, plumbing, solar system and spa/pool codes of the city, and to provide for reasonable interpretations of the provisions of such codes and the address numbering and dangerous buildings codes, there shall be, and there is hereby created a board of appeals consisting of seven (7) members who shall be selected upon the following qualifications:

- (1) An architect duly licensed in the State of Arizona;
- (2) A professional engineer duly licensed in the State of Arizona;
- (3) A general contractor duly licensed in the State of Arizona;
- (4) A person representing the consuming public;
- (5) A person engaged in the electrical, mechanical or plumbing trade;
- (6) Two (2) persons who may be engaged in the construction and design industry.

The board of appeals members shall be appointed by the mayor and council, shall serve without compensation, and shall hold office and be subject to removal therefrom as provided in article XIII of chapter 10A of the Tucson Code. The board of appeals shall recommend an individual to serve as the representative of the consuming public.

(Code 1953, ch. 9, § 1; Ord. No. 2354, § 1, 10-15-62; Ord. No. 4543, § 1, 9-27-76; Ord. No. 4764, § 1, 2-21-78; Ord. No. 6159, § 1, 1-21-85; Ord. No. 7176, § 1, 4-24-89)

Cross reference—Provisions pertaining to boards, ch. XXIV.

Sec. 6-13. Authority to regulate hearings and investigations; regulations to be filed; distribution of decisions.

The board of appeals shall adopt reasonable rules and regulations for conducting its hearings and

investigations; provided, such rules and regulations shall not be effective unless three (3) copies of same are filed with the city clerk, and provided further, that same are not inconsistent with the codes and ordinances of the city. The board shall render all decisions and findings in writing to the secretary of the board, with a duplicate copy to the inspector concerned, and with a duplicate copy to the applicant or appellant.

(1953 Code, ch. 9, § 1; Ord. No. 2354, § 1, 10-15-62)

Cross reference— Filing of rules and regulations generally, 110A-136.

Sec. 6-14. Vote required for decisions; quorum.

Decisions of the board shall be made by a majority vote of the members present at any meeting; provided that a quorum shall consist of a majority of the board members appointed at the time of that meeting.

(1953 Code, ch. 9, § 3; Ord. No. 2354, § 1, 10-15-62; Ord. No. 4903, § 1, 11-13-78; Ord. No. 7791, § 2, 4-13-92)

Sec. 6-15. Provision for building innovations.**(A) Purposes.**

(1) The purpose of this section is to give flexibility to the building codes and to encourage innovation in the building industry.

(2) This section establishes a procedure for approving changes in building practices where such changes are found to promote the health, safety and welfare of the people of Tucson.

(B) Definition of "Concept". When used in this section, "concept" means any alternate material or alternate type of construction which is not presently allowed by the building, fire, electrical, plumbing and gas, or mechanical codes of the city.

(C) Who May Apply. Any person or organization may propose a concept for approval.

TUCSON CODE

ARTICLE I. IN GENERAL***Sec. 8-1. Jurisdiction, powers, duties.**

(a) There shall be a city court which shall be the municipal court for the city, to be known and designated as "The City Court of the City of Tucson, Pima County, State of Arizona". It shall have and exercise the jurisdiction conferred upon it by the Charter and the Code of the city. It shall exercise exclusive original jurisdiction of all proceedings of a criminal nature for the violation of the Charter or of any ordinance of the city, and of every action of any nature for the enforcement of a penalty, or the recovery of a penalty or forfeiture imposed by any ordinance of the city for the violation thereof or for neglect to perform any duty by any ordinance imposed or for a violation of a civil traffic ordinance and of every action for the collection of any license fee, fine or penalty due from any person to the city and required to be paid or which is due and collectible under the ordinances of the city.

(b) The city court shall further have jurisdiction over all actions alleging civil violations or civil infractions of this Code.

(c) The city court shall further have concurrent jurisdiction with justices of the peace over all violations of the laws of the state committed within the limits of the city. The court shall also have jurisdiction of violations of the Charter and ordinances of the city committed on land owned or leased by the city, whether contiguous or noncontiguous, lying without the corporate limits thereof, to the same extent and with like effect as if the violation occurred within the corporate limits of the city, provided that the land is

***Editor's note** – Ord. No. 7733, adopted Dec. 9, 1991, extensively revised this article by amending certain sections, by repealing certain sections, and by renumbering certain sections. The editor has retained the history note as it appeared prior to the renumbering and has included a note giving the former section number.

Section 10 gave an effective date of §§ 2 – 7 as the effective date of the intergovernmental agreement between the city and the county superior court attached to Res. No. 15893. Section 1 of Ord. No. 7756, adopted Jan. 13, 1992, changed the number of the resolution to Res. No. 15917.

signed as provided in subsection B of A.R.S. section 9-401.

(1953 Code, ch. 9A, § 1; Ord. No. 5930, § 1, 12-19-83; Ord. No. 7887, § 2, 8-3-92)

Cross reference – Authority of city to exercise jurisdiction over land owned or leased outside city. § 1-7.

Sec. 8-2. Appointment of magistrates; several powers, duties.

There shall be appointed a sufficient number of magistrates as determined by the mayor and council. Each magistrate shall exercise powers and duties as provided by the Charter and Code of the city and the constitution and laws of the state in such cases made and provided.

(1953 Code, ch. 9A, §§ 2, 3, 4; Ord. No. 1956, §§ 1, 3, 9-8-59; Ord. No. 2529, § 1, 10-14-63; Ord. No. 4679, § 2, 6-27-77; Ord. No. 5169, § 1, 6-16-80; Ord. No. 7733, § 2, 12-9-91)

Charter reference – Term of office of magistrate, ch. XII, § 3.

Sec. 8-2.1. Methods of appointment of magistrates and qualifications; establishing senior special magistrate status and compensation.

(a) There shall be a nonpartisan merit selection commission known as the magistrate merit selection commission on magistrate appointments composed of four (4) attorney members appointed by the county bar association, not more than two (2) of whom shall be of the same political party, and five (5) non-attorney members, three (3) of whom shall be selected by members of the governing body who represent the political party in the majority, and two (2) of whom shall be selected by members of the governing body who represent the political party in the minority. Of the five (5) non-attorney members not more than three (3) shall be of the same political party. None of the attorney or non-attorney members of the commission shall hold any other elective or appointive public office or be a member of law enforcement, and no attorney member shall be eligible for appointment to the office of magistrate until one (1) year after ceasing to be a member of the commission. All members shall serve four (4) year terms.

(b) For the purpose of conducting the business of the commission, a quorum shall consist of five (5) members.

(c) Within ninety (90) days from the occurrence of a vacancy in the office of magistrate or at the request of mayor and council, the commission shall recommend to the mayor and council the names of not more than three (3) persons in ranked order to fill the position of magistrate or satisfy such request. Any such candidate shall be:

- (1) Of good moral character;
- (2) A resident of Arizona for one (1) year immediately preceding recommendation; and
- (3) Admitted to the practice of law for five (5) years immediately preceding recommendation.

In addition to other relevant materials and the results of the biennial judicial performance review, where a sitting magistrate seeks a new appointment the commission shall consider the magistrate's courtroom administrative performance, as evidenced by matters including but not limited to case aging, case load, time to rule on matters under advisement and rulings reversed/affirmed on appeal to the extent any such measures do not conflict with judicial independence; and the magistrate's adherence to the city's rules of conduct and code of ethics to the extent adherence is not inconsistent with the Code of Judicial Conduct. The presiding magistrate of the city court shall perform a written annual review of each magistrate's performance measured by these criteria.

(d) No later than nine (9) months prior to the expiration of the term, a magistrate may apply for reappointment in writing to the mayor and council. Upon such notice, the magistrate merit selection commission shall review the term of the magistrate and submit a written report of its findings to the mayor and council, which shall include a recommendation as to the reappointment. Such report shall be submitted at least ten (10) days prior to the expiration of the term. Upon expiration of the magistrate's term, the mayor and council may reappoint the magistrate, or may appoint a successor in accordance with the procedures set forth herein.

(e) A regular magistrate who completes a term in office prior to January 15, 2012 and does not seek reappointment enters senior special magistrate status. The presiding judge of the city court may call a senior

special magistrate to serve temporarily as needed; such senior special magistrates shall be compensated (without benefits) at the same hourly rate as regular city magistrates then serving.

(Ord. No. 4815, § 1, 5-22-78; Ord. No. 4866, § 1, 8-7-78; Ord. No. 4919, § 1, 12-18-78; Ord. No. 7305, § 1, 11-6-89; Ord. No. 7513, § 1, 11-19-90; Ord. No. 8189, § 1, 2-7-94; Ord. No. 8254, § 1, 4-25-94; Ord. No. 8569, § 1, 9-5-95; Ord. No. 8767, § 1, 10-21-96; Ord. No. 9086, § 1, 7-6-98; Ord. No. 10062, §§ 1, 2, 10-11-04; Ord. No. 10952, § 1, 12-20-11, eff. 1-1-12)

Sec. 8-2.2. Appointment of special magistrates; terms of office; compensation; powers; duties; qualifications.

(a) Upon request of the presiding judge of the superior court and subject to the appointment procedures set forth in section 8-2.1, the mayor and council may appoint special magistrates, as needed, to assist in the timely adjudication of city court cases. Special magistrates shall serve a four (4) year term of office, and may be reappointed.

(b) The compensation of a special magistrate during the four (4) year term of appointment is fixed at the rate of one hundred twenty five dollars (\$125.00) for each morning, afternoon or evening session of court at which the special magistrate sits; provided, however, that such special magistrate shall receive no more compensation than would be paid to a regular magistrate each month.

(c) The powers and duties of a special magistrate shall be the same as those of a regular magistrate and shall extend beyond the period of appointment for the purpose of hearing and determining any proceeding necessary for a final determination of a cause heard by the special magistrate in whole or in part during the period of appointment.

(d) Any such candidate for special magistrate shall possess the qualifications for a magistrate set forth in Tucson Code section 8-2.1(c).

(e) Subject to the nomination and appointment procedures set forth in subsection (a) above, mayor and council shall appoint construction special magistrates possessing a demonstrated experience and familiarity of not less than five (5) years in contract and construction law to hear and decide cases arising under

Tucson Code, section 11-38. The compensation for such construction special magistrates shall be as set forth in subsection (b) above.

(Ord. No. 7887, § 3, 8-3-92; Ord. No. 8835, § 1, 3-3-97; Ord. No. 8943, § 1, 9-8-97; Ord. No. 9158, § 3, 11-9-98; Ord. No. 9973, § 1, 5-17-04; Ord. No. 10063, § 1, 10-11-04; Ord. No. 10952, § 2, 12-20-11, eff. 1-1-12)

Sec. 8-2.3. Appointment of limited special magistrates; term; powers; duties; qualifications; compensation.

(a) Subject to the appointment procedures set forth in section 8-2.1, the mayor and council may appoint limited special magistrates to provide for the expeditious enforcement of civil violations and civil infractions of the Tucson Code and civil traffic violations under state law. Limited special magistrates shall be full time, shall serve a four-year term of office, and may be reappointed.

(b) Limited special magistrates shall have concurrent jurisdiction with regular and special magistrates to hear and decide actions alleging civil violations or civil infractions of the Tucson Code and civil traffic violations under state law, and shall assume all duties referenced in the Tucson Code as being the responsibility of an administrative hearing officer.

(c) At the time of appointment, limited special magistrates must have demonstrated experience or familiarity with administrative proceedings, technical codes or traffic law.

(d) The compensation to be received by limited special magistrates shall be as set from time to time by the mayor and council and shall include the same fringe benefits as provided to regular magistrates.

(Ord. No. 7887, § 4, 8-3-92; Ord. No. 8179, § 1, 1-3-94; Ord. No. 9398, § 1, 6-12-00; Ord. No. 10063, § 2, 10-11-04)

Sec. 8-2.4. Criminal history records check prior to appointment of city magistrates.

(a) Pursuant to A.R.S. § 41-1750, the City of Tucson is hereby authorized to receive criminal history record information for the purpose of evaluating the fitness of current and prospective city court magistrates.

(b) Each person who seeks to be appointed as a regular, special, or limited special city court magistrate shall, as part of such appointment application process, furnish a full set of fingerprints to the city.

(c) Pursuant to A.R.S. § 41-1750 and Public Law 92-544, the city shall submit such fingerprints accompanied by the appropriate fees, which will be paid by the city, to the Arizona Department of Public Safety and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information on all individuals identified in Section 1, subpart B. Such information shall be used only for the purpose of evaluating the fitness of such current and prospective city court magistrates.

(d) The city shall comply with any relevant State and Federal rules and regulations that may relate to the dissemination of such criminal history record information.

(Ord. No. 9085, § 1, 7-6-98)

Sec. 8-2.5. Justices of the peace, weekend arraignments and initial appearances.

Any justice of the peace, upon assuming office, is appointed as a special magistrate of the city for the specific purpose of conducting arraignments and initial appearances.

(Ord. No. 9971, § 1, 5-17-04; Ord. No. 10155, § 1, 5-24-05)

Sec. 8-3. Conducting business on nonjudicial days.

City court shall always be open except on nonjudicial days. On such nonjudicial days, it may transact business within its jurisdiction.

(1953 Code, ch. 9A, §§ 2, 3; Ord. No. 1956, § 2, 9-8-59; Ord. No. 4679, § 3, 6-27-77; Ord. No. 7733, § 3, 12-9-91)

Sec. 8-4. Magistrates; powers and duties.

Each magistrate of the city court, in addition to exercising such judicial authority as provided in the Charter and Code of the city and the laws of the state shall:

- (1) Devote his or her entire time to the duties of being a magistrate and shall not engage in the private practice of law.

- (2) Observe, be available, and be present in attendance upon the court for the transaction of business every juridical day between the hours of 8:00 a.m. and 5:00 p.m. In addition to such hours, a magistrate may open court and be in attendance at the court during such additional hours of any juridical or nonjuridical day as may be necessary for the discharge or disposition of business properly coming before the court.
- (3) Dispose with all reasonable promptness all matters taken under advisement and, in any event, issue a decision no later than twenty (20) days thereafter.
- (4) Issue a minute entry of the court's judgment in all matters wherein disposition was based upon legal grounds rather than upon the factual merits of the matter, specifying therein the legal conclusion underlying the court's judgment.
- (5) Follow and adhere to supervision by the presiding judge of the superior court as provided for in Arizona Supreme Court Administrative Order 93-30, and any amendment or successor to this provision.
- (6) Follow and adhere to the city's rules of conduct and code of ethics contained in administrative directive 2.02-5 and 2.02-14 and any amendments or successors to these provisions to the extent adherence to these provisions does not affect judicial independence or is not inconsistent with the Code of Judicial Conduct.

(Ord. No. 4679, § 12, 6-27-77; Ord. No. 5169, § 3, 6-16-80; Ord. No. 7733, § 4, 12-9-91; Ord. No. 10062, § 3, 10-11-04)

Editor's note – Ord. No. 4679, § 1, adopted June 27, 1977, specifically amended the Code by repealing former § 8-5, which had pertained to office hours and had been derived from the 1953 Code, ch. 9A, § 5. Section 12 of Ord. No. 4679 added a new § 8-5 as hereinabove set out. The section was renumbered § 8-4 and the text amended by § 4 of Ord. No. 7733.

Sec. 8-4.1. Authorizing assignment of an associate presiding magistrate, term, compensation, duties.

(a) There is hereby created one administrative assignment position of Presiding Magistrate of the City Court of the City of Tucson whose function it is to assist the presiding judge of the superior court in performing administrative duties associated with the judicial and non-judicial functions of the city court.

(b) The presiding judge of the superior court is hereby authorized to appoint, in his or her sole discretion, any sitting city magistrate to the administrative assignment position of presiding magistrate.

(c) Any sitting city magistrate selected for assignment to the position of presiding magistrate shall serve at the pleasure of the presiding judge of the superior court, and may be removed from the administrative assignment of presiding magistrate at any time, for any reason, without cause and without right of appeal by the presiding judge of the superior court.

(d) While performing the administrative assignment of presiding magistrate, a city magistrate shall receive additional compensation in the amount of ten (10) percent of his or her annual salary, payable on a biweekly basis, pro-rated.

(e) The presiding magistrate shall perform those duties as required by law and this chapter and as assigned by the presiding judge of the superior court. (Ord. No. 9042, § 1, 4-13-98; Ord. No. 10062, § 4, 10-11-04; Ord. No. 10454, § 1, 9-25-07)

Sec. 8-5. Duty to fix bond, bail, fines, penalties, fees and assessments.

The city magistrates shall fix all bonds, bail, fines, penalties, fees and other assessments which are now or hereafter may be provided by law.

(1953 Code, ch. 9A, § 6; Ord. No. 4679, § 4, 6-27-77; Ord. No. 7733, § 7, 12-9-91)

Note – Formerly, § 8-6. Renumbered § 8-5 by § 7 of Ord. No. 7733.

§ 2, 6-14-05; Ord. No. 10426, § 2, 6-19-07; Ord. No. 10550, § 2, 6-17-08; Ord. No. 10675, § 2, 6-2-09, eff. 7-1-09; Ord. 10806, § 2, 6-15-10, eff. 7-1-10; Ord. 10900, § 2, 6-28-11, eff. 7-1-11)

Editor's note – Ord. No. 3965, § 5, adopted Dec. 18, 1972, amended this Code by repealing former § 10-34, relative to the conversion of the salary range schedule to hourly, biweekly and approximate annual rates. The section was derived from the following: 1953 Code, ch. 10, § 35a; Ord. No. 2031, § 1, adopted May 16, 1960, and Ord. No. 2401, § 2, adopted Jan. 7, 1963. Subsequently, Ord. No. 8957 added a new § 10-34.

Ord. No. 10900, § 2, adopted June 28, 2011, ratified, reaffirmed, and reenacted this section for Fiscal Year 2012. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective July 1, 2011.

Sec. 10-34.1. Assignment and incentive pay for maintaining paramedic certification and working as paramedics.

Paramedic assignment pay of one hundred fifty dollars (\$150.00) per month will be paid to commissioned fire personnel who:

- (1) Are promoted to and remain in the classification of paramedic; or
- (2) Are in non-paramedic classifications, have completed new hire probation, possess a national and/or state certification (EMT-P) and are minimally available to work one (1) twenty-four-hour shift per month as a paramedic, which work availability is subject to verification by the fire chief.

(Ord. No. 9399, § 2, 6-12-00; Ord. No. 9522, § 1, 3-5-01; Ord. No. 9727, § 2, 6-24-02; Ord. No. 10165, § 2, 6-14-05; Ord. No. 10289, § 4, 6-27-06; Ord. No. 10426, § 2, 6-19-07; Ord. No. 10550, § 2, 6-17-08; Ord. No. 10675, § 3, 6-2-09, eff. 7-1-09; Ord. 10806, § 2, 6-15-10, eff. 7-1-10; Ord. 10900, § 2, 6-28-11, eff. 7-1-11)

Editor's note – Ord. No. 10900, § 2, adopted June 28, 2011, ratified, reaffirmed, and reenacted this section for Fiscal Year 2012. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective July 1, 2011.

Sec. 10-35. Fire battalion chief call back shift pay.

In addition to the compensation authorized by Tucson Code Section 10-31, compensation in the amount of two hundred fifty dollars (\$250.00) for each twelve-hour shift worked outside of a normally

scheduled shift shall be paid to full time employees assigned to suppression duties who hold positions in the Fire Battalion Chief Classification.

(Ord. No. 9091, § 1, 7-6-98; Ord. No. 9727, § 2, 6-24-02; Ord. No. 10165, § 2, 6-14-05; Ord. No. 10426, § 2, 6-19-07; Ord. No. 10550, § 2, 6-17-08; Ord. No. 10675, § 2, 6-2-09, eff. 7-1-09; Ord. 10806, § 2, 6-15-10, eff. 7-1-10; Ord. 10900, § 2, 6-28-11, eff. 7-1-11; Ord. 10948, § 1, 12-5-11)

Editor's note – Section 10-35, relating the rate of pay for a class of an employee's original appointment, derived from the 1953 Code, ch. 10, § 22, and Ord. No. 1980, § 1, adopted Nov. 16, 1959, was repealed by § 1 of Ord. No. 7369, adopted Mar. 12, 1990. Subsequently, Ord. No. 9091, § 1, adopted July 6, 1998, added a new § 10-35.

Ord. No. 10900, § 2, adopted June 28, 2011, ratified, reaffirmed, and reenacted this section for Fiscal Year 2012. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective July 1, 2011.

Sec. 10-36. Probationary periods.

All original and promotional appointments of eligible persons to permanent positions shall be made subject to a probationary period. Such probationary period shall commence with the date of appointment, except for entrance into the uniformed service of the police or fire department, when the probationary period shall commence when the employee enters the police or fire training academy. The length of probationary periods shall be as established by civil service commission rules and regulations.

(1953 Code, ch. 10, § 23; Ord. No. 1980, § 2, 11-16-59; Ord. No. 5000, § 9, 6-25-79; Ord. No. 5398, § 1, 6-29-81; Ord. No. 5598, § 1, 6-28-82; Ord. No. 6735, § 2, 7-6-87; Ord. No. 7004, § 5, 7-5-88; Ord. No. 7243, §§ 2, 3, 7-3-89)

Sec. 10-37. Reallocation.

Sec. 10-37(1). Reallocation of positions compensated under skill based pay components of the compensation plan.

(a) When a position is reallocated to a classification that is assigned to a skill based pay structure and the incumbent's skill level is greater than the incumbent's current pay level the incumbent shall receive a pay increase commensurate with the skill pay level and the incumbent's anniversary date shall be changed.

(b) When a position is reallocated to a classification that is assigned to a skill based pay structure and the incumbent's skill level is equal to the incumbent's current pay level or falls between two (2) points within the skill level band the incumbent shall move to the higher level in the range. The anniversary date shall not change. The incumbent must attain the assigned skill level within the next six (6) months to retain the assigned pay level.

(c) When a position is reallocated to a classification that is assigned to a skill based pay structure and the incumbent's current salary is higher than the incumbent's skill pay level the incumbent shall enter the structure with no change to current salary. The anniversary date shall not change. The incumbents shall not receive any further salary increases until the skill level for the assigned salary has been reached.

Sec. 10-37(2). Reallocation of positions compensated under performance based components of the compensation plan.

(a) When a position is reallocated to a classification that is assigned a higher salary range, an incumbent's anniversary date shall be changed and salary increased as though a promotion had occurred.

(b) When a position is reallocated to a classification assigned a lower salary range, an incumbent's salary shall not change if it is equal to either a step or a point within salary ranges but if falling between two (2) steps of a range, the incumbent's salary will not change until the next pay increase at which time the salary will move to the appropriate step within the salary range. The anniversary date shall not change.

(c) When a position is reallocated to a classification assigned a lower salary range an incumbent's salary shall not change if it is greater than the maximum for the classification. The incumbent shall not receive any further salary increases until salary ranges for the classification increase, permitting salary increases under regular administration of the compensation plan. (Ord. No. 9399, § 3, 6-12-00; Ord. No. 9866, § 3, 6-23-03; Ord. No. 10003, § 3, 6-28-04; Ord. No. 10550, § 4, 6-17-08, eff. 7-1-08)

Sec. 10-37.1. Reserved.

Editor's note – Ordinance No. 8712, § 3, adopted June 10, 1996, repealed § 10-37.1. Formerly, such section pertained to increases in compensation for the pay for performance plan and derived from Ord. No. 8519, § 6, 6-12-95.

Sec. 10-37.2. Reserved.

Editor's note – Ordinance No. 8712, § 3, adopted June 10, 1996, repealed § 10-37.2. Formerly, such section pertained to increases in compensation for the recreation benchmark group and hourly classifications and derived from Ord. No. 8519, § 7, 6-12-95.

Sec. 10-38. Movement within salary ranges.

Movement within salary ranges shall be based upon performance components and or predicated on acquisition of skills set forth in skill based pay components of the compensation plan and also in accordance with the city managers directives for compensation administration. (Ord. No. 10003, § 4, 6-28-04)

Sec. 10-39. Increases for exceptionally meritorious service.

Notwithstanding any other provision of article II of chapter 10, no person compensated under a performance based component of the compensation plan may receive more than one (1) performance based compensation increase within a year, except for exceptionally meritorious service and then only upon the recommendation of the department head and with the approval of the city manager. Performance pay increases for exceptionally meritorious service will not exceed five (5) percent in addition to the basic performance based pay of five (5) percent or a total maximum of ten (10) percent in any twelve (12) month time period. Persons compensated under a skill based component of the compensation plan shall not receive increases for meritorious service but may receive up to three (3) skill based pay level increases per year as provided for by the structure of the skill based component of the compensation plan. (Ord. No. 8519, § 8, 6-12-95; Ord. No. 10003, § 5, 6-28-04; Ord. No. 10550, § 5, 6-17-08, eff. 7-1-08)

Editor's note – Formerly, § 10-38.

tion unless specifically exempted from the provisions hereof, or except when they conflict with the Charter, Arizona Revised Statutes, intergovernmental agreements, or corporate articles or bylaws of instrumentalities of the city. Where there is a conflict, the applicable provisions of the Charter, Arizona Revised Statutes, intergovernmental agreement, or corporate articles or bylaws shall prevail. (Ord. No. 7018, § 2, 9-6-88)

Sec. 10A-134. Terms and removal.

(a) The terms of members of a body shall be coterminous with the terms of office of the mayor or members of the city council who appointed them, or until their successors on the body are appointed, except such members may be removed with or without cause prior to the expiration of their term by the mayor or members of the city council who appointed them or by such mayor's or member of the city council's successor in office.

(b) Members of such bodies shall be eligible for reappointment; but in no event may any individual serve more than a total of eight (8) continuous years on the same body, except members of bodies whose terms are more than four (4) years may serve two (2) complete coterminous terms. Once a member has served eight (8) years on a body, he may not be reappointed to that body until he has had a break in service of at least one (1) continuous year. Whenever a body is dissolved and reconstituted, time previously spent in office shall count towards the eight (8) year limitation. The following committees are exempt from the eight (8) year service limitation: the Citizens Sign Code Committee, the Uniform Fire Code Committee, the Outdoor Lighting Code Committee, and the Tucson-Pima County Joint Consolidated Code Committee.

(c) Appointees, except for advisory members and members of the technical code committees named herein, may not serve on more than one (1) body at a time.

(d) The terms of office of members of a body serving unspecified terms shall be four (4) years commencing December 31, 1988, subject to the eight (8) year continuous service limitation.

(e) A member of a body, except for advisory members, who misses four (4) consecutive meetings for

any reason or who fails to attend for any reason at least forty (40) percent of the meetings called in a calendar year is automatically and immediately removed as a member of the body.

(f) No city employee may serve on a body except in a nonvoting, ex officio capacity.

(g) Except as provided in subsection (h), should the appointment of a member of a body authorized to be appointed by the mayor, a member of the council, or the city manager (hereafter referred to as the "appointing authority") fail to be made within thirty (30) days after the expiration of the term of the member or thirty (30) days after a vacancy occurs, the appointment may be made by the mayor and council.

(h) Prior to the expiration of the term of members of bodies referred to in subsection (g), or within thirty (30) days after a vacancy on such a body occurs, the appointing authority may request an extension of time from the mayor and council to make the appointment. (Ord. No. 7018, § 2, 9-6-88; Ord. No. 7260, § 1, 8-7-89; Ord. No. 10064, § 1, 10-18-04; Ord. No. 10950, § 3, 12-20-11, eff. 1-20-12)

Sec. 10A-135. Effective date.

(a) The term of office for those members of a body who will have served eight (8) or more years continuously on a body as of December 31, 1988, will end on December 31, 1988, regardless of whether the member is serving a specified or unspecified term.

(b) The term of office for those voting members of a body who are city employees will end on December 31, 1988. (Ord. No. 7018, § 2, 9-6-88)

Sec. 10A-136. Rules and regulations of commissions, boards, departments to be filed.

Two (2) copies of all rules and regulations of general application and future effect of every commission, board or department of the city, affecting the rights or procedure available to the public, including amendments and repeals thereof, shall be filed with the city clerk. All such rules and regulations, including amendments or repeals thereof, not so filed shall be of no force or effect.

It is hereby made the duty of the chairman of each commission or board of the city or the head of each department of the city to file such copies of such rules and regulations and of all repeals and amendments thereof in true and correct form with the city clerk. (Ord. No. 7018, § 2, 9-6-88)

Cross reference – Filing of regulations of building board of appeals required, § 6-13.

Sec. 10A-137. Nonvoting, advisory members.

(a) Except as provided in section 10A-138, the chairperson of a body may, with the consent of a majority of the regular members of the body, appoint no more than four (4) advisory members to the body. Advisory members may be appointed for a period not to exceed two (2) years.

(b) Such advisory members shall have the right to be present at all meetings and to take part in the deliberations, but shall be nonvoting and shall not be counted in determining whether a quorum is present. (Ord. No. 7079, § 1, 10-24-88; Ord. No. 8023, § 1, 4-12-93)

Sec. 10A-138. Citizens Advisory Planning Committee zoning code revision subcommittee.

The Citizens Advisory Planning Committee (CAPC) zoning code revision subcommittee is hereby established. The members of the CAPC zoning code revision subcommittee shall:

- (1) Be appointed by and serve at the pleasure of a concurring vote of a simple majority of the CAPC;
- (2) Not be subject to the number, term, quorum or voting restrictions of sections 10A-134 and 10A-137.

(Ord. No. 8023, § 2, 4-12-93)

Sec. 10A-139. Requirements for creation of boards, committees, and commissions; annual reports.

(a) *Boards established by ordinance or resolution.* All city boards, committees, and commissions (hereinafter collectively referred to in this section as “board”) that serve an on-going advisory or

quasi-judicial function shall be established by ordinance adopted by the mayor and council. All other city boards that are intended to serve for a limited time for the purpose of advising the mayor and council on a specific issue shall be established by a resolution adopted by the mayor and council.

(b) *Resolution contents.* Except as provided in subsection (d), the resolution referred to in subsection (a) shall contain the following provisions:

- (1) *Sunset clause.* Unless mandated by the resolution to have a longer term, the board shall automatically terminate twenty-four (24) months after the effective date of the resolution.
- (2) *Staff support.* Unless otherwise specified and budgeted, support for all boards shall be limited to complying with the requirements of the open meeting law.
- (3) *Strategic plan.* The mission, responsibilities, and functions of the board shall be specified and consistent with the city’s strategic plan.
- (4) *Outside financial support.* The mayor and council shall approve any application for financial support outside of the city, and the county for joint city-Pima County boards, before the board may apply for the same. Any such financial support shall include funds for administrative assistance.

(c) *Annual report.* Each board shall file an annual report with the city clerk by March 1st of each year summarizing the board’s previous year’s activities.

(d) *Exceptions.* The mayor and council may exempt a board from any of the provisions of subsections (b) or (c) above by specifically designating the provision to be exempted in the ordinance or resolution creating the board and specifying the alternative, if any, to the provision.

(Ord. No. 9943, § 1, 3-22-04; Ord. No. 10810, § 1, 6-22-10)

Editor’s note – It should be noted that § 2 of Ord. No. 9943 states that the provisions of § 10A-139 shall not apply to boards, committees, or commissions existing on the effective date of this ordinance (March 22, 2004).

LICENSES AND PRIVILEGE TAXES

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Division 3. Licensing and Recordkeeping

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- Sec. 19-360. Recordkeeping: Claim of exclusion, exemption, deduction or credit; documentation; liability. (Regs. 360.1, 360.2)
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Sec. 19-425.	Job printing.
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Sec. 19-445.	Rental, leasing, and licensing for use of real property.
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Sec. 19-447.	Reserved.
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Division 5. Administration

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Sec. 19-580.	Criminal penalties.
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Sec. 19-595.	Collection of taxes when there is succession in and/or cessation of business.
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Division 6. Use Tax

Sec. 19-600.	Use tax: definitions.
Sec. 19-601.	Reserved.
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ARTICLE II. PRIVILEGE AND EXCISE TAXES*

DIVISION 1. GENERAL CONDITIONS AND DEFINITIONS

Sec. 19-99. Words of tense, number and gender; Code references.

(a) For the purposes of this article, all words of tense, number and gender shall comply with A.R.S. section 1-214 as amended.

(b) For the purposes of this article, all Code references, unless specified otherwise, shall:

- (1) Refer to this City Code;
- (2) Be deemed to include all amendments to such code references.

(Ord. No. 6674, § 3, 3-23-87)

***Editor’s note** – Section 1 of Ord. No. 6674, adopted Mar. 23, 1987, repealed former art. II, §§ 19-39 – 19-181; and § 3 added a new art. II, §§ 19-99 – 19-602, and Regs. 19-100.1 – 19-571.1. The article was formerly derived from 1953 Code, ch. 29, §§ 1 – 36, 39, and Ord. Nos. 1850, 1923, 1924, 2318, 2384, 2494, 2586, 2878, 2891, 3098, 3238, 3378, 3854, 3869, 3885, 4332, 4396, 4433, 4636, 4710, 4826, 4899, 4918, 5136, 5147, 5170, 5230, 5300, 5337, 5488, 6021, 6064, 6097, 6483, 6538, 6646. Prior to its amendment by Ord. No. 6674, the article was entitled “Business Privilege Licenses (Sales Tax).” Section 2 of Ord. No. 6674, changed the title to “Privilege and Excise Taxes.”

Ordinance No. 6969, adopted June 6, 1988, is not included herein, but §§ 1 – 3 of such ordinance provide as follows:

Section 1. The document entitled “Corrective Amendment to the 1988 Amendments to City Tax Code” (which Amendments were adopted in Ordinance No. 6938) three (3) copies of which are on file in the office of the city clerk, is hereby declared to be a public record and said copies are ordered to remain on file with the city clerk.

Section 2. The document made a public record in section 1, a copy of which is attached as Exhibit A to this ordinance, is hereby adopted and made a part hereof as though fully set out herein.

Section 3. The provisions of this ordinance are effective retroactively to April 25, 1988.”

Sec. 19-100. General definitions.

For the purposes of this article, the following definitions apply:

Assembler means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance of such items without changing or altering component parts.

Broker means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this article, and who receives for his principal all or part of the gross income from the taxable activity.

Business means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.

Business day means any day of the week when the tax collector’s office is open for the public to conduct the tax collector’s business.

Casual activity or sale means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this article. However, no sale, rental, license for use, or lease transaction concerning real property nor any activity entered into by a business taxable by this article shall be treated, or be exempt, as casual. This definition shall include sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.

Combined taxes means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this county as authorized by A.R.S. title 42, chapter 6, article III; and all applicable taxes imposed by this chapter.

Commercial property is any real property, or portion of such property, used for any purpose other than lodging or lodging space, including structures built for lodging, but used otherwise, such as model homes, apartments used as offices, etc.

Communications channel means any line, wire, cable, microwave, radio signal, light beam, telephone, telegraph or any other electromagnetic means of moving a message.

Construction contracting refers to the activity of a construction contractor.

Construction contractor means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project, except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

Delivery (of notice) by the tax collector means "receipt (of notice) by the taxpayer."

Delivery, installation, or other direct customer services means services or labor, excluding repair labor, provided by a taxpayer to or for his customer at the time of transfer of tangible personal property, provided further that the charge for such labor or service is separately billed to the customer and maintained separately in the taxpayer's books and records.

Engaging, when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

Equivalent excise tax means either:

- (1) A privilege or use tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
- (2) An excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid

either to such jurisdiction directly or to the vendor; or

- (3) An excise tax levied by a native american government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

Federal government means the United States Government, its departments and agencies, but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

Food means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. § 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana.

Hotel means any public or private hotel, inn, hostelry, tourist home, house, motel, rooming house, apartment house, trailer or other lodging place within the city offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes, or primary health care facilities.

Jet fuel means jet fuel as defined in A.R.S. § 42-5351.

Job printing means the activity of copying or reproducing an article by any means, process or method. "Job printing" includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

Lessee includes the equivalent person in a rental or licensing agreement for all purposes of this article.

Lessor includes the equivalent person in a rental or licensing agreement for all purposes of this article.

officer is or is not an employee of the city, the taxpayer problem resolution officer shall have substantive knowledge of taxation. The identity of and telephone number for the taxpayer problem resolution officer can be obtained from the tax collector.

Telecommunication service means any service or activity connected with the transmission or relay of sound, visual image, data, information, images, or material over a communications channel or any combination of communications channels.

Transient means any person who either at the person’s own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.

Utility service means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, §§ 1 – 3, 4-25-88; Ord. No. 7446, § 2.1, 7-2-90; Ord. No. 8440, § 1, 1-23-95; Ord. No. 8784, § 1, 12-2-96; Ord. No. 8793, § 1, 1-6-97; Ord. No. 8794, § 1, 1-6-97; Ord. No. 9004, § 1(1), 1-5-98; Ord. No. 9069, § 1(1), 6-15-98; Ord. No. 9841, § 1, 5-12-03; Ord. No. 10361, § 1, 12-19-06; Ord. No. 10524, § 1, 5-13-08, eff. 7-1-08; Ord. No. 10911, § 1, 8-9-11, eff. 6-1-11; Ord. No. 10949, § 1, 12-13-11)

Sec. 19-110. Definitions: Income-producing capital equipment.

(a) The following tangible personal property, other than items excluded in subsection (d) below, shall be deemed “income-producing capital equipment” for the purposes of this article:

- (1) Machinery or equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms manufacturing, processing, fabricating, job printing, refining, and metallurgical, as used in this paragraph, refer to and include those operations commonly understood within their ordinary meaning. “Metallurgical Operations” includes leaching, milling, precipitating, smelting and refining.

- (2) Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. “Mining” includes underground, surface and open pit operations for extracting ores and minerals.
- (3) Tangible personal property, sold to persons engaged in business classified under the telecommunications classification, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment, including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.
- (4) Machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.
- (5) Pipes or valves four (4) inches in diameter or larger and related equipment, used to transport oil, natural gas, artificial gas, water, or coal slurry. For the purpose of this section, related equipment includes: compressor units, regulators, machinery and equipment, fittings, seals and any other parts that are used in operating the pipes or valves.
- (6) Aircraft, navigational and communication instruments, and other accessories and related equipment sold to:
 - a. A person holding a federal certificate of public convenience and necessity

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to participate in the food stamp program if it is authorized to participate in the program by the United States Department of Agriculture Food and Nutrition Service Field Office on the effective date of this section [March 23, 1987], or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the tax collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979.

- (2) *Facilities for the consumption of food* means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware, and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.
- (3) *Food for consumption on the premises* means any of the following:
 - a. "Hot prepared food" as defined below [in paragraph (4)].
 - b. Hot or cold sandwiches.
 - c. Food served by an attendant to be eaten at tables, chairs, benches, booths, stools, counters, and similar conveniences, and within parking areas for the convenience of in-car consumption of food.
 - d. Food served with trays, glasses, dishes, or other tableware.
 - e. Beverages sold in cups, glasses, or open containers.
 - f. Food sold by caterers.
 - g. Food sold within the premises of theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, fairs, races, contests, games, athletic events, rodeos, billiard and pool parlors,

bowling alleys, public dances, dance halls, boxing, wrestling and other matches, and any business which charges admission, entrance, or cover fees for exhibition, amusement, entertainment, or instruction.

- h. Any items contained in subsections (a)(3)a. through g. above, even though they are sold on a takeout or to-go basis, and whether or not the item is packaged, wrapped, or is actually taken from the premises.
- (4) *Hot prepared food* means those products, items, or ingredients of food which are prepared and intended for consumption in a heated condition. "Hot prepared food" includes a combination of hot and cold food items or ingredients if a single price has been established.
- (5) *Premises* means the total space and facilities in or on which a vendor conducts business and which are owned or controlled, in whole or in part, by a vendor or which are made available for the use of customers of the vendor or group of vendors, including any building or part of a building, parking lot, or grounds.
 - (b) *Food for home consumption* means all food, except food for consumption on the premises, if sold by any of the following:
 - (1) An eligible grocery business.
 - (2) A person who conducts a business whose primary business is not the sale of food, but who sells food which is displayed, packaged, and sold in a similar manner as an eligible grocery business.
 - (3) A person who sells food and does not provide or make available any facilities for the consumption of food on the premises.
 - (4) A person who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a

counter which has two (2) cash registers and which are used to record taxable and tax-exempt sales, or a retailer who conducts a delicatessen business who uses a cash register which has at least two (2) tax-computing keys which are used to record taxable and tax-exempt sales.

- (5) Reserved.
- (6) Vending machines and other types of automatic retailers.
- (7) A person's sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 4, 4-25-88; Ord. No. 8440, § 3, 1-23-95; Ord. No. 9069, § 1(3), 6-15-98)

Sec. 19-130. Reserved.

Editor's note – Ord. No. 10949, § 2, adopted December 13, 2011, repealed § 19-130, which pertained to persons paying privilege tax not being liable for occupational tax under article I.

DIVISION 2. DETERMINATION OF GROSS INCOME

Sec. 19-200. Determination of gross income: In general.

- (a) Gross income includes:
 - (1) The value proceeding or accruing from the sale of property, the providing of service, or both.
 - (2) The total amount of the sale, lease, license for use or rental price at the time of such sale, rental, lease or license.
 - (3) All receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived

from a sale, lease, license for use, rental or other taxable activity.

- (4) All other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction. (Reg. 200.1)

(b) Barter, exchange, trade-outs or similar transactions are includable in gross income at the fair market value of the service rendered or property transferred, whichever is higher, as they represent consideration given for consideration received.

(c) No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature, losses, materials used, labor or service performed, interest paid, or credits granted. (Ord. No. 6674, § 3, 3-23-87)

Sec. 19-210. Determination of gross income: Transactions between affiliated companies or persons.

In transactions between affiliated companies or persons, or in other circumstances where the relationship between the parties is such that the gross income from the transaction is not indicative of the market value of the subject matter of the transaction, the tax collector shall determine the "market value" upon which the city privilege and use taxes shall be levied. "Market value" shall correspond as nearly as possible to the gross income from similar transactions of like quality or character by other taxpayers where no common interest exists between the parties, but otherwise under similar circumstances and conditions. (Ord. No. 6674, § 3, 3-23-87)

Sec. 19-220. Determination of gross income: Artificially contrived transactions.

The tax collector may examine any transaction, reported or unreported, if, in his opinion, there has been or may be an evasion of the taxes imposed by this article and to estimate the amount subject to tax in cases where such evasion has

whether derived from residents of the city or not, or whether derived from within the city or from without.

(2) Reserved.

(b) *Taxes Imposed by this Article are in Addition to Others.* Except as specifically designated elsewhere in this article, each of the taxes imposed by this article shall be in addition to all other licenses, fees and taxes levied by law, including other taxes imposed by this article.

(c) *Presumption.* For the purpose of proper administration of this article and to prevent evasion of the taxes imposed by this article, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

(d) *Limitation of Exemptions, Deductions and Credits Allowed Against the Measure of Taxes Imposed by this Article.* All exemptions, deductions and credits set forth in this article shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

(Ord. No. 6674, § 3, 3-23-87)

Sec. 19-405. Advertising. (Regs. 405.1, 405.2)

(a) The tax rate shall be at an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of “local advertising” by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from “local advertising”. All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered “local advertising”, except the following:

- (1) The advertising of a product or service which is sold or provided both within and without the state by more than one “commonly designated business entity” within the state, and in which the advertisement names either no “commonly designated business entity” within the state or more than one “commonly designated business entity”. “Commonly

designated business entity” means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one (1) legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

- (2) Advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the state.
- (3) The advertising of a product which may only be purchased from an out-of-state supplier.
- (4) Political advertising for United States Presidential and Vice Presidential candidates only.
- (5) Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.
- (6) Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

(b) Reserved.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 7436, § 1, 6-18-90; Ord. No. 10949, § 3, 12-13-11)

Sec. 19-407. Reserved.

(Ord. No. 6938, § 8, 4-25-88)

Sec. 19-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to two (2) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the city, which includes the following type or nature of businesses:

- (1) Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dancehalls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.
- (2) Health spas, fitness centers, dance studios, or other persons who charge for the use of premises for sports, athletic, other health-related activities or instruction, whether on a per-event use, or for long-term usage, such as membership fees.

(b) *Deductions or exemptions.* The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:

- (1) Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.
- (2) Income received from a hotel business subject to tax under section 19-444, if all of the following apply:
 - (A) The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.
 - (B) The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.
 - (C) The hotel business has provided an exemption certificate to the person engaging in business under this section.
- (3) Income that is specifically included as the gross income of a business activity upon which another section of this article imposes

a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

- (4) Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.

(c) The tax imposed by this section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this paragraph, 'arranging' includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 8, 1-23-95; Ord. No. 10361, § 3, 12-19-06; Ord. No. 10685, § 3, 6-16-09, eff. 7-1-09)

Editor's note – Section 16 of Ord. No. 10361, adopted Dec. 19, 2006, provides for an effective date on and after Jan. 1, 2007.

Sec. 19-415. Construction contracting: Construction contractors.

(a) *Tax rate.* The tax rate shall be at an amount equal to two (2) percent of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the city.

- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
- (2) (Reserved).
- (3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under section 19-427.

- (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) *Deductions and exemptions.*
 - (1) Gross income derived from acting as a “subcontractor” shall be exempt from the tax imposed by this section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five (35) percent.
 - (3) The gross proceeds of sales or gross income attributable to the purchase of ma-

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Reg. 19-405.1. Reserved.

Editor’s note – Regulation 19-405.1, relating to local advertising examples, derived from Ord. No. 6674, § 3, adopted Mar. 23, 1987, was repealed by § 2 of Ord. No. 7436, adopted June 18, 1990. See § 19-405.

Reg. 19-405.2. Advertising activity within the city.

(a) *In General.* Except as provided elsewhere in this regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the city if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants or distribution centers are located within the city limits. Remote studios patched to an in-city studio and subject to engineering modulation or control at the in-city studio are considered studios doing business in the city.

(b) *Billboards, Outdoor Advertising Companies.* Billboards and other outdoor advertising companies shall be considered to be doing business within the city to the extent they have billboards or similar displays within the city.

(c) *Publishers, Distributors of Newspapers, Periodicals.* Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by section 19-405, and such tax shall be allocated in the manner prescribed by subsection (e) of section 19-435.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 24, 4-25-88)

Reg. 19-407.1. Reserved.

(Ord. No. 6938, § 25, 4-25-88)

Reg. 19-415.1. Distinction between the categories of construction contracting.

For the purposes of this article, transactions involving improvements to, or sales of, real property are designated into one of the following categories; and these categorizations shall apply, whether or not a person designates himself as a contractor, construction manager, developer or otherwise:

- (1) A person performing improvements to real property is one of the following:

- a. An “owner-builder” when the work is performed by the owner or lessor or lessee-in-possession. An “owner-builder” may also be a “speculative builder.”

- b. A “construction contractor” when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:

- (i) The owner-builder is improving the property for sale; and

- (ii) The owner-builder is liable for the tax for such construction contracting activity; and

- (iii) The owner-builder has provided the contractor his city privilege license number.

- c. A “subcontractor” as provided in section 19-415(c).

- (2) An owner or lessor (“owner-builder”) of improved real property is one of the following:

- a. A “speculative builder” as provided in section 19-100; or

- b. An “owner-builder who is not a speculative builder” in all other cases.

- (3) The terms “owner,” “lessor” and “lessee-in-possession” shall be deemed to include any authorized agent for such person.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 7446, § 2.5, 7-2-90)

Reg. 19-415.2. Distinction between construction contracting and certain related activities.

- (a) *Certain rentals, leases and licenses for use in connection with construction contracting.* Rental, leasing, or licensing of earth-moving equipment with an operator shall be deemed construction contracting

activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

- (1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.
- (2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.
- (3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.

(b) *Distinction between construction, contracting, retail, and certain direct customer service activities.*

- (1) When an item is attached or installed on real property, it is a construction contracting activity, and any subsequent repair, removal, or replacement of that item is construction contracting.
- (2) Items attached or installed on tangible personal property are retail sales.
- (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).
- (4) Demolition, earthmoving, and wrecking activities are considered construction contracting.

(c) *Sale of consumable goods incorporated into or applied to real property* is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(d) *Installation or removal of tangible personal property which has independent functional utility* is considered a retail activity.

- (1) “Tangible personal property which has independent functional utility” must be able to substantially perform its function(s) without attachment to real property. “Attachment to real property” must include more than connection to water, power, gas, communication, or other service.
- (2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, “plug-in” kitchen equipment, or similar items installed by bolts or similar fastenings.
- (3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or “built-in” dishwashers or ranges.
- (4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

(e) *Sale and installation of interior window coverings.* Notwithstanding any other provision of this code and regulations pertaining thereto, the sale of interior window coverings is always a retail activity, except when sold and installed by the vendor, in which case it shall be construction contracting.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 24, 1-23-95; Ord. No. 8766, §§ 1, 2, 10-21-96; Ord. No. 8794, § 3, 1-6-97; Ord. No. 8856, § 3, 4-7-97; Ord. No. 10949, § 4, 12-13-11)

Reg. 19-415.3. Construction contracting; tax rate effective date.

(a) In the event of a tax rate change, the rate imposed on gross income from construction contracting shall be computed based upon the rate in effect when the contract was executed, subject to the “enactment date” as defined in this section. Gross income from a contract executed prior to the enactment date shall not be subject to the tax rate change, provided the contract contains no provision that entitles the construction contractor to recover the amount of the tax.

(b) In the event of a rate increase, in order to qualify for the lower rate, the construction contractor shall, upon request, provide sufficient documentation, in a manner and form prescribed by the tax collector, to verify that a contract was entered into before the enactment date.

(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family residence shall be presumed to be for an owner's bona fide

(c) For purposes of this section, "enactment date" shall be:

- (1) In the event an election is held, the date of election.
- (2) In the event no election is held, the date of final adoption by the mayor and council.
- (3) Notwithstanding the above, nothing in this section shall be construed to prevent the city from establishing a later enactment date.

(Ord. No. 9841, § 2, 5-12-03)

Reg. 19-416.1. Speculative builders: Homeowner's bona fide nonbusiness sale of a family residence.

(a) A sale of a custom home, regardless of the stage of completion of such home shall be considered a "homeowner's bona fide nonbusiness sale" and not subject to the tax on speculative builders if:

- (1) The property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and
- (2) The seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and
- (3) The seller has not licensed, leased or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.

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cause it has become worn out or has become obsolete or the person ceases to have the right to possession of the property.

(b) An item of tangible personal property is deemed permanently installed if its installation requires alterations to the premises.

(c) Examples of “semi-permanently or permanently installed tangible personal property” include but are not limited to computers, duplicating machines, furniture not of portable design, major appliances, store fixtures.

(d) The term does not include mobile transportation equipment or tangible personal property designed for regular use at different locations, as under numerous short-term rental, lease or license agreements, whether or not such property is in fact so used.

- (1) For example, use of a mobile crane, trencher, automobile or other similar equipment shall be considered a rental, lease or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.
- (2) Other similar examples include but are not limited to camping equipment, contracting equipment, chain saw, forklift, household items, invalid needs, janitorial equipment, reducing equipment, furniture of portable design, trucks or trailers, tools, towbars, sump pumps, arc welders.

(e) A rental, lease or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased or licensed item is “permanently or semi-permanently installed” in the city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.
(Ord. No. 6674, § 3, 3-23-87)

Reg. 19-450.5. Rental, leasing, and licensing for use of tangible personal property: Delivery, installation, repair, and maintenance charges.

(a) Delivery and installation charges in connection with the rental, leasing and licensing of tangible personal property are exempt from the tax imposed by section 19-450; provided that the provisions of regulation 19-100.2 have been met.

(b) Gross income from the sale of a warranty, maintenance or similar service contract in connection with the rental, leasing and licensing of tangible personal property shall be exempt.

(c) Separately stated charges for repair not included as part of a warranty, maintenance or similar service contract relating to the rental, leasing or licensing of tangible personal property are exempt from the tax imposed by section 19-450; however, such income is subject to the provisions of sections 19-460 and 19-465, and the provisions of regulation 19-465.1. (Ord. No. 6938, § 27, 4-25-88; Ord. No. 8784, § 30, 12-2-96)

Reg. 19-455.1. Gratuities related to restaurant activity.

Gratuities charged by or collected by persons subject to the tax imposed by section 19-455 may be excluded from gross income if:

- (1) Such charge is separately stated upon the bill, invoice, etc., provided the customer, and such amounts are maintained separately in the books and records of the taxpayer; and
- (2) Such gratuities are distributed in total to employees of the taxpayer in addition to customary and regular wages.

(Ord. No. 6674, § 3, 3-23-87)

Reg. 19-460.1. Distinction between retail sales and certain other transfers of tangible personal property.

(a) *Distinction Between Transfer of Tangible Personal Property and Sales at Retail.* Charges for transfer of tangible personal property included in the gross income of the business activity of persons

engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by section 19-460:

- (1) Tangible personal property incorporated into real property as part of reconstruction or construction contracting, per sections 19-415 through 19-418.
- (2) Reserved.
- (3) Job printing, per section 19-425.
- (4) Mining, timbering and other extraction, but not sales of sand, gravel or rock extracted from the ground, per section 19-430.
- (5) Publication of newspapers, magazines and other periodicals, per section 19-435.
- (6) Rental, leasing and licensing of real or tangible personal property, per section 19-445 or 19-450.
- (7) Restaurants and bars, per section 19-455.
- (8) Telecommunication services, per section 19-470.
- (9) Utility services, per section 19-480.

(b) *Distinction Between Construction Contracting, Retail and Certain Direct Customer Service Activities.*

- (1) When an item is attached or installed on real property, it is a construction contracting activity, and any subsequent repair, removal or replacement of that item is construction contracting.
- (2) Items attached or installed on tangible personal property are retail sales.
- (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).

(4) Demolition, earth moving, and wrecking activities are considered construction contracting.

(c) The sale of sand, rock and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.

(d) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.

(e) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication or other service.

(2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

(3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

(f) Sale and installation of interior window coverings. Notwithstanding any other provision of this code and regulations pertaining thereto, the sale of interior window coverings is always a retail activity, except when sold and installed by the vendor, in which case it shall be construction contracting.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8766, §§ 3, 4, 10-21-96; Ord. No. 10949, § 5, 12-13-11)

Reg. 19-460.2. Retail sales: Trading stamp company transactions.

A trading stamp transaction is defined as follows: the trading stamp company issues stamps to a vendor; the vendor then provides them to its customers; and the customer then exchanges the stamps for merchandise from the trading stamp company.

The exchange transaction for the merchandise shall be deemed a retail sale and the trading stamp company a retailer. All taxes imposed by this article applicable to retail transactions are therefore applicable to such exchange transactions.

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed

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Sec. 20-175. Stop sign required at each intersection with through street.

Whenever any provision of this Code or any ordinance of the city designates and describes a through street, it shall be the duty of the traffic engineer to place and maintain a stop sign on each and every street intersecting such through street or intersecting that portion thereof described and designated as such by any ordinance of the city. (1953 Code, ch. 17, § 94)

Sec. 20-176. Traffic engineer to designate hazardous intersections for “stop.”

The traffic engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one (1) or more entrances to any such intersections, and shall erect a “stop” sign at every such place where a stop is required. (1953 Code, ch. 17, § 95; Ord. No. 1941, § 1, 8-17-59)

Sec. 20-176.1. Traffic to stop at intersection when traffic signals are out of service.

When an intersection traffic signal is out of service for any reason, all vehicles shall come to a complete stop upon any approaching roadway at any such intersection and shall proceed only when safe to do so after yielding to any vehicle on the right, or to any vehicle or pedestrian lawfully within the intersection. This procedure shall be in effect until a traffic or police officer establishes intersection point control. (Ord. No. 7332, § 1, 1-2-90)

Sec. 20-177. Traffic engineer to designate hazardous intersections for “yield”.

The traffic engineer is hereby authorized to determine and designate intersections where a particular hazard exists and to determine whether vehicles on one of the intersecting streets shall yield the right-of-way to vehicles on the other street or streets and to erect a “yield right-of-way” sign at every place where such a sign is needed. (1953 Code, ch. 17, § 95; Ord. No. 1941, § 1, 8-17-59)

State law reference – Location, specifications for stop signs. A.R.S. § 28-855.

Sec. 20-178. Reserved.

Editor’s note – Section 20-178, requiring obedience to yield right-of-way signs, derived from the 1953 Code, ch. 17, § 96, and Ord. No. 1941, § 2, adopted Aug. 17, 1959, was repealed by § 1 of Ord. No. 5931, adopted Dec. 19, 1983.

Sec. 20-179. One-way streets and alleys.

Upon those streets and parts of streets and in those alleys described by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. Three (3) copies of current ordinances designating the streets and alleys governed by this section shall be kept on file by the city clerk.

- (1) West on the east-west alley immediately north of the Mission Village apartments at 7001 East Golf Links Road and between the drainageway east to the western property line of the shopping center.
- (2) East on the east-west alley between Chantilly Avenue and Van Buren Avenue and between Broadway Boulevard and Twelfth Street.
- (3) North on the alley immediately east of Alamo Wash between the Monterey Village Shopping Center and Hawthorne Street.
- (4) East on the alley immediately south of the Monterey Village Shopping Center between the Alamo Wash and Rook Avenue Center.
- (5) East on the east-west alley between Congress Street and Pennington Street, connecting Sixth Avenue and Scott Avenue.
- (6) West on the east-west alley between Congress Street and Broadway Boulevard, connecting Sixth Avenue and Scott Avenue.
- (7) West on Alameda Street from Toole Avenue - Sixth Avenue intersection to Church Avenue.
- (8) South on Arizona Avenue from Thirteenth Street to Fourteenth Street.

- (9) East on Broadway Boulevard between the west line of the Broadway Boulevard underpass and the east line of the intersection of Granada Avenue and Broadway Boulevard.
- (10) West on Adams Street from approximately 150 feet west of Camilla Boulevard to Camilla Boulevard.
- (11) North on the east section of Cherrybell Stravenue between Twenty-Second Street and the point where the west section of Cherrybell Stravenue converges with the east section.
- (12) West on Congress Street from Herbert Avenue - Toole Avenue intersection to Broadway Boulevard - Granada Avenue intersection.
- (13) West on Eighth Street from Euclid Avenue to Third Avenue. City of Tucson Solid Waste vehicles exempt between the hours of 5:30 a.m. to 7:30 a.m.
- (14) North on El Paso Avenue from Cushing Street to Simpson Street.
- (15) North on Fifth Avenue from Twelfth Street to Thirteenth Street.
- (16) North on Forgeus Avenue from Thirty-Sixth Street to Forgeus Stravenue.
- (17) South on Herbert Avenue from Fifth Street to Eighth Street.
- (18) North on Hoff Avenue from Eighth Street to Fifth Street.
- (19) South on Meyer Avenue from Eighteenth Street to Twenty-Second Street.
- (20) East on Pennington Street from Congress Street to Scott Avenue.
- (21) North on Rubio Avenue from Nineteenth Street to Eighteenth Street.
- (22) South on Scott Avenue from McCormick Street to Fourteenth Street.
- (23) East on Sequoyah Street between Forgeus Avenue and Treat Avenue.
- (24) West on Simpson Street from Stone Avenue to Meyer Avenue.
- (25) North on Sixth Avenue from the north line of Broadway Blvd. to the south line of Seventh Street.
- (26) North on Sixth Avenue from the north line of Sixth Street to the south line of Fifth Street.
- (27) East on Sixth Street between Country Club Road and the west end of Fifth-Sixth Street transition.
- (28) Speedway Boulevard underpass frontage roads: East of Union Pacific Railroad, westbound on north frontage road to road connecting north frontage road with south frontage road, south on this connecting road to south frontage road, east on south frontage road to end of frontage road; west of Union Pacific Railroad, east on south frontage road to road connecting south frontage road with north frontage road, north on this connecting road to north frontage road, west on north frontage road to end of frontage road.
- (29) South on Stone Avenue from the south line of the intersection of Stone Avenue, Toole Avenue and Franklin Street to the north line of Broadway Boulevard.
- (30) Northwest on Toole Avenue from Broadway to its intersection with Fourth Avenue.
- (31) Northeast on the northeast-southwest alley between Princeton Drive and Rutgers Place from Lehigh Drive east to the north-south alleyway.
- (32) West on the east-west alley between 3rd and 4th Avenues and between 24th and 25th Streets.

(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)

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.

***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.

(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)

Sec. 20-203. Failure to respond to citation; default fee; booting and impounding vehicle authorized, booting and impound fees; damages to boot.

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

(a) *Arizona registered vehicles.* When a citation is issued to a vehicle registered within the State of Arizona, the court 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

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10900	6-28-11	1	10-31 (note)
		2	10-31(7) (note) 10-31(8) (note) 10-33 (note) 10-33.1 (note) 10-34 (note) 10-34.1 (note) 10-35 (note) 10-47 (note) 10-48 (note) 10-49 (note) 10-52 (note) 10-53 (note) 10-53.1 (note) 10-53.2 (note) 10-53.3 (note) 10-53.5 (note)
		3	10-53.4
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10903	6-28-11	2	3-11
		3	3-53
			Added 3-70
		4	3-76 3-77 3-79 3-81 3-96
		5	3-96
10904	6-28-11	1	Ch. 18 (tit.)
		2	Added 18-1 – 18-10
		3	Rnbd 2-12 as 18-11
10910	8-9-11	2	7-211
10911	8-9-11	1	19-100
		2	19-415
		3	19-416
		4	19-417

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10918	8-9-11	1	10A-145
			10A-147
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			10A-150
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			20-230.12
		4	20-255
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		5	20-309
10919	8-9-11	1	19-53
10934	10-12-11	1	2-140
10940	10-25-11	1	20-179
10948	12-5-11	1	10-35
10949	12-13-11	1	19-100
		2	Rpld. 19-130
		3	19-405
		4	Reg. 19-415.2
		5	Reg. 19-460.1
10950	12-20-11	2	Added 6-10, 6-11
		3	10A-134
10951	12-20-11	1	3-33
		2	3-33 (note)
			3-82 (note)
10952	12-20-11	1	8-2.1
		2	8-2.2

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