

TUCSON, ARIZONA
Supp. No. 90 – 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 21, 2010. 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. 90” If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

Remove from Code. Add to Code

Remove from Code. Add to Code

Title Page. Title Page

CHECKLIST OF UP-TO-DATE PAGES

[1] – [4]. [1] – [4]

CHAPTER 3: SIGN CODE

245, 246. 245, 246
275 – 278. 275 – 278.2

CHAPTER 7: BUSINESSES REGULATED

511, 512. 511, 512
527 – 232. 527 – 532
545 – 248. 545 – 548

CHAPTER 8: CITY COURT

675, 676. 675, 676
683 – 685. 683 – 686

CHAPTER 10A: COMMUNITY AFFAIRS

845 – 848. 845 – 848
873 – 876. 873 – 876

CHAPTER 11: CRIMES AND OFFENSES

1063 – 1066. 1063 – 1066
1071 – 1074. 1071 – 1074.2

**CHAPTER 16: NEIGHBORHOOD
PRESERVATION**

1547 – 1548.2. 1547 – 1548.2

CHAPTER 27: WATER

2615 – 2617. 2615 – 2618
2640.1 – 2657. 2641 – 2658

CODE COMPARATIVE TABLE

3802.13, 3802.14. 3802.13, 3802.14

CODE INDEX

3825 – 3834. 3825 – 3834
3841 – 3856. 3841 – 3856
3867 – 3870. 3867 – 3870
3877, 3878. 3877, 3878
3883 – 3888. 3883 – 3888

TUCSON, ARIZONA
Supp. No. 90 – 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.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

Page No.	Supp. No.	Page No.	Supp. No.
Title page, ii	90	117 – 120	77
iii – xiv	OC	167, 168	88
xv	3	171, 172	89
xxvii – xix	30	173, 174	88
xxi – xxix	86	175, 176	83
1, 2	47	177 – 180	85
3 – 7	25	181 – 187	83
8.1, 8.2	18	229 – 244	80
9, 10	OC	245, 246	90
11, 12	25	247 – 274	80
13 through 14.1	47	275 – 278.2	90
15, 16	25	279 – 334.1	80
17 – 20	45	335 – 340.3	71
21 – 22.1	47	341, 342	40
23 – 28	OC	343, 344	64
29, 30	18	345 – 350	83
31, 32	25	395 – 398	75
33, 34	45	447 – 449	81
35 – 38.1	18	450.1, 450.2	78
39 – 44	OC	451, 452	OC
45 – 48	78	453, 454	25
49, 50	OC	455, 456	82
51	18	457 – 460	78
53 – 55	12	461 – 463	81
105, 106	47	511, 512	90
115, 116	OC	513, 514	88

TUCSON CODE

Page No.	Supp. No.	Page No.	Supp. No.
515 – 517	81	877 – 886	88
519, 520	24	917 – 919	83
521 – 522.2	69	967	39
523, 524	79	1063 – 1066	90
525, 526	73	1067, 1068	66
527 – 532	90	1069, 1070	67
532.1 – 532.8	88	1071 – 1074.2	90
533 – 536.2	66	1074.3 – 1074.8	44
537 – 540	OC	1075, 1076	49
541, 542	19	1077 – 1078.1	78
543, 544	26	1079 – 1080.4	62
545 – 548	90	1081, 1082	69
548.1	74	1083 – 1084.1	81
549, 550	26	1085 – 1090	80
550.1, 550.2	81	1091, 1092	21
550.3 – 552	88	1093, 1094	67
553 – 562.3	81	1095 – 1098	86
563 – 566	37	1145 – 1147	65
567, 568	46	1167 – 1169	83
569 – 578	66	1189 – 1194.1	86
579, 580	79	1195 – 1200	79
581, 582	81	1203, 1204	20
597 – 634	39	1205 – 1213	78
651	63	1259 – 1262	84
653 – 664	31	1307	56
665, 666	64	1309 – 1313	78
667 – 672	75	1361	39
673	42	1459 – 1484	86
674.25 – 674.30	40	1527, 1528	83
675, 676	90	1529	81
677, 678	67	1531– 1546	89
679, 680	79	1547– 1548.2	90
681, 682	81	1549 – 1554	69
683 – 686	90	1555 – 1558	83
731 – 733	11	1559 – 1562	89
783, 784	83	1563 – 1567	83
785 – 790	81	1579, 1580	63
791 – 794	83	1581 – 1588.1	77
795 – 808	88	1589 – 1592	46
845 – 848	90	1593 – 1596	63
851, 852	33	1643	74
853	8	1691 – 1704	88
855, 856	31	1705 – 1708	79
857, 858	37	1708.1, 1708.2	81
859, 860	64	1709, 1710	89
861 – 866	81	1711 – 1712.2	83
867, 868	88	1712.3 – 1714	88
869 – 870.1	78	1715 – 1718.1	81
871, 872	65	1719 – 1722	66
873 – 876	90	1723 – 1730	79

CHECKLIST OF UP-TO-DATE PAGES

Page No.	Supp. No.	Page No.	Supp. No.
1731 – 1734	83	1975 – 1990	83
1735 – 1746	87	1991 – 1994	88
1746.1 – 1746.2	77	2025	54
1746.3 – 1746.6	81	2203 – 2205	86
1747, 1748	56	2207 – 2212	83
1749 – 1752.2.4	74	2213 – 2214.1	86
1752.2.5, 1752.2.6	77	2215 – 2226	83
1752.3, 1752.4	87	2227 – 2232.1	86
1752.5, 1752.6	54	2233 – 2248	83
1753 – 1756	61	2283 – 2284.1	43
1757 – 1762.1	77	2385 – 2402	OC
1763 – 1766	61	2403, 2404	35
1766.1, 1766.2	74	2453 – 2454.1	69
1766.3, 1766.4	79	2455, 2456	35
1766.5, 1766.6	87	2457 – 2461	69
1766.7 – 1766.9	79	2463, 2464	27
1767, 1768	37	2465 – 2466.2	34
1769 – 1774	36	2467, 2468	OC
1775 – 1778.1	67	2469, 2470	26
1779, 1780	5	2471 – 2472.1	51
1781 – 1784	79	2473, 2474	27
1785 – 1788	83	2475 – 2477	69
1791, 1792	66	2525 – 2538.2	75
1793, 1794	78	2539 – 2546	71
1795 – 1797	80	2547 – 2550.1	75
1799 – 1802.8	78	2551 – 2558	71
1803, 1804	22	2615 – 2618	90
1805, 1806	40	2619, 2620	76
1806.1	63	2621 – 2624	81
1807, 1808	89	2625, 2626	83
1809 – 1814.1	86	2627 – 2630	88
1815, 1816	66	2631 – 2634.1	83
1817 – 1820	59	2635 – 2638	81
1821, 1822	71	2639, 2640	82
1823 – 1836	78	2641 – 2658	90
1837 – 1842	80	2695 – 2698	83
1877, 1878	73	2699 – 2712	78
1879, 1880	61	2713 – 2714.1	83
1881 – 1882.1	77	2715 – 2726.1	78
1883, 1884	73	2727, 2728	64
1885, 1886	74	2729 – 2744	85
1887 – 1894	87	2749, 2750	67
1895, 1896	69	2751 – 2754	16
1897 – 1900	67	2755 – 2762	68
1901 – 1904	87	2763 – 2767	67
1953 – 1958	87	2801	34
1959, 1960	83	2803	81
1961 – 1964	85	3699 – 3752	OC
1965 – 1972	88	3753 – 3758	4
1973 – 1974.1	85	3759, 3760	6

TUCSON CODE

Page No.	Supp. No.
3761, 3762	9
3763, 3764	11
3765, 3766	14
3767, 3768	18
3769, 3770	16
3771, 3772	18
3773, 3774	19
3775, 3776	23
3777 – 3780	27
3781, 3782	31
3783, 3784	36
3785, 3786	39
3787, 3788	44
3789, 3790	51
3791, 3792	54
3793 – 3800	69
3801, 3802	70
3802.1, 3802.2	75
3802.3 – 3802.8	81
3802.9, 3802.10	83
3802.11, 3802.12	88
3802.13, 3802.14	90
3803 – 3818	45
3819, 3820	81
3821, 3822	80
3823, 3824	84
3825– 3834	90
3835 – 3838.1	86
3839, 3840	88
3841 – 3856	90
3857, 3858	86
3859 – 3862	81
3863 – 3864.1	86
3865, 3866	83
3867 – 3870	90
3871 – 3876	83
3877, 3878	90
3879, 3880	88
3880.1	83
3881, 3882	80
3883 – 3888	90
3889, 3890	81
3891, 3892	83

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.

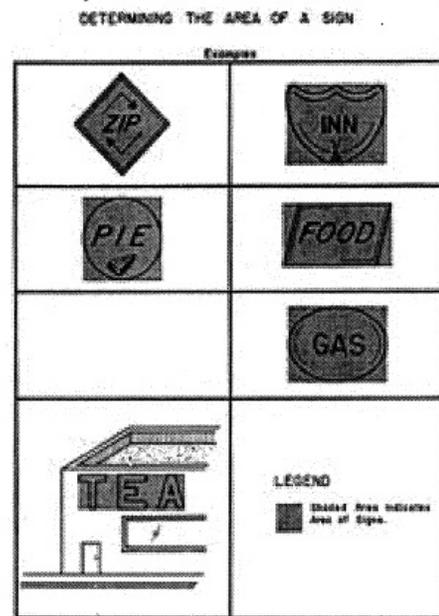


Figure 1: Area of a Sign

(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 and C, below.

B. 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.

C. 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*)

***Editor’s note** – Section 3 of Ord. No. 10864 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, 2012, 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

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

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

D. *Permitted signs*.

1. Signs generally permitted by section 3-51 and sign types listed in Article V, except as modified by this subsection for this district, and signs exempt under section 3-52.
2. Awning signs.
3. Banners, building and curbside.
4. Freestanding signs, low profile and monument type only.
 - a. Maximum number: One (1) per building per street frontage where a building facade is set back at least ten (10) feet from a public right-of-way, or one (1) per street frontage for a surface parking lot where parking is the primary use of the property.
 - b. Maximum area: Twenty (20) square feet per sign.
 - c. Parking lots: Where used to identify a commercial parking facility, each freestanding sign must display the standard Parking I.D. symbol.
 - d. Maximum height: Twelve (12) feet above grade.
5. Parking signs.
6. Portable signs are permitted subject to the provisions of section 3-51.F, except that use in this district is not limited to advertisement related to road or water construction.

7. Projecting signs.

- a. Allowed for commercial uses only.
- b. Maximum area: Twenty (20) square feet.
- c. Maximum height: Twelve (12) feet from grade (pedestrian surface) to top of sign.
- d. Minimum clearance: Eight (8) feet between grade and bottom of sign.
- e. Maximum projection from building: Five (5) feet.

8. Real estate signs, all types.

9. Temporary signs.

10. Traffic directional signs.

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

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

Sec. 3-82. Scenic corridor zone (SCZ) district.

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

B. *Maximum total attached sign area*:

1. For commercial or industrial uses: one and one-fourth (1.25) square feet per foot of building frontage with a minimum allowance of not less than twenty-five (25) square feet and a maximum of two hundred fifty (250) square feet per tenant. Signs must be oriented toward a scenic route, arterial street, collector street, or the interior of the premises.
2. For multifamily complexes: Twenty (20) square feet per street frontage.

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

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

E. *Permitted signs:*

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

a. Maximum number per premises:

- (1) Scenic route: One (1) for the first four hundred fifty (450) feet of scenic route street frontage with one (1) additional sign for every four hundred (400) feet of additional scenic route street frontage.
- (2) Arterial street: One (1) for the first four hundred fifty (450) feet of arterial street frontage with one (1) additional sign for every two hundred fifty (250) feet of additional arterial street frontage.
- (3) Collector Street: One (1) for the first four hundred fifty (450) feet of collector street frontage within the premises, with one (1) additional sign for every two hundred fifty (250) feet of additional collector street frontage.

b. Maximum area:

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

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

c. Maximum height: Ten (10) feet.

d. Location:

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

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

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

f. Lighting: Sign panels shall be opaque. Light shall be emitted through individual translucent letters and/or symbols only, or individual letters and/or symbols may be halo illuminated. Unused tenant panels shall be opaque and designed to match the rest of the sign.

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.
9. Wall signs.
- F. *Alternative regulations for transition areas:*
 The following alternative regulations apply to a business or commercial development that is located within four hundred (400) feet of the end point of a scenic route future right-of-way line and that either (1) has no frontage on the designated scenic route, or (2) has, in addition to frontage on the scenic route, frontage on the intersecting street where the scenic route ends, or (3) is bounded on all sides by development that has frontage on the intersecting street where the scenic route ends or by street property lines:
- 1. *Maximum sign area:*
 - a. *Attached signs.*
 - (1) One and one-half (1.5) square feet per foot of tenant street frontage for the first ten (10) feet of tenant street frontage and one (1) square foot for each additional foot of tenant street frontage, not to exceed one hundred seventy-five (175) square feet of total attached signage per tenant, for signs:
 - (a) Parallel to the scenic route and any portion of which is less than one hundred fifty (150) feet from the nearest point of the scenic route future right-of-way line, or
 - (b) Perpendicular to the scenic route and any portion of which is less than seventy-five (75) feet from the nearest point of the scenic route future right-of-way line.
 - (2) Two and one-quarter (2.25) square feet per foot of tenant street frontage for the first ten (10) feet
- (3) Maximum number: One (1) per vehicular entrance.
 - (4) Location: Within twenty (20) feet of the entrance.

of tenant street frontage and one and one-half (1.5) square feet for each additional foot of tenant street frontage, not to exceed one hundred seventy-five (175) square feet of total attached signage per tenant, for signs:

- (a) Parallel to the scenic route and at least one hundred fifty (150) feet from the nearest point of the scenic route future right-of-way line, or
 - (b) Perpendicular to the scenic route and at least seventy-five (75) feet from the nearest point of the scenic route future right-of-way line.
- (3) For purposes of this section, a sign with an angle of fifty (50) degrees or more to the scenic route future right-of-way line shall be considered perpendicular, and a sign with an angle of less than fifty (50) degrees to the scenic route future right-of-way line shall be considered parallel.
- (4) The maximum area of total attached signage per tenant shall not exceed one hundred seventy-five (175) square feet.

b. *Detached signs.*

- (1) On the scenic route frontage, the maximum area of a freestanding sign may be increased to forty (40) square feet, regardless of the number of tenants, provided the development has a minimum of one hundred fifty (150) feet of frontage on the scenic route and the height of the sign does not exceed eight (8) feet.
- (2) On the frontage of any arterial street other than the scenic route, the maximum area of the freestanding sign may be increased

to fifty (50) square feet. One additional freestanding sign for each additional building in the development is allowed on these frontages, provided that the maximum area of each sign does not exceed twenty-four (24) square feet and the maximum height does not exceed eight (8) feet.

- (3) On the frontage of any arterial street other than the scenic route, the total area of freestanding and directional signage per development shall not exceed 0.33 square feet of area per foot of street frontage.

2. *Attached sign replacement.* A legal nonconforming attached sign may be replaced with an attached sign that does not conform with the provisions of this section, provided the area of the replacement sign is ten (10) percent less than that of the sign being replaced and the sign permit application for the replacement sign is submitted no later than December 31, 2008.

3. *Attached sign removal and reinstallation.* An attached sign that does not conform with the provisions of this section may be removed and reinstalled without a reduction in area if the removal of the sign is to accommodate the remodeling of the building or structure to which the sign is attached and the sign permit application for the sign to be removed and reinstalled is submitted no later than December 31, 2005. This provision does not apply to a remodeling connected to a change of use.

(Ord. No. 10481, § 2, 11-27-07, eff. 1-14-08; Ord. No. 10864, § 2, 12-14-10*)

***Editor's note** – Section 3 of Ord. No. 10864 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, 2012, 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 existing on that business

TUCSON CODE

Chapter 7

BUSINESSES REGULATED*

Art. I.	Auctions and Auctioneers, §§ 7-1 – 7-25
Art. II.	Peddlers, §§ 7-26 – 7-61
Art. III.	Fortunetellers, §§ 7-62 – 7-79
Art. IV.	Going-Out-of-Business, Fire, Etc., Sales, §§ 7-80 – 7-96
Art. V.	Pawnbrokers and Secondhand Dealers, §§ 7-97 – 7-116
Art. VI.	Escorts and Escort Bureaus, §§ 7-117 – 7-129
Art. VII.	Massage Establishments, §§ 7-130 – 7-159
Art. VIII.	Drive-In Restaurants, §§ 7-160 – 7-200
Art. IX.	Swap Meets, §§ 7-201 – 7-205.1
Art. X.	Adult Entertainment Enterprises and Establishments, §§ 7-206 – 7-218
Art. XI.	Reserved
Art. XII.	Adult Care Homes and Facilities, §§ 7-219 – 7-299
Art. XIII.	Street Fairs, §§ 7-300 – 7-310
Art. XIV.	Vending Machines, §§ 7-311 – 7-349
Art. XV.	Dance Halls, §§ 7-350 – 7-385
Art. XVI.	Community Special Event, §§ 7-386 – 7-409
Art. XVII.	Late Night Retail Establishments, §§ 7-410 – 7-424
Art. XVIII.	General Provisions, § 7-425
Art. XIX.	Retail Tobacco Sales, §§ 7-426 – 7-437
Art. XX.	Hotels, §§ 7-440 – 7-449
Art. XXI.	Alarm Companies, §§ 7-450 – 7-479
Art. XXII.	Merchants' Disclosure Requirements, §§ 7-480 – 7-489
Art. XXIII.	Ice Cream Truck Vendors, §§ 7-490 – 7-500
Art. XXIV.	Lessors of Commercial Real Property Disclosure Requirements, §§ 7-501 – 7-504

Article I. Auctions and Auctioneers

Sec. 7-1.	Definitions.
Sec. 7-2.	Exemptions from article.
Sec. 7-3.	Application for auction house license.
Sec. 7-4.	Application for class B license.
Sec. 7-5.	Bond required for class B and auction house license.
Sec. 7-6.	Investigation of applications; issuance of licenses.
Sec. 7-7.	Notification to fire chief required of possession of hazardous substances; duty to update; hazardous substances defined.
Sec. 7-8.	Auction house or auction prohibited in connection with or on premises of wholesale or retail businesses; exception.
Sec. 7-9.	Sales of merchant's stock on hand – Duration; to be bona fide.
Sec. 7-10.	Same – Application.
Sec. 7-11.	“Capping”, “boosting”, false bidding prohibited.
Secs. 7-12 – 7-15.	Reserved.
Sec. 7-16.	Advertising.
Secs. 7-17 – 7-25.	Reserved.

Article II. Peddlers

Sec. 7-26.	Definitions.
Sec. 7-27.	License requirements.
Sec. 7-28.	Insurance.
Sec. 7-29.	Unlawful activities.
Sec. 7-30.	Setback requirements.

***Cross references** – Beekeeping regulated, § 11-3; dance halls regulated, § 11-15; drinking establishments regulated, §§ 11-17, 11-18; filling stations prohibited on a portion of Congress Street, § 11-21; guest register required for hotels, rooming houses, motels, § 11-26; license and privilege taxes generally, ch. 19; bond required for transient merchants, § 19-27; planning and zoning generally, ch. 23.

TUCSON CODE

- Sec. 7-31. Operating before or after required closing time.
- Sec. 7-32. License revocation.
- Sec. 7-33. Violations and penalties.
- Sec. 7-34. Enforcement authority.
- Sec. 7-35. Jurisdiction of court.
- Sec. 7-36. Commencement of civil infraction proceedings.
- Sec. 7-37. Appeal of court decision.
- Secs. 7-38 – 7-61. Reserved.

Article III. Fortunetellers

- Sec. 7-62. Definitions.
- Sec. 7-63. Approval and license required.
- Sec. 7-64. Investigation of applicants; application for license; fee; issuance of license.
- Sec. 7-65. Revocation of license.
- Sec. 7-66. Persons regulated.
- Sec. 7-67. License required for each place of business; scope of licenses.
- Sec. 7-68. Transferability of licenses; fee.
- Sec. 7-69. Reserved.
- Secs. 7-70 – 7-79. Reserved.

Article IV. Going-Out-of-Business, Fire, Etc., Sales

- Sec. 7-80. Definitions.
- Sec. 7-81. Exemptions from article.
- Sec. 7-82. Permit required.
- Sec. 7-83. Application for permit; fee required.
- Sec. 7-84. Issuance, renewal, effect of permit.
- Sec. 7-85. Rules and regulations governing sales.
- Sec. 7-86. Disposal at auction; approval required.
- Sec. 7-87. Revocation of permit for violations.
- Sec. 7-88. Revocation procedure – Appeal.
- Sec. 7-89. Requirements for permittee sign.
- Secs. 7-90 – 7-96. Reserved.

Article V. Pawnbrokers and Secondhand Dealers

- Sec. 7-97. Definitions.
- Sec. 7-98. Duty to report receipt of articles to police.
- Sec. 7-99. Contents of report to police.
- Sec. 7-100. Form of reports; when due; imposition of fee.
- Sec. 7-101. Requirements; record of transactions; police department hold on property.
- Sec. 7-102. Prohibited acts.
- Sec. 7-103. Violations, penalties.
- Sec. 7-104. Scope.
- Sec. 7-105. Property included.
- Sec. 7-106. Initiation of petition.
- Sec. 7-107. Service of the petition; notice of hearing.
- Sec. 7-108. Claimant's rights.
- Sec. 7-109. Hearing officer.
- Sec. 7-110. Conduct of hearing.
- Sec. 7-111. Judicial review.
- Sec. 7-112. Release of property.
- Sec. 7-113. Limited effect of hearing officer decision.
- Sec. 7-114. Provisions severable.
- Sec. 7-115. Grounds for denial and revocation of license.
- Sec. 7-116. Revocation hearing.

Sec. 7-84(3). Applicant must notify the city of any change of address for a six-month period following the issuance of the permit.
(1953 Code, Ch. 6, § 4; Ord. No. 2102, § 2, 10-17-60; Ord. No. 8011, § 2, 3-22-93)

Sec. 7-85. Rules and regulations governing sales.

A permittee hereunder shall:

Sec. 7-85(1). Post a sign in a prominent location upon the premises for which the permit is issued. The posted sign must meet the specifications set out in section 7-89 of the Tucson Code.

Sec. 7-85(2). State prominently the permit number and the exact closing date of any sale held hereunder in all advertisements, signs and statements regarding such sale. (Ord. No. 3120, § 4, 4-22-68)
(1953 Code, ch. 6, § 8; Ord. No. 8011, § 2, 3-22-93)

Sec. 7-86. Disposal at auction; approval required.

(a) No auction license shall be issued to any person for use on the sale premises of an applicant hereunder and no auction of the inventory stock remaining from a sale conducted pursuant to this article shall be conducted on the premises until and unless the director of finance has approved the application and the proposed sale as complying with all applicable provisions of law, and the provisions of sections 7-9 and 7-10 of the Tucson Code are fulfilled.

(b) The zoning district classification in which the sale premises are located shall not constitute a prohibition of such auction sale, any other provision of the Tucson Code to the contrary notwithstanding.
(Ord. No. 3120, § 6, 4-22-68; Ord. No. 8011, § 2, 3-22-93)

Sec. 7-87. Revocation of permit for violations.

The director of finance may revoke the permit, provided for in this article, of any person violating any of the provisions of this article by giving written notice of the revocation to the permittee, and no such permittee shall thereafter transact any business under the permit so revoked.
(1953 Code, ch. 6, § 9; Ord. No. 3120, § 5, 4-22-68; Ord. No. 8011, § 2, 3-22-93)

Sec. 7-88. Revocation procedure – Appeal.

(a) Before revoking a permit, the director of finance shall give written notice to the permittee, in the manner provided in this article, that a revocation hearing will be held at a place and time specified in the notice, which hearing shall not be sooner than ten (10) days from the date of the notice. The notice shall state the grounds relied upon for the proposed revocation. The director of finance (or designated representative) shall hold the hearing at the time and place specified, unless agreed otherwise by the permittee and other parties concerned, and the permittee shall be allowed to appear in person and by the counsel and offer evidence. A record shall be kept of all proceedings, including proofs offered and an audio tape of testimony. No permit shall be revoked unless grounds therefore are satisfactorily established by the evidence as shown by the record of the hearing. The director of finance shall give the permittee and other parties written notice of the hearing decision, and such decision shall be final. Revocation of a permit shall be effected by the finance director's signing of the written notice of the hearing decision. A permittee's right to do business under authority of the permit shall terminate immediately upon the mailing to the permittee of a copy of the director's signed decision revoking the permit.

(b) Notice required by this article may be served by certified mail addressed to the permittee at the address of the permittee as shown on the business license application or as shown on the going-out-of-business permit application. Such notices may also be served by personal service.
(Ord. No. 8011, § 2, 3-22-93)

Sec. 7-89. Requirements for permittee sign.

All signs as required in section 7-85(1) of this article shall conform to the following requirements:

- (1) There shall be a sign posted near to and visible from each entrance to the business.
- (2) Each sign shall measure 24" × 24".
- (3) All information printed on permittee's sign shall be in one-half (1/2) inch letters.
- (4) Each sign shall contain the city business license number and the sale permit number.

- (5) Each sign shall provide the telephone numbers for the consumer affairs office and the revenue division office for complaint and follow-up information.

(Ord. No. 8011, § 2, 3-22-93)

Secs. 7-90 – 7-96. Reserved.

ARTICLE V. PAWNBROKERS AND SECONDHAND DEALERS*

Sec. 7-97. Definitions.

Sec. 7-97(1). In this article, the following terms shall have the meanings given in A.R.S. § 44-1621: identification document, loan, pawn ticket, pawn transaction, pawnbroker, pawnshop, pledged goods, pledgor, reportable transaction, and transaction date.

Sec. 7-97(2). *Jewelry* includes gold, platinum, silver, gold-filled or plated ware, diamonds and other precious or semiprecious stones whether mounted or unmounted, cultured pearls, and watches, clocks and goods, wares and merchandise commonly classified as jewelry and commonly offered for sale in jewelry stores.

Sec. 7-97(3). *Secondhand dealer.*

(a) Secondhand dealer means every person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand goods, wares, merchandise or other articles, including:

- (1) Coins, gems or semiprecious stones, jewelry, precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for

money, credit or exchange, digital video discs, and all goods and articles that bear a serial number or owner applied number regardless of value; and

- (2) All secondhand goods, wares, merchandise, or other articles that have a fair market value in excess of one hundred dollars (\$100.00).

(b) The term defined in paragraph (a) includes:

- (1) Every person engaged in the described business whether such business be the principal or sole business so carried on, managed or conducted, or be merely incidental to, in connection with or a branch or department of, some other business; and

- (2) Any person or entity that conducts such activities at a location that is not that person’s or entity’s actual business address, such as a hotel, meeting hall, convention center, or other short term leased or rented location.

(c) The term secondhand dealer does not include organizations that are recognized as not for profit under the laws of this state or any other state, dealer to dealer transactions, or individuals or businesses conducting estate sales.

Sec. 7-97(4). *Transaction* includes only those items required to be reported pursuant to section 7-98(b) but does not include compact discs, furniture, and books.

(1953 Code, ch. 19, § 1; Ord. No. 4716, § 2, 11-28-77; Ord. No. 9587, § 1, 8-6-01; Ord. No. 10254, § 2, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10; Ord. No. 10854, § 2, 11-23-10, eff. 7-1-10)

Sec. 7-98. Duty to report receipt of articles to police.

(a) A pawnbroker shall make and deliver to the chief of police a true, complete, and accurate report of each article the pawnbroker receives through a reportable transaction, as provided by A.R.S. § 44-1625.

***Editor’s note** – Section 1 of Ord. No. 10254, adopted February 28, 2006, changed the title of this article from “Pawnbrokers, Secondhand Dealers and Junk Dealers” to “Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers”. Section 1 of Ord. No. 10854, adopted November 23, 2010, changed the title of this article from “Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers” to “Pawnbrokers and Secondhand Dealers”.

Cross references – License fee for pawnbrokers, § 19-28(109); license fee for junk collectors, § 19-28(79); license fee for junk dealers, § 19-28(84).

(b) It shall be unlawful for any secondhand dealer, or any employee or agent thereof, to fail, neglect, or refuse to deliver to the chief of police, within two (2) business days after the receipt thereof, a full, true, and complete report of the following enumerated goods, wares, merchandise, or other articles received at the secondhand or scrap metal dealer's place of business on deposit or by purchase, trade, or consignment:

- (1) Coins;
- (2) Gems or semiprecious stones;
- (3) Jewelry;
- (4) Precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for money, credit or exchange;
- (5) Digital video discs, expanded memory cards, and games where the total value of such goods exceeds fifty dollars (\$50.00);
- (6) Bicycles;
- (7) Golf clubs;
- (8) Ballistic vests, bullet-proof vests, and body armor;
- (9) Any good or article that bears a serial number or owner applied number; and
- (10) Collectable goods and articles that contain autographs, limited edition designations, or number sequences.

(c) Any single good or article or combination of goods or articles that have a fair market value in excess of one hundred dollars (\$100.00) shall be reported under section 7-98(b) notwithstanding the fact that such good or article or combination of goods or articles are not enumerated in the provisions of such section.

(d) Transactions may not be split into smaller portions for the purpose of avoiding the reporting requirements of subsections (b)(5) or (c). (Ord. No. 1053 Code, ch. 19, § 2; Ord. No. 2819, § 1, 10-11-65; Ord. No. 4716, § 3, 11-28-77; Ord. No. 8176, § 1, 12-13-93; Ord. No. 9587, § 2, 8-6-01; Ord. No. 10254, § 3, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10; Ord. No. 10854, §§ 3, 4, 11-23-10, eff. 7-1-10)

Sec. 7-99. Contents of report to police.

The report required by section 7-98 shall include the following:

- (1) The last, first and middle name of the pledgor or seller;
- (2) The permanent address and telephone number, if applicable, of the pledgor or seller;
- (3) The physical description of the pledgor or seller including height, weight, hair and eye color, sex, race, date of birth, prominent scars and other distinguishing features;
- (4) The number and type of the identification document presented by the pledgor or seller;
- (5) An accurate, legible description of each item pledged or sold, including the manufacturer's name, model number, serial number, caliber, size, type of item and any owner applied number, inscription or monogram, and for scrap metals, the description and weight of the scrap metal received;
- (6) The pawnbroker's or secondhand dealer's name and address and the initials or identifying number of the employee who received the item;
- (7) The date and time of the initial pawn or purchase transaction;
- (8) The type of transaction and initial pawn ticket number;

- (9) The amount loaned or paid in the transaction;
- (10) A fingerprint of the pledgor or seller only as required by state law;
- (11) Whether the transaction is a repeat pawn as defined in this article, and if so, the date of the initial transaction within the preceding twelve (12) months and the name and address of the pawnbroker involved in that preceding transaction.

(1953 Code, ch. 19, § 3; Ord. No. 4716, § 4, 11-28-77; Ord. No. 9587, § 3, 8-6-01; Ord. No. 10254, § 4, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

Sec. 7-100. Form of reports; when due; imposition of fee.

(a) All reports required by section 7-98 shall be written or printed entirely in the English language on forms provided by the chief of police in a clear and legible manner and shall be delivered to the chief of police by electronic means as approved by the chief of police. The fingerprint required by section 7-99 shall be affixed in the manner described on the form. All such reports shall be delivered within two (2) business days after the receipt of an item through a reportable transaction or transaction. Such reports may be submitted to the chief by electronic means as determined by the chief.

(b) Each transaction report shall include no more than three (3) items. For the purposes of this subsection, multiple nonserialized items of the same type (e.g. rings) that are delivered in a single transaction and that have no owner assigned numbers, engravings, inscriptions, monograms or other unique identifying characteristics, may be considered as one item on the report (e.g. “six (6) silver rings”).

(c) Each pawnbroker and secondhand dealer shall pay to the city a fee in the amount of one dollar (\$1.00) for each report required to be prepared pursuant to A.R.S. § 44-1625(A) and section 7-98. This fee shall be due and payable to the city on the 20th day of April, July, October, and January and shall be based on the

number of reports submitted to the city during each quarter.

(Ord. No. 4716, § 5, 11-28-77; Ord. No. 9587, § 4, 8-6-01; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

Editor’s note – Ord. No. 4716, § 1, adopted Nov. 28, 1977, specifically amended the Code by repealing former §§ 7-100 – 7-106, which had pertained to reports, records of transactions, dealing with minors, doubtful ownership, and violation. The sections had been derived from the 1953 Code, ch. 19, §§ 4 – 10, and Ord. No. 2819, § 2, adopted Oct. 11, 1965. §§ 5 – 8 of Ord. No. 4716 added new §§ 7-100 – 7-103 as herein set out.

Sec. 7-101. Requirements; record of transactions; police department hold on property.

(a) Every secondhand dealer within the city shall keep a permanent record at his place of business, in which a complete record of all transactions required to be reported under this article shall be entered in the English language in a clear and legible manner and at the time when the transaction takes place. Such record shall contain all the information required to be reported to the chief of police under the provisions of sections 7-98 and 7-99 and shall be retained for no less than two (2) years from the date of the last entry.

(b) The record of transactions required by subsection (a) shall be available for inspection by the chief of police or his designated representative during normal business hours.

(c) Whenever there exists probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, or other person is stolen, a police officer or person so designated by the chief of police may place a hold on the property for a period up to ninety (90) days. When a police officer or designee places a hold on the property, the police officer or designee shall initiate such hold by contacting the pawnbroker or secondhand dealer in person or by telephone and informing the pawnbroker or secondhand dealer of the hold and describing the item or items to be held. Within three (3) days of the initial contact, the police officer or designee shall deliver or mail to the pawnbroker or secondhand dealer a written notice of the hold. The written notice shall include a description of the item or items to be held.

(d) Whenever property that is in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is required by a police officer in a criminal investigation or for use as evidence in a criminal proceeding, the pawnbroker, secondhand dealer, or other person upon reasonable notice, shall deliver the property to any police officer.

(e) The police department may extend a hold placed pursuant to this section for the purpose of criminal investigation or for use in any judicial proceeding, including that set forth in this article. Any extended hold shall be no longer than is reasonably necessary.

(f) Whenever property that is in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is no longer required for the purpose of criminal investigation or any criminal proceeding, and more than one person can reasonably be anticipated to make a claim for possession of the property, the police department may follow the procedures set forth in this article for disposition of the property within forty-five (45) days of the conclusion of the criminal investigation or criminal proceeding.

(g) Whenever property that is in the possession of the police department pursuant to the procedures set forth in this section is no longer required for the purpose of criminal investigation or for use as evidence in any criminal proceeding, the police department may follow the procedures set forth in this article for disposition of the property within forty-five (45) days of the conclusion of the criminal investigation or proceeding.

(Ord. No. 4716, § 6, 11-18-77; Ord. No. 8680, § 1, 4-22-96; Ord. No. 9587, § 5, 8-6-01)

Note – See editor's note following § 7-100.

Sec. 7-102. Prohibited acts.

(a) A pawnbroker, secondhand dealer, or any employee or agent thereof shall not:

- (1) Receive any goods, wares, merchandise or other articles that are required to be reported by this article whether on deposit, in pawn or pledge, or by purchase or otherwise from any person under the age of eighteen (18) years, or from any person who is at the time intoxicated.

- (2) Purchase or otherwise take any goods, wares, merchandise or other articles that are required to be reported by this article without first taking reasonable steps, including requiring the pledgor or seller to produce an identification document, to ascertain that such goods, wares, merchandise or other articles are the property of the person offering to deposit, pawn, pledge or sell the same.
- (3) Purchase or otherwise take any goods, wares, merchandise or other articles, knowing or having reason to know that such goods, wares, merchandise or other articles are stolen.
- (4) Sell, trade, transfer, or dispose of any goods, wares, merchandise, or other articles that are required to be reported under this article until twenty (20) days after filing the report required by section 7-98. For the purposes of this section, the twenty (20) day retention period begins upon receipt of the electronic transmission of the transaction report, as approved by the chief of police.
- (5) Sell, trade, transfer or dispose of any goods, wares, merchandise or other articles subject to a police department hold described by section 7-101 except pursuant to a court order, order of a hearing officer issued pursuant to this article, or upon receipt of a written authorization signed by any police officer.
- (6) Purchase, receive, sell or transfer any item from which a manufacturer's serial number or model designator has been removed, altered or tampered with. These items shall be reported to the police department.
- (7) Refuse to permit the chief of police or a designated representative to enter such business, during normal business hours, for the purpose of inspecting such goods or records.
- (8) Fail to pay the transaction fee required to be paid by section 7-100(c) at the time so required.

(b) No secondhand dealer may sell, trade, transfer, purchase, receive, or otherwise take or dispose of any goods, wares, merchandise or other articles that are required to be reported under this article without first obtaining the appropriate licenses from the finance department and paying the tax imposed by section 19-85. In addition, all secondhand dealers and pawnbrokers shall attend any training required by the chief of police regarding the requirements under this article. Each attendee shall be given a copy of this article after completing such training and acknowledging receipt thereof.

(c) In any transaction with a secondhand dealer, no pledgor or seller shall provide false information concerning the pledgor's or seller's: name, address, phone number or rightful ownership. (Ord. No. 4716, § 7, 11-28-77; Ord. No. 8680, § 2, 4-22-96; Ord. No. 9587, § 6, 8-6-01; Ord. No. 10254, § 5, 2-28-06; Ord. No. 10790, § 2, 5-18-10, eff. 7-1-10)
Note – See editor's note following § 7-100.

Sec. 7-103. Violations, penalties.

Each violation of any provision of this article shall constitute a misdemeanor. (Ord. No. 4716, § 8, 11-28-77; Ord. No. 9587, § 7, 8-6-01; Ord. No. 10254, § 6, 2-28-06)
Note – See editor's note following § 7-100.

Sec. 7-104. Scope.

Property which is in the possession of pawnbrokers, secondhand dealers, the police department or other person, and which has all of the characteristics set forth in section 7-105, below, shall be disposed of pursuant to this article. (Ord. No. 8680, § 3, 4-22-96; Ord. No. 9587, § 8, 8-6-01)

Sec. 7-105. Property included.

- (a) The city has reason to believe that the property was stolen.
- (b) The police department has possession of the property or has placed a hold on the property as set forth in section 7-101.
- (c) No state court has before it a petition against a suspect alleged to have stolen the property.

(d) Two (2) or more persons are known or believed to have made, or can reasonably be anticipated to make, a claim for possession of the property.

(e) The city makes no claim to possession of the property.

(f) The property will not be required to be retained for use as evidence in any legal proceeding other than the hearing under this article and the city police department has no other lawful reason for holding the property. (Ord. No. 8680, § 4, 4-22-96; Ord. No. 9587, § 9, 8-6-01)

Sec. 7-106. Initiation of petition.

The police department shall file a petition with a hearing officer designated by the city manager to determine ownership of the property within forty-five (45) days of the conclusion of the criminal investigation or criminal proceedings involving the property. Such petition shall set forth the following:

- (1) The facts establishing compliance with section 7-105.
- (2) The name and address of each person described in section 7-105(d).
- (3) An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), the location where the property is currently being held, and the person from whom seized, if the property was in fact seized.

(Ord. No. 8680, § 5, 4-22-96)

Sec. 7-107. Service of the petition; notice of hearing.

(a) The police department shall serve the petition by personal service or by first class mail, postage prepaid, return receipt requested, upon all persons known to have an interest in the property, each person described and named in section 7-105(d) and section 7-106(b) above, and, in all cases, the person from whom the property was obtained or who currently possesses the property subject to the police department hold.

erate an adult entertainment enterprise or to conduct business as or to manage an adult entertainment enterprise without first obtaining and maintaining in effect, an adult entertainment enterprise license, as provided by this article.

(b) It shall be unlawful for any person, self-employed or employed by another, association, partnership, firm or corporation to employ an adult entertainment employee that is not currently licensed, as provided by this article.

(c) It shall be unlawful for any adult entertainment employee to be an employee of an adult entertainment enterprise without first obtaining, and maintaining in effect, an adult entertainment employee license as provided by this article.

(d) Adult entertainment employee licenses shall be effective for one (1) year, expiring at midnight one (1) year from the date of the initial application, unless a reapplication is filed with the city's director of finance within thirty (30) days before the expiration date; except as follows:

(1) Adult entertainment employee licenses in effect at the time of the adoption of this ordinance shall expire at midnight one (1) year after the passage of this ordinance [April 11, 1994], if a reapplication is not filed with the department upon or before that date.

(2) Adult entertainment employees who do not appear in a state of undress as described in section 7-207(h), do not have to renew their licenses, nor do their licenses expire.

(Ord. No. 4783, § 1, 4-3-78; Ord. No. 5427, § 1, 9-8-81; Ord. No. 7299, § 4, 10-23-89; Ord. No. 7414, § 1, 5-21-90; Ord. No. 8246, § 2, 4-11-94)

Sec. 7-210. License application procedure and fees; renewal procedure and fees; hearing; appeal.

(a) Any person, association, firm, partnership or corporation desiring to obtain an adult entertainment enterprise license, or a new adult entertainment employee license or a renewal of same, if required by section 7-209(d), shall apply to the city director of finance, who shall refer each application to the chief of police for appropriate investigation and refer each application for an adult entertainment enterprise license

to the director of planning and zoning to verify compliance with Chapter 23 of the Tucson Code.

(b) Each application for:

(1) An adult entertainment enterprise license shall be accompanied by a nonrefundable application fee of three hundred dollars (\$300.00).

(2) A new adult entertainment employee license shall be accompanied by a nonrefundable application fee of one hundred dollars (\$100.00).

(3) A renewal of an adult entertainment employee license, if required by section 7-209(d), shall be accompanied by a nonrefundable application fee of forty dollars (\$40.00).

(4) An adult entertainment enterprise license application shall be accompanied by the bond or proof of insurance required by this article. The application fee required by this section and the license required by this article shall be in addition to any business license and fee which may be required by Chapter 19 of this Code. The granting of a license under this article shall not be deemed evidence or proof that the licensee has complied with requirements and provisions of Chapter 19 of this Code.

(c) The director of finance shall transmit within two (2) days of their receipt all completed applications to the chief of police and also to the director of the planning and zoning department all completed applications for adult entertainment enterprise licenses. The director of finance shall immediately issue a temporary license to applicants who have submitted a completed application, fees and bonds or proof of insurance if required. The temporary license shall remain in effect until either a permanent license is issued or denied without appeal by the applicant, or until an appeal of a license denial to the civil infractions division of the Tucson City Court is decided. The chief of police shall investigate an application and the background of the applicant. Based on such investigation, the chief of police shall recommend to the director of finance approval or denial of a license within sixty (60) days of receiving a

completed application. Unless the chief of police finds grounds to deny an application under section 7-212, the chief of police shall recommend approval of the application. The director of planning and zoning shall review the zoning regulations which apply to the business property to see whether it is in conformity therewith. Based upon such review and any necessary inspections of the business property, the director of planning and zoning shall recommend to the director of finance approval or denial of a license within thirty (30) days of receiving a completed application. Unless the director of planning and zoning finds grounds to deny an application under Chapter 23 of this Code the director of planning and zoning shall recommend approval of the application. The director of finance shall issue said license upon the recommendation of the chief of police and the director of planning and zoning or notify the applicant of its denial within five (5) days of the receipt of the recommendations of the chief of police and the director of planning and zoning.

(d) Should an applicant be denied a license, the applicant may, within five (5) days of the notice of denial from the director of finance, file a petition for review before the civil infractions division of the Tucson City Court. Within five (5) days, the magistrate, special magistrate or special limited magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the petition for review. The magistrate, special magistrate or special limited magistrate shall notify the parties of the date in the manner described below in this section. If the applicant fails to appear as directed, a default judgment will be entered. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence, with a record made by electronic tape recording or stenographic transcription. The Arizona Rules of Evidence shall apply. However, the magistrate, special magistrate or special limited magistrate shall admit evidence over hearsay objections where the proffered evidence has substantial probative value and reliability. Copies of records and documents prepared in the ordinary course of business shall be admitted, but subject to challenge as to weight and authenticity. The sole basis for the magistrate, special magistrate or special limited magistrate to overturn the decision of the finance director shall be a finding of factual error as to the enumerated grounds for denial of the license contained in section 7-212 or Chapter 23 of this Code. The applicant shall have the burden of proof to show by a preponderance of the evidence that a

factual error exists in the finance director’s decision on those grounds enumerated in section 7-212 or Chapter 23 of this Code. The magistrate, special magistrate or special limited magistrate shall render a decision within five (5) days of the hearing and notify all parties as to the outcome by certified mail to the address provided on the application or to their attorneys.

(e) Appeal of the decision of the magistrate, special magistrate or special limited magistrate under the article shall be by way of special action to the superior court on the record of the hearing. The appealing party shall bear the cost of preparing the record for appeal. No appeal shall be taken later than ten (10) days after entry of the decision by the magistrate, special magistrate or special limited magistrate unless the decision is mailed, in which case, no later than fifteen (15) days after entry of the decision.

(Ord. No. 4783, § 1, 4-3-78; Ord. No. 7299, § 5, 10-23-89; Ord. No. 7414, § 1, 5-21-90; Ord. No. 8130, § 3, 10-4-93; Ord. No. 8246, § 3, 4-11-94)

Sec. 7-211. License application procedure; renewal; contents.

(a) Each applicant for an adult entertainment enterprise license or an adult entertainment employee license shall submit an application, verified under oath; initially, or annually thereafter if required by section 7-209(d), before the end of the last business day prior to the expiration of the previous license and within thirty (30) days before the expiration of that previous license, to the city’s director of finance; containing the following information and material:

- (1) The applicant’s full legal name and current residence address;
- (2) The applicant’s residence addresses for the previous five (5) years and the dates of residence at each;
- (3) Any other name, including any stage names, by which the applicant has been known during the previous five (5) years;
- (4) The address at which the adult entertainment enterprise applicant desires to do business, and the name under which the business will be conducted;

- (5) Written proof that the applicant is at least twenty-one (21) years of age;
- (6) The applicant's height, weight and color of hair and eyes;
- (7) Two (2) passport quality color photographs, taken at the time of application by the police department;
- (8) The business, occupation or employment history of the applicant during the previous five (5) years;
- (9) All felony or misdemeanor convictions of the applicant within the past five (5) years involving sexual misconduct, an escort violation, prostitution, or any of the related offenses enumerated in this Code or in A.R.S. Section 13-1401 et. seq.; e.g., rape, indecent exposure, child molesting or lewd and lascivious acts; and any such offense committed outside the State of Arizona that would have been classified as one of the above offenses if committed within the State of Arizona.
- (10) The new applicant's complete fingerprints taken by the Tucson Police Department, along with written verification from the police department of having completed being fingerprinted.
- (11) The name and current residence addresses of each person employed or intended to be employed by the adult entertainment enterprise;
- (12) The full name and current mailing address of each of the entity's partners, members, directors, officers and managers of an application for an adult entertainment enterprise license for other than an individual.
- (13) The names, addresses and dates of birth of all persons with a five (5) percent or greater ownership interest in the adult entertainment enterprise, except for publicly owned corporations listed with the securities exchange commission.
- (14) A sketch or diagram of the applicant's adult entertainment enterprise showing each room and the configuration of the premises, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn with marked dimensions of the interior of the premises. If there are any subsequent changes, a new sketch shall be submitted to the chief of police within ten (10) days after completion of the changes.
 - (b) If an application for an adult entertainment enterprise license is for a firm, partnership, association or corporation, the applicant shall be the individual who is to be in actual management of the enterprise for which a license is requested, and the information and material required about the applicant by subsection (a) of this section shall also be required about the individual in active management of the firm, partnership, association or corporation in whose name the license is to be issued.
 - (c) Each application for an adult entertainment enterprise license shall be accompanied by:
 - (1) The application fee required by section 7-210(b)(1) of this article; and
 - (2) Either a surety bond in the amount of ten thousand dollars (\$10,000.00) or proof of a paid insurance policy covering the enterprise in the amount of at least five hundred thousand dollars (\$500,000.00) for at least one (1) year, which proof shall be renewed annually and the insurance maintained in effect for as long as the adult entertainment enterprise is licensed. The bond shall be executed and acknowledged by the licensee as principal and by a corporation licensed to transact fidelity and surety business in the state as surety. The bond shall be continuous in form and run concurrently with the license period, and shall be in favor of the city for the benefit of any person injured on the premises through any negligence of the principal or the principal's agent or employee and shall be subject to claim by any person injured thereby.

(d) Each application for an adult entertainment employee license shall be accompanied by the application fee required by section 7-210(b)(2) or (3) of this article.

(e) Applicant background check. The chief shall forward the fingerprints obtained pursuant to subsection (a)(10), accompanied by the appropriate fees paid by the applicant, to the appropriate state and federal agencies for the purpose of conducting a state and federal criminal records check in accordance with A.R.S. § 41-1750 and Public Law 92-544. The Director of the Arizona Department of Public Safety may exchange the applicant's fingerprint data with the Federal Bureau of Investigation. If the chief determines, based on such background check, that the applicant has a conviction for any offense described in subsection (a)(9), the chief shall recommend to the director that a license be denied or not renewed. (Ord. No. 4783, § 1, 4-3-78; Ord. No. 7299, § 6, 10-23-89; Ord. No. 7414, § 1, 5-21-90; Ord. No. 8246, § 4, 4-11-94; Ord. No. 10270, § 1, 5-2-06; Ord. No. 10866, § 1, 12-21-10)

Sec. 7-212. Grounds for denial of license.

No adult entertainment enterprise license nor adult entertainment employee license shall be issued or renewed if the applicant:

- (1) Is not eighteen (18) years of age or older;
- (2) Made any false statement in the application;
- (3) While licensed under this article, has had such license revoked within the previous two (2) years;
- (4) Has been convicted within the past five (5) years of any felony or misdemeanor offense involving sexual misconduct, prostitution, an escort violation, or any of the related offenses enumerated in this Code or in A.R.S. section 13-1401, et seq.; e.g., rape, indecent exposure, child molesting, or lewd and lascivious acts; or any such offense committed outside the State of Arizona that would have been classified as one of the

above offenses if committed within the State of Arizona.

(Ord. No. 4783, § 1, 4-3-78; Ord. No. 5427, § 2, 9-8-81; Ord. No. 7299, § 7, 10-23-89; Ord. No. 7414, § 1, 5-21-90)

Sec. 7-213. Place of business, license non-transferable, available for inspection, spacing requirements set, exemption.

(a) An adult entertainment enterprise licensee shall conduct business only at the address shown on the license. Each additional place of business shall require a separate license.

(b) An adult entertainment enterprise license issued under this article shall be nontransferable as to the licensee; however, the director of finance, upon receipt of a transfer fee of ten dollars (\$10.00), shall authorize the transfer of a license from one location to another, provided the licensee remains the same and the new location meets the requirements of this article.

(c) An adult entertainment employee may work at any properly licensed adult entertainment enterprise establishment.

(d) The licensed premises shall be available for inspection by the police department, fire department, building safety division, zoning department, state or county health departments or by the director of finance or authorized representative at any time the premises are occupied or open for business.

(e) The licensed premises and its associated parking area shall not be located within five hundred (500) feet of a residentially zoned property, school, church, public park or playground or within one thousand (1,000) feet of another adult entertainment establishment, to be measured property line to property line or zone boundary line; except as provided by Chapter 23 of the Tucson Code. Those adult entertainment establishments that are in existence as of the date this ordinance is adopted and those whose ownership is subsequently transferred are exempt from this restriction. This exemption does not apply when a non-conforming use has been discontinued or abandoned

Chapter 8
CITY COURT*

Art. I. In General, §§ 8-1 – 8-34
Art. II. Reserved

Article I. In General

- Sec. 8-1. Jurisdiction, powers, duties.
- Sec. 8-2. Appointment of magistrates; several powers, duties.
- Sec. 8-2.1. Methods of appointment of magistrates and qualifications; establishing senior special magistrate status and compensation.
- Sec. 8-2.2. Appointment of special magistrates; terms of office; compensation; powers; duties; qualifications.
- Sec. 8-2.3. Appointment of limited special magistrates; term; powers; duties; qualifications; compensation.
- Sec. 8-2.4. Criminal history records check prior to appointment of city magistrates.
- Sec. 8-2.5. Justices of the peace, weekend arraignments and initial appearances.
- Sec. 8-3. Conducting business on nonjuridical days.
- Sec. 8-4. Magistrates; powers and duties.
- Sec. 8-4.1. Authorizing assignment of an associate presiding magistrate, term, compensation, duties.
- Sec. 8-5. Duty to fix bond, bail, fines, penalties, fees and assessments.
- Sec. 8-5.2. Probation monitoring fees.
- Sec. 8-6. Assumption of chapter 28 procedures.
- Sec. 8-6.1. Penalties.
- Sec. 8-6.3. Reimbursement of city's costs of incarceration; factors to be considered; exemption for indigent persons; reimbursement separate and distinct from any sentence or probation conditions; action for recovery authorized.
- Sec. 8-6.4. Administrative fee for warrants issued for failure to pay fines or restitution; exemption for indigent persons; fee separate and distinct from any sentence or probation conditions; action for recovery authorized.
- Sec. 8-6.5. Case processing fee; exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.
- Sec. 8-6.6. Assessment of administrative charge on persons convicted in city court of violations of A.R.S. § 28-1381 et seq.
- Sec. 8-6.7. Administrative default fee; exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized.
- Sec. 8-6.8. Post-adjudicated civil motion filing fee; exemption for extraordinary circumstances; fee separate and distinct from any sentence; action for recovery authorized.
- Sec. 8-7. Fines; collection; abatement.
- Sec. 8-8. City court procedures.
- Sec. 8-9. When jury trial required.
- Sec. 8-10. Summoning jurors.
- Sec. 8-11. Number of jurors; challenges for cause.
- Sec. 8-12. Pay of jurors.
- Sec. 8-13. Execution to collect fine.
- Sec. 8-14. Director of finance; powers and duties in relation to city court.
- Secs. 8-15 – 8-34. Reserved.

Article II. Reserved

***Charter Reference** – City court, ch. XII.

Cross references – Penalty for violating ordinances, § 1-8; treatment of prisoners generally, § 1-9 et seq.; violations of traffic regulations, § 20-68 et seq.

TUCSON CODE

(c) The case processing fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any sentence or probation conditions imposed by the city court in any criminal case, or any civil penalty in cases where a civil penalty is imposed. The city court shall set forth the requirement and amount of such case processing fee as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the case processing fee authorized under this section. (Ord. No. 9851, § 1, 5-12-03; Ord. No. 10585, § 1, 10-7-08, eff. 1-1-09)

Sec. 8-6.6. Assessment of administrative charge on persons convicted in city court of violations of A.R.S. § 28-1381 et seq.

(a) A person convicted in city court of a violation of A.R.S. § 28-1381 et seq. either after trial or pursuant to plea agreement, shall be assessed an administrative charge to cover all or part of the administrative costs and expenses directly incurred by the city police department in the investigation of violations of A.R.S. § 28-1381 et seq. The administrative charge constitutes a debt of the person, and may be collected by the city.

(b) The city court shall assess and collect the administrative charge on behalf of the city. The court shall set forth the requirement and amount of the administrative charge as a separate item in all orders and judgments, and not as part of any sentence or probation conditions imposed by the city court in the criminal case.

(c) No person whom the city court finds to be indigent shall be required to pay the monetary charge authorized in this section. If the court finds that a person is able to pay only a portion of the administrative charge as calculated by the chief of police pursuant to subsection (d), the court may waive that portion that the court finds the person is unable to pay.

(d) The chief of police shall, on a periodic basis, determine the amount of costs and expenses, including but not limited to officer salaries, directly incurred by the city police department in the investigation of violations of A.R.S. § 28-1381 et seq., and set the administrative charge to be assessed against each convicted person at an amount reasonably calculated to recover all or part of those costs and expenses, but in no event to exceed the average case amount of such costs and expenses. The calculated amount shall not include costs and expenses for officer testimony given during discovery, or at a hearing or trial. The chief of police shall communicate the amount of the administrative charge to be assessed against each convicted person to the city court.

(e) The administrative charge collected by the city court shall be deposited in the general fund.

(f) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the administrative charge authorized under this section.

(g) The liability imposed under this section is in addition to and not in limitation of any other liability which may be imposed, except that this section shall not apply in any case where the convicted person caused an accident that resulted in an appropriate emergency response, thereby making A.R.S. § 28-1386 et seq. applicable. It is the intent of the mayor and council that this section supplement the provisions of A.R.S. § 28-1386 et seq. in cases where that statute is not applicable, and that A.R.S. § 28-1386 et seq. control in the event of any actual conflict between it and this section.

(h) The administrative charge provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any sentence or probation conditions imposed by the city court in the criminal case.

(i) As used in this section, the term "chief of police" includes any designee(s) of that officer. (Ord. No. 8729, § 1, 7-1-96; Ord. No. 8958, § 2, 9-22-97)

Sec. 8-6.7. Administrative default fee; exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized.

(a) A default fee of fifty dollars (\$50.00) for each charge shall be assessed against a defendant who fails to appear, or who fails to pay a sanction or penalty imposed by the court, in any case involving a civil traffic violation of the Arizona Revised Statutes or civil violation, civil infraction or civil parking infraction of the Code.

(b) The default fee may be waived or suspended when such waiver would be in the interest of justice. No person who is found to be indigent by the city court shall be required to pay the default fee.

(c) The default fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any other fines or fees imposed. The city court shall set forth the requirement and amount of such default fee as a separate item in all orders and judgments.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute appropriate civil action in any court of competent jurisdiction for recovery of the default fee authorized under this section.
(Ord. No. 9194, § 1, 1-25-99; Ord. No. 10010, § 1, 8-2-04)

Sec. 8-6.8. Post-adjudicated civil motion filing fee; exemption for extraordinary circumstances; fee separate and distinct from any sentence; action for recovery authorized.

(a) Each person filing a motion in a post-adjudicated civil case, to include those in default and/or submitted to the Fines Fees and Restitution Enforcement (FARE) program, will pay a five dollar (\$5.00) post-adjudicated civil motion filing fee. The five dollar (\$5.00) filing fee shall be paid prior to acceptance and processing of the motion.

(b) Absent extraordinary circumstances the five dollar (\$5.00) filing fee shall not be waived. When

waving the five dollar (\$5.00) filing fee, city court shall set forth the extraordinary circumstances in all orders and judgments waving the fee.

(c) The post-adjudicated civil motion filing fee provided for in this section is hereby declared to be a cost recovery measure, administrative in nature, separate from and in addition to any sentence or civil penalty previously imposed by the court.

(d) In addition to any other rights and remedies available to the city, the city attorney is authorized to institute any appropriate civil action in any court of competent jurisdiction for recovery of the post adjudicated civil motion filing fee authorized under this section.
(Ord. No. 10849, § 1, 11-9-10, eff. 12-1-10)

Sec. 8-7. Fines; collection; abatement.

Any civil fine not paid within thirty (30) days after judgment shall constitute a lien against the real property of the defendant and may be filed with the county recorder's office. The city attorney may commence a separate legal action in city court to collect the fine. When the magistrate, special magistrate or limited special magistrate orders correction or abatement of a civil violation or civil infraction, and there is no compliance within thirty (30) days, such violation shall be deemed a public nuisance and the city attorney may seek injunctive relief in a court of competent jurisdiction. Any action taken under this section shall be in addition to any other remedies provided for in this Code.
(Ord. No. 7887, § 7, 8-3-92)

Sec. 8-8. City court procedures.

The rules of criminal procedure of the state shall apply to all criminal proceedings in city court. The rules of procedure in civil traffic violation cases shall apply to all proceedings in city court for civil traffic violations. The Local Rules of Practice and Procedure in City Court Civil Proceedings shall apply to all proceedings for civil parking infractions and to all other actions for civil violations or civil infractions of this Code.

(Ord. No. 7887, § 8, 8-3-92)

Note – Formerly § 8-9; renumbered § 8-8 by § 7 of Ord. No. 7733.

Sec. 8-9. When jury trial required.

In the trial of offense for the violation of the Charter and ordinances of the city and the laws of the state which are within the jurisdiction of the city court, and which by common law were not triable before a jury, no jury trial shall be granted. But in all cases where the offense charged was an offense at common law, a trial by jury shall be had if demanded by either the state or the defendant before the commencement of the trial. Unless such demand is made not less than three (3) days before the commencement of the trial, trial by jury shall be deemed waived.

(1953 Code, ch. 9A, § 14; Ord. No. 7733, § 7, 12-9-91)

Note – Formerly § 8-10; renumbered § 8-9 by § 7 of Ord. No. 7733.

Sec. 8-10. Summoning jurors.

Upon proper demand by either of the parties for a jury trial in a case triable before a jury as herein provided, the magistrate shall issue an order directed to the chief of police or to any police officer of the city, commanding such officer to summon from the citizens of the city, and not from the bystanders, the number of qualified persons specified in the order to serve as jurors in the case. In the alternative, juries may be formed and jurors summoned in the manner authorized in A.R.S. sections 22-320.B and 22-426, as amended. (1953 Code, ch. 9A, § 14; Ord. No. 5091, § 1, 1-21-80; Ord. No. 7733, § 5, 12-9-91)

Note – Formerly, § 8-11. Renumbered § 8-10 and the text amended by § 5 of Ord. No. 7733.

Sec. 8-11. Number of jurors; challenges for cause.

In trials for offenses within the jurisdiction of this court which are triable by jury, the jury shall consist of six (6) persons but may, by consent of both parties, consist of any number less than six (6) and not under three (3). Any juror shall be subject to challenge for cause, which challenge for cause shall be tried by the court. At the time appointed for a jury trial in the city court, the list of jurors summoned shall be called; and if they all attend they shall constitute the jury unless excused or successfully challenged, in which case enough others to complete the jury shall be forthwith summoned in the manner hereinbefore provided.

(1953 Code, ch. 9A, § 15; Ord. No. 7733, § 7, 12-9-91)

Note – Formerly, § 8-12. Renumbered § 8-11 by § 7 of Ord. No. 7733.

Sec. 8-12. Pay of jurors.

(a) Jurors who serve one (1) session shall receive the sum of five dollars (\$5.00). Jurors who serve the morning session and the afternoon session shall receive the sum of eight dollars (\$8.00); and in addition thereto the jurors shall receive free parking either by having parking spaces allocated for their vehicles or through the validation of their parking tickets, the sums to be paid by the city.

(b) A session of court shall be designated as a morning session or an afternoon session. The morning session will be between the hours of 8:30 a.m. and 12:00 noon, and the afternoon session shall be between the hours of 1:30 p.m. and 5:00 p.m.

(c) In the alternative, jurors may be paid as authorized in A.R.S. section 21-221, as amended. (1953 Code, ch. 9A, § 20; Ord. No. 2852, § 1, 3-7-66; Ord. No. 4064, §§ 1, 2, 7-16-73; Ord. No. 5091, § 2, 1-21-80; Ord. No. 7733, § 6, 12-9-91)

Note – Formerly, § 8-13. Renumbered § 8-12 and the text amended by § 6 of Ord. No. 7733.

Sec. 8-13. Execution to collect fine.

The city may, if a fine is imposed for the violation of its Charter, ordinances or the statutes of the state within the jurisdiction of the city court, have execution against the property of the defendant as in civil actions. (1953 Code, ch. 9A, § 23; Ord. No. 7733, § 7, 12-9-91)

Note – Formerly, § 8-14. Renumbered § 8-13 by § 7 of Ord. No. 7733.

Sec. 8-14. Director of finance; powers and duties in relation to city court.

The director of finance shall at his discretion inspect and audit any accounts or records of the financial transactions of the city court and prepare from time to time such financial reports of the court's transactions as are deemed necessary and appropriate. (Ord. No. 4679, § 13, 6-27-77; Ord. No. 5169, § 4, 6-16-80; Ord. No. 7733, § 7, 12-9-91)

Note – Formerly, § 8-15. Renumbered § 8-14 by § 7 of Ord. No. 7733.

Secs. 8-15 – 8-34. Reserved.

Editor’s note – Ord. No. 2754, § 1, enacted Apr. 5, 1965, repealed § 8-15, formerly derived from 1953 Code, ch. 9A, § 24 and Ord. No. 2582, § 1, 2-17-64. The section authorized the mayor and council to appoint and remove bailiffs and determine their compensation and term of office.

ARTICLE II. RESERVED*

***Editor’s note** – Section 1 of Ord. No. 5950, adopted Feb. 13, 1984, repealed art. II, §§ 8-35 – 8-39, relating to unclaimed property, derived from the 1953 Code, ch. 2, §§ 40 – 43; Ord. No. 3225, §§ 1, 2, adopted Mar. 3, 1969; Ord. No. 4021, §§ 1 – 4, adopted May 1, 1973; and Ord. No. 4679, § 5, adopted June 27, 1977.

Cross reference – Disposition of surplus, obsolete, lost, unclaimed and confiscated property, 2-53.

Chapter 10A

COMMUNITY AFFAIRS

Art. I.	Historical Commission, §§ 10A-1 – 10A-9
Art. II.	Tucson Youth and Delinquency Prevention Council, §§ 10A-10 – 10A-20
Art. III.	Veterans' Affairs Committee, §§ 10A-21 – 10A-30
Art. IV.	Founding Date of City of Tucson, §§ 10A-31 – 10A-40
Art. V.	Reserved, §§ 10A-41 – 10A-50
Art. VI.	Reserved, §§ 10A-51 – 10A-74
Art. VII.	Commission on Disability Issues, §§ 10A-75 – 10A-85
Art. VIII.	Citizens Police Advisory Review Board, §§ 10A-86 – 10A-99
Art. IX.	Commemorations and Observances, §§ 10A-100 – 10A-109
Art. X.	Tucson-Pima County Metropolitan Energy Commission, §§ 10A-110 – 10A-119
Art. XI.	Independent Audit and Performance Commission, §§ 10A-120 – 10A-129
Art. XII.	Tucson-Pima County Bicycle Advisory Committee, §§ 10A-130 – 10A-132
Art. XIII.	Terms and Conditions of Membership on Boards, Committees and Commissions and Filing of Rules, §§ 10A-133 – 10A-144
Art. XIV.	ParkWise Commission, §§ 10A-145 – 10A-159
Art. XV.	Stormwater Advisory Committee (SAC) and Stormwater Technical Advisory Committee (STAC), §§ 10A-160 – 10A-169
Art. XVI.	Reserved, §§ 10A-170 – 10A-179
Art. XVII.	Landscape Advisory Committee, §§ 10A-180 – 10A-189
Art. XVIII.	Small, Minority and Women-Owned Business Commission, §§ 10A-190 – 10A-199
Art. XIX.	Resource Planning Advisory Committee, §§ 10A-200 – 10A-209
Art. XX.	Climate Change Committee (CCC), §§ 10A-210 – 10A-219
Art. XXI.	Tucson Housing Trust Fund Citizens Advisory Committee (THTFCAC), §§ 10A-220 – 10A-229
Art. XXII.	Reserved, §§ 10A-230 – 10A-239
Art. XXIII.	Citizen Transportation Advisory Committee, §§ 10A-240 – 10A-244

Article I. Historical Commission

Sec. 10A-1.	Tucson-Pima County Historical Commission: Created; membership; vacancies; officers; quorum; terms; compensation; rules and regulations.
Sec. 10A-2.	Commission expenses and expenditures.
Sec. 10A-3.	Functions and purposes of the commission.
Secs. 10A-4 – 10A-9.	Reserved.

Article II. Tucson Youth and Delinquency Prevention Council

Sec. 10A-10.	Created.
Sec. 10A-11.	Membership.
Sec. 10A-12.	Organization.
Sec. 10A-13.	Reports.
Sec. 10A-14.	Limitation of powers.
Sec. 10A-15.	Functions and purposes.
Secs. 10A-16 – 10A-20.	Reserved.

Article III. Veterans' Affairs Committee

Sec. 10A-21.	Created.
Sec. 10A-22.	Membership.
Sec. 10A-23.	Committee organization.
Sec. 10A-24.	Reports.
Sec. 10A-25.	Limitation of power.
Sec. 10A-26.	Functions and purposes.
Secs. 10A-27 – 10A-30.	Reserved.

TUCSON CODE

Article IV. Founding Date of City of Tucson

- Sec. 10A-31. Founding date established.
- Sec. 10A-32. Bicentennial anniversary celebration.
- Secs. 10A-33 – 10A-40. Reserved.

Article V. Reserved

- Secs. 10A-41 – 10A-50. Reserved.

Article VI. Reserved

- Secs. 10A-51 – 10A-74. Reserved.

Article VII. Commission on Disability Issues

- Sec. 10A-75. Creation.
- Sec. 10A-76. Functions and purposes.
- Sec. 10A-77. Membership composition, terms and qualifications.
- Sec. 10A-78. Commission organization.
- Sec. 10A-79. Limitation of powers.
- Secs. 10A-80 – 10A-85. Reserved.

Article VIII. Citizen Police Advisory Review Board

- Sec. 10A-86. Declaration of policy.
- Sec. 10A-87. Creation.
- Sec. 10A-88. Citizen complaints and concerns: powers and duties.
- Sec. 10A-89. Community-police partnership: powers and duties.
- Sec. 10A-90. Composition, appointment, terms, and attendance.
- Sec. 10A-91. Board organization.
- Sec. 10A-92. Reports.
- Sec. 10A-93. Limitations of powers.
- Sec. 10A-94. Training.
- Sec. 10A-95. Cooperation.
- Secs. 10A-96 – 10A-99. Reserved.

Article IX. Commemorations and Observances

- Sec. 10A-100. American Indian Awareness Days.
- Sec. 10A-101. Martin Luther King, Jr. Day.
- Secs. 10A-102 – 10A-109. Reserved.

Article X. Tucson-Pima County Metropolitan Energy Commission

- Sec. 10A-110. Created; membership; vacancies; quorum; terms; compensation.
- Sec. 10A-111. Commission expenses and expenditures.
- Sec. 10A-112. Functions and purposes of the commission.
- Sec. 10A-113. Limitation of powers.
- Secs. 10A-114 – 10A-119. Reserved.

COMMUNITY AFFAIRS

Article XI. Independent Audit and Performance Commission

- Sec. 10A-120. Creation of independent audit and performance commission.
- Sec. 10A-121. Membership composition; appointment and terms; compensation; removal.
- Sec. 10A-122. Functions and duties.
- Sec. 10A-123. Commission organization; meetings; reports.
- Sec. 10A-124. Limitation of powers.
- Sec. 10A-125. Staff support; ex officio member.
- Secs. 10A-126 – 10A-129. Reserved.

Article XII. Tucson-Pima County Bicycle Advisory Committee

- Sec. 10A-130. Created; membership; vacancies; quorum; terms; compensation.
- Sec. 10A-131. Functions and purposes.
- Sec. 10A-132. Limitation of powers.

Article XIII. Terms and Conditions of Membership on Boards, Committees and Commissions and Filing of Rules

- Sec. 10A-133. Applicability.
- Sec. 10A-134. Terms and removal.
- Sec. 10A-135. Effective date.
- Sec. 10A-136. Rules and regulations of commissions, boards, departments to be filed.
- Sec. 10A-137. Nonvoting, advisory members.
- Sec. 10A-138. Citizens Advisory Planning Committee zoning code revision subcommittee.
- Sec. 10A-139. Requirements for creation of boards, committees, and commissions; annual reports.
- Secs. 10A-140 – 10A-144. Reserved.

Article XIV. ParkWise Commission

- Sec. 10A-145. Declaration of policy.
- Sec. 10A-146. ParkWise commission created.
- Sec. 10A-147. Membership composition; appointment; terms.
- Sec. 10A-148. Functions and purposes.
- Sec. 10A-149. Commission organization.
- Sec. 10A-150. Commission reports.
- Sec. 10A-151. Limitation of powers.
- Secs. 10A-152 – 10A-159. Reserved.

Article XV. Stormwater Advisory Committee (SAC) and Stormwater Technical Advisory Committee (STAC)

- Sec. 10A-160. Creation.
- Sec. 10A-161. Membership composition; appointment and terms.
- Sec. 10A-162. Stormwater technical advisory committee (STAC).
- Sec. 10A-163. Reporting.
- Sec. 10A-164. Committee organization.
- Secs. 10A-165 – 10A-169. Reserved.

Article XVI. Reserved

- Secs. 10A-170 – 10A-179. Reserved.

TUCSON CODE

Article XVII. Landscape Advisory Committee

- Sec. 10A-180. Creation.
- Sec. 10A-181. Membership composition, appointment, officers, and terms.
- Sec. 10A-182. Purpose of the committee.
- Sec. 10A-183. Limitation of powers.
- Secs. 10A-184 – 10A-189. Reserved.

Article XVIII. Small, Minority and Women-Owned Business Commission

- Sec. 10A-190. Creation.
- Sec. 10A-191. Membership composition, appointment, officers, and terms.
- Sec. 10A-192. Reports.
- Sec. 10A-193. Limitation of powers.
- Sec. 10A-194. Staff support.
- Secs. 10A-195 – 10A-199. Reserved.

Article XIX. Resource Planning Advisory Committee

- Sec. 10A-200. Creation.
- Sec. 10A-201. Membership composition; appointment and terms; purpose.
- Sec. 10A-202. Functions and duties.
- Sec. 10A-203. Committee organization.
- Sec. 10A-204. Limitation of powers.
- Secs. 10A-205 – 10A-209. Reserved.

Article XX. Climate Change Committee (CCC)

- Sec. 10A-210. Creation.
- Sec. 10A-211. Membership composition; principal and alternate members; nomination and appointment; qualifications; terms and reappointment; removal; concurrent service permitted; advisory members.
- Sec. 10A-212. Functions, purposes, powers, and duties.
- Sec. 10A-213. Staff support; minutes.
- Sec. 10A-214. Committee organization; subcommittees.
- Sec. 10A-215. Limitation of powers.
- Secs. 10A-216 – 10A-219. Reserved.

Article XXI. Tucson Housing Trust Fund Citizens Advisory Committee (THTFCAC)

- Sec. 10A-220. Creation.
- Sec. 10A-221. Membership composition; appointment and terms.
- Sec. 10A-222. Functions and duties.
- Sec. 10A-223. Minutes.
- Sec. 10A-224. Committee organization.
- Sec. 10A-225. Limitation of powers.
- Secs. 10A-226 – 10A-229. Reserved.

Article XXII. Reserved

- Secs. 10A-230 – 10A-239. Reserved.

Article XXIII. Citizen Transportation Advisory Committee

- Sec. 10A-240. Creation.
- Sec. 10A-241. Membership composition; appointment and terms.
- Sec. 10A-242. Functions and purposes.
- Sec. 10A-243. Committee organization and rules.
- Sec. 10A-244. Limitation of powers.

watercourse amenities, safety and habitat regulations as provided in section 29-19(d);

- (3) Variance requests from the application of the environmental resource zone as provided in the Land Use Code, Chapter 23, Section 2.8.6.8.A;
- (4) Appeals from decisions of the development services department director concerning resource corridor study and mitigation plans for the environmental resource zone as provided in Chapter 23A, Section 2.2.e; and
- (5) All other requests from the DOT director or the mayor and council for technical comments or recommendations pursuant to the Tucson Code or as may be requested by the DOT director or the mayor and council.

a. *Chair and vice-chair.* The members of STAC shall select a chair that shall serve a term of one (1) year. The members of STAC shall also select a vice-chair. The vice-chair shall act as chair in the absence or disability of the chair, or in the event of a vacancy in that office. No member shall serve as the chair or vice-chair of the STAC for more than one (1) term in each office during any consecutive four (4) years.

b. *Conflict of interest.* No member of STAC shall participate in or vote on any appeal or variance request in which the member, the immediate family of the member or the company or employer of the member is involved in providing advice, consultation or other professional services to any party on the appeal or variance request before STAC.

c. *Quorum.* The minimum quorum for any decision or act by STAC shall be four (4) members of STAC.

(Ord. No. 9582, § 1, 8-6-01)

Sec. 10A-163. Reporting.

The DOT director shall be responsible for maintaining a summary of the meetings of SAC and STAC. The SAC shall provide its comments and recommendations on matters it considers to the DOT director who shall forward those to the appropriate body[ies]. The STAC shall provide its comments and recommendations on variances and appeals pursuant to sections 26-12(d), 29-19(d) and Land Use Code, Chapter 23, Section 2.8.6.8(A) directly to the DOT director for transmittal to the mayor and council without referring the matter to the SAC. On all other matters, the STAC shall report to the SAC as a subcommittee of the SAC.

(Ord. No. 9582, § 1, 8-6-01)

Sec. 10A-164. Committee organization.

(a) The SAC shall select a chair and a vice-chair from among its members, who shall serve one-year terms. The vice-chair shall act as chair in the absence or disability of the chair, or in the event of a vacancy in that office. No member shall serve as the chair or vice-chair of the SAC for more than a one (1) term in each office during any consecutive four (4) years.

(b) The SAC shall adopt procedural rules for its operations that are consistent with this chapter and other legal authority, and shall meet at such times and places as determined by the SAC.

(c) The STAC shall abide by the rules for its operations as established by the SAC, except that the STAC may adopt further procedural rules for the processing of appeals and variances.

(d) The SAC may form such other subcommittees as may be necessary.

(e) The rules and summaries of meetings of SAC and STAC, as produced by the DOT director, shall be filed with the city clerk.

(Ord. No. 9582, § 1, 8-6-01)

Secs. 10A-165 – 10A-169. Reserved.

ARTICLE XVI. RESERVED*

Secs. 10A-170 – 10A-179. Reserved.

***Editor's note** – Article XVI, §§ 10A-170 – 10A-174, relating to the Technology Policy Advisory Committee, derived from Ord. No. 10176, § 1, adopted July 6, 2005, as amended by Ord. No. 10315, § 1, adopted September 6, 2006, was repealed by Ord. No. 10843, § 2, adopted October 19, 2010.

ARTICLE XVII. LANDSCAPE ADVISORY COMMITTEE

Sec. 10A-180. Creation.

The landscape advisory committee (hereafter referred to as the “committee”) is created. The committee shall consist of eleven (11) members appointed as provided in this article and subject to the provisions of this chapter.

(Ord. No. 10180, § 1, 7-6-05)

Sec. 10A-181. Membership composition, appointment, officers, and terms.

(a) *Composition.* The committee shall be composed of eleven (11) members. Of the eleven (11) members, one (1) member shall be chosen to represent each of the following areas or occupations: business community, ecologist, educator, landscape contractor, landscape architect, horticulturist/arborist, urban planner/architect, water conservation specialist, and neighborhood representatives (two (2) members). The remaining member shall be chosen from representatives from related non-profit corporations, other jurisdictions or agencies to fulfill the need to broaden representation and to ensure better coordination. Members must reside or work within Pima County and shall serve without compensation.

(b) *Nomination and appointment.* The mayor and council shall appoint the members of the committee based on recommendations from the city manager.

(c) *Terms.* Each member shall serve a term of four (4) years and may be reappointed by the mayor and council for one (1) additional four-year term. An appointment to fill a vacancy resulting other than from expiration of a term shall be for the unexpired term only.

(d) *Officers.* The committee shall elect from its membership a chairperson, vice-chairperson, and secretary who shall serve for terms of one (1) year. The vice-chairperson shall act as chairperson in the absence or disability of the chairperson or in the event a vacancy occurs in that office.

(e) *Bylaws.* The committee shall adopt bylaws for its operations that are consistent with this article and other legal authority. The bylaws and minutes of committee meetings shall be filed with the city clerk. (Ord. No. 10180, § 1, 7-6-05)

Sec. 10A-182. Purpose of the committee.

The purpose of the committee shall be to advise the mayor and council on issues pertaining to the policies, planning, design, management, and promotion of public education of the city’s landscape and vegetation resources.

(Ord. No. 10180, § 1, 7-6-05)

Sec. 10A-183. Limitation of powers.

Neither the committee nor any member thereof shall incur expenses or obligate the city in any way without prior authorization from the mayor and council. (Ord. No. 10180, § 1, 7-6-05)

Secs. 10A-184 – 10A-189. Reserved.

ARTICLE XVIII. SMALL, MINORITY AND WOMEN-OWNED BUSINESS COMMISSION*

Sec. 10A-190. Creation.

There is established the small, minority and women-owned business commission (“commission”). The commission shall consist of fourteen (14) members. All members of the commission shall serve without compensation.

(Ord. No. 10785, § 5, 5-11-10)

***Editor’s note** – Former Article XVIII, §§ 10A-190 – 10A-192, relating to the Small Business Commission, derived from Ord. No. 10207, § 2, adopted October 18, 2005, was repealed by Ord. No. 10765, § 2, adopted May 11, 2010.

Sec. 10A-191. Membership composition, appointment, officers, and terms.

(a) *Appointment, qualifications, and term.*

(1) *Appointment.* The mayor shall appoint two (2) at-large members. Each member of the council shall appoint two (2) members: one (1) at-large and one (1) by ward. The commission members should represent different segments of the business community, with broad and culturally diverse representation essential. Consideration should be given to appointing members who are certified small, minority, or women-owned business enterprise firms.

(2) *Qualifications.*

(A) At-large members must be: (i) business owners or managers from companies located within the City of Tucson having no more than one hundred (100) full-time employees; or (ii) representatives from an organization located within the City of Tucson that represents the interests of small business (e.g., chambers of commerce, trade associations, economic and business development organizations).

(B) Members appointed by ward must be business owners or managers from companies with no more than one hundred (100) full-time employees, where either (i) the company is located within the geographical boundaries of the ward, or (ii) the member resides in the ward.

(3) *Terms.* The terms of the members appointed by the mayor and council as a whole shall be coterminous with the elected official making the appointment, or until their successors are appointed. Members of the commission shall be eligible for reappointment; but in no event may an individual serve more than a total of eight (8) continuous years.

(4) *Vacancies.* Vacancies on the commission shall be filled by appointment in the same manner in which the members are initially appointed. Appointments to a vacant position shall be for the unexpired portion of the term.

(5) *Removal.* A member of the commission 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 shall be automatically removed from the commission.

(6) *Quorum.* A majority of the fourteen (14) authorized members of the commission shall constitute a quorum.

(7) *Ex officio member.* A member of the Pima County Small Business Commission shall be an ex officio member of the commission.

(b) *Commission officers and rules.* The commission shall elect its own officers and may adopt rules and regulations in relation to its functioning consistent with this chapter and other legal authority and file them with the city clerk. The commission shall meet at such times and places as it determines.

(c) *Subcommittees.* The commission may form subcommittees as may be necessary to carry out its duties and functions.

(d) *Purposes of the commission.* The purposes of the commission shall be to:

(1) Monitor the effectiveness of the city's small, minority and women-owned business enterprise program in increasing small, minority and women-owned business participation in city contracts.

(2) Monitor local practices and policies, which may have discriminatory impact on minority and women-owned businesses in the contracting and procurement of construction, goods, general services, and professional services with the City of Tucson.

(3) Facilitate communication between the city and small businesses.

Chapter 11

CRIMES AND OFFENSES*

Art. I.	In General, §§ 11-1 – 11-70.2
Art. II.	Methamphetamine, §§ 11-71 – 11-87
Art. III.	Smoking, §§ 11-88 – 11-99
Art. IV.	Civil Emergencies – Powers of the Mayor, §§ 11-100 – 11-109
Art. V.	Interference with Fire Department, §§ 11-110 – 11-120
Art. VI.	Obstruction of Enforcement of Civil Infractions, §§ 11-121 – 11-129
Art. VII.	Nitrous Oxide, §§ 11-130 – 11-139
Art. VIII.	Reserved, §§ 11-140 – 11-159
Art. IX.	Crimes on Library Grounds, §§ 11-160 – 11-160.3

Article I. In General

Sec. 11-1.	Air guns, slings, bean shooters, etc.
Sec. 11-2.	Alarm systems; false alarms; penalties.
Sec. 11-3.	Apiaries.
Sec. 11-4.	Blasting.
Sec. 11-5.	Burning trash, other articles – Prohibited generally; declared nuisance.
Sec. 11-6.	Same – Permit required.
Sec. 11-7.	Same – Application for permit; issuance or denial; fee.
Sec. 11-8.	Same – Permit not required for cooking devices.
Sec. 11-9.	Same – Information shown on permit; failure to comply with conditions; duration.
Sec. 11-10.	Same – Dense smoke defined; chart adopted.
Sec. 11-11.	Same – Penalty; abatement.
Sec. 11-12.	City property; squatting on prohibited.
Sec. 11-13.	Criminal syndicalism and sabotage – Defined.
Sec. 11-14.	Same – Acts prohibited.
Sec. 11-15.	Dance halls; operation near residences.
Sec. 11-16.	Disorderly houses or premises; keeping.
Sec. 11-17.	Drinking establishments – Loitering in, frequenting during hours closed.
Sec. 11-18.	Same – Allowing frequenting during hours closed.
Sec. 11-19.	Reserved.
Sec. 11-20.	False information; furnishing to police.
Sec. 11-21.	Filling stations prohibited on portion of Congress Street.
Sec. 11-22.	Fireworks.
Sec. 11-23.	Reserved.
Sec. 11-24.	Food and drink establishments – Soliciting or annoying customers.
Sec. 11-25.	Same – Responsibility of proprietor.
Sec. 11-25.1.	Clothing requirements of certain female entertainers and waitresses.
Sec. 11-25.2.	Operation of certain restaurants, etc., where female entertainers fail to meet certain clothing requirements deemed misdemeanor.
Sec. 11-25.3.	Clothing requirements of certain dancers, etc.
Sec. 11-25.4.	Operation of restaurants, etc., where certain dancers, etc. fail to meet certain clothing requirements, deemed misdemeanor.
Sec. 11-26.	Reserved.
Sec. 11-27.	Same – False entries on register.
Sec. 11-28.	Indecency, lewdness – Acts prohibited.
Sec. 11-28.1.	Same – Minimum penalty; subsequent convictions.

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

TUCSON CODE

- Sec. 11-29. Indecent exposure.
- Sec. 11-30. Institutional vandalism, intimidation – Acts prohibited.
- Sec. 11-30.1. Same – Minimum penalty; subsequent convictions.
- Sec. 11-31. Lampposts, hydrants, brackets; injuring.
- Sec. 11-32. Legal business; soliciting by police.
- Sec. 11-33. Aggressive solicitation, legislative findings; definitions.
- Sec. 11-33.1. Prohibited acts.
- Sec. 11-33.2. Penalties.
- Sec. 11-34. Juveniles; curfew.
- Sec. 11-35. Vapor releasing substances containing toxic substances.
- Sec. 11-36. Sitting and lying down on public sidewalks in downtown and neighborhood commercial zones.
- Sec. 11-37. Minors: Playing, loitering about railroad property.
- Sec. 11-38. Prompt payment.
- Sec. 11-39. Permitting or encouraging underage drinking.
- Sec. 11-40. Narcotics – Keeping paraphernalia; acting as lookout.
- Sec. 11-41. Same – Seizure, destruction of paraphernalia.
- Sec. 11-42. Offensive establishments.
- Sec. 11-43. Prostitutes – Prohibited.
- Sec. 11-44. Same – Furnishing intoxicants to.
- Sec. 11-45. Same – Consuming intoxicants in room occupied by.
- Sec. 11-46. Reserved.
- Sec. 11-46.1. Dangerous off-site waste.
- Sec. 11-47. Same – Prohibited.
- Sec. 11-48. Same – Complaints; investigation; prosecution.
- Sec. 11-49. Public property; injuring.
- Sec. 11-50. Boarding, alighting from moving trains.
- Sec. 11-51. Reserved.
- Sec. 11-52. Loitering, congregating about railroad yards.
- Sec. 11-53. Soliciting passengers or baggage at railways or hotels.
- Sec. 11-54. Urinating or defecating in public.
- Sec. 11-55. Definition of firearm and air gun; possession of firearms and air guns by minors; forfeiture of weapon, penalties.
- Sec. 11-56. Reserved.
- Sec. 11-57. Reserved.
- Sec. 11-58. Water ditches, natural drainage channels – Deposit of offensive matter; obstructions.
- Sec. 11-59. Same – Duty of abutting property owners to clean.
- Sec. 11-60. Same – Duty to clean upon notice.
- Sec. 11-61. Same – How notice to clean given; failure to comply.
- Sec. 11-62. Same – Nuisances declared.
- Sec. 11-63. Same – Violations, penalties.
- Sec. 11-64. Professional strikebreakers; employment, recruitment or furnishing as replacements for employees involved in labor disputes unlawful.
- Sec. 11-65. Unattended child in motor vehicle; classification.
- Sec. 11-66. Throwing stars; sale to minors prohibited, possession by minors prohibited.
- Sec. 11-67. Prohibition of certain automatic dialing and prerecorded message alarm systems.
- Sec. 11-68. Prohibition of containers in community center premises.
- Sec. 11-69. Prohibition of certain items and activities at the Rodeo Parade and other parade events.
- Sec. 11-70. Police authority over Rodeo Parade peddlers.
- Sec. 11-70.1. Operating motor vehicle off the roadway prohibited; definitions; exceptions; impoundment; hearing; penalties.
- Sec. 11-70.2. Violation declared misdemeanor; penalties.

Article II. Methamphetamine

- Sec. 11-71. Sale of products containing pseudoephedrine.
- Sec. 11-72. Retail establishment's right to refuse sale.
- Secs. 11-73 – 11-87. Reserved.

CRIMES AND OFFENSES

Article III. Smoking

- Sec. 11-88. Reserved.
- Sec. 11-89. Smoking prohibited in specified places, exceptions.
- Sec. 11-90. Placarding required.
- Sec. 11-91. Reserved.
- Sec. 11-92. Enforcement; penalty.
- Sec. 11-93. Tobacco vending machines prohibited in specified places, exceptions.
- Secs. 11-94 – 11-99. Reserved.

Article IV. Civil Emergencies – Powers of the Mayor

- Sec. 11-100. Definitions.
- Sec. 11-101. Proclamation of civil emergency.
- Sec. 11-102. General curfew.
- Sec. 11-103. Additional powers.
- Sec. 11-104. Duration of proclamation or orders.
- Sec. 11-105. Violations and penalties.
- Secs. 11-106 – 11-109. Reserved.

Article V. Interference with Fire Department

- Sec. 11-110. Interference with fire department.
- Sec. 11-111. Police placement of ropes or guards; violation.
- Sec. 11-112. Vehicles obstructing progress of fire apparatus.
- Sec. 11-113. Reserved.
- Sec. 11-114. Refusal to obey order of fire chief or building official; condemnation sign.
- Sec. 11-115. Penalty.
- Secs. 11-116 – 11-120. Reserved.

Article VI. Obstruction of Enforcement of Civil Infractions

- Sec. 11-121. Failure to furnish information, failure to sign citation.
- Sec. 11-122. Failure to obey abatement order.
- Secs. 11-123 – 11-129. Reserved.

Article VII. Nitrous Oxide

- Sec. 11-130. Sale of products containing nitrous oxide.
- Sec. 11-131. Retail establishment's right to refuse sale.
- Sec. 11-132. Possession and use of nitrous oxide by persons under the age of 18.
- Secs. 11-133 – 11-139. Reserved.

Article VIII. Reserved

- Secs. 11-140 – 11-159. Reserved.

Article IX. Crimes On Library Grounds

- Sec. 11-160. Regulations regarding library grounds.
- Sec. 11-160.2. Definitions.
- Sec. 11-160.3. Violation declared misdemeanor; penalties.

TUCSON CODE

ordinances providing for and regulating the sale of public lands, owned, claimed or held in trust by the city, shall be guilty of a misdemeanor.
(1953 Code, ch. 18, § 5)

Sec. 11-13. Criminal syndicalism and sabotage – Defined.

The term “criminal syndicalism,” as used in this section, is hereby defined as any doctrine or precept advocating, teaching or aiding and abetting the commission of crime, sabotage or unlawful acts of force and violence or unlawful methods of terrorism as a means of accomplishing a change in industrial ownership or control or affecting any political change. The term “sabotage” is hereby defined as meaning willful and malicious physical damage or injury to physical property.
(1953 Code, ch. 18, § 6)

Sec. 11-14. Same – Acts prohibited.

Any person shall be guilty of a misdemeanor who:

Sec. 11-14(1). By spoken or written words or personal conduct advocates, teaches or aids and abets criminal syndicalism or the duty, necessity or propriety of committing crime, sabotage, violence or any unlawful method of terrorism, as a means of accomplishing a change in industrial ownership or control, or affecting any political change; or

Sec. 11-14(2). Willfully and deliberately by spoken or written words justifies or attempts to justify criminal syndicalism or the commission or attempt to commit crime, sabotage, violence or unlawful methods of terrorism with intent to approve, advocate or further the doctrine of criminal syndicalism; or

Sec. 11-14(3). Prints, publishes, edits, issues, circulates or otherwise dispose of, or publicly displays any book, paper, pamphlet, document, poster or written or printed matter in any other form, containing or carrying written or printed advocacy, teaching or in aid and abetment of, or advising, criminal syndicalism; or

Sec. 11-14(4). Organizes, or assists in organizing, or knowingly becomes a member of, any organization, society, group or assemblage of persons organized or assembled to advocate, teach or aid and abet criminal syndicalism; or

Sec. 11-14(5). Willfully by personal act or conduct, practices or commits any act advised, advocated, taught or aided and abetted by the doctrine or precept of criminal syndicalism; with intent to accomplish a change in industrial ownership or control, or affecting any political change; or

Sec. 11-14(6). Voluntarily assembles with any society or assembly of persons, which advocates, teaches, aides or abets criminal syndicalism, upon the streets, sidewalks, alleys or other public places in the city or in any place, building, room or structure in the city.
(1953 Code, ch. 18, § 7)

Sec. 11-15. Dance halls; operation near residences.

It shall be unlawful for any person to maintain, conduct, carry on or operate any dance hall within five hundred (500) feet of any private residence in the city. For the purposes of this section, a dance hall is hereby defined to be any hall, room, platform or place where public dances are held.
(1953 Code, ch. 18, § 8)

Sec. 11-16. Disorderly houses or premises; keeping.

Any person who shall keep any common ill-governed or disorderly house, or who shall suffer any drunkenness, quarreling, fighting and unlawful games, or riotous or disorderly conduct whatever on his premises, shall be guilty of a misdemeanor.
(1953 Code, ch. 18, § 9)

Sec. 11-17. Drinking establishments – Loitering in, frequenting during hours closed.

It shall be unlawful for any person other than a licensee or an employee of the licensee engaged in job-related activity to be present on the premises of licensed liquor establishments as defined in A.R.S. § 4-209.B(6), (7), (8) or (14) or subsequent definition of such establishments by state law between the hours of 2:30 a.m. and 6:00 a.m. daily. It shall be an affirmative defense for a licensee or an employee of the licensee to allow an intoxicated person to remain on the premises for a period of time not to exceed thirty (30) minutes after the state of intoxication is known or should be known to the licensee in order that a non-

intoxicated person may transport the intoxicated person from the premises.
 (1953 Code, ch. 18, § 10; Ord. No. 4034, § 1, 2-19-74; Ord. No. 6076, § 1, 9-4-84; Ord. No. 7100, § 1, 12-12-88; Ord. No. 10007, § 1, 8-2-04; Ord. No. 10825, § 1, 8-4-10)

Sec. 11-18. Same – Allowing frequenting during hours closed.

It shall be unlawful for any person owning, operating, managing or employed in any of the places designated in section 11-17 to allow any person of the general public to be present at such places between the hours designated in section 11-17. It shall be an affirmative defense for a licensee or an employee of the licensee to allow an intoxicated person to remain on the premises for a period of time not to exceed thirty (30) minutes after the state of intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the intoxicated person from the premises.
 (1953 Code, ch. 18, § 11; Ord. No. 6076, § 2, 9-4-84)

Sec. 11-19. Reserved.

Editor’s note – Ord. No. 10421, § 1, adopted June 19, 2007, repealed § 11-19, which pertained to regulation of smoking in restaurants; definitions; civil infractions; phase-in; hardship exceptions; penalties and derived from Ord. No. 9220, § 1, adopted April 12, 1999; Ord. No. 9302, § 1, adopted Oct. 11, 1999.
Cross reference – Smoke-Free Arizona Act.

Sec. 11-20. False information; furnishing to police.

It is unlawful for any person to knowingly and willfully give false information to a police officer while he is acting in his official capacity, with intent to hinder, delay, impede or mislead the officer in the prosecution of his official work, or with the intent to obstruct justice.
 (1953 Code, ch. 18, § 11a; Ord. No. 2671, § 1, 9-28-64)

Sec. 11-21. Filling stations prohibited on portion of Congress Street.

It shall be unlawful for any person to maintain or conduct the business of a filling or service station where automobiles, motorcars or other gasoline-burning vehicles are furnished with gasoline or motor oil, in any building or on any premises or lot fronting upon or abutting on or having a vehicle entrance or exit from or on to Congress Street between the east property

line of Main Street on the west and the intersection of Toole Avenue with Congress Street on the east.
 (1953 Code, ch. 18, § 12)

Sec. 11-22. Fireworks.

(a) *Definitions.* The following words, terms and phrases, when used in this section, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *City permit* means a permit issued by the fire chief.
- (2) *Consumer fireworks* means small firework devices that contain restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion and that comply with the construction, chemical composition and labeling regulations prescribed in 49 Code of Federal Regulations part 172 and 173, regulations of the United States consumer product safety commission as prescribed in 16 Code of Federal Regulations parts 1500 and 1507 and the American pyrotechnics association standard 87-1, standard for construction and approval for transportation of fireworks, novelties and theatrical pyrotechnics, December 1, 2001 version.
- (3) *Display fireworks* means large firework devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or detonation as prescribed by 49 Code of Federal Regulations part 172, regulations of the United States consumer product safety commission as prescribed in 16 Code of Federal Regulations parts 1500 and 1507 and the American pyrotechnics association standard 87-1, standard for construction and approval for transportation of fireworks, novelties and theatrical pyrotechnics, December 1, 2001 version.
- (4) *Expenses of an emergency response* means reasonable costs directly incurred by public agencies including but not limited to the city fire, police and public works departments or other first responders including but not limited to private ambulance companies that

- make an appropriate emergency response to an incident.
- (5) *Fire chief* means the fire chief or that officer's designee.
- (6) *Fireworks*:
- (A) Means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework or display firework.
- (B) Does not include:
- (i) Toy pistols, toy canes, toy guns or other devices in which paper caps containing not more than twenty-five hundredths grains of explosive compound are used if constructed so that the hand cannot come in contact with the cap when in place for the explosion.
 - (ii) Toy pistol paper caps that contain less than twenty-hundredths grains of explosive mixture, or fixed ammunition or primers therefor.
 - (iii) Federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers.
- (7) *Permissible consumer fireworks*:
- (A) Means the following types of consumer fireworks as defined by the American pyrotechnics association standard 87-1, standard for construction and approval for transportation of fireworks, novelties and theatrical pyrotechnics, December 1, 2001 version:
- (i) Ground and handheld sparkling devices.
 - (ii) Cylindrical fountains.
 - (iii) Cone fountains.
 - (iv) Illuminating torches.
 - (v) Wheels.
 - (vi) Ground spinners.
 - (vii) Flitter sparklers.
 - (viii) Toy smoke devices.
 - (ix) Wire sparklers or dipped sticks.
 - (x) Multiple tube fireworks devices and pyrotecnic articles.
- (B) Does not include anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, including, for example, firework items commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, roman candles and jumping jacks.
- (8) *Police chief* means the police chief or that officer's designee.
- (9) *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by city permit.
- (b) *Use of fireworks, and sale of fireworks other than permissible consumer fireworks, prohibited within the city; exceptions; penalties for violation.*
- (1) Except as specifically permitted under paragraph (3) of this subsection, the use of fireworks (including any display firework, consumer firework, permissible consumer firework, or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground) within the city is prohibited.
 - (2) The sale of fireworks, other than permissible consumer fireworks, within the city is prohibited.
 - (3) Violation of the provisions of paragraphs (1) or (2) of this subsection is a civil infraction, except that any such violation that results in

damage to property or injury to any person or animal is a class 1 misdemeanor and, upon conviction, in addition to any other penalty or fine, restitution shall be ordered made by the defendant to the victim. This remedy shall not abridge any civil cause of action by the victim.

(4) Nothing in this section shall be construed to prohibit:

(A) The use of items defined to not be fireworks under subsection (a)(6)(B) above and A.R.S. § 36-1601(3)(b); or

(B) The occurrence of a supervised public display of fireworks authorized by city permit issued by the fire chief. The fire chief may charge a fee for this permit to cover administrative costs, including the costs of any necessary inspections.

(c) *Sale of permissible consumer fireworks; permits required; inspections; fees.*

(1) No person shall sell or allow the sale of permissible consumer fireworks to a person who is under sixteen (16) years of age.

(2) No person shall sell or allow the sale of permissible consumer fireworks in conflict with state law.

(3) A person who desires to sell permissible consumer fireworks to the public shall first obtain a city permit allowing all of the activities listed under § 7.3.2(1)(a) and (b) and (2) of the National Fire Protection Association *Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles* (NFPA 1124), 2006 Edition.

(4) In addition to any other remedies or sanctions, failure to comply with paragraph (3) of this subsection is a civil infraction.

(5) A person who desires to sell permissible consumer fireworks to the public is subject to inspection by the fire chief to assure:

(A) That the person has obtained the permit required under paragraph (3) of this

subsection and the sign requirements of subsection (d) of this section.

(B) That the person is in compliance with NFPA 1124, 2006 Edition, as well as with any other rules adopted by the State Fire Marshal pursuant to A.R.S. § 36-1609 and Title 41, Chapter 6 and relating to the storage or retail sale of consumer fireworks.

(6) The fire chief may charge a fee for the permit required under paragraph (3) of this subsection to cover the administrative costs of the permit system, including the inspections carried out under paragraph (5) of this subsection.

(7) Three (3) copies of the fee schedule for permits, and of any amendments to it, shall be filed in the office of the city clerk and made public records and shall be available for public use and inspection during regular office hours, and shall be of full force and effect immediately upon such filing.

(d) *Posting of signs by persons engaged in the sale of permissible consumer fireworks; penalty.*

(1) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs that state the following:

(A) The use of fireworks within the City is prohibited.

(B) You must be sixteen (16) years old to buy fireworks.

(2) The signs required under paragraph (1) of this subsection shall be posted in a conspicuous place in each area where fireworks are displayed and at each cash register where fireworks are sold; shall be not less than eleven (11) inches by fourteen (14) inches in size; shall be in both Spanish and English; and shall use easily legible print.

(3) In addition to any other remedies or sanctions, failure to comply with paragraphs (1) and (2) of this subsection is a civil infraction.

(e) *Authority to enforce violations of this section designated as civil infractions.* The fire chief or the police chief may enforce violations of this section designated as civil infractions.

(f) *Violation of this section a civil infraction, except where specifically provided otherwise.* Except where specifically provided otherwise in this section, any violation of this section is a civil infraction.

(g) *Liability for emergency responses required by use of fireworks, or by violations of this section.*

- (1) A person who uses any fireworks, including display fireworks, consumer fireworks, permissible consumer fireworks, or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is strictly liable for the expenses of any emergency response that is dispatched as a result of such use. The fact that a person is convicted or found responsible for a violation of this section is prima facie evidence of liability under this subsection.
- (2) A person who violates any provision of this section is strictly liable for the expenses of any emergency response that is dispatched as a result of such violation. The fact that a person is convicted or found responsible for a violation of this section is prima facie evidence of liability under this subsection.
- (3) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to paragraphs (a) or (b) of this subsection. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, or other first responders that incurred the expenses. The liability imposed under this subsection is in addition to and not in limitation of any other liability that may be imposed.

(Ord. No. 10856, § 2, 11-23-10, eff. 12-1-10)

Sec. 11-23. Reserved.

Editor's note – Ord. No. 10856, § 1, adopted November 23, 2010 and effective December 1, 2010, repealed § 11-23, which pertained to the prohibition on the sale of fireworks.

Sec. 11-24. Food and drink establishments – Soliciting or annoying customers.

It shall be unlawful, in any place of business where food or drink is sold to be consumed upon the premises, for any person who loafs or loiters about such place, or who is employed therein, to beg, solicit or importune any patron or customer of or visitor in such establishment to purchase any article of food or drink for the one begging, soliciting or importuning, or to be consumed by any frequenter, habitue or any vagrant or idle person about such place, and no person shall enter such place or remain therein for the purpose of so begging, soliciting or importuning patrons, customers or visitors therein to purchase articles of food or drink.

(1953 Code, ch. 18, § 15)

Sec. 11-25. Same – Responsibility of proprietor.

Any person who owns, manages or otherwise controls any such place of business where food or drink is sold to be consumed on the premises, and who permits or allows other persons to beg, solicit or importune patrons, customers or visitors thereof to purchase food or drink for the ones begging, soliciting or importuning, or for frequenters, habitues or any idle or vagrant persons about such place, shall be guilty of a misdemeanor.

(1953 Code, ch. 18, § 16)

Sec. 11-25.1. Clothing requirements of certain female entertainers and waitresses.

Any female entertaining or performing any dance or in any play, exhibition, show or other entertainment, or any female serving food or spirituous liquors as defined by A.R.S. title 4, chapter 1, article 1, as amended, in a restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or in a private, fraternal, social, golf or country club, as defined by A.R.S. title 4, chapter 1, article 1, as amended, or in any public place, who appears clothed, costumed, unclothed or uncostumed in such a manner that the nipple and the aureola (the more darkly pigmented portion of the breast encircling the nipple) are not firmly covered by a fully opaque material, is guilty of a misdemeanor.

(Ord. No. 3053, § 1, 10-16-67)

Sec. 11-25.2. Operation of certain restaurants, etc., where female entertainers fail to meet certain clothing requirements deemed misdemeanor.

A person who knowingly conducts, maintains, owns, manages, operates or furnishes any restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or any place serving food or spirituous liquors, as defined by A.R.S. title 4, chapter 1, article 1, as amended, or a private, fraternal, social, golf or country club, as defined by A.R.S. title 4, chapter 1, article 1, as amended or any public place, where a female appears clothed, costumed, unclothed or uncostumed in such a manner that the nipple and the aureola (the more darkly pigmented portion of the breast encircling the nipple) is not firmly covered by a fully opaque material, is guilty of a misdemeanor.
(Ord. No. 3053, § 1, 10-16-67)

Sec. 11-25.3. Clothing requirements of certain dancers, etc.

Any person entertaining or performing any dance or in any play, exhibition, show or other entertainment, or any person serving food or spirituous liquors as defined by A.R.S. title 4, chapter 1, article 1, as amended, in a restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or in a private, fraternal, social, golf or country club, as defined by A.R.S. title 4, chapter 1, article 1, as amended, or in any public place, who appears clothed, costumed, unclothed or uncostumed in such a manner that the lower part of his or her torso, consisting of the private parts or anal cleft or cleavage of the buttocks, is not covered by a fully opaque material or is so thinly covered as to appear uncovered, is guilty of a misdemeanor.
(Ord. No. 3053, § 1, 10-16-67)

Sec. 11-25.4. Operation of restaurants, etc., where certain dancers, etc. fail to meet certain clothing requirements, deemed misdemeanor.

A person who knowingly conducts, maintains, owns, manages, operates or furnishes any restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or any place serving food or spirituous liquors, as defined by A.R.S. title 4, chapter 1, article 1, as amended, or a private, fraternal, social, golf or country club, as defined by A.R.S. title 4, chapter 1, article 1, as amended, or any public place, where any person appears clothed, costumed, unclothed or uncostumed in such a manner that the lower part of his or her torso, consisting of the private parts or anal cleft or cleavage

of the buttocks, is not covered by a fully opaque material or is so thinly covered as to appear uncovered, is guilty of a misdemeanor.
(Ord. No. 3053, § 1, 10-16-67)

Sec. 11-26. Reserved.

Editor’s note – Ord. No. 9240, § 2, adopted June 21, 1999, repealed § 11-26, which pertained to hotels, rooming houses, motels – guest register required. See the Code Comparative Table.

Sec. 11-27. Same – False entries on register.

It shall be unlawful for any person to enter in the register of guests of any hotel, rooming house, motel or auto court within the city a false or fictitious name, knowing it to be false.
(1953 Code, ch. 18, § 18)

Sec. 11-28. Indecency, lewdness – Acts prohibited.

Every person is guilty of a misdemeanor who:

Sec. 11-28(1).

- (a) Being reckless about whether any person present, as a reasonable person, would be offended; aids, offers, agrees or solicits an indecent or lewd act;
- (b) Commits any lewd or indecent act;
- (c) Aids, offers or agrees to commit or conspires to commit or commits any act of prostitution; or

Sec. 11-28(2). Offers to secure or secures another for the purpose of committing any act of prostitution, fornication, assignation or for any other lewd or indecent act with any other person; or

Sec. 11-28(3). Is in a public street, public way, public sidewalk or other public place, or adjacent thereto, or in the public view, including in a vehicle, in a manner or under circumstances which manifest the purpose or intent of inducing, enticing, soliciting or procuring another to commit an act of prostitution; for the purposes of this subsection the following actions or circumstances shall be considered with any other evidence to determine whether such purpose or intent is manifested:

- (a) That the person has a previous arrest or conviction under section 11-28, any sec-

Except as otherwise provided by law, the right of inspection does not extend to the interior of the dwelling unit in a space rental mobile home park or recreational vehicle park if it is not owned by a landlord unless the tenant is in possession of the dwelling unit, or if the dwelling unit is vacant or abandoned, the owner consents to the inspection. If a tenant refuses to consent to entry, inspection may be obtained by any means provided by law.

- (2) The property has been designated as a slum property, in which case it may be inspected annually for three (3) consecutive years.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-23. Abatement of slum property.

All buildings or portions thereof which are determined after inspection by the code official to be slum properties as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this chapter.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-24. Designation of slum property; recordation.

(a) A residential rental property may be designated as a slum property if it meets all of the following:

- (1) The definition of slum property;
- (2) Has three (3) or more of the conditions or defects described in Article II of this chapter at the time of the inspection;
- (3) The conditions or defects set forth in a notice of violation provided per section 16-45 of this chapter have not been remedied within the time set forth in the notice of violation; and
- (4) No proper and timely appeal of the notice of violation has been filed.

(b) Where designation of a property as a slum is appropriate pursuant to subsection (a), the code official shall designate a slum property by filing in the office of the county recorder a certificate describing the property and certifying that the property is a slum property and that the owner has been so notified. Whenever the corrections ordered thereafter have been completed or the building demolished so that it no longer exists as a slum property, the code official shall file a new certificate with the county recorder certifying that all required corrections have been made and that the property is no longer a slum property.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-25. Notice of designation.

In addition to any notice provided pursuant to section 16-45 of this chapter, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of A.R.S. Tit. 33, Ch. 17 providing for penalties, the appointment of a temporary receiver, annual inspections, and payment of costs for inspections.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-26. Appointment of temporary receiver and recovery of costs.

In addition to other remedies provided in this Code for the abatement of slum property, the code official is authorized to seek the appointment of a temporary receiver and recover costs associated with such appointment including the filing of liens as provided by law.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-27. Recovery of inspection costs.

In addition to any other remedy providing for recovery of costs either by law or otherwise specified by this Code, the code official is authorized to file costs as provided by law associated with inspections of slum properties in accordance with A.R.S. § 33-1904 or its successor sections in the recorder's office and upon such filing such costs shall be a lien on the property.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-28. Appeal from designation as slum property.

A property owner may appeal the designation of the owner’s property as a slum property pursuant to the procedures set forth in Article VII of this chapter. (Ord. No. 9816, § 15, 2-24-03)

Sec. 16-29. Licensed property management company; crime free multihousing program; required training.

As provided in section 33-1906 of the Arizona Revised Statutes, the code official may require a residential rental property owner whose property has been designated as a slum or exhibits the criteria prescribed in section 16-14(c), relating to violations that materially affect the health and safety of the occupants of the property, to hire a property management firm that is regulated pursuant to Arizona Revised Statutes title 32, chapter 20, article 3.1 to manage the property, participate in the city’s crime free multihousing program, and attend city-approved landlord tenant training classes if available from the city. The code official may also require the property owner to participate in comparable training provided by a nonprofit corporation that is designated as a § 501(c)(3), 501(c)(4), 501(c)(5) or 501(c)(6) corporation and that is certified by the city to provide that training. (Ord. No. 10512, § 1, 3-25-08)

ARTICLE IV. UNLAWFUL ACTS

Sec. 16-30. Graffiti prevention, prohibition and removal.

(a) *Graffiti prohibited, abatement procedures, penalty.* No person who owns or is in control of any real property within the city shall maintain, permit or allow graffiti to remain on any building, fence, structure or otherwise on such property where the graffiti is visible from the street or other public or private property.

- (1) *Notice of violation and abatement.* Upon the receipt of notice requiring abatement from the graffiti abatement official, any person owning or otherwise being in control of the property shall remove or abate all graffiti within the time frame specified in such notice. The graffiti abatement official shall give notice utilizing the procedures set forth in section 16-45 of this chapter, except that the notice need not include a statement describing the right to an administrative appeal, since none exists. The graffiti abatement official may cause the removal of graffiti from private property should the property owner or person in control fail to remove graffiti after the required notice. The city or its authorized representative is expressly authorized to enter private property and abate graffiti.
- (2) *Penalty.* A violation of this subsection constitutes a civil infraction.
- (b) *Prohibited conduct, penalties.*
 - (1) No person may write, paint, etch, or draw any inscription, figure, or mark of any type on any public or private building or other real or personal property unless permission of the owner or operator of the property has been obtained.
 - (2) No person may possess an aerosol spray paint container, broad-tipped indelible marker, solidified paint marker, or etching solution on any private property unless the owner, agent, manager, or other person having control of the property consented to the presence of the aerosol spray paint container, broad-tipped indelible marker, solidified paint marker, etching implement or etching solution.
 - (3) No person under the age of eighteen (18) may possess an aerosol spray paint container, broad-tipped indelible marker, solidified paint marker, or etching solution container on any public property unless the possession is

for a lawful purpose and the person is accompanied by a parent, guardian, teacher or other person in a similar relationship over the age of eighteen (18).

(4) No person under the age of eighteen (18) may buy any aerosol spray paint container or etching solution from any person or firm.

(5) *Penalties.* A violation of this subsection shall constitute a class one (1) misdemeanor and shall be punished as provided below. Except as otherwise provided in this section, no judge shall suspend the imposition of any of the mandatory minimum penalties required by this section.

a. Together with any other penalties as provided by law, a person convicted of violating subsection (1) shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) and not less than twenty (20) hours community service. In addition to any other punishment, the court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in an amount to be determined by the court. In cases of financial hardship as determined by the court, additional community service hours may be imposed in lieu of fines. Persons under the age of eighteen (18) will be punished as provided for in A.R.S. Tit. 8.

b. Together with any other penalties as provided by law, a person convicted of violating subsection (2) or (3) shall be punished by a fine of not less than one hundred (\$100.00) dollars and not less than twenty (20) hours of community service. In cases of financial hardship as determined by the court, additional community service hours may be imposed in lieu of fines. Persons under the age of eighteen (18) will be punished as provided for in A.R.S. Tit. 8.

c. A person convicted of violating subsection (4) shall be punished as provided for in A.R.S. Tit. 8.

d. The court may order the parent or guardian of a minor child who had knowledge that the minor child intended to engage in or was engaging in an act of graffiti as described in subsection (1) to assist the minor child in payment of restitution and/or performance of community service.

(c) *Sale, storage and display of spray paint containers or etching solution.*

(1) No person shall sell, deliver, transfer or give spray paint containers or etching solution to persons under age eighteen (18). Evidence that a person examined acceptable evidence of age and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this subsection. This subsection does not apply to the transfer of an aerosol spray paint container or etching solution from a parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for a lawful purpose.

(2) Spray paint containers or etching solutions sold at retail establishments shall be stored or displayed either (a) in an area that is inaccessible to the public without employee assistance in the regular course of business or (b) within fifteen (15) feet of a cash register and within the line of sight of a cashier at all times.

(3) Identification shall be required of purchasers of spray paint containers or etching solution appearing to be under the age of twenty-six (26). A retailer shall not be found responsible for violation of this subsection unless the failure to require identification resulted in a sale of spray paint or etching solution to a person under age eighteen (18).

- (4) No person shall sell, deliver, transfer or display spray paint containers or etching solution at swap meets, yard sales, garage sales, or other like events.
- (5) A retailer shall be responsible for the violation of any provision of this section by its employees.
- (6) *Penalty.* A violation of any provision of this subsection constitutes a civil infraction. A person found responsible for a violation of any provision of this subsection shall be fined not less than two hundred dollars (\$200.00). The fine amount of each subsequent violation of any provision of this subsection within a consecutive 365-day period shall increase by increments of three hundred dollars (\$300.00) for each violation. No magistrate, special magistrate or limited special magistrate may suspend the imposition of the minimum fines prescribed herein.

(Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 7, 3-1-05; Ord. No. 10393, §§ 2, 3, 4-24-07; Ord. No. 10833, § 6, 8-4-10; Ord. No. 10865, § 1, 12-21-10)

Sec. 16-31. Excessive noise.

(a) *Maximum permissible sound levels.* No person shall conduct or permit any activity that produces a dB(A) beyond that person's property line exceeding the levels specified in Table I. Where property is used for both residential and commercial purposes, the residential sound levels shall be used only for measurements made on the portion of the property used solely for residential purposes.

Chapter 27

WATER*

Art. I.	In General, §§ 27-1 – 27-27
Art. II.	Rates and Charges, §§ 27-28 – 27-59
Art. III.	Citizens' Water Advisory Committee, §§ 27-60 – 27-65
Art. IV.	Groundwater Consultant Board, §§ 27-66 – 27-69
Art. V.	Backflow Prevention and Cross-Connection Control, §§ 27-70 – 27-89
Art. VI.	Emergency Water Conservation Response, §§ 27-90 – 27-99
Art VII.	Water Consumer Protection Act, §§ 27-100 – 27-109
Art VIII.	Drought Preparedness and Response Plan, §§ 27-110 – 27-119

Article I. In General

Sec. 27-1.	The superintendent of water also known as director of the water department to oversee city water services.
Sec. 27-2.	Duty of superintendent to inspect, make repairs.
Sec. 27-3.	Superintendent to report violations; prosecution by city manager.
Sec. 27-4.	Superintendent to control water supply; notice of shutting off pipelines.
Sec. 27-5.	Superintendent subject to city manager and mayor and council.
Sec. 27-6.	Supervision of charges and collections.
Sec. 27-7.	Receipts to be deposited in water utility fund.
Sec. 27-8.	Taps, connections to be by department; exception.
Sec. 27-9.	Application for service required; payment of charges prerequisite to service; deposits; amount; refund, utility service bond.
Sec. 27-10.	“Premises” defined, separate connections required; appeal.
Sec. 27-11.	Installations, repairs by individual prohibited.
Sec. 27-12.	City not liable for damages; stopcock required.
Sec. 27-13.	Turning on water without authority.
Sec. 27-14.	Authority to withhold water for violations.
Sec. 27-15.	Waste or unreasonable use of water; violation declared a civil infraction.
Sec. 27-16.	Interfering with, tampering with water facilities; removing water; violation declared a civil infraction.
Sec. 27-16.1.	Turning on water without authority; interfering with, tampering with water facilities; removing water; minimum penalty; subsequent conviction.
Sec. 27-16.2.	Permit for construction water.
Sec. 27-17.	Damaging, defacing water facilities.
Sec. 27-18.	Use of device to bypass metering of water prohibited; civil infraction; minimum penalty; persons liable.
Sec. 27-19.	Installation of ultra-low-flush water closets in low income owner-occupied housing.
Secs. 27-20 – 27-27.	Reserved.

Article II. Rates and Charges

Sec. 27-28.	Established by mayor and council.
Sec. 27-29.	Liability of customer of record or property owner for charges.
Sec. 27-30.	Service charge.
Sec. 27-31.	Definitions.
Sec. 27-32.	Charges for water service.
Sec. 27-32.1.	Monthly reclaimed water service charges.
Sec. 27-33.	Monthly potable water service charges.
Sec. 27-34.	Charges for fire protection service.

*Cross references – Plumbing code, § 6-121 et seq.; sewerage and sewage disposal, ch. 24.

TUCSON CODE

- Sec. 27-35. Charges for installation of water service connections.
Sec. 27-36. System equity, Central Arizona Project, and areas-specific fees.
Sec. 27-37. Agreements for construction of water facilities authorized.
Sec. 27-38. Provisions for refund of cost of water mains or water facilities installed by private contract under certain conditions authorized.
Sec. 27-38.1. Provisions for refund of cost of water mains or facilities funded and installed by the city under certain conditions authorized.
Sec. 27-39. Reserved.
Sec. 27-40. Sales taxes and in-lieu-of franchise taxes.
Sec. 27-41. Accommodation and standby water service.
Sec. 27-42. Temporary services authorized; conditions; rates.
Sec. 27-43. Charge when meter not registering properly.
Sec. 27-44. Charge when meter removed.
Sec. 27-45. Charge for water used for public works or improvements.
Sec. 27-46. Charge for water used in flooding excavations.
Sec. 27-47. Water charges when not otherwise provided.
Sec. 27-48. Liability for charges where one service pipe serves multiple premises.
Sec. 27-49. When and where bills due and payable.
Sec. 27-50. Discontinuing service for non-payment of water bill; customer right to dispute account balance.
Sec. 27-51. Resuming service after discontinued for nonpayment or violations.
Secs. 27-52, 27-53. Reserved.
Sec. 27-54. Returned checks.
Secs. 27-55 – 27-59. Reserved.

Article III. Citizens' Water Advisory Committee

- Sec. 27-60. Creation.
Sec. 27-61. Functions and purposes.
Sec. 27-62. Membership composition, terms and qualifications.
Sec. 27-63. Committee organization.
Sec. 27-64. Committee reports.
Sec. 27-65. Limitation of powers.

Article IV. Groundwater Consultant Board

- Sec. 27-66. Creation.
Sec. 27-67. Functions and purposes.
Sec. 27-68. Selection and compensation of consultants.
Sec. 27-69. Limitation of powers.

Article V. Backflow Prevention and Cross-connection Control

- Sec. 27-70. Definitions.
Sec. 27-71. Purpose and application.
Sec. 27-72. Backflow prevention required.
Sec. 27-73. Hazard potential.
Sec. 27-74. Backflow prevention methods; list.
Sec. 27-75. Backflow prevention methods required.
Sec. 27-76. Backflow assembly installation requirements.
Sec. 27-77. Installation of backflow prevention assemblies for fire systems.
Sec. 27-78. Inspections.
Sec. 27-79. Permit.
Sec. 27-80. Test, inspection, notification, maintenance, records.
Sec. 27-81. Determination, modification or waiver of backflow prevention requirements.
Sec. 27-82. Discontinuance of water service.
Sec. 27-83. Administrative appeal.
Sec. 27-84. Violation a civil infraction.
Sec. 27-85. Reserved.
Sec. 27-86. Fees.
Secs. 27-87 – 27-89. Reserved.

WATER

Article VI. Emergency Water Conservation Response

- Sec. 27-90. Purpose.
- Sec. 27-91. Declaration of policy.
- Sec. 27-92. Application.
- Sec. 27-93. Declaration of water emergency authorized.
- Sec. 27-94. Implementation, termination.
- Sec. 27-95. Mandatory emergency water conservation measures.
- Sec. 27-96. Variances.
- Sec. 27-97. Violation.
- Sec. 27-98. Enforcement.
- Sec. 27-99. Definitions.

Article VII. Water Consumer Protection Act

- Sec. 27-100. Method.
- Sec. 27-101. Exception.
- Sec. 27-102. Recharge.
- Sec. 27-103. Definitions.
- Secs. 27-104 – 27-109. Reserved.

Article VIII. Drought Preparedness and Response Plan

- Sec. 27-110. Purpose.
- Sec. 27-111. Declaration of policy.
- Sec. 27-112. Application.
- Sec. 27-113. Declaration of drought response stages, implementation, termination.
- Sec. 27-114. Triggers for each drought response stage.
- Sec. 27-115. Response actions for each drought response stage.
- Sec. 27-116. Variances.
- Sec. 27-117. Violation.
- Sec. 27-118. Enforcement.
- Sec. 27-119. Definitions.

TUCSON CODE

Sec. 27-63. Committee organization.

The citizens' water advisory committee chairperson and a vice-chairperson shall be selected by a majority of the committee members annually on the second Monday of December, and the members shall adopt their own rules and regulations in relation to the committee's powers and duties, and shall appoint their own executive committees, standing committees and subcommittees, and shall meet at such time and places as determined by the committee.

(Ord. No. 4638, § 2, 4-25-77)

Sec. 27-64. Committee reports.

The citizens' water advisory committee shall render to the mayor and council an annual report on or before March 1 and send additional reports and recommendations as it determines, or as requested by the mayor and council. Minutes of the committee shall be filed with the city clerk.

(Ord. No. 4638, § 3, 4-25-77)

Sec. 27-65. Limitation of powers.

Neither the citizens' water advisory committee nor any member may incur city expenses without prior authorization of the mayor and council, nor may it obligate the city in any manner or form.

(Ord. No. 4638, § 4, 4-25-77)

ARTICLE IV. GROUNDWATER CONSULTANT BOARD

Sec. 27-66. Creation.

There is hereby established an entity to be called the "groundwater consultant board."

(Ord. No. 4840, § 1, 6-26-78)

Sec. 27-67. Functions and purposes.

(a) The purpose of the groundwater consultant board will be the review and evaluation of all geologic, hydrologic and economic factors affecting the development of all available water resources in eastern Pima County.

(b) The functions, powers and duties of the board shall be as follows:

- (1) Review all hydrogeologic data which has become available since the United States Geological Survey work on the Tucson Basin was published.
- (2) Review past and present exploration drilling programs conducted by the city.
- (3) Make recommendations for alternatively or additional methods, procedures or techniques for data acquisition and processing.
- (4) Develop from the above findings, alternative short-term and long-term groundwater development strategies for city implementation.
- (5) Develop alternative short-term and long-term water resources strategies through evaluation of the cost-effectiveness of various sources available to the region.
- (6) Outline steps which must be taken for the development of a basin-wide management plan.
- (7) Evaluate alternative actions the city should take with regard to land surface subsidence.
- (8) Develop and evaluate alternative wastewater re-use schemes which could be implemented by the city, consistent with the basin-wide management plan.
- (9) Review and comment upon water department policies affecting such programs as land acquisition for water rights, transfers, conservation and capital improvements. Recommend additional policies for consideration.

(Ord. No. 4840, § 1, 6-26-78)

Sec. 27-68. Selection and compensation of consultants.

(a) The director of the department of water and sewers shall select consultants from within or without the Tucson area to serve on the groundwater consultant board. The consultants so retained shall be qualified water resource investigators who possess a thorough knowledge of local hydrogeologic conditions. The

consultants may be asked to work individually on projects or may act as a board. The recommendation of the groundwater consultant board shall be advisory only.

(b) Membership on the groundwater consultant board shall be unlimited in number, and each member of the board shall sign a personal services contract with the city.

(c) Members of the groundwater consultant board shall serve for an indefinite period of time, and the director of the department of water and sewers shall have the power to remove any member of the board upon giving notice as provided in the personal services contract.

(d) The members of the groundwater consultant board shall be paid at the rate of forty dollars (\$40.00) per hour for work performed as a member of the board, and shall be reimbursed for personal car use at the rate of twenty cents (\$0.20) per mile.

(e) The department of water and sewers shall annually appropriate funds not exceeding twenty-five thousand dollars (\$25,000.00) for the purpose of financing the needs of the groundwater consultant board.
(Ord. No. 4840, 1, 6-26-78; Ord. No. 4906, § 1, 11-13-78)

Sec. 27-69. Limitation of powers.

Neither the groundwater consultant board nor any member shall incur expenses or commit the city to payment for any tangible or intangible thing without first seeking the authority of the director of the department of water and sewers.
(Ord. No. 4840, § 1, 6-26-78)

ARTICLE V. BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL*

***Editor’s note** – Ord. No. 9976, § 1, adopted May 24, 2004, repealed the former Art. V, §§ 27-71 – 27-87, and § 2 enacted a new Art. V, §§ 27-70 – 27-86, as set out herein. The former Art. V pertained to similar subject matter and derived from Ord. No. 7380, § 1, 5-21-90; Ord. No. 8202, § 1, 2-7-94; Ord. No. 8446, § 4, 2-13-95; Ord. No. 9043, § 7, 4-13-98; Ord. No. 9238, § 7, 6-14-99; Ord. No. 9704, § 3, 5-13-02.

Sec. 27-70. Definitions.

Auxiliary water supply means any water supply available to a premises or another purveyor’s water supply system. These auxiliary waters may include additional water services from Tucson Water’s public water supply, other water purveyors or any other natural source.

AWWA means the American Water Works Association.

Backflow Prevention Assembly means an assemblance of one (1) or more body components including shutoff valves that has been approved by the Foundation for Cross-Connection Control and Hydraulic Research at the University of Southern California.

Backflow prevention assembly tester (registered) means a person who is currently certified by an authority recognized in the Arizona Department of Environmental Quality regulations and is approved and registered with Tucson Water to test, repair, and maintain backflow prevention assemblies.

Compliance date means the date by which the backflow prevention assembly/reclaimed water site inspection compliance report must be received by Tucson Water or for violations of this article, the specified date by which a violation must be remedied.

Compliance fee means the fee that is charged to recover the administrative costs that are incurred when a customer’s water service is discontinued.

Consecutive systems means another public or private water system where Tucson Water is the sole source of water for the other purveyor’s water system.

Contamination means any condition, device or practice which, in the judgment of Tucson Water, may create a danger to health and well being. This includes an impairment of the public water supply by the introduction or admission of any foreign substance that degrades the water quality and creates a health hazard.

Courtesy notice means any written notice informing a customer that a backflow method is not operating correctly or does not meet applicable codes or that the reclaimed water site is not in compliance.

Cross-connection protection means the degree of protection against cross-connections existing between the public water supplies and private plumbing systems.

Customer means the person/entity accepting financial responsibility for water service from Tucson Water.

Four-day notice means the written notice that is personally delivered to the site when the customer fails to meet the requirements imposed by this article stating that water service will be discontinued in four days, excluding the day the notice is delivered, if the requirements of this article are not met.

Gray water system, pressurized means any premise where there is a gray water collection and distribution system that is pressurized with any kind of pump.

Hazard means a cross connection or potential cross connection between the public water supply and a private plumbing system involving any substance that could, if introduced into the public water supplies, be aesthetically objectionable or a nuisance, cause severe damage to the physical facilities of the public water supply systems, cause death, illness, or spread disease, or have a high probability of causing such effects.

Improper means not functioning within the manufacturer's or Tucson Water's specifications or the requirements of this article.

Inspection means a visual examination of a reclaimed water site or any backflow protection equipment, materials, workmanship and operational performance. All reclaimed water site inspections also include a cross-connection test.

Maintenance means work performed or repairs made to keep backflow prevention assemblies operable and in compliance.

Pollution means any actual or potential threat to the physical facilities of the public water supply systems or to the public water supplies which, although not dangerous to health, would constitute a nuisance or be aesthetically objectionable, or could cause damage to the system or its appurtenances. This includes any substance that generally would not be a health hazard

but would constitute a nuisance, or be aesthetically objectionable, if introduced into the water supply.

Proper means functioning within the parameters of the manufacturer's and Tucson Water's specifications and the requirements of this article.

Rainwater system, pressurized means any premise where there is a rain water harvesting collection and distribution system that is pressurized with any kind of pump.

Reclaimed water means water that is provided through the Tucson Water reclaimed system.

Reclaimed water site means any premise where reclaimed water is used.

Reclaimed water site tester means a certified backflow prevention assembly tester who is certified by and is registered with Tucson Water to perform reclaimed water site inspections in the Tucson Water service area.

Service connection means a piping connection between Tucson Water's meter and a customer's private plumbing system.

Service protection means the acceptable backflow prevention method installed between Tucson Water's meter and a customer's private plumbing system.

Testing means an authorized procedure to determine the operational and functional status of a backflow prevention assembly. (Ord. No. 9976, § 2, 5-24-04; Ord. No. 10563, § 1, 7-8-08; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-71. Purpose and application.

The purpose of this article is:

- (1) To protect the public water supplies of Tucson Water from the possibility of contamination or pollution by preventing the backflow of contaminants and pollutants into the public water supply systems.
- (2) To promote the elimination or control of cross-connections, actual or potential, between a customer's internal water systems,

plumbing fixtures, industrial piping systems, and the public water supply.

- (3) To provide for a continuing program of cross-connection control which will prevent the contamination or pollution of the public water supply systems.
- (4) To implement the requirements of AAC R18-4-215 requiring public water systems to protect against backflow, and to this end this article shall be construed and applied consistent with the requirements of AAC R18-4-215.

(Ord. No. 9976, § 2, 5-24-04; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-72. Backflow prevention required.

(a) When Tucson Water determines that the water supplied by the public water systems may be subject to contamination or pollution, an approved backflow prevention method shall be required at every service connection to a customer’s water system. The customer shall install the required backflow protection within the time specified by Tucson Water. In determining the time in which backflow protection shall be installed, Tucson Water shall consider the degree of hazard potential to the public water supplies.

(b) The backflow prevention method required shall be determined by Tucson Water. The method required by Tucson Water shall be sufficient to protect against the hazard potential, as determined by Tucson Water, to the public water supplies.

(Ord. No. 9976, § 2, 5-24-04)

Sec. 27-73. Hazard potential.

The hazard potential to the public water supply systems from a customer’s private plumbing system shall be determined using the following hazard factors as each is defined in section 27-70:

- (1) Contamination.
- (2) Cross-connection protection.
- (3) Pollution.

(Ord. No. 9976, § 2, 5-24-04)

Sec. 27-74. Backflow prevention methods; list.

(a) A backflow prevention method shall be any assembly or other means designed to prevent backflow. The following are the recognized backflow prevention methods which Tucson Water may require under section 27-72 or section 27-75:

- (1) *Air gap (AG)*: The unobstructed vertical distance through the free atmosphere between the opening of the pipe or faucet supplying potable water to a tank, plumbing fixture or other device. An approved air gap shall be at least double the effective opening of the supply pipe or faucet and in no case less than one (1) inch above the flood rim.
- (2) *Reduced pressure principle assembly (RPA)*: An assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves, and at the same time below the first check valve. The assembly shall include properly located test cocks and tightly closing shutoff valves located at each end of the assembly.
- (3) *Double check valve assembly (DCVA)*: An assembly composed of two (2) independently acting, approved check valves, including tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks.
- (4) *Pressure vacuum breaker assembly (PVB)*: An assembly containing an independently operating, loaded check valve and an independently operating, loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks and tightly closing shutoff valves located at each end of the assembly.
- (5) *Spill-resistant pressure vacuum breaker (SVB)*: An assembly containing an independently operating internally loaded check valve and independently operating loaded air inlet valve located on the

discharge side of the check valve. The assembly shall be equipped with a properly located resilient seated test cock, properly located bleed/vent valve and tightly closing resilient seated shutoff valves located at each end of the assembly.

- (6) *Double check detector assembly (DCDA or DDCVA)*: An assembly composed of a line size approved double check valve assembly with a bypass containing a specific water meter and an approved double check valve assembly.
- (7) *Reduced pressure principle detector assembly (RPDA)*: An assembly composed of a line size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle assembly.

(b) A backflow prevention method may be approved by Tucson Water if it is contained in section 7.2 of the *Manual of Cross-Connection Control*, Ninth Edition, USC-FCCCHR, KAP-200 University Park MC 2531, Los Angeles, California, 90089-2531, December 1993 (cross connection manual). The current list of approved methods shall be available for inspection at Tucson Water to any customer required to install a backflow prevention assembly.

(c) Any backflow prevention assembly equipped with test cocks shall have been issued a certificate of approval by the USC Foundation for Cross-Connection Control and Hydraulic Research or a third-party certifying entity that is unrelated to the product's manufacturer or vendor, and is approved by the Arizona Department of Environmental Quality. Any backflow prevention assembly not equipped with test cocks shall be certified by a third party entity unrelated to the product's manufacturer or vendor and approved by the Arizona Department of Environmental Quality. (Ord. No. 9976, § 2, 5-24-04; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-75. Backflow prevention methods required.

(a) Whenever the following items exist or activities are conducted on premises served by the public water systems, a potential hazard to the public

water supplies shall be presumed, and a backflow prevention method of the type specified herein for that item or activity must be utilized or installed at each service connection for that premises. If an activity or item is not on the following list, it shall be evaluated by Tucson Water and a method of backflow prevention will be determined.

- (1) Cooling tower, boiler, condenser, chiller, and other cooling systems: RPA.
- (2) Tank, vessel, receptacle, and all other water connections, including mobile units, except emergency vehicles and private swimming pools: RPA.
- (3) Icemaker (other than a residential service): RPA.
- (4) Water-cooled equipment, boosters, pumps or autoclaves: RPA.
- (5) Water treatment facilities and all water processing equipment (other than residential water softeners): RPA.
- (6) Bottle washer, bedpan washer, garbage can washer: RPA.
- (7) Pesticide, herbicide, fertilizer, and chemical applicators (other than typical in-home use): RPA.
- (8) Aspirator: RPA.
- (9) Commercial dishwashers, food processing and/or preparation equipment, carbonation equipment, or other food service processes: RPA.
- (10) Decorative fountain, baptismal, or any location water is exposed to atmosphere: RPA.
- (11) X-ray equipment, plating equipment, or any other photographic processing equipment: RPA.
- (12) Auxiliary water supply and/or connections to unapproved water supply systems: RPA.

- (13) Reclaimed water sites with potable water connection: RPA.
- (14) Recreational vehicle dump stations (sewer), or any other location where water may be exposed to bacteria, virus or gas: RPA.
- (15) Any premises on which chemicals, oils, solvents, pesticides, disinfectants, cleaning agents, acids or other pollutants and/or contaminants are handled in a manner by which they may come in direct contact with water, or there is evidence of the potential to contact water: RPA.
- (16) Materials and piping systems unapproved by the City Plumbing Code or Environmental Protection Agency for potable water usage: RPA.
- (17) Separately metered or unprotected irrigation systems, and construction water services: RPA or PVB/SVB as allowed.
- (18) Any premises where a cross-connection is maintained or where internal backflow protection is required pursuant to the City Plumbing Code: RPA.
- (19) Multimetered properties with more than one (1) meter connected: RPA.
- (20) Fire systems – AWWA Classes 1 and 2 and all systems constructed of a piping material not approved for potable water pursuant to the City Plumbing Code: DCVA or Double Detector CVA. Furthermore, fire systems, Classes 1 and 2, that are under the jurisdiction of the fire department or a fire district that requires periodic sprinkler system testing similar to the city’s are exempt from this article: DCVA.
- (21) Fire systems – AWWA Class 3, 4, 5, 6: RPA or RPA with detector.
- (22) Fire systems which require backflow protection and where backflow protection is required on the industrial/domestic service connection that is located on the same premises, both service connections will have adequate backflow protection for the highest degree of hazard affecting either system: RPA (Requirement may be waived by Tucson Water).
- (23) Any premises which has a source of water supply that is not accepted by the public water system and or not approved by the Arizona Department of Environmental Quality: As determined by Tucson Water.
- (24) Any premises where an unprotected cross-connection exists or where there has previously occurred a cross connection problem within the premises: As determined by Tucson Water.
- (25) Any premises where there is a significant possibility that a cross-connection problem will occur and entry onto the premises is restricted to the extent that cross-connection inspections can not be made with sufficient frequency or on sufficiently short notice to assure that unprotected cross-connections do not exist: As determined by Tucson Water.
- (26) Multi-use commercial property: RPA.
- (27) Properties with active private wells: RPA.
- (28) Consecutive systems, when required by Tucson Water: RPA.
- (29) Fire hydrant/construction water: RPA.
- (30) Jumper connection to new water mains: RPA.
- (31) Any building three (3) stories or greater than thirty-four (34) feet in height as measured from the service level: RPA.
- (32) Any premise on which there is a pressurized gray water system: RPA.
- (33) Any premise on which there is pressurized rain water harvesting system: RPA.
- (b) When two (2) or more of the activities listed above are conducted on the same premises and served by the same service connection or multiple service

connections, the most restrictive backflow prevention method required for any of the activities conducted on the premises shall be required to be installed at each service connection. The order of most restrictive to least restrictive backflow prevention methods shall be as follows:

- (1) Air gap (AG).
- (2) Reduced pressure principle assembly (RPA).
- (3) Reduced pressure principal detector assembly (RPDA).
- (4) Double check valve assembly (DCVA).
- (5) Double check detector assembly (DCDA).
- (6) Pressure vacuum breaker assembly (PVB).
- (7) Spill resistant pressure vacuum breaker (SVB).

(Ord. No. 9976, § 2, 5-24-04; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-76. Backflow assembly installation requirements.

(a) Backflow prevention assemblies shall be installed and maintained by the customer, at the customer's expense and in compliance with the standards and specifications adopted by the city, at each service connection. The customer is responsible for notifying Tucson Water of any installation, repair, relocation or replacement. A backflow prevention assembly shall be installed as close as practicable to the service connection. Any backflow prevention method shall be installed in accordance with the manufacturer's specifications and Tucson Water's standard details for installation.

(b) The assembly shall have a diameter at least equal to the diameter of the service connection or service line at point of connection. Each service connection will require its own backflow prevention assembly.

(c) The assembly shall be in an accessible location approved by Tucson Water. The RPA, RPDA, DCVA, DCDA, PVB, and SVB shall be installed above ground and per Tucson Water standard details.

(d) When a customer desires a continuous water supply, two (2) backflow prevention assemblies shall be installed parallel to one another at the service connection to allow a continuous water supply during testing and maintenance of the backflow prevention assemblies. When backflow prevention assemblies are installed parallel to one another, the sum of the cross-sectional areas of the assemblies shall be at least equal to the cross-sectional area of the service connection or service line piping at the point of installation, and the assemblies shall be of the same type, size, and manufacturer.

(e) For an AG installation all piping installed between the user's connection and the receiving tank shall be entirely visible unless otherwise approved in writing by Tucson Water.

(f) Backflow prevention assemblies shall not be installed in a meter box, pit or vault.

(g) A PVB or SVB assembly may be installed for use on a landscape water irrigation system if:

- (1) The water use beyond the assembly is for irrigation purposes only;
- (2) The PVB/SVB is installed in accordance with manufacturer's specifications;
- (3) The irrigation system is designed and constructed to be incapable of inducing backpressure;
- (4) Chemigation, the injection of chemical pesticides and fertilizers, is not used or provided for in the irrigation system; and
- (5) No other source of water is available on the premises.

If these five criteria are not met, then an RP assembly is required.

(h) No person shall alter, modify, bypass or remove a backflow prevention method without the approval of Tucson Water.

(i) Installation of the backflow prevention assembly must be completed within the time specified in the notice to install or within forty-five (45) days of

the water meter installation. A time extension may be granted by Tucson Water.

(j) If a customer fails to install a backflow prevention assembly pursuant to this article, Tucson Water shall discontinue water service and assess a compliance fee pursuant to this article. (Ord. No. 9976, § 2, 5-24-04; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-77. Installation of backflow prevention assemblies for fire systems.

In addition to the requirements of section 27-75 the following shall also apply.

(a) *Fire systems:*

- (1) Fire protection systems may consist of sprinklers, hose connections, and hydrants. Sprinkler systems may be dry or wet, open or closed. Systems consisting of fixed-spray nozzles may be used indoors or outdoors for protection of flammable-liquid and other hazardous processes. It is standard practice, especially in cities, to equip automatic sprinkler systems with fire department pumper connections.
- (2) A meter (compound, detector check) should not normally be permitted as part of a backflow prevention assembly. An exception may be made, however, if the meter and backflow prevention assembly are specifically designed for that purpose.
- (3) For cross-connection control, fire protection systems shall be classified on the basis of water source and arrangement of supplies as follows:
 - a. *Class 1:* Direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to atmosphere, dry wells or other safe outlets.
 - b. *Class 2:* Same as class 1, except that booster pumps may be installed in the

connections from the street mains. It is necessary to avoid drafting so much water that pressure in the water main is reduced below twenty (20) psi.

- c. *Class 3:* Direct connection from public water supply main plus one (1) or more of the following: elevated storage tanks; fire pumps taking suction from above-ground covered reservoirs or tanks; and pressure tanks (all storage facilities are filled or connected to public water only, the water in the tanks to be maintained in a potable condition).

Otherwise, class 3 systems are the same as class 1. Class 3 systems will generally require minimum protection (approved double check valves) to prevent stagnant waters from backflowing into the public potable water system.
- d. *Class 4:* Directly supplied from public mains similar to classes 1 and 2, and with an auxiliary water supply on or available to the premises; or an auxiliary supply may be located within seventeen hundred (1,700) feet of the pumper connection. Class 4 systems will normally require backflow protection at the service connection. The type (air gap or reduced pressure) will generally depend on the quality of the auxiliary supply.
- e. *Class 5:* Directly supplied from public mains, and interconnected with auxiliary supplies, such as: pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells, mills or other industrial water systems; or where antifreeze or other additives are used. Classes 4 and 5 systems normally would need maximum protection (air gap or reduced pressure) to protect the public water system.
- f. *Class 6:* Combined industrial and fire protection systems supplied from the

public water mains only, with or without gravity storage or pump suction tanks. Class 6 system protection would depend on the requirements of both industry and fire protection, and could only be determined by a survey of the premises.

(b) *Installation of assembly:* When a backflow prevention assembly is required for a water service connection supplying water only to a fire system, the assembly shall be installed on the service line in compliance with standard specifications adopted by the city. (Installation of DCVA's or DDCVA's in a vertical position on the riser may be allowed on fire systems with Tucson Water approval.) (Ord. No. 9976, § 2, 5-24-04)

Sec. 27-78. Inspections.

(a) A customer's water systems shall be available at all times during business operations for premises inspection and backflow prevention assembly testing by Tucson Water. The inspection shall be conducted to determine whether any cross-connection or other hazard potentials exist and to determine compliance with this article and modifications, if any, pursuant to section 27-81.

(b) Tucson Water shall inspect all new sites, assembly installations, assembly relocations and assemblies that have been repaired for compliance.

(c) A waived premise is a property for which Tucson Water has determined there are currently no hazard potentials. All waived premises shall be inspected periodically or when there has been a change in owner/tenant or there has been a use change.

(d) If a customer refuses entry to a premises for inspection during business operations, Tucson Water may discontinue water service, require backflow prevention or take any steps allowed by law to gain entry to the premises.

(e) Tucson Water shall inspect all new reclaimed water sites prior to the delivery of reclaimed water to ensure that no cross-connections with Tucson Water's potable system exist and that the site complies with all applicable state and local regulations.

(f) Beginning on January 1, 2015 all reclaimed water sites, except single family residences, are required to have an annual reclaimed water site inspection and cross-connection test performed by a reclaimed water site tester certified by and registered with Tucson Water. The inspection will ensure that no cross-connections with Tucson Water's potable system exist and that the site complies with all applicable state and local regulations, including regulations pertaining to signage, ponding, overspray, site plan, and discharge off of the site. The reclaimed water site inspection program will be administered as provided in section 27-80.

(g) All single family sites will be inspected once every five years by Tucson Water at no cost to the customer. The inspection will ensure that no cross-connections with Tucson Water's potable system exist and that the site complies with all applicable state and local regulations, including regulations pertaining to signage, ponding, overspray, site plan, and discharge off of the site. (Ord. No. 9976, § 2, 5-24-04; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-79. Permit.

(a) Installation permits for the installation of all backflow prevention assemblies required by Tucson Water shall be obtained from Tucson Water prior to installation. A separate permit shall be obtained for each required backflow prevention assembly to be installed, including replacement or relocation.

(b) It shall be the duty of the person doing the work authorized by the permit to notify Tucson Water, orally or in writing, that the work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected and shall be given only if there is reason to believe that the work done will meet current city codes and regulations.

(c) Whenever any work is being done contrary to the provisions of the City Plumbing Code or this article, Tucson Water or an authorized representative may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done; and any such person shall forthwith stop such work until authorized by Tucson Water to proceed with the work.

(d) Any Tucson Water employee may, in writing, suspend or revoke a permit issued under provisions of this article, whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any provision of the City Plumbing Code or this article. (Ord. No. 9976, § 2, 5-24-04)

Sec. 27-80. Test, inspection, notification, maintenance, records.

(a) The compliance date shall be set by Tucson Water.

(b) Tucson Water shall notify the customer at least forty-five (45) days before the compliance date for each backflow prevention assembly and/or reclaimed water site inspection.

(c) The customer shall test each backflow prevention assembly at least once a year. Test intervals for any backflow prevention assembly may not exceed twelve (12) months. If an inactive water service is reactivated, the backflow prevention assembly associated with that service shall be tested if more than twelve (12) months have passed since the last test.

(d) For compliance testing or inspection the customer shall not test any backflow prevention assembly or inspect any reclaimed water site more than forty-five (45) days prior to the compliance date.

(e) The customer may request in writing a change of the compliance date for any backflow prevention assembly and/or reclaimed water site. No annual compliance date may be changed to be more than twelve (12) months after the most recent test or inspection. No five (5) year compliance date may be changed to be more than sixty (60) months after the most recent inspection.

(f) If any testing reveals the assembly to be defective or is in improper operating condition, the customer shall perform any necessary repairs, including replacement of the assembly, which will return the assembly to proper operating condition. If an assembly is replaced, relocated or repaired, a new test shall be performed on such assembly and submitted to Tucson Water.

(g) If by the compliance date Tucson Water has not received the required backflow prevention assembly test and/or reclaimed water site inspection results, Tucson Water shall provide a four (4) day notice in writing to the site that Tucson Water will discontinue potable/reclaimed water service if the required backflow prevention assembly test and/or reclaimed water site inspection results are not received by the date specified in the four (4) day notice. Tucson Water shall assess a fee when the four (4) day notice is delivered. If the test and/or inspection results are not received by Tucson Water by the date specified in the four (4) day notice Tucson Water shall discontinue water service and add a compliance fee to the customer's water bill.

(h) If Tucson Water determines at any time between compliance dates that a backflow method is not operating correctly or does not meet applicable codes or that a reclaimed water site does not comply with regulations, Tucson Water shall provide a courtesy notice in writing to the customer and/or site specifying the date by which the backflow method must meet applicable codes and be operating properly or the reclaimed water site must be in compliance. If by the date specified in the courtesy notice the backflow method or reclaimed water site does not meet applicable codes and regulations, Tucson Water will provide a four (4) day notice to the site specifying the date by which the backflow method or reclaimed water site must meet applicable codes/regulations. Tucson Water shall add a fee to the customer's water bill when the four (4) day notice is delivered. If by the date specified in the four (4) day notice the backflow method or reclaimed water site does not meet applicable codes/regulations, Tucson Water shall discontinue water service and add a compliance fee to the customer's water bill.

(i) If Tucson Water or a customer learns or discovers during any interim period between tests/inspections that an assembly is defective or is in improper operating condition or that the reclaimed water site is noncompliant, the customer shall perform any necessary repairs including replacement of the assembly, which will return the assembly or reclaimed water site to proper operating/compliant condition.

(j) The backflow prevention assembly testing shall be performed by an individual certified to conduct such testing by the California-Nevada Section of the

AWWA, the Arizona State Environmental Technical Training Center or other certifying authority approved by the Arizona Department of Environmental Quality. A list of certified testers registered with Tucson Water shall be maintained by Tucson Water and shall be available upon request to all persons required to install or maintain a backflow prevention assembly.

(k) Test procedures shall be performed as required by the Arizona Department of Environmental Quality as set forth in chapter nine of the *Manual for Cross-Connection Control*. The tester shall provide test/inspection results to the customer and to Tucson Water, and shall maintain a copy of the results for their records.

(l) The customer shall maintain records, of all test/inspection results and of all servicing, repairs, and replacements of the backflow prevention assembly. Test and/or inspection results shall be submitted electronically to Tucson Water within five (5) days after completion of the activity for which the record is made.

(m) Fire systems shall not be out of service for more than eight (8) consecutive hours due to testing, maintenance or repairs. The fire department shall be notified immediately of any changes in fire service status.

(n) Tucson Water may test any backflow prevention assembly or inspect any reclaimed water site at any time.

(o) Test equipment shall be maintained and calibrated annually by an agency approved by Tucson Water as required by the cross connection manual. A copy of the annual equipment calibration certificates shall be submitted to Tucson Water to maintain equipment registration and certification. Test equipment for testing backflow prevention assemblies in Tucson Water's service area shall be registered with and approved by Tucson Water. Test equipment used on anything other than potable water backflow prevention assemblies shall not be used to test such assemblies and shall be identified as non-potable test equipment.

(p) Backflow prevention assembly/reclaimed water site testers shall register with Tucson Water if they are conducting backflow prevention assembly

testing/reclaimed water site inspections in Tucson Water's service area. Testers shall submit a current copy of their certification or recertification upon registration. A Tucson Water registration issued to a backflow prevention assembly/reclaimed water site tester may be revoked or suspended upon certification expiration or for improper testing, maintenance, inspections, reporting or other improper practices. (Ord. No. 9976, § 2, 5-24-04; Ord. No. 10563, §§ 2, 3, 7-8-08; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-81. Determination, modification or waiver of backflow prevention requirements.

If Tucson Water determines, after inspection of the customer's system, that a backflow prevention method less restrictive than that required in section 27-75 will provide adequate protection of the public water supply, Tucson Water may, at its sole discretion, modify or waive the requirements of section 27-75 accordingly. In determining, waiving, or modifying backflow requirements, Tucson Water shall consider the hazard potential to the public water system based on the design of the customer's water system. (Ord. No. 9976, § 2, 5-24-04)

Sec. 27-82. Discontinuance of water service.

(a) If Tucson Water discovers that a customer has not installed a required backflow prevention method, or that a backflow prevention method has been improperly tested or maintained, bypassed or removed, or that an unprotected cross-connection exists in the customer's water system or any other violation of this article has occurred, the water service to that service connection shall be discontinued. If the condition is not remedied subsections 27-80(g) and (h) shall apply. The service shall not be restored until the condition is remedied or Tucson Water authorizes a turn on for assembly testing and continuance of service.

(b) Water service to a fire sprinkler system shall not be subject to discontinuance under this section. If a condition, which would otherwise result in discontinuance of fire service is not remedied, discontinuance of the potable water service shall result. See subsections 27-80 (g) and (h).

(c) Tucson Water may discontinue, without notice, water service to any customer when Tucson

Water discovers any potential for contamination of the public water systems by the customer's private plumbing system.

(Ord. No. 9976, § 2, 5-24-04; Ord. No. 10563, § 4, 7-8-08; Ord. No. 10867, § 1, 12-21-10)

Sec. 27-83. Administrative appeal.

An administrative appeal may be taken whenever a question arises over any of the requirements of this article, and the applicant wishes to appeal the decision of Tucson Water or seek a variance from the requirements of this article. The appeal may be made to the backflow prevention hearing committee as follows:

- (1) The applicant shall file a written appeal on the forms provided by the Tucson Water Backflow Prevention Office within ten (10) working days from the date of the decision by Tucson Water that the applicant wishes to appeal. The applicant shall set forth, in detail, and on the form provided, the basis for their request, and may attach additional documentation to the form.
- (2) The appeal will be heard by the hearing committee within seven (7) working days, after receipt of the written appeal, at a regular specified time. Formal Arizona Rules of Evidence will not apply, but any testimony or evidence offered must be relevant to the issue in question.
- (3) The hearing committee shall consist of three (3) members each of whom shall be knowledgeable or experienced in backflow prevention, plumbing, or water system hydraulics. One (1) member shall be appointed by the director of Tucson Water. One (1) member shall be appointed by the director of the department of development services. One (1) member shall be appointed from the full membership of the City of Tucson Small Business Commission. Additional inspectors or other technical persons may be present for a particular appeal.

- (4) The applicant shall provide adequate information at the hearing to fully describe the conditions in question and to establish the justification and basis for the applicant's request.

- (5) The applicant may, but is not required to, personally attend the hearing.

(Ord. No. 9976, § 2, 5-24-04)

Sec. 27-84. Violation a civil infraction.

It shall be a civil infraction for any person to violate any of the requirements of this article.

(Ord. No. 9976, § 2, 5-24-04)

Sec. 27-85. Reserved.

Sec. 27-86. Fees.

(a) The fee for issuing a permit to install a backflow prevention assembly and inspecting the installation shall be eighty-seven dollars (\$87.00).

(b) A four-day notice fee of eighty-seven dollars (\$87.00) will be assessed when the customer fails to meet the requirements imposed by this article and a Tucson Water inspector personally delivers a notice to the site stating that water service will be discontinued in four days if the requirements are not met.

(c) A compliance fee of eighty-seven dollars (\$87.00) will be assessed when the customer fails to meet the requirements imposed by this article and Tucson Water discontinues potable or reclaimed water service.

(Ord. No. 9976, § 2, 5-24-04; Ord. No. 10359, § 3, 12-12-06, eff. 1-16-07; Ord. No. 10510, § 3, 3-18-08, eff. 7-1-08)

Secs. 27-87 – 27-89. Reserved.

ARTICLE VI. EMERGENCY WATER CONSERVATION RESPONSE*

Sec. 27-90. Purpose.

This article establishes a city emergency water conservation response plan.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-91. Declaration of policy.

It is hereby declared that, because of varying conditions related to water resource supply and distribution system capabilities, it is necessary to establish and to enforce methods and procedures to ensure that, in time of emergency shortage of the local water supply, the water resources available to the city are put to the maximum beneficial use, that the unreasonable use, or unreasonable method of use is prevented, and that conservation of water is accomplished in the interests of the customers of the city water department and for the public health, safety, and welfare.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-92. Application.

(a) This article applies to all departments of the city, and to all city water customers who own, occupy, or control water use on any premises as defined in section 27-10.

***Editor's note** – By Ordinance 8564, the mayor and council called a special election for November 7, 1995, at which public initiative petition 1994-1001 would be submitted to the city's qualified electors. By Ordinance 8574, the mayor and council approved the ballot label for that special election, which included the full text of the proposed Code amendment presented in the initiative petition. The proposed initiative was approved by the electorate and is now part of the Tucson Code.

The initiative as passed was denominated article VI of chapter 27 of the Tucson Code, containing sections 27-90 through 27-93. However, chapter 27 of the Tucson Code already contained an article VI (entitled "Emergency Water Conservation Response") consisting of sections 27-90 – 27-99. The existing article VI was enacted subsequent to the filing of the blank version of public initiative petition 1994-1001 but prior to its approval by the voters.

The city has determined that the initiative measure should be denominated as article VII of chapter 27, rather than article VI, and that its various sections should be numbered as sections 27-100 through 27-103, rather than as sections 27-90 through 27-93.

(b) No person shall make, cause, use, or permit the use of water received from the city water department for residential, commercial, industrial, governmental or any other purpose in any manner contrary to any provision in this article.

(c) Mandatory emergency conservation measures shall be implemented based upon the declaration of an emergency pursuant to section 27-93.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-93. Declaration of water emergency authorized.

The mayor and council or, in the absence of a quorum, the mayor or the mayor's designate, upon the recommendation of the director of the city water department is hereby authorized to declare a water emergency and to implement mandatory conservation measures as set forth in this article.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-94. Implementation, termination.

(a) The director of the water department shall develop guidelines which set forth general criteria to assist the mayor and council, or in the absence of a quorum, the mayor or the mayor's designate in determining when to declare a water emergency. Upon declaration of a water emergency, the city manager shall report in writing to the mayor and council providing the reasons for and expected duration of such emergency and describing implementation of emergency water conservation measures.

(b) Upon the cessation of the condition or conditions giving rise to the water emergency, or upon majority vote of the mayor and council, or in the absence of a quorum, the mayor or the mayor's designate shall declare the water emergency terminated. Upon such termination, the mandatory conservation measures shall no longer be in effect.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-95. Mandatory emergency water conservation measures.

Upon declaration of a water emergency and notification to the public, the following mandatory restrictions upon nonessential uses shall be enforced:

- (1) All outdoor irrigation, except for those areas irrigated with reclaimed water, is prohibited. If the city manager deems it appropriate, a schedule designating certain outdoor watering days may be implemented in place of the irrigation ban.
- (2) Washing of sidewalks, driveways, parking areas, tennis courts, patios or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited.
- (3) The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited.
- (4) Operation of water cooled space and equipment cooling systems below an operating efficiency level of two cycles of concentration is prohibited.
- (5) Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.
- (6) Operation of outdoor misting systems used to cool public areas is prohibited.
- (7) The filling of swimming pools, fountains, spas or other exterior water features is prohibited.
- (8) The washing of automobiles, trucks, trailers and other types of mobile equipment is prohibited, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety and welfare.

(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-96. Variances.

The city manager, or the city manager’s designate, is authorized to review hardship cases and special cases within which strict application of this chapter would result in serious hardship to a customer. A variance may be granted only for reasons involving health,

safety or economic hardship. Application for variance from requirements of this chapter must be made on a form provided by the director.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-97. Violation.

(a) In the event of any violation of this article, a written notice shall be placed on the property where the violation occurred and a duplicate mailed to the person who is regularly billed for the service where the violation occurs and to any person known to the department who is responsible for the violation or it’s correction. Such notice shall describe the violation and order that it be corrected, ceased or abated immediately or within such specified time as the department determines is reasonable under the circumstances and shall contain a description of the fees and penalties associated with such violation. If such order is not complied with, the department may forthwith disconnect the service where the violation occurs. A two hundred fifty dollar (\$250.00) fee shall be imposed for the reconnection of any service disconnected pursuant to noncompliance, which shall be in addition to other fees or charges imposed by this chapter for disconnection of service.

(b) In addition to being grounds for discontinuation of service, violation of any provision of this article shall be a civil infraction. An individual or corporation convicted of violating provisions of this section shall be assessed a civil penalty of not less than two hundred fifty dollars (\$250.00).
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-98. Enforcement.

The city manager is authorized to designate city employees to enforce the provisions of this article.
(Ord. No. 8461, § 1, 3-20-95)

Sec. 27-99. Definitions.

Department means the city water department.

Director means director of the city water department.

Economic hardship means a threat to an individual’s or business’ primary source of income.

Notification to public means notification through local media, including interviews and issuance of news releases.

Outdoor watering day means a specific day, as described in a specific outdoor watering plan, during which irrigation with sprinkler systems or otherwise may take place.

(Ord. No. 8461, § 1, 3-20-95)

ARTICLE VII. WATER CONSUMER PROTECTION ACT*

Sec. 27-100. Method.

(a) The city shall use only groundwater from unpolluted sources as its potable water supply for a five-year interim period beginning on the effective date of this article [November 13, 1995], except as specifically provided in section 27-101.

(b) The city shall take the necessary actions to ensure that it is in total compliance with its existing contract for Central Arizona Project (CAP) water.

(c) For five (5) years from the effective date of this article [November 13, 1995], CAP water delivered to the city shall be used only for one or more of the following purposes:

- (1) For selling or exchanging water under the terms of the city's existing CAP subcontract.
- (2) To preserve Tucson's groundwater for domestic use by replacing groundwater which would otherwise have been withdrawn for uses other than as potable water such as agriculture, mining or other industry.
- (3) To prevent land subsidence and augment Tucson's groundwater supply by basin and stream bed recharge.
- (4) To replace other water supplies currently being employed for industrial and landscape irrigation use including parks, golf courses and schools.

(5) For direct well injection if it is treated as described in section 27-101 and is free from disinfection by-products.

(Ord. No. 8564, § 1, 8-7-95)

Sec. 27-101. Exception.

Notwithstanding any other provision of this article, CAP water may be directly delivered as a potable water supply only if it is treated in a manner sufficient to ensure that the quality of the delivered water is equal to or better in salinity, hardness and dissolved organic material than the quality of the groundwater being delivered from Tucson's Avra Valley well field on the effective date of this article [November 13, 1995].

(Ord. No. 8564, § 1, 8-7-95; Ord. No. 8574, § 1, 9-5-95)

Sec. 27-102. Recharge.

(a) The city shall not recharge water in any area that contains or is adversely effected by toxic landfills.

(b) To prevent land subsidence within the city's central well field, all groundwater withdrawals shall be completely replenished, as measured over any five-year period, using recharge including recharge of CAP water treated as provided in section 27-100(c)(5).

(Ord. No. 8564, § 1, 8-7-95; Ord. No. 8574, § 1, 9-5-95)

Sec. 27-103. Definitions.

In this article, unless the context otherwise requires:

(1) *Pollution* means the presence of an amount of any substance in groundwater which exceeds any standard prescribed by the laws of the state or the United States for potable water.

(2) *Disinfection by-products* are the chemical compounds formed when chlorine, ozone or chloramines are used to disinfect water containing dissolved organic material.

(Ord. No. 8564, § 1, 8-7-95; Ord. No. 8574, § 1, 9-5-95)

*Editor's note – See note for Article VI.

Editor’s note – Section 27-100 through 27-103 added as the result of an Initiative Special Election held November 7, 1995, pursuant to a citizen-initiated measure – Initiative Petition No. 1994-1001. The amendment became effective on November 13, 1995.

Secs. 27-104 – 27-109. Reserved.

ARTICLE VIII. DROUGHT PREPAREDNESS AND RESPONSE PLAN

Sec. 27-110. Purpose.

This article establishes a city drought preparedness and response plan. (Ord. No. 10380, § 1, 3-20-07)

Sec. 27-111. Declaration of policy.

It is hereby declared that, because of varying conditions related to water resource supply and distribution system capabilities during drought, it is necessary to establish and to enforce drought response stages and drought response measures to ensure that the water resources available to the city are put to the maximum beneficial use; that unreasonable use, or unreasonable method of use is prevented; and that conservation of water is accomplished in the interests of the customers of the city and for the public health, safety, and welfare. (Ord. No. 10380, § 1, 3-20-07)

Sec. 27-112. Application.

(a) This article applies to all departments of the city, and to all city water customers who own, occupy, or control water use on any premises as defined in section 27-10.

(b) No person shall make, cause, use, or permit the use of water received from the department for residential, commercial, industrial, governmental or any other purpose in any manner contrary to any provision in this article.

(c) Mandatory drought response measures shall be implemented based upon the declaration of drought response stages pursuant to section 27-115. (Ord. No. 10380, § 1, 3-20-07)

Sec. 27-113. Declaration of drought response stages, implementation, termination.

(a) Stage 1 or Stage 2 drought response will be declared by the city manager, or any designee, on the advice of the director. A Stage 3 or Stage 4 drought response will be declared by the mayor and council, or any designee, upon the recommendation of the city manager.

(b) The director shall develop guidelines which set forth general criteria to assist the city manager or mayor and council, or any designee, in determining drought response stages.

(c) Following the declaration of any drought response stage, the department will implement appropriate response actions, including but not limited to public notification and various drought response measures.

(d) The director will continually monitor drought conditions and promptly recommend that the drought stage level increase if conditions worsen. Similarly, the director will advise the city manager to rescind Stage 1 or 2, or to recommend termination of Stage 3 or 4, if warranted by lessened drought conditions. (Ord. No. 10380, § 1, 3-20-07)

Sec. 27-114. Triggers for each drought response stage.

Each drought response stage will be triggered by specific conditions related to the availability of Colorado River water and/or local water system indicators, such as well and distribution system operating capacities:

(a) *Stage 1 trigger:* A severe and sustained drought on the Colorado River watershed and/or any declaration of drought status above normal in the Santa Cruz Watershed by the Arizona Drought Monitoring Technical Committee.

(b) *Stage 2 trigger:* A declaration by the Secretary of the Interior of a shortage on the Colorado River that results in a reduction in Central Arizona Project (CAP) water deliveries to agricultural, other non-municipal users, or to excess users, OR, a deterioration in local water system indicators in conjunction with a drought status above normal for the Santa Cruz Watershed.

(c) *Stage 3 trigger:* Continuing shortages on the Colorado River resulting in reductions in CAP deliveries to municipal subcontractors, including the city, OR, a further deterioration in local water system indicators in conjunction with a drought status above normal for the Santa Cruz Watershed.

(d) *Stage 4 trigger:* Additional reductions to CAP municipal deliveries, a further deterioration of local system indicators, and/or a failure to significantly reduce water demand in Stage 3.
(Ord. No. 10380, § 1, 3-20-07)

Sec. 27-115. Response actions for each drought response stage.

Upon declaration of a drought response stage the director shall be authorized to implement and enforce any or all of the drought response measures for a specific drought response stage included in the last-adopted Drought Preparedness and Response Plan on file with the city clerk's office.
(Ord. No. 10380, § 1, 3-20-07)

Sec. 27-116. Variances.

The director, or the director's designee, is authorized to review special cases within which strict application of this chapter would result in serious hardship to a customer. A variance may be granted only for reasons involving health, safety or economic hardship. Application for variance from requirements of this article must be made on a form provided by the director. The department may charge a fee to process a variance request.
(Ord. No. 10380, § 1, 3-20-07)

Sec. 27-117. Violation.

(a) Violations of this article will result in a written notice placed on the property where the violation occurred. A duplicate will be mailed to the person who is regularly billed for the service where the violation occurs and to any person known to the department who is responsible for the violation or its correction. The notice will describe the violation and order that it be corrected, ceased or abated immediately or within such specified time as the department determines is reasonable under the circumstances. The notice of violation will contain a description of the possible fees and penalties associated with said

violation. If the order is not complied with, the department may disconnect the service where the violation occurs and the then current disconnection charge will be applied to the customer account. Reconnection of any service disconnected for non-compliance will require payment of the then current complete new service connection charge in addition to other fees or charges imposed by this ordinance for disconnection of service.

(b) In addition to being grounds for discontinuation of service, violation of any provision of this article shall be a civil infraction. An individual or corporation convicted of violating provisions of this section shall be assessed a civil penalty of not less than two hundred fifty dollars (\$250.00) or more than one thousand dollars (\$1,000.00) per violation.
(Ord. No. 10380, § 1, 3-20-07)

Sec. 27-118. Enforcement.

This article will be enforced by the department. The city manager, in consultation with the director, is authorized to designate additional city employees to assist in enforcement, should conditions warrant.
(Ord. No. 10380, § 1, 3-20-07)

Sec. 27-119. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Department means the City of Tucson Water Department (Tucson Water).

Director means the Director of the City of Tucson Water Department.

Economic hardship means a threat to a primary source of income for an individual or business.

Notification to public means notification through local media, including interviews and issuance of news releases and/or department bill inserts.
(Ord. No. 10380, § 1, 3-20-07)

TUCSON CODE

CODE COMPARATIVE TABLE – SUBSEQUENT ORDINANCES

Ordinance Number	Date	Section	Disposition
10796 (cont.)		8	15-34.6 – 15-34.8 Added 15-34.9
		9	Added 15-36
		10	Rpld 15-50
		11	Added 15-70, 15-71
10800	6-8-10	1	15-70
10806	6-15-10	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) 10-48 (note) 10-49 (note) 10-52 (note) 10-53 (note) 10-53.1 (note) 10-53.2 (note) 10-53.3 (note) 10-53.4 (note) 10-53.5 (note)
		3	10-48
10807	6-22-10	1	2-13
10810	6-22-10	1	10A-139
10812	6-22-10	1	22-95
10814	7-7-10	1	10-85
10825	8-4-10	1	11-17
10833	8-4-10	1	16-3
		2	16-11
		3	16-12
		4	16-13
		5	16-14
		6	16-30
		7	16-61
10836	9-8-10	1	19-53
10843	10-19-10	2	Rpld 10A-170 – 10A-174
10849	11-9-10	1	Added 8-6.8
10854	11-23-10	1	Ch. 7, Art. V (tit.)
		2	7-97
		3	7-98
		4	7-98
10856	11-23-10	1	Rpld 11-22, 11-23
		2	Added 11-22
10864	12-14-10	1	3-33
		2	3-82

TUCSON CODE

Ordinance Number	Date	Section	Disposition
10865	12-21-10	1	16-30
10866	12-21-10	1	7-211
10867	12-21-10	1	27-70
			27-71
			27-74
			27-75
			27-76
			27-78
			27-80
			27-82

CODE INDEX

	Section		Section
BUILDING CODE (Cont'd.)		BUILDINGS (Cont'd.)	
Solar system code		Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume	
Adopted.	6-171	Permits	
Amendments.	6-173	Records of required.	6-6
Copies.	6-172	Rainwater collection and distribution requirements.	6-181 et seq.
BUILDINGS		See: RAINWATER COLLECTION AND DISTRIBUTION REQUIREMENTS	
Address numbering systems.	25-63 et seq.	Records of applications, permits, inspections required.	6-6
See: STREETS AND SIDEWALKS		Sewerage and sewage disposal.	24-1 et seq.
Administrative code		See: WATER AND SEWERS	
Amendments of.	6-3	Slum property.	16-20 et seq.
Clerk to keep copies of.	6-2	Violations.	6-5
Appeals, board of. See herein: Board of Appeals		Water regulations.	27-1 et seq.
Applications		See: WATER AND SEWERS	
Records of required.	6-6	BURNING	
Board of appeals		Fire protection and prevention, burning trash, etc.	11-5 et seq.
Appeals to board, procedure.	6-17	Parks and recreation	
Appointment.	6-12	Fires regulation.	21-3(7), 21-5
Authority to regulate hearings and investigations; filing, distribution of decisions.	6-13	BUS SYSTEM	
Board of examiners and appeals		Bus maintenance facilities and operations center	
Reference to, meaning.	6-18	City curb-to-curb barrier-free transportation service called Sun Van, the complementary paratransit service; fares; eligibility and prohibited activity.	2-19
Building innovations.	6-15	Sun Tran bus system.	2-18 et seq.
Created.	6-12	See: TRANSIT SYSTEM	
Decisions		BUSES. See: MOTOR VEHICLES AND TRAFFIC	
Distribution of.	6-13	BUSINESS DISTRICTS	
Effect of.	6-17	Bicycles, manner of parking in business districts.	5-1
Distribution of decisions.	6-13	Curb cuts in driveways, special requirements in business districts.	25-39
Effect of decisions.	6-17	Sign districts.	3-71
Meetings.	6-17	See: SIGN CODE	
Purpose.	6-12	BUSINESSES REGULATED	
Qualifications.	6-12	Adult entertainment enterprises and establishments.	7-206 et seq.
Quorum.	6-14	Alarm companies.	7-450 et seq.
Regulations to be filed.	6-13	See: ALARM COMPANIES	
Secretary to board		Auctions and auctioneers.	7-1 et seq.
Appointment, powers, duties.	6-16	See: AUCTIONS AND AUCTIONEERS	
Term of members.	6-12	Driver-in restaurants.	7-160 et seq.
Vote required for.	6-14	See: DRIVE-IN RESTAURANTS	
Builders		Escorts and escort bureaus.	7-117 et seq.
Privilege and excise taxes.	19-416 et seq.	See: ESCORTS AND ESCORT BUREAUS	
See: LICENSES AND PRIVILEGE TAXES		Fortunetellers.	7-62 et seq.
Building innovations, provision for. See herein: Board of Appeals		Going-out-of-business, fire, etc., sales.	7-80 et seq.
Building safety division; chief inspector.	2-5	See: GOING-OUT-OF-BUSINESS, FIRE, ETC., SALES	
Fair housing.	17-50 et seq.		
See: FAIR HOUSING			
Fire department interference, refusal to obey order of fire chief or building official; condemnation sign.	11-114		
Graffiti regulations.	16-30		
Inspections			
Records of required.	6-6		
Maintenance standards.	16-10 et seq.		
See: NEIGHBORHOOD PRESERVATION			
Manufactured buildings			
Privilege taxes.	19-427		

TUCSON CODE

	Section		Section
BUSINESSES REGULATED (Cont'd.)		CABLE COMMUNICATIONS (Cont'd.)	
Hotels.	7-440 et seq.	Leasing	
See: HOTELS, ROOMING HOUSES, MOTELS		Use, rental or lease of utility poles and facilities.	7A-14
Licensing regulations re businesses		License	
Fingerprinting procedures.	7-425	Agreement.	7A-4
Massage establishments.	7-130 et seq.	Bonding.	7A-32
Pawnbrokers and secondhand dealers.	7-97 et seq.	Disputes regarding issuance.	7A-30
See: PAWNBROKERS AND SECONDHAND DEALERS		Fee.	7A-34
Peddlers.	7-26 et seq.	Forfeiture.	7A-24
See: PEDDLERS, CANVASSERS AND SOLICITORS		Grant of authority.	7A-8
Privilege and excise taxes.	19-99 et seq.	Insurance.	7A-31
See: LICENSES AND PRIVILEGE TAXES		Renewal.	7A-24
Retail tobacco sales.	7-426 et seq.	Required.	7A-7
Small, minority and women-owned business commission.	10A-190 et seq.	Revocation.	7A-24
Street fairs.	7-300	Security fund.	7A-33
Swap meets.	7-201 et seq.	Selection of licensee.	7A-37
See: SWAP MEETS		Licensee	
		Selection of.	7A-37
C		Local regulatory framework.	7A-9
CABLE COMMUNICATIONS		Location and relocation of facilities in rights- of-way.	7D-1 et seq.
Assignments.	7A-28	See: TELECOMMUNICATION SERVICES	
Authority		Nondiscrimination and equal employment opportunity.	7A-36
Grant of.	7A-8	Performance evaluation sessions.	7A-23
Bonding.	7A-32	Poles or conduits	
Competitive telecommunications.	7B-1 et seq.	Conditions of rights-of-way occupancy.	7A-13
See: TELECOMMUNICATION SERVICES		Use, rental or lease of utility poles and facilities.	7A-14
Conditions of rights-of-way occupancy.	7A-13	Policy of innovation.	7A-5
Construction and technical standards.	7A-19	Privacy.	7A-17
Consultant		Purchase of system by city.	7A-26
Cost of.	7A-38	Purpose.	7A-3
Continuity of service.	7A-25	Rates.	7A-21
Cost of consultant.	7A-38	Receivership.	7A-27
Coverage of system, geographic.	7A-11	Rental	
Customer service standards.	7A-20	Use, rental or lease of utility poles and facilities.	7A-14
Damages.	7A-40	Reports.	7A-22
Definitions.	7A-2	Rights reserved to city.	7A-35
Design of system.	7A-15	Rights-of-way occupancy, conditions of.	7A-13
Disputes regarding issuance of license.	7A-30	Security fund.	7A-33
Equal employment opportunity.	7A-36	Severability.	7A-42
Essence of time.	7A-6	Short title.	7A-1
Findings.	7A-3	Subscriber antennas.	7A-29
Foreclosure and receivership.	7A-27	System design.	7A-15
Geographic coverage of system.	7A-11	Tampering.	7A-39
Indemnification.	7A-30	Theft of service and tampering.	7A-39
Innovation		Time is of essence.	7A-6
Policy.	7A-5	Transfers and assignments.	7A-28
Insurance.	7A-31	Use, rental or lease of utility poles and facilities.	7A-14
Interconnection.	7A-12	Violations	
		Penalties.	7A-41
		CAFETERIAS	
		Smoking prohibited in specified places.	11-89
		See: SMOKING	

CODE INDEX

	Section		Section
CALENDAR MONTH, YEAR		CIGARS, CIGARETTES, PIPES	
Definitions and rules of construction.....	1-2(11)	Retail tobacco sales.....	7-426 et seq.
CAMPING		See: RETAIL TOBACCO SALES	
Library grounds, crimes on.....	11-160(4)	Smoking prohibited in specified places.....	11-89
Parks and recreation, regulations relating to recreation.....	21-3(5)	CITATIONS	
CANVASSERS. See: PEDDLERS, CANVASSERS AND SOLICITORS		Obstruction of enforcement of civil infractions	
CAPPING		Failure to furnish information; failure to sign citation.....	11-121
Auctions and auctioneers		CITIZEN POLICE ADVISORY REVIEW BOARD	
Capping prohibited.....	7-11	Composition, appointment and terms.....	10A-90
CARE, HEALTH. See: HEALTH AND SANITATION		Cooperation.....	10A-95
CARTS		Creation.....	10A-87
City municipal golf courses, city carts, rates, regulations.....	21-22 et seq.	Declaration of policy.....	10A-86
See: PARKS AND RECREATION		Organization of board.....	10A-91
Motor vehicles and traffic, applicability to pushcarts.....	20-5	Powers and duties; citizen complaints and concerns.....	10A-88
CEMETERIES		Powers and duties; community-police partnership.....	10A-89
Funeral processions		Powers, limitations of.....	10A-93
Identification of vehicles in.....	20-55	Reports.....	10A-92
Method of driving in.....	20-152	Training.....	10A-94
Public place includes		CITIZEN SIGN CODE COMMITTEE	
Definitions and rules of construction.....	1-2(2)	Administrative procedures.....	3-148
Vandalism		Appointment and terms.....	3-144
Institutional vandalism, intimidation.....	11-30, 11-30.1	Authority.....	3-142
CHANNELS		Composition.....	3-143
Water ditches, natural drainage channels.....	11-58 et seq.	Creation.....	3-141
See: DITCHES, NATURAL DRAINAGE CHANNELS		Meetings.....	3-146
CHARTER		Removal.....	3-147
Index for charter. See Charter Index printed in this volume		Vacancies.....	3-145
Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume		CITIZEN TRANSPORTATION ADVISORY COMMITTEE	
CHECKS. See: FINANCES		Committee organization and rules.....	10A-243
CHICKENS		Creation.....	10A-240
Animal and fowl.....	4-1 et seq.	Functions and purposes.....	10A-242
See: ANIMALS AND FOWL		Limitation of powers.....	10A-244
CHILDREN. See: MINORS		Membership composition; appointment and terms.....	10A-241
CHURCHES		CITIZENS' WATER ADVISORY COMMITTEE	
Vandalism		Creation, etc.....	27-60 et seq.
Institutional vandalism, intimidation.....	11-30, 11-30.1	See: WATER AND SEWERS	
		CITY	
		Acts of trustees, city not liable for.....	1-14
		Bicentennial anniversary celebration.....	10A-32
		Definitions and rules of construction.....	1-2(3)
		Founding date of City of Tucson	
		Established.....	10A-31
		Sign code; indemnification of city.....	3-116
		CITY ATTORNEY	
		City office hours.....	2-1
		Residency requirements.....	2-4

TUCSON CODE

	Section		Section
CITY CLERK		CITY COURT (Cont'd.)	
Certificate of clerk. See the adopting ordinance in the preliminary pages at beginning of this volume		Fines, penalties	
City office hours.	2-1	Abatement.	8-7
Elections.	12-12.2 et seq.	Administrative fee for warrants issued for failure to pay fines or restitution	
See: ELECTIONS		Case processing fee	
Records management		Exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.	8-6.5
Preservation of essential records.	2-103	Exemption for indigent persons; fee separate and distinct from sentence or probation conditions; action for recovery.	8-6.4
Preservation of records in compliance with state law.	2-101	Collection.	8-7
Reproductions from public records; certified copies.	2-102	Execution to collect.	8-13
Residency requirements.	2-4	Fixing.	8-5
CITY COURT		Penalties generally.	8-6.1
Assessment of administrative charge on persons convicted in city court of violations of A.R.S. § 28-1381 et seq.	8-6.6	Incarceration	
Assessments, fixing.	8-5	Reimbursement of city's costs of Factors considered; exemption for indigent persons; reimbursement separate and distinct from sentence or probation conditions; action for recovery.	8-6.3
Assumption of Chapter 28 procedures.	8-6	Jurisdiction.	8-1
Bail, fixing.	8-5	Jurors	
Bond fixing.	8-5	Challenges for cause.	8-11
Director of finance		Number of.	8-11
Powers and duties in relation to city court.	8-14	Pay of.	8-12
Duties.	8-1	Summoning.	8-10
Execution to collect fine.	8-13	Jury trial, when required.	8-9
Fees		Justices of the peace, weekend arraignments, initial appearances.	8-2.5
Administrative default fee		Magistrates	
Case processing fee		Appointment.	8-2
Exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.	8-6.5	Assignment of associate presiding magistrate; term, compensation, duties.	8-4.1
Exemption for indigent persons; fee separate and distinct from any fine or other fee; action for recovery authorized.	8-6.7	Compensation.	8-2.1
Administrative fee for warrants issued for failure to pay fines or restitution		Criminal history records check prior to appointment of city magistrates.	8-2.4
Exemption for indigent persons; fee separate and distinct from sentence or probation conditions; action for recovery.	8-6.4	Limited special magistrates.	8-2.3
Case processing fee		Methods of appointments.	8-2.1
Exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized.	8-6.5	Nonjurisdictional days, conducting business on.	8-3
Fixing.	8-5	Powers and duties.	8-2, 8-4
Post-adjudicated civil motion filing fee; exemption for extraordinary circumstances; fee separate and distinct from any sentence; action for recovery authorized.	8-6.8	Qualifications.	8-2.1
Probation monitoring fees.	8-5.2	Residency requirements.	2-4
		Senior special magistrate status established.	8-2.1
		Special magistrates.	8-2.2
		Powers.	8-1
		Prisons and prisoners. See herein:	
		Incarceration	
		Procedures generally.	8-8
		Records of complaint for violation of traffic laws.	20-78
		Summoning jurors.	8-10
		Violations and penalties.	8-6.1

CODE INDEX

	Section		Section
CITY ENGINEER		CLAIRVOYANCE	
City office hours.	2-1	Fortunetellers.	7-62 et seq.
Floodplain and erosion hazard area development, review of.	26-11.1	See: FORTUNETELLERS	
CITY MANAGER		CLASSIFICATION OF EMPLOYMENT	
Authority of city manager		Civil service, generally.	10-1 et seq.
To administer the city real estate program.	2-16.1	See: OFFICERS AND EMPLOYEES	
To execute certain utility rights-of-way.	2-16	CLIMATE CHANGE COMMITTEE	
City office hours.	2-1	Committee organization; subcommittees.	10A-214
Residency requirements.	2-4	Creation.	10A-210
CIVIL EMERGENCIES (Riots or unlawful assemblies, natural disasters, man-made calamities; floods, windstorms, tornadoes, earthquakes, etc.)		Functions, purposes, powers, and duties.	10A-212
Powers of mayor		Limitation of powers.	10A-215
Additional powers.	11-103	Membership composition.	10A-211
Closing certain establishments		Staff support; minutes.	10A-213
Additional powers.	11-103	CLOTHING REQUIREMENTS	
Curfew, general.	11-102	Dancers, etc., certain	
Definitions.	11-100	Clothing requirements of.	11-25.3
Discontinuance of sale, distribution of certain items		Operation of restaurants where failure to meet certain clothing requirements deemed misdemeanor.	11-25.4
Additional powers.	11-103	Female entertainers and waitresses, clothing requirements.	11-25.1
General curfew.	11-102	Operation of certain restaurants, etc., where failure to meet requirements deemed misdemeanor.	11-25.2
Proclamation of civil emergency.	11-101	CLUBS	
Duration of proclamation or orders.	11-104	Proprietary clubs	
Violations and penalties.	11-105	Privilege and excise taxes, provisions re.	19-270.2
CIVIL INFRACTIONS		Senior trip programs.	21-13.2
Gatherings; loud or unruly		COASTERS. See: MOTOR VEHICLES AND TRAFFIC	
Violation a civil infraction.	11-150	COCKTAIL LOUNGES	
Landfills; development, public notice in proximity of		Escorts and escort bureaus, unlawful acts.	7-118
Violation declared a civil infraction.	29-29	Message therapists and establishments, unlawful activities.	7-144
Obstruction of enforcement of civil infractions		CODE OF ORDINANCES*	
Failure to furnish information, failure to sign citation.	11-121	*Note – The adoption, amendment, repeal, omission, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume	
Failure to obey abatement order.	11-122	Areas owned or leased by city, jurisdiction.	1-7
Sign code; declared.	3-102	Catchlines for sections.	1-3
CIVIL RIGHTS		Citing, how Code cited.	1-1
Discrimination provisions regarding civil rights.	17-11 et seq.	Civil infractions.	1-8
See: DISCRIMINATION		Continuing violations.	1-8
CIVIL SERVICE; HUMAN RESOURCES		Definitions and rules of construction.	1-2
Provisions re.	10-1 et seq.	Designating	
See: OFFICERS AND EMPLOYEES		How Code designated.	1-1
CLAIMS			
City property, squatting on prohibited.	11-12		
CLAIMS AGAINST THE CITY			
Civil liability of city; notice of defective condition required.	2-10		
Settlement of claims.	2-12		

TUCSON CODE

	Section		Section
CODE OF ORDINANCES (Cont'd.)		COMMEMORATIONS AND OBSERVANCES	
Existing ordinances		American Indian Awareness Days.....	10A-100
Provisions declared continuation of.	1-6	Bicentennial anniversary celebration.....	10A-32
How Code designated and cited.	1-1	Martin Luther King, Jr. Day.	10A-101
Imprisonment in city or county jail.	1-9		
Jail		COMMERCIAL ACTIVITIES	
Imprisonment to be in city or county jail. . .	1-9	Parks and recreation, regulations relating to	
Jurisdiction over areas owned or leased by city.	1-7	commercial activities.	21-3(6)
Labor required of prisoners.	1-10		
Leasing areas		COMMERCIAL PROPERTY	
Jurisdiction over by city.	1-7	Lessors of commercial real property disclosure	
Prisoners		requirements.....	7-501 et seq.
Classification as regular or trustees.....	1-10		
Escape of.....	1-15	COMMITTEES AND COMMISSIONS. See:	
Labor required of.	1-10	DEPARTMENTS AND OTHER	
Prisoner regulations, prescribing additional		AGENCIES OF CITY	
Duty of police chief.	1-18		
Security of, duty of police chief.	1-17	COMMUNICATIONS	
Supervision of working prisoners.	1-12	Competitive telecommunications.....	7B-1 et seq.
Treatment of.	1-16	See: TELECOMMUNICATION	
Trustees		SERVICES	
City not liable for acts of.	1-14	General services department	
Classification as.	1-10	Divisions within.	11A-3
Persons deemed.	1-11	Established.	11A-1
Credit on sentence for.	1-13	Powers and duties of.....	11A-2
Designation of.	1-12	Telecommunication services	
Provisions declared continuation of existing		Privilege and excise taxes.....	19-470
ordinances.	1-6	Public utility tax.	19-1070
Repealing ordinances, effect of.	1-4		
Rules of construction.....	1-2	COMMUNITY AFFAIRS	
Sections, catchlines.	1-3	American Indian Awareness Days.....	10A-100
Severability of parts of Code.....	1-5	Citizen police advisory review board.	10A-87 et seq.
Sign code		See: CITIZEN POLICE ADVISORY	
Interpretation and construction with Tucson		REVIEW BOARD	
Code by the sign code administrator. . . .	3-3	Climate Change Committee.....	10A-210 et seq.
Violations		See: CLIMATE CHANGE COMMITTEE	
General penalty.....	1-8	Commemorations and observances	
Misdemeanors.....	1-8	American Indian Awareness Days.	10A-100
Wards of		Martin Luther King day.	10A-101
Additions to upon annexation.....	1-20	Commission on disability issues.	10A-75 et seq.
Described.	1-19	See: HANDICAPPED PERSONS	
		Founding date of City of Tucson	
COINS		Bicentennial anniversary celebration.	10A-32
Pawnbrokers and secondhand dealers.	7-97 et seq.	Founding date established.....	10A-31
See: PAWNBROKERS AND		Historical commission.	10A-1 et seq.
SECONDHAND DEALERS		See: HISTORICAL COMMISSION	
		Independent Audit and Performance	
COLOR		Commission.	10A-120 et seq.
Civil rights, discrimination, affirmative action		See: INDEPENDENT AUDIT AND	
programs.	17-0 et seq.	PERFORMANCE COMMISSION	
See: DISCRIMINATION		Indian awareness days.	10A-100
		Landscape advisory committee.	10A-180 et seq.
COMBUSTIBLES. See: FLAMMABLE OR		Martin Luther King, Jr. Day.	10A-101
COMBUSTIBLE PRODUCTS,		Parkwise commission.	10A-145 et seq.
SUBSTANCES		See: PARKWISE COMMISSION	

CODE INDEX

	Section		Section
COMMUNITY AFFAIRS (Cont'd.)		CONDEMNATION	
Resource planning advisory committee.	10A-200 et seq.	Interference with fire department	
Small, minority and women-owned business		Refusal to obey order of fire chief or	
commission.	10A-190 et seq.	building official regarding	
Stormwater advisory committee (SAC) and		condemnation sign.	11-114
stormwater technical advisory committee		CONSERVATION	
(STAC).	10A-160 et seq.	Emergency water conservation response.	27-90 et seq.
See: STORMWATER		See: WATER AND SEWERS	
Tucson Housing Trust Fund Citizens Advisory		Energy and environment. See that subject	
Committee (THTFCAC).	10A-220 et seq.	Watercourse amenities, safety and habitat.	29-12 et seq.
See: TUCSON HOUSING TRUST FUND		See: WATERCOURSES	
CITIZENS ADVISORY		CONSIGNMENT SALES. See: RETAIL SALES	
COMMITTEE (THTFCAC)		CONSTRUCTION	
Tucson Youth and Delinquency Prevention		Cable communications, construction and	
Council.	10A-10 et seq.	technical standards.	7A-19
See: YOUTH AND DELINQUENCY		Contracts for construction work.	28-48
PREVENTION COUNCIL		See also: PROCUREMENT	
Tucson-Pima County Bicycle Advisory		Minority and women-owned business	
Committee.	10A-130 et seq.	enterprise program	
Bicycles. See: MOTOR VEHICLES AND		Procurement of construction contracts.	8-150
TRAFFIC		Privilege and excise taxes.	19-415 et seq.
Tucson-Pima County Metropolitan Energy		See: LICENSES AND PRIVILEGE	
Commission.	10A-110 et seq.	TAXES	
See: ENERGY COMMISSION		Sign code	
Veterans' affairs committee.	10A-21 et seq.	Interpretation and construction with Tucson	
See: VETERANS' AFFAIRS		Code by the sign code administrator.	3-3
COMMITTEE		Streets and sidewalks, repairs and	
COMMUNITY CENTER		improvements in public rights-of-way;	
Permits for use of.	2-23	sidewalks	
Prohibition of containers in community center		Construction standards.	25-9
premises.	11-68	CONSULTANTS	
COMMUNITY SPECIAL EVENTS		Cable communications, cost of consultant.	7A-38
Regulated.	7-401	Groundwater consultant board; selection and	
COMPENSATION PLAN		compensation of consultants.	27-68
Civil service, compensation plan.	10-31 et seq.	CONTAINERS	
See: OFFICERS AND EMPLOYEES		Parks and recreation, regulations regarding	
COMPETITIVE TELECOMMUNICATIONS		park use	
Regulations enumerated.	7B-1 et seq.	Glass beverage containers.	21-3(3)
See: TELECOMMUNICATION		Prohibition of containers in community center	
SERVICES		premises.	11-68
COMPLAINTS		Solid waste collection; recycling, etc.	
Citizen police advisory review board.	10A-87 et seq.	Environmental services department.	15-10.1 et seq.
Public nuisances, complaints, investigations.	11-48	See: ENVIRONMENTAL SERVICES	
COMPOST		DEPARTMENT	
Environmental services department.	15-1 et seq.	CONTRACTORS AND SUBCONTRACTORS	
See: ENVIRONMENTAL SERVICES		City of Tucson living wage.	28-152 et seq.
DEPARTMENT		Privilege and excise taxes.	19-415 et seq.
COMPUTERS		See: LICENSES AND PRIVILEGE	
Privilege and excise taxes		TAXES	
Software, custom programming.	19-115	Prompt payment.	11-38
		CONTRACTS AND AGREEMENTS	
		Affirmative action by city contractors	
		City construction contracts.	28-137 et seq.
		See: DISCRIMINATION	

TUCSON CODE

	Section		Section
CONTRACTS AND AGREEMENTS (Cont'd.)		CRIMINAL RECORDS	
Provision against discrimination required in all city contracts.....	28-138	City court magistrates	
City improvements, contracts		Criminal history records check prior to appointment of city magistrates.	8-2.4
See: IMPROVEMENTS		Intermittent program instructors who work directly with children; fingerprinting and criminal history record check of.....	2-25.1
City municipal golf courses, rental agreements required.	21-22	Massage establishments	
City of Tucson living wage		Criminal record as grounds for denial of license.	7-139
Eligible contract.	28-153	Parks and recreation department personnel and volunteers who work directly with children	
Ineligible contracts.	28-154	Annual fingerprinting and criminal history record check of.	2-25
Environmental services department		CRIMINAL SYNDICALISM AND SABOTAGE	
Residential and commercial collection services, city fees and charges for residential collection, commercial collection, and disposal services, disposal services contract fee schedule.....	15-34.8	Acts prohibited.	11-14
Group insurance and medical health plans. ...	22-78 et seq.	Defined.	11-13
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		CROSSWALKS	
Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume		Motor vehicles and traffic, authority to designate.	20-116 et seq.
Procurement regulations generally.	28-1 et seq.	See: MOTOR VEHICLES AND TRAFFIC	
Registered domestic partnerships.	17-70 et seq.	CULTURE. See: ARTS, CRAFTS AND CULTURE	
See: HUMAN RELATIONS		CURB CUTS	
Sewerage and sewage disposal connection fees, private contracts authorized.....	24-5	Repairs and improvements in public rights-of-way, curb cuts and driveways.....	25-29 et seq.
Social security.	22-13 et seq.	See: STREETS AND SIDEWALKS	
Tucson supplemental retirement system.	22-30 et seq.	CURFEW	
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		Civil emergencies, powers of mayor	
Water, agreement for construction of water facilities authorized.	27-37	General curfew.	11-102
Provisions for refund of cost of water mains installed by private contract.....	27-38	Minors re curfews and loitering.....	11-34
CONVENIENCE STORES. See: LATE NIGHT RETAIL ESTABLISHMENTS		D	
CORPORATIONS		DAMAGING EQUIPMENT	
Definitions and rules of constructions.....	1-2(9), (16)	Cable communications, damages.....	7A-40
COUNCIL. See: MAYOR AND COUNCIL		DANCE HALLS	
COUNTY		Additional responsibilities.....	7-363
Definitions and rules of construction.....	1-2(6)	After hours operation.....	7-365
Dogs, vaccinations other than in Pima County.	4-80	Age restrictions.	7-358
COURTS		Cigarette machines and sales.....	7-361
City court.....	8-1 et seq.	Conduct of patrons, responsibility for.	7-363
City magistrate		Definitions.....	7-350
City office hours.	2-1	Hours of operation	
Privilege and excise taxes		After hours operation.	7-365
Judicial review.	19-575	Notification of.....	7-360
CRAFTS. See: ARTS, CRAFTS AND CULTURE		Prohibited operation during certain hours.	7-360
CRIMES. See specific subjects as indexed		Licenses	
		Application.....	7-352
		Denial, grounds for.....	7-354
		Fees.....	7-353
		Inspection, license available for.	7-355
		License posted.	7-355

CODE INDEX

	Section		Section
DANCE HALLS (Cont'd.)		DEFACING, DISFIGURING	
Place of business.....	7-355	Parks and recreation, regulations regarding	
Required.....	7-351	park use.....	21-3
Revocation.....	7-356		
Hearing re.....	7-357	DEFECATING	
Transferability.....	7-355	Library grounds; crimes on	
Types of licenses.....	7-353	Bathing or excreta.....	11-160(6)
Liquor establishments.....	7-361	Public defecation.....	11-54
Location supervisors.....	7-359		
Operation near residences.....	11-15	DELINQUENCY	
Penalty; violation declared a nuisance;		Tucson Youth and Delinquency Prevention	
assessment of administrative charge.....	7-364	Council.....	10A-10 et seq.
Police		See: YOUTH AND DELINQUENCY	
Authority of the chief of police.....	7-366	PREVENTION COUNCIL	
Closure of operations.....	7-366		
Security.....	7-366	DEPARTMENT OF TRANSPORTATION	
Prohibited activities.....	7-362	Environmental property access privilege	
Provisions severable.....	7-367	program (EPAPP); fees; monitor wells.....	30-4
		Established.....	30-1
		Functional units established under the	
		department of transportation.....	30-3
		Powers and duties.....	30-2
DANCERS			
Clothing requirements of certain female		DEPARTMENTS AND OTHER AGENCIES OF	
entertainers and waitresses, dancers.....	11-25.1 et seq.	CITY	
See: CLOTHING REQUIREMENTS		Board of appeals.....	6-12 et seq.
		Boards, committees and commissions	
DANGEROUS ANIMALS. See: ANIMALS		(generally)	
AND FOWL		Membership on	
		Annual reports.....	10A-139
DANGEROUS BUILDINGS		Applicability.....	10A-133
Dilapidated structures; vacant and unsecured		Effective date.....	10A-135
structures; buildings and structures		Nonvoting, advisory members.....	10A-137
constituting a nuisance.....	16-14	Requirements for creation of.....	10A-139
		Rules and regulations	
DANGEROUS OFF-SITE WASTE		Filing procedure.....	10A-136
Public nuisances re.....	11-46.1	Terms, removal.....	10A-134
		Citizen police advisory review board.....	10A-87 et seq.
DANGEROUS OR DEFECTIVE SIGNS		See: CITIZEN POLICE ADVISORY	
Sign maintenance.....	3-91 et seq.	REVIEW BOARD	
See: SIGN CODE		Citizen sign code committee.....	3-121 et seq.
DATING SERVICES		Citizen transportation advisory committee.....	10A-240 et seq.
Escorts and escort bureaus.....	7-117 et seq.	See: CITIZEN TRANSPORTATION	
See: ESCORTS AND ESCORT BUREAUS		ADVISORY COMMITTEE	
		Citizens water advisory committee.....	27-60 et seq.
DAVIS MONTHAN AIR FORCE BASE		City office hours.....	2-1
Privilege and excise taxes, special exemption		Civil service commission.....	10-17 et seq.
for certain activities from measure of		Climate change committee.....	10A-210 et seq.
gross income.....	19-290	See: CLIMATE CHANGE COMMITTEE	
Public utility tax, exclusion of certain		Department heads	
activities occurring on air force base		Absences and vacancies of.....	2-2
from gross income.....	19-890	Compensation of.....	2-3
		Residency requirement for specified city	
DEBT		officers and employees.....	2-4
Evidences of, personal property includes		Department of transportation established.....	30-1 et seq.
Definitions and rules of construction.....	1-2(17)	Disability issues, commission on.....	10A-75 et seq.
		See: HANDICAPPED PERSONS	
DEDICATIONS		Elections	
Acceptance of dedications.....	2-17	Redistricting advisory committee.....	12-9
		Emergency services agency.....	9-2

TUCSON CODE

	Section		Section
DEPARTMENTS AND OTHER AGENCIES OF CITY (Cont'd.)		DEPARTMENTS AND OTHER AGENCIES OF THE CITY (Cont'd.)	
Emergency services commission.	9-1	Water	
Energy commission.	10A-110 et seq.	Citizens' water advisory committee.	27-60 et seq.
Environmental services department.	15-1 et seq.	Groundwater consultant board.	27-66 et seq.
See: ENVIRONMENTAL SERVICES DEPARTMENT		The superintendent of water also known as director of the water department to oversee city water services.	27-1
Finance department.	12A-1 et seq.	Youth and delinquency prevention council.	10A-10 et seq.
Fire department.	13-1 et seq.	DEVELOPMENT	
General services department.	11A-1 et seq.	Floodplain, stormwater, and erosion hazard management.	26-1 et seq.
Groundwater consultant board.	27-66 et seq.	Landfills; development, public notice in proximity of.	29-20 et seq.
Historical commission.	10A-1 et seq.	See: GARBAGE, REFUSE AND TRASH	
Independent Audit and Performance Commission.	10A-120 et seq.	Signs.	3-1 et seq.
See: INDEPENDENT AUDIT AND PERFORMANCE COMMISSION		See: SIGN CODE	
Landscape advisory committee.	10A-180 et seq.	Watercourse amenities, safety and habitat.	29-12 et seq.
Officers and employees, civil service, human resources, compensation plan		See: WATERCOURSES	
Additional compensation to defray housekeeping costs for commissioned fire personnel.	10-53.6	DEVELOPMENT COMPLIANCE	
Honor guard assignment pay for fire commissioned personnel.	10-53.5	Development compliance code	
Parkwise commission.	10A-145 et seq.	Definitions	
See: PARKWISE COMMISSION		General rules for construction of language.	23A-103
Pensions, retirement and group insurance, leave benefits and other insurance benefits		General rules of application.	23A-102
Tucson supplemental retirement system, administration of the system, board of trustees.	22-44	Listing of words and terms	
Planning and development services department.	11B-3 et seq.	Definitions enumerated.	23A-111 et seq.
See: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT		Purpose.	23A-101
Repairs and improvements in public rights-of-way; street excavations, etc., requirement of permits from other city departments or governmental agencies.	25-21	General provisions	
Resource planning advisory committee.	10A-200 et seq.	Appeals.	23A-7
Sign code advisory and appeals board.	3-121 et seq.	Applicability.	23A-5
Small, minority and women-owned business commission.	10A-190 et seq.	Certification of zoning compliance.	23A-4
Stormwater advisory committee (SAC) and stormwater technical advisory committee (STAC).	10A-160 et seq.	Enumeration.	23A-9
See: STORMWATER		Hierarchy.	23A-10
Traffic division.	20-40 et seq.	Interpretation.	23A-6
Tucson Housing Trust Fund Citizens Advisory Committee (THTFCAC).	10A-220 et seq.	Mapping	
See: TUCSON HOUSING TRUST FUND CITIZENS ADVISORY COMMITTEE (THTFCAC)		Purpose, applicability, and interpretation.	23A-22
Tucson-Pima County Emergency Service Commission.	9-1	Title.	23A-21
Tucson-Pima County Emergency Services Agency.	9-2	Purpose.	23A-2
Tucson-Pima County Historical Commission.	10A-1 et seq.	Scope.	23A-3
Veterans' affairs committee.	10A-21 et seq.	Title.	23A-1
		Violation.	23A-8
		Impact fees	
		Appeals; interpretations.	23A-92
		Assessment; payment of fees.	23A-86
		Credits.	23A-82
		Exemptions and waivers.	23A-83
		Expenditure of funds.	23A-84
		Fee determination.	23A-81
		Independent fee calculation.	23A-85
		Intent.	23A-72
		Miscellaneous provisions.	23A-91
		Amendment of impact fee assessments.	23A-91(3)
		Other development requirements.	23A-91(1)
		Record-keeping.	23A-91(2)
		Severability.	23A-94

CODE INDEX

	Section		Section
ENVIRONMENTAL SERVICES		EQUAL OPPORTUNITY	
DEPARTMENT (Cont'd.)		Cable communications	
City fees and charges for residential		Equal employment opportunity.....	7A-36
collection, commercial collection, and		Nondiscrimination and equal employment	
disposal services		opportunity.	7A-36
Commercial collection		Small, minority and women-owned business	
Basis for commercial fees.	15-33	enterprise program	
Commercial fee requirements.	15-33.1	Duties of the equal opportunity office.	28-148(1)
Commercial fee schedules.	15-33.2	Telecommunication services, competitive	
Commercial fuel surcharge.	15-33.3	Nondiscrimination and equal employment	
Commercial haulers.	15-34.3	opportunities.	7B-28
Credit system.	15-34.6	EROSION	
Disposal services		Floodplain, stormwater, and erosion hazard	
Basis for disposal services fees.	15-34	management.	26-1 et seq.
Fee requirements.	15-34.1	See: FLOODPLAIN, STORMWATER,	
Disposal services contract fee schedule.	15-34.8	AND EROSION HAZARD	
Disposal services fee schedule.	15-34.7	MANAGEMENT	
Disposal services fuel surcharge.	15-34.9	ESCAPE	
General provisions		Prisoners, escape of.	1-15
Declaration of purpose; intent.	15-31	ESCORTS AND ESCORT BUREAUS	
Deposits and refunds.	15-31.1	Definitions.	7-117
Disposal services contract fee		Licensing	
schedule.	15-34.8	Application	
Returned checks.	15-31.2	Contents.	7-120
Waiver of fee for landfill construction		Required; fee.	7-119
materials.	15-34.5	Grounds for denial of.	7-121
Groundwater protection fee.	15-36	Nontransferability.	7-122
Litter fee.		Records and reports required.	7-123
Refuse collection permit.	15-70	Required.	7-118
Suspension or revocation of permits.	15-71	Revocation of.	7-124
Residential collection		Procedures.	7-125
APC collection fuel surcharge.	15-32.6	Violations, penalties.	7-126
Basis for residential fees.	15-32	Place of business.	7-122
Environmental services low income		Unlawful acts.	7-118
assistance program.	15-32.4	Violations, penalty.	7-126
Fees for level of service.	15-32.3	EXCAVATIONS	
Requirements for payment of		Floodplain use permit, extraction of sand,	
residential fees.	15-32.2	gravel and other earth products, re.	26-6
Residential fee schedules.	15-32.5	Street excavations and right-of-way	
Responsibility for residential fee.	15-32.1	improvements.	25-13 et seq.
Residential self-haulers.	15-34.2	See: STREETS AND SIDEWALKS	
Unrestrained or uncovered load fee.	15-34.4	Water, charge for water used in flooding	
Waiver of fee for landfill construction		excavations.	27-46
materials.	15-34.5	EXCHANGES	
Waste residue from nonprofit recycling,		Swap meets.	7-201 et seq.
exemption of fees.	15-35	See: SWAP MEETS	
Collection from residential establishments		EXCISE TAXES. See: LICENSES AND	
by other than city prohibited.	15-16	PRIVILEGE TAXES	
Customer responsibilities regarding		EXCRETA. See: DEFECATING	
recycling collection service.	15-16.2	EXPLOSIVES	
Neighborhood cleanup service.	15-16.6	Blasting, use of dynamite, nitro, etc.	11-4
Parameters for brush bulky collection.	15-16.3	Fireworks.	11-22
Temporary suspension of service.	15-16.5		
Violations of city collection service			
requirements.	15-16.8		
Water ditches, natural drainage channels			
Deposit of offensive matter, obstructions;			
regulations regarding.	11-58 et seq.		
See: DITCHES, NATURAL			
DRAINAGE CHANNELS			

TUCSON CODE

	Section		Section
EXPLOSIVES (Cont'd.)		FIGHTING	
Parks and recreation, regulations relating to explosives and pyrotechnics.....	21-3(5)	Animal and fowl fights prohibited.....	4-4
Solid waste collection; recycling, etc.		Disorderly houses or premises, keeping.	11-16
Environmental services department.	15-10.1 et seq.	FILLING STATIONS, GASOLINE STATIONS	
See: ENVIRONMENTAL SERVICES DEPARTMENT		Civil emergencies, powers of mayor re closing certain establishments.	11-103
F		Prohibited on portion of Congress Street.	11-21
FAIR HOUSING		FINANCES	
Application.....	17-51	Accounts receivable; interest on past due accounts.....	12A-5
Definitions.....	17-50	Checks	
Enforcement.....	17-54	Environmental services department, residential and commercial collection services, city fees and charges for residential collection, commercial collection, and disposal services, returned checks.	15-31.2
Exemption for religious organization or private club.	17-53	Finance director to execute and endorse.	12A-6
Posting requirement.....	17-55	Department of finance	
Powers of commission or EOO.....	17-55	Dishonored check fee.....	12A-7
Record-keeping.....	17-55	Established.....	12A-1
Sale or rental of housing, discrimination in....	17-52	Director of finance	
Violation a civil infraction.....	17-56	Assignment, powers.....	12A-2
FAIRS		Checks; execution and endorsement.....	12A-6
Street fairs regulated.....	7-300	City court; powers and duties in relation to.....	8-14
FALSE BIDDING		City office hours.....	2-1
Auctions and auctioneers, false bidding prohibited.....	7-11	Collection fee.....	12A-8
FALSE INFORMATION		Massage establishments	
Elections, financial disclosure, unlawful acts regarding false information.....	12-43	Finance director may formulate rules....	7-150
Furnishing to police.....	11-20	Social security, paying city contributions by director.....	22-17
Hotels, rooming houses, motels		Disposition of property, money, and firearms taken in by police department.....	2-140 et seq.
False entries on register.....	11-27	See: POLICE DEPARTMENT	
Refusal to provide information to obtain or retain low income assistance, false information.....	2-22.1	District assessments; sale of property for nonpayment of.....	2-6
FEES		Elections, financial disclosure.....	12-40 et seq.
City court, case processing fee, exemption for indigent persons.....	8-6.5	See: ELECTIONS	
Development compliance impact fees.....	23A-71 et seq.	Emergency services, participation in with other political subdivisions	
Permits, fees and inspections.....	3-16 et seq.	Cost sharing required.....	9-3
See: SIGN CODE		Funds. See herein specific subjects	
FEMALE ENTERTAINERS		Group insurance and medical health plans.	22-78 et seq.
Clothing requirements of certain female entertainers and waitresses.....	11-25.1 et seq.	See: PENSIONS, RETIREMENT AND GROUP INSURANCE	
See: CLOTHING REQUIREMENTS		Independent expenditures, reporting of independent expenditures in city elections, supplemental reporting of.....	12-110
FEMALE GENDER. See also: WOMEN		Industrial waste control and industrial cost recovery program.....	24-40 et seq.
Definitions and rules of construction.....	1-2(7)	See: WATER AND SEWERS	
FENCES, WALLS, HEDGES AND ENCLOSURES		Liability claims, settlement of.....	2-12
Drive-in restaurants		Licenses and privilege taxes.....	19-1 et seq.
Barriers or walls required.....	7-177	Mayor's expense account.....	2-8

CODE INDEX

	Section		Section
FINANCES (Cont'd.)		FIRE DEPARTMENT (Cont'd.)	
Officers and employees		Interference with.	11-110
Civil service, human resources		Condemnation sign, refusal to obey order of fire chief.	11-114
Compensation plan		Placement of ropes or guards by police; violation.	11-111
Additional compensation to defray housekeeping costs for commissioned fire personnel.	10-53.6	Vehicles obstructing progress of fire apparatus.	11-112
Honor guard assignment pay for fire commissioned personnel.	10-53.5	Violations	
Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume		Penalty.	11-115
Procurement.	28-1 et seq.	Police placement of ropes or guards, violation.	11-111
Social security.	22-13 et seq.	Officers and employees	
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		Civil service, human resources	
Transit system fare subsidy program for low- income individuals.	2-22	Compensation plan	
Warrants; statute of limitations on unpaid.	2-7	Additional compensation to defray housekeeping costs for commissioned fire personnel.	10-53.6
Water utility fund, receipts to be deposited in.	27-7	Honor guard assignment pay for fire commissioned personnel.	10-53.5
FINES, FORFEITURES AND OTHER PENALTIES		Parking	
City court, fixing fines, penalties, etc., by magistrates.	8-5	Police/fire vehicle parking.	20-231
Code of Ordinances		Ropes or guards, police placement of; violations.	11-111
General penalty; misdemeanor; civil infractions; continuing violations.	1-8	Vehicles obstructing progress of fire apparatus.	11-112
For specific fines, penalties for specific violations. See in this index specific subjects as indexed		Violations, penalty.	11-115
FINGERPRINTING		FIRE HYDRANTS. See: FIRE OR RESCUE APPARATUS	
Intermittent program instructors who work directly with children; fingerprinting and criminal history record check of.	2-25	FIRE OR RESCUE APPARATUS	
Licensing regulations re businesses		Driving over fire hose.	20-149
Fingerprinting procedures.	7-425	Fire hydrants, injuring.	11-31
Parks and recreation department personnel and volunteers who work directly with children		Following.	20-148
Annual fingerprinting and criminal history record check of.	2-25	Vehicles obstructing progress.	11-112
FIRE DEPARTMENT		FIRE PROTECTION AND PREVENTION	
Barricades, ropes or guards, police placement of.	11-111	Burning trash, other articles	
Condemnation sign, refusal to obey order of fire chief or building official.	11-114	Nuisance declaration.	11-5
Fire apparatus, vehicles obstructing.	11-112	Permit	
Fire chief		Application.	11-7
Compensation plan		Cooking devices, not required for.	11-8
Fire battalion chief call back shift pay.	10-35	Dense smoke defined; chart adopted.	11-10
Duties.	13-1	Duration.	11-9
Notification to required of possession of hazardous substances by auctions and auctioneers.	7-7	Failure to comply with conditions.	11-9
Refusal to obey order of.	11-114	Fee.	11-7
Residency requirement for specified city officers and employees.	2-4	Information shown on.	11-9
		Issuance or denial.	11-7
		Required.	11-6
		Not required for cooking devices.	11-8
		Prohibited generally.	11-5
		Code	
		Adopted by reference.	13-3
		Amendments.	13-5
		Copies of, keeping by clerk.	13-4
		Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume	

TUCSON CODE

	Section		Section
FIRE PROTECTION AND PREVENTION (Cont'd.)		FIREARMS AND WEAPONS (Cont'd.)	
Fire chief, duties.	13-1	Slings.	11-1
Hazardous and radioactive materials, transportation of		Transfer of handguns	
Operation of motor vehicles carrying.	13-13	Fees chargeable for background check before.	2-24
Permits.	13-10	FIREWORKS	
Appeal from denial, suspension or revocation.	13-11	Generally.	11-22
Fees.	13-12	Rodeo parade	
Reporting requirements.	13-14	Prohibition of certain fireworks items and activities and other parade events.	11-69
Restrictions on.	13-9	Solid waste collection; recycling, etc.	
Denial, suspension or revocation		Environmental services department.	15-10.1 et seq.
Appeal from.	13-11	See: ENVIRONMENTAL SERVICES DEPARTMENT	
Fees.	13-12		
Suspension of operations.	13-15	FIRMS	
Inspectors		Definitions and rules of constructions.	1-2(9), (16)
Incentive pay for fire prevention inspectors.	10-34	FISHING	
Installation of backflow prevention assemblies for fire systems.	27-77	Parks and recreation, regulations relating to fishing.	21-3(2)
Library grounds; crimes on		FLAG OR PENNANTS	
Fires and combustible materials.	11-160(8)	Displaying United States flag at polls.	12-8
Minimum standards		FLAMMABLE OR COMBUSTIBLE PRODUCTS, SUBSTANCES	
Assumption of jurisdiction.	13-8	Civil emergencies, additional powers of mayor regarding closing of certain establishments.	11-103
Permits		Crimes on library grounds	
Burning trash, other articles. See herein that subject		Fires and combustible materials.	11-160(8)
Hazardous and radioactive materials, transportation of. See herein that subject		Solid waste collection; recycling, etc.	
Radioactive materials. See herein: Hazardous and Radioactive Materials, Transportation of		Environmental services department.	15-10.1 et seq.
Rules and regulations		See: ENVIRONMENTAL SERVICES DEPARTMENT	
Clerk to keep copies of.	13-4	FLOODPLAIN, STORMWATER, AND EROSION HAZARD MANAGEMENT	
Violation declared a civil infraction.	13-6	Appeals.	26-12
Water, charges for fire protection service.	27-34	Applicability.	26-1.2
FIRE SALES		Authority.	26-1.1
Going-out-of-business, fire, etc., sales.	7-80 et seq.	Coordination with other agencies.	26-15
See: GOING-OUT-OF-BUSINESS, FIRE, ETC., SALES		Definitions.	26-2
FIREARMS AND WEAPONS		Detention/retention systems.	26-10
Air guns.	11-1	Development	
Bean shooters.	11-1	Floodplain and erosion hazard area development.	26-5
Civil emergencies, additional powers of mayor regarding discontinuance of sale or distribution of firearms.	11-103	Floodway development.	26-5.1
Disposition of unclaimed, forfeited firearms taken in by police department.	2-142	Floodway fringe development.	26-5.2
Library grounds; crimes on		Nonconforming development.	26-4.1
Weapons prohibited.	11-160(10)	Subdivision and development project requirements.	26-8
Parks and recreation		Enforcement.	26-13
Regulations relating to firearms, explosives, etc.	21-3(5)	Floodplain boundaries, elevations.	26-3
Pawnbrokers and secondhand dealers.	7-97 et seq.	Revisions.	26-3.1
See: PAWNBROKERS AND SECONDHAND DEALERS		Liability, disclaimer of.	26-14
Possession of firearms or air guns by minors.	11-55	Manufactured homes, manufactured home parks and subdivisions, standards for.	26-9

CODE INDEX

	Section		Section
FLOODPLAIN, STORMWATER, AND EROSION HAZARD MANAGEMENT (Cont'd.)		FLOWER POTS, PLANTERS	
Permit, floodplain use		Streets and sidewalks, placing pots on sidewalks.	25-57
City engineer review of floodplain and erosion hazard area development.	26-11.1	FOLLOWING	
Extraction of sand, gravel and other earth products; permit required.	26-6	Definitions and rules of constructions.	1-2(18)
Penalties, violations, unlawful acts, classifications.	26-11.3	FOOD AND DRINK ESTABLISHMENTS, HANDLERS	
Procedure.	26-11.2	Clothing requirements of certain female entertainers and waitresses.	11-25.1 et seq.
Requirements and regulations.	26-11	See: CLOTHING REQUIREMENTS	
Stockpiling.	26-6.1	Cooking devices	
Public hearing.	26-16	Burning trash, other articles; permit not required for.	11-8
Public nuisance, declaration of; abatement.	26-11.4	County health officer, enforcing food regulations.	2-15
Purpose.	26-1	Drinking establishments	
Special flood hazard areas		Loitering in, frequenting during closed hours.	11-17
Basis for establishing.	26-1.3	Allowing frequenting.	11-18
Generally.	26-5.3	Drive-in restaurants.	7-160 et seq.
Statutory exemptions.	26-4	See: DRIVE-IN RESTAURANTS	
Stormwater management		Food and drink establishments	
Enforcement		Soliciting or annoying customers; responsibility of proprietor.	11-24, 11-25
Penalties and corrective actions.	26-48	Privilege and excise taxes	
Violation notices.	26-47	Food for home consumption.	19-120
Non-prohibited discharges.	26-41	Smoking prohibited in specified places.	11-89
Powers and duties		Soliciting or annoying customers.	11-24
Authority to		Responsibility of proprietor.	11-25
Abate.	26-36	Street fairs regulated.	7-300
Enter.	26-32	FOREIGN WARS	
Inspect.	26-34	Veterans' affairs committee.	10A-21 et seq.
Monitor.	26-35	See: VETERANS' AFFAIRS COMMITTEE	
Authorized representative.	26-30	FORTUNETELLERS	
General.	26-31	Definitions.	7-62
Warrants, restraining orders, and injunctive relief.	26-33	License	
Prohibited discharges.	26-40	Applicants, investigation of.	7-64
Purpose and definitions		Application.	7-64
Consistency.	26-21	Approval.	7-63
Definitions.	26-23	Each place of business, required for.	7-67
Purpose.	26-20	Fee.	7-64, 7-68
Severability.	26-22	Issuance.	7-64
Requirements.	26-42	Required.	7-63
Subdivision and development project requirements.	26-8	Required for each place of business.	7-67
Utility systems, standards for construction of.	26-6.2	Revocation.	7-64
Variances.	26-12	Scope of.	7-67
Watercourses		Transferability of, fee.	7-68
Erosion hazard areas and setbacks from.	26-7	FOUNDING DATE	
Setbacks on all other watercourses.	26-7.2	City of Tucson, founding date	
Setbacks on regional watercourses.	26-7.1	Bicentennial anniversary celebration.	10A-32
FLOODS, FLOODING		Established.	10A-31
Civil emergencies, powers of mayor.	11-100 et seq.		
See: CIVIL EMERGENCIES			
Water; charge for water used in flooding excavations.	27-46		

TUCSON CODE

	Section		Section
FOWL		GAS (Cont'd.)	
Animals and fowl.....	4-1 et seq.	Privilege and excise taxes	
See: ANIMALS AND FOWL		Utility services.	19-480
FRANCHISES		GASOLINE, GASOLINE STATIONS	
Cable communications, licensing regulations.	7A-1 et seq.	Civil emergencies, additional powers of mayor	
See: CABLE COMMUNICATIONS		regarding closing certain establishments.	11-103
Competitive telecommunications.....	7B-1 et seq.	Gasoline stations prohibited on Congress	
See: TELECOMMUNICATION		Street.	11-21
Ordinances not affected by Code. See the		GATHERINGS	
adopting ordinance in the preliminary		Assemblies. See also that subject	
pages found at beginning of this volume		Unruly gatherings.	16-32
Sewerage and sewage disposal user fees		GENDER	
In-lieu-of franchise taxes.	24-26	Definitions and rules of construction..	1-2(7)
Water; sales tax and in-lieu-of franchise taxes.	27-40	GENE REID PARK ZOO	
FREEWAY BUSINESS DISTRICT		Admittance fees for.	21-51, 21-52
Signs by district.....	3-71 et seq.	GENERAL BUSINESS DISTRICT	
See: SIGN CODE		Signs by district.....	3-71 et seq.
FREIGHT CURB LOADING ZONES		See: SIGN CODE	
Parking in.	20-249	GENERAL SERVICES DEPARTMENT	
FREQUENT OFFENDERS		Divisions within.....	11A-3
Motor vehicles and traffic, study of cases of		Established.....	11A-1
frequent offenders.	20-53	Powers and duties of.	11A-2
FUMES		GEOGRAPHY	
Vapor releasing substances containing toxic		Cable communications, geographic coverage	
substances.	11-35	of systems.....	7A-11
FUNERAL PROCESSIONS		GLASS	
Motor vehicles and traffic. See also that		Library grounds; crimes on	
subject		Glass containers.	11-160(3)
Driving in processions.	20-152	Throwing or breaking glass.....	11-160(2)
Identification of vehicles in funeral		Park use re.	21-3(2) et seq.
processions.	20-55	See: PARKS AND RECREATION	
G		GOING-OUT-OF-BUSINESS, FIRE, ETC.,	
GAMBLING		SALES	
Unlawful; offensive establishments.....	11-42	Auction, disposal at	
GARBAGE AND TRASH		Approval required.	7-86
Waste collection, disposal and recycling		Definitions.	7-80
facilities		Disposal at auction; approval required.	7-86
Environmental services department duties,		Exemptions.	7-81
etc.....	15-1 et seq.	Permit	
See: ENVIRONMENTAL SERVICES		Application for.	7-83
DEPARTMENT		Effect of.	7-84
GAS		Fees.....	7-83
Development proximity to landfills		Issuance.	7-84
Methane monitoring reporting obligations.	29-25	Renewal.	7-84
Ordinances not affected by Code. See the		Required.	7-82
adopting ordinance in the preliminary		Revocation of.	7-87
pages found at beginning of this volume		Procedure re; appeals.	7-88
		Rules and regulations governing sales.....	7-85
		Signs, requirements for permittee sign.	7-89

CODE INDEX

	Section		Section
GOLD. See: PRECIOUS STONES, METALS		HANDICAPPED PERSONS	
GOLFING, GOLF COURSES		Civil rights, discrimination, affirmative action programs.	17-0 et seq.
Parks and recreation		Commission on disability issues	
City municipal golf courses.	21-19 et seq.	Creation.	10A-75
Golfing, regulations relating to.	21-3(5)	Functions.	10A-76
GRADES		Limitations of powers.	10A-79
Repairs and improvements in public rights-of-way; sidewalks		Membership composition	
Grade and alignment standards.	25-6, 25-8	Terms and qualifications.	10A-77
Sign Code, general requirements.	3-33	Organization.	10A-78
GRAFFITI		Powers	
Neighborhood preservation.	16-30	Limitation.	10A-79
GRASS		Purposes.	10A-76
Street and sidewalk regulations re planting within rights-of-way.	25-52.1 et seq.	Disabled American Veterans	
See: STREETS AND SIDEWALKS		Veterans' affairs committee.	10A-21 et seq.
GRAZING		See: VETERANS' AFFAIRS COMMITTEE	
Livestock, large and dangerous animals, grazing or pasturing in city.	4-22	Mobility-impaired city residence, paratransit service fare eligibility and prohibited activity.	2-19
See: ANIMALS AND FOWL		See: TRANSIT SYSTEM	
GRILLS		Parking for individuals with physical disabilities.	20-220 et seq.
Burning trash; permit requirement		See: MOTOR VEHICLES AND TRAFFIC	
Not required for cooking devices.	11-8	Sun Tran fixed route regularly scheduled bus system; eligibility and prohibited activity.	2-18
GROUNDWATER CONSULTANT BOARD		See: TRANSIT SYSTEM	
Creation.	27-66 et seq.	HAZARDOUS AND RADIOACTIVE MATERIALS	
See: WATER AND SEWERS		Auctions and auctioneers	
GUNS. See: FIREARMS AND WEAPONS		Hazardous substances defined, notices required of possession of.	7-7
GUTTERS		See: AUCTIONS AND AUCTIONEERS	
Streets and sidewalks, keeping gutters and sidewalks clean by owners, occupants.	25-56	Operation of motor vehicles carrying hazardous materials.	13-13
See: STREETS AND SIDEWALKS		Operations, suspension of.	13-15
GYMNASIUM		Permits for transporting.	13-10
Fees		Denial, suspension or revocation of permit	
Archer, Quincie Douglas, El Rio, Freedom, Northwest, Randolph, and Santa Rosa Center use.	21-14.1	Appeal from.	13-11
Clements, El Pueblo and Udall Center use.	21-14.2	Reporting requirements.	13-14
		Restrictions on transportation.	13-9
H		Solid waste collection; recycling, etc.	
HANDBALL COURTS		Environmental services department.	15-10.1 et seq.
Parks and recreation, fees for handball courts.	21-11	See: ENVIRONMENTAL SERVICES DEPARTMENT	
HANDBILLS		Spills or releases	
Parks and recreation, commercial activities regulated.	21-3(6)	Reporting requirements.	13-14
Posting of handbills prohibited.	16-36	Suspension of operations.	13-15
		HAZARDS, TRAFFIC	
		Motor vehicles and traffic. See also that subject	
		Designating hazardous intersections for	
		Stop.	20-176
		Yield.	20-177
		Hazardous area adjacent to schools.	20-274

TUCSON CODE

	Section		Section
HEALTH AND SANITATION		HOSPITALS, INSTITUTIONAL USES	
Adult care homes and facilities.	7-219 et seq.	Adult care homes and facilities.	7-219 et seq.
County health officer		See: ADULT CARE HOMES AND FACILITIES	
Enforcing health, sanitation, food regulations; obstructing, resisting.	2-15	HOTELS, ROOMING HOUSES, MOTELS	
Health care/plans		Civil rights, discrimination, affirmative action programs.	17-0 et seq.
Adult care homes and facilities.	7-219 et seq.	See: DISCRIMINATION	
Domestic partnerships		Escorts and escort bureaus, unlawful acts.	7-118
Rights of registered domestic partners.	17-76	Exemption from late night retail establishment regulations.	7-410
Group insurance and medical health plans.	22-78 et seq.	Guest register required.	7-441
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		False entries on.	11-27
Parks and recreation		Hotel regulations	
Regulation of activities in areas adjacent to or affecting park.	21-5	Definitions.	7-440
Regulations relating to sanitation.	21-3(3)	Guest register required; guest identification required.	7-441
HEARINGS		Hearing upon suspension.	7-445
Off-road operation of vehicle.	11-70.1	Limitation on consecutive rentals.	7-442
See: MOTOR VEHICLES AND TRAFFIC		Notification to licensee of violation by employee.	7-443
Pawnbrokers and secondhand dealers.	7-97 et seq.	Operating on a suspended license.	7-446
See: PAWNBROKERS AND SECONDHAND DEALERS		Suspension of business license; grounds; penalties.	7-444
Privilege and excise taxes, provisions re.	19-570	Privilege and excise taxes, provisions re.	19-444
Sign code advisory and appeals board		Soliciting passengers or baggage at hotels.	11-53
Time for hearings; notice.	3-130	Tax on hotels renting to transients.	19-66 et seq.
HISTORIC DISTRICTS		See: LICENSES AND PRIVILEGES TAXES	
Sign districts.	3-80 et seq.	HOUSING	
See: SIGN CODE		Building codes adopted, listing of.	6-34 et seq.
HISTORICAL COMMISSION		See: BUILDING CODE	
Tucson-Pima County Historical Commission		Civil rights, discrimination, affirmative action programs.	17-0 et seq.
Compensation.	10A-1	See: DISCRIMINATION	
Created.	10A-1	Fair housing.	17-50 et seq.
Expenses and expenditures.	10A-2	See: FAIR HOUSING	
Functions.	10A-3	Streets and sidewalks, address numbering system established.	25-63 et seq.
Membership.	10A-1	See: STREETS AND SIDEWALKS	
Officers.	10A-1	Toilets	
Purposes.	10A-3	Installation of ultra-low-flush water closets in low income owner-occupied housing.	27-19
Quorum.	10A-1	Tucson Housing Trust Fund Citizens Advisory Committee (THTFCAC).	10A-220 et seq.
Rules and regulations.	10A-1	See: TUCSON HOUSING TRUST FUND CITIZENS ADVISORY COMMITTEE (THTFCAC)	
Terms.	10A-1	HOUSING AND COMMUNITY DEVELOPMENT	
Vacancies.	10A-1	Departmental divisions.	10B-3
HOGS		Established.	10B-2
Livestock, large and dangerous animals		Policy.	10B-1
Keeping prohibited; exception; maximum of three miniature pigs allowed per household.	4-26	Purposes and functions of department.	10B-4
HOMES AND FACILITIES			
Adult care homes and facilities.	7-219 et seq.		
See: ADULT CARE HOMES AND FACILITIES			
HORNS			
Rodeo parade, prohibition of certain items and activities and other parade events.	11-69		

CODE INDEX

	Section		Section
HUMAN RELATIONS		ICE CREAM TRUCK VENDORS (Cont'd.)	
Affirmative action		License requirements and application procedures.	7-491
City contractors and subcontractors		Penalties.	7-494
Administrative responsibility.	28-142	ILLUMINATION. See: LIGHTING	
City construction contracts		IMPOUNDMENT	
Duties and requirements.	28-140	Animals and fowl.	4-1 et seq.
Reporting requirements.	28-139	See: ANIMALS AND FOWL	
Responsibility for implementation. . .	28-140	Motor vehicles and traffic	
Definitions.	28-137	Impounding vehicles.	20-12 et seq.
Exemptions.	28-143	Off-road operation.	11-70.1
Inability or failure to comply with affirmative action obligations.	28-141	IMPRISONMENT. See: PRISONS AND PRISONERS	
Sanctions.	28-144	IMPROVEMENTS	
Civil rights (based on race, color, religion, ancestry, sex, age, physical handicap, national origin, sexual or affectional preference, marital status)		Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume	
Complaint procedures.	17-15	Repairs and improvements in public rights-of-way.	25-1 et seq.
Definitions.	17-11	See: STREETS AND SIDEWALKS	
Exclusion.	17-13	Water, charge for water use for public works or improvements.	27-45
Prohibited acts.	17-12	INCARCERATION. See: PRISONS AND PRISONERS	
Record-keeping; powers.	17-16	INCINERATORS	
Violation a civil infraction; procedure.	17-14	Burning trash, other articles; nuisance provisions, permit requirements.	11-5 et seq.
Fair housing.	17-50 et seq.	See: FIRE PROTECTION AND PREVENTION	
See: FAIR HOUSING		INCOME, GROSS. See: LICENSES AND PRIVILEGE TAXES	
Policy declaration.	17-1	INDECENCY AND OBSCENITY	
Registered domestic partnerships		Indecency, lewdness	
Criteria for domestic partnership.	17-72	Acts prohibited.	11-28
Fees.	17-75	Minimum penalty, subsequent convictions.	11-28.1
Limitation of liabilities.	17-77	Indecent exposure.	11-29
Registered domestic partnership defined. . .	17-71	Urinating or defecating in public.	11-54
Rights of registered domestic partners.	17-76	INDEPENDENT AUDIT AND PERFORMANCE COMMISSION	
Statement of domestic partnership.	17-73	Commission organization; meetings; reports. . .	10A-123
Termination of domestic partnership.	17-74	Creation of.	10A-120
Title.	17-70	Functions and duties.	10A-122
Short title.	17-0	Limitation of powers.	10A-124
HUMAN RESOURCES		Membership composition.	10A-121
Civil service; human resources.	10-1 et seq.	Staff support; ex officio member.	10A-125
See: OFFICERS AND EMPLOYEES		INDIANS	
HUNTING		American Indian Awareness Days.	10A-100
Parks and recreation, regulations relating to wild animals, hunting.	21-3(2)		
HYPNOTISM			
Fortunetellers.	7-62 et seq.		
See: FORTUNETELLERS			
I			
ICE CREAM TRUCK VENDORS			
Appeal procedures.	7-492		
City parks and other city property			
Separate license required to operate in.	7-495		
Definitions.	7-490		
Display of license.	7-493		

TUCSON CODE

	Section		Section
INDUSTRIAL DISTRICTS		JEWISH WAR VETERANS	
Curb cuts in driveways, special requirements in industrial districts.....	25-40	Veterans' affairs committee.....	10A-21 et seq.
Sign districts		See: VETERANS' AFFAIRS COMMITTEE	
Industrial district.....	3-79	JOINT AUTHORITY	
Medical-business-industrial park district. . .	3-78	Definitions and rules of construction.....	1-2(8)
INDUSTRIAL WASTE CONTROL		JUNK MOTOR VEHICLES	
Sewerage and sewage disposal, industrial waste control program.	24-40 et seq.	Neighborhood preservation Maintenance standards.	16-15
See: WATER AND SEWERS		JUNKED MATERIALS	
INITIATIVE		Burning trash, other articles; nuisance provisions, permit requirements.....	11-5 et seq.
Elections, initiative petitions.	12-51 et seq.	See: FIRE PROTECTION AND PREVENTION	
See: ELECTIONS		Environmental services department.....	15-1 et seq.
INSECTS		See: ENVIRONMENTAL SERVICES DEPARTMENT	
Apiaries.	11-3	JURY TRIALS	
INSURANCE		City court, jury trials, when required, etc.....	8-9 et seq.
Cable communications, insurance requirements.....	7A-31	See: CITY COURT	
Competitive telecommunications.....	7B-23	JUVENILES. See: MINORS	
Drive-in restaurants, insurance requirements... .	7-165	K	
Group insurance, regulations.....	22-78 et seq.	KEEPER AND PROPRIETOR	
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		Definitions and rules of construction.....	1-2(9)
Peddlers, insurance requirements.	7-28	L	
Sign code; indemnification of city.....	3-116	LABOR DISPUTES	
Liability insurance required.	3-117	Professional strikebreakers Employment, recruitment or furnishing as replacements for employees involved in labor disputes unlawful.	11-64
Streets and sidewalks, under-sidewalk elevators		LAKE OR STREAM	
Insurance requirements.	25-59	Public place includes.....	1-2(20)
INTERMITTENT PROGRAM INSTRUCTORS		LAMPPOSTS	
Fingerprinting and criminal history record check of intermittent program instructors who work directly with children.	2-25.1	Injuring.	11-31
INTERNAL ADMINISTRATION OR MANAGEMENT OF CITY GOVERNMENT		LANDFILLS. See: GARBAGE, REFUSE AND TRASH	
Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume		LANDS, TENEMENTS, HEREDITAMENTS	
INTIMIDATION		Real property includes Definitions and rules of construction.	1-2(21)
Vandalism		LANDSCAPE ADVISORY COMMITTEE	
Institutional vandalism, intimidation.	11-30, 11-30.1	Creation.....	10A-180
J		Limitation of powers.	10A-183
JAILS. See: PRISONS AND PRISONERS		Membership composition, appointment, officers, and terms.	10A-181
JEWELRY; JEWELRY AUCTIONS		Purpose of the committee.	10A-182
Pawnbrokers and secondhand dealers.	7-97 et seq.		
See: PAWNBROKERS AND SECONDHAND DEALERS			

CODE INDEX

	Section		Section
LATE NIGHT RETAIL ESTABLISHMENTS		LICENSES AND PERMITS (Miscellaneous)	
Definitions.....	7-410	(Cont'd.)	
Non-compliance unlawful		Burning trash, other articles, permit	
Two or more violations good cause for		requirements.....	11-6 et seq.
occupational license revocation.....	7-413	See: FIRE PROTECTION AND	
Promulgation of regulations.....	7-414	PREVENTION	
Required exterior lighting		Business regulations re fingerprinting.....	7-425
Compliance deadline.....	7-412	Cable communications, license agreements,	
Required interior safety and security measures		requirements.....	7A-4 et seq.
Compliance deadline.....	7-411	See: CABLE COMMUNICATIONS	
LAUNDROMATS		Community center, permits for use of.....	2-23
Exemption from late night retail establishment		Competitive telecommunications.....	7B-4 et seq.
regulations.....	7-410	See: TELECOMMUNICATION	
LEASES, LEASING		SERVICES	
Cable communications, use, rental or lease of		Dance halls.....	7-351 et seq.
utility poles and facilities.....	7A-14	See: DANCE HALLS	
Commercial property, leasing of		Drive-in restaurants, licensing requirements. . .	7-161 et seq.
Disclosure requirements		See: DRIVE-IN RESTAURANTS	
Definitions.....	7-501	Escorts and escort bureaus, license	
Exemptions.....	7-503	requirements.....	7-118 et seq.
Required.....	7-502	See: ESCORTS AND ESCORT BUREAUS	
Violation declared a civil infraction.....	7-504	Fees, permits and inspections.....	3-16 et seq.
Jurisdiction over areas owned or leased by city.	1-7	See: SIGN CODE	
LEWDNESS. See: INDECENCY AND		Floodplain use permit.....	26-11, 26-11.2
OBSCENITY		Fortunetellers, license requirements.....	7-62 et seq.
LIBRARIES		See: FORTUNETELLERS	
Crimes on library grounds		Going-out-of-business, fire, etc., sales, permit	
Definitions.....	11-160.2	requirements.....	7-82 et seq.
Regulations regarding library grounds		See: GOING-OUT-OF-BUSINESS, FIRE,	
After hours.....	11-160(9)	ETC., SALES	
Bathing or excreta.....	11-160(6)	Hazardous and radioactive materials,	
Camping.....	11-160(4)	restrictions on transportation of.....	13-9 et seq.
Fires and combustible materials.....	11-160(8)	Permit requirements.....	13-10 et seq.
Glass containers.....	11-160(3)	See: HAZARDOUS AND	
Interference with permittees.....	11-160(5)	RADIOACTIVE MATERIALS	
Prohibited beverages.....	11-160(7)	Massage establishments.....	7-133 et seq.
Refuse and trash.....	11-160(1)	Motor vehicles and traffic off-road operation	
Throwing or breaking glass.....	11-160(2)	Violation declared misdemeanor; penalties.....	11-70.2
Weapons prohibited.....	11-160(10)	Neighborhood preservation.....	16-4
Skateboards on Tucson-Pima Library property		Parks and recreation, municipal golf courses	
or facility.....	20-28(c)	Permit to play required.....	21-21
Violation declared misdemeanor; penalties....	11-160.3	Pawnbrokers and secondhand dealers	
LICENSES AND PERMITS (Miscellaneous)		Grounds for license denial and revocation.....	7-115
Adult care homes and facilities.....	7-219 et seq.	Peddlers, license requirements.....	7-27 et seq.
Adult entertainment enterprises and		See: PEDDLERS, CANVASSERS AND	
establishments.....	7-206 et seq.	SOLICITORS	
Alarm companies.....	7-451 et seq.	Privilege and excise taxes	
Auctions and auctioneers, license requirements.	7-3 et seq.	Licensing requirements.....	19-400 et seq.
See: AUCTIONS AND AUCTIONEERS		See: LICENSES AND PRIVILEGE	
Building permits, records of required.....	6-6	TAXES	
		Repairs and improvements in public rights-of-	
		way, permit requirements.....	25-1 et seq.
		See: STREETS AND SIDEWALKS	
		Retail tobacco sales.....	7-426 et seq.
		See: RETAIL TOBACCO SALES	

CODE INDEX

CODE INDEX

	Section		Section
LICENSES AND PERMITS (Miscellaneous) (Cont'd.)		LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)	
Sewerage and sewage disposal, various permit requirements.....	24-7 et seq.	Occupational license tax (Cont'd.)	
See: WATER AND SEWERS		Hotels renting to transients (Cont'd.)	
Special events permit parking.	20-257	Recordkeeping; claim of exclusion, exemption, deduction, or credit; documentation; liability.	19-77
Swap meet proprietor license application.	7-202.1	Recordkeeping requirements.	19-76
Under-sidewalk elevators, permit requirements.	25-59 et seq.	Registration.	19-67
See: STREETS AND SIDEWALKS		Special licensing requirements.....	19-72
Vending machines.	7-311 et seq.	Tax imposed; nature and source of transient rental occupational license tax.	19-66
See: VENDING MACHINES		Imposition of license tax.....	19-10
Water; permit for construction water.....	27-16.2	Licenses	
LICENSES AND PRIVILEGE TAXES (Chapter 19)		Application for license.....	19-20
Liquor and vending machine license tax. See herein: Occupational License Tax		Contents.....	19-3
Occupational license tax		Displayed.....	19-15
Administration generally.....	19-31	Exemptions.	19-17
Administrative review.....	19-23	Exhibition upon demand.	19-15
Business termination		Failure to have license	
Notice required.....	19-9	Conviction, punishment not to excuse non-payment of tax.	19-18
Businesses		Health department certificate or permit; when required.....	19-16
Evidence of engaging in business.	19-10	Issuance by tax collector.	19-3
Civil actions.	19-24	Required.....	19-2
Collections		Separate license required for separate places of business.....	19-14
Mistake not to prevent collecting correct amount.	19-8	Suspension, revocation.....	19-19
Succession in and/or succession of business interest.	19-25	Limitation periods.....	19-28
Successor in interest exemptions.	19-26	Liquor and vending machine license tax	
Definitions.	19-1	Applications.....	19-53
Delinquent taxes; penalty applied.....	19-6	Business privilege license tax.....	19-55
Due date.	19-4	Liquor license tax imposed.	19-51
Employee based occupational license tax		Fee schedule re quarterly.....	19-52
Application fee, annual license fee, annual renewal requirements, penalty.	19-39	Vending machines license fees.....	19-54
Exemptions		Low business volume, exemption for.	19-22
Occupations paying other taxes.....	19-40	Other provisions generally.	19-30
Schedule of taxes.	19-41	Payments	
Enforcement generally.	19-31	Discount for timely advance annual payment.	19-29
Exemption for low business volume.....	19-22	Time and placement of payment generally.....	19-7
Hotels renting to transients		Persons paying privilege tax not liable for occupational tax under article I.....	19-130
Administration.	19-79	Police	
Determination of rent based upon method of reporting.	19-68	Right of entry of.....	19-11
Exclusion of combined taxes from rent; itemization; notice; limitations.	19-70	Prorating quarterly taxes.....	19-5
Exclusion of vendor issued coupons and rebates from rental income.....	19-69	Records, director of finance to keep.	19-32
Inadequate or unsuitable records.	19-78	Refund of prepaid license taxes.	19-33
Licensing: cancellation; revocation.	19-74	Revenue investigators	
Licensing: duration of license; transferability; display.	19-73	Appointment.	19-12
Licensing requirements.	19-71	Complaints, filing of.	19-13
Operating without a license.	19-75	Powers and duties generally.....	19-12
		Right of entry of.....	19-11
		Rules and regulations: authorized; approval; filing; copies required.	19-21

CODE INDEX

Section	Section
LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)	LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)
Occupational license tax (Cont'd.)	Privilege and excise taxes (Cont'd.)
Swap meet proprietors, outdoor vendors, and special event occupational license tax	Administration (Cont'd.)
Ice cream truck vendors.	Tax (Cont'd.)
Peddlers.	Delinquency.
Promoter.	Due date.
Swap meet proprietors, street fair vendors, and trade show dealers. . .	Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition.
Tax collector	Erroneous payment.
Complaints, filing of.	Estimates.
Licenses issued by.	Extensions.
Right of entry of.	Inaccurate return.
Vending machine license tax. See within this subheading: Liquor and Vending Machine License Tax	Installment payments of tax; agreement for.
Violations and penalties	Interest.
Failure to provide number of employees information.	Limitation periods.
When taxes due.	Payment.
Privilege and excise taxes	Payment of tax by the incorrect taxpayer or to the incorrect Arizona city or town.
Administration	Penalties, civil.
Civil actions.	Private taxpayer rulings; request; revocation or modification; definition.
Criminal penalties.	Refunds.
Disclosure.	Refunds paid under protest.
Employee performance; basis for evaluating.	Reporting.
Examination of taxpayer records; joint audits.	Return
Hearing	Generally.
Administrative review; petition for hearing or for redetermination; finality of order.	Inaccurate.
Information, divulging of.	Not filed.
Jeopardy assessments.	Verification of.
Expedited review of.	Tax collector
Judicial review.	Books: failure to provide; permission to examine.
Penalties, criminal.	Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition.
Prospective application of new law or interpretation or application of law.	Records: failure to provide; permission to examine.
Reimbursement of fees and other costs; definitions.	Taxpayer assistance orders.
Rule making.	Taxpayer problem resolution officer; duties of.
Tax	Capital equipment, income-producing.
Audits or proposed assessments; no additional, exceptions.	Code references.
Business succession or cessation, collection of tax.	Computers
Civil penalties.	Software; custom programming
Closing agreements in cases of extensive taxpayer misunderstanding or misapplication; city attorney approval; rules.	Definitions.
Collection due to succession in and/or cessation of business.	Definitions, generally.
Credits.	Equipment
Deficiencies.	Income-producing capital equipment. See within this subheading that subject
	Food
	Home consumption
	Definitions.

CODE INDEX

	Section		Section
LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)		LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)	
Privilege and excise taxes (Cont'd.)		Privilege and excise taxes (Cont'd.)	
Gender, words of.	19-99	Privilege taxes (Cont'd.)	
Gross income, determination of		Construction contracting	
Artificially contrived transactions.	19-220	Buildings, nonspeculative.	19-417
Davis Monthan Air Force Base, special exemption for activities occurring on.	19-290	Buildings, speculative.	19-416
Exclusion		Construction contractors.	19-415
Business, persons deemed not engaged in such.	19-270	Nonspeculative buildings.	19-417
Cash discounts.	19-240	Owner-builders.	19-417
Fees and taxes.	19-260	Speculative buildings.	19-416
Generally.	19-240	Exhibitions.	19-410
Motor carrier revenues.	19-266	Hotels.	19-444
Persons deemed not engaged in business.	19-270	Imposition, presumptions.	19-400
Rebates, refunds, returns.	19-240	Job printing.	19-425
Taxes, combined.	19-250	Leasing of real property.	19-445
Trade-in values.	19-240	Leasing of tangible personal property.	19-450
Vendor-issued coupons.	19-240	Licensing for use of real property.	19-445
Generally.	19-200	Licensing for use of tangible personal property.	19-450
Property, real; moratorium on certain taxes relating to certain such.	19-285	Mining.	19-432
Reporting method.	19-230	Periodicals distribution.	19-435
Taxes, combined		Persons paying privilege tax not liable for occupational tax under article I.	19-130
Exclusion, itemization, notice, limitations.	19-250	Printing.	19-425
Transactions		Property, personal	
Artificially contrived.	19-220	Rental, leasing and licensing.	19-450
Companies or persons, affiliated.	19-210	Property, real	
Income-producing capital equipment		Rental, leasing and licensing.	19-445
Definition.	19-110	Publishing and periodicals distribution.	19-435
Licensing		Rental of real property.	19-445
Cancellation.	19-320	Rental of tangible personal property.	19-450
Display.	19-310	Restaurants.	19-455
Duration of license.	19-310	Retail sales	
Operating without a license.	19-330	Exclusions.	19-460
Requirements.	19-300, 19-305	Exemptions.	19-465
Revocation.	19-320	Proof, burden of.	19-460
Special requirements.	19-305	Tax measure.	19-460
Transferability.	19-310	Telecommunication services.	19-470
Number, words of.	19-99	Timbering.	19-430
Occupational tax		Transporting for fire.	19-475
Persons paying privilege tax not liable for occupational tax under article I.	19-130	Utility services.	19-480
Privilege taxes		Programming.	19-115
Advertising.	19-405	Recordkeeping	
Amusements.	19-410	Claim of exclusion.	19-360
Bars.	19-455	Credit.	19-360
		Deduction.	19-360
		Documentation.	19-360
		Exclusion, claim of.	19-360
		Exemption.	19-360
		Inadequate records.	19-370
		Liability.	19-360
		Requirements.	19-350
		Unsuitable records.	19-370

CODE INDEX

	Section		Section
LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)		LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)	
Privilege and excise taxes (Cont'd.)		Privilege and excise taxes (Cont'd.)	
Regulations (Regs.) (Note – Citations within this subheading are preceded with R- and refer to Regs. found in Chapter 19)		Regulations (Regs.) (Note – Citations within this subheading are preceded with R- and refer to Regs. found in Chapter 19) (Cont'd.)	
Administrative request for the attendance of witnesses or the production of documents; service thereof; remedies and penalties for failure to respond.	R-19-555.1	Recordkeeping	
Advertising activity within the city.	R-19-405.2	Expenditures.	R-19-350.2
Brokers.	R-19-100.1	Income.	R-19-350.1
Collection of tax in jeopardy.	R-19-571.1	Out-of-city and out-of-state sales.	R-19-350.3
Computer hardware, software and data services.	R-19-115.1	Remediation contracting.	R-19-100.5
Construction contracting and certain related activities; distinction between.	R-19-415.2	Reporting; change of method of.	R-19-520.2
Construction contracting; distinction between the categories of.	R-19-415.1	Reports made to the city.	R-19-520.1
Construction contracting; tax rate effective date.	R-19-415.3	Restaurant activity; gratuities related to.	R-19-455.1
Delivery, installation or other direct customer services.	R-19-100.2	Retail sales	
Excess tax, collection of.	R-19-250.1	Aircraft acquired for use outside the state.	R-19-465.4
Exemption; proof of		Consignment sales.	R-19-460.6
Certificate of exemption.	R-19-360.2	Membership fees of retailers.	R-19-460.3
Sale for resale; sale, rental, lease, or license of rental equipment.	R-19-360.1	Monetized bullion; numismatic value of coins.	R-19-460.5
Food for home consumption: recordkeeping and reporting requirements.	R-19-120.1	Professional services.	R-19-460.4
Gross income; when refundable deposits are includable in.	R-19-200.1	Repair services.	R-19-465.1
Initial annual license fee, proration of.	19-310.1	Sale of containers, paper products and labels.	R-19-465.3
Job printing and certain related activities; distinction between.	R-19-425.1	Tangible personal property; retail sales and certain other transfers of. See within this subheading that subject	
Licenses; who must apply for.	R-19-300.1	Trading stamp company transactions.	R-19-460.2
Out-of-city/out-of-state sales: sales to Native Americans.	R-19-100.4	Warranty, maintenance and similar service contracts.	R-19-465.2
Proprietary activities of municipalities are not considered activities of a governmental entity.	R-19-270.1	Retailers.	R-19-100.3
Proprietary clubs.	R-19-270.2	Speculative builders	
Publishers and distributors of newspapers and other periodicals; advertising income of.	R-19-435.2	Homeowner's bona fide nonbusiness sale of a family residence.	R-19-416.1
Publishing of periodicals and certain related activities; distinction between.	R-19-435.1	Tangible personal property; rental, leasing and licensing	
Real property; rental, leasing and licensing of		Delivery, installation, repair and maintenance charges.	R-19-450.5
Exempt as casual, when.	R-19-445.1	Distinction between for use of and certain related activities.	R-19-450.1
Lodging; room and board; furnished lodging.	R-19-445.3	Equipment with operator; for use of.	R-19-450.3
Reconstruction contracting.	R-19-416.2	Membership fees; other charges.	R-19-450.2
		Semi-permanently or permanently installed tangible personal property.	R-19-450.4
		Tangible personal property; retail sales and certain other transfers of	
		Distinction between.	R-19-460.1
		Telecommunication services.	R-19-470.1
		Transporting for hire and certain related activities; distinction between.	R-19-475.1
		Software.	19-115
		Tense, words of.	19-99

CODE INDEX

	Section		Section
LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)		LICENSES AND PRIVILEGE TAXES (Chapter 19) (Cont'd.)	
Public utility tax		Public utility tax (Cont'd.)	
Administration.	19-1100	Violations, penalties	
Civil actions.	19-1120	Civil actions.	19-1120
Criminal penalties.	19-1110	Criminal penalties.	19-1110
Definitions.	19-700	Words of tense, number and gender; Code references.	19-699
Gross income, determination of		Use tax	
Amounts derived from activities other than public utility business activities		Credit for equivalent excise taxes paid another jurisdiction.	19-640
Exclusion from gross income.	19-805	Definitions.	19-600
Artificially contrived transactions.	19-820	Exclusion when acquisition subject to use tax is taxed or taxable elsewhere in this chapter; limitation.	19-650
Based upon method of reporting.	19-830	Exemptions.	19-660
Cash discounts, returns refunds, etc.		Imposition of tax; presumption.	19-610
Exclusion from gross income.	19-840	Liability for tax.	19-620
Combined taxes		Record-keeping requirements.	19-630
Exclusion from gross income; itemization; etc.	19-850	Vending machine license tax. See herein: Occupational License Tax	
Davis Monthan Air Force Base		LIENS	
Exclusion of certain activities occurring on base from measure of gross income.	19-890	Officers and employees, provisions re.	2-13
Exclusion of cash discounts, returns refunds, etc., from gross income.	19-840	LIGHTING	
Exclusion of certain activities occurring on Davis Monthan Air Force Base.	19-890	Drive-in restaurants, illumination required.	7-175
Exclusion of combined taxes from gross income.	19-850	Late night retail establishments Exterior lighting regulations re.	7-412
Exclusion of gross income of persons deemed not engaged in business.	19-870	Outdoor lighting	
Generally.	19-800	Electrical code re.	6-101 et seq.
Persons deemed not engaged in business		See: ELECTRICITY	
Exclusion of gross income of.	19-870	Parks and recreation	
Transactions between affiliated companies or persons.	19-810	Wasting or abusing athletic facility lighting, fines and penalties.	21-18
Imposition of public utility tax.	19-1000	Sign code; illumination of.	3-44
Credit; presumption.	19-1000	LITTERING	
Licensing and recordkeeping		Drive-in restaurants	
Cancellation, revocation.	19-920	General cleanliness.	7-172
Display of license.	19-910	Littering prohibited.	7-171
Duration of license.	19-910	Refuse, waste to be placed in containers.	7-171
Inadequate or unsuitable records.	19-970	LIVESTOCK. See: ANIMALS AND FOWL	
Licensing requirements generally.	19-900	LOADING, UNLOADING	
Operating without licenses.	19-930	Motor vehicles and traffic	
Recordkeeping		Districts where loading, unloading large vehicles prohibited, exceptions.	20-17
Claim of exclusion, exemption, etc.	19-960	LOANS	
Inadequate or unsuitable records.	19-970	Pawnbrokers and secondhand dealers.	7-97 et seq.
Requirements generally.	19-950	See: PAWNBROKERS AND SECONDHAND DEALERS	
Revocation.	19-920	LODGING. See: HOTELS, ROOMING HOUSES, MOTELS	
Special licensing requirements.	19-905		
Transferability of license.	19-910		
Recordkeeping. See within this subheading: Licensing and Recordkeeping			
Telecommunication services.	19-1070		
Utility service.	19-1080		

CODE INDEX

	Section		Section
LOITERING		MESSAGE ESTABLISHMENTS (Cont'd.)	
Congregating, loitering about railroad yards. . .	11-52	Licensing of establishments (Cont'd.)	
Drinking establishments, loitering in.	11-17	New license application	
Indecency, lewdness		Contents.	7-135
Acts prohibited.	11-28	Fee.	7-134
Minors		Investigation.	7-136
Loitering about railroad property.	11-37	Renewal.	7-142
Loitering generally; curfew.	11-34	Required.	7-133
		Revocation of license; grounds.	7-145
M		Sale, transfer or expansion.	7-143
MAGAZINES. See: NEWSPAPERS, MAGAZINES AND PERIODICALS		Rules	
MAGISTRATES		Administrative rules.	7-151
City court, magistrates, chief magistrate.	8-2 et seq.	Finance director may formulate rules.	7-150
See: CITY COURT		Statement of interest.	7-130
MANUFACTURED BUILDINGS		Unlawful activities.	7-144
Privilege taxes.	19-427	MAYOR AND COUNCIL	
MANUFACTURED HOMES AND MANUFACTURED HOME PARKS		City elections	
Floodplain and erosion hazard management re.	26-9	Mayor and council authorized to conduct by mail ballot.	12-1.2 2-1
MANURE		City office hours.	11-100 et seq.
Livestock, large and dangerous animals		See: CIVIL EMERGENCIES	
Disposal and accumulation of manure, etc..	4-28	Definitions and rules of construction.	1-2(10)
MARTIAL ARTS STUDIO		Financial disclosure provisions.	12-40 et seq.
Escorts and escort bureaus, unlawful acts.	7-118	See: ELECTIONS	
MARTIAL STATUS		Hours	
Civil rights, discrimination, affirmative action programs.	17-0 et seq.	City office hours.	2-1
See: DISCRIMINATION		Meetings	
MARTIN LUTHER KING, JR.		Attendance by city officers and employees.	2-30
Martin Luther King, Jr. Day, observances.	10A-101	Date, time, place of; to be public.	2-26
MASCULINE GENDER		MECHANICAL CODE	
Definitions and rules of construction.	1-2(7)	Adopted.	6-164
MESSAGE ESTABLISHMENTS		Amendments.	6-166
Applicability to existing businesses.	7-147	Board of appeals.	6-12 et seq.
Definitions.	7-131	See: BUILDINGS	
Escorts and escort bureaus, unlawful acts.	7-118	Building codes, adopted, listing of.	6-34 et seq.
Licensing of establishments		See: BUILDING CODE	
Change of location or employment.	7-141	Copies.	6-165
Criminal record as grounds for denial.	7-139	Fuel gas code.	6-167
Denial		Office of mechanical inspection supervisor	
Appeal.	7-146	Established.	6-161
Criminal record as ground for.	7-139	General duties.	6-163
Display of.	7-140	Qualifications; assistants.	6-162
Inspections.	7-137		
Massage therapist license			
Special requirements.	7-138		

CODE INDEX

	Section		Section
OFFICERS AND EMPLOYEES (Cont'd.)		OFFICERS AND EMPLOYEES (Cont'd.)	
Labor disputes, professional strikebreakers; employment, recruitment of, furnishing as replacements for employees involved in.	11-64	Stormwater management	
Lien.	2-13	Authorized representative.	26-30
Mayor and council		Traffic engineer, office created.	20-7 et seq.
City officers and employees to attend meetings.	2-30	See: MOTOR VEHICLES AND TRAFFIC	
Motor vehicles and traffic		Water	
Applicability to public employees.	20-4	The superintendent of water also known as director of the water department to oversee city water services.	27-1
Community service officers, appointment.	20-11.7, 20-11.8	Water superintendent.	27-2 et seq.
Governmental vehicles exempt from truck route and loading or unloading provisions.	20-18	See: WATER AND SEWER	
Law enforcement officers exempt from specified parking provisions.	20-283	Workers' compensation	
Park rangers as special policemen.	20-11.1 et seq.	Salary paid to supplement.	2-13
Traffic engineer, office of.	20-7 et seq.	OFF-ROAD	
Office hours.	2-1	Operation of motor vehicles.	11-70.1
Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at the beginning of this volume		ONE-WAY STREETS	
Operation of parks under.	21-2	Motor vehicles and traffic, one-way streets and stop streets.	20-173 et seq.
Parks and recreation, city municipal golf courses, retired city employees.	21-25.2	See: MOTOR VEHICLES AND TRAFFIC	
Pay plans, compensation plan. See herein: Civil Service, Human Resources		OPEN FIRES	
Pensions, retirement and group insurance.	22-1 et seq.	Burning trash, other articles, permit requirements, nuisance provisions.	11-5 et seq.
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		See: FIRE PROTECTION AND PREVENTION	
Personnel director		OPEN SPACE	
City office hours.	2-1	Public place includes	
Police officers		Definitions and rules of construction.	1-2(20)
Reserve police officer program.	2-120 et seq.	OPEN-AIR MARKET PLACES	
See: POLICE DEPARTMENT		Street fairs regulated.	7-300
Special duty police services program.	2-130, 2-131	OR, AND	
Reporting wrongful conduct.	17-67	Definitions and rules of construction.	1-2(14)
Reserve police officer program.	2-120 et seq.	ORDINANCES, RESOLUTIONS, ETC.	
See: POLICE DEPARTMENT		Boards, committees, and commissions	
Residency requirement for specified city officers and employees.	2-4	Annual reports.	10A-139
Retirement		Requirements for creation of.	10A-139
Civil service, retirement ages. See herein: Civil Service, Human Resources		Code of Ordinances, provisions.	1-1 et seq.
Retirement system, supplemental.	22-30 et seq.	See: CODE OF ORDINANCES	
See: PENSIONS, RETIREMENT AND GROUP INSURANCE		Initiative petitions; mayor and council adopting ordinances.	12-60
Sickness, salary during.	2-13	Recall petitions.	12-88 et seq.
Sign code		See: ELECTIONS	
Code administrator, interpretation and construction with Tucson Code.	3-3	Referendum petitions.	12-75 et seq.
Special inspector.	3-23	See: ELECTIONS	
Sign code advisory and appeals board.	3-121 et seq.	OUTDOOR LIGHTING CODE	
Small business commission		Adopted.	6-101 et seq.
Officers and rules.	10A-191(b)	See: ELECTRICITY	
Smoking in workplace prohibited in specified places.	11-89	OUTDOOR PERFORMANCE CENTER	
		Use fees.	21-16

TUCSON CODE

	Section		Section
OWNER		PARKS AND RECREATION (Cont'd.)	
Definitions and rules of construction.....	1-2(15)	Archer center use fee.....	21-14.1
P		Athletic facility lighting	
PAINT		Wasting or abusing; fines and penalties. . . .	21-18
Vapor releasing substances containing toxic		Athletic fields	
substances.	11-35	Reservation fee, special maintenance fee. . .	21-16
PAINTINGS. See also: ARTS, CRAFTS AND		Bandshells	
CULTURE		Reservation fee, special maintenance fee. . .	21-16
Pawnbrokers and secondhand dealers.	7-97 et seq.	Bathing or swimming	
See: PAWNBROKERS AND		Designated areas, hours.	21-3(5)
SECONDHAND DEALERS		Regulations of activities in areas adjacent to	
PAPER PRODUCTS. See: RETAIL SALES		or affecting.	21-5
PARADES		Camping	
Motor vehicles and traffic		Crimes on library grounds.	11-160(4)
Method of driving in processions.	20-152	Regulations regarding park use.....	21-3(5)
Permission required for processions and		City municipal golf courses	
parades.....	20-150	Authorization to establish reservation	
Rodeo parade		policies.	21-25.10
Police authority over peddlers.	11-70	City carts, rates for; rental agreement	
Prohibition of certain items and activities		required.	21-22
and other parade events.....	11-69	Collection of fees.	21-26
PARAPHERNALIA, DRUG		Damaging, defacing property.	21-19
Narcotics paraphernalia; keeping, seizure. . . .	11-40, 11-41	Discount golf rates, authorization to.....	21-25.7
PARATRANSIT SERVICE		Driving range golf ball rental fees..	21-23.1
City curb-to-curb barrier-free transportation		Food, beverage, merchandise prices,	
service called Sun Van, the		authorization to establish.....	21-25.8
complementary paratransit service; fares;		Frequent user discount policies	
eligibility and prohibited activity.....	2-19	(authorization).....	21-25.11
See: TRANSIT SYSTEM		General regulations.....	21-24
PARKING		Permit to play required.	21-21
Drive-in restaurants		Private carts, rates for use of.....	21-23
Paving or treatment of parking area.	7-176	Regular greens fees.....	21-25.1
Indecent exposure.	11-29	Reservation policies (authorization).....	21-25.10
Sign code.....	3-63	Resident golfer.	21-25.3
Stopping, standing and parking.	20-200 et seq.	Resident greens fees.	21-25.6
See: MOTOR VEHICLES AND TRAFFIC		Resident senior citizen golfer.	21-25.4
PARKS AND RECREATION		Retired city employees.	21-25.2
Activities in areas adjacent to or affecting		Selling, soliciting on courses.	21-20
parks, regulations of.....	21-5	Shotgun start tournaments, fees for.....	21-25.5
Adult major sports, fees, rosters, minimum		Tucson City Golf employee greens fee.....	21-25.9
number of players per sponsor team;		Violations, penalty.	21-27
disposition of fees.	21-9	Clements, El Pueblo and Udall Center use. . . .	21-14.2
Alcoholic beverages		Commercial activities	
Consumption of malt beverages.	21-8	Regulations regarding park use.....	21-3(6)
Animals, horses and wildlife		Damaging park property	
Regulations regarding park use.....	21-3(7)	Regulations regarding park use.....	21-3(1)
Animals, wild		Dedications, acceptance of.	2-17
Regulations relating to.	21-3(2)	Definitions.....	21-1
		Code definitions and rules of construction	
		Public place includes.	1-2(20)
		Department of parks and recreation personnel	
		and volunteers who work directly with	
		children	
		Annual fingerprinting and criminal history	
		record check of.	2-25
		Director of parks and recreation	
		City office hours.....	2-1

CODE INDEX

	Section		Section
PARKS AND RECREATION (Cont'd.)		PARKS AND RECREATION (Cont'd.)	
Operation of parks under.	21-2	Motor vehicles and traffic	
Disfiguring or removing buildings, structures or facilities		Appointment of park rangers as special policemen.	20-11.1 et seq.
Regulations regarding park use.	21-3(1)	See: MOTOR VEHICLES AND TRAFFIC	
El Pueblo Center use fees.	21-14.2	Driving in parks and playgrounds.	20-21
El Rio Center use fees.	21-14.1	Parking in parks and playgrounds.	20-251
Enforcement.	21-6	Northwest Center use fee.	21-14.1
Equipment		Operation and regulations of.	21-1 et seq.
Use of, fee.	21-14	Outdoor performance center	
Explosives and pyrotechnics		Reservation, special maintenance fees.	21-16
Regulations regarding park use.	21-3(5)	Park use, regulations regarding.	21-3
Fees		Parking in parks and playgrounds.	20-251
Adult major sports.	21-9	Permits, licenses and reservations.	21-4
Archer, Quincie Douglas, El Rio, Freedom, Northwest, Randolph, and Santa Rosa Center use.	21-14.1	Pollution of water	
Authorization to waive or discount fees and charges.	21-17	Regulations relating park use.	21-3(3)
Clements, El Pueblo and Udall Center use.	21-14.2	Quincie Douglas Center use fee.	21-14.1
Equipment, use of.	21-14	Ramadas	
Handball courts.	21-11	Reservation fee for, special maintenance fees.	21-16
Hi Corbett Stadium Use.	21-14.3	Randolph Center	
Meeting rooms.	21-16	Gymnasium and nautilus weightroom use fees.	21-14.1
Non-city resident rates.	21-15	Recreational classes	
Program registration fees.	21-13.1	Fees for use.	21-13
Ramada, sports field, volley ball courts, bandshells, outdoor performance center, rodeo grounds		Refuse and trash, dumping, depositing, etc.	
Reservation, special maintenance fees.	21-16	Regulations regarding park use.	21-3(3)
Recreational classes.	21-13	Restrooms and washrooms	
Senior trip programs.	21-13.2	Regulations regarding park use.	21-3(1)
Swimming pools.	21-12	Rodeo grounds	
Tennis courts.	21-10	Reservation, special maintenance fees.	21-16
Use of equipment.	21-14	Sanitation	
Firearms and weapons		Regulations of activities in areas adjacent to or affecting parks.	21-5
Regulations regarding park use.	21-3(5)	Regulations relating to park use.	21-3(3)
Fires		Santa Rosa Center use fee.	21-14.1
Regulations of activities in areas adjacent to or affecting parks.	21-5	Senior trip programs.	21-13.2
Freedom Center use fees.	21-14.1	Sign districts.	3-74
Gene Reid Park Zoo		Signs	
Admittance fees, schedule.	21-51	Regulations of activities in areas adjacent to or affecting parks.	21-5
Glass beverage containers, regulations regarding park use.	21-3(3)	Sports field	
Golfing. See also herein: City Municipal Golf Courses		Reservation, special maintenance fees.	21-16
Regulations regarding park use.	21-3(5)	Swimming pools	
Handball courts		Admission fees.	21-12
Fees for use.	21-11	Competitive swimming program.	21-12
Hunting, regulations regarding park use.	21-3(5)	Pool rental rates.	21-12
Ice cream truck vendors		Swim passes.	21-12
City parks and other city property, separate license required to operate in.	7-495	Swimming lesson fees.	21-12
Malt beverages, consumption of.	21-8	Synchronized swimming program fees.	21-12
Meeting rooms		Tennis	
Use of certain.	21-16	Regulations regarding park use.	21-3(5)
		Tennis courts, fees for use.	21-10
		Traffic, regulations regarding park use.	21-3(4)
		Vending and peddling	
		Regulations regarding park use.	21-3(6)

TUCSON CODE

	Section		Section
PARKS AND RECREATION (Cont'd.)		PEDDLERS, CANVASSERS AND SOLICITORS	
Violations		Motor vehicles and traffic	
Penalties.	21-7	Parking regulations for peddlers.	20-248
Volley ball courts		Peddlers in certain central business district streets, parking regulations.	20-248.1
Reservation, special maintenance fees.	21-16	Peddlers	
PARKWISE COMMISSION		Appeal of court decision.	7-37
Commission organization.	10A-149	Commencement of civil infraction proceedings.	7-36
Commission reports.	10A-150	Definitions.	7-26
Created.	10A-146	Enforcement authority.	7-34
Declaration of policy.	10A-145	Insurance.	7-28
Functions and purposes.	10A-148	Jurisdiction of court.	7-35
Limitation of powers.	10A-151	License requirements.	7-27
Membership composition; appointment; terms.	10A-147	Operating before or after required closing time.	7-31
PART OWNER, JOINT OWNER, TENANT IN COMMON		Revocation (license).	7-32
Definitions and rules of construction.	1-2(15)	Setback requirements.	7-30
PAST TENSE		Unlawful activities.	7-29
Definitions and rules of construction.	1-2(27)	Violations; penalties.	7-33
PAWNBROKERS AND SECONDHAND DEALERS		Rodeo parade	
Claimant's rights.	7-108	Police authority over peddlers at.	11-70
Definitions.	7-97	Swap meets.	7-201 et seq.
Hearing, conduct of.	7-110	See: SWAP MEETS	
Hearing, notice of.	7-107	PEDESTRIAN BUSINESS DISTRICT	
Hearing officer.	7-109	Sign districts.	3-81
Hearing officer decision; limited effect of.	7-113	PEDESTRIANS	
Inspecting goods or records		Motor vehicles and traffic. See also that subject	
Refusal to permit chief of police; prohibited acts.	7-102	Obedience to traffic-control signals.	20-91
Judicial review.	7-111	Prohibited crossings.	20-92
License		PENSIONS, RETIREMENT AND GROUP INSURANCE, LEAVE BENEFITS AND OTHER INSURANCE BENEFITS	
Grounds for denial and revocation of.	7-115	Civil service, retirement ages.	10-15
Minors; prohibited acts re.	7-102(1)	See: OFFICERS AND EMPLOYEES	
Petition, initiation of.	7-106	Contributions to the public safety personnel retirement system.	22-1
Petition, service of.	7-107	Group insurance and medical health plans	
Prohibited acts.	7-102	Applicability of existing, future employees.	22-85
Property included.	7-105	City's premium costs.	22-83
Provisions severable.	7-114	Coverage authorized.	22-80
Receipt of articles; duty to report to police.	7-98	Duty of human resources director.	22-84
Release of property.	7-112	Employees' premium costs.	22-82
Reports		Existing employees, applicability.	22-85
Contents of report to police.	7-99	Finance director to pay premiums.	22-81
Duty to report receipt of articles to police.	7-98	Future employees, applicability.	22-85
Form of reports when due.	7-100	Medical insurance incentive allowance.	22-86
Requirements; record of transactions; police department hold on property.	7-101	Paying premiums by finance director.	22-81
Revocation hearing.	7-116	Personnel director, duty.	22-84
Scope.	7-104	Premium costs	
Swap meets.	7-201 et seq.	City.	22-83
See: SWAP MEETS		Employees.	22-82
Time limit for disposition of purchased goods		Purpose.	22-79
Prohibited acts.	7-102	Short title.	22-78
Violations, penalties.	7-103		

CODE INDEX

	Section		Section
REAL ESTATE SIGNS		REPAIR SERVICES. See: RETAIL SALES	
Sign code.	3-65 et seq.	RESERVE POLICE OFFICER PROGRAM	
See: SIGN CODE		Purpose, appointment, etc.	2-120 et seq.
RECALL		See: POLICE DEPARTMENT	
Elections, recall petitions.	12-88 et seq.	RESIDENCY	
See: ELECTIONS		Requirement for specified city officers and	
RECORDS MANAGEMENT		employees.	2-4
City clerk		RESIDENTIAL DISTRICTS	
Preservation of essential records.	2-103	Curb cuts in driveways, special requirements	
Preservation of records in compliance with		in residential districts.	25-38
state law.	2-101	See: STREETS AND SIDEWALKS	
Reproductions from public records;		Signs by district; single-family and	
certified copies.	2-102	multifamily residential districts.	3-72, 3-73
Privilege and excise taxes		See: SIGN CODE	
Examination of taxpayer records; joint		RESOURCE PLANNING ADVISORY	
audits.	19-553	COMMITTEE	
Recordkeeping.	19-350 et seq.	Committee organization.	10A-203
See: LICENSES AND PRIVILEGE		Creation.	10A-200
TAXES		Functions and duties.	10A-202
Use tax		Limitation of powers.	10A-204
Record-keeping requirements.	19-630	Membership composition; appointment and	
See: LICENSES AND PRIVILEGE		terms; purpose.	10A-201
TAXES		RESTAURANTS	
RECREATION. See: PARKS AND		Alcoholic beverages, drinking establishments.	11-17, 11-18
RECREATION		See also: ALCOHOLIC BEVERAGES	
RECYCLING PROGRAMS		Civil rights, discrimination, affirmative action	
Solid waste collection; recycling, etc.		programs.	17-0 et seq.
Environmental services department.	15-10.1 et seq.	See: DISCRIMINATION	
See: ENVIRONMENTAL SERVICES		Clothing requirements of certain female	
DEPARTMENT		entertainers and waitresses; dancers.	11-25.1 et seq.
REFERENDUM		See: CLOTHING REQUIREMENTS	
Elections, referendum petition provisions.	12-75 et seq.	Exemption from late night retail establishment	
See: ELECTIONS		regulations.	7-410
REFUSE. See: GARBAGE, REFUSE AND		Food and drink establishments.	11-24, 11-25
TRASH		Privilege and excise taxes generally.	19-455
REGISTERS		RETAIL SALES	
Elections, registration requirements.	12-1 et seq.	Methamphetamine.	11-71, 11-72
See: ELECTIONS		Nitrous oxide.	11-130, 11-131
Guest registers for hotels, etc.	7-441	Privilege and excise taxes.	19-460, 19-465
False entries.	11-27	RETAIL TOBACCO SALES	
RELIGION		Definitions.	7-427
Civil rights, discrimination, affirmative action		Licenses	
programs.	17-0 et seq.	Conditions for license; violations, penalty,	
See: DISCRIMINATION		exception.	7-431
RENTALS		License application, procedure and fees;	
Parks and recreation, city municipal golf		annual renewal.	7-430
courses. See also: PARKS AND		Notification to licensee of violation by	
RECREATION		employee.	7-434
Rental agreements for city carts.	21-22	Place of business; license transferability,	
Room rentals, etc. See: HOTELS, ROOMING		inspection.	7-432
HOUSES, MOTELS		Required.	7-428
		Exemption from licensing requirement.	7-429

TUCSON CODE

	Section		Section
RETAIL TOBACCO SALES (Cont'd.)		SCHOOLS	
Licenses (Cont'd.)		Dogs prohibited on school grounds; exceptions.	4-103
Responsibility of licensee for conduct of employee.	7-433	Intermittent program instructors who work directly with children; fingerprinting and criminal history record check of.	2-25.1
Selling without a license; minimum mandatory penalties.	7-437	Motor vehicles and traffic. See also that subject	
Suspension and revocation of license; grounds; removal of tobacco products; penalty.	7-435	Establishing school crossings.	20-119
Hearing upon suspension or revocation.	7-436	Parking	
Purpose and intent.	7-426	Hazardous areas adjacent to schools.	20-274
RETIRED PERSONS		Schoolyard, public place includes	
Parks and recreation, city municipal golf courses		Definitions and rules of construction.	1-2(20)
Reduced green fees; retired city employees.	21-25.2	Selling, displaying merchandise on streets near schools.	25-50
RINGELMANN CHART		Youth and delinquency prevention council.	10A-10 et seq.
Burning trash, other articles		See: YOUTH AND DELINQUENCY PREVENTION COUNCIL	
Ringelmann chart adopted.	11-10	SECONDHAND DEALERS	
RIOTS		Pawnbrokers and secondhand dealers.	7-97 et seq.
Civil emergencies, powers of mayor.	11-100 et seq.	See: PAWNBROKERS AND SECONDHAND DEALERS	
See: CIVIL EMERGENCIES		SEMIPRECIOUS STONES	
Disorderly houses or premises, keeping.	11-16	Pawnbrokers and secondhand dealers.	7-97 et seq.
RODEO GROUNDS		See: PAWNBROKERS AND SECONDHAND DEALERS	
Use fees.	21-16	SETBACKS	
RODEO PARADE		Peddlers; setback requirements.	7-30
Police authority over peddlers.	11-70	Sign regulations, setbacks.	3-36
Prohibition of certain items and activities and other parade events.	11-69	SEWERS. See: WATER AND SEWERS	
ROLLER SKATES, ROLLER BLADES. See: SKATES AND SKATING		SEX OFFENDERS	
ROOMING HOUSES. See: HOTELS, ROOMING HOUSES, MOTELS		Intermittent program instructors who work directly with children; fingerprinting and criminal history record check of.	2-25.1
S		Parks and recreation department personnel and volunteers who work directly with children	
SALES TAX. See also: LICENSES AND PRIVILEGE TAXES		Annual fingerprinting and criminal history record check of.	2-25
Sewerage and sewage disposal; user fees		SEXUAL PREFERENCES, CONSIDERATION	
Sales tax.	24-26	Civil rights, discrimination, affirmative action programs.	17-0 et seq.
SCAVENGERS		See: DISCRIMINATION	
Environmental services department; scavengers regulated.	15-10.3	SIDEWALKS. See: STREETS AND SIDEWALKS	
See: ENVIRONMENTAL SERVICES DEPARTMENT			
SCENIC CORRIDOR ZONE (SCZ) DISTRICT			
Signs by district.	3-82		

CODE INDEX

	Section		Section
STREETS AND SIDEWALKS (Cont'd)		STREETS AND SIDEWALKS (Cont'd)	
Scenic corridor zone (SCZ) district, signs by district.	3-82	Under-sidewalk elevators	
Schools		Insurance.	25-59
Selling, displaying merchandise on streets near.	25-50	Permit	
Sewerage and sewage disposal regulations. . .	24-1 et seq.	Application.	25-59
See: WATER AND SEWERS		Issuance.	25-60
Sidewalks		Required.	25-59
Definitions and rules and construction. . . .	1-2(22)	Terms and conditions.	25-60
Injuring, tearing up.	25-48	Where permitted.	25-58
Owners, occupants of building to keep clean.	25-56	Utility rights-of-way	
Placing benches on sidewalks.	25-51	Authority of city manager to execute certain.	2-16
Placing flower pots, tree pots, planters on.	25-57	Vacating, naming, renaming, etc.	
Repairs and improvements in public rights-of-way. See herein that subject		Ordinances not affected by Code. See the adopting ordinance in the preliminary pages found at beginning of this volume	
Under-sidewalk elevators. See herein that subject		Variations	
Signs. See also that subject		Repairs and improvements in public rights-of-way. See herein that subject	
Sign per street frontage.	3-40	Vending machines	
Signs on intersection corner.	3-39	Newspaper vending machines, attaching to public right-of-way.	25-57.1
Signs over public rights-of-way.	3-43	Violations declared civil infractions.	24-45.1
Sitting and lying down on public sidewalks in downtown and neighborhood commercial zones.	11-36	Waste or unreasonable use of water; violation declared a civil infraction.	27-15
Special events re street and sidewalk usage		Water flow in streets, gutters, conduits	
Regulations generally.	7-401	Obstructing.	25-52
Street, avenue, boulevard, parkway, alley		Work zone traffic management. See herein:	
Definitions and rules of construction.	1-2(25)	Temporary Work Zone Traffic Management	
Street fairs regulated.	7-300		
Street names, changes in.	25-62		
Streets, gutters, conduits			
Obstructing water flow in.	25-52		
Streets, public places			
Digging, removing earth from.	25-49		
Temporary work zone traffic management			
Definitions.	25-89		
Fee schedule.	25-91		
Program established.	25-88		
Temporary work zone traffic management.	25-90		
Violations and civil sanctions.	25-92		
Transit system, city fixed route, rules and regulations.	2-18 et seq.		
See: TRANSIT SYSTEM			
Trespassing on closed streets.	25-45		
Underground utility districts			
Definitions.	25-81		
Establishment of.	25-80		
Exceptions.	25-86		
Findings required.	25-84		
Notice.	25-83		
Procedure to establish.	25-82		
Provisions.	25-85		
Publicly owned equipment.	25-87		
Underpasses, operating bicycle through.	5-2		
		STRIKEBREAKERS. See: LABOR DISPUTES	
		SUBDIVISIONS	
		Development compliance code.	23A-1 et seq.
		See: DEVELOPMENT COMPLIANCE	
		Floodplain, stormwater, and erosion hazard management. See also that subject	
		Generally.	26-1 et seq.
		Subdivision and development project requirements.	26-8
		Subdivision standards.	26-9
		Sign regulations generally.	3-1 et seq.
		See: SIGN CODE	
		SUN TRAN SYSTEM	
		City transit bus system.	2-18
		SWAP MEETS	
		Administration.	7-205
		Animals and fowl	
		Sale of animals at swap meets and public property prohibited.	4-8
		Definitions.	7-201
		Licenses	
		Proprietor license application.	7-202.1
		Regulations.	7-204

TUCSON CODE

	Section		Section
SWAP MEETS (Cont'd.)		TAXICABS (Cont'd)	
Taxation regulations generally.....	19-1 et seq.	Routes, direct routes required.	20-306
See: LICENSES AND PRIVILEGE TAXES		Taxicab businesses and executive sedan services regulated.....	20-302
Unlawful practices		Two-way radios required.....	20-307
Swap meet proprietor.	7-202	Violations and penalties	
Swap meet vendors.....	7-203	Citations, police department and traffic engineer enforcement agents authorized to issue.....	20-309
Unlawful practices of proprietor.	7-202	Civil infraction re.	20-308
Violations, penalties.	7-205.1		
SWIMMING POOLS		TELECOMMUNICATION SERVICES	
Parks and recreation. See also that subject		Competitive telecommunications	
Admission fees.	21-12	Bonding.	7B-24
Competitive swimming programs.	21-12	Conditions of street occupancy.....	7B-14
Pool rental rates.	21-12	Construction and technical standards.	7B-16
Regulation of activities in areas adjacent to or affecting parks, bathing and swimming.	21-3(5)	Cost of consultant.	7B-30
Swim lesson fees.....	21-12	Damages.	7B-31
Swimming passes.	21-12	Definitions.	7B-2
Synchronized swimming program fees.	21-12	Effective date; application to existing systems.	7B-34
SYNAGOGUES		Exemption for pre-statehood telecommunications providers.....	7B-37
Vandalism		Findings; purpose.	7B-3
Institutional vandalism, intimidation.	11-30, 11-30.1	Foreclosure and receivership.	7B-20
T		Franchise provisions	
TAGS		Application and agreement.....	7B-5
Dog licenses, tag requirements.	4-88 et seq.	Application for.....	7B-29
See: ANIMALS AND FOWL		Required.....	7B-8
TAMPERING		Geographic area of system.	7B-12
Cable communications, tampering with system.	7A-39	Grant of authority.	7B-9
TAXATION		Indemnification.....	7B-22
Privilege and excise taxes. See: LICENSES AND PRIVILEGE TAXES		Insurance.....	7B-23
Public utility tax.	19-699, 19-700	License	
TAXICABS		Alternative fee for long distance only licenses.....	7B-26.1
Charges. See herein: Fares and Charges		Application and agreement.....	7B-4
Definitions.....	20-301	Application for.....	7B-29
Enforcement; citations		Fee.....	7B-26
Police department, traffic engineer enforcement agents authorized.	20-309	Required.....	7B-8
Equipment		Limited point-of-presence only licenses authorized.	7B-36
Two-way radios required.	20-307	Local regulatory framework.	7B-10
Fares and charges		No vested rights.	7B-38
Charges generally.	20-305	Nondiscrimination and equal employment opportunities.	7B-28
Exterior display of fare and other information.	20-303	Permit moratorium.	7B-35
Fares generally.	20-305	Policy of innovation.	7B-6
Interior display of fare and other information.	20-304	Provision of service and equipment to the city.....	7B-17
Meters generally.	20-305	Purchase of system by city.	7B-19
Privilege and excise taxes		Regulation costs.	7B-11
Transporting for hire.....	19-475	Remedies, violation or civil infraction.	7B-32
Purpose.	20-300	Renewal and termination.	7B-18
		Rights reserved to the city.....	7B-27
		Security deposit.	7B-25
		Severability.....	7B-33
		Shared facilities.....	7B-13
		Short title.	7B-1

CODE INDEX

	Section		Section
TELECOMMUNICATION SERVICES (Cont'd.)		THEATERS	
Competitive telecommunications (Cont'd.)		Civil rights, discrimination, affirmative action programs.	17-0 et seq.
Time is of essence.	7B-7	See: DISCRIMINATION	
Transfers and assignments.	7B-21	Clothing requirements for certain female entertainers and waitresses.	11-25.1 et seq.
Use, rental or lease of utility poles and facilities.	7B-15	See: CLOTHING REQUIREMENTS	
Location and relocation of facilities in rights-of-way		Escorts and escort bureaus, unlawful acts.	7-118
City police power; continuing jurisdiction.	7D-6	Massage establishments, unlawful activities.	7-144
Compliance required.	7D-7	Smoking prohibited in specified places.	11-89
Conflict with city projects.	7D-3		
Damage to city rights-of-way and facilities.	7D-4	THEFT	
Generally.	7D-2	Cable communications, theft of service and tampering.	7A-39
Registration.	7D-1		
Relocation of facilities.	7D-5	TIMBERING	
Privilege and excise taxes.	19-470	Privilege and excise taxes.	19-430
Public utility tax.	19-1070		
TELEPHONE ANSWERING SERVICE		TIME	
Escorts and escort bureaus, unlawful acts.	7-118	Computation of	
		Definitions and rules of construction.	1-2(5)
TELEPHONE DEVICES		TOBACCO SALES, RETAIL	
Automatic dialing and prerecorded message alarm systems		Provisions re.	7-426 et seq.
Prohibition of certain.	11-67	See: RETAIL TOBACCO SALES	
TELEPHONE, TELEGRAPH SERVICE		TOURNAMENTS	
Privilege and excise taxes		Parks and recreation, city municipal golf courses	
Telecommunication services		Fees for shot-gun start tournaments.	21-25.5
See: LICENSES AND PRIVILEGE TAXES			
TELEVISION		TOWING	
Cable communications.	7A-1 et seq.	Motor vehicles and traffic; regulation of towing services.	20-158
Privilege and excise taxes		Privilege and excise taxes	
Telecommunication services		Transporting for hire.	19-475
See: LICENSES AND PRIVILEGE TAXES			
TENANT		TOXIC SUBSTANCES. See: POISON	
Definitions and rules of construction.	1-2(26)	TOY VEHICLES. See: MOTOR VEHICLES AND TRAFFIC	
TENANT IN COMMON		TRAFFIC. See: MOTOR VEHICLES AND TRAFFIC	
Definitions and rules of construction.	1-2(15)	TRAFFIC-CONTROL DEVICES	
TENNIS		Motor vehicles and traffic, regulations regarding traffic-control devices.	20-109 et seq.
Parks and recreation			
Regulations relating to tennis.	21-3(5)	TRAINS. See: RAILROADS AND TRAINS	
Tennis court fees.	21-10	TRANSIT FACILITIES	
TENSE		Civil rights, discrimination, affirmative action programs.	17-0 et seq.
Definitions and rules of construction.	1-2(7)	See: DISCRIMINATION	
TERRORISM			
Criminal syndicalism and sabotage define, acts prohibited.	11-13, 11-14		

TUCSON CODE

	Section		Section
TRANSIT SYSTEM		TRUCK ROUTES	
City curb-to-curb barrier-free transportation service called Sun Van, the complementary paratransit service; fares; eligibility and prohibited activity.	2-19	Motor vehicles and traffic Establishment of truck routes.	20-15 et seq.
Privilege and excise taxes; transporting for hire.	19-475	TRUCKS	
Sun Tran system		Ice cream truck vendors.	7-490 et seq.
City fixed route, regularly scheduled bus system called Sun Tran; fares; eligibility and prohibited activity. . . .	2-18	See: ICE CREAM TRUCK VENDORS	
City Sun Tran and paratransit service systems fare subsidy program for low-income individuals; fare subsidies; eligibility and prohibited activity.	2-22	Privilege and excise taxes Transporting for hire.	19-475
Promotional discount fare program for the Sun Tran fixed route bus system. . . .	2-21	Sewerage and sewage disposal; industrial waste control Trucker's discharge permits.	24-44
TRANSPORTATION		TRUSTEES. See: PRISONS AND PRISONERS	
Citizen transportation advisory committee. . . .	10A-240 et seq.	TUCSON CODE	
See: CITIZEN TRANSPORTATION ADVISORY COMMITTEE		Definitions and rules of construction.	1-2(4)
City transit system.	2-18 et seq.	Signs.	3-1 et seq.
See: TRANSIT SYSTEM		See: SIGN CODE	
Energy and environment. See also that subject Department of transportation as lead agency.	29-5	TUCSON HOUSING TRUST FUND CITIZENS ADVISORY COMMITTEE (THTFCAC)	
Hazardous and radioactive materials, restrictions on transportation of.	13-9 et seq.	Committee organization.	10A-224
See: HAZARDOUS AND RADIOACTIVE MATERIALS		Creation.	10A-220
Privilege and excise taxes		Functions and duties.	10A-222
Transporting for hire.	19-475	Limitation of powers.	10A-225
Trolley regulations generally.	20-400 et seq.	Membership composition; appointment and terms.	10A-221
See: MOTOR VEHICLES AND TRAFFIC		Minutes.	10A-223
TRASH. See: GARBAGE, REFUSE AND TRASH		TUCSON YOUTH AND DELINQUENCY PREVENTION COUNCIL. See: YOUTH AND DELINQUENCY PREVENTION COUNCIL	
TREES AND SHRUBBERY		TUCSON-PIMA COUNTY HISTORICAL COMMISSION. See: HISTORICAL COMMISSION	
Burning trash, other articles; tree prunings, etc.		U	
Nuisance provisions, permit requirements.	11-5 et seq.	UNITED STATES FLAG	
See: FIRE PROTECTION AND PREVENTION		Displaying at polling places.	12-8
Solid waste collection; recycling, etc.		URINATING	
Environmental services department.	15-10.1 et seq.	Public urination.	11-54
See: ENVIRONMENTAL SERVICES DEPARTMENT		UTILITIES	
Street and sidewalk regulations re planting within rights-of-way.	25-52.1 et seq.	Cable communications, use, rental or lease of utility poles and facilities.	7A-14
See: STREETS AND SIDEWALKS		Floodplain and erosion hazard management standards utility systems construction. . .	26-6.2
Timbering		Parks and recreation, regulations re: park use	
Privilege and excise taxes.	19-340	Installing utility services.	21-3(1)
TRIALS		Privilege and excise taxes.	19-480
City court, jury trials, when required.	8-9	Underground utility districts, establishment of.	25-80 et seq.
TROLLEYS		See: STREETS AND SIDEWALKS	
Generally.	20-400 et seq.	Water regulations.	27-1 et seq.
See: MOTOR VEHICLES AND TRAFFIC		See: WATER AND SEWERS	

CODE INDEX

V	Section	Section	
VACCINATIONS		VENDORS/VENDING	
Dogs re.	4-76 et seq.	Going-out-of business, fire, etc., sales.	7-80 et seq.
See: ANIMALS AND FOWL		See: GOING-OUT-OF-BUSINESS, FIRE, ETC., SALES	
VAGRANCY		Ice cream truck vendors.	7-490 et seq.
Food and drink establishments		See: ICE CREAM TRUCK VENDORS	
Soliciting or annoying customers, responsibility of proprietor.	11-24, 11-25	Parks and recreation, commercial activities regulated.	21-3(6)
Monitoring; loitering generally; curfew.	11-34	Pawnbrokers and secondhand dealers.	7-97 et seq.
VANDALISM		See: PAWNBROKERS AND SECONDHAND DEALERS	
Graffiti.	16-30	Special events re	
Institutional vandalism, intimidation		Regulations generally.	7-401
Minimum penalty; subsequent convictions.	11-30.1	Street fairs regulated.	7-300
Prohibited acts.	11-30	Swap meets.	7-201 et seq.
VEGETATION		See: SWAP MEETS	
Landscape advisory committee.	10A-180 et seq.	VETERANS' AFFAIRS COMMITTEE	
Water ditches, natural drainage channels		Committee organization.	10A-23
Deposit of offensive matter, obstructions.	11-58 et seq.	Created.	10A-21
See: DITCHES, NATURAL DRAINAGE CHANNELS		Functions.	10A-26
Watercourse amenities, safety and habitat.	29-12 et seq.	Membership.	10A-22
See: WATERCOURSES		Power, limitation of.	10A-25
VEHICLES FOR HIRE		Purpose.	10A-26
Licenses and privilege taxes. See that subject		Reports.	10A-24
Taxicab regulations generally.	20-300 et seq.	VICIOUS ANIMALS. See: ANIMALS AND FOWL	
VENDING MACHINES		VIOLENCE	
Exemptions		Civil emergencies, power of mayor.	11-100 et seq.
Merchandise vending devices.	7-319	See: CIVIL EMERGENCIES	
Gambling devices not permitted.	7-312	Criminal syndicalism and sabotage define, acts prohibited.	11-13, 11-14
Identification marks and numbers.	7-316	VOLLEYBALL COURTS	
Licenses		Use fees.	21-16
Application for license.	7-313	VOLUNTEERS	
Fees.	7-314	Civilian volunteer police assist specialists.	20-11.9 et seq.
Investigation.	7-315	See: MOTOR VEHICLES AND TRAFFIC	
Required.	7-311	Parks and recreation department personnel and volunteers who work directly with children	
Revocation.	7-318	Annual fingerprinting and criminal history record check of.	2-25
Liquor and vending machine license tax.	19-51 et seq.	VOTING	
See: LICENSES AND PRIVILEGES TAXES		Person qualified to vote.	12-2
Merchandise vending devices exempted.	7-319	W	
Registration		WAITRESSES	
Application.	7-313	Clothing requirements for entertainers, waitresses.	11-25.1 et seq.
Required.	7-311	See: CLOTHING REQUIREMENTS	
Seizure of machines.	7-317		
Streets and sidewalk, attaching newspaper vending machines to public right-of-way.	25-57.1		
Youth dance halls			
Cigarette machines and sales re.	7-361		

TUCSON CODE

	Section		Section
WARDS		WATER AND SEWERS (Cont'd.)	
Described.....	1-19	Sewerage and sewage disposal (Cont'd.)	
Additions to upon annexation.....	1-20	Construction fees (Cont'd.)	
WASTE CONTROL		Refund of cost of sewers installed by	
Environmental services department.....	15-1 et seq.	private contract under certain	
See: ENVIRONMENTAL SERVICES		conditions authorized.	24-6
DEPARTMENT		Sanitary sewers, fees for connection to.	24-4
Sewerage and sewage disposal.	24-1 et seq.	Definition of terms.	24-1
See: WATER AND SEWERS		Extension or waste treatment works	
WATER AND SEWERS		Application for approval to construct... .	24-3
Backflow prevention, cross-connection control		General and administrative provisions.	24-1 et seq.
Administrative appeal.	27-83	General considerations.	24-2
Backflow prevention required.....	27-72	Industrial waste control and industrial cost	
Definitions.	27-70	recovery program	
Determination, modification, waiver of		Appeal procedure.....	24-49
requirements.	27-81	Billing.	24-50
Discontinuance of water service.....	27-82	Definitions.	24-40
Fees.....	27-86	Deposits.	24-51
Fire systems, installation of backflow		Effective date.	24-53
prevention assemblies for.	27-77	Enforcement.....	24-48
Hazard potential.	27-73	Funds, use of.	24-52
Inspections.	27-78	Industrial cost recovery.	24-46
Installation requirements.....	27-76	Inspectors, power and authority.	24-47
Methods; list.	27-74	Permits	
Methods required.	27-75	Industrial waste discharge permits... .	24-42
Permit.	27-79	Requirements, restrictions and	
Purpose, application.	27-71	conditions.	24-43
Test, notification, maintenance, records. . .	27-80	Trucker's discharge permit.....	24-44
Violation a civil infraction.	27-84	Power and authority of inspectors.	24-47
Consumer Protection Act. See herein: Water		Prohibition of specific substances.	24-45
Consumer Protection Act		Rules and regulations.	24-41
Ditches, natural drainage channels.	11-58 et seq.	Specific substances, prohibition of.	24-45
See: DITCHES, NATURAL DRAINAGE		Trucker's discharge permit.	24-44
CHANNELS		Use of funds.	24-52
Emergency water conservation response. See		Sewerage systems	
herein: Water		Application for approval to construct... .	24-3
Rainwater collection and distribution		User fees.	24-21
requirements.....	6-181 et seq.	Application payment.	24-31
See: RAINWATER COLLECTION AND		Billing.	24-27
DISTRIBUTION REQUIREMENTS		Business privilege taxes.....	24-26
Sewerage and sewage disposal		Definition of terms.....	24-20
Application for approval to construct		Deposits.	24-28
sewerage systems, extensions or		Enforcement.....	24-32
waste treatment works.	24-3	In-lieu-of-franchise taxes.....	24-26
Construction fees		Minimum and maximum sewer user fees.	24-23
Construction of sewer systems under		Power of director.	24-22
private contract authorized.	24-5	Private wells and private water	
Permits		companies.....	24-25
Failure to obtain permits and		Review of established fees.	24-22
approvals as required.	24-8	Sales taxes.	24-26
Temporary installations for areas not		Setting of fee.	24-24
contiguous to sewers,		Use of fund revenues.	24-29
requirements.....	24-7	User fees and water charges.....	24-31
Private contract		Water charges.....	24-31
Construction of sewer system under			
authorized.	24-5		
Provisions for refund of cost of			
sewers installed by under			
certain conditions authorized... .	24-6		