

TUCSON, ARIZONA

Supp. No. 95 – 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 March 31, 2012. 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. 95” If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

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TUCSON CODE

CONTAINING
THE CHARTER AND GENERAL ORDINANCES
CITY OF TUCSON, ARIZONA

Adopted, October 19, 1964
Effective, January 20, 1965

Published by Order of the Mayor and Council

Republished 1987

Contains Supplement No. 95
Current through March 31, 2012

Published by:
AMERICAN LEGAL PUBLISHING CORPORATION
432 Walnut Street ✧ Suite 1200 ✧ Cincinnati, Ohio 45202
1-800-445-5588 ✧ www.amlegal.com

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Checklist of Up-to-Date Pages

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

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

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

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

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furnishes accommodations therein to any person, it shall be unlawful for that owner, operator, employee, or person in control to rent, subrent, or otherwise furnish the same accommodations again to any person within eight (8) hours from the commencement of the previous rental.

(Ord. No. 9240, § 1, 6-21-99)

Sec. 7-443. Notification to licensee of violation by employee.

The person holding a business license issued pursuant to Chapter 19 shall be notified in writing by the police department whenever an employee of the licensee is cited for a violation of section 7-441 or section 7-442. Notice shall be given to the licensee within ten (10) days of charges being filed. The provisions of section 7-444 regarding license suspension shall not apply in the absence of such notification.

(Ord. No. 9240, § 1, 6-21-99)

Sec. 7-444. Suspension of business license; grounds; penalties.

(a) The business license issued pursuant to Chapter 19 entitling the licensee to operate any hotel shall be suspended for twenty-four (24) hours if the licensee or any employee of the licensee violates the provisions of section 7-441 or section 7-442 on two (2) separate dates within a twelve (12) month period.

(b) The business license issued pursuant to Chapter 19 entitling the licensee to operate any hotel shall be suspended for ten (10) days if the licensee or any employee of the licensee violates the provisions of section 7-441 or section 7-442 on four (4) separate dates within a twelve (12) month period.

(Ord. No. 9240, § 1, 6-21-99)

Sec. 7-445. Hearing upon suspension.

(a) The director of finance, upon notification by the chief of police or the city attorney that grounds for suspension exist, shall file a written petition for suspension with the City Court, requesting that a time and place be set for a hearing and specifying the grounds for suspension per section 7-443. Within five (5) days a magistrate, special magistrate or limited special magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the

petition to suspend. The magistrate, special magistrate or limited special magistrate shall notify the parties in the manner provided in this section and shall state the grounds relied upon for the proposed suspension. Should the licensee fail to appear at the hearing, a default judgment of suspension shall be entered. A record shall be kept of all proceedings. No license shall be suspended unless grounds therefore are established by a preponderance of the evidence. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence. The Arizona Rules of Evidence shall not apply. Any evidence offered shall be admitted subject to a determination by the magistrate, special magistrate or limited special magistrate that the offered evidence is relevant and material and has some probative value as to a fact at issue. The magistrate, special magistrate or limited special magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (b) of this section. The magistrate, special magistrate or limited special magistrate's signing of the written notice of the decision shall effect the suspension of a license. A licensee's right to operate a hotel under authority of the license shall terminate immediately upon giving or mailing to the licensee a copy of the signed decision suspending the license; except that the suspension may be stayed by the Superior Court pending a timely appeal of the decision by Special Action. Such appeal must be filed within ten (10) days after the decision to suspend is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the suspension becomes final.

(b) Notices required by this article shall be served by certified mail to the licensee's attorneys or to the licensee at the address as shown on the licensee's license, or by personal service.

(Ord. No. 9240, § 1, 6-21-99)

Sec. 7-446. Operating on a suspended license.

It shall be unlawful to operate on a suspended license. Each day the violation continues shall constitute a separate offense.

(Ord. No. 9240, § 1, 6-21-99)

Secs. 7-447 – 7-448. Reserved.

ARTICLE XXI. ALARM COMPANIES AND USERS*

DIVISION 1. ALARM COMPANY LICENSES

Sec. 7-449. Applicability.

This article is intended to regulate the activities and responsibilities of those persons who purchase, lease or rent and those persons who own or conduct the business of selling, leasing, renting, installing, maintaining, or monitoring alarm systems, devices or services. It is further intended to encourage the improvement in reliability of these systems, devices and services to ensure that police department personnel will not be unduly diverted from responding to actual criminal activity as a result of responding to false alarms. This article specifically encompasses burglary, robbery and commercial panic alarms, both audible and inaudible (silent). Except as otherwise provided in this article, this article shall not apply to audible alarms affixed to motor vehicles, audible fire alarms, medical alert devices, and alarm systems that are operated by the city, county, state, or federal government and installed on premises which such entity occupies or uses for governmental purposes. However, such entities shall apply for and obtain a registration for each alarm system it operates and the registration will be waived. (Ord. No. 10967, § 2, 2-28-12, eff. 4-1-12)

Sec. 7-450. Definitions.

In this article, unless the context otherwise requires:

Act of God means an unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight. Such events include tornadoes, floods, earthquakes, and other similarly violent conditions.

Alarm administrator means a person designated by the chief of police under this article to administer, control, and review false alarm reduction efforts and administer the provisions of this article.

Alarm agent means any person, whether an employee, independent contractor or otherwise, who acts on behalf of an alarm business and leases, rents, maintains, services, repairs or installs alarm systems, other than alarm systems located on the person's own property or the property of the person's employer.

Alarm business means any person that, either individually or through a third party, engages in the business of providing alarm monitoring services or the business of selling, leasing, renting, maintaining, repairing or installing alarm systems, devices or services. Alarm businesses may also monitor alarms.

Alarm site means each separate physical location which houses an alarm system. In the instances of an apartment complex or other residential rental property, both the facility and business itself, as well as each individual unit that has an individual alarm system, is an alarm site.

Alarm system means a device or series of devices, including but not limited to hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon a public safety response. Alarm system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or personal alarm is permanently located at a site.

Alarm user means the owner, lessor, or occupant, agent, employee, operator or manager of property upon which an alarm system is located, as well as a party or person who actually causes a false alarm.

Alarm user awareness class means a class conducted for the purpose of educating alarm users about the responsible use, operation and maintenance of alarm systems and the problems created by false alarms.

***Editor's note** – It should be noted that § 4 of Ord. No. 9975 states that the enforcement of the provisions of this article shall be delayed until January 1, 2005. Ord. No. 10967, adopted February 28, 2012 and effective April 1, 2012, revised the title for article XXI, designated a new division 1, and added a new division 2 in its entirety.

Audible alarm means a device designed for the detection of an unauthorized entry on premises and which when activated generates an audible sound on the premises. For the purposes of this definition, an audible alarm does not include an alarm installed in a vehicle or on someone's person.

Common cause means a common technical difficulty or malfunction which causes an alarm system to generate a series of false alarms, all of which occur within a twenty-four (24) hour period. The series of false alarms shall be counted as one (1) false alarm only if the cause of the series of false alarms is repaired before it generates additional false alarms, documentation of the repair is provided to the alarm administrator, and during the thirty (30) day period following the repair, the alarm system generates no additional false alarms from the documented cause.

Controlling person means all current officers, managers and directors, and any person who is a stockholder, member, general or limited partner or owner, or who holds more than ten (10) percent of the ownership, management rights, control or claim to the profits of the business. Controlling person does not include current officers, directors or shareholders of stock in any corporation that is traded on a national stock exchange.

Duress alarm means an alarm system signal generated by the entry of a designated code into an alarm system in order to signal that the alarm user is being forced to turn off the system and needs law enforcement response.

Emergency means the commission or attempted commission of a robbery or burglary, or other crime of violence, or other life/safety issue.

Enhanced call verification, verify or verification means two (2) documented attempts by the company monitoring an alarm, or its representative, to contact the site of the alarm and/or the alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary request for response. (Excluding a holdup, robbery, panic, or duress alarm activation.)

False alarm means an alarm signal, sound or message which results in a response by the police department or fire department where an emergency does not exist, or which is not caused by or is not the result of a criminal act or unauthorized entry.

Holdup alarm means an alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Licensing authority means the city finance department, except that when referring to reciprocal licenses, it means the city department or the police department, as applicable, who has the authority to issue licenses pursuant to the reciprocal alarm licensing ordinance of another city or town.

Medical alert device means a device designed to help a patient obtain adequate help during a medical emergency.

Monitoring/monitored alarm means the process by which a person receives signals from an alarm system and relays a request for response to the police department or fire department for the purpose of summoning response to the alarm site.

Monitoring company means a person in the business of providing monitoring services.

Panic alarm means any device or system designed to be victim activated to alert others to the existence of an emergency.

Person means any natural person, employee, company, firm, partnership, association, corporation, agent, manager, lessor, lessee, operator or entity.

Primary alarm business license means a license issued by the licensing authority of a city or town that has adopted the reciprocal alarm licensing ordinance to an alarm business that has its headquarters, main office, corporate office or designated branch of the alarm business located within this state. In the event that an alarm business has its headquarters, main office, corporate office or designated branch in a city or town that does not require the licensing of alarm businesses, the alarm business may apply for a primary alarm business license from any city or town in this state that has adopted the reciprocal licensing ordinance.

Proprietor alarm means any alarm or alarm system which is owned by the alarm user and is not maintained or monitored by an alarm business.

Proprietor alarm owner means the owner of a proprietor alarm.

Reciprocal alarm business license means a license issued by the licensing authority of a city or town that has adopted the reciprocal alarm licensing ordinance, and in which that alarm business conducts business. This license shall be issued only to an alarm business that has a valid primary alarm business license from a similar licensing authority within this state that has adopted the reciprocal alarm licensing ordinance.

Responsible party means an individual capable of reaching the alarm site within sixty (60) minutes and having access to the alarm site, the code to the alarm system and the authority to accept responsibility for the alarm site.

Robbery, holdup or panic alarm means a device or system designed to be victim activated to alert others to the existence of an emergency.

SIA control panel standard CP-01 means the ANSI (American National Standard Institute) approved Security Industry Association (SIA) CP-01 control panel standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: "design evaluated in accordance with SIA CP-01 control panel standard features for false alarm reduction."

Verify or verification means two (2) attempts by the company monitoring an alarm, or its representative, to contact the site of the alarm and/or the alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary request for response. (Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05; Ord. No. 10967, § 3, 2-28-12, eff. 4-1-12)

Sec. 7-451. License required.

A. It shall be unlawful for any person to conduct, operate, engage in or carry on an alarm business, or to engage in the occupation of alarm agent, or represent oneself as an alarm agent, without first having obtained such licenses as are required by this article. A separate license is required for each business name under which an alarm business conducts business or advertises. In the event that the finance director has reasonable cause to believe that an alarm business does not have a valid alarm business license as required by this article, or that a person is engaged in the alarm business without a valid alarm business license, the finance director, with the assistance of the police department, shall issue a warning to the alarm business stating that it is in violation of the provisions of this article. The alarm business receiving such a notice shall not engage in the alarm business until an alarm business license is issued pursuant to this article.

B. The administration of this article, including the duty of prescribing forms, is vested in the finance director. License applications made pursuant to this article shall be submitted to the finance director, which shall have the authority to issue, deny, suspend or revoke a license in accordance with the provisions of this article.

C. The license required by this article shall be in addition to any other licenses or permits required by the city, county or state in order to engage in business. Persons engaging in activities described in this article shall comply with all other ordinances and laws, including the city zoning laws, as may be required to be engaged in the business to be licensed. Failure of any applicant or licensee, as applicable, to meet the requirements of this subsection shall be grounds for denial, suspension or revocation of a license.

D. All licenses issued pursuant to this article shall be for a period of one (1) year from the date of issue and shall be renewable annually, one (1) year from the original date of issue or renewal, as applicable, subject to renewal pursuant to section 7-456.

E. Upon written request and the payment of a ten dollar (\$10.00) fee, the finance director shall issue a duplicate license to a licensee whose license has been lost, stolen or destroyed.

F. It shall be unlawful for an alarm business to use, or to contract with for purposes of using, the services of an unlicensed alarm business or alarm agent.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-452. Types of licenses; reciprocity.

A. The types of licenses that may be issued pursuant to this article are as follows.

1. *Primary alarm business license.* A primary alarm business license may be applied for by an alarm business that is physically located within this city, in a jurisdiction that has not adopted this reciprocal alarm license ordinance, or in a jurisdiction outside this state.
2. *Reciprocal alarm business license.* An alarm business, whether physically located within or outside the state, that has a valid primary alarm business license issued by a jurisdiction within this state that has adopted the reciprocal alarm license ordinance, shall be entitled to the issuance of a reciprocal alarm business license upon compliance with the requirements of this article.
3. *Alarm agent license.* A person desiring to engage in the business or occupation of alarm agent shall apply for and receive an alarm agent license from the jurisdiction that issues the primary alarm business license for the alarm business for which the alarm agent is or will be working. A person holding a valid alarm agent license, who desires to work for an alarm business holding a reciprocal alarm license, does not have to obtain a separate license, but shall provide a copy of his or her license, upon request, to the jurisdiction in which the reciprocal license has been issued.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-453. Alarm business license applications; contents.

A. All applications for alarm business license made pursuant to this article shall include the following:

1. The name, business address, mailing address and telephone number of the alarm business. If the applicant is a corporation, general or limited partnership, limited liability company, or other legal entity, the name of the applicant shall be set forth exactly as shown in its articles of incorporation, charter, certificate of limited partnership, articles of organization or other organizational documents, as applicable, together with the state and date of incorporation and the names, residence addresses and dates of birth of each controlling person. If one or more of the partners, members or shareholders of the applicant is a corporation or other legal entity, the provisions of this subsection relating to information required of a corporation shall apply.
2. In the event that the applicant is a corporation, general or limited partnership, limited liability company or other legal entity, the applicant shall designate one of its officers, general partners, or members to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this article. The applicant shall provide a copy of the corporation, partnership or limited liability company formation documents.
3. The name of the applicant and each controlling person, any alias or other name used or by which the applicant or any controlling person has been previously known, his or her current residence and business addresses, telephone numbers, including facsimile numbers and e-mail addresses, if applicable.
4. The names and addresses of the alarm agents employed by the alarm business.
5. The residence and business address of the applicant and each controlling person for the five-year period immediately preceding the date of filing of the application and the inclusive dates of each such address.

6. Proof that the applicant and each controlling person is at least eighteen (18) years of age, as indicated on a current driver's license with picture, or other picture identification document issued by a governmental agency.
 7. Height, weight, color of eyes and hair and date of birth of the applicant and each controlling person.
 8. Two (2) current two-inch by two-inch (2" x 2") photographs of the applicant and each controlling person.
 9. The employment history of the applicant and each controlling person for the five (5) year period immediately preceding the date of the filing of the application.
 10. Information as to whether the applicant or any controlling person, or the business on behalf of which the license is being applied for, has ever been refused or denied any similar license or permit, or has had any similar permit or license revoked, canceled or suspended, and the reason or reasons for the revocation, denial, cancellation or suspension.
 11. Whether or not the applicant or any controlling person has ever been convicted of a crime, regardless of whether the conviction was later set aside or expunged, in any domestic, foreign or military court. "Crime" means any and all felonies, misdemeanors and serious driving offenses, including driving under the influence of intoxicating liquor or drugs, reckless driving, driving on a suspended, revoked, canceled or refused driver license, or any driving offense for which the possible penalty includes jail time. "Crime" does not include minor or civil traffic offenses. "Convicted" means having plead guilty or no contest to a crime, having been found guilty of a crime, or having been sentenced for a crime, whether incarcerated, placed on probation, fined or having received a suspended sentence. An applicant or controlling person shall also answer "yes" to this question, even though he or she has not been convicted of a crime, if the applicant or controlling person is presently pending trial or other court proceeding for a crime.
 12. For initial and renewal applications for primary alarm business licenses only, one (1) full set of fingerprints on fingerprint cards, or fingerprint data, as provided in section 7-455 for the applicant and each controlling person. Fingerprints or fingerprint data must be submitted on fingerprint cards provided or approved by the licensing jurisdiction, but may be taken by any law enforcement or other government agency.
 13. Copies of the State of Arizona Registrar of Contractor's C-11, C-12 or I-67 license, as applicable, or a copy of the K-67 license for combined residential and commercial, issued to the alarm business applicant, and a copy of the state transaction privilege tax license, if applicable.
 14. A list of all Arizona counties, cities and towns where the applicant conducts business.
 15. An express agreement by the alarm business that any and all records of the alarm business, whether written or recorded, electronically or otherwise, or in any other form, relating to information required to be supplied to the police department in case of an alarm, shall be made available within three (3) business days upon request for inspection by agents of the police department.
 16. A copy of a valid primary alarm business license if the application is made for an original or renewal reciprocal alarm business license.
 17. Such other information, evidence, statements or documents as may be deemed by the finance director to be reasonably necessary to process and evaluate the application or renewal.
- B. Applicants for primary or reciprocal alarm business licenses, or applicants for renewal of any such licenses, shall notify the finance director, in writing, of

any change in the information contained in the license application or renewal application. Notification shall be given to the finance director within fifteen (15) calendar days of the occurrence of the change.
(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05; Ord. No. 10967, § 4, 2-28-12, eff. 4-1-12)

Sec. 7-454. Alarm agent license applications.

A. An alarm agent license application shall include the following information about the applicant:

1. The name of the applicant and any alias or other name, used by or by which the applicant has been previously known, his or her current residence and business addresses, telephone numbers, including facsimile numbers, and e-mail addresses, if applicable.
2. The name, business address and business telephone number of the alarm business where the applicant is or will be employed.
3. Proof that the applicant is at least eighteen (18) years of age, as indicated on a current driver license with picture, or other picture identification document issued by a governmental agency.
4. Height, weight, color of eyes and hair and date of birth of the applicant.
5. Two (2) current two-inch by two-inch (2" x 2") photographs of the applicant.
6. The applicant's employment history for the five (5) year period immediately preceding the date of the filing of the application.
7. Information as to whether, in this city or elsewhere, the applicant has ever been refused or denied any similar license or permit, or has had any similar permit or license revoked, canceled, or suspended and the reason or reasons for the revocation, denial, cancellation or suspension.
8. Whether or not the applicant has ever been convicted of a crime, regardless of whether the conviction was later set aside or expunged, in any domestic, foreign or military court. "Crime" means any and all felonies, misdemeanors and serious driving offenses, including driving under the influence of intoxicating liquor or drugs, reckless driving, driving on a suspended, revoked, canceled or refused driver's license, or any driving offense for which the possible penalty includes jail time. "Crime" does not include minor or civil traffic offenses. "Convicted" means having plead guilty or no contest to a crime, having been found guilty of a crime, or having been sentenced for a crime, whether incarcerated, placed on probation, fined or having received a suspended sentence. An applicant shall also answer "yes" to this question, even though he or she has not been convicted of a crime, if the applicant is presently pending trial or other court proceeding for a crime.
9. One (1) full set of fingerprints on fingerprint cards, or fingerprint data, as provided in section 7-455. Fingerprints or fingerprint data must be submitted on fingerprint cards provided or approved by the licensing jurisdiction, but may be taken by any law enforcement or authorized government agency.
10. A list of all Arizona counties, cities or towns where the applicant conducts business.
11. Such other information, evidence, statements or documents as may be deemed by the finance director to be reasonably necessary to process and evaluate the application or renewal.

B. Applicants for alarm agent licenses, or applicants for renewal of such licenses, shall notify the finance director, in writing, of any change in the information contained in the license application or renewal application. Notification shall be given to the finance director within fifteen (15) calendar days of the occurrence of the change.
(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-455. Background investigation; fingerprints.

A. As a condition of the issuance of licenses pursuant to this article, the finance director shall require each applicant and controlling person to furnish one (1) full set of fingerprints, or fingerprint data, to enable the police department to conduct a criminal background investigation to determine the suitability of the applicant or controlling person.

B. The finance director shall immediately transmit all completed applications to the chief of police, who shall investigate an application and the background of the applicant and make a recommendation to the director for approval or denial of a license. This recommendation shall be completed within twenty (20) days of receipt of the application. The police department shall submit or electronically transmit all completed fingerprint cards to the department of public safety to conduct a statewide criminal history check. The applicant or controlling person shall bear the cost of conducting the criminal background investigation. The cost shall not exceed the actual cost of obtaining the criminal history information. Criminal history records checks shall be conducted pursuant to A.R.S. § 41-1750 and Public Law 92-544, as amended. The department of public safety is authorized to exchange the submitted fingerprint card information with the Federal Bureau of Investigation for a National Criminal History Records check.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-456. Fees; display of licenses.

A. The following fees are non-refundable, nontransferable, and will not be prorated.

1. *Initial license application fee:*

- (a) Primary alarm business. \$200.00
- (b) Reciprocal alarm business. 75.00
- (c) Alarm agent. 70.00

2. *License renewal fee:*

- (a) Primary alarm business 20.00

- (b) Reciprocal alarm business. 10.00

- (c) Alarm agent. 20.00

- 3. The current cost of obtaining from the Arizona Department of Public Safety and the Federal Bureau of Investigation criminal history information.

- 4. Duplicate license fee. \$10.00

B. Alarm business licenses shall state whether they are primary alarm business licenses or reciprocal alarm business licenses. The primary alarm business license or reciprocal alarm business license, as applicable, shall be at all times conspicuously displayed at the alarm business's central station or office.

C. Alarm agent licenses shall be carried on the person of an alarm agent at all times while so employed and the alarm agent shall display the license to any police officer or authorized representative of this city upon request.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-457. Renewal of license.

A. The holder of a primary alarm business license, reciprocal alarm business license or alarm agent license shall renew the license annually by submitting a renewal application containing the information listed in section 7-453 or 7-454, as applicable, and paying the required renewal fee and the costs for a criminal history investigation. The holder of a reciprocal alarm business license, as a condition of renewal, shall also submit a copy of the approved primary alarm business license upon which reciprocity is based.

B. Applications for license renewal shall be filed with the finance director not later than ninety (90) days prior to the expiration of the license currently in effect. Applications for license renewal shall not be accepted after ninety (90) days prior to the expiration date of the license. In the event that a license expires without the licensee having submitted a timely application for renewal, the holder of the expired license must file a new application for initial license and shall comply with all of the requirements provided herein for obtaining an initial license.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-458. Issuance; grounds for denial; petition for review.

A. The finance director will issue a license provided for by this article to an applicant, or renew a license, if applicable, when the following conditions of the applicable licensing provisions have been fully satisfied:

1. All application requirements have been met, including any criminal history background checks and fingerprint requirements.
2. All fees have been paid in full.
3. No grounds for denial listed in this section exist.

B. The finance director shall deny a license or deny the renewal of a license if, at the time of the filing of an original application or a request for renewal, the finance director has reasonable grounds to believe that an applicant, licensee or controlling person:

1. Has been previously convicted, in any jurisdiction, of a felony or a misdemeanor involving fraud, theft, dishonesty, moral turpitude, physical violence, assault, indecent exposure, illegal use or possession of a deadly weapon, or a violation of A.R.S. title 13, chapter 34 (drug offenses, including but not limited to those relating to possession, sale or other conduct involving marijuana, narcotic drugs, precursor chemicals and prescription drugs), or offenses committed in another jurisdiction, which if committed in Arizona would be in violation of A.R.S. title 13, chapter 34, within the five-year period immediately preceding the filing of an original application or a request for renewal, whether or not the conviction or convictions have been expunged from court records pursuant to law.
2. Has prepared or filed an application or request for renewal which contains any false or misleading information, submitted false or misleading information in support of such application or request, or failed or refused to make full disclosure of all information required by this article.

3. Has had a license relating to alarm businesses or agents, as applicable, or a license of similar character, issued by another authority, suspended, canceled or revoked within the five-year period immediately preceding the date of the filing of the application.
4. Has violated a provision of this article, or has committed any act which, if committed by a licensee, would be grounds for the denial or revocation of a license pursuant to this article.

C. Notice shall be given of any denial of a license application, or a request for renewal, in writing, either by hand-delivery or by mail, to the address of record. The notice shall include the reasons for denial of the license or license renewal.

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 in the city court. The petition for review shall be as set forth in section 7-460 relating to petitions seeking suspension or revocation of a license, with the exception that the sole basis for the magistrate, special magistrate or limited special 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 this section.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-459. Suspension or revocation; grounds.

The finance director may suspend or revoke any primary or reciprocal alarm business or alarm agent license, when the finance director has reasonable grounds to believe any of the following:

1. The licensee, or any controlling person, has violated any of the grounds for denial of a license.
2. The licensee or any controlling person has failed to comply with the requirements of this article, including failure to provide changes in license information, as required.
3. The licensee has failed to comply with the requirements of this article relating to alarm business or alarm agent responsibilities, false alarms or assessments.

4. The licensee has failed to maintain in good standing all licenses or permits which are required pursuant to this article to hold a primary or reciprocal alarm business license, or alarm agent license, as applicable.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-460. Suspension or revocation procedure; hearing.

A. The director of finance, upon notification by the chief of police or the city attorney that grounds for suspension exist, shall file a written petition for suspension with the city court, requesting that a time and place be set for a hearing and specifying the grounds for suspension per section 7-459.

B. Within five (5) days of receipt of a petition, a magistrate, special magistrate or limited special magistrate shall schedule a hearing, which shall be conducted within fifteen (15) days of the receipt of the petition to suspend or revoke. The magistrate, special magistrate or limited special magistrate shall notify the parties in the manner provided in subsection (f) and shall state the grounds relied upon for the proposed suspension.

C. Should the licensee fail to appear at the hearing, a default judgment of suspension shall be entered.

D. A record shall be kept of all proceedings. The Arizona Rules of Evidence shall not apply. Any evidence offered shall be admitted subject to a determination by the magistrate, special magistrate or limited special magistrate that the offered evidence is relevant and material and has some probative value as to a fact at issue.

E. No license shall be suspended unless grounds therefore are established by a preponderance of the evidence. The magistrate, special magistrate or limited special magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (b) of this section. The magistrate, special magistrate or limited special magistrate's signing of the written notice of the decision shall effect the suspension of a license.

F. A licensee's right to operate an alarm company or act as an alarm agent under authority of the license shall terminate immediately upon giving or mailing to the licensee a copy of the signed decision suspending the license; except that the suspension may be stayed by the superior court pending a timely appeal of the decision by special action. Such appeal must be filed within ten (10) days after the decision to suspend is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the suspension becomes final.

G. Notices required by this article shall be served by certified mail to the licensee's attorneys or to the licensee at the address as shown on the licensee's license, or by personal service.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-461. Suspension or revocation; notice to reciprocal licensors.

The finance director shall transmit, by facsimile, notice of the suspension or revocation, when such action is final, to all counties, cities, and towns listed on the licensee's application. The suspension or revocation of a primary alarm business license shall result in the same action being taken as to all reciprocal alarm business licenses which are derived from that primary alarm business license.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-462. Application after denial, suspension or revocation of license.

No person, association, firm, corporation or other legal entity may apply for any license required under this article within one (1) year from the denial of any such license to such applicant, or from the non renewal or revocation of any such license, unless the cause of such denial, revocation or non-renewal has been, to the satisfaction of the finance director, removed within such time. This section shall be inapplicable to denials of applications or renewal when the reason for denial was for an administrative, technical or otherwise nonmaterial reason.

(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-463. Termination and cancellation of license; notice.

A. An alarm agent who terminates employment with an alarm business shall immediately surrender the alarm agent license to the finance director.

B. An alarm agent who terminates employment with an alarm business to change employment to another alarm business licensee shall notify the finance director of the transfer, in writing, within fifteen (15) calendar days of the change in employment.

C. An alarm business may cancel an alarm business license by filing a notice of cancellation of the license with the finance director. The notice of cancellation shall include the effective date of the cancellation. In the event of the cancellation of a primary alarm business license, notice shall be given to all jurisdictions in which reciprocal alarm business licenses have been issued and are active. Reciprocal alarm business licenses shall be canceled as of the effective date of the cancellation of the primary alarm business license, unless the licensee requests the license be cancelled sooner.
(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

Sec. 7-464. Violation.

It shall be unlawful for any person to violate any provision of this article, or to operate or act as an alarm company, monitoring company or alarm agent on a revoked or suspended license or without a license. Each day the violation continues shall constitute a separate offense.
(Ord. No. 9975, § 1, 5-24-04, eff. 1-1-05)

DIVISION 2. ALARM USER REGISTRATION AND FEES**Sec. 7-465. Alarm administration.**

Notwithstanding the provisions of section 7-451(b), this division shall be administered in a manner prescribed by the chief of police.
(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-466. Alarm business duties.

(a) *Duties.* The duties of an alarm business shall be as follows:

- (1) To install an SIA Control Panel Standard CP-01 alarm system compatible with the environment, to take reasonable measures to prevent the occurrence of false alarms; and, if it has agreed to provide maintenance or repair service to the system, to service the system within seventy-two (72) hours of a request for service. Shall only install dual-action button holdup devices whenever installing a push button holdup alarm.
- (2) To provide written and oral instructions to each of its alarm users and/or the principal occupants of the buildings or premises protected by an alarm system in the proper use and operation of the system. Such instruction will specifically include all necessary instructions in turning the alarm on and off and in avoiding false alarms.
- (3) To provide each purchaser and user with a copy of this chapter relating to alarm user duties, false alarm assessments and an alarm user/proprietor registration application or web address for online application.
- (4) The alarm business and the alarm user or proprietor alarm owner shall complete and sign the alarm user/alarm company information form with alarm user and the alarm business shall submit the form to the police department within ten (10) days of commencement of service.
- (5) Upon leasing, renting, selling or monitoring an alarm system:
 - (A) To conspicuously place on the premises a tag identifying the pertinent alarm business including the telephone number to call when the alarm has been activated.

- (B) To inactivate or cause to be inactivated the audible alarm within fifteen (15) minutes of the notification of its activation in the event the primary and alternate cannot be contacted or does not respond.
- (C) The central receiving station must use enhanced call verification for every alarm signal except a fire, holdup, robbery, panic, or duress alarm activation prior to making an alarm dispatch request.
- (D) To organize its central receiving station to readily and positively identify the type of alarm, i.e. burglary, robbery or panic, and the location of the alarm, if there is more than one (1) system; whether the alarm is audible or silent; the alarm user registration number and the description of the zone or sensor activated and the name and response time of a responsible party.
- (E) To maintain records as to each of these alarm systems, devices or services which should include the name of the owner or occupant of the premises, the name and telephone number of the user, a primary person and an alternate responsible party for responding to the premises when the alarm is activated, information concerning whether the alarm system includes an audible alarm and records of any alarm activation for a period of one (1) year from the date of the activation.
- (F) To notify the police department of activated alarm systems in the manner prescribed by the chief of police, including such reasonable information concerning the alarm system as the chief of police may request. Reasonable information shall include the names of persons from the activated alarm location who have contracted with the alarm business and any mailing or telephonic information for the activated alarm location. The information shall be made available at any time upon request by the city or police department representative.
- (G) To arrange for the alarm user or other responsible party to go to the premises of an activated alarm system within sixty (60) minutes in order to be available to assist the police in determining the reason for activation and securing the premises. In no event shall there be an unreasonable delay in arriving at the location of the alarm. If the police depart the premises prior to this requirement being met and the police are unable to determine the reason for the activation, such activation shall be deemed a false alarm.
- (H) To notify the alarm user or other responsible party, in the case of a monitored alarm system, of all alarm activations at the alarm user's premises within twenty-four (24) hours of activation, not including weekends or holidays, by telephone, electronic mail, facsimile transmission or written notice deposited in the united states mail.
- (I) To notify the alarm user that the user may choose not to register and forego a police response except for a fire, holdup, robbery, panic, or duress alarm activation. In such instances, if an dispatch request is made in an instance other than a fire, holdup, robbery, panic, or duress situation the alarm user shall be considered to be unregistered and subject to section 7-475(a)(2).
- (6) The alarm business shall notify the alarm administrator within ten (10) days in the event the alarm business ceases to lease, rent, maintain service or monitor any alarm system.
- (7) Any alarm business that sells an alarm or an alarm system with monitoring services, or leases, rents, installs, maintains or services

an alarm or alarm system shall be subject to subsections (a)(1) through (a)(6) of this section.

- (8) Alarm businesses which monitor but do not sell, lease, rent, install, service or maintain alarms or alarm systems shall not be subject to subsections (a)(3) through (a)(6) of this section.
- (9) Alarm businesses which sell or install alarms or alarm systems but do not lease, rent, monitor, service or maintain them shall be subject to subsections (a)(1) through (a)(4).
- (10) Alarm businesses which do not monitor, maintain, service or install alarms or alarm systems shall not be subject to subsection (a) of this section, but shall be responsible for instructing each person who purchases an alarm or an alarm system in the proper use and operation of the alarm, informing each alarm user or alarm purchaser to contact the alarm administrator for information regarding this chapter, advising each alarm user or alarm purchaser of the requirement of an alarm user registration and providing a copy of this chapter to each alarm user or alarm purchaser. Such instruction will specifically include all necessary instructions in turning the alarm on and off and in avoiding false alarms.
- (11) Alarm businesses shall provide a list of its customers to the alarm administrator in the format prescribed by the alarm administrator and shall be updated by the business on a monthly basis and provided to the alarm administrator no later than the 5th of each month. Information required of customers shall consist of their full name, address, and phone number and any concern or safety consideration present at the alarm site that a law enforcement officer should be aware of.

(b) *Penalty.* An alarm business which violates any provision of this section is responsible for a civil infraction and may be fined in an amount not to exceed two hundred fifty dollars (\$250.00).

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-467. Alarm user's and proprietor alarm owner duties.

The duties of an alarm user and proprietor alarm owner shall be as follows:

- (1) To instruct and inform all persons or personnel, who are authorized to place the system or device into operation, in the appropriate method of operation, the provisions of this chapter, and emphasizing the importance of avoiding false alarms.
- (2) To apply for an alarm user registration from the alarm administrator within ten (10) days of commencement of alarm service.
- (3) To respond to or to make arrangements for a responsible person to respond to the scene of an activated alarm within sixty (60) minutes of the alarm activation. The user will be responsible for any costs to secure the property if the police department has been dispatched.
- (4) To maintain the alarm or alarm system in good working order and take reasonable measures to prevent the occurrence of false alarms.
- (5) An alarm user who violates any provision of this section is responsible for a civil infraction and may be fined in an amount not to exceed two hundred fifty dollars (\$250.00).

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-468. Activation for unauthorized purposes.

It shall be unlawful for any person to intentionally activate any robbery alarm for any reason other than to warn of an actual robbery or to intentionally activate any burglar alarm for any reason other than to warn of an unauthorized entry into an alarm protected premises or to intentionally activate any commercial panic alarm for any reason other than to signal a life threatening or emergency situation requiring law enforcement response. An alarm user who violates any provision of this section is responsible for a civil infraction and may be fined in an amount not to exceed two hundred fifty dollars (\$250.00).

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-469. Shutting off after sounding alarm.

A person or business that purchases, leases, or rents an audible alarm system, device or service shall not allow the alarm to sound in excess of fifteen (15) minutes.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-470. Automatic or prerecorded messages or signals.

A person shall not use or cause to be used any telephone device or telephone attachment that automatically selects a public primary telephone trunk line of the city and then reproduces any prerecorded message or signal.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-471. Confidentiality.

The information furnished and secured pursuant to this division shall be confidential and shall not be subject to public inspection consistent with Arizona public records laws. The city shall take reasonable precautions to protect the confidentiality of the proprietary records of the alarm businesses.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-472. Government immunity.

An alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the police department response may be influenced by factors such as the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, and prior response history.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-473. Grace period.

Newly installed and reinstalled alarm systems shall not be subject to the provisions of this division relating to the counting and assessment of false alarms

for a period of thirty (30) days from the date the alarm system becomes operational. The grace period shall apply only if the alarm business or proprietor alarm owner notifies the alarm administrator in writing within ten (10) days of the completion of installation or reinstallation. The written notice shall specify the date the system was installed or reinstalled. For reinstalled alarm systems, the notice shall also describe the nature and extent of the reinstallation.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-474. Alarm user registration.

(a) An alarm user shall not operate, or cause to be operated, an alarm system at its alarm site without a valid alarm registration. Operating an alarm while an alarm registration is suspended is deemed to be operating an alarm without an alarm registration if the alarm administrator or police officer has made reasonable effort to notify the alarm user of excessive false alarms.

(b) Each alarm user and proprietor alarm owner shall apply for and receive an alarm user registration from the alarm administrator. An alarm user registration shall be kept within the premises protected by the alarm and shall be available for inspection by the police department. A separate registration is required for each address or separate units.

(c) An alarm registration application and fee shall be submitted within ten (10) calendar days of the installation date of a new alarm system or alarm system takeover. Alarm user registration will be on forms or by electronic means approved by the alarm administrator and are valid for three hundred sixty-five (365) days unless suspended pursuant to section 7-477. It is the responsibility of the alarm user to submit an application prior to the registration expiration date. Failure to renew will be classified as use of a non-registered alarm system and citations and penalties shall be assessed without waiver.

(d) The fee for an alarm registration or an alarm registration renewal shall be twenty dollars (\$20.00).

(e) If an alarm user has multiple alarm systems at one location, an alarm user registration is required for each system. For the purposes of this division:

- (1) The owner of an apartment complex or other residential rental property that has an existing alarm system shall be deemed to be the alarm user. Each unit shall be considered a separate address. The common areas of offices of the apartment complex will be considered one address.
- (2) The tenant of an apartment or other residential rental property who installs, purchases, or rents an alarm system or initiates monitoring services shall be deemed to be the alarm user and must apply for an alarm user registration.

(f) Upon receipt of a completed alarm user registration application and the alarm registration fee, the alarm administrator shall register the applicant unless the applicant has:

- (1) Failed to pay an assessment under section 7-475; or
- (2) Had an alarm registration for the alarm site suspended or revoked and the violation causing the suspension or revocation has not been corrected.

(g) Each alarm user registration application must include the following information:

- (1) The name, complete address (including apt/suite number), and telephone numbers of the person who will be the registration holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
- (2) The classification of the alarm site as either residential (includes apartment, condominium, mobile home, or other multifamily dwelling) or commercial;
- (3) For each alarm system located at the alarm site, the classification of the alarm system (i.e. burglary, holdup, duress, panic alarms or other) and for each classification whether such alarm is audible or silent;

- (4) Mailing address, if different from the address of the alarm site;
- (5) Any dangerous or special conditions present at the alarm site;
- (6) Names and telephone numbers of at least two (2) individuals who are able and have agreed to receive notification of an alarm system activation at any time, respond to the alarm site within sixty (60) minutes when requested, and upon request can grant access to the alarm site and deactivate the alarm system if necessary;
- (7) Type of business conducted at a commercial alarm site;
- (8) Signed certification from the alarm user stating the following:
 - (A) The date of installation, conversion or takeover of the alarm system, whichever is applicable;
 - (B) The name, address, and telephone number of the alarm business or companies performing the alarm system installation, conversion or takeover and of the alarm business responsible for providing repair service to the alarm system;
 - (C) That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the applicant by the alarm business; and
 - (D) That the alarm business has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms.

(h) Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue a registration.

(i) An alarm registration may not be transferred to another person or alarm site. An alarm user shall inform the alarm administrator of any change that alters any of the information listed on the alarm registration application within five (5) business days of such change.

(j) All assessments and fees owned by an applicant must be paid before an alarm registration may be issued or renewed.

(k) Alarm systems that are operated by the city, county, state, or federal government and installed on premises that such entity occupies or uses for governmental purposes are not subject to this division. However, such entities shall apply for and obtain a registration for each alarm system it operates and the registration fee shall be waived. Any government entity having excessive alarms may be subject to the alarm user awareness class or suspension of response. (Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-475. Excessive false alarms/failure to register.

(a) It is found that two (2) or more false alarms within a three hundred sixty-five (365) day period is excessive and constitutes a public nuisance. A fee for false alarms within a three hundred sixty-five (365) day period shall be assessed as follows:

- (1) If the alarm site has a properly registered alarm user:
 - (A) For the first false alarm, whether a burglary alarm or a panic, holdup, or duress alarm activation there shall be no assessment;
 - (B) For the second false alarm whether a burglary alarm or a panic, holdup, or duress alarm activation the assessment shall be one hundred dollars (\$100.00) but is eligible to be waived under subsection (g) if the alarm user completes an alarm user awareness class within ninety (90) days of receipt of the invoice;

(C) For the third through seventh burglary false alarms the assessment shall be one hundred dollars (\$100.00) except that for a panic, holdup, or duress false alarm the assessment shall be two hundred dollars (\$200.00);

(D) For all subsequent false alarms after the seventh burglary false alarm, the assessment shall be two hundred dollars (\$200.00) except that for a panic, holdup, or duress false alarm the assessment shall be three hundred dollars (\$300.00) and police response may be suspended after the seventh false alarm regardless of alarm type.

(2) If the alarm site does not have a properly registered alarm user:

(A) The assessment for the first false alarm shall be the same as specified in paragraph (1)(b), but shall be waived if the person applies for and obtains an alarm user registration within ten (10) days of receipt of the invoice and completes an alarm user awareness class within ninety (90) days of receipt of the invoice.

(B) The assessment for the second through seventh burglary false alarms and panic, holdup, or duress false alarms shall be the same as specified in paragraph (1)(c); and

(C) For all subsequent false alarms after the seventh burglary false alarm and panic, holdup, or duress false alarm, the assessment shall be the same as specified in paragraph (1)(d) and police response may be suspended after the seventh false alarm regardless of alarm type.

(b) Fees shall be paid within thirty (30) days from the date of the invoice.

(c) Operating an alarm without an alarm registration is subject to a one hundred dollar (\$100.00) service fee, in addition to the assessments provided for in subsection (a) for each false alarm activation to partially recover the costs of the police response.

(d) Failure to pay any fee within ninety (90) days of its due date may result in the immediate suspension of the alarm registration and police response.

(e) An alarm user at an alarm site with ten (10) or more false alarms within a three hundred sixty-five (365) day period is guilty of a class 1 misdemeanor and shall discontinue operation of the alarm system. Failure to do so may result in the immediate suspension of the alarm registration and police response.

(f) The three hundred sixty-five (365) day period specified in section (a) shall begin upon submission of a completed registration application.

(g) The completion of the alarm user awareness class will result in the waiver of one hundred dollars (\$100.00) in assessment fees and may be applied to any false alarm occurrence within the three hundred sixty-five (365) day period.

(h) If the alarm user presents a written agreement with their alarm business that the business must contact the user prior to notifying police and can produce evidence that a false alarm was the result of the business not contacting the user, the assessment shall be waived.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-476. Assessment petition.

(a) If the alarm administrator assesses a fee under section 7-475 or denies the issuance, renewal, or reinstatement of an alarm registration, the alarm administrator shall send written notice of the action and a statement of the right to an appeal to either the affected applicant or alarm user or proprietor alarm owner.

(b) The alarm user or proprietor alarm owner may appeal an assessment of a fee or the suspension of an alarm registration by setting forth in writing the reasons for the appeal to the alarm. The appeal must be filed with the administrator within ten (10) business

days after receipt of the assessment or notice of suspension.

(c) The alarm administrator shall, within five (5) business days of a notice of appeal, provide the finance director with notice of the appeal. The finance director shall forward the appeal to the zoning examiner who shall, within a period of thirty (30) days from receipt of the notice of appeal from the alarm administrator, hear the appeal and the facts as presented by the appellant and the alarm administrator, affording both parties a reasonable and equal amount of time for the presentation of facts, evidence, and the questioning and cross-examination of witnesses. The hearing shall be conducted in an informal manner and the Arizona rules of evidence shall not apply. Within ten (10) business days of the hearing, the hearing officer shall render a final, written decision affirming or reversing the decision of the alarm administrator.

(d) Filing of a notice of appeal shall stay the action by the alarm administrator suspending an alarm permit or requiring payment of the assessment, until the hearing officer has rendered a decision. If a request for an appeal to the finance director is not made within the required ten (10) business day period, the action of the alarm administrator is final.

(e) The alarm administrator may adjust the count of false alarms based on reasonable evidence including but not limited to: (1) a false alarm was caused by an act of god; (2) a false alarm was caused by action of the telephone company; (3) a false alarm was caused by a power outage lasting longer than four (4) hours; and/or (4) the alarm dispatch request was not a false alarm. (Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-477. Suspension of response.

(a) The alarm administrator may suspend law enforcement response to an alarm site by suspending the alarm registration if it is determined that:

- (1) The alarm user has seven (7) or more false alarms in a three hundred sixty-five (365) day period;
- (2) There is a statement of a material fact known to be false in the registration application;

- (3) The alarm user has failed to make timely payment of an assessment under section 7-475; or
- (4) The alarm user has failed to submit a written certification from an alarm business, that complies with the requirements of this article, stating that the alarm system has been inspected and repaired (if necessary) and/or additional training has been conducted by the alarm business.

(b) Unless there is separate indication that there is a crime in progress, the alarm administrator may refuse response to an alarm dispatch request at an alarm site for which the alarm registration is suspended.

(c) A person commits a civil offense if he or she operates an alarm system during the period in which the alarm registration is suspended and may be fined in an amount not to exceed two hundred fifty dollars (\$250.00).

(d) A monitoring company commits a civil offense if it continues alarm dispatch requests to an alarm site after notification by the alarm administrator that the registration has been suspended and may be fined in an amount not to exceed two hundred fifty dollars (\$250.00).

(e) If the alarm registration is reinstated pursuant to section 7-478, the alarm administrator may suspend police response to the alarm site by again suspending the alarm registration if it is determined that two (2) false alarms have occurred within sixty (60) days after the reinstatement date.
(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-478. Reinstatement.

(a) A person or entity whose alarm user registration has been suspended may, at the discretion of the alarm administrator, have the alarm user registration reinstated if the person:

- (1) Pays, or otherwise resolves, all outstanding citations and assessments; and
- (2) Provides satisfactory evidence to the alarm administrator that the alarm system has been

inspected and repaired (if necessary) by the alarm business; and/or that additional training in the proper use of the alarm system was provided by the alarm business for all alarm users.

(b) In addition, the alarm administrator may require one (1) or more of the following as a condition to reinstatement:

- (1) Proof that an employee of the alarm business caused the false alarm;
- (2) Completion of the alarm user awareness class as provided under sec. 7-479;
- (3) Upgrade the alarm control panel to meet ANSI/SIA Control Panel Standard CP-01;
- (4) A written statement from an independent inspector that the alarm system has been inspected and is in good working order;
- (5) Confirmation that all motion detectors, glass break detectors, or robbery/panic buttons are “dual technology” or dual action type;
- (6) Confirmation that the alarm business will not make an alarm dispatch request unless the need for law enforcement is confirmed by audio or video verification; and
- (7) Confirmation that the alarm business will not make an alarm dispatch request unless the need for law enforcement is confirmed by a person at the alarm site.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

Sec. 7-479. Alarm user awareness class.

The chief of police may create and implement an alarm user awareness class and may request the assistance of the area alarm association member companies to assist in developing and implementing the class. The class shall be offered free of charge and inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms.

(Ord. No. 10967, § 5, 2-28-12, eff. 4-1-12)

ARTICLE XXII. MERCHANTS' DISCLOSURE REQUIREMENTS

Sec. 7-480. Requiring merchants to make certain disclosures related to the sale of motorized skateboards and motorized play vehicles; penalty.

A. It is unlawful for a merchant to sell motorized skateboards or motorized play vehicles without making the disclosures required by this section.

B. Any merchant who sells motorized skateboards or motorized play vehicles within the city limits of Tucson shall:

1. Post, in a prominent place at each location where motorized skateboards or motorized play vehicles are on display, a notice to the effect that operation of motorized skateboards and motorized play vehicles is prohibited:
 - (a) On any public sidewalk, roadway, or any other part of a highway or on any bikeway, bicycle path or trail, equestrian trail, or shared-use path in the city limits of Tucson; and
 - (b) On any private property of another without the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.
2. Provide a copy of such notice to each purchaser of a motorized skateboard or motorized play vehicle, either before or in connection with the purchase.

C. The definitions of "motorized skateboard" and "motorized play vehicle" contained in section 20-30 of this code shall also apply to this section.

D. Violation declared civil infraction violation. Unless otherwise specifically stated in this chapter, any violation of this section is punishable as a civil infraction violation pursuant to chapter 8 of this Code. (Ord. No. 9962, § 2, 5-10-04, eff. 1-1-05)

Sec. 7-481. Requiring merchants to make certain disclosures related to the sale of motorized bicycles or tricycles; penalty.

(a) It is unlawful for a merchant to sell motorized bicycles or tricycles without making the disclosures required by this section.

(b) Any merchant who sells motorized bicycles or tricycles within the City Limits of Tucson shall:

- (1) Post, in a prominent place at each location where motorized bicycles or tricycles are on display, a notice to the effect that operation of motorized bicycle or tricycle is prohibited:
 - a. For persons under sixteen (16) years of age.
 - b. On any public sidewalks, multi-use path, and shared use path and on any designated pedestrian path in any public park.
 - c. For persons under eighteen (18) years of age unless the person is wearing a properly fitted and fastened bicycle helmet which meets the current standards of the American National Standards Institute for protective headgear.
 - d. At night unless the motorized bicycle or tricycle has a lamp and red rear reflector.
- (2) Provide a copy of such notice to each purchaser of a motorized bicycle or tricycle, either before or in connection with the purchase.
- (3) The notice also shall advise that a motorized bicycle or tricycle operated in excess of nineteen (19) miles per hour is regulated by state law and must comply with state law requirements.

(c) As used in this section, "motorized bicycle or tricycle" shall have the same meaning as it has under section 5-5 of this Code.

(d) Violation declared civil infraction violation. Unless otherwise specifically stated in this chapter, any violation of this section is punishable as a civil infraction violation pursuant to chapter 8 of this Code. (Ord. No. 10321, § 2, 9-19-06)

Secs. 7-482 – 7-489. Reserved.

ARTICLE XXIII. ICE CREAM TRUCK VENDORS*

Sec. 7-490. Definitions.

As used in this article, the following terms are defined as follows:

- (1) “*Chief*” means the Chief of the Tucson Police Department or the chief’s designee.
- (2) “*Director*” means the director of the department of finance or the director’s designee.
- (3) “*Ice cream*” means any frozen dairy or water-based food product.
- (4) “*Ice cream truck*” means any motor vehicle used for ice cream truck vending.
- (5) “*Ice cream truck vending*” means the selling, displaying, or offering to sell ice cream or any other prepackaged food product from an ice cream truck on a street in a residential area or in a city park. Except for activities

licensed to occur in city parks, such term does not include an activity licensed pursuant to another provision of the Tucson Code or the selling, displaying, or offering to sell ice cream or other prepackaged food product from a motor vehicle where ice cream or other prepackaged food products are not the primary products offered or displayed for sale.

- (6) “*Ice cream truck vendor*” or “*vendor*” means any person who owns or operates an ice cream truck.

- (7) “*Residential area*” means any street where over fifty (50) percent of the front footage of either side of the block is devoted to single-family and multiple-family dwellings, dormitories, or mobile homes.

- (8) “*Street*” means any public road, highway, avenue, boulevard, alley, or lane within the city.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06)

Sec. 7-491. License requirements and application procedures.

(a) *In general.* It shall be unlawful for a person to operate as an ice cream truck vendor in a residential area or a city park unless such person has received an ice cream truck vendor license from the director.

(b) *License application.* Any person desiring to obtain or renew an ice cream truck vendor’s license shall file an application with the director. Such initial or renewal application shall contain the following information:

- (1) The full legal name, date of birth, and residence address of the applicant.
- (2) A valid identification issued by any government that includes a photograph of the applicant.
- (3) The year, make, model, and color of the motor vehicle the applicant intends on using as an ice cream truck.

***Editor’s note** – Ord. No. 10244, § 2, adopted Jan. 24, 2006, amended § 3 of Ordinance No. 10236 to read as follows:

(a) Except as provided in Subsection (b), Sections 1 and 2 are not effective until June 1, 2006.

(b) Between April 1, 2006, and June 1, 2006, the Director of the Department of Finance may accept applications for and issue or deny the licenses authorized by Section 1 and collect the occupational license fees authorized by Section 2.

(c) Any license issued pursuant to Section 1 between April 1, 2006, and June 1, 2006, shall be effective as of the date it is issued. Any business license issued to an individual for the operation of an ice cream truck prior to April 1, 2006, shall expire on April 1, 2006.

- (4) A copy of a valid registration certificate issued by the Arizona Division of Motor Vehicles for the ice cream truck identified in paragraph (b)(3).
- (5) If employed by a business or other person, the name and address of such business or person.
- (6) Any conviction of the applicant or vendor for any of the following:
 - a. Any misdemeanor or felony within the previous five (5) years if the offense involved sexual misconduct, prostitution, or any of the offenses enumerated in Chapter 14, Title 13, Arizona Revised Statutes (Sexual Offenses) or Tucson Code § 11-28 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; or
 - b. Any felony at any time if the offense required registration as a sex offender under the laws of Arizona or of any other state, commonwealth, or possession of the United States.
- (7) The applicant's complete fingerprints taken by the Tucson Police Department, along with written verification from the police department of having completed being fingerprinted.
- (8) Proof of valid insurance for the ice cream truck identified in paragraph (b)(3).
- (9) Payment of the occupational license tax required by section 19-45.

(c) *Term of license.* The license issued pursuant to subsection (b) shall be valid for one year from the date of its issuance.

(d) *Lost and expired licenses.* The fee to replace a lost valid license shall be ten dollars (\$10.00). If a vendor's license expires prior to filing for renewal,

such vendor must reapply for a license and pay any applicable fee or tax.

(e) *Applicant background check.* The chief shall forward the fingerprints obtained pursuant to paragraph (b)(7), 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 (b)(6), the chief shall recommend to the director that a vendor license be denied or not renewed; otherwise the chief shall recommend that such license be issued or renewed.

(f) *License issuance/renewal or denial.* The director shall issue an ice cream truck vendor license, or renew such license, upon filing of an application meeting the requirements of subsection (b) and the affirmative recommendation of the chief. If the chief has not made a recommendation to the director within forty-five (45) days after receiving the applicant's fingerprints, the director may consider the application without reference to such a recommendation. If any requirement of subsection (b) is not met or if the chief recommends denial, the director shall deny the applicant a vendor's license or the renewal of such license. If a license is denied or not renewed, the applicant or vendor may appeal pursuant to section 7-492.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06; Ord. No. 10244, § 1, 1-24-06, eff. 6-1-06; Ord. No. 10448, § 14, 9-5-07, eff. 1-1-08)

Sec. 7-492. Appeal procedures.

(a) *In general.* An applicant for an ice cream truck vendor's license, or a vendor seeking renewal thereof, who has been denied a license by the director may appeal such denial as provided in subsection (b).

(b) *Appeal requirements.* The director shall provide written notice of denial or nonrenewal to the applicant or vendor stating the grounds thereof and the procedures to appeal the decision. The notice may be personally served or mailed, return receipt requested, to

the address provided on the application. The applicant for a license, or a vendor seeking renewal thereof, may file an appeal of the director's decision in Tucson City Court, but such appeal must be filed within fifteen (15) days of receipt of the notice or from the date the notice is returned to the director as undeliverable. A hearing shall be scheduled upon receipt of the filing of the appeal before a magistrate or special limited magistrate.

(c) *Hearing.* At the conclusion of the hearing, if the magistrate or special limited magistrate finds that the grounds for the denial or nonrenewal have been established by a preponderance of the evidence, the magistrate shall uphold the director's decision. Either the city or the applicant or vendor may appeal the ruling to the Pima County Superior Court in accordance with the Superior Court Rules of Appellate Procedure-Civil. If the director's decision is upheld and the vendor or applicant appeals to the Superior Court, such person may not operate unless and until such time as the court orders the license issued or otherwise authorizes the person to operate.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06)

Sec. 7-493. Display of license.

The director shall issue a license to the applicant who shall conspicuously display such license on or within the applicant's ice cream truck. A law enforcement officer may detain an individual operating an ice cream truck in a residential area or city park who is actively engaged in offering for sale the food products located thereon for the limited purpose of determining the status of the individual's license issued under this article.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06)

Sec. 7-494. Penalties.

Any person who commits, causes, permits, facilitates, or aids or abets any violation of, or who fails to perform any act or duty required by this article is guilty of a class one misdemeanor.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06)

Sec. 7-495. Separate license required to operate in city parks and other city property.

The license issued pursuant to section 7-491 does not permit an ice cream truck vendor to operate in a

city park or other city property (except city right of way in residential areas) unless such vendor also has a license issued by the director of the department having control over such park or other city property.

(Ord. No. 10236, § 1, 12-20-05, eff. 6-1-06)

Secs. 7-496 – 7-500. Reserved.

ARTICLE XXIV. LESSORS OF COMMERCIAL REAL PROPERTY DISCLOSURE REQUIREMENTS

Sec. 7-501. Definitions.

As used in this article, the term "*non-residential commercial real property*" shall mean any real property zoned for or intended to be used primarily for commercial activities.

(Ord. No. 10562, § 1, 7-8-08, eff. 10-15-08)

Sec. 7-502. Disclosure required.

(a) It is unlawful for any person to enter as lessor into a lease of non-residential commercial real property to which the article applies without making the disclosures required by this section.

(b) Any lessor under a lease to which this article applies must make the following disclosure to the prospective lessee prior to the execution of the lease agreement. A statement advising the prospective lessee to contact the city's Development Services Department (DSD) prior to the execution of the lease agreement to determine whether the property may be occupied for lessee's intended use.

(c) Acknowledgement of the disclosure statement must be signed by the lessor or lessor's agent and the lessee and retained by the lessor or lessor's agent for the duration of the lease.

(Ord. No. 10562, § 1, 7-8-08, eff. 10-15-08)

Sec. 7-503. Exemptions.

The requirements of this article shall not apply to the following:

- (1) A lease of residential real property.

- (2) A lease pursuant to which the lessor performs the construction work for lessee's initial occupancy.
- (3) A lease of the storage spaces at a self-service storage facility, which is defined as any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis.
- (4) A lease for a space within a building where the building or the space already has a certificate of occupancy and the lessee's intended use of the space is identical according to the Tucson Land Use Code and the building code to the use permitted by the certificate of occupancy.

(Ord. No. 10562, § 1, 7-8-08, eff. 10-15-08)

Sec. 7-504. Violation declared a civil infraction.

Unless otherwise specifically stated in this chapter, any violation of this article is punishable as a civil infraction pursuant to chapter 8 of this Code.

(Ord. No. 10562, § 1, 7-8-08, eff. 10-15-08)

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- Sec. 10A-240. Creation.
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- Sec. 10A-243. Committee organization and rules.
- Sec. 10A-244. Limitation of powers.

Sec. 10A-212. Functions, purposes, powers, and duties.

The CCC shall have the following functions, purposes, powers, and duties:

- (1) Develop a climate change mitigation and adaptation plan including recommendations to achieve the city's greenhouse gas reduction commitments along with strategies and steps needed to prepare for the direct and indirect effects of climate change on the city's infrastructure and operations, as well as its ecological, economic and social capital.
- (2) Identify and prioritize concerns and issues relating to long-term environmental, social and economic sustainability of the Tucson community.
- (3) Annually review the city's sustainability strategic plan, provide a written report on the status of implementation of the plan, and recommend revisions to the mayor and council that reflect new information or priorities for pursuing a more sustainable community.
- (4) Review and report to the mayor and council on progress toward achieving adopted sustainability goals and objectives, including those adopted in the mayor's climate protection agreement, utilizing staff of the city manager's office of conservation and sustainable development and other sources for the information necessary for such review.
- (5) Frame priorities for sustainability that balance environmental protection, judicious use of resources, economic vitality, healthy communities, and social equity and that are appropriate to the specific challenges and constraints of the Sonoran Desert, and develop and propose a comprehensive set of sustainability principles to inform city policies, including the general plan.
- (6) Establish methods and indicators to measure success in meeting established sustainability goals.
- (7) Solicit and review recommendations from other city advisory committees regarding indicators, implementation, and/or other aspects of the city's sustainability strategic plan.
- (8) Support and sponsor community programs and projects to provide information and education to the community on ways to improve individual, business, or organizational sustainability.
- (9) Develop and encourage community efforts and resources for community action on sustainability.
- (10) Consult and cooperate with federal, state, county, city, town, or other governmental or public agencies, commissions, and committees, citizens, community groups, academic institutions, and other entities on matters relating to sustainability.
- (11) Consult with the mayor and council as requested relative to specific sustainability issues and needs that may arise.

(Ord. No. 10591, § 1, 10-7-08)

Sec. 10A-213. Staff support; minutes.

The city manager, acting through the office of conservation and sustainable development, shall provide staff to support the functions of the CCC and to maintain minutes of its meetings.

(Ord. No. 10591, § 1, 10-7-08)

Sec. 10A-214. Committee organization; sub-committees.

(a) *Co-chairs.* The CCC shall select from among its principal members two (2) co-chairs who shall serve two-year terms. The co-chairs shall share responsibility for scheduling, presiding at, and directing the conduct

of business at all CCC meetings. No principal member shall serve as a co-chair for more than one term during any consecutive four (4) years. If a principal member serving as a co-chair is absent from a CCC meeting, or must leave a CCC meeting before it is adjourned, the corresponding alternate member for that seat does not automatically take the principal member's place as co-chair for that meeting, but may do so upon specific vote of the CCC.

(b) *By-laws*. The CCC shall adopt bylaws for its operations that are consistent with this Charter and other legal authority and file them with the city clerk.

(c) *Meetings*. The CCC shall choose its own meeting dates, times, and places.

(d) *Subcommittees*. The CCC is empowered to create subcommittees that bring in additional expertise from outside the committee. Subcommittees will have at least three (3) members and no more than seven (7) members, and must have at least one member who is also appointed to the CCC as a principal member. If a principal member assigned to a subcommittee is present at a subcommittee's meeting, then only the principal member counts toward the quorum and can vote, but the alternate member for that CCC seat may also attend and, at the discretion of the subcommittee chair, sit with the subcommittee and participate in discussions of some or all of the items on the agenda. If a principal member assigned to a subcommittee is not present at a subcommittee's meeting, or must leave a subcommittee meeting before it is adjourned, then the alternate member for that CCC seat, if present, counts toward forming or maintaining the quorum and can vote in place of the principal member. No more than three (3) subcommittees can be active at any one point in time. This structure is intended to provide for broader inclusion of technical experts and various affected constituencies in the CCC's decision-making process. All members appointed to subcommittees shall meet the same qualifications listed in section 10A-211(d) for members of the CCC.
(Ord. No. 10591, § 1, 10-7-08)

Sec. 10A-215. Limitation of powers.

Neither the CCC nor any of its members may incur governmental expenses without prior authorization of the mayor and council, nor may the CCC or its members obligate the city in any way.
(Ord. No. 10591, § 1, 10-7-08)

Secs. 10A-216 – 10A-219. Reserved.

ARTICLE XXI. RESERVED*

Secs. 10A-220 – 10A-229. Reserved.

***Editor's note** – Ord. No. 10955, § 2, adopted Jan. 10, 2012, repealed Art. XXI, §§ 10A-220 – 10A-225, which pertained to the Tucson housing trust fund citizens advisory committee and derived from Ord. No. 10337, § 1, adopted Nov. 14, 2006.

ARTICLE XXII. RESERVED***Secs. 10A-230 – 10A-239. Reserved.****ARTICLE XXIII. CITIZEN
TRANSPORTATION ADVISORY
COMMITTEE****Sec. 10A-240. Creation.**

The citizen transportation advisory committee (CTAC) is established.
(Ord. No. 10374, § 2, 2-13-07)

Sec. 10A-241. Membership composition; appointment and terms.

(a) *Membership composition.* The CTAC shall be composed of twelve (12) members who shall serve without compensation.

(b) *Appointment and terms.*

(1) *Appointment.*

(A) Each member of the Mayor and Council shall appoint one (1) member to CTAC.

(B) One (1) member shall be selected by the Commission on Disability Issues (CODI) and may be a member of CODI, notwithstanding Tucson Code § 10A-134(c).

(C) The remaining four (4) positions shall be filled using an application process, as follows:

(i) Selection of members shall be made by a screening committee after publicly announcing and publishing in appropriate media the

availability of membership on the committee and inviting residents of the city to apply.

(ii) There shall be a screening committee consisting of the Director of the Department of Transportation or the Director's designated staff person, the chairperson of the CTAC, and a CTAC member selected by the Director of the Department of Transportation.

(iii) Applicants for membership shall be residents of the City of Tucson, shall be of voting age, and shall comply with other reasonable criteria as established by the screening.

(iv) Members, to the extent possible, shall be selected to broadly represent different segments of the community. Members shall represent various user groups such as elderly and student as well as community organizations. Members shall be selected to represent different ethnic backgrounds and occupational groups.

(2) *Terms.*

(A) The terms of those members appointed by the mayor and council shall be coterminous with the terms of office of the mayor or member of the council who appointed them.

(B) The terms of those members not appointed by the mayor and council shall be four (4) years.

(Ord. No. 10374, § 2, 2-13-07; Ord. No. 10767, § 1, 3-9-10)

***Editor's note** – Ord. No. 10591, § 3, adopted Oct. 7, 2008, repealed Art. XXII, §§ 10A-230 – 10A-234, which pertained to environmental accords/green cities declaration and sustainability committee and derived from Ord. No. 10367, § 1, adopted Dec. 19, 2006.

Sec. 10A-242. Functions and purposes.

CTAC shall have the following functions and purposes:

- (a) Advising the mayor and council on matters relating to transportation.
- (b) Acting as the official advisory body to the department of transportation in the development of its Capital Improvement Program for the city.
- (c) Annually reviewing the proposed Transportation Capital Improvement Program and recommending to the mayor and council both an annual and five (5) year Capital Improvement Budget.
- (d) Reviewing and reporting to the mayor and council on major transportation improvements such as traffic engineering and safety programs, roadway projects, and transit service changes;
- (e) Reviewing and making recommendations to the mayor and council on proposed state and federal legislation relating to transportation.
- (f) Consulting with the mayor and council as required by the mayor and council relative to specific transportation issues and needs which may develop in the future.
- (g) Reviewing and reporting to the mayor and council on the Regional Transportation Plan as developed by the Pima Association of Governments.
- (h) Annually reviewing the proposed Transportation Operating Budget and recommending to the mayor and council an annual operating budget.

(Ord. No. 10374, § 2, 2-13-07)

Sec. 10A-243. Committee organization and rules.

The CTAC chairperson shall be elected by a majority of the members of CTAC. CTAC shall adopt rules and regulations in relation to their functions and purposes and file them with the city clerk. Procedural matters shall be governed by Robert's Rules of Order. (Ord. No. 10374, § 2, 2-13-07)

Sec. 10A-244. Limitation of powers.

Neither CTAC nor any member thereof may incur city expenses or obligate the city in any way without prior authorization of mayor and council. (Ord. No. 10374, § 2, 2-13-07)

Chapter 11

CRIMES AND OFFENSES*

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Sec. 11-19.	Reserved.
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Sec. 11-27.	Same – False entries on register.
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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.

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- 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.

ARTICLE I. IN GENERAL**Sec. 11-1. Air guns, slings, bean shooters, etc.**

It shall be unlawful for any person to shoot or discharge any bullet, stone, shot or other missile with or from an air gun, or with or from a sling or an elastic spring or bean shooter or any other like appliance within the city.

(1953 Code, ch. 18, § 1)

Sec. 11-2. Reserved.

Editor's note – Ord. No. 10967, § 5, adopted February 28, 2012 and effective April 1, 2012, repealed § 11-2, which pertained to alarm systems, false alarms and penalties. The former section derived from Ord. No. 5527, § 1, adopted March 15, 1982; Ord. No. 6855, § 1, adopted December 7, 1987; Ord. No. 7627, § 2, adopted May 6, 1991; and Ord. No. 9975, § 2, adopted May 24, 2004. See now §§ 7-465 et seq.

Sec. 11-3. Apiaries.

An apiary is defined as one (1) or more hives, stands, boxes or other structures, natural or otherwise, containing bees.

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Chapter 16

NEIGHBORHOOD PRESERVATION*

Art. I.	General Provisions, §§ 16-1 – 16-9
Art. II.	Maintenance Standards, §§ 16-10 – 16-19
Art. III.	Slum Property, §§ 16-20 – 16-29
Art. IV.	Unlawful Acts, §§ 16-30 – 16-39
Art. V.	Administration and Enforcement, §§ 16-40 – 16-59
Art. VI.	Abatement, §§ 16-60 – 16-69
Art. VII.	Administrative Appeals, §§ 16-70 – 16-79
Art. VIII.	Liability; Conflicts; Severability; Acknowledgement, §§ 16-80 – 16-99

Article I. General Provisions

Sec. 16-1.	Title.
Sec. 16-2.	Purpose and scope; application of other codes.
Sec. 16-3.	Definitions.
Sec. 16-4.	Permits required.
Secs. 16-5 – 16-9.	Reserved.

Article II. Maintenance Standards

Sec. 16-10.	Scope.
Sec. 16-11.	Building interior.
Sec. 16-12.	Building and structure exteriors.
Sec. 16-13.	Exterior premises and vacant land.
Sec. 16-14.	Dilapidated structures; vacant and unsecured structures; buildings and structures constituting a nuisance.
Sec. 16-15.	Junked or inoperable vehicles.
Secs. 16-16 – 16-19.	Reserved.

***Editor's note** – Ord. No. 9816, §§ 1 – 13, adopted Feb. 24, 2003, repealed various provisions of Chs. 6, 11 and 15. Section 15 of Ord. No. 9816 enacted provisions designated as a new Ch. 16 to read as herein set out. The disposition of former Code sections and their respective new designations is as shown below:

NEIGHBORHOOD PRESERVATION ORDINANCE DISPOSITION TABLE

Showing where the subject matter of former sections of the Tucson City Code is incorporated in the Neighborhood Preservation Ordinance, effective _____, 200__.

<i>Former section(s)</i>	<i>Subject matter</i>	<i>New section(s)</i>
6-66 – 6-68	Dangerous buildings and slum property	16-12; 16-14; 16-20 – 16-28
6-71 – 6-73	Minimum housing requirements	16-11; 16-12
11-46	Public nuisance	16-34
11-65	Junked motor vehicles	16-15
11-71 – 11-84	Noise	16-31
11-130 – 11-135	Graffiti	16-30
11-140 – 11-145	Loud or unruly gatherings	16-32
11-170 – 11-170.3	Registration of residential rental properties	16-20, 16-21
15-7 – 15-10	Accumulation of refuse and vegetation; illegal dumping and littering; persons liable; duty to remove weeds and refuse from abutting sidewalks, streets and alleys; abatement by city; composting; and burning of refuse	16-13; 16-33
15-75	Placing rubbish, trash, filth or debris upon the property of another or public property	16-33

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Article III. Slum Property

- Sec. 16-20. Slum property; definitions.
- Sec. 16-21. Registration of residential rental property.
- Sec. 16-22. Inspection of residential rental property.
- Sec. 16-23. Abatement of slum property.
- Sec. 16-24. Designation of slum property; recordation.
- Sec. 16-25. Notice of designation.
- Sec. 16-26. Appointment of temporary receiver and recovery of costs.
- Sec. 16-27. Recovery of inspection costs.
- Sec. 16-28. Appeal from designation as slum property.
- Sec. 16-29. Licensed property management company; crime free multihousing program; required training.

Article IV. Unlawful Acts

- Sec. 16-30. Graffiti prevention, prohibition and removal.
- Sec. 16-31. Excessive noise.
- Sec. 16-32. Unruly gatherings.
- Sec. 16-33. Placing refuse upon the property of another or public property; illegal littering or dumping prohibited; persons responsible.
- Sec. 16-34. Public nuisance.
- Sec. 16-35. Obstructing streets, alleys or sidewalks prohibited.
- Sec. 16-36. Posting of handbills prohibited.
- Sec. 16-37. Group dwelling public nuisance; abatement.
- Sec. 16-38. Transfer of group dwelling public nuisance property after remediation plan or court order.
- Sec. 16-39. Reserved.

Article V. Administration and Enforcement

- Sec. 16-40. Authority to enforce.
- Sec. 16-41. Rules and regulations.
- Sec. 16-42. Authority and inspections; re-inspection fees; appeal.
- Sec. 16-43. Enforcement independent of other provisions.
- Sec. 16-44. Cooperation of other departments.
- Sec. 16-45. Notice of violation.
- Sec. 16-46. Transfer of property after notice.
- Sec. 16-47. Recording a violation.
- Sec. 16-48. Violations and penalties.
- Sec. 16-49. Jurisdiction of court.
- Sec. 16-50. Commencement of civil infraction proceedings.
- Sec. 16-51. Appeal of court decision.
- Secs. 16-52 – 16-59. Reserved.

Article VI. Abatement

- Sec. 16-60. Court ordered abatement.
- Sec. 16-61. Abatement by the city.
- Sec. 16-62. Temporary abatement.
- Sec. 16-63. Emergency abatement.
- Sec. 16-64. Structures posted as hazardous.
- Sec. 16-65. Abatement by demolition.
- Sec. 16-66. Historic structures.
- Sec. 16-67. Failure to obey abatement order.
- Secs. 16-68 – 16-69. Reserved.

NEIGHBORHOOD PRESERVATION

Article VII. Administrative Appeals

- Sec. 16-70. Availability of administrative appeal.
- Sec. 16-71. Administrative conference.
- Sec. 16-72. Modifications.
- Sec. 16-73. Appeals to the board of appeals.
- Sec. 16-74. Powers, duties and responsibilities of the board.
- Secs. 16-75 – 16-79. Reserved.

Article VIII. Liability; Conflicts; Severability; Acknowledgement

- Sec. 16-80. Liability.
- Sec. 16-81. Conflict of ordinances.
- Sec. 16-82. Severability.
- Sec. 16-83. Acknowledgement.
- Secs. 16-84 – 16-99. Reserved.

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TABLE I Use of Property Receiving the Sound		
	7:00 a.m. to 10:00 p.m.	10:00 p.m. to 7:00 a.m.
Residential	70	62
Commercial	72	65
Industrial	85	70

All limits expressed in dB(A)

(b) *Other noises prohibited; standards for excessive noise.* Some sounds may be such that they are not measurable by the sound level meter or may not exceed the limits set forth in subsection (a) of this section, but nonetheless may be excessive and may disturb the peace and quiet of a neighborhood or person. Noises prohibited by this subsection are in violation of this chapter notwithstanding the fact that there is no apparent violation of subsection (a) of this section. The following activities are prohibited if they produce plainly audible sound beyond the property line of the property on which they are conducted and they disturb the peace and quiet of a neighborhood or person:

- (1) Allowing or causing any continuous or intermittent noise that persists for a period of at least fifteen (15) minutes and which is caused by using, operating or permitting to be played any radio, television, tape deck, record player, amplifier, musical instrument, or instrument, machine or device used for the production, reproduction or emission of sound;
- (2) Creating or allowing a loud, disturbing noise in connection with the loading or unloading of any vehicle;
- (3) Owning, possessing, harboring or permitting any animal or bird which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds. Any peace officer or any county animal control officer is hereby authorized to issue citations to owners for any violation of this subsection;

- (4) Allowing or causing any shouting, yelling, screaming or any other form of raucous vocalization by a person or group of people.

(c) *General exemptions.* The following activities are exempted from the provisions of subsections (a) and (b):

- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger;
- (2) Sound made to alert persons to the existence of an emergency, danger or attempted crime;
- (3) Activities or operations of governmental units or agencies;
- (4) Parades, concerts, festivals, fairs or similar activities that remain within any sound limits approved by the city;
- (5) Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, and public or private colleges or universities;
- (6) Construction, repair, remodeling, demolition, drilling, wood cutting or excavation work conducted between sunrise and 8:00 p.m. Mondays through Saturdays, except legal holidays. Also, a person may engage in such activities at that person's residence between 9:00 a.m. and 6:00 p.m. on Sundays or legal holidays.

(d) *Temporary exemptions.* The city manager is authorized to grant a temporary exemption from the maximum permissible sound levels established by this article if such temporary exemption would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary exemption is sought. A temporary exemption must be in writing and signed by the city manager and must set forth the name of the party granted the exemption, the location of the property for which it is authorized, the date(s) and

time(s) for which it is effective and the dB(A) level(s) authorized. A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may exceed thirty (30) days. The following factors shall be considered by the city manager in determining whether to grant a temporary exemption:

- (1) The balancing of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance;
- (2) The nearness of any residence or residences, or any other use which would be adversely affected by sound in excess of the limits prescribed by this article;
- (3) The level of the sound to be generated by the event or activity;
- (4) Whether the type of sound to be produced by the event or activity is usual or unusual for the location or area for which the variance is requested;
- (5) The density of population of the area in which the event or activity is to take place;
- (6) The time of day or night which the activity or event will take place;
- (7) The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive.

(e) *Variances.* Persons wishing to continue activities which commenced prior to this article and which create noise in excess of the permitted levels may seek a variance from the board of adjustment. Such a variance may be granted if the board finds that strict application of this chapter would cause a hardship and that there is no reasonable and prudent alternative method of engaging in the activity.

(f) *Noisy vehicles, motors prohibited.* No person may use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(g) *Mufflers required on mechanical devices; cutouts prohibited.* No person may operate any mechanical device operated by gasoline, or otherwise, without having a muffler, in good working order and in constant operation, to prevent excessive or unusual noise and smoke; and no person shall use a muffler cutout, bypass or similar device.

(h) *Hours for operation of engines other than on public highways.* No person may operate or use any automobile, motorcycle or other vehicle, engine or motor of whatever size, stationary or moving, on race tracks, race courses, or other similar tracks or courses at places of amusement, not being public highways, between the hours of 10:30 p.m. and 8:00 a.m. on Sundays through Thursdays, or between the hours of 12:00 midnight and 8:00 a.m. on Fridays and Saturdays. The above hours of use may be extended to 12:00 midnight, provided any sound emission is not in excess of seventy (70) dB(C), measured at a distance of one hundred (100) feet from the automobile, motorcycle or other vehicle, engine or motor.

(i) *Noise by street vendors, advertisers.* No person may produce any sound in connection with the sale, advertising or display of merchandise from a pushcart, bicycle or vehicle:

- (1) In excess of seventy (70) dB(A), measured at a distance of fifty (50) feet from the pushcart, vehicle or bicycle;
- (2) While such pushcart, bicycle or vehicle is not in motion; or
- (3) Between the hours of 1:00 p.m. and 3:00 p.m. and between the hours of 9:00 p.m. and 10:00 a.m.

(j) *Persons responsible for noise violations.* If the person responsible for an activity that violates this section cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

(k) *Sound amplification systems in vehicles.* Noise from sound amplification systems in vehicles cannot be practically regulated by imposing decibel limits as decibel measurements are difficult to obtain from moving vehicles. Noises prohibited by this subsection are in violation of this article notwithstanding the fact that there is no apparent violation of subsection (a) of this section.

- (1) Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner or with such volume as to annoy or disturb the peace and quiet of any person or neighborhood in the vicinity.
- (2) Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle in such a manner that the sound is plainly audible at a distance of fifty (50) feet, or in such a manner that it causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet.
- (3) Exemptions. This subsection shall not apply to:
 - a. Amplification systems being operated to request assistance of an emergency nature or to warn of a hazardous situation;
 - b. Authorized emergency vehicles;
 - c. Vehicles operated by utility companies;
 - d. Vehicles used in parades, concerts, festivals, fairs or similar activities that remain within any sound limits approved by the city; or
 - e. Amplification systems in vehicles which are operated on private property with the permission of the owner and which are not plainly audible beyond the property line.

(l) *Penalty.* Any person found responsible under this section for a violation of this article shall be guilty

of a civil infraction and punished in accordance with minor section 1-8(2) and under the procedures outlined in Chapter 8 of this City Code. The court shall also enter an order of abatement against a party found responsible for a violation of this article pursuant to Chapter 8 of this City Code.

(m) *Enforcement.* The police department and city attorney are authorized to enforce the provisions of this section. A complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible for a violation of this section.

(Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 8, 3-1-05))

Sec. 16-32. Unruly gatherings.

(a) *Definitions.* For the purposes of this section, unless the context otherwise requires, the following terms or phrases are defined as:

Owner means any owner, as well as any agent of an owner acting on behalf of the owner to control or otherwise regulate the occupancy or use of the property.

Premises means the property that is the site of an unruly gathering. For residential properties, premises means the dwelling unit or units where the unruly gathering occurs.

Unruly gathering means a gathering of five (5) or more persons on any private property, including property used to conduct business, in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons. Such disturbances include, but are not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and littering.

(b) *Abatement of unruly gathering.* A peace officer may abate an unruly gathering by reasonable means including, but not limited to, citation or arrest of violators under applicable ordinances or state statutes, and dispersal of the persons attending the gathering.

(c) *Notice of unruly gathering; posting; removal of notice prohibited; right to contest posting.*

- (1) *Contents of notice.* The premises at which the unruly gathering occurs shall be posted with a notice stating:
 - a. That an unruly gathering has occurred at the premises;
 - b. The date of the unruly gathering;
 - c. That any subsequent unruly gathering on the same premises within a one hundred eighty (180) day period shall result in liability for the penalties provided in this section. Parties liable include any persons in attendance causing the gathering to be unruly, or any owner, occupant or tenant of the premises at which the unruly gathering occurred, or any sponsor of the event constituting the unruly gathering; and
 - d. The right to contest the posting as provided in subsection (c)(4) of this section.
- (2) *Posting requirements.* Premises shall be posted with a notice as provided in this section each time an unruly gathering occurs. The owner, occupant or tenant of the premises or sponsor of the event constituting the unruly gathering, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.

In the event that a premises is already posted at the time of a subsequent posting, the one hundred eighty (180) day period from the date of the existing posting shall be extended to one hundred eighty (180) days from the date of the subsequent posting. Once a premises is initially posted as a result of an unruly gathering and the conduct causing the gathering to be unruly has ceased, a resumption of unruly behavior on the premises resulting in another police

response shall constitute a new and separate unruly gathering for purposes of this section.

- (3) *Removal of notice prohibited.* The owner, occupant, or tenant of the posted premises shall be responsible for ensuring that the notice is not removed, defaced, or concealed. The removal, defacement, or concealment of a posted notice is a civil infraction carrying a penalty of a minimum, mandatory one hundred dollar (\$100.00) fine, in addition to any other penalties which may be imposed under this section.
- (4) *Right to contest posting.*
 - a. An owner, occupant, or tenant of the posted premises may contest the posting of the notice by filing a written petition for review with the civil infractions division of the city court requesting that the court determine whether justification existed for posting of the notice under the provisions of this section. The petition must be filed within ten (10) days after the posting of the notice or, if the notice is given by mail, within fifteen (15) days after the date of the mailing of the notice, and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the criminal division of the city attorney's office of the hearing date. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the city has the burden of proving by a preponderance of evidence that the posting of the notice was justified pursuant to the provisions of this section.

- b. An owner of a posted premises, at any time after the posting or the mailing of the notice, may petition the court for an order directing the removal of the notice on the grounds that the owner has taken reasonable and necessary actions, such as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent unruly gathering at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the petition and shall notify both the petitioner and the criminal division of the city attorney's office of the hearing date. At the hearing, the petitioner has the burden of proving by a preponderance of evidence that the petitioner has taken reasonable and necessary actions to prevent the occurrence of a subsequent unruly gathering. This petition process is not available to an owner who was present at the unruly gathering and engaged in conduct causing the gathering to be unruly.
- (d) *Notification of property owner.*
 - (1) Notification of the posting of the notice of unruly gathering shall be mailed to any property owner at the address shown on the Pima County Property Tax Assessment Records. The notification shall advise the property owner that any subsequent unruly gathering within one hundred eighty (180) days on the same premises shall result in liability of the property owner for all applicable penalties as provided in this article. Notification shall be made by certified mail. The return receipt shall be prima facie evidence of service.
 - (2) Additionally, notice shall be provided to an agent of the owner who controls or regulates the use of the premises, if known. Notice to the owner's agent may be provided by hand delivery or by certified or regular mail sent to the agent's last known address.
- (3) The failure to serve notice to any person described in this subsection shall not invalidate any citation or other proceedings as to any other person duly served, or relieve any such person from any duty imposed by this section.
- (e) *Unruly gathering a civil infraction; parties responsible.* An unruly gathering is unlawful and constitutes a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (g)(1):
 - (1) The person or persons who organized or sponsored the event constituting the unruly gathering, including any owner or occupant in attendance at the unruly gathering.
 - (2) Any person in attendance at the unruly gathering who engaged in any conduct causing the gathering to be unruly.
- (f) *Subsequent unruly gathering a civil infraction; parties responsible.* The occurrence of an unruly gathering on the same premises more than once in any one hundred eighty (180) day period is a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (g)(2):
 - (1) The owner of the property where the subsequent unruly gathering occurred, if either:
 - a. The owner was present when the property was posted, or
 - b. Notification of posting was mailed or delivered to the owner of the property per subsection (d), and the subsequent unruly gathering occurred not less than two (2) weeks after the mailing of such notification.
 - (2) The occupant or tenant of the property where the subsequent unruly gathering occurred.
 - (3) The person or persons who organized or sponsored the event constituting the subsequent unruly gathering.

- (4) Any person in attendance at the subsequent unruly gathering who engaged in any conduct causing the gathering to be unruly.

Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the event constituting the unruly gathering, for the conduct of persons who are in attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant or sponsor has taken steps reasonably necessary to prevent a subsequent unruly gathering or to exclude the uninvited persons from the premises, including owners who are actively attempting to evict a tenant from the premises. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purposes of determining liability under this section.

(g) *Penalties.*

- (1) *Unruly gathering.* The penalty for a party found responsible for an unruly gathering, as provided in subsection (e), shall be a minimum mandatory fine of one hundred dollars (\$100.00).
- (2) *Subsequent unruly gathering.* The penalty for a party found responsible for the occurrence of a subsequent unruly gathering, as provided in subsection (f), shall be a minimum mandatory fine of five hundred dollars (\$500.00) for a first violation, a minimum mandatory fine of one thousand dollars (\$1,000.00) for a second violation, and minimum mandatory fines of one thousand five hundred dollars (\$1,500.00) for each third or subsequent violation.
- (3) *Abatement.* The civil fines provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an unruly gathering. The court shall also enter an order of abatement against a party found responsible for a violation of this section pursuant to Chapter 8 of the Tucson Code.

(h) *Enforcement.* The police department is authorized to enforce the provisions of this section provided that enforcement is initiated by a complaint from a member of the public. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible. (Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 9, 3-1-05)

Sec. 16-33. Placing refuse upon the property of another or public property; illegal littering or dumping prohibited; persons responsible.

(a) No person shall place any refuse upon any private or public property not owned or under the control of that person. In addition to any penalty that may be imposed by this chapter or the Tucson Code, such person shall be liable for all costs for the removal, abatement or enjoining of the refuse.

(b) No person shall litter, discard refuse, or allow refuse to be discarded except at the places and in the manner authorized in Chapter 15 of this Code.

(c) The following persons are jointly and individually liable for a violation of subsection (b):

- (1) The resident of the property upon which the debris has been discarded;
- (2) The person who discarded or allowed the debris to be discarded;
- (3) The person who owns or maintains a refuse container in which refuse is improperly placed or discarded; and
- (4) The person who generated the refuse. When an item contained in refuse discarded in violation of this section identifies a person, the item creates a rebuttable presumption that the person so identified generated the refuse.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-34. Public nuisance.

(a) Anything that is injurious to health, or is indecent or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire

community or neighborhood, or by any considerable number of persons, is hereby declared to be a public nuisance. Any act or thing that affects an entire community or neighborhood, or any considerable number of persons, as herein described, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(b) Any person who knowingly maintains or commits a public nuisance, or who knowingly fails or refuses to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-35. Obstructing streets, alleys or sidewalks prohibited.

No person shall obstruct any public sidewalk, street or alley in the city by placing, maintaining or allowing to remain thereon any item or thing that prevents full, free and unobstructed public use in any manner, except as otherwise specifically permitted by law.

(Ord. No. 10126, § 10, 3-1-05)

Sec. 16-36. Posting of handbills prohibited.

(a) *Posting prohibited.* No person shall post, affix, display, paint or attach; or direct, permit, or cause any other person to attach any handbill upon any street lamp post, street sign, traffic sign or signal, traffic control device, curb, sidewalk, hydrant, tree, shrub, utility pole or any other public building, structure or object except as may otherwise be required or authorized by law; or upon any private structure or building, without the consent of the owner or person in control thereof.

(b) *Presumption.* For purposes of this section, there shall be a rebuttable presumption that any person or entity whose name, address, telephone number, e-mail address or other identifying information is indicated on the handbill, and any owner, manager, or responsible party of any business, product or service which is the subject of the handbill, has directed or caused the posting or attaching of the handbill in violation of subsection (a).

(c) *Penalty.* A violation of this section is a civil infraction. In addition to any other penalties prescribed by law, any person found responsible for violating this section shall be fined not less than two hundred fifty dollars (\$250.00). Each handbill illegally posted shall constitute a separate violation, and shall be subject to a separate fine. In addition to the minimum fine(s), upon finding any person responsible for violating this section, the court shall order that person to reimburse the city for its costs in the removal of the illegal handbill(s) pursuant to subsection (d), as documented by a statement of costs presented to the court by the city.

(d) *Enforcement and abatement by code official.* The code official is authorized to enforce the provisions of this section. The code official may, but is not required to, initiate enforcement by issuing a notice of violation pursuant to section 16-45 to the person(s) responsible for a violation of this section, and therein direct and order the responsible person(s) to remove of the unlawful handbill(s). The code official is further authorized to remove or cause the removal of any handbills posted in violation of this section, with or without giving prior notice to the person(s) responsible for the violation.

(Ord. No. 10126, § 11, 3-1-05)

Sec. 16-37. Group dwelling public nuisance; abatement.

(a) *Definition of a group dwelling public nuisance.* A dwelling unit may be designated by the code official as a group dwelling public nuisance if all of the following apply:

- (1) The dwelling unit is treated as a lawful nonconforming group dwelling under LUC Section 3.5.7.1.I; and
- (2) The dwelling unit is the location of a documented pattern of nuisance activity which shall consist of at least three (3) incidents on separate dates within a two (2) year period resulting in criminal charges, or in civil infraction citations involving nuisance conduct; and

- (3) At least one (1) of the violations is a criminal offense or a violation of section 16-31 (excessive noise) or section 16-32 (unruly gatherings) of this code.

(b) *Maintaining a group dwelling public nuisance unlawful.* It is unlawful for a property owner to maintain a dwelling unit as a group dwelling public nuisance; and a group dwelling public nuisance shall be abated as provided in this section.

(c) *Property owner notification.* The code official shall first notify the property owner and an occupant that the dwelling unit may be designated as a group dwelling public nuisance. Such notice shall include the identification of the dwelling unit in violation; a description of the charges or citations upon which the designation is based; the address and phone number of a city representative to contact; and a description of the appeal rights that apply. The notice shall be delivered in the same manner as provided under section 16-45(e) for notices of violation. The notice shall provide the property owner ten (10) working days to respond to the proposed designation or to submit to the code official a remediation plan that will voluntarily abate the alleged violation(s). Within ten (10) working days of the date of property owner responds to the notice, or in the absence of a response within ten (10) working days of the expiration of the response period, the code official shall notify the property owner of the decision as to whether the dwelling unit is a group dwelling public nuisance. A property owner may appeal a designation of a group dwelling as a public nuisance under this paragraph within thirty (30) days of the designation by filing an appeal in accordance with section 16-73.

(d) *Abatement by remediation plan; appeal.* Where the code official has designated a dwelling unit as a public nuisance as provided above, the nuisance shall be abated as follows:

- (1) The code official shall first attempt to consult with the property owner in which the dwelling unit is located to determine appropriate steps to abate the group dwelling public nuisance through a remediation plan. Within fifteen (15) working days, the code official shall determine the appropriate

remediation plan to abate the group dwelling public nuisance. The code official may extend the time for completing the remediation plan by up to fifteen (15) days. By the same date, the remediation plan shall be delivered to the property owner, and shall be effective for one (1) year. Within five (5) days of delivery to the property owner, the designation as a group dwelling public nuisance and the remediation plan shall also be delivered to property owners within fifty (50) feet of the subject site and mailed to any registered neighborhood association that includes the subject site. Failure to deliver the designation and/or remediation plan to these nearby property owners shall not affect the validity of the designation or remediation plan. The code official shall keep and maintain any nuisance designation or remediation plan issued under this section as a public record, and shall make such documents available to any person upon request.

- (2) A property owner may file an administrative appeal to appeal the requirements of the remediation plan in accordance with section 16-70 of this chapter.

(e) *Subsequent violations a civil infraction; abatement by court order.* If, within twenty-four (24) months of the designation of a dwelling unit as a group dwelling public nuisance and the issuance of a remediation plan, the dwelling unit is the location of an additional violation or violations of the City Code or of any criminal laws or statutes, the property owner is responsible for a civil infraction. Upon finding a property owner responsible for a violation under this subsection, the court shall order such person to correct and abate the violations. Such order may include an order to reduce or limit the number of unrelated tenants in the dwelling unit to not more than four (4), except that any order limiting occupancy in this manner can only apply for a time period not to exceed six (6) months. A reduction of the number of tenants as a result of a court order issued pursuant to this paragraph shall not terminate or discontinue the nonconforming use of the dwelling unit.

(f) *Subsequent violations following court ordered abatement.* If, within twenty-four (24) months of court order issued pursuant to subsection (e) above, the dwelling unit is the location of an additional violation or violations of the City Code or of any criminal laws or statutes, the property owner is responsible for a civil infraction. Upon finding a property owner responsible for a violation under this subsection, the court shall order such person to correct and abate the violations. Such order may include an order to reduce or limit the number of unrelated tenants in the dwelling unit to not more than four (4) and such order may be effective for up to one (1) year. A reduction of the number of tenants for six (6) months or more pursuant to a court order issued under this subsection shall terminate and discontinue the nonconforming use of the group dwelling unit if the order exceeds six (6) months.

(g) *Voluntary abatement.* Where a property owner voluntarily reduces the number of occupants to whom a dwelling unit is leased and occupied to less than five (5) unrelated persons for a period of not less than one (1) year, the designation of the property as a group dwelling public nuisance shall be deemed abated. A subsequent determination that the dwelling unit is a group dwelling public nuisance after the period of voluntary abatement shall be based upon violations occurring after the voluntary abatement period. To qualify for the voluntary abatement in this subsection, the property owner shall provide written notice of the abatement and applicable lease period to the code official, property owners within fifty (50) feet of the property to be abated, and the registered neighborhood association.

(Ord. No. 10965, § 6, 2-15-12)

Sec. 16-38. Transfer of group dwelling public nuisance property after remediation plan or court order.

Fraudulent transfer as a misdemeanor. Any person who has been served with a remediation plan or court order and who then transfers an ownership interest in the real property against which the notice has been served is guilty of a misdemeanor if the transfer is made without first obtaining a written acceptance of responsibility from the new owner for the items listed in the remediation plan or court order.

(Ord. No. 10965, § 6, 2-15-12)

Sec. 16-39. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

Sec. 16-40. Authority to enforce.

(a) The code official shall enforce the provisions of this chapter. In addition, the code official is authorized to make safe any structure, in whole or part, which in the opinion of the code official, is an imminent hazard to the health or safety of any person or persons due to the conditions of such structure.

(b) No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully engaged in the enforcement or execution of the provisions of this chapter.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-41. Rules and regulations.

The code official is authorized to make reasonable and necessary rules and regulations to carry out the provisions of this chapter. When approved by the mayor and council, such rules and regulations shall be binding upon and obeyed by all persons affected by this chapter after three (3) copies of any such rules and regulations shall have been filed in the office of the city clerk as a public record and there kept for use or inspection by any member of the public at any time during the regular office hours of that office. A printed copy of such rules and regulations shall be furnished any member of the public upon request and payment of a reasonable charge therefor as set forth in such printed copy.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-42. Authority and inspections; re-inspection fees; appeal.

(a) The code official is authorized to make inspections of property to determine compliance with this chapter. Interior inspections will be done with approval of the owner, occupant or responsible party, or by a court order or as otherwise authorized by law.

(b) Except as expressly provided in section 16-27 or elsewhere in the Tucson Code, no fee shall be charged for an initial inspection to determine the existence of a violation of this chapter. Any person who neglects, fails or refuses to correct the violations contained within a notice of violation issued pursuant to section 16-45 may be assessed a re-inspection fee for inspections that occur after the compliance date specified in the Notice, where such re-inspection demonstrates the failure to comply. The fee for these re-inspections shall be set by resolution or ordinance adopted by mayor and council. Failure to pay re-inspection fees within fourteen (14) days of assessment is a violation of this section. Re-inspection fees may be collected in any manner as provided by law, including as a lien against the real property where the violation occurred.

(c) A person may appeal the imposition of a re-inspection fee to the code official through an administrative conference in the manner provided in section 16-71. The administrative conference shall be the only administrative appeal of a re-inspection fee, and no appeal may be made to the board of appeals. (Ord. No. 9816, § 15, 2-24-03; Ord. No. 10687, §§ 1, 2, 6-23-09, eff. 7-1-09)

Sec. 16-43. Enforcement independent of other provisions.

The authority of the code official to enforce the provisions of this chapter is independent of and in addition to the authority of city officials to enforce the provisions of any other chapter of the city code or other laws, ordinances, or statutes. (Ord. No. 9816, § 15, 2-24-03)

Sec. 16-44. Cooperation of other departments.

The police department and any other department of the city has authority to assist and cooperate with the code official in the performance of duties under this chapter. This cooperation may include assistance in enforcement or abatement actions. This section is not intended to create or expand the authority of any department to perform acts that are otherwise prohibited by law. (Ord. No. 9816, § 15, 2-24-03)

Sec. 16-45. Notice of violation.

(a) If the code official finds a violation of sections 16-4, 16-11, 16-12, 16-13, 16-14, 16-15, 16-30(a), 16-35 or 16-36 of this chapter, the code official may notify the owner or responsible party through the issuance of a notice of violation.

(b) A notice of violation issued pursuant to this section shall include:

- (1) The identification of the property in violation; a street address or legal description of the property is sufficient identification of the property;
- (2) A statement of the violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
- (3) A statement of the actions required to correct and abate the violations. The statement of required action shall direct the owner or responsible party to perform

- (4) An architect from the list provided by the Tucson-Pima County Historical Commission.

- (f) *Evaluation.*

- (1) The building official shall immediately thereafter evaluate the demolition option with representatives of the planning and fire department staffs, and a licensed structural engineer who has experience in working with local historic structures.

- (2) An architect from the list of architects familiar with adobe construction should be at the scene of the proposed demolition within two (2) hours of being notified to provide advice to the building official and a structural engineer concerning the proposed demolition.

(g) *Abatement: emergency stabilization or demolition.* When an historic building is damaged beyond the point of safety as determined by this review process, the feasibility of stabilizing the building shall first be considered by the building official after consultation with a structural engineer and an architect, if available. If the building cannot feasibly be brought to the point of safety by stabilization, partial demolition should be undertaken to the point of stability, again as determined by the building official after consultation with the structural engineer and architect, if available. Partial demolition should be done in such a manner that the future rehabilitation of the structure will not be impeded.

(h) *Fire department operations.* The role of the fire department suppression forces shall be limited to emergency operations and the abatement of imminent hazards to life. Only as a last resort and under the most extreme circumstances will the fire department suppression forces consider demolition of an historic structure as a means of hazard abatement. The fire department suppression forces will make every reasonable effort to salvage and preserve as much of the historic structure as possible when involved in fire.

(i) *Report.* A written report documenting the necessity of demolishing an historic structure should be prepared within five (5) working days of the decision to demolish a structure. This report must include the

analysis of the structural engineer and the recommendations of the architect consulted.

(j) *Salvage and documentation.* A two (2) day delay shall be imposed in all but the most extreme cases to allow for salvage of important architectural features or photographic documentation. Access for these purposes will be permitted only with the permission of the building official and the property owner (following a securing of the property by fencing or other means as determined by the building official). (Ord. No. 9816, § 15, 2-24-03)

Sec. 16-67. Failure to obey abatement order.

Any person who fails to obey an order issued by a magistrate, special magistrate, or special limited magistrate directing abatement of a violation of this chapter is guilty of a misdemeanor. A violation of this section is punishable by a minimum mandatory twenty-four (24) hours in jail, up to a maximum six (6) months in jail; by a minimum mandatory fine of two hundred and fifty dollars (\$250.00), up to a maximum two thousand five hundred dollars (\$2,500.00); and by probation up to three (3) years. Minimum jail and minimum fines can not be suspended. (Ord. No. 9816, § 15, 2-24-03)

Secs. 16-68 – 16-69. Reserved.

ARTICLE VII. ADMINISTRATIVE APPEALS

Sec. 16-70. Availability of administrative appeal.

The provisions of this article, which permit administrative review of a notice of violation, only apply to:

- (1) Violations of sections 16-4, 16-11, 16-12 and 16-14 of this chapter;
- (2) Designations of slum properties pursuant to section 16-24 of this chapter;
- (3) Violations of this chapter wherein the city seeks the recovery of costs through the imposition of an assessment as provided in sections 16-61(d), (e); and

- (4) Abatement of a group dwelling public nuisance pursuant to section 16-37.

No administrative appeal is available in a case involving a pending or adjudicated court proceeding. (Ord. No. 9816, § 15, 2-24-03; Ord. No. 10965, § 7, 2-15-12)

Sec. 16-71. Administrative conference.

(a) Any notice of violation or slum designation described in section 16-70 can be appealed to the code official for an administrative conference for review. An appeal shall be made to the code official in the following manner:

- (1) The applicant shall file a written appeal on the forms provided by the code official and accompanied by a non-refundable fee, as determined by separate ordinance, within ten (10) days after the date of service of the notice.
- (2) The appeal will be heard by the code official within ten (10) days at a regular, specified time.
- (3) The code official may use a hearing committee consisting of such staff as the code official deems appropriate or other technical persons to advise the code official on a particular appeal.
- (4) The applicant shall provide adequate information to fully describe the conditions in question.
- (5) The applicant may, but is not required to, meet personally with the code official.

(b) If the code official denies an appeal made under this section, the applicant must comply with the decision of the code official or may appeal to the board of appeals pursuant to section 16-73 of this chapter.

(c) Failure to file an appeal in accordance with the provisions of this section constitutes a waiver of the right to an administrative conference. Additionally, any person who appeals directly to the board of appeals

pursuant to section 16-73 waives the right to an administrative conference.

(Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 16, 3-1-05; Ord. No. 10687, § 3, 6-23-09, eff. 7-1-09)

Sec. 16-72. Modifications.

The code official may grant a minor variance to the provisions specified in section 16-70 of this chapter when there exists an unusual or unreasonable hardship resulting from a literal interpretation of this chapter. The code official shall first find that a special individual hardship makes the strict application of this chapter impractical, and the variance is in conformity with the intent and purpose of this chapter, and that the variance does not lessen health, life safety and fire safety requirements or any degree of structural integrity. The details of actions granting variances shall be recorded and maintained by the code official.

(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-73. Appeals to the board of appeals.

(a) An owner or responsible party who is not or was not a party to a pending or adjudicated court proceeding involving a request for court ordered abatement of the violation (hereinafter, the appellant) may appeal a notice of violation, slum designation described in section 16-70 or group dwelling public nuisance designation described in section 16-37 to the board of appeals (hereafter board) established in Tucson Code section 6-12 and section 204 of the Administrative Code, when it is claimed that:

- (1) Substantive errors exist in the notice of violation, the slum designation or group dwelling public nuisance designation.
- (2) The method or schedule for correcting the violation as set forth in the notice of violation, the slum designation or group dwelling public nuisance designation is unreasonable or arbitrary.

(b) An owner or responsible party whose relationship with the property existed at the time of the recording of an assessment, and who is not or was not a party to a court proceeding which has established or may establish the amount of an assessment, may appeal

the amount of the assessment for abatement to the board.

(c) In cases involving an order to vacate or suspend occupancy of a group dwelling public nuisance, any the property owner or a lawful tenant of the property that is the subject of the order to vacate may appeal that order to the board on the grounds that the order to vacate is unreasonable or arbitrary.

(d) The appellant shall prepare the appeal in a written application as follows:

- (1) The appellant shall file a written appeal on the forms provided by the code official and accompanied by a non-refundable fee, as determined by separate ordinance;
- (2) The appellant shall provide adequate information to fully describe the conditions in question;
- (3) The application for appeal shall contain each appellant's signature and mailing address to which the decision of the board may be mailed;
- (4) The appellant shall provide a brief statement describing the legal interest of each of the appellants in the property involved in the proceeding;
- (5) The appellant shall verify by declaration under penalty of perjury the truth of the matters stated in the application;
- (6) The appeal shall be filed within thirty (30) days from the date of the service of the notice of violation or notice of designation as a slum property; provided, however, that if the building or structure is in such condition as to make it an imminent hazard and is posted and vacated in accordance with sections 16-63 and 16-64 of this chapter, an appeal shall be filed within ten (10) days from the date of the service of such notice.

(e) Except for vacation orders made pursuant to sections 16-63 and 16-64, the timely filing of an appeal shall act as an automatic stay of enforcement of the notice of violation until the appeal is finally determined

by the board. The filing of an appeal does not stay enforcement of any notice or order, or any provision thereof, where the notice or order includes an order to vacate.

(f) As soon as practicable after receiving the written appeal, the board shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than ten (10) days nor more than sixty (60) days from the date the appeal was filed. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the board, either by causing a copy of the notice to be delivered personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

(g) Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to a administrative hearing of the appeal and adjudication of the notice of violation or notice of designation as a slum, and such person shall be stopped to deny the validity of any order or action of the city which could have been timely appealed.

(h) The board shall decide any appeal immediately after the hearing, or within a reasonable time thereafter, but in no event shall the board keep an appeal under consideration for more than five (5) days after the hearing. The board shall render its decision in writing, and the decision of the board shall be filed with the secretary of the board, with a copy to the appellant or applicant. The decision of the board is final. No further appeal is available to city or county boards or officials. In cases involving the designation of a property as a slum, persons aggrieved by decisions of the board may appeal the decision pursuant to A.R.S. Tit. 12, Ch. 7, Art. 6, or pursuant to successor provisions relating to judicial review of administrative decisions. In all other cases, persons aggrieved by decisions of the board may apply to superior court for relief in accordance with the Arizona Rules of Procedure for Special Actions. In the absence of a court order, the filing of an appeal or special action will not stay enforcement.

(Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 17, 3-1-05; Ord. No. 10687, § 3, 6-23-09, eff. 7-1-09; Ord. No. 10965, § 7, 2-15-12)

Sec. 16-74. Powers, duties and responsibilities of the board.

(a) *Appeals.*

(1) On an appeal, the board may affirm, reverse, or modify the notice of violation or notice of designation as a slum. In the event that the board modifies the notice, the following limitations and procedures shall apply:

- a. If the appeal is taken on the grounds that the amount of time for correction of the violation given in the notice of violation is unreasonable, upon a showing by the appellant that the time is unreasonable, and upon a satisfactory showing by the appellant that there is a reasonable probability that the appellant will be able to correct the violation by the granting of additional time, the board may grant up to an additional ninety (90) days to correct the violation. The board may permit city staff to grant additional time of up to ninety (90) days if during the initial time extension the appellant has substantially complied with any plan or timetable approved by the board.
- b. If the appeal is taken on the grounds that the method to correct the violation as specified in the notice of violation is unreasonable, the board may approve an alternate method of correction as long as the purposes of this chapter are fulfilled.
- c. In the event that the appeal is taken on the grounds that the cost of the abatement is unreasonable, the board may affirm, modify or reverse the lien or assessment amounts resulting from the abatement for good cause shown.
- d. If the appeal is taken on the grounds that an order to vacate is unreasonable or arbitrary, the board may affirm, reverse, or modify the order to vacate.

(2) In order to assist it in making the determinations set forth above, the board may take evidence from the appellant, city staff, and any other person. Any relevant evidence is admissible, including hearsay evidence, if it would assist the board in making its decision.

(b) *Adoption of rules.* The board may adopt rules necessary to carry out the duties and responsibilities imposed upon it by this section. Such rules shall not be inconsistent with the provisions of this chapter, or the Charter or Code of the City of Tucson. (Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 18, 3-1-05)

Secs. 16-75 – 16-79. Reserved.

ARTICLE VIII. LIABILITY; CONFLICTS; SEVERABILITY; ACKNOWLEDGEMENT

Sec. 16-80. Liability.

(a) The board, manager, code official, or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the city in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not be personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against said board, manager, code official or employee because of such act or omission performed in the enforcement of any provisions of this chapter or other pertinent laws or ordinances shall be defended by the city until the final termination of the proceedings, and any judgment resulting therefrom shall be assumed by the city.

(b) This chapter does not relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the city be held as assuming any such liability by reason of the inspections authorized by this chapter. (Ord. No. 9816, § 15, 2-24-03)

Sec. 16-81. Conflict of ordinances.

(a) In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, housing, fire, safety or health ordinance or code of the city existing on the effective date of this chapter, the provision which establishes the higher standard for the protection and preservation of public health and safety shall control.

(b) In cases where two (2) or more provisions of this chapter disagree, the most stringent or restrictive shall prevail.

(c) This chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter.
(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-82. Severability.

If a provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.
(Ord. No. 9816, § 15, 2-24-03)

Sec. 16-83. Acknowledgement.

Certain provisions of this chapter have been included with the permission of the International Conference of Building Officials, 5360 S. Workman Mill Road, Whittier CA 90601, publishers of copyrighted codes such as the Uniform Housing Code and Uniform Code for the Abatement of Dangerous Buildings.
(Ord. No. 9816, § 15, 2-24-03)

Secs. 16-84 – 16-99. Reserved.

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- Sec. 20-74 – 20-76. Reserved.
- Sec. 20-77. Reserved.
- Sec. 20-78. Records of chief magistrate.
- Sec. 20-79. Reserved.
- Sec. 20-80. Disposition of civil sanctions.
- Secs. 20-81 – 20-90. Reserved.

Article III. Pedestrians

- Sec. 20-91. Obedience to traffic-control signals and this article.
- Sec. 20-92. Prohibited crossings.
- Secs. 20-93 – 20-108. Reserved.

Article IV. Traffic-Control Devices

- Sec. 20-109. Installation of devices by traffic engineer; existing devices ratified.
- Sec. 20-110. Conformance to state specifications required; uniformity; declared official.
- Sec. 20-111. Obedience required.
- Sec. 20-112. Observance of flashing yellow arrow display.
- Sec. 20-112.1. Bicycle traffic control signals.
- Sec. 20-113. Required stops for pedestrians in crosswalks.
- Sec. 20-114. Displaying unauthorized or confusing signs, signals, markings; obstructing view of devices.
- Sec. 20-115. Authority to prohibit or require turns; obedience to signs; public transit buses exempted from same.
- Sec. 20-115.1. Authority to exempt bicyclists from required or prohibited turns.
- Sec. 20-116. Authority to designate crosswalks.
- Sec. 20-117. Authority to designate safety zones.
- Sec. 20-118. Authority to mark lanes.
- Sec. 20-119. Traffic engineer authorized to establish school crossings.
- Sec. 20-120. Authority to prohibit entry onto streets and alleys from intersections; obedience to “do not enter” signs; authority to exempt bicyclists.
- Secs. 20-121 – 20-134. Reserved.

Article V. Operation

- Sec. 20-135. Reserved.
- Sec. 20-136. State speed laws applicable generally.
- Sec. 20-137. Intersections where fifteen miles per hour speed limit imposed.
- Sec. 20-138. Speed limit in all city parks.
- Sec. 20-139. Speed limit in alleys.
- Sec. 20-140. Where thirty miles per hour speed limit imposed.
- Sec. 20-141. Where thirty-five miles per hour speed limit imposed.
- Sec. 20-142. Where forty miles per hour speed limit imposed.
- Sec. 20-143. Where forty-five miles per hour speed limit imposed.
- Sec. 20-144. Where fifty miles per hour speed limit imposed.
- Sec. 20-145. Where fifty-five miles per hour speed limit imposed.
- Secs. 20-145.1 – 20-145.4. Reserved.
- Sec. 20-146. Special speed restrictions on certain streets.
- Sec. 20-146.1. Special speed limit reductions in temporary traffic control zones.
- Sec. 20-146.2. Special speed limit reductions during nighttime hours.
- Sec. 20-146.3. Speeding in temporary traffic control zone prohibited.
- Sec. 20-147. Regulation of speed by traffic signals.
- Sec. 20-148. Following fire or rescue apparatus.
- Sec. 20-149. Driving over fire hose.

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- Sec. 20-150. Permission required for processions and parades; compliance with chapter.
- Sec. 20-151. Reserved.
- Sec. 20-152. Method of driving in processions.
- Sec. 20-153. Reserved.
- Sec. 20-154. Operation of unsafe vehicles.
- Sec. 20-155. Limitations on U-turns.
- Sec. 20-156. Obstructing intersections, crosswalks.
- Sec. 20-157. Reserved.
- Sec. 20-158. Regulation of towing services.
- Sec. 20-159. Traffic signal preemptor devices.
- Sec. 20-160. Use of handheld wireless communications device while driving; prohibited; exceptions.
- Secs. 20-161 – 20-172. Reserved.

Article VI. One-Way Streets and Stop Streets

- Sec. 20-173. Signs required.
- Sec. 20-174. Through streets.
- Sec. 20-175. Stop sign required at each intersection with through street.
- Sec. 20-176. Traffic engineer to designate hazardous intersections for “stop.”
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- Sec. 20-177. Traffic engineer to designate hazardous intersections for “yield.”
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- Sec. 20-224. Reserved.

Sec. 20-146.2. Special speed limit reductions during nighttime hours.

The city traffic engineer is hereby authorized to establish a reduced speed limit, during nighttime hours, sunset to sunrise, if the current speed limit set by ordinance is not reasonable nor safe under the existing conditions. Such reduced speed limits shall be effective when signs are erected giving notice thereof. (Ord. No. 7710, § 1, 11-18-91; Ord. No. 9893, § 3, 9-15-03)

Sec. 20-146.3. Speeding in temporary traffic control zone prohibited.

A person shall not drive in a temporary traffic control zone at a speed greater than the speed posted for that zone. Violation of this section shall constitute a civil traffic violation punishable by a mandatory minimum fine of two hundred fifty dollars (\$250.00). No judge may suspend the imposition of the minimum fine which shall be imposed in addition to any fines imposed for violation of Arizona Revised Statutes Section 28-701. Such fines shall only be assessed if signs have been erected upon or around the temporary traffic control zone which are clearly visible from the highway and which state substantially the following: Warning - \$250.00 fine for speeding in this work zone. (Ord. No. 9436, § 2, 8-7-00; Ord. No. 9488, § 2, 11-20-00)

Sec. 20-147. Regulation of speed by traffic signals.

The traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (1953 Code, ch. 17, § 76)

Sec. 20-148. Following fire or rescue apparatus.

The driver of any vehicle, except one on official business, shall not follow any fire apparatus or fire rescue vehicle traveling in response to a fire alarm or request for medical or rescue services closer than five hundred (500) feet. Except when on official business,

it is unlawful to drive a vehicle within five hundred (500) feet of fire apparatus which has stopped in response to a fire alarm.

(1953 Code, ch. 17, § 77; Ord. No. 5391, § 12, 8-3-81; Ord. No. 5931, § 12, 12-19-83)

Sec. 20-149. Driving over fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down, on any street, private driveway or alley, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(1953 Code, ch. 17, § 78)

State law reference – Similar Provisions, A.R.S. § 28-897.

Sec. 20-150. Permission required for processions and parades; compliance with chapter.

No procession or parade shall occupy, march, or proceed along any street or sidewalk except in accordance with written permission granted by the city traffic engineer and such other regulations as are set forth in this chapter which may apply. Written requests shall be made a minimum of fourteen (14) days in advance. This section shall not apply to funeral processions, except that the chief of police may regulate such processions as unreasonably interfere with normal traffic flow or pose a threat to public peace or safety.

(1953 Code, ch. 17, § 79; Ord. No. 4667, § 1, 6-20-77; Ord. No. 6308, § 1, 9-16-85)

Sec. 20-151. Reserved.

Editor's note – Section 20-151, prohibiting driving through processions, derived from the 1953 Code, ch. 17, § 80, was repealed by § 1 of Ord. No. 5931, adopted Dec. 19, 1983.

Sec. 20-152. Method of driving in processions.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(1953 Code, ch. 17, § 81)

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Sec. 20-153. Reserved.

Editor's note – Section 20-153, prohibiting driving on sidewalks except at a driveway, derived from the 1953 Code, ch. 17, § 82, was repealed by § 1 of Ord. No. 5931, adopted Dec. 19, 1983.

Sec. 20-154. Operation of unsafe vehicles.

No person shall drive or move any motor vehicle, trailer, semitrailer or combination thereof on any street or highway when any such vehicle is in such condition as to be a potential hazard to any other person or vehicles upon such street or highway. This section is particularly directed against vehicles with damaged, torn or loose fenders, doors or other parts likely or liable to injure other persons, damage other vehicles or any other property.
(1953 Code, ch. 17, § 85)

Sec. 20-155. Limitations on U-turns.

The driver of any vehicle shall not turn such vehicle on a city street or highway so as to proceed in the opposite direction:

Sec. 20-155(1). At any intersection controlled by a traffic-control signal, whether a green indication or a green arrow when signs are erected prohibiting such turns. (Ord. No. 4508, § 2, 6-21-76)

Sec. 20-155(2). Upon any street or highway in a business district, except when on a divided highway or street, or part thereof.

Sec. 20-155(3). Upon any street or highway other than divided highways, except at intersections.

Sec. 20-155(4). Except when such movement can be made on a street or highway in safety and without interfering with other traffic. The driver shall yield the right-of-way to any approaching vehicle that is so near as to be an immediate danger. (Ord. No. 7645, § 1, 6-17-91)

Sec. 20-155(5). At such places where such turns are prohibited pursuant to and in the manner provided by section 20-115.
(1953 Code, ch. 17, § 87; Ord. No. 1921, § 1, 4-21-58; Ord. No. 2544, § 1, 11-18-63)

Sec. 20-156. Obstructing intersections, crosswalks.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(1953 Code, ch. 17, § 89)

Sec. 20-157. Reserved.

Editor's note – Ord. No. 9985, § 1, adopted June 21, 2004, repealed § 20-157, which pertained to left turns prohibited and derived from Ord. No. 4000, § 1, 3-26-73; Ord. No. 4885, § 1, 10-16-78; Ord. No. 5001, §§ 1, 2, 6-25-79; Ord. No. 5608, § 1, 6-28-82; Ord. No. 6307, § 1, 9-16-85; Ord. No. 7731, § 1, 12-9-91; Ord. No. 8160, § 1, 11-15-93; Ord. No. 8341, § 1, 8-1-94.

Sec. 20-158. Regulation of towing services.

Sec. 20-158(1). The chief of police will supervise and regulate towing services upon the streets and rights-of-way of the city for disabled, wrecked, abandoned, stolen, unlawfully parked vehicles and vehicles seized as evidence. When an operator or owner of a vehicle has no preference or is unable to request a preference, the vehicle will be towed according to the provisions of agreements procured by the purchasing agent through competitive bidding governing towing services.
(Ord. No. 4117, § 1, 12-10-73; Ord. No. 4346, § 1, 4-21-75; Ord. No. 4957, §§ 1 – 3, 4-9-79)

Sec. 20-159. Traffic signal preemptor devices.

Sec. 20-159(1). It shall be unlawful for any person not authorized by the city traffic engineer to utilize any preemptor device to control an official traffic-control device within the City of Tucson.

Sec. 20-159(2). A civil sanction of not less than two hundred fifty dollars (\$250.00), which shall not be suspended, shall be imposed on any person found responsible for a violation of minor section (1).
(Ord. No. 5931, § 13, 12-19-83)

Sec. 20-160. Use of handheld wireless communications device while driving; prohibited; exceptions.

A. A person shall not operate a motor vehicle on a street while using a handheld wireless communications device to compose manually, send or read a written message for the purpose of non-voice interpersonal communication, including texting, emailing and instant messaging, while the motor vehicle is in motion.

B. This section does not apply to any of the following persons if the use of the handheld wireless communications device is made as part of their official duties:

1. Law enforcement and public safety personnel.
2. Drivers of authorized emergency vehicles.

C. A violation of this section is a nonmoving civil traffic violation. A peace officer may stop and issue a citation to a person operating a motor vehicle on a street in this city if the peace officer has reasonable cause to believe there is a violation of this section.

D. If a person violates this section and the person is not involved in a motor vehicle accident, the person is subject to a civil penalty of not less than one hundred dollars (\$100.00) plus any other penalty assessments authorized by law.

E. If a person violates this section and the person is involved in a motor vehicle accident, the person is subject to a civil penalty of not less than two hundred fifty dollars (\$250.00) plus any other penalty assessments authorized by law.

(Ord. No. 10966, § 1, 2-22-12, eff. 4-1-12)

Secs. 20-161 – 20-172. Reserved.

ARTICLE VI. ONE-WAY STREETS AND STOP STREETS

Sec. 20-173. Signs required.

Whenever any provision of this Code or any ordinance of the city designates any through street, one-way street or alley, the traffic engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(1953 Code, ch. 17, § 92)

Sec. 20-174. Through streets.

Those streets or portions of streets designated by ordinance shall be through streets for the purpose of this section. Three (3) copies of current ordinances designating such streets or portions of streets as through streets shall be on file by the city clerk.

(Ord. No. 4070, § 1, 8-6-73)

Editor's note – Ord. No. 4070, § 1, amended § 20-174 to read as herein set out. Through streets have been designated by 1953 Code, ch. 17, § 93 as supplemented in 1957 and as amended by:

- Ord. No. 1925, § 2, 2-19-62
- Ord. No. 1935, § 5, 8-3-59
- Ord. No. 2265, § 1, 2-19-62
- Ord. No. 2484, § 1, 7-8-63
- Ord. No. 2967, § 1, 2-6-67
- Ord. No. 3111, § 1, 4-15-68
- Ord. No. 3752, § 1, 12-23-71
- Ord. No. 4051, § 1, 7-9-73
- Ord. No. 4274, § 1, 1-20-75
- Ord. No. 4509, § 2, 6-21-76
- Ord. No. 4886, §§ 1, 2, 10-16-78

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		2	27-35 27-37 27-43 27-50
		3	27-86
10899	6-7-11	1	22-95
10900	6-28-11	1	10-31 (note)
		2	10-31(7) (note) 10-31(8) (note) 10-33 (note) 10-33.1 (note) 10-34 (note) 10-34.1 (note) 10-35 (note) 10-47 (note) 10-48 (note) 10-49 (note) 10-52 (note) 10-53 (note) 10-53.1 (note) 10-53.2 (note) 10-53.3 (note) 10-53.5 (note)
		3	10-53.4
10901	6-14-11	1	Added 8-6.9
10903	6-28-11	2	3-11
		3	3-53
			Added 3-70
		4	3-76 3-77 3-79 3-81 3-96
		5	
10904	6-28-11	1	Ch. 18 (tit.)
		2	Added 18-1 – 18-10
		3	Rnbd 2-12 as 18-11
10910	8-9-11	2	7-211
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		7	19-660
10915	6-21-11	1	22-30
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		3	22-34
		4	22-36
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		7	22-41
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			10A-147
			10A-148
			10A-150
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			20-230.2
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10919	8-9-11	1	19-53
10934	10-12-11	1	2-140
10940	10-25-11	1	20-179
10948	12-5-11	1	10-35
10949	12-13-11	1	19-100
		2	Rpld. 19-130
		3	19-405
		4	Reg. 19-415.2
		5	Reg. 19-460.1
10950	12-20-11	2	Added 6-10, 6-11
		3	10A-134
10951	12-20-11	1	3-33
		2	3-33 (note)
			3-82 (note)
10952	12-20-11	1	8-2.1
		2	8-2.2
10954	1-10-12	1	3-96 (eff. 7-10-12)
10955	1-10-12	2	Rpld 10A-220 – 10A-225
10958	1-24-12	1	27-36 (eff. 7-2-12)
10959	1-24-12	1	27-36 (eff. 7-2-12)
10965	2-15-12	6	Added 16-37
			Added 16-38
		7	16-70
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10966	2-22-12	1	Added 20-160

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		4	7-453
		5	Added 7-465 – 7-479
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