TUCSON, ARIZONA

Supp. No. 116 – 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 September 19, 2017. 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. 116". If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

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TUCSON CODE

CONTAINING
THE CHARTER AND GENERAL ORDINANCES
CITY OF TUCSON, ARIZONA

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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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PART I

CHARTER*

*** Editor's note—**Tucson was first incorporated as a city on Feb. 7, 1877, and became a charter city on March 7, 1883. Part I hereof contains the present Charter of the city, which was ratified March 26, 1929, and became effective upon approval of the governor May 23, 1929. Catchlines in boldface type preceding each section have been added by the editor, but section numbers remain unchanged. Amendments have been inserted in their proper places, and amended and repealed provisions have been deleted. Amendments are noted in parentheses following sections amended by citing the ordinance setting out the amendment followed by the date such amendment was signed by the governor and became effective. The absence of any such citation indicates that the provision has not been amended since the Charter was adopted. In some instances, the editor has added words or phrases in brackets to clarify meaning. Obvious typographical errors have been corrected without comment. The editor has also made certain stylistic changes for the sake of conformity, but no substantive changes have been made.

Chapter I. Name

Chapter II. Boundaries

Chapter III. Government

Chapter IV. Powers of City

Chapter V. Officers and Salaries

Chapter VI. The Mayor

Chapter VII. Powers of Mayor and Council

Chapter VIII. Vacancies

Chapter IX. Legislation

(20) *Municipal elections; boards of election.** To provide for the manner in which and the times at which any municipal election shall be held and the result thereof determined; and for the manner in which and the times at which, and the terms for which, the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches; and for all expenses incident to the holding of any election, except as otherwise provided in this Charter.

(21) *Violation of ordinances.* To make the violation of its ordinances a misdemeanor, and to prescribe the punishment of such violations, which punishment shall be by fine or imprisonment, or by both fine and imprisonment.†

(22) *Eminent domain.* To exercise the right of eminent domain for the purpose of acquiring real and personal property of every kind, including water, water rights and waterworks, within or without the corporate limits, necessary or convenient for the use of the said city or its inhabitants.

(23) *Joining with other public corporations for certain municipal purposes.* To join with one (1) or more public corporations for the purpose of acquisition, construction, ownership, operation, control, or use, within or without, or partly within and partly without the city, of public utilities, or of works, property or rights, necessary or convenient for the disposition of garbage, sewage, storm water, or refuse matter, upon such terms and conditions and to the extent provided for by general law or by ordinance, and to incur bonded indebtedness for such purposes; provided, that the city shall not so join for any such purpose or purposes without the assent of a majority of the qualified electors of the city voting on the question at a general or special election at which such questions may be submitted. (Ord. No. 5861, § 1, eff. 11-22-83)

(24) *Acquisition of property for other public utility purposes; disposition of property acquired.* To acquire by purchase, condemnation or otherwise, such lands or other property or rights within or without the city, as may be necessary or convenient for the establishment, maintenance and operation of any public utility, or to provide for and effectuate any other public purpose, and to hold, use, improve, operate, control, lease, convey or otherwise dispose of the same for the benefit of the city.

(25) *Lease of public utilities owned by city; lease procedure; authority of electors as to acquisition and disposition of public utilities.* To lease to persons, firms or corporations for the purpose of maintenance, operation or use, any public utility owned or controlled by the city, and to provide for the leasing of any lands now or hereafter owned by the city by ordinance duly adopted, provided, that any such leases shall reflect fair market value of the leasehold unless the legislative body determines that the public interest requires otherwise, provided, that no public utility shall be purchased, leased, acquired, sold or in any manner disposed of without the assent of a majority of the taxpayers, who must be qualified electors of the city, voting on the question at a general or special election at which such question may be submitted. (Ord. No. 7274, § 1, eff. 12-11-89)

(26) *Acquisition of lands for parks and recreational purposes.* To acquire, own and control, within or without the city, lands for parks and recreational purposes, and to maintain or control the same, and to construct and maintain highways in connection therewith.

(27) *Borrowing money.* To borrow money for any of the purposes for which the city is authorized to provide for, for carrying out of any of the powers which the city is authorized to enjoy and exercise, and to issue bonds and warrants therefor, subject, however, to the restrictions and limitations in this Charter otherwise provided. (Ord. No. 1142, eff. 6-23-48)

*** Cross reference—**Elections generally, ch. XVI.

†Code references—General penalty, § 1-8; imprisonment in city or county jail, § 1-9.

(28) *Civil service commission.** To establish a civil service commission, prescribe its duties and powers, and to do all things necessary to carry into effect and maintain civil service rules and regulations in the departments of the city as provided by this Charter.

(29) *Additional powers; cumulative powers.* The city shall have and may exercise all further and additional powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, or granted by the laws of the state, and which it would be competent and lawful for this Charter to enumerate or set forth specifically, and the specification or enumeration herein of any particular powers shall not be deemed to be exclusive. Whenever any power is conferred by this Charter, and different methods of procedure are provided for the exercise thereof, or if the power be conferred in different terms, in two (2) or more provisions, such different methods or manner of exercising such power or powers shall not the one affect or modify the other, but they shall be deemed accumulative and selective.

Sec. 2. Business privilege tax.

Notwithstanding the limitations, restrictions, and conditions set forth in section 1, chapter IV, and in chapter XIII of the Charter of the City of Tucson, for the purpose of reducing the tax levy on real and personal property, and for the payment of any, and all kinds of city expense, the city shall have the power to impose, levy and collect a transaction privilege tax not exceeding two (2) percent of the gross income, or gross value, or gross proceeds of sale, as the case may be, of the business done by the taxpayer; provided, however, that while and during the time a tax is imposed by authority of and pursuant to this section, the taxpayer upon whom the tax is imposed, except liquor dealers and licensees, shall be exempted from payment of the city occupational tax specified and authorized in subsection (18) of section 1 of chapter IV, of the Charter of the City of Tucson; and also provided, however, that while and during the time a tax is imposed by authority of and pursuant to this section, the taxpayer upon whom the tax is imposed is hereby exempted from payment of the tax to the extent of the gross income. or gross value, or gross proceeds, as the case may be, of the business done by the taxpayer from the sale of food products for human consumption, excepting, however, those food products ordinarily consumed on the premises such as in restaurants, or at stands, or at drive-ins, or prepared carried out foods such as pizzas or delicatessen foods, and also provided that, while and during the time any tax is imposed and for which it is collected pursuant to and by authority of this section, no ad valorem tax shall be assessed, levied, or collected upon any real or personal property within the corporate limits by the City of Tucson in excess of one dollar and seventy-five cents ($1.75) per hundred dollars assessed value.

(Ord. No. 2297, § 1, eff. 7-2-62; Ord. No. 3346, § 1, eff. 12-29-69)

Editor's note—Ch. IV. § 2, was amended at a referendum election held Dec. 16, 1969, pursuant to the mandate of Ord. No. 3346, § 1, enacted Oct. 16, 1969. The mayor certified the result of the election on Dec. 22, 1969. and the governor approved the amendment on Dec. 29, 1969. The amendment increased the tax from 1 to 2 and added the exception for sales of food products.

Code reference—Sales of food products for human consumption exempt from transaction privilege taxes, § 19-120.

Sec. 3. Business privilege tax for transportation and public safety improvements.

A. In addition to the powers described in Chapter IV, Section 2 of this charter, during the time period beginning on July 1, 2017 and ending on June 30, 2022, the city shall have the power to impose, levy and collect a transaction privilege tax and use tax not exceeding five-tenths of one percent (0.5%) for the payment of city expenses for the following purposes:

(1) Street improvements: restoration, repair, resurfacing and improvement of the condition of city streets, including all necessary costs in connection therewith; and

(2) Public safety improvements: acquisition and upgrading of public safety vehicles and equipment, and capital improvements of public safety facilities.

* **Cross reference—**Civil service, ch. XXII.

B. There shall be established a street improvements fund which shall consist of forty percent (40%) of all revenues collected from the tax authorized under section 3(a) above, as well as any interest earned on those monies. The director of finance shall deposit all monies received from the designated tax revenues into this fund, and shall invest monies in the fund, and all accounts therein as provided by Chapter XXIX of this Charter. The director of finance shall credit monies earned from these investments to the fund. The street improvements fund shall be administered as follows:

1. Sixty cents ($0.60) of each dollar in the street improvement fund shall be used for restoration, repair, resurfacing and improvement of the condition of major streets, to include principal arterial and minor arterial streets, collector streets, and subcollector streets;

2. Forty cents ($0.40) of each dollar in the street improvement fund shall be used for restoration, repair, resurfacing and improvement of the condition of local or residential streets.

3. Monies from the street improvement fund shall be appropriated by the mayor and council only for the purposes set forth in this section and in accordance with a street improvement plan approved by the mayor and council by ordinance on or before January 31, 2017.

C. There shall be established a public safety improvements fund which shall consist of sixty percent (60%) of all revenues collected from the tax authorized under section 3(a) above, as well as any interest earned on those monies.

The director of finance shall deposit all monies from the designated tax revenues into this fund, and shall invest monies in the fund, and all accounts therein as provided by Chapter XXIX of this Charter. The director of finance shall credit monies earned from these investments to the fund. The public safety improvements fund shall be used exclusively for the payment of expenses associated with the acquisition and upgrading of public safety vehicles and equipment, and capital improvements of public safety facilities, in accordance with a public safety improvements plan approved by the mayor and council by ordinance on or before January 31, 2017.

D. The power to impose, collect and levy the taxes authorized by section 3(a) above shall expire on June 30, 2022, unless that power is extended or renewed by the approval of a majority of the qualified electors of the city voting at an election called for that purpose.

Editor's note—Ch. IV. § 3, was added at a special election held May 16, 2017, pursuant to the provisions of Ord. No. 11421. The mayor certified the result of the election on June 8, 2017. and the governor approved the amendment on June 21, 2017. The amendment authorized a tax to fund street improvements and public safety investments for a period of five years.

CHAPTER V. OFFICERS AND SALARIES*

Sec. 1. Elective officers specified.

The elective officers of the city shall be:

(1) A mayor; and

(2) Six (6) councilmen.

Cross references—Government vested in mayor, council, ch. III, § 1; elections generally, ch. XVI; mayor and councilmen holding other offices prohibited, ch. XVIII, § 1.

* **Cross references—**Filling of vacancies, ch. VIII; powers and duties of officers other than mayor and councilmen, ch. X; recall of officers, ch. XXI; civil service, ch. XXII; pension fund, ch. XXIII; additional compensation of officers prohibited and exception for police, ch. XXV, § 1; salary of director of finance, ch. XXIX, § 4; salary of director of parks and recreation, ch. XXXI, § 3.

CHARTER COMPARATIVE TABLE

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7684	9- 3-91	XIII	12
		XV	1--8 (Rpld)
		XV	1--6 (Added)
		XVI	Subch. B, § 5(b)
		XXVII	1--6 (Rpld)
8118	9- 7-93	1	Art. V, 9.1 Art. XVI, 8.1
8573	9- 5-95	V	8, 9
8947	9- 2-97	XVI	8
8951	9- 2-97	VIII	2
		VIII	3, 4 (Rpld)
		VIII	5--7 as 3--5 (Rnbd)
8953	9- 2-97	VII	1(27)
9270	12- 2-99	V	8, 9
9271	12- 2-99	IX	2
(Prop. 403)	2-2-16	V	3, 4, 4.1
		IX	5, 8
		XXII	2
(Prop. 404)	2-2-16	V	2.1 (Added), 6, 7, 11, 13
		X	7, 9
		XXII	3
		XXIX	4
		XXX	3
		XXXI	3
11421	5-16-17	IV	3 (Added)

Chapter 2

ADMINISTRATION*

Article I. In General

***Cross references –** Sign code appeals & variances, § 3-121 et seq.; citizen sign code committee, § 3-141 et seq.; community affairs, ch. 10A; housing and community development, § 10B-1 et seq.; permit appeal board for transportation of hazardous materials, § 13-11; administrative hearing office, ch. 28.

Article II. Mayor and Council

Article III. Public Communication, Community Engagement, and Integrated Planning

Article IV. Reserved

Article V. Bonds of Officers and Employees

Article VI. City Clerk Records Management

Article VII. Reserve Police Officer Program

Article VIII. Special Duty Police Services Program

Article IX. Disposition of Property and Money by the Police Department

Sec. 2-121. Purpose and functions of reserve police officers.

The purpose of appointment of reserve police officers is to preserve the public peace and promote the general welfare of the city by giving authority to certain persons to enforce city ordinances, state statutes and federal laws, as well as perform other duties as may from time to time be assigned by the chief of police.
(Ord. No. 4454, § 1, 3-1-76)

Sec. 2-122. Status of reserve police officers; compensation.

(a) Reserve police officers, only while on duty in such capacity under the supervision of the chief of police or his designates, shall have police powers equivalent to those of regular police officers, subject to such limitations as the chief of police may direct. Reserve police officers shall not be subject to or acquire any rights under the civil service rules of the city or public safety personnel retirement system of the state.

(b) Reserve police officers shall receive no salary from the city or the police department.
(Ord. No. 4454, § 1, 3-1-76)
Cross reference – Civil service generally, ch. 10.

Sec. 2-123. Qualifications for appointment; applications.

The chief of police shall determine the qualifications necessary for appointment as a reserve police officer, and shall approve all applications prior to appointment.
(Ord. No. 4454, § 1, 3-1-76)

Sec. 2-124. Oath of office.

Every person appointed by the chief of police as a reserve police officer shall be sworn to faithful performance of his required duties as established by the chief of police.
(Ord. No. 4454, § 1, 3-1-76)

Sec. 2-125. Preassignment training.

The chief of police shall conduct a period of preassignment training for reserve police officers sufficient to enable such officers to properly and adequately perform their required duties. The chief of police may also require such additional continuing training as he may find necessary.
(Ord. No. 4454, § 1, 3-1-76)

Sec. 2-126. Dismissal.

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

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

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

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

ARTICLE VIII. SPECIAL DUTY POLICE SERVICES PROGRAM

Sec. 2-130. Definitions.

In this chapter unless the context otherwise requires:

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

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

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

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

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

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

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

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

Secs. 2-132 – 2-139. Reserved.

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

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

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

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

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

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

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

(f) Property with an estimated value of twenty-five dollars ($25.00) or less shall be donated to a local charitable organization or disposed of. Property with a value of more than twenty-five dollars ($25.00) shall be delivered to the director of procurement for disposition in accordance with Tucson Code sections 28-70 and 28-71. The chief of police shall issue regulations implementing the disposition of property required by this article. Such regulation shall include the method of value appraisal, choice of charitable organizations, maintenance of property invoice records, and any other regulation that insures the integrity of property in the custody of the police department. Property delivered to the director of procurement shall be accompanied by a list of the items transferred, to include the corresponding invoice record number as indicated in subsection (e).
(Ord. No. 10146, § 1, 4-19-05; Ord. No. 10934, § 1, 10-12-11)

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

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

(b) Disposition of rare coins or currency of numismatic value shall be in accordance with section 2-140.
(Ord. No. 10146, § 1, 4-19-05)

tion of and approve or condemn all buildings or structures within the jurisdiction of the city, control types and classes of material and the method, manner and workmanship for the construction and repair of buildings and structures, approve or disapprove the use of building materials or devices, inspect public and private premises for violations of the provisions of this chapter 6 and of such other portions of the Tucson Code as the building safety administrator may direct, give notice of defects in construction and repair, alterations or changes of buildings and structures, receive applications for issuing permits or building construction repairs, alterations or changes, collect and account for fees, examine and approve plans and specifications for proposed building construction, repairs, alterations or changes and advise on necessary changes in such plans and specifications, certify to compliance with plans and specifications on building work, make such reports as shall be required from time to time by the building safety administrator, and make any recommendations to the building safety administrator which the building inspection supervisor may deem practical and desirable.
(Ord. No. 5531, § 2, 3-22-82)

Sec. 6-34. Building code adopted.

The document entitled "International Building Code, 2012 Edition" published by the International Code Council, with local amendments, a copy of which amendments are attached to Ordinance No. 11042 as Exhibit "A" are hereby adopted.
(Ord. No. 5331, § 2, 3-22-82; Ord. No. 5771, § 1, 5-23-83; Ord. No. 6567, § 1, 11-10-86; Ord. No. 7179, § 1, 4-24-89; Ord. No. 7792, § 1, 4-13-92; Ord. No. 8607, § 1, 1-2-96; Ord. No. 9155, § 1, 11-2-98; Ord. No. 9491, § 1, 11-20-00; Ord. No. 9526, § 4, 3-19-01; Ord. No. 10035, § 1, 9-7-04; Ord. No. 10142, § 2, 4-12-05; Ord. No. 10417, § 2, 6-12-07; Ord. No. 10625, § 1, 1-13-09; Ord. No. 11042, § 1, 12-18-12, eff. 1-2-13; Ord. No. 11478, § 1, 8-8-17, eff. 9-7-17)

Editor's note – Exhibit A is not printed herein but is on file in the office of the city clerk and available for public inspection during regular business hours.

Sec. 6-35. Clerk to keep copies of building code.

Three (3) copies of the building code adopted in section 6-34 shall be filed in the office of the city clerk and are made public records and shall be available for public use and inspection during regular office hours.
(Ord. No. 5531, § 2, 3-22-82)

Sec. 6-36. Amendments to building code.

The building code adopted in section 6-34 may be amended from time to time by the mayor and council. Three (3) copies of current ordinances amending the building code shall be kept on file by the city clerk as public records and shall be kept available for public use and inspection during regular office hours.
(Ord. No. 5531, § 2, 3-22-82; Ord. No. 10035, § 3, 9-7-04)

Sec. 6-37. Applicability of administrative and building codes.

Every new building and structure erected in or moved into the jurisdiction of the city after June 30, 1992, shall conform to the applicable requirements of the Building Safety Administrative Code adopted in section 6-1 and as amended, and to the requirements of the building code adopted in section 6-34 and as amended. All additions, alterations, repairs, changes of use or occupancy in all buildings or structures within the jurisdiction of the city shall conform to the applicable requirements of the Building Safety Administrative Code adopted in section 6-1 and as amended, and to the requirements of the building code adopted in section 6-34 and as amended, applicable to new buildings, except as specifically provided for therein. Every building and structure existing in the city after June 30, 1992, shall conform to the requirements of the building code adopted in section 6-34 and as amended, which expressly or necessarily require that they apply to such existing buildings and structures, and to the requirements of the Building Safety Administrative Code of the city, adopted in section 6-1 and as amended, applicable to existing buildings.
(Ord. No. 5531, § 2, 5-23-83; Ord. No. 5771, § 2, 5-23-83; Ord. No. 6000, § 1, 4-23-84; Ord. No. 6567, § 2, 11-10-86; Ord. No. 7179, § 2, 4-24-89; Ord. No. 7792, § 2, 4-13-92)

Sec. 6-38. Residential code adopted.

The documents entitled "International Residential Code, 2012 Edition" published by the International Code Council, with local amendments, a copy of which amendments are attached to Ordinance No. 11042 as Exhibit "B" are hereby adopted.
(Ord. No. 9491, § 2, 11-20-00; Ord. No. 9526, § 5, 3-19-01; Ord. No. 9813, § 2, 2-10-03; Ord. No. 10035, § 2, 9-7-04; Ord. No. 10142, § 1, 4-12-05; Ord. No.

10417, § 3, 6-12-07; Ord. No. 10579, § 2, 9-23-08; Ord. No. 10605, § 1 (Exh. A), 11-25-08; Ord. No. 11042, § 2, 12-18-12, eff. 1-2-13; Ord. No. 11089, § 1 (Exh. A), 7-9-13)

Editor's note – Exhibit B is not printed herein but is on file in the office of the city clerk and available for public inspection during regular business hours.

Sec. 6-39. Reserved.

Sec. 6-40. Energy conservation code adopted.

The document entitled the "International Energy Conservation Code, 2012 Edition" with local amendments, a copy of which amendments are attached as Exhibit "C" to Ordinance No. 11042 are hereby adopted.
(Ord. No. 9491, § 3, 11-20-00; Ord. No. 9813, § 4, 2-10-03; Ord. No. 10178, § 1, 7-6-05; Ord. No. 10417, § 4, 6-12-07; Ord. No. 11042, § 3, 12-18-12, eff. 1-2-13)

Editor's note – Exhibit C is not printed herein but is on file in the office of the city clerk and available for public inspection during regular business hours.

Secs. 6-41 – 6-65. Reserved.

DIVISION 2. EXISTING BUILDING CODE*

Sec. 6-66. Existing building code adopted.

The documents entitled "International Existing Building Code, 2012 Edition" published by the International Code Council, with local amendments, a copy of which amendments are attached to Ordinance No. 11042 as Exhibit "D" are hereby adopted.
(Ord. No. 10436, § 2, 7-10-07; Ord. No. 11042, § 4, 12-18-12, eff. 1-2-13)

Editor's note – Exhibit D is not printed herein but is on file in the office of the city clerk and available for public inspection during regular business hours.

Secs. 6-67 – 6-70. Reserved.

*__Editor's note –__ Prior to the reenactment of Div. 2 by Ord. No. 10436, Ord. No. 9816, § 1, adopted February 24, 2003, repealed Div. 2, §§ 6-66 – 6-68, and enacted similar provisions set out in §§ 16-12, 16-14 and 16-20 – 16-28. Former Div. 2 pertained to the dangerous buildings code. See the Code Comparative Table.

DIVISION 3. RESERVED†

Secs. 6-71 – 6-80. Reserved.

ARTICLE IV. ELECTRICITY‡

DIVISION 1. ELECTRICAL CODE**

Sec. 6-81. Electrical inspection supervisor – Office created.

The office of electrical inspection supervisor is established. The electrical inspection supervisor shall be responsible to an under the authority of the building safety administrator.
(Ord. No. 5442, § 2, 9-28-81)

Sec. 6-82. Same – Qualifications; assistants.

No person shall be appointed electrical inspection supervisor who shall not possess the required minimum qualifications for that position as expressed in the position classification plan of the city. The electrical inspection supervisor shall be assisted by electrical inspectors who possess the required minimum qualifications for their respective positions as are expressed in the position classification plan of the city. The electrical inspection supervisor may from time to time delegate to his assistants such of his authority as is necessary or desirable.
(Ord. No. 5442, § 2, 9-28-81)

†__Editor's note –__ Ord. No. 9816, § 2, adopted February 24, 2003, repealed Div. 3, §§ 6-71 – 6-73, and enacted similar provisions set out in new §§ 16-11 and 16-12. Former Div. 3 pertained to the housing safety code. See the Code Comparative Table.

‡__Editor's note –__ Ord. No. 5155, § 1, adopted May 27, 1980, repealed ch. 6, art. IV, §§ 6-82 – 6-111, derived from Ord. No. 4688, § 2, adopted August 1, 1977; Ord. No. 4836, § 3, adopted June 26, 1978; § 2 enacted a new art. IV, §§ 6-81 – 6-98. Subsequently, § 2 of Ord. No. 5338, adopted April 6, 1981, designated §§ 6-81 – 6-100 as "Division 1. Electrical Code" of art. VI. Section 3 added new §§ 6-101 – 6-113 as div. 2. Subsequently, § 1 of Ord. No. 5442, adopted September 28, 1981, repealed div. 1, §§ 6-81 – 6-98; and § 2 added a new div. 1, §§ 6-81 – 6-87.

**__Cross reference –__ Technical division of administrative hearing office to have exclusive jurisdiction over alleged violations of electrical code, § 28-4(1).

Secs. 10A-126 – 10A-129. Reserved.

ARTICLE XII. TUCSON-PIMA COUNTY BICYCLE ADVISORY COMMITTEE

Sec. 10A-130. Created; membership; vacancies; quorum; terms; compensation.

(a) There is created, in concert with Pima County, an organization to be called the "Tucson-Pima County Bicycle Advisory Committee." The committee shall consist of seventeen (17) members, seven (7) of which shall represent the city and ten (10) of which shall represent the county.

(b) Employees of the city or the county shall not be members of the committee, except that the city and the county may each appoint one (1) staff person to serve as an ex officio, nonvoting member of the committee. Other municipalities and governmental entities located in Pima County, such as the University of Arizona, Pima Community College, and Davis-Monthan Air Force Base, may participate in the Tucson-Pima County Bicycle Advisory Committee by appointing one (1) voting member of the committee who shall serve in addition to the seventeen (17) members provided for in subsection (a).

(c) *Appointment of Members:*

(1) Each member of the mayor and council shall appoint one (1) member.

(2) The county members of the committee shall be proposed by the transportation department and approved by a majority of the board of supervisors.

(d) *Term:*

(1) The term of each of the city members of the commission shall be coterminous with the term of the appointing mayor and council member.

(2) The county members of the committee shall serve a term of two (2) years from the time of that member's appointment.

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

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

(g) Members of the committee shall serve without compensation.

(h) A majority of the members of the committee shall constitute a quorum. The concurrence of the majority of the members constituting a quorum shall be the act of the committee.

(i) The committee shall adopt rules and regulations for its operations that are consistent with this article and other legal authority.
(Ord. No. 6731, § 2, 7-6-87; Ord. No. 7020, § 1, 9-6-88; Ord. No. 7096, § 1, 11-28-88)

Sec. 10A-131. Functions and purposes.

The duties, powers and functions of the committee shall be:

(1) To confer with and advise the governing bodies of the city and county on community concerns relating to bicycling.

(2) To organize community programs and projects to provide information and education to the community on bicycling.

(3) To review and make recommendations on proposed local, state and federal legislation relating to bicycling.

(4) To act as an official advisory agency to the city and the county governing bodies for technical questions and concerns related to bicycling.

(5) To render an annual report of committee activities to the governing bodies of the city and county, and to file minutes of committee meetings with the two (2) governing bodies.

(6) To recommend such action to the governing bodies of the city and county as the committee deems necessary or desirable to accomplish the above functions, and to put its policies into practice.
(Ord. No. 6731, § 2, 7-67)

Sec. 10A-132. Limitation of powers.

Neither the committee nor any member thereof shall incur expenses or obligate the city and/or the county in any way without prior authorization from the mayor and council and the board of supervisors.
(Ord. No. 6731, § 2, 7-6-87)

ARTICLE XIII. TERMS AND CONDITIONS OF MEMBERSHIP ON BOARDS, COMMITTEES AND COMMISSIONS AND FILING OF RULES

Sec. 10A-133. Applicability.

(a) The provisions of this article shall apply to all boards, committees and commissions of the city, notwithstanding any other ordinance or resolution unless specifically exempted from the provisions hereof, or except when they conflict with the Charter, Arizona Revised Statutes, intergovernmental agreements, or corporate articles or bylaws of instrumentalities of the city. Where there is a conflict, the applicable provisions of the Charter, Arizona Revised Statutes, intergovernmental agreement, or corporate articles or bylaws shall prevail.

(b) The provisions of this article do not apply to the Industrial Development Authority of the City of Tucson, Arizona.
(Ord. No. 7018, § 2, 9-6-88; Ord. No. 10734, § 1, 12-7-09)

Sec. 10A-134. Terms and removal.

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

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

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

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

(e) A member of a body, except for advisory members, who misses four (4) consecutive meetings for any reason or who fails to attend for any reason at least forty (40) percent of the meetings called in a calendar year is automatically and immediately removed as a member of the body.

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

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

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

Sec. 10A-135. Effective date.

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

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

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

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

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

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

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

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

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

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

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

(1) Be appointed by and serve at the pleasure of a concurring vote of a simple majority of the CAPC;

(2) Not be subject to the number, term, quorum or voting restrictions of sections 10A-134 and 10A-137.

(Ord. No. 8023, § 2, 4-12-93)

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

(a) *Boards established by ordinance or resolution.* All city boards, committees, and commissions (hereinafter collectively referred to in this section as "board") that serve an on-going advisory or quasi-judicial function shall be established by ordinance adopted by the mayor and council. All other city boards that are intended to serve for a limited time for the purpose of advising the mayor and council on a specific issue shall be established by a resolution adopted by the mayor and council.

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

(1) *Sunset clause.* Unless mandated by the resolution to have a longer term, the board shall automatically terminate twenty-four (24) months after the effective date of the resolution.

(2) *Staff support*. Unless otherwise specified and budgeted, support for all boards shall be limited to complying with the requirements of the open meeting law.

(3) *Strategic plan.* The mission, responsibilities, and functions of the board shall be specified and consistent with the city's strategic plan.

(4) *Outside financial support*. The mayor and council shall approve any application for financial support outside of the city, and the county for joint city-Pima County boards, before the board may apply for the same. Any such financial support shall include funds for administrative assistance.

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

(d) *Exceptions.* The mayor and council may exempt a board from any of the provisions of subsections (b) or (c) above by specifically designating the provision to be exempted in the ordinance or resolution creating the board and specifying the alternative, if any, to the provision.
(Ord. No. 9943, § 1, 3-22-04; Ord. No. 10810, § 1, 6-22-10)

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

DIVISION 4. LIQUOR AND VENDING MACHINE LICENSE TAX*

Sec. 19-51. Imposition – Liquor license tax.

Businesses in the city, selling alcoholic beverages, shall possess a city liquor license and pay a license tax as set out in section 19-52 of this article.
(Ord. No. 7885, § 2, 8-3-92; Ord. No. 8128, § 5, 9-27-93)

Sec. 19-52. Quarterly – Liquor license fee schedule.

Series 1.	Distiller's License	$225.00
Series 2.	Brewer's License	$202.50
Series 3.	Winer's License	$103.50
Series 5.	Government License	$342.00
Series 6.	Bar License – All Spirituous Liquor	$274.50
Series 7.	Bar License Beer and Wine	$117.00
Series 9.	Liquor Store License Packaged Goods	$94.50
Series 10.	Beer and Wine Store License – Packaged Beer and Wine	$90.00
Series 11.	Hotel/Motel License – All Spirituous Liquor Consumed on Premises	$342.00
Series 12.	Restaurant License – All Spirituous Liquor Consumed on Premises	$342.00
Series 14.	Club License	$61.20
Series 17.	Governmental License to Serve and Sell Spirituous Liquor on Special Premises	$405.00
Series 18.	Daily On-Sale Special Event License	None

(Ord. No. 7885, § 2, 8-3-92)

Sec. 19-53. Applications.

Application fees are based on full cost recovery. Application processing costs shall be reviewed in conjunction with the city's biennial budget process to ensure that cost recovery is being achieved. Applications for liquor licenses for establishments located within the city limits, whether original or transfer, shall be made in accordance with the following procedure:

(1) Application shall first be made with the State of Arizona Department of Liquor Licenses and Control in such form and manner as required by the director.

(2) A copy of the state application will be sent to the city clerk by the State of Arizona Department of Liquor Licenses and Control.

(3) An application for a special event license, an extension of premises, wine festival or fair, or a craft distillery festival or fair shall be filed with the city clerk forty-five (45) days before the date of its proposed use in order to be considered timely. Applications filed between twenty-two (22) and forty-four (44) days prior to the date of proposed use shall incur additional late processing fees conforming to the schedule under subsection (4) below. No application for a special event license, extension of premises, wine or craft distillery festival or fair shall be accepted within twenty-one (21) days before its proposed use, except that the city clerk or the clerk's designee may grant a one-time only waiver to an organization or applicant after consultation with the ward office where the use will occur.

(4) Upon receipt of a copy of the state application by the city for a license, the applicant shall pay a nonrefundable application fee to the city conforming to the following schedule:

***Note –** Formerly, Art. I, Div. 3. Renumbered Art. I, Div. 4 by § 10 of Ord. No. 10448.

License Type	*Applicable Fee*
Regular	
Original License	$1,636.00
Location Transfer	$1,636.00
Person Transfer	$1,636.00
Person/Location Transfer	$1,636.00
Continuation of Restaurant License	$1,636.00
Agent Change – Acquisition of Control – Restructure	$463.00
Special Event	
0 – 500 Attendees	$125.00
501 – 2,500 Attendees	$240.00
2,501 – 5,000 Attendees	$297.00
Over 5,000 Attendees	$480.00
Late Processing Fee (Day 30 to Day 44)	$75.00
Late Processing Fee (Day 22 to Day 29)	$125.00
Wine Festival/Wine Fair/Craft Distillery Festival/Craft Distillery Fair	
License	$50.00 per day
Late Processing Fee (Day 30 to Day 44)	$75.00
Late Processing Fee (Day 22 to Day 29)	$125.00
Temporary Extension of Premises	
Initial Application	$25.00 per 100 square feet, up to a maximum of $526.00
Subsequent applications for the same type extension of premises as the initial, made within 12 months of the initial application	$15.00 per 100 square feet, up to a maximum of $526.00
Fire Inspection Fees per application	$82.50 for the initial inspection and 1 re-inspection. Additional inspections will be charged $82.50 per inspection
Late Processing Fee (Day 30 to Day 44)	$75.00
Late Processing Fee (Day 22 to Day 29)	$125.00
Permanent Extension of Premises	
Initial Application	$60.00 per 100 square feet, up to a maximum of $1,344.00
Subsequent applications for the same type extension of premises as the initial, made within 12 months of the initial application	$35.00 per 100 square feet, up to a maximum of $1,344.00
Fire Inspection Fees per application	$82.50 for the initial inspection and 1 re-inspection. Additional inspections will be charged $82.50 per inspection

(Ord. No. 7885, § 2, 8-3-92; Ord. No. 9839, §§ 1 – 3, 5-5-03; Ord. No. 10402, § 1, 5-15-07; Ord. No. 10554, § 1, 6-25-08, eff. 8-1-08; Ord. No. 10836, § 1, eff. 9-8-10; Ord. No. 10919, § 1, 8-9-11; Ord. No. 11022, § 1, 9-19-12, eff. 11-1-12; Ord. No. 11399, § 1, 9-20-16; Ord. No. 11492, § 1, 9-19-17, eff. 10-1-17)

Sec. 19-54. Vending machines license fees.

(a) Before being granted a distributor's license, each applicant therefor shall pay an annual license tax which is hereby imposed in the amount of one hundred fifty dollars ($150.00) for licenses issued prior to April 1; one hundred twelve dollars and fifty cents ($112.50) for licenses issued after March 31 and prior to July 1; seventy-five dollars ($75.00) for licenses issued after June 30 and prior to October 1; and thirty-seven dollars and fifty cents ($37.50) for licenses issued after September 30 of each calendar year. All distributors' licenses will expire on December 31 of each calendar year. In addition, there shall be paid an annual tax of six dollars ($6.00) per machine operating or operated in the city, listed in the application. For each machine placed in operation by a new licensee and for each additional machine placed in operation by existing licensees on and after July 1 of each calendar year, the six dollars ($6.00) tax shall be reduced to three dollars ($3.00) for the calendar year remainder.

(b) Each owner-operator shall pay a six dollar ($6.00) annual registration tax for each machine placed in operation prior to July 1 of each year and a three dollar ($3.00) proportional registration tax for each machine placed in operation on or after that date. All machine registrations shall expire on December 31 of each year and must be renewed annually.
(Ord. No. 7885, § 2, 8-3-92)

Sec. 19-55. Business privilege license tax.

No provision of this division shall be construed to avoid payment of the business privilege license taxes in accordance with this chapter.

Secs. 19-56 – 19-65. Reserved.

DIVISION 5. TAX ON HOTELS RENTING TO TRANSIENTS*

Sec. 19-66. Tax imposed; nature and source of transient rental occupational license tax.

(a) *Six (6) percent tax.* Every person who operates or causes to be operated a hotel or recreation vehicle park within the city is subject to and shall pay an occupational license tax in an amount equal to six (6) percent of the rent charged by the operator to a transient. The transient rental occupational license tax imposed on the class of lodging house and recreation vehicle park operators serving transients as defined in section 19-1 is not on the privilege of doing business within the city, but is a license tax on the transient rental occupation. The tax, when due, constitutes a debt owed by the operator to the city which is extinguished only by payment thereof to the city. If the rent is charged by the operator to the transient in installments, the tax thereon shall be due as provided herein for the calendar month in which the installment was charged. Upon the transient's ceasing to occupy space in the hotel, the tax on any uncharged rent shall be due for that calendar month.

(b) *Variable dollar amount surtax.* In addition to the measure of tax established in subsection (a), there is imposed upon every person who operates or causes to be operated a hotel within the city an additional amount of tax at the rate of four dollars ($4.00) and, effective September 1, 2017, upon every person who operates or causes to be operated a recreational vehicle park within the city an additional amount of tax at the rate of two dollars ($2.00) for each twenty-four (24) hour period or fraction thereof that each occupancy is rented. The amount of such additional tax shall be separately identified in the reports required by the rules and regulations for administration of the transient rental tax to be made by the taxpayer to the city and on the books and records of the taxpayer. The administrative rules and regulations aforementioned shall apply to this additional tax unless in conflict with this paragraph (b).

***Note –** Formerly, Art. I, Div. 4. Renumbered Art. I, Div. 5 by § 10 of Ord. No. 10448.

(c) *Exclusions.* The occupational license tax imposed by subsections (a) and (b) shall not apply to:

(1) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, Arizona, or any other state or a political subdivision of this state or of any other state in a privately operated prison, jail, or detention facility;

(2) Gross proceeds of sales or gross income that is properly included in another business activity under chapter 19, article II and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity;

(3) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this division;

(4) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under sections 19-410 or 19-475 due to an exclusion, exemption, or deduction;

(5) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel; however, such commissions may be subject to tax under sections 19-445 or 19-450 as rental, leasing, or licensing for use of real or tangible personal property; or

(6) Income from providing telephone, fax, or internet services to customers at an additional charge that is separately stated to the customer and is separately maintained in the hotel's books and records; however, such gross proceeds of sales or gross income may be subject to tax under section 19-470 as telecommunication services.

(Ord. No. 7885, § 2, 8-3-92; Ord. No. 9838, § 1, 5-5-03; Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07; Ord. No. 10685, § 4, 6-16-09, eff. 7-1-09; Ord. No. 11369, § 1, 6-7-16, eff. 7-1-16; Ord. No. 11472, § 1, 6-20-17, eff. 9-1-17)

Sec. 19-67. Registration.

Within thirty (30) days after commencing business, each hotel within the city renting occupancy to transients shall be registered with the director of finance in the name of the operator. A transient rental tax license will be issued and will be at all times posted in a conspicuous place on the premises. The first of these licenses will be automatically issued to those hotels currently holding a city business privilege license, but this provision in no way relieves the operator of the responsibility of registering such hotel and obtaining a license after the effective date of the section. Thereafter, such license will be issued with the city business privilege license. The license shall, among other things, state the following:

(1) Name of the operator;

(2) Address of the hotel;

(3) The date upon which the license was issued.

(Ord. No. 7885, § 2, 8-3-92; Ord. No. 8128, § 6, 9-27-93)

Sec. 19-68. Determination of rent based upon method of reporting.

The method of reporting chosen by the taxpayer, as provided in section 19-520 shall necessitate the following adjustments to gross income for all purposes under this article:

(1) *Cash basis.* When a person elects to report and pay taxes on a cash basis, rent for the reporting period shall include:

(A) The total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and

(B) All amounts received on accounts receivable, conditional sales contract, or other similar transactions against which no deductions and no exclusions from rent are allowed.

(2) *Accrual basis.* When a person elects to report and pay taxes on an accrual basis, rent shall include all rent for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:

(A) The amount deducted for the bad debt is deducted from rent of the month in which the actual charge-off was made and only to the extent that such amount was actually charged off and also only to the extent that such amount is or was included as taxable rental income; and

(B) If any amount is subsequently collected on such charged-off account, it shall be included in rental income for the month in which it was collected without deduction for expense of collection.

(Ord. No. 7885, § 2, 8-3-92; Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-69. Exclusion of vendor issued coupons and rebates from rental income.

(a) The following items shall not be included in rent:

(1) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from rental income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by any person other than the vendor may not be excluded from rental income.

(2) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from rental income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from rental income, even when the vendee assigns his right to the rebate to the vendor.

(b) If the amount specified in subsection (a) above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable rental income of that subsequent reporting period but only to the extent that the excludable amount was reported as taxable rental income in that prior reporting period.

(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-70. Exclusion of combined taxes from rent; itemization; notice; limitations.

(a) *When tax is separately charged and/or collected.* The total amount of rental income shall be exclusive of combined taxes only when the person upon whom the tax is imposed establishes to the satisfaction of the tax collector that such tax has been added to the total price of the transaction. The taxpayer must provide to his customer and also keep a reliable record of the actual tax charged or collected, shown by cash register tapes, sales tickets, or other accurate record, separating net transaction price and combined tax. If at any time the tax collector cannot ascertain from the records kept by the taxpayer the total or amounts billed or collected on account of combined taxes, the claimed taxes collected may not be excluded from rental income unless such records are completed and/or clarified to the satisfaction of the tax collector.

(b) *Remittance of all tax charged and/or collected.* When an added charge is made to cover city (or combined) transient rental tax, the person upon whom the tax is imposed shall pay the full amount of the city taxes due, whether collected by him or not. In the event the taxpayer collects more than the amount due, the excess shall be remitted to the tax collector. In the event the tax collector cannot ascertain from the records kept by the taxpayer the total or amounts of taxes collected, and the tax collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this division, the tax collector may determine the amount collected and collect the tax so determined in the manner provided in this division.

(c) *Itemization.* In order to be entitled to exclude from rent any amounts paid by customers for combined taxes passed on to such customers, the taxpayer shall show to the tax collector that the customer was provided with a written record of the transaction showing, at a minimum, the price before the tax, the combined taxes, and the total cost. This shall be in addition to the record required to be kept under subsection (a) above.

(d) *When tax has been neither separately charged nor separately collected.* When the person upon whom the tax is imposed establishes by means of invoices, sales tickets, or other reliable evidence that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable rent by 1.00 plus a decimal figure representing the effective combined tax rate expressed as a fraction of 1.00.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-71. Licensing requirements.

(a) *Generally.* Every person desiring to engage or continue in business activities within the city upon which a transient rental tax is imposed by this article shall make application to the tax collector for a transient rental tax license, accompanied by a non-refundable fee of twenty-five dollars ($25.00), and no person shall engage or continue in business or engage in such activities without such a license.

(b) *Limitation.* The issuance of a transient rental license by the tax collector shall not be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07; Ord. No. 10448, § 5, 9-5-07, eff. 1-1-08)

Sec. 19-72. Special licensing requirements.

(a) *Partnerships.* Application for a transient rental license by a partnership engaging or continuing in business in the city shall provide, at a minimum, the names and addresses of all general partners. Licenses issued to persons engaged in business as partners, limited or general, shall be in the name of the partnership.

(b) *Corporations.* Application for a transient rental license by a corporation engaging or continuing in business in the city shall provide, at a minimum, the names and addresses of both the chief executive officer and chief financial officer of the corporation. Licenses issued to persons engaged in business as corporations shall be in the name of the corporation.

(c) *Multiple locations or multiple business names.* A person engaged in or conducting one (1) or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.

(d) *Conditions.* Licenses shall not be issued until all legal requirements are met. It shall be a condition precedent to the issuance of a license that all statutes, ordinances, regulations, and other requirements affecting the public peace, health, and safety are complied with in total.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-73. Licensing; duration of license; transferability; display.

(a) Except as provided in section 19-74, the transient rental license shall be valid until request for cancellation and/or surrender of the license by the licensee or expiration through cessation by the licensee of the business activity for which it was issued.

(b) The transient rental license shall be nontransferable between owners or locations and shall be on display to the public in the licensee's place of business.

(c) Any licensee whose license expires through cancellation as provided in section 19-74, by a request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued and who thereafter applies for license shall be granted a new license as an original applicant and shall pay the current license fee. Any licensee who loses or misplaces his transient rental license which is still in effect shall be charged the current license fee for each re-issuance of a license.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-74. Licensing: cancellation; revocation.

(a) *Cancellation.* The tax collector may cancel the city transient rental license of any licensee as inactive:

(1) If the taxpayer, required to report monthly to the city, has neither filed any return nor remitted to the city any taxes imposed by this article for a period of six (6) consecutive months;

(2) If the taxpayer, required to report quarterly, has neither filed any return nor remitted any taxes imposed by this article for two (2) consecutive quarters; or

(3) If the taxpayer, required to report annually, has neither filed any return nor remitted any taxes imposed by this article when such annual report and tax are due to be filed with and remitted to the tax collector.

(b) *Revocation.* If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid to the city under this division or if such licensee fails to comply with any provision of this article, the tax collector may revoke the city transient rental license of the licensee.

(c) *Notice and hearing.* The tax collector shall deliver notice to such licensee of cancellation or revocation of the transient rental license. If within twenty (20) days the licensee so notified requests a hearing, he shall be granted a hearing before the tax collector.

(d) *Relicensing.* After cancellation or revocation of a taxpayer's license, the taxpayer shall not be relicensed until all reports have been filed, all fees, taxes, interest, and penalties due have been paid, and the taxpayer is in compliance with this article.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-75. Operating without a license.

It shall be unlawful for any person who is required by this article to obtain a transient rental tax license to engage in or continue in business within the city without a license. The tax collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this division.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-76. Recordkeeping requirements.

(a) Every person subject to the tax imposed by this division shall keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this division. The books and records must contain, at a minimum, such detail and summary information as may be required by regulation or, when records are maintained within an electronic data processing (edp) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. Every person subject to the tax imposed by this division shall keep and preserve such books and records for a period equal to the applicable limitation period as provided in section 19-28 for assessment of tax and all such books and records shall be open for inspection by the tax collector during any business day.

(b) The tax collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:

(1) Only for future reporting periods; and

(2) Only by express determination of the tax collector that such specific recordkeeping is necessary due to the inability of the city to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-77. Recordkeeping; claim of exclusion, exemption, deduction, or credit; documentation; liability.

(a) All deductions, exclusions, exemptions, and credits provided in this division are conditional upon adequate proof and documentation of such as may be required either by this division or regulation.

(b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which the person is not entitled under this division, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption, it shall not also be collected from the vendor.
(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-78. Inadequate or unsuitable records.

In the event the records provided by the taxpayer are considered by the tax collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this division, the taxpayer shall either:

(1) Provide such other records as required by this division or regulation; or

(2) Correct or reconstruct the taxpayer's records to the satisfaction of the tax collector.

(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Sec. 19-79. Administration.

Except as otherwise provided in this division, the administration of this division shall be governed by the provisions of division 5, article II and the regulations thereunder.

(Ord. No. 10360, § 3, 12-19-06, eff. 1-1-07)

Secs. 19-80 – 19-84. Reserved.

DIVISION 6. TAX ON SECONDHAND DEALERS AND PAWNBROKERS

Sec. 19-85. Tax imposed.

(a) *In general.* Except as provided in subsections (b) and (c), there is imposed on every secondhand dealer and pawnbroker operating in fixed location in the city an occupational license tax in the amount of one thousand dollars ($1,000.00).

(b) *Out of city dealers.*

(1) A secondhand dealer described in subsection (b)(2) shall pay an occupational license tax as follows:

(A) If the dealer conducts one (1) or two (2) shows in a calendar year, a tax of five hundred dollars ($500.00).

(B) If the dealer conducts three (3) or more shows in a calendar year, a tax of one thousand dollars ($1,000.00).

(2) A secondhand dealer liable for the tax imposed by subsection (b)(1) is one who:

(A) Has not already paid the tax imposed by subsection (a) in that year; and

(B) Conducts business at a location that is not that person's or entity's actual business address, such as a hotel, meeting hall, convention center, or other short term leased or rented location

(c) *Exclusion.* A secondhand dealer or pawnbroker who has submitted less than one thousand (1,000) reports to the chief of police, as required by section 7-98, in the calendar year prior to the date the tax imposed by subsection (a) is due is exempt from the tax imposed by such subsection. The chief of police shall transmit to the director of finance the names of all secondhand dealers and pawnbrokers subject to such tax no later than January 15 of each year.

(Ord. No. 10790, § 6, 5-18-10, eff. 1-1-11)

Sec. 19-86. Due date of tax.

The tax imposed by section 19-85 is due and payable on March 1.

(Ord. No. 10790, § 6, 5-18-10, eff. 1-1-11)

Sec 19-87. Administration.

The administration of this division shall be governed by division 5, article II, and the regulations thereunder.

(Ord. No. 10790, § 6, 5-18-10, eff. 1-1-11)

Secs. 19-88 – 19-98. Reserved.

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

(2) Reserved.

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

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

(d) *Limitation of Exemptions, Deductions and Credits Allowed Against the Measure of Taxes Imposed by this Article.* All exemptions, deductions and credits set forth in this article shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.
(Ord. No. 6674, § 3, 3-23-87)

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

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

(1) The advertising of a product or service which is sold or provided both within and without the state by more than one "commonly designated business entity" within the state, and in which the advertisement names either no "commonly designated business entity" within the state or more than one "commonly designated business entity". "Commonly designated business entity" means any person selling or providing any product or service to its customers under a common business name or style, even though there may be more than one (1) legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

(2) Advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the state.

(3) The advertising of a product which may only be purchased from an out-of-state supplier.

(4) Political advertising for United States Presidential and Vice Presidential candidates only.

(5) Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product but not product coupons redeemable only at a single commonly designated business entity.

(6) Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

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

Sec. 19-407. Reserved.

(Ord. No. 6938, § 8, 4-25-88)

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

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the city, which includes the following type or nature of businesses:

(1) Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dancehalls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.

(2) Health spas, fitness centers, dance studios, or other persons who charge for the use of premises for sports, athletic, other health-related activities or instruction, whether on a per-event use, or for long-term usage, such as membership fees.

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

(1) Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.

(2) Income received from a hotel business subject to tax under section 19-444, if all of the following apply:

(A) The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.

(B) The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.

(C) The hotel business has provided an exemption certificate to the person engaging in business under this section.

(3) Income that is specifically included as the gross income of a business activity upon which another section of this article imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

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

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

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 8, 1-23-95; Ord. No. 10361, § 3, 12-19-06; Ord. No. 10685, § 3, 6-16-09, eff. 7-1-09; Ord. No. 11479, § 1, 8-8-17)

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

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

(a) *Tax rate.* The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the city.

(1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.

(2) (Reserved).

(3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under section 19-427.

"Subcontractor" also includes a construction contractor performing work for another subcontractor as defined above.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 7446, § 2.4, 7-2-90; Ord. No. 8440, § 9, 1-23-95; Ord. No. 9322, § 2, 11-22-99; Ord. No. 9652, § 1, 1-14-02; Ord. No. 10040, § 2, 9-20-04; Ord. No. 10361, § 4, 12-19-06; Ord. No. 10524, § 2, 5-13-08, eff. 7-1-08; Ord. No. 10754, § 1, 1-20-10, eff. 9-1-06; Ord. No. 10911, § 2, 8-9-11, eff. 7-29-10; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-416. Construction contracting: Speculative builders. (Regs. 416.1, 416.2)

(a) *Tax rate.* The tax shall be equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the city.

(1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.

(2) *"Improved real property"* means any real property:

a. Upon which a structure has been constructed; or

b. Where improvements have been made to land containing no structure (such as paving or landscaping); or

c. Which has been reconstructed as provided by regulation; or

d. Where water, power, and streets have been constructed to the property line.

(3) *"Sale of improved real property"* includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.

(4) *"Partially improved residential real property,"* as used in this section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) *Exclusions.*

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by regulation.

(2) Cost of land. Gross income from the sale of improved real property shall not include the seller's original purchase price of the land which is included in the real property sold, when a charge for such land is included in the total selling price of the real property sold.

(3) Reserved.

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

a. The speculative builder purchasing the partially improved residential real property has a valid city privilege license for construction contracting as a speculative builder; and

b. At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the city at the time of sale of the partially improved residential real property; and

c. The seller also:

1. Maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

2. Retains a copy of the written declaration provided by the buyer for the transaction; and

3. Is properly licensed with the city as a speculative builder and provides the city with the written declaration attached to the city privilege tax return where he claims the exclusion.

(5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) *Occurrence of liability.* Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) *Exemptions.*

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

1. Section 19-465, subsections (7) and (16).

2. Section 19-660, subsections (7) and (16).*

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to section 19-465, subsection (7) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

1. The attributable amount shall not exceed the value of the development fees actually imposed.

2. The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

3. "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. section 9-463.05, A.R.S. section 11-1102 or A.R.S. title 48 regardless of the jurisdiction to which the fees are paid.

(2) *Deductions.*

a. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five (35) percent.

b. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in section 19-110, that is deducted from the retail classification pursuant to section 19-465(7), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one (1) of the following:

1. To be incorporated into real property.

2. To become so affixed to real property that it becomes part of the real property.

3. To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

c. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Arizona Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the city, as applicable for examination.

(3) *Tax credits.* The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

a. A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this city, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

c. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 9, 4-25-88; Ord. No. 7446, § 2.6, 7-2-90; Ord. No. 9322, § 3, 11-22-99; Ord. No. 9652, § 2, 1-14-02; Ord. No. 10040, § 1, 9-20-04; Ord. No. 10361, § 5, 12-19-06; Ord. No. 10524, § 3, 5-13-08, eff. 7-1-08; Ord. No. 10754, § 2, 1-20-10, eff. 9-1-06; Ord. No. 10911, § 3, 8-9-11, eff. 7-29-10; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-417. Construction contracting: Owner-builders who are not speculative builders.

(a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to two and one-half (2.5) percent of:

(1) The gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in subsection 19-415(c)(2); and

(2) The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) The tax liability of this section is subject to the following provisions, relating to exemptions, deductions and tax credits:

(1) *Exemptions.*

a. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

1. Section 19-465, subsections (7) and (16).

2. Section 19-660, subsections (7) and (16).*

shall be exempt or deductible, respectively, from the tax imposed by this section.

b. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

c. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or

maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to section 19-465, subsection (7) shall be exempt from the tax imposed under this section.

d. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this section.

e. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

1. The attributable amount shall not exceed the value of the development fees actually imposed.

2. The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

3. "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. section 9-463.05, A.R.S. section 11-1102 or A.R.S. title 48 regardless of the jurisdiction to which the fees are paid.

(2) *Deductions.*

a. All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five (35) percent.

b. The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in section 19-110, that is deducted from the retail classification pursuant to section 19-465(7), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one (1) of the following:

1. To be incorporated into real property.

2. To become so affixed to real property that it becomes part of the real property.

3. To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

c. For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Arizona Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the city, as applicable, for examination.

(3) *Tax credits.* The following tax credits are available to owner-builders and speculative builder, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

a. A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

b. A tax credit equal to the amount of privilege taxes paid to this city, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

c. No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(d) The limitation period for the assessment of taxes imposed by this section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth month after said unit or project was substantially complete. Interest and penalties, as provided in section 19-540, will be based on reportable date.

(e) Reserved.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 9322, § 4, 11-22-99; Ord. No. 9652, § 3, 1-14-02; Ord. No. 10040, § 1, 9-20-04; Ord. No. 10361, § 6, 12-19-06; Ord. No. 10524, § 4, 5-13-08, eff. 7-1-08; Ord. No. 10754, § 3, 1-20-10, eff. 9-1-06; Ord. No. 10911, § 4, 8-9-11, eff. 7-29-10; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-418. Reserved.

Editor's note – Ord. No. 9322, § 5, adopted Nov. 22, 1999, repealed § 19-418, which pertained to construction contracting: deductions and tax credits available to speculative builders and owner-builders. It should be noted that § 16 of Ord. No. 9322, adopted Nov. 22, 1999 provided that the repeal of section 19-418 is retroactive to January 1, 1999. See the Code Comparative Table.

Sec. 19-420. Reserved.

Sec. 19-425. Job printing.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

(b) The tax imposed by this section shall not apply to:

(1) Job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.

(2) Out-of-city sales.

(3) Out-of-state sales.

(4) Job printing of newspapers, magazines, or other periodicals or publications for a person who is subject to the tax imposed by subsection 19-435(a) or an equivalent excise tax; provided further, that the person is properly licensed by the taxing jurisdiction at the location of publication.

(5) Sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(6) Reserved.

(7) Sales of postage and freight except that the amount deducted shall not exceed the actual postage and freight expense that is paid to the United States Postal Service or a commercial delivery service and that is separately itemized by the taxpayer on the customer's invoice and in the taxpayer's records.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 10, 4-25-88; Ord. No. 8440, § 10, 1-23-95; Ord. No. 9069, § 1(5), 6-15-98; Ord. No. 11183, § 14, 6-17-14, eff. 9-21-06; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-427. Manufactured buildings.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income, including site preparation, moving to the site, and/or setup, upon every person engaging or continuing in the business activity of selling manufactured buildings within the city. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.

(b) The sales of used manufactured buildings are not taxable.

(c) The sale prices of furniture, furnishings, fixtures, appliances, and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this section. The sales of such items are subject to the tax under section 19-460.

(d) Under this section, a trade-in will not be allowed for the purpose of reducing the tax liability.

(Ord. No. 8440, § 11, 1-23-95; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-430. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the following businesses:

(1) Felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.

(2) Extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product extracted, refined, produced, or prepared for sale, profit, or commercial use, when such activity occurs within the city, regardless of the place of sale of the product or the fact that delivery may be made to a point without the city or without the state.

(c) If any person engaging in any business classified in this section ships or transports products, or any part thereof, out of the state without making sale of such products, or ships his products outside of the state in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-state and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.

(d) Reserved.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 12, 1-23-95; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-432. Mining.

(a) The tax rate shall be at an amount equal to one-tenth (1/10) of one (1) percent not to exceed one-tenth (1/10) of one (1) percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting, or producing for sale, profit, or commercial use any copper, gold, silver, or other mineral product, compound, or combination of mineral products, but not including the extraction, removal, or production of sand, gravel, or rock from the ground for sale, profit, or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced for sale, profit, or commercial use, when such activity occurs within the city, regardless of the place of sale of the product or the fact that delivery may be made to a point without the city or without the state.

(c) If any person engaging in any business classified in this section ships or transports products, or any part thereof, out of the state without making sale of such products, or ships his products outside of the state in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-state and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this section.
(Ord. No. 8440, § 13, 1-23-95)

Sec. 19-435. Publishing and periodicals distribution. (Reg. 435.1)

(a) *Tax Rate.* The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business activity of:

(1) Publication of newspapers, magazines or other periodicals when published within the city measured by the gross income derived from notices, subscriptions and local advertising as defined in section 19-405. In cases where the location of publication is both within and without this state, gross income subject to the tax shall refer only to gross income derived from residents of this state or generated by permanent business locations within this state.

(2) Distribution or delivery within the city of newspapers, magazines or other periodicals not published within the city, measured by the gross income derived from subscriptions.

(b) *Location of Publication.* Location of publication is determined by:

(1) Location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

(2) Location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

(c) *Subscription Income.* Subscription income shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the state by such carriers or vendors, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the privilege tax on such resale.

(d) *Circulation.* Circulation, for the purpose of measurement of gross income subject to the tax, shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States mails shall be considered to have occurred at the location of publication.

(e) *Allocation of Taxes Between Cities and Towns.* In cases where publication or distribution occurs in more than one (1) city or town, the measurement of gross income subject to tax by the city shall include:

(1) That portion of the gross income from publication which reflects the ratio of circulation within this city to circulation in all incorporated cities and towns in this state having substantially similar provisions; plus

(2) Only when publication occurs within the city, that portion of the remaining gross income from publication which reflects the ratio of circulation within this city to the total circulation of all incorporated cities or towns in this state within which cities the taxpayer maintains a location of publication.

(f) The tax imposed by this section shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 11, 4-25-88; Ord. No. 9069, § 1(6), 6-15-98; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-444. Hotels.

(a) The tax rate shall be at an amount equal to zero (0) percent of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(1) Person.

(b) *Exclusions.* The tax imposed by this section shall not include:

(1) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state in a privately operated prison, jail or detention facility.

(2) Gross proceeds of sales or gross income that is properly included in another business activity under this article and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(3) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this article.

(4) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under section 19-410 or section 19-475 due to an exclusion, exemption or deduction.

(5) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under section 19-445 or section 19-450 as rental, leasing or licensing for use of real or tangible personal property.

(6) Income from providing telephone, fax, or Internet services to customers at an additional charge that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under section 19-470 as telecommunication services.
(Ord. No. 7446, § 2.7, 7-2-90; Ord. No. 9322, § 6, 11-22-99; Ord. No. 10361, § 7, 12-19-06, eff. 1-1-07)

Sec. 19-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the city for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the city for a consideration including any improvements, rights, or interest in such property; provided further that:

(1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.

(2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.

(3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under section 19-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this section.

(e) Exempt from the tax imposed by this section is gross income derived from the rental, leasing, or licensing for use of real property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces rented, leased or licensed or available for rent, lease, or license within the state and no units of commercial property for rent, lease, or license within the state, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this section on such income. However, a person who has one (1) or more units of commercial property is subject to the tax imposed by this section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces.

(g) (Reserved).

(h) The tax prescribed by this section shall not include gross income from the rental, leasing, or licensing of lodging or lodging space to an individual who resides therein.

(i) (Reserved).

(j) Exempt from the tax imposed by this section is gross income derived from the activities taxable under section 19-444 of this Code.

(k) (Reserved).

(l) (Reserved).

(m) (Reserved).

(n) Notwithstanding the provisions of section 19-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this section.

(o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.

(p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.

(q) Charges to patients receiving “personal care” or “directed care”, by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.

(r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code (IRC), including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit, and the rent received from that unit.

(s) The gross proceeds of a commercial lease of real property between affiliated companies, businesses, persons or reciprocal insurers are exempt. For the purposes of this paragraph:

(1) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, an affiliated entity holds a controlling interest in both the lessor and the lessee or an unrelated person holds a controlling interest in both the lessor and lessee.

(2) "Controlling interest" means direct or indirect ownership of at least eighty percent (80%) of the voting shares of a corporation or of the interests in a company, business, or person other than a corporation.

(3) "Reciprocal insurer" has the same meaning as prescribed in A.R.S. § 20-762.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 7446, § 7.2, 7-2-90; Ord. No. 8440, § 14, 1-23-95; Ord. No. 9069, § 1(7), 6-15-98; Ord. No. 9322, § 7, 11-22-99; Ord. No. 9652, § 4, 1-14-02; Ord. No. 10287, § 5, 6-13-06; Ord. No. 10911, § 5, 8-9-11, eff. 7-29-10; Ord. No. 11183, § 13, 6-17-14, eff. 7-20-11; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-446. Reserved.
(Ord. No. 6938, § 12, 4-25-88)

Sec. 19-447. Reserved.
(Ord. No. 6674, § 3, 3-23-87)

Sec. 19-450. Rental, leasing, and licensing for use of tangible personal property.

(a) *Tax rate*. The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the city as provided by regulation.

(b) *Special provisions relating to long-term motor vehicle leases.* A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a privilege tax or an equivalent excise tax upon the transaction.

(c) *Exemptions.* Gross income derived from the following transactions shall be exempt from privilege taxes imposed by this section:

(1) Rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.

(2) Rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.

(3) Rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under section 19-410, or to a radio station, television station, or subscription television system.

(4) Rental, leasing, or licensing for use of the following:

a. Prosthetics.

b. Income-producing capital equipment.

c. Mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.

(5) Rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this state by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.

(6) Separately billed charges for delivery, installation, repair, and/or maintenance as provided by regulation.

(7) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.

(8) The gross income from coin-operated washing, drying, and dry cleaning machines, or from coin-operated car washing machines. This exemption shall not apply to suppliers or distributors renting, leasing, or licensing for use of such equipment to persons engaged in the operation of coin-operated washing, drying, dry cleaning, or car washing establishments.

(9) Rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the state, as prescribed by regulation, if such rental, leasing, or licensing had been a sale.

(10) Rental, leasing or licensing for use of an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

(11) Rental, leasing, and licensing for use of solar energy devices, for taxable periods beginning from and after July 1, 2008. The lessor shall register with the department of revenue as a solar energy retailer. By registering, the lessor acknowledges that it will make its books and records relating to leases of solar energy devices available to the department of revenue and city, as applicable, for examination.

(12) Leasing or renting certified ignition interlock devices installed pursuant to the requirements prescribed by A.R.S. § 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in A.R.S. § 28-1301.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 15, 1-23-95; Ord. No. 9069, § 1(8), 6-15-98; Ord. No. 9322, § 8, 11-22-99; Ord. No. 9652, § 5, 1-14-02; Ord. No. 10361, § 8, 12-19-06; Ord. No. 10754, § 4, 1-20-10, eff. 7-1-08; Ord. No. 11183, § 15, 6-17-14, eff. 9-1-04; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-452. Reserved.

(Ord. No. 7446, § 2.10, 7-2-90)

Sec. 19-455. Restaurants and bars.

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity. (Reg. 445.1)

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off the premises shall also be allowed to exclude separately charged delivery, setup, and cleanup charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off the premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this section.

(c) The tax imposed by this section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(d) The tax imposed by this section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-5061(A)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

(e) The tax imposed by this section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

(f) For the purposes of this section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 13, 4-25-88; Ord. No. 9069, § 1(9), 6-15-98; Ord. No. 10361, § 9, 12-19-06; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-460. Retail sales: Measure of tax; burden of proof; exclusions.

(a) *Tax Rate.* The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail. (Regs. 460.2, 460.3, 460.6)

(b) *Burden of Proof.* The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

(c) *Exclusions.* For the purposes of this article, sales of tangible personal property shall not include:

(1) Sales of stocks, bonds, options or other similar materials.

(2) Sales of lottery tickets or shares pursuant to A.R.S. article I, chapter 5, title 5.

(3) Sales of platinum, bullion or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation. (Reg. 460.5)

(4) Gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another section of this division imposes a tax shall be considered gross income of that business activity and are not includable as gross income subject to the tax imposed by this section. (Reg. 460.1)

(5) Sales by professional or personal service occupations where such sales are inconsequential elements of the service provided. (Reg. 460.4)

(6) Sales of cash equivalents. The gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as means of payment for goods or services that are taxable under this article is subject to the tax. "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

a. Items or intangibles that are sold to one (1) or more persons, through which a value is not denominated in money.

b. Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection (g) of this section.

(d) Reserved.

(e) When this city and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence; and for the purposes of this article, such city or town has sole and exclusive right to such tax.

(f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this city or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

(g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8784, § 6, 12-2-96; Ord. No. 9322, § 9, 11-22-99; Ord. No. 11183, § 16, 6-17-14, eff. 10-1-07; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-462. Retail sales: Food for home consumption.

(a) The tax rate shall be at an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of selling food for home consumption at retail.

(b) For the purposes of this section only, the following definitions shall be applicable:

(1) *Eligible grocery business* means an establishment whose sales of food are such that it is eligible to participate in the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958, 7 U.S.C. § 2011, et seq.), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the food stamp program if it is authorized to participate in the program by the United States Department of Agriculture Food and Nutrition Service Field Office on the effective date of this section [March 23, 1987], or if, prior to a reporting period for which the return is filed, such retailer proves to the satisfaction of the tax collector that the establishment, based on the nature of the retailer's food sales, could be eligible to participate in the food stamp program established by the Food Stamp Act of 1977 according to regulations in effect on January 1, 1979.

(2) *Facilities for the consumption of food* means tables, chairs, benches, booths, stools, counters, and similar conveniences, trays, glasses, dishes, or other tableware and parking areas for the convenience of in-car consumption of food in or on the premises on which the retailer conducts business.

(30) In computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under section 19-470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

(31) For the purposes of this section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under section 19-470 is considered to be a sale for resale in the regular course of business.

(32) Sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a department of environmental quality permit to burn used oil or used oil fuel under A.R.S. § 49-426 or § 49-480.

(33) Sales of food, beverages, condiments and accessories to a public educational entity pursuant to any of the provisions of A.R.S. Title 15, including a regularly organized private or parochial school that offers an educational program for grade twelve (12) or under which may be attended in substitution for a public school pursuant to A.R.S. § 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(34) Sales of personal hygiene items to a person engaged in the business of and subject to tax under section 19-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.

(35) For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

(36) Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(37) (Reserved).

(38) Sales of motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. § 1-215.

(39) Sales of solar energy devices for taxable periods beginning from and after July 1, 2008. The retailer shall register with the Department of Revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and city, as applicable, for examination.

(40) Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the Corporation Commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

(41) Sales of magazines or other periodicals or other publications by this state to encourage tourist travel.

(42) Sales of paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

(43) Sales of overhead materials or other tangible personal property that is used in performing a contract between the United States Government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contractor or subcontract.

(44) Sales of coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in A.R.S. § 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty (20) full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

(45) Sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in A.R.S. § 41-1514.02. This subsection applies for ten (10) full consecutive calendar or fiscal years after the start of initial construction.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 16, 1-23-95; Ord. No. 8784, § 7, 12-2-96; Ord. No. 8958, § 6, 9-22-97; Ord. No. 9004, § 1(2), 1-5-98; Ord. No. 9069, § 1(10), 6-15-98; Ord. No. 9322, § 10, 11-22-99; Ord. No. 9652, § 6, 1-14-02; Ord. No. 10361, § 10, 12-19-06; Ord. No. 10524, § 5, 5-13-08, eff. 7-1-08; Ord. No. 11183, § 3, 6-17-14, eff. 1-1-13*)

***Editor's note** – Ord. No. 11183, § 18, adopted June 17, 2014, provides that the amendments made to Sec. 19-465(40) shall be effective from and after January 1, 2007.

Sec. 19-470. Telecommunication services.

(a) *Tax rate.* The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this city.

(1) Telecommunication services shall include:

a. Two-way voice, sound, and/or video communication over a communications channel.

b. One-way voice, sound, and/or video transmission or relay over a communications channel.

c. Facsimile transmissions.

d. Providing relay or repeater service.

e. Providing computer interface services over a communications channel.

f. Time-sharing activities with a computer accomplished through the use of a communications channel.

(2) Gross income from the business activity of providing telecommunication services to consumers within this city shall include:

a. All fees for connection to a telecommunication system.

b. Toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the city and terminating in this state.

c. Fees charged for access to or subscription to or membership in a telecommunication system or network.

d. Charges for monitoring services relating to a security or burglar alarm system located within the city where such system transmits or receives signals or data over a communications channel.

e. Charges for telephone, fax, or Internet access services provided at an additional charge by a hotel business subject to taxation under section 19-444.

(b) *Resale telecommunication services.* Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this section; provided, however, that such purchaser is properly licensed by the city to engage in such business.

(c) *Interstate transmissions.* Charges by a provider of telecommunication services for transmissions originating in the city and terminating outside the state are exempt from the tax imposed by this section.

(d) *(Reserved).*

(e) *(Reserved).*

(f) *Prepaid calling cards.* Telecommunications services purchased with a prepaid calling card that are taxable under section 19-460 are exempt from the tax imposed under this section.

(g) *Internet access services.* The gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:

(1) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(2) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8783, § 1, 12-2-96; Ord. No. 9322, § 11, 11-22-99; Ord. No. 9652, § 7, 1-14-02; Ord. No. 10361, § 11, 12-19-06, eff. 1-1-07; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-475. Transporting for hire. (Reg. 475.1)

(a) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this city to another point within the state:

(1) Transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a

point in this state. for purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one (1) of the railroads relinquishes possession of the freight or property to a party other than one (1) of the railroads.

(2) Transporting of oil or natural or artificial gas through pipe or conduit.

(3) Transporting of property by aircraft.

(4) Transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in Article VII, Chapter 14, Title 42, Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:

a. Gross income subject to the tax imposed by Article IV, Chapter 16, A.R.S. Title 28.

b. Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.

c. Reserved.

d. Reserved.

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

(1) Income that is specifically included as the gross income of a business activity upon which another section of Article II imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.

(2) Income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.

(c) The tax imposed by this section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this Subsection, 'arranging' includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8958, § 6, 9-22-97; Ord. No. 9322, § 12, 11-22-99; Ord. No. 10361, § 12, 12-19-06, eff. 1-1-07; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-480. Utility services.

(a) *Tax Rate.* The tax rate shall be at an amount equal to two and one-half (2.5) percent of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:

(1) Consumers or ratepayers who reside within the city.

(2) Consumers or ratepayers of this city, whether within the city or without, to the extent that this city provides such persons utility services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this city for providing such utility services to such persons.

(b) *Exclusion of Certain Sales of Natural Gas to a Public Utility.* Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to sections 19-460 and 19-465, and not considered gross income taxable under this section.

(c) *Resale Utility Services.* Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

(d) *Reserved.*

(e) *Exclusion of Sales of Utility Services to Nonprofit Primary Health Care Facilities.* The tax imposed by this section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) *[Exclusion of Sales of Natural Gas or Liquefied Petroleum Gas.]* The tax imposed by this section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(g) *[Exceptions to Tax.]* The tax imposed by this section shall not apply to:

(1) Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

(2) Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

(h) *[Alternative Fuel.]* The tax imposed by this section shall not apply to sales of alternative fuel as defined in A.R.S. § 1-215, to a used oil fuel burner who has received a department of environmental quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-480.

(i) The tax imposed by this section shall not apply to sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the Corporation Commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

(j) The tax imposed by this section shall not apply to the portions of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric distribution system, if the electricity transferred is generated by the customer's system.

(k) *Reserved.*

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 6938, § 14, 4-25-88; Ord. No. 8784, § 8, 12-2-96; Ord. No. 9069, § 1(11), 6-15-98; Ord. No. 11183, § 4, 6-17-14, eff. 1-1-07; Ord. No. 11219, § 3, 12-9-14, eff. 1-1-15; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-485. Wastewater removal services.

(a) The tax rate shall be an amount equal to zero percent (0%) of the gross income from the business activity upon every person engaging or continuing in the business of providing wastewater removal services by means of sewer lines or similar pipelines to:

(1) Consumers or ratepayers who reside within the city.

(2) Consumers or ratepayers of this city, whether within the city or without, to the extent that this city provides such persons wastewater removal services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this city for providing such wastewater removal services to such persons.

(b) The tax imposed by this section shall not apply to gross income relating to the providing of wastewater removal services from a qualifying hospital, qualifying community health center or a qualifying health care organization.
(Ord. No. 11183, § 11, 6-17-14, eff. 1-1-13)

connection with an active audit, protest or appeal that involves the taxpayer or potential taxpayer and whether the same request has been or is being submitted to another taxing jurisdiction for a ruling.

(4) Be signed by the taxpayer or potential taxpayer who makes the request or by an authorized representative of the taxpayer or potential taxpayer.

(b) A private taxpayer ruling may be revoked or modified by either:

(1) A change or clarification in the law that was applicable at the time the ruling was issued, including changes or clarifications caused by regulations and court decisions.

(2) Actual written notice by the tax collector to the last known address of the taxpayer or potential taxpayer of the revocation or modification of the private taxpayer ruling.

(c) With respect to the taxpayer or prospective taxpayer to whom a private taxpayer ruling is issued, the revocation or modification of a private taxpayer ruling shall not be applied retroactively to tax periods or tax years before the effective date of the revocation or modification and the tax collector shall not assess any penalty or tax attributable to erroneous advice that is furnished to the taxpayer or potential taxpayer in the private taxpayer ruling if:

(1) The taxpayer reasonably relied on the private taxpayer ruling.

(2) The penalty or tax did not result either from a failure by the taxpayer to provide adequate or accurate information or from a change in the information.

(d) A private taxpayer ruling may not be relied upon, cited nor introduced into evidence in any proceeding by any taxpayer other than the taxpayer who received the ruling.

(e) A taxpayer may appeal the propriety of a retroactive application of a revoked or modified private taxpayer ruling by filing a written petition with the tax collector pursuant to section 19-570 within forty-five (45) days after receiving written notice of the intent to retroactively apply a revoked or modified private taxpayer ruling.

(f) A private taxpayer ruling constitutes the tax collector's interpretation of the sections of this chapter only as they apply to the taxpayer making, and the particular facts contained in, the request.

(g) A private taxpayer ruling which addresses a taxpayer's ongoing business activities will apply only to transactions that occur or tax liabilities that accrue from and after the date of the taxpayer's ruling request.

(h) The tax collector shall attempt to issue private taxpayer rulings within forty-five (45) days after receiving the written request and on receiving the facts that are relevant to the ruling. If the ruling is expected to be delayed beyond the forty-five (45) days, the tax collector shall notify the requestor of the delay and the proposed date of issuance.

(i) Within thirty (30) days after being issued, the tax collector shall maintain the private taxpayer ruling as a public record and make it available at a reasonable cost for public inspection and copying. The text of private taxpayer rulings are open to public inspection subject to the confidentiality requirements prescribed by section 19-510.

(j) In this section, "private taxpayer ruling" means a written determination by the tax collector issued pursuant to this section that interprets and applies one (1) or more sections contained in this article and any applicable regulations.

(k) A private taxpayer ruling issued by the Arizona Department of Revenue pursuant to A.R.S. § 42-2101 may be relied upon by the taxpayer to whom the ruling was issued and must be recognized and followed by any city in which such taxpayer has obtained a privilege license if the city has not issued a ruling addressing the facts described in the taxpayer's ruling request and the statute at issue in the taxpayer's ruling request is, in essence, worded and written the same as the applicable section hereunder.
(Ord. No. 8784, § 27, 12-2-96; Ord. No. 10361, § 14, 12-19-06)

DIVISION 6. USE TAX

Sec. 19-600. Use tax: definitions.

For the purposes of this division only, the following definitions shall apply, in addition to the definitions provided in division 1:

Acquire (for storage or use) means purchase, rent, lease, or license for storage or use.

Retailer also means any person selling, renting, licensing for use, or leasing tangible personal property under circumstances which would render such transactions subject to the taxes imposed in division 4, if such transactions had occurred within this city.

Storage (within the city) means the keeping or retaining of tangible personal property at a place within the city for any purpose, except for those items acquired specifically and solely for the purpose of sale, rental, lease, or license for use in the regular course of business or for the purpose of subsequent use solely outside the city.

Use (of tangible personal property) means consumption or exercise of any other right or power over tangible personal property incident to the ownership thereof except the holding for the sale, rental, lease, or license for use of such property in the regular course of business.
(Ord. No. 9840, § 5, 5-5-03)

Sec. 19-601. Reserved.

Editor's note – Ord. No. 9840, § 4, adopted May 5, 2003, repealed § 19-601, which pertained to director of finance to keep records and derived from Ord. No. 6674, § 3, adopted March 23, 1987.

Sec. 19-602. Reserved.

Editor's note – Ord. No. 9840, § 4, adopted May 5, 2003, repealed § 19-602, which pertained to levying and pledging a portion of excise and franchise taxes for community center, operations center and bus maintenance facilities purposes; creating a special fund, not part of the general funds and derived from Ord. No. 6674, § 3, adopted March 23, 1987.

Sec. 19-610. Use tax: imposition of tax; presumption.

(a) There is hereby levied and imposed, subject to all other provisions of this chapter, an excise tax on the storage or use in the city of tangible personal property, for the purpose of raising revenue to be used in defraying the necessary expenses of the city, such taxes to be collected by the tax collector.

(b) The tax rate shall be at an amount equal to two and one-half (2.5) percent of the:

(1) Cost of tangible personal property acquired from a retailer, upon every person storing or using such property in this city.

(2) Gross income from the business activity upon every person meeting the requirements of subsection 19-620(b) or (c) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the city for storage or use within the city, to the extent that tax has been collected upon such transaction.

(3) Cost of the tangible personal property provided under the conditions of a warranty, maintenance, or service contract.

(4) Cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.

(5) (Reserved).

(c) It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the city is acquired for storage or use in this city, until the contrary is established by the taxpayer.

(d) Exclusions. For the purposes of this division, the acquisition of the following shall not be deemed to be the purchase, rental, lease, or license of tangible personal property for storage or use within the city:

(1) Stocks, bonds, options, or other similar materials.

(2) Lottery tickets or shares sold pursuant to A.R.S. title 5, chapter 5, article I.

(3) Platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.

(e) (Reserved).

(f) (Reserved).

(Ord. No. 9840, § 5, 5-5-03; Ord. No. 11479, § 1, 8-8-17)

Sec. 19-620. Use tax: liability for tax.

The following persons shall be deemed liable for the tax imposed by this division and such liability shall not be extinguished until the tax has been paid to this city, except that a receipt from a retailer separately charging the tax imposed by this chapter is sufficient to relieve the person acquiring such property from further liability for the tax to which the receipt refers:

(1) Any person who acquires tangible personal property from a retailer, whether or not such retailer is located in this city, when such person stores or uses said property within the city.

(2) Any retailer not located within the city, selling, renting, leasing, or licensing tangible personal property for storage or use of such property within the city, may obtain a license from the tax collector and collect the use tax on such transactions. Such retailer shall be liable for the use tax to the extent such use tax is collected from his customers.

(3) Every agent within the city of any retailer not maintaining an office or place of business in this city, when such person sells, rents, leases, or licenses tangible personal property for storage or use in this city shall, at the time of such transaction, collect and be liable for the tax imposed by this division upon the storage or use of the property so transferred, unless such retailer or agent is liable for an equivalent excise tax upon the transaction.

(4) Any person who acquires tangible personal property from a retailer located in the city and such person claims to be exempt from the city privilege or use tax at the time of the transaction, and upon which no city privilege tax was charged or paid, when such claim is not sustainable.

(5) Every person storing or using tangible personal property under the conditions of a warranty, maintenance, or service contract.

(Ord. No. 9840, § 5, 5-5-03)

Sec. 19-630. Use tax: record-keeping requirements.

All deductions, exclusions, exemptions, and credits provided in this division are conditional upon adequate proof of documentation as required by division 3 or elsewhere in this chapter.

(Ord. No. 9840, § 5, 5-5-03)

Sec. 19-640. Use tax: credit for equivalent excise taxes paid another jurisdiction.

In the event that an equivalent excise tax has been levied and paid upon tangible personal property which is acquired to be stored or used within this city, full credit for any and all such taxes so paid shall be allowed by the tax collector but only to the extent use tax is imposed upon that transaction by this division.

(Ord. No. 9840, § 5, 5-5-03)

Sec. 19-650. Use tax: exclusion when acquisition subject to use tax is taxed or taxable elsewhere in this chapter; limitation.

The tax levied by this division does not apply to the storage or use in this city of tangible personal property acquired in this city, the gross income from the sale, rental, lease, or license of which were included in the measure of the tax imposed by division 4 of this chapter; provided, however, that any person who has acquired tangible personal property from a vendor in this city without paying the city privilege tax because of a representation to the vendor that the property was not subject to such tax, when such claim is not sustainable, may not claim the exclusion from such use tax provided by this section.

(Ord. No. 9840, § 5, 5-5-03)

Sec. 19-660. Use tax: exemptions.

The storage or use in this city of the following tangible personal property is exempt from the use tax imposed by this division:

(1) Tangible personal property brought into the city by an individual who was not a resident of the city at the time the property was acquired for his own use, if the first actual use of such property was outside the city, unless such property is used in conducting a business in this city.

(2) Tangible personal property, the value of which does not exceed the amount of one thousand dollars ($1,000.00) per item, acquired by an individual outside the limits of the city for his personal use and enjoyment.

(3) Charges for delivery, installation, or other customer services, as prescribed by regulation.

(4) Charges for repair services, as prescribed by regulation.

(5) Separately itemized charges for warranty, maintenance, and service contracts.

(6) Prosthetics.

(7) Income-producing capital equipment.

(8) Rental equipment and rental supplies.

(9) Mining and metallurgical supplies.

(10) Motor vehicle fuel and use fuel which are used upon the highways of this state and upon which a tax has been imposed under the provisions of A.R.S. title 28, chapter 16, article I or II.

(11) Tangible personal property purchased by a construction contractor, but not an owner-builder, when such person holds a valid privilege license for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.

(12) Sales of motor vehicles to nonresidents of this state for use outside this state if the vendor ships or delivers the motor vehicle to a destination outside this state.

(13) Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.

(14) Rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under section 19-410, or by a radio station, television station, or subscription television system.

(15) Food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under section 19-455, but not food consumed by owners, agents, or employees of such business.

(16) Tangible personal property acquired by a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. section 512.

(17) Food for home consumption.

(18) The following tangible personal property purchased by persons engaging or continuing in the business of farming, ranching, or feeding livestock, poultry or ratites:

a. Seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.

Sec. 22-81. Finance director to pay premiums.

The finance director is hereby authorized and directed to pay, upon receipt of duly executed demands, to the group insurance carrier or medical health plan such sums as may, from time to time, be due and payable as premiums or payments in accordance with the agreement and master policy. Such payments shall be made from the appropriate fund of the city.
(1953 Code, ch. 20, § 68; Ord. No. 2208, § 1, 9-5-61; Ord. No. 4138, § 1, 2-19-74)

Editor's note – Section I of Ord. No. 4138, enacted Feb. 19, 1974, amended art. IV, §§ 22-78 – 22-85, to include medical health benefits in the provisions of the article. Formerly art. IV was entitled "Group Insurance."

Sec. 22-82. Employees' premium costs.

In consideration of an officer's or employee's entry into employment with the city on and after the effective inclusion of his office or position under group insurance or medical health plan coverage, the finance director is hereby directed to deduct and withhold for each and every payroll period from the compensation of each such officer and employee a sum equal to that officer's and employee's predetermined proportionate share of the premium or cost of the group insurance or medical health plan coverage provided. The amount so withheld shall be paid to the company or plan as provided by section 22-81; however, failure of the finance director to withhold such sums shall not relieve such officer or employee from whose compensation such sums are not withheld from liability therefor. If more or less than the correct amount is deducted in any payroll period, proper adjustment or refund shall be made, without interest, in such manner and for such time as the finance director shall prescribe.
(1953 Code, ch. 20, § 64; Ord. No. 2208, § 1, 9-5-61: Ord. No. 4138, § 1, 2-19-74; Ord. No. 11364, § 1, 6-7-16, eff. 6-26-16)

Sec. 22-83. City's premium costs.

The city's predetermined proportionate share of the premium or payment cost of the group insurance or medical health plan coverage provided for officers, employees and dependents shall be paid from funds budgeted and authorized to be paid during each fiscal year that such group insurance policy or agreement shall be in effect.
(1953 Code, ch. 20, § 65: Ord. No. 2208, § 1, 9-5-61; Ord. No. 4138, § 1, 2-19-74)

Sec. 22-84. Duty of human resources director.

The human resources director is hereby charged with the duty of causing all officers and employees of the city included under the master policy for group insurance or the medical health plan agreement to be informed as to their benefits, rights and obligations under such insurance or medical health plan agreement.
(1953 Code, ch. 20, § 66; Ord. No. 2208, § 1, 9-5-61; Ord. No. 4138, § 1, 2-19-74; Ord. No. 10284, § 5, 6-6-06; Ord. No. 10678, § 1, 6-9-09, eff. 7-1-09)

Sec. 22-85. Applicability to existing, future employees.

The group insurance or medical health plan service provided for in section 22-80 shall be available but not mandatory for all officers and employees entering the service of the city. For any officer or employee who becomes eligible for Federal Medicare, continued membership in any medical health plan services provided for in this article shall be optional for such officer or employee.
(1953 Code, ch. 20, § 67; Ord. No. 2208, § 1, 9-5-61; Ord. No. 4138, § 1, 2-19-74; Ord. No. 5490, § 2, 1-11-82; Ord. No. 7688, § 1, 9-9-91; Ord. No. 11364, § 2, 6-7-16, eff. 6-26-16)

Sec. 22-86. Medical insurance incentive allowance.

Notwithstanding other provisions of this article, any city officer or employee eligible for medical coverage under the city's medical plan may waive coverage under the city's medical plan and elect to receive a medical insurance incentive allowance of thirty-six dollars and ninety-two cents ($36.92) per pay period provided that the city officer or employee is not currently covered by the city's retiree medical plan or as a dependent under another city employee or retiree's plan, and provided that the employee provides acceptable proof of non-city medical insurance to the Benefits division of Human Resources. This waiver does not extend to dental coverage or to other plans provided under section 125 of the Internal Revenue Code.

Any city officer or employee may request the incentive for waiver of medical coverage during the initial thirty-one (31) days of city employment, during the annual open enrollment period, or whenever there

is a qualifying life event such as gaining coverage through a non-city medical plan, and provided that the city officer or employee is not currently covered by the city's medical plan.

The actual effective date for the incentive payment will depend upon the reason for the change. For newly hired employees, the effective date for start of the incentive will be the date a new hire employee normally becomes eligible for other city-paid benefits. For an open enrollment change, the effective date for start of the incentive will be the date that the new fiscal year's medical insurance premiums otherwise would take effect. For qualifying life events, the effective date for starting the incentive payment will be the first day the waiver of city medical coverage takes effect. Regardless of the reason, in order for the incentive to take effect on the dates prescribed above, proper documentation supporting the incentive for waiver must be received by the Benefits division of Human Resources before the incentive payment will begin. If documentation is received after the date incentive otherwise would have taken effect, the incentive will begin the pay period that the acceptable documentation is received, and retroactive payments of the incentive will not be made.

When an eligible employee resumes medical coverage on a city plan, the effective date for stopping the incentive will be the last date prior to the date the city medical coverage begins.

Any city officer or employee waiving medical coverage under the city's plan must provide written proof of medical coverage from another non-City of Tucson source. Failure to provide periodic proof of medical coverage from another non-city source, satisfactory to, and at such frequency as determined by the city, will be grounds for the city to discontinue the incentive and recoup any incentive payments made for the time the employee did not maintain medical coverage. Proof of medical coverage from another non-city source must be provided within thirty (30) days of any request.

(Ord. No. 9857, §§ 1, 2, 6-2-03; Ord. No. 10059, § 1, 10-11-04; Ord. No. 10678, § 2, 6-9-09, eff. 7-1-09; Ord. No. 10991, § 1, 6-12-12, eff. 7-1-12; Ord. No. 11364, § 3, 6-7-16, eff. 6-26-16)

Editor's note – It should be noted that § 22-86 is effective retroactive to April 30, 2003.

Secs. 22-87 – 22-89. Reserved.

ARTICLE V. LEAVE BENEFIT PLAN*

Sec. 22-90. Providing for leave benefit plan.

Sec. 22-90(1). Vacation leave accrual. The city's leave benefit plan shall include vacation, sick, military leave and other paid and unpaid leave and time off work as hereafter set forth. The number of days and accrual rates for vacation, sick leave, and military leave, and conditions governing compensation for unused accrued leave paid to employees separating from city service are as follows, further provided that any provision for compensation of unused accrued sick leave is subject to retroactive and/or prospective change at any time.

a. Permanent, full-time employees, including Public Safety, shall accrue paid vacation leave as follows:

Continuous Years of Service	*Per Pay Period*	*Per Year*
0 - 1 years of continuous service*:	4 hrs. 0 min.	13 days (104 hrs.)
Over 1 to 2 years of continuous service*:	4 hrs. 30 min.	14 days, 5 hrs. (117 hrs.)
Over 2 to 6 years of continuous service*:	5 hrs. 0 min.	16 days, 2 hrs. (130 hrs.)
Over 6 to 9 years of continuous service*:	6 hrs. 0 min.	19 days, 4 hrs. (156 hrs.)
Over 9 to 14 years of continuous service*:	6 hrs. 30 min.	21 days, 1 hrs. (169 hrs.)

*Continuous service excludes AWOL/LWOP

*__Editor's note –__ Ord. No. 9348, § 1, adopted Feb. 7, 2000, amended the title of art. V to read as herein set out.

Continuous Years of Service	*Per Pay Period*	*Per Year*
Over 14 to 17 years of continuous service*:	7 hrs. 0 min.	22 days, 6 hrs. (182 hrs.)
Over 17 to 20 years of continuous service*:	7 hrs. 24 min.	24 days, 0 hrs. (192 hrs.)
Over 20 years plus*:	8 hrs. 0 min.	26 days, 0 hrs. (208 hrs.)

*Continuous service excludes AWOL/LWOP

b. Permanent, part-time employees who work twenty (20) or more hours per week accrue a prorated amount of paid vacation leave according to the actual hours worked and hours of paid leave used per pay period.

c. Permanent employees who work less than twenty (20) hours per week and non-permanent employees do not accrue paid vacation leave.

d. Employees who have accrued thirty-six (36) days (two hundred eighty-eight (288) hours) of vacation leave in any pay period will not accrue additional vacation leave for that pay period. The number of hours of vacation leave that would otherwise have accrued for that pay period will be credited to the employee as additional sick leave accrual. Commissioned fire personnel at or below the rank of captain may receive a maximum of two hundred eight (208) hours of such additional sick leave accrual each year, starting with the pay period in which April 1 falls. All other employees may receive a maximum of fifty-six (56) hours (seven (7) days) of such additional sick leave accrual each year, starting with the pay period in which April 1 falls.

e. An employee who is on leave without pay or any unpaid leave status for up to one-half (1/2) of the pay period shall accrue vacation leave on a pro-rated basis for that pay period based on the actual hours worked and hours of paid leave used. An employee who is on leave without pay or any unpaid leave status for more than one-half (1/2) of a pay period does not accrue vacation leave for that pay period.

f. Employees on paid leave shall be paid their regular salaries and shall continue to accrue their normal vacation and sick leave.

Sec. 22-90(2). Sick leave accrual.

a. Probationary and permanent, full-time employees, except permanent, full time commissioned fire and commissioned police personnel, shall accrue sick leave as follows:

Per Pay Period	*Per Year*
4 hrs. 0 min.	13 days (104 hrs.)

b. Permanent full time commissioned fire and commissioned police employees shall accrue sick leave as follows:

	Per Pay Period	*Per Year*
0 – 10 years of continuous service:	4 hrs. 0 min.	13 days (104 hrs.)
Over 10 to 15 years of continuous service:	4 hrs. 38 min.	15 days, 28 min. (120 hrs. 28 min.)
Over 15 years of continuous service:	6 hrs. 10 min.	20 days, 20 min. (160 hrs. 20 min.)

c. Probationary and permanent, part time employees who work twenty (20) or more hours per week (forty (40) or more hours per pay period) shall accrue the greater of either a pro-rated amount of sick leave according to the actual hours worked and hours of paid leave used per pay period or shall accrue one hour of sick leave for every thirty (30) hours worked.

d. Non-permanent employees and permanent part-time employees who work less than twenty (20) hours per week, shall accrue sick leave at the rate of one (1) hour for every thirty (30) hours worked.

e. Employees on leave without pay or any unpaid leave status for up to one-half (1/2) of a pay period shall accrue sick leave on a pro-rated basis for that pay period based on the actual hours worked and hours of paid leave used. An employee who is on leave without pay for more than one-half (1/2) of a pay period does not accrue sick leave for that pay period.

f. Earned paid sick time (as defined in A.R.S. § 23-371) is not additional sick leave, but is the first 40 hours accrued annually. Earned paid sick time accrues as stated above in subsections (a), (b), (c), and (d) and is capped at a maximum of forty (40) hours accrual and usage per year. A maximum of forty (40) hours of unused earned paid sick time may be carried over to the following calendar year. Any carryover of earned paid sick time is available for an employee's immediate use at the beginning of the subsequent calendar year, subject to the annual forty (40) hour maximum usage.

g. Accruals in excess of the forty (40) hours maximum of earned paid sick time is designated sick leave, and accrues at the rates stated above in subsections (a), (b), (c), and (d). Any earned paid sick time in excess of the maximum carryover of forty (40) hours on January 1 of any subsequent calendar year shall be converted to sick leave.

h. Sick leave credit is cumulative with no maximum accrual.

Sec. 22-90(3). Compensation for unused accrued leave to employees separating from city service.

a. Permanent employees shall be fully compensated for unused accumulated vacation day/hours at the employee's base rate of pay at the time of separation.

b. Employees, excepting commissioned police officers and commissioned fire personnel, who retire from the city, under a normal, early, disability or a retirement incentive program and are eligible for benefits from the Tucson Supplemental Retirement System shall be compensated for accumulated sick leave in accordance with the following schedule and using the employee's base rate of pay at the time of separation for the calculation.

Accrued sick leave hours payment:

0 – 240	0% of total
Over 240 – 480	25% of total balance
Over 480 – 720	35% of total balance
Over 720	50% of total balance

c. Commissioned police officers and commissioned fire personnel who retire from the city and are eligible for normal or permanent disability retirement benefits from the Public Safety Personnel Retirement System shall be compensated for accumulated sick leave as hereafter provided using the employee's base rate of pay at the time of separation for the calculation.

1. Those who retire with sick leave balances of two hundred eighty-seven (287) hours or less will be compensated for those hours at fifty (50) percent of the employee's base rate of pay.

2. Those who retire with sick leave balances of at least two hundred eighty-eight (288) hours will be compensated for two hundred eighty-eight (288) of those hours at one hundred (100) percent of the employee's base rate of pay, however, any sick leave hours

remaining, in excess of two hundred eighty-eight (288) hours, will be compensated at the lessor rate of fifty (50) percent of the employee's base rate of pay.

d. Upon the death of a city employee, the city shall pay the employee's entire accumulated sick leave to the employee's survivor. A survivor for the purpose of this section shall be the person(s) indicated as the beneficiary of the employee's pension or as otherwise provided by law.

Sec. 22-90(4). Military leave.

a. Excepting commissioned fire employees of the city who are members of any branch, reserve, or auxiliary of the armed forces, and are under orders for active duty, short tour training, attending camps, maneuvers, formation, or drill, employees shall be granted military leave in accordance with this section and state and/or federal law.

b. Employees of the City of Tucson who are members of any branch, reserve or auxiliary of the Armed Forces, and are under orders for short tour training, attending camps, maneuvers, formations or drills, will be given Military Leave as provided by state and/or federal law or the Tucson Code. This leave is not to exceed thirty (30) days in any two (2) consecutive federal fiscal years (Oct. 1 - Sept. 30), except as otherwise provided by this section. Up to the thirty (30)-day limit, such employees will receive full city salary for normally scheduled working hours that fall within the periods of training duty unless otherwise provided by the Tucson Code. Employees will not be charged military leave for days on which the employee was not otherwise scheduled for work.

c. Commissioned fire employees of the city who are members of any branch, reserve, or auxiliary of the armed forces, and are under orders for active duty, short tour training, attending camps, maneuvers, formation, or drill, shall be granted military leave as provided by state and/or federal law and this section. Military leave shall be provided to commissioned fire employees up to a maximum of thirty (30) days per federal fiscal year. Such leave shall not be carried forward or accrued. In addition to the usage provided in this subparagraph c, this additional leave may be used to perform inactive duty drills provided that the member establishes that the military leave was required to perform those drills.

Sec. 22-90(5). Paid Parental Leave.

a. Permanent and probationary employees with one (1) year of continuous service are entitled to six (6) weeks of consecutive paid parental leave for the birth of the employee's child, commencing the day of birth, or for the adoption of a child who is five (5) years old or younger, commencing the day of adoption. If applicable, this leave shall run concurrent with Family Medical Leave.

Note – Ord. No. 10004, § 2, adopted June 28, 2004, reenacted section 22-90(5) for Fiscal Year 2005.

(Ord. No. 8881, § 1, 6-9-97; Ord. No. 9570, § 1, 6-18-01; Ord. No. 95-90, § 1, 8-6-01; Ord. No. 9719, §§ 1, 2, 6-10-02; Ord. No. 9831, § 1, 4-14-03; Ord. No. 9864, § 1, 6-16-03; Ord. No. 10004, §§ 1, 2, 6-28-04; Ord. No. 10057, § 8, 10-11-04; Ord. No. 10163, § 1, 6-14-05; Ord. No. 10425, § 1, 6-19-07; Ord. No. 10557, § 1, 6-25-08, eff. 7-1-08; Ord. No. 10678, § 3, 6-9-09, eff. 7-1-09; Ord. No. 11364, §§ 4, 5, 6-7-16, eff. 6-26-16; Ord. No. 11469, § 1, 6-20-17, eff. 7-1-17; Ord. No. 11483, § 1, 8-8-17, eff. 9-1-17)

Editor's note – Due to a scrivener's error, § 22-90(1) should read effective FY 03.

Note – Section 22-90(1)e. is effective July 1, 2007.

Sec. 22-91. Duties of the human resources director and city manager.

The human resources director, subject to the supervision and approval of the city manager, is charged with the responsibility for establishing rules and procedures regulating employee leaves, both with and without pay, for other paid and unpaid time off work and for the administration, establishment, and amendment, of those rules and procedures as from time to time may be required in accordance with the preceding provisions and as hereafter set forth. Rules and regulations for paid and unpaid leave shall not exceed the authorizations provided by ordinance.

a. The human resources director, with the approval of the city manager shall also establish administrative policies and procedures to provide for:

1. Paid time off not to exceed five (5) days annually to exempt employees in recognition of exceptional performance requiring expenditure of numerous hours beyond the hours normally worked. Such time off must be used when granted and will not be accumulated or otherwise compensated.

2. Paid time off not to exceed two (2) hours to vote in primary and general elections.

3. Paid time off not to exceed two (2) hours for the purposes of blood donations.

4. Paid time off to employees on jury duty.

5. Paid time off to permanent employees on witness duty unassociated with their employment. (Employee attendance as a witness on behalf of the city is an employment duty).

6. Paid time for holidays, which are as follows: New Year's day, Martin Luther King, Jr. Day, Presidents Day, César E. Chávez Day (to be observed on either the final Monday or the final Friday in March, whichever is closest in time to March 31), Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day and excepting commissioned public safety employees who shall have a birthday day holiday, one (1) employee floating holiday per year.

7. Unpaid or paid time off for a period of bereavement for loss of immediate family not to exceed one workweek annually.

8. Unpaid leave, consistent with the needs of the city, not to exceed one year, but always in conformance with applicable state and federal law.

b. The city manager, when recruiting department directors, deputy or assistant city managers, may as an employment incentive:

1. Grant on commencement of employment up to an additional thirty (30) days of paid vacation leave which shall be in addition to any leave entitlement provided in section 22-90 preceding.

2. Waive any of the time in service requirements for accrual of vacation leave to permit up to the maximum rate of vacation accrual for such employees immediately on commencement of employment.

(Ord. No. 8881, § 1, 6-9-97; Ord. No. 9570, § 2, 6-18-01; Ord. No. 9864, § 2, 6-16-03; Ord. No. 9878, § 1, 8-4-03; Ord. No. 10557, § 2, 6-25-08, eff. 7-1-08; Ord. No. 11146, § 1, 3-4-14; Ord. No. 11415, § 1, 12-6-16)

Note – Section 22-91(a)7. is effective July 1, 2008.

Sec. 22-92. Peace officer recruitment incentive.

The human resources director, with the approval of the city manager, when recruiting lateral entry commissioned peace officers may, as an employment incentive:

(1) On a one-time basis, grant, on commencement of employment, up to an additional seven (7) days of vacation leave.

(2) On a one-time basis, grant, on commencement of employment, up to an additional seven (7) days of sick leave.

(Ord. No. 9348, § 2, 2-7-00)

Sec. 22-93. Conditions for annual sick leave payment to fire department commissioned personnel.

Sec. 22-93(a). Payment shall be at the employee's base rate of pay in effect at the time of the payment, exclusive of overtime, shift differential, standby pay, temporary promotion pay, longevity pay, and any other type of pay not included in the employee's base rate.

Sec. 22-93(b). Payment shall require a request by the employee prior to June 1 preceding the fiscal year of payment. Any of the annual sick leave hours for

which payment is not requested remains subject to the sick leave transfer provisions of city administrative directive 2.01-7.

Sec. 22-93(c). Conditions for annual sick leave payment to fire department commissioned personnel are subject to retroactive and/or prospective alteration, amendment, or repeal at any time.

Sec. 22-93(d). Employees with five (5) or more years of service as of July 1 of the year of their request for sick leave payment who have three hundred sixty (360) hours of sick leave on the first day of the pay period in which April 1 falls, shall, on request, be paid for the unused portion of the first fifty-six (56) hours of their annual sick leave, or any part of those hours as set forth in the employee's request, in approximately two (2) equal installments during the pay period in which July 1 falls and the next subsequent pay period.

Sec. 22-93(e). Employees with ten (10) or more years of service as of July 1 of the year of their request for sick leave payment who have four hundred eighty (480) hours of sick leave on the first day of the pay period in which April 1 falls, shall, on request, be paid for the unused portion of the first fifty-six (56) hours of their annual sick leave, plus an additional forty-eight (48) hours of their accrued sick leave, or any part of those combined hours as set forth in the employee's request, not to exceed a maximum total of one hundred four (104) hours per year, in approximately equal installments commencing in the pay period in which July 1 falls through the end of that fiscal year.

Sec. 22-93(f). Employees with seventeen (17) or more years of service as of July 1 of the year of their request for sick leave payment who have five hundred twenty (520) hours of sick leave on the first day of the pay period in which April 1 falls, shall, on request, be paid for the unused portion of the first fifty-six (56) hours of their annual sick leave, plus an additional one hundred four (104) hours of their accrued sick leave, or any part of those combined hours as set forth in the employee's request, not to exceed a maximum total of one hundred sixty (160) hours per year, in approximately equal installments commencing in the pay period in which July 1 falls through the end of that fiscal year.

Sec. 22-93(g). Employees with twenty-two (22) or more years of service as of July 1 of the year of their request for sick leave payment who have six hundred (600) hours of sick leave on the first day of the pay period in which April 1 falls shall, on request, be paid for the unused portion of the first seven (7) days (fifty-six (56) hours) of their annual sick leave plus an additional one hundred fifty-two (152) hours of their accrued sick leave, or any part of those combined hours, as set forth in the employee's request, not to exceed a maximum total of two hundred eight (208) hours per year, in approximately equal installments, commencing in the pay period in which July 1 falls through the end of that fiscal year.

(Ord. No. 9382, § 1, 5-15-00; Ord. No. 9523, § 1, 3-5-01; Ord. No. 9561, § 1, 6-11-01; Ord. No. 9720, § 1, 6-10-02; Ord. No. 10425, § 2, 6-19-07, eff. 7-1-07)

Editor's note – Ord. No. 9382, § 1, adopted May 15, 2000, amended the Code by adding provisions designated as § 22-92. Inasmuch as there already exist provisions so designated, the provisions of Ord. No. 9382 have been included herein as § 22-93 at the discretion of the editor.

Sec. 22-94. Conditions for annual sick leave payment to police department commissioned personnel.

Sec. 22-94(a). Payment shall be at the employee's base rate of pay in effect at the time of the payment, exclusive of overtime, shift differential, standby pay, temporary promotion pay, longevity pay, and any other type of pay not included in the employee's base rate.

Sec. 22-94(b). Payment shall require a request by the employee prior to June 1 preceding the fiscal year of payment. Any of the remaining annual sick leave hours for which payment is not requested remain subject to the sick leave transfer provisions of city administrative directive 2.01-7.

Sec. 22-94(c). Conditions for annual sick leave payment to police department commissioned personnel are subject to retroactive and/or prospective alteration, amendment, or repeal at any time.

Sec. 22-94(d). Employees with fifteen (15) or more years of service in the pay period in which July 1 of the year of their request for sick leave payment falls, who have four hundred eighty (480) hours of sick leave on the first day of the pay period in which April 1 falls, shall, on request, be paid for the unused portion of the first fifty-six (56) hours of their annual sick leave, plus an additional forty-eight (48) hours of their accrued sick leave, or any part of those combined hours as set forth in the employee's request, not to exceed a maximum total of one hundred four (104) hours per

year, in approximately equal installments commencing in the pay period in which July 1 falls through the end of that fiscal year.

Sec. 22-94(e). Employees with seventeen (17) or more years of service in the pay period in which July 1 of the year of their request for sick leave payment falls, who have five hundred forty-four (544) hours of sick leave on the first day of the pay period in which April 1 falls, shall, on request, be paid for the unused portion of the first fifty-six (56) hours of their annual sick leave, plus an additional one hundred (100) hours of their accrued sick leave, or any part of those combined hours as set forth in the employee's request, not to exceed a maximum total of hundred fifty-six (156) hours per year, in approximately equal installments commencing in the pay period in which July 1 falls through the end of that fiscal year.

Sec. 22-94(f). Employee with twenty (20) or more years of service in the pay period in which July 1 of the year of their request for sick leave payment falls, who have six hundred (600) hours of sick leave on the first day of the pay period in which April 1 falls shall, on request, be paid for the unused portion of the first seven (7) days (fifty-six (56) hours) of their annual sick leave plus an additional one hundred fifty two (152) hours of their accrued sick leave, or any part of those combined hours, as set forth in the employee's request, not to exceed a maximum total of two hundred eight (208) hours per year, in approximately equal installments, commencing in the pay period in which July 1 falls through the end of that fiscal year.

Sec. 22-94(g). Year(s) of prior active duty military service or prior commissioned police service from other jurisdictions shall be included in calculating the years of qualifying service applicable to any payments made under the preceding subparagraphs (d) through (f) of § 22-94.
(Ord. No. 9560, § 1, 6-11-01; Ord. No. 95-90, § 2, 8-6-01; Ord. No. 9864, § 3, 6-16-03; Ord. No. 9878, § 2, 8-4-03; Ord. No. 10425, § 3, 6-19-07, eff. 7-1-07, eff. 7-1-07)

Sec. 22-95. Wellness attendance incentive.

The employee groups eligible for representation by a labor organization and employees eligible for overtime who are not eligible to be represented by any labor organization shall be entitled to receive a cash incentive of two hundred fifty dollars ($250.00) for each six (6) month period in each fiscal year, conditioned that the employee has not used any leave without pay or sick leave, including FML, in the six (6) month measuring period preceding the date of payment. The Wellness Attendance incentive payment will be paid in February for the first six (6) month period and in August for the second six (6) month period.
(Ord. No. 9719, § 3, 6-10-02; Ord. No. 10004, § 3, 6-28-04; Ord. No. 10019, § 1, 8-2-04; Ord. No. 10163, § 2, 6-14-05; Ord. No. 10294, § 2, 6-27-06; Ord. No. 10425, § 4, 6-19-07; Ord. No. 10557, § 3, 6-25-08, eff. 7-1-08; Ord. No. 10678, § 4, 6-9-09, eff. 7-1-09; Ord. No. 10812, § 1, 6-22-10, eff. 7-1-10; Ord. No. 10899, § 1, 6-7-11, eff. 7-1-11; Ord. No. 10991, § 2, 6-12-12, eff. 7-1-12; Ord. No. 11071, § 1, 5-21-13, eff. 7-1-13; Ord. No. 11176, § 1, 6-3-14, eff. 7-1-14; Ord. No. 11292, § 1, 8-5-15)

Sec. 22-96. Transfer and accrual of sick leave and vacation for City of Tucson/Pima County Household Hazardous Waste Program employees entering city service.

(a) Each City of Tucson/Pima County Household Hazardous Waste Program employee who is leaving Pima County employment and beginning employment with the City of Tucson under section 13 of the intergovernmental agreement with Pima County approved by mayor and council resolution on March 1, 2005 shall have his or her accrued sick and vacation leave balances transferred with the employee.

(b) These employees shall thereafter accrue city sick and vacation leave at a rate commensurate with the employees combined length of service with the county and city. This special length of service provision shall not otherwise affect the status of these employees, who will begin employment with the city as new civil service employees.

(c) The administration of accumulated and earned sick and vacation leave, as provided in this section for these employees, shall be in accordance with applicable city code and administrative provisions, as they may be amended from time to time.
(Ord. No. 10125, § 1, 3-1-05)

Secs. 22-97 – 22-99. Reserved.

Ordinance Number	Date	Section	Disposition
10683	6-16-09	1	4-82
		2	4-87
		3	4-90
		4	4-91(a)
10685	6-16-09	1	19-1070(a)(1)(i)
		2	19-1080(a)
		3	19-410(a)(2)
		4	19-66(b)
10687	6-23-09	1	16-42
		2	16-42(b)
		3	16-71, 16-73
10691	7- 7-09	1	2-1
10692	7- 7-09	2	Rpld 12A-3, 12A-4
10696	8- 5-09	1	22-30(i)
		2	22-36(b)(2)
			22-36(b)(4)
		3	22-39(f)(1)
		4	22-40(a)(1)
			22-40(d)
10703	8- 5-09	1	28-147
		2	28-149(1)
		3	28-150(5)(2), (3)
			28-150(7)(2), (3)
			28-150(8)(4)
			Added 28-150(10), (11)
		4	28-151(2)
			28-151(4)
10711	9- 9-09	1	22-30(u)
		2	22-33(f)
		3	22-40(a)
			22-40(d) – (f)
		4	22-42(a)
			22-42(e)
10712	9- 9-09	1	22-30(u)
		2	22-33(f)
		3	22-40(a)
			22-40(d) – (f)
		4	22-42(a)
			22-42(e)
10723	10-27-09	1	Added 12-1.4
10726	11-24-09	1	23A-32.1
		2	23A-61
		3	Added 23A-64
10728	11-17-09	1, 2	20-140(note)
10729	11-17-09	1, 2	20-141(note)
10730	11-17-09	1, 2	20-142(note)
10731	11-17-09	1, 2	20-143(note)

Ordinance Number	Date	Section		Disposition
10732	11-17-09	1, 2		20-144(note)
10733	11-17-09	1, 2		20-145(note)
10734	12-7-09	1		10A-133
10735	11-24-09	1	Added	11-130 – 11-132
10748	1-5-10	1		21-9
				21-12
				21-13.1
				21-14
				21-14.1
				21-14.2
				21-14.3
				21-16
				21-51
10751	1-5-10	1	Added	22-21
10754	1-20-10	1		19-415
		2		19-416
		3		19-417
		4		19-450
		5		19-570
		6		Reg. 19-350.3
10757	2-9-10	1		2-4
10758	2-9-10	1		2-1
10767	3-9-10	1		10A-241
10775	4-6-10	1		22-36
		2		22-39
10785	5-11-10	2	Rpld	10A-190 – 10A-192
		5	Added	10A-190 – 10A-194
10789	5-18-10	1	Added	7-300
		2	Rnbd	7-300 as 7-301
		3	Added	7-302
		4	Added	7-303
10790	5-18-10	1		7-97 – 7-100
		2		7-102
		3		7-115
		4		19-1
		5		19-6
		6	Added	19-85 – 19-87
10795	5-25-10	1		27-32.1
				27-33
				27-34
10796	5-25-10	1		15-1
		2		15-5
		3		15-16.4
		4		15-32.1 – 15-32.5
			Added	15-32.6
		5		15-33.2
		6		15-33.3
		7		15-34.3

Ordinance Number	Date	Section		Disposition
11464 (Contd.)				10-53.3
				10-53.4
				10-53.5
				10-53.7
11469	6-20-17 (eff. 7-1-17)	1		22-90
11471	6-20-17	1		23A-96, 23A-97
11472	6-20-17 (eff. 9-1-17)	1		19-1, 19-66
11478	8-8-17 (eff. 9-7-17)	1		6-34
11479	8-8-17	1		19-410, 19-415–19-417, 19-425, 19-427, 19-430, 19-435, 19-445, 19-450, 19-455, 19-460, 19-470, 19-475, 19-480, 19-610
11483	8-8-17 (eff. 9-1-17)	1		22-90
11488	9-6-17	1	Rpld	2-142
		2		Ch. 2, Art. IX, title
11492	9-19-17 (eff. 10-1-17)	1		19-53