SUPPLEMENT 2011-04 **JANUARY 31, 2012**

OFFICE OF THE CITY ATTORNEY
PEORIA CITY CODE (1992)
CITY OF PEORIA, ARIZONA
Code Supplement Instruction Sheet
THESE REPLACEMENT PAGES ARE PROVIDED TO YOU
FOR YOUR COPY OF THE PEORIA CITY CODE (1992)

Includes:
Ordinance 2011-22 Dated November 1, 2011
Ordinance 2011-23 Dated November 1, 2011
Ordinance 2011-24 Dated November 15, 2011
Ordinance 2011-27 Dated December 6, 2011
Ordinance 2011-28 Dated December 28, 2011

Remove Pages	*Chapter*	*Insert New Pages*
	5 – BUILDINGS AND BUILDING REGULATIONS	
5-39 – 5-62		5-39 – 5-64
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12-1 – 12-128		12-1 – 12-130
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Pages that are being replaced by this supplement should be carefully removed and discarded and the new pages provided should be placed immediately into your code book. It is recommended that this instruction sheet be saved and filed at the back of your copy of the code book. Care should be taken to ensure that your copy remains accurate. If you should have any questions regarding the proper procedures for removing/inserting these pages, please call our office to request assistance.

Remove Pages	*Chapter*	*Insert New Pages*

If you cannot locate the code volume that matches the serial number assigned to this update, please contact the City of Peoria, Office of the City Attorney, at (623) 773-7330 for assistance in locating the volume.

SUPPLEMENT 2011-04 **JANUARY 31, 2012**

OFFICE OF THE CITY ATTORNEY

PEORIA CITY CODE (1992)
CITY OF PEORIA, ARIZONA

Code Supplement Reference Sheet

THIS REFERENCE PAGE IS PROVIDED TO YOU
FOR YOUR COPY OF THE PEORIA CITY CODE (1992)

The Reference Page is a check list of all issued supplements and is designed to assist you in ensuring that your copy of the code is current.

The Peoria City Code (1992) was issued on December 31, 1992. At the time of issuance the code was current through December 31, 1991. Four supplements a year are issued for the City Code on a quarterly basis: Jan. - Mar., April - June, July - Sept., Oct. - Dec. Each supplement is given a three digit number. The first digit reflects the year of the supplement. The second two digits reflect the quarter of the year that the supplement updates.

For example, the supplement for Jan - Mar. 1992 is numbered 201, the supplement for April -June is numbered 202 and etc. up and through supplement 804. Beginning in 1999 all supplements are numbered 1999-1, 1999-2, 1999- 3, 1999-4 with the year and quarter being indicated.

The following list is a date of issuance of the supplements to the code that have been issued to date. If you are missing a supplement, please check our website at www.peoriaaz.gov/citycode and select City Code Supplement on the left-hand side of the screen and then choose the appropriate supplement.

Supplement Number	Date of Issuance	Period Covered
201	August 5, 1994	Jan. - March, 1992
202	September 30, 1994	April - June, 1992
203	October 31, 1994	July - Sept., 1992
204	January 31, 1995	Oct. - Dec., 1992
301	March 31, 1995	Jan. - March, 1993
302	May 31, 1995	April - June, 1993
303	May 31, 1995	July - Sept., 1993
304	July 31, 1995	Oct. - Dec., 1993

401	September 30, 1995	Jan. - March, 1994
402	November 30, 1995	April - June, 1994
403	January 31, 1996	July - Sept., 1994
404	March 31, 1996	Oct. - Dec., 1994
501	May 31, 1996	Jan. - March, 1995
502	July 31, 1996	April - June, 1995
503	September 30, 1996	July - Sept., 1995
504	November 30, 1996	Oct. - Dec., 1995
601	January 31, 1997	Jan. - March, 1996
602	March 31, 1997	April - June, 1996
603	May 31, 1997	July - Sept., 1996
604	July 31, 1997	Oct. - Dec., 1996
701	September 30, 1997	Jan. – March, 1997
702	November 30, 1997	April - June, 1997
703	January 31, 1998	July - Sept., 1997
704	March 31, 1998	Oct. - Dec., 1997
801	April 30, 1998	Jan. – March, 1998
802	July 31, 1998	April – June, 1998
803	October 31, 1998	July - Sept., 1998
804	January 31, 1999	Sept. - Dec., 1998
1999-1	April 30, 1999	Jan – March, 1999
1999-2	July 31, 1999	April – June, 1999
1999-3	September 30, 1999	July – Sept. 1999
1999-4	January 31, 2000	Oct. – Dec. 1999
2000-1	April 30, 2000	Jan. – March 2000
2000-2	July 31, 2000	April – June 2000
2000-3	October 31, 2000	July – Sept. 2000
2000-4	January 31, 2001	Oct.– Dec. 2000

2001-1	April 30, 2001	Jan – March 2001
2001-2	July 31, 2001	April – June 2001
2001-3	October 31, 2001	July – Sept. 2001
2001-4	January 31, 2002	Oct. – Dec. 2001
2002-1	April 30, 2002	Jan – March 2002
2002-2	July 31, 2002	Apr – June 2002
2002-3	October 31, 2002	July – Sept. 2002
2002-4	January 31, 2003	Oct. – Dec. 2002
2003-1	April 30, 2003	Jan – March 2003
2003-2	July 31, 2003	Apr – June 2003
2003-3	October 31, 2003	July – Sept 2003
2003-4	January 31, 2004	Oct – Dec. 2003
2004-1	April 30, 2004	Jan – March 2004
2004-2	July 31, 2004	Apr – June 2004
2004-3	October 31, 2004	July – Sept 2004
2004-4	January 31, 2005	Oct – Dec 2004
2005-1	April 30, 2005	Jan – March 2005
2005-2	July 31, 2005	April - June 2005
2005-3	October 31, 2005	July-Sept 2005
2005-4	January 31, 2006	Oct –Dec 2005
2006-1	April 30, 2006	Jan-March 2006
2006-2	July 31, 2006	April – June 2006
2006-3	October 31, 2006	July – Sept 2006
2006-4	January 31, 2007	Oct – Dec 2006
2007-1	April 30, 2007	Jan-March 2007
2007-2	July 31, 2007	April – June 2007
2007-3	October 31, 2007	July-Sept 2007
2007-4	January 31, 2008	Oct – Dec 2007
2008-1	April 30, 2008	Jan-March 2008

2008-2	July 31, 2008	April – June 2008
2008-3	October 31, 2008	July – Sept 2008
2008-4	January 31, 2009	Oct. – Dec. 2008
2009-1	April 30, 2009	Jan. – March 2009
2009-2	July 31, 2009	April – June 2009
2009-3	October 31, 2009	July – Sept. 2009
2009-4	January 31, 2009	Oct. – Dec 2009
2010-01	April 30, 2010	Jan. – March 2010
2010-02	July 31, 2010	April – June 2010
2010-03	October 31, 2010	July – Sept. 2010
2010-04	January 31, 2011	Oct. – Dec. 2010
2011-1	April 30, 2011	Jan. – March 2011
2011-2	July 31, 2011	April – June 2011
2011-3	October 31, 2011	July – Sept. 2011
2011-4	January 31, 2012	Oct. – Dec. 2011

Section 5-76. International Mechanical Code – Adopted and Amended

(A) A certain document, three copies of which are on file in the City Clerk's Office of the City of Peoria, being marked and designated as "International Mechanical Code, 2006 Edition," published by the International Code Council is hereby adopted, as amended herein, as the Mechanical Code of the City of Peoria.

(B) The International Mechanical Code, 2006 Edition, is amended as follows:

Chapter 1, "Administration," is amended as follows:

Amend Section 101.1 Title, by inserting the words "City of Peoria" as the name of the Jurisdiction.

Amend Section 106.5.3 Fee Refunds, subsections 1, 2 and 3 to read:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.

2. Not more than 100% of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. Not more than 100% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

Amend Section 108.5 Stop work orders, amending the last sentence of the paragraph to read:

> Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine or penalty in accordance with other provisions of the Peoria City Code.

Amend Section 109, Means of Appeal, by deleting Sections 109.2 through 109.7.

Chapter 3, "General Regulations" is amended as follows:

Amend Section 303.3 Prohibited locations, to add an additional location for such fuel-fired appliances:

6. Gas fired appliances with natural draft venting shall not be installed in any room operating under negative pressure unless the appliances are listed for that use.

Amend Section 304.3, by adding the following exception:

Exception: Clothes dryers installed in private garages.
Charter reference(s) -- Adoption by reference, art. VII, § 14.
State law reference(s) -- Adoption by reference, A.R.S. § 9-801 et seq.
(Code 1977, art. 8-4)
(Ord. No. 90-36, 8/28/90, 1988 edition adopted)
(Ord. No. 95-25, 5/2/95, 1994 edition adopted)
(Ord. No. 98-105, 10/6/98, 1997 edition adopted)
(Ord. No. 02-11, 2/19/02, 2000 international edition adopted) SUPP 2002-1
(Ord. No. 04-22, 5/16/04, 2003 international edition adopted and amended) SUPP 2004-2
(Ord. No. 07-11, 4/17/07, 2006 international edition adopted and amended) SUPP 2007-2

Section 5-77. International Mechanical Code -- Amendments.
(Ord. No. 90-36, 8/28/90)
(Ord. No. 95-25, 5/2/95, amended)
(Ord. No. 98-105, 10/6/98, 1997 edition adopted)
(Ord. No. 02-11, 2/19/02, 2000 international edition adopted) (SUPP 2002-1)
(Ord. No. 04-22, 5/16/04, Repealed) SUPP 2004-2

Section 5-78. International Fuel Gas Code – Adopted and Amended.

(A) A certain document, three copies of which are on file in the City Clerk's Office of the City of Peoria, being marked and designated as "International Fuel Gas Code, 2006 Edition," published by the International Code Council is hereby adopted, as amended herein, as the Fuel Gas Code of the City of Peoria.

(B) The International Fuel Gas Code, 2006 Edition, is amended as follows:

(1) Chapter 1, "Administration" is hereby amended as follows:

101.1 Title. Insert the words "City of Peoria" in the name of jurisdiction.

101.2 Scope. Amend as follows by adding: Any references to the ICC Electrical Code shall be deleted and the words "Electrical Code adopted by the City of Peoria and amended from time to time" shall be inserted in lieu thereof.

101.3 Appendices. Amend Section 101.3, "Appendices," by adding the following:

The following appendices are adopted:
APPENDIX A – SIZING AND CAPACITIES OF GAS PIPING

APPENDIX B – SIZING OF VENTING SYSTEMS SERVING APPLIANCES EQUIPPED WITH DRAFT HOODS, CATEGORY 1 APPLIANCES AND APPPLIANCES LISTED FOR USE WITH TYPE B VENTS

APPENDIX C – EXIT TERMINALS OF MECHANICAL DRAFT AND DIRECT-VENT VENTING SYSTEMS

Section 103, "Department of Inspection," is hereby amended as follows:

103.1 General. The Building Safety Division is hereby created and the executive official in charge thereof shall be known as the building official.

106 "Permits," is hereby amended as follows:

106.5.2 Fee Schedule. Insert the words "Section 2-209 of the Peoria City Code, Table 2-209."

106.5.3 Fee refunds. Delete in its entirety.

109 Means of Appeal. Delete in its entirety and amend as follows: "All appeals shall follow the provisions of the International Building Code, 2006 Edition, Section 112, and Chapter 5 of the Peoria City Code (1992) Section 5-9."
(Ord. 07-32, 10/02/07, Enacted Sec 05-78) SUPP 2007-4

Secs. 5-79 through 5-90. Reserved.
(Ord. No. 90-36, 8/28/90)

Sec. 5-91. Reserved
Charter reference(s) -- Adoption by reference, art. VII, § 14.
State law reference(s) -- Adoption by reference, A.R.S. § 9-801 et seq.
(Code 1977, § 8-2-1)
(Ord. No. 90-34, 8/28/90, 1988 edition adopted)
(Ord. No. 95-28, 5/2/95, 1991 edition adopted)
(Ord. No. 07-11, 4/17/07, Arizona Administrative Code edition adopted) SUPP 2007-2
(Ord. No. 07-32, 10/02/07, Arizona Uniform Plumbing Code repealed) SUPP 2007-4

Sec. 5-92. Repealed

(Code 1977, § 8-2-2)
(Ord. No. 90-34, 8/28/90)
(Ord. No. 90-44, 9/25/90)
(Ord. No. 95-28, 5/2/95, amended)
(Ord. No. 07-11, 4/17/07, repealed) SUPP 2007-2

Secs. 5-93. through 5-100. Reserved.

Sec. 5-101. Definitions.

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

Agency means the state department of environmental quality.

Air-gap separation or *A.G.* means a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or nonpressure receiving vessel.

Approved means backflow prevention assembly or methods approved by the department as either meeting an applicable specification stated or cited in this division, or suitable for the proposed use.

Approved air-gap separation means an air-gap separation that is at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, but in no case less than one (1) inch (two and one-half (2.5) centimeters).

Assembly means any system for backflow protection consisting of more than one (1) component and having been tested as one (1) unit, and approved as one (1) unit.

Atmospheric vacuum breaker or *A.V.B.* (also known as the ``nonpressure type vacuum breaker") means an assembly containing a float check, a check seat and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against backsiphonage and at the same time opens the inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the assembly. An atmospheric vacuum breaker is designed to protect against a health hazard (i.e. contaminant) under a backsiphonage condition only.

Auxiliary water system means a source of water outside of the city's public water supply system. No connection to the city's public water supply system shall be made with any other water system without the approval of the local authority.

Backflow means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

Backflow prevention assembly means any assembly, method, or type of construction intended to prevent backflow into a potable water system.

Backpressure means the flow of water or other liquids, mixtures, or substances under pressure into the distribution pipes of a potable water supply system from any source or sources other than the intended source.

Backsiphonage means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than its intended source, caused by the reduction of pressure in the potable water supply system.

Consumer or *customer* means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

Consumer's or customer's water system means any water system serving the premises, commencing at the discharge side of the service pipe shutoff valve location.

Department means the building safety department of the city.

Double check valve assembly or *D.C.* means an assembly composed of two (2) independently acting, approved check valves, including tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks.

Contamination means an impairment of quality of the potable water, such as through the introduction of microorganisms, chemicals, wastewater, industrial discharges, or other materials to a degree which creates an actual or potential hazard to the public health.

Cross-connection means any connection through which a supply of potable water could be contaminated or polluted through backflow.

Double check-detector check valve assembly or *D.C.D.C.* means a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass five-eighths-inch by three-fourths-inch, or three-fourths-inch water meter and a three-fourths-inch approved double check valve assembly. The meter shall register all rates of flow.

Fixed air gap means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

Foundation means Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

Health hazard means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. ``Severe" as used to qualify ``health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

Inspection means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Uniform Building Code and this division.

Installation means the installation of backflow prevention assembly.

Nonpatable water means water not safe for drinking, personal or culinary use as determined by the requirements of Safe Drinking Water Act of 1974, and this division.

Officer means the person appointed by the city manager to enforce the provisions of this division.

Plumbing means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. ``Plumbing" includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems from the source of a private water supply on the premises or from the main in the street, alley or at the curb to within and about any building or buildings where a person lives, works or assembles. ``Plumbing" includes all piping from discharge of pumping units to and including pressure tanks in water supply systems. ``Plumbing" includes all piping, fixtures, appurtenances and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system two (2) feet beyond the foundation walls.

Pollution means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of water to a degree which does not create an actual hazard to the public but which does adversely and unreasonably affect such waters for domestic use.

Potable water means water which meets the requirement of the state health department for drinking, culinary, and domestic purposes.

Potential cross-connection means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

Pressure vacuum breaker or *P.V.B.* means an assembly containing an independently operating loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves located at each end of the assembly. This assembly is designed to protect against a health hazard (i.e. contaminant) under a backsiphonage condition only.

Process fluid means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollution, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

(1) Polluted or contaminated waters.

(2) Process waters.

(3) Used waters originating from the public water supply system which may have deteriorated in sanitary quality.

(4) Cooling waters.

(5) Questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems.

(6) Chemicals in solution or suspension.

(7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.

Public water supply system means all mains, pipes and structures owned and/or maintained by the city, or any connected to such public water supply system, supplying potable water to the citizens of the city, through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing potable water.

Reduced pressure zone principle backflow prevention assembly or *RP* means an assembly containing a minimum of two (2) independently acting check valves together with an automatically operated pressure differential relief valve located between the two (2) check valves. During normal flow and at the cessation of normal flow, the pressure between these two (2) checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shutoff valves located at end of the assembly, and each assembly shall be fitted with properly-located test cocks.

Service connection means the physical connection to the water main including all fittings and appurtenances, through which water is supplied to the consumer.

Survey means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection assemblies and methods located within that customer's piping system.

(Code 1977, § 8-2-3)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-102. Purpose.

The purpose of this division is:

(1) To protect the public water supply system from contamination or pollution by isolating within the customer's water system at each piece of equipment or hazard where contaminants or pollutants which could backflow through the service connection into the public water supply system.

(2) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and nonpotable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable quality.

(3) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

(Code 1977, § 8-2-4(A))
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-103. Scope.

This division applies to all premises served by the public water supply system of the city and any other approved water supply from any private, auxiliary or emergency source.
(Code 1977, § 8-2-4(B))

Sec. 5-104. Authorization, cross connection enforcement program, fees.

(a) The utilities director is authorized to operate and maintain a cross connection inspection program. This program shall provide for continuous and ongoing inspection of backflow prevention and cross connection devices installed in the city.

(b) There shall be a monthly surcharge on each water meter within the city's service area. This surcharge shall be in the amount provided for in Chapter 2 of the Peoria city code (1992). All funds received from this surcharge shall be placed in an account designated the cross connection control program account. The account shall be used to assist in financing the operation of the city's cross control connection program.
(Code 1977, § 8-2-17(A))
(Ord. No. 91-39, 11/12/91, Repealed)
(Ord. No. 91-39, 11/12/91, Re-enacted)
(Ord. No. 02-41, 6/4/2002, Amended) SUPP 2002-2

Sec. 5-105. Violations -- Generally.

(a) It is unlawful for any customer or consumer of potable water, be it city water or any city-approved potable water supply, to:

(1) Create, or have created by other persons, any cross-connection involving any city-approved potable water.

(2) Fail to install, or maintain, any air-gap or backflow assembly as required by the provisions of this division.

(3) Fail to have any backflow assembly inspected and tested as required by the provisions of this division.

(4) Fail to install any backflow assembly according to the city installation standards, as per the department.

(5) Fail to protect any life form within any structure or on any premises from any nonpotable water source.

(b) The department may deny or discontinue, after reasonable notice to the occupants thereof, the water service to anyone using the city water distribution system to any premises where a backflow prevention device required by the provisions of this division is not installed, tested, maintained and repaired in a manner acceptable to the department, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cutoff required by these regulations is not installed and maintained in working order. Reasonable notice to the occupant of a single-family dwelling shall be deemed given if in writing, mailed to the occupant at the address of the dwelling at least two (2) weeks prior to the contemplated disconnection. Reasonable notice to all others shall be deemed given when done so in writing and mailed to the address one (1) week prior to the contemplated disconnection. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the department, and the required reconnection fee is paid.

(c) If the department determines that a customer's backflow preventive device does not meet current standards, the customer shall retrofit his device so that it will meet current standards.

(d) Customers that have water service prior to October 15, 1987, are subject to all requirements imposed by this division, if the department determines the degree of hazard or potential hazard requires a device to be installed.

(e) It shall be unlawful to violate any of the provisions of this chapter. A violation of this ordinance shall be a class one misdemeanor.

(f) Each violation of this ordinance is subject to a mandatory minimum fine of not less than

one hundred dollars ($100.00). In addition, the costs of prosecution of the action may be imposed at the discretion of the court. The magistrate court shall order any person convicted of a violation under this chapter to comply with the provisions of this chapter. The imposition of one penalty for any violation of this ordinance shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations and defects within a reasonable time; and each day that the prohibited condition is not corrected or remedied shall constitute a separate offense.

(g) A violation of this chapter may be punished by imposition of a civil penalty which shall not exceed two thousand five hundred dollars ($2,500.00).
(Code 1977, §§ 8-2-12 -- 8-2-16)
(Ord. No. 91-39, 11/12/91)

Sec. 5-106. Same -- Commencement of actions, citation, etc.

(a) The utilities director, or any designee thereof, is authorized to investigate any complaints of violation of this chapter. Upon a determination of reasonable cause that a violation exists, the utilities director, or any designee thereof, may issue a notice of violation stating with reasonable particularity the nature of the violation to the violator.

(b) The notice of violation shall be similar to the uniform traffic ticket and complaint promulgated by the Arizona Supreme Court. Upon receipt of a notice of violation, a person may request a hearing on the violation. If a hearing is requested, the hearing officer shall designate a time and place for the hearing and notify the person and the public services director.

(c) At the hearing it shall be the burden of the utilities director, or the designee thereof, to prove by a preponderance of the evidence that a violation of this chapter has occurred. Formal rules of evidence shall not apply and the hearing officer may admit whatever evidence he or she deems relevant or prohibitive. If the hearing officer determines that a violation has occurred, he or she shall issue an order designating the continued noncompliance with this chapter to be a nuisance and imposing a civil penalty against the violator.

(d) Service of any notice required by this section shall be complete upon mailing it to the violator or by personal delivery to the violator or any agent thereof.

(e) Failure to respond timely to a notice of violation as described in this section shall result in a default being entered against the violator. Upon entering a default, the hearing officer shall enter an order as if a determination had been made that a violation had occurred.

(f) If a person has been served with a notice of violation under this section, he shall not be subject to a criminal charge arising out of the same facts.

(g) The city manager shall designate one or more individuals to act as administrative hearing officers for the purpose of hearing enforcement actions arising under this chapter.

(h) The city attorney, or any person affected by the nuisance, may bring a civil action in the superior court to abate the nuisance.

State law reference(s) -- Notices to appear, A.R.S. § 13-3903.

(Code 1977, §§ 8-2-17 -- 8-2-20)
(Ord. No. 91-39, 11/12/91)
(Ord No. 02-41, 6/4/2002, Amended) SUPP 2002-2

Sec. 5-107. Same -- Collection of fines; lien; abatement of violation.

Any judgment for a civil fine and/or penalty imposed pursuant to this division shall constitute a lien against the real property of the defendant which may be perfected by recording a copy of the judgment under seal of the city with the county recorder. Any judgment for civil fines or penalties taken pursuant to this article may be collected as any other civil judgment. If the defendant fails to correct the violation charged within thirty (30) days of the issuance of the first citation, the city attorney may proceed without further notice to commence an injunctive action for abatement of the violation. Any action taken under this article shall be in addition to any other remedies.
(Code 1977, § 8-2-21)

Sec. 5-108. City's right of entry and to information.

The officer may enter at any reasonable time any property served by a connection to the public water supply or distribution system of the city for the purpose of verifying the presence or absence of cross-connections. The officer or his authorized agent may enter at any reasonable time any property served by a connection to the public water supply or distribution system of the city for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand the owner, lessees or occupants of any property so served shall furnish to the officer, any information which he may request regarding the piping system or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the officer, be deemed evidence of the presence of improper connections as provided in this division. This shall hold true for any approved water supply from any source to the citizens of the city, be it private, auxiliary or emergency.
(Code 1977, § 8-2-4(F))

Sec. 5-109. Surveys and investigations.

(a) It shall be the duty of the department to cause surveys and investigations to be made of industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two (2) years, or as often as the department shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five (5) years.

(b) Each survey shall be completed on a form approved by the department.

(Code 1977, §§ 8-2-3(34), 8-2-4(E))

Sec. 5-110. City's right to discontinue water service.

The city shall discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this division is known to exist and take such other precautionary measures as the officer may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service shall not be restored until the conditions have been eliminated or corrected in compliance with the provisions of this division, and until the required reconnection fee is paid to the city. This shall hold true for any approved water supply from any source to the citizens of the city, be it private, auxiliary or emergency.
(Code 1977, § 8-2-4(C))

Sec. 5-111. General requirements.

(a) The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customer's water service connection. If, in the judgement of the officer or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the officer shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer, after due written notice and within the prescribed time indicated on the notice, shall install such approved device at his own expense, failure or refusal on the part of the consumer to install such device immediately shall constitute grounds for discontinuing water service to the premises until such device has been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in this division.

(b) If in accordance with Section 5-44 of the Peoria City Code (1992), or in the judgement of the department, an approved backflow prevention assembly is necessary for the safety of the public water supply system, the department will give notice to the water customer to install such an approved assembly immediately. The water customer shall, at his own expense, install such an approved assembly at a location and in a manner in accordance with Section 5-44 of the Peoria City Code (1992).

(Code 1977, § 8-2-4(C), (D))
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-112. Cross-connection prohibited.

(a) Connections between the public water supply system and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to ensure proper operation on a continuing basis. No connection shall be permitted

between the public water supply system and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the agency and/or the city. There shall be no arrangement or connection by which contamination may enter the public water supply system.

(b) It is the responsibility and financial obligation of the water consumer to prevent backflow into the public water supply system by ensuring that:

(1) All cross-connections are removed, or approved cross-connection control assemblies are installed for control of backflow from backpressure and back-siphonage.

(2) Cross-connection control assemblies shall be installed in accordance with the manufacturer's instructions and this division.

(3) Cross-connection control assemblies shall be inspected at least annually by a person approved by the department as a cross-connection control tester. The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions, and those of the foundation, at the consumer's or owner's expense.

(Code 1977, § 8-2-5)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-113. Testing and records.

(a) *Device.* Each device shall be tested at least annually or more frequently if recommended by the manufacturer, or the department, at the consumer's or owner's expense.

(b) *Records.* Records submitted to the city shall be available for inspection by agency personnel.

(c) *Identification.* Each assembly shall have a tag attached listing the manufacturer and serial number of the assembly.

(d) *Log.* A maintenance log shall be maintained and include the following:

(1) Date of each test.

(2) Name and approval number of person performing the inspection or test.

(3) Test results/inspection.

(4) Repairs or servicing required.

(5) Repairs and date completed.

(6) Services performed and date completed.

(7) Results of final test.

(e) *City records.* The department will maintain records of the types and locations of all assemblies used for the prevention of back flow in accordance with requirements of chapter 7, section H, paragraph 2, Arizona Department of Health Services Engineer Bulletin No. 10, Guidelines for the Construction of Water Systems, as amended.

(f) *Annual notification to test.*

(1) The City shall notify the customer via first class mail at least 60 days before the annual test compliance due date for each backflow prevention assembly.

(2) If by the annual compliance date the City does not receive the required test report, the City shall provide written notice via hand delivery or certified mail delivered to the customer of the City's intent to discontinue water service if the required annual test report is not received within five days of the confirmed delivery date.

(3) The customer shall not test any backflow prevention assembly more than 60 days prior to the annual test due date, unless a waiver is requested in writing and granted with written City approval.

(Code 1977, § 8-2-6)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-114. Where protection required.

(a) A backflow prevention assembly approved by the officer shall be installed on each water service line to a customer's water system. Such approved backflow prevention assembly shall be installed prior to issuance of any certificate of occupancy for the structure to which the water system will provide service.

(b) An approved backflow prevention assembly shall be installed on each water service line to a consumer's water system where the following conditions exist:

(1) Premises having an auxiliary water system, unless such auxiliary water system is accepted as an additional source by the city and the source is approved by the agency and the council.

(2) Premises where any substance exists which can create an actual or potential hazard to the public water supply system.

(3) Premises having internal cross-connections that, in the judgement of the officer, are not correctable or intricate plumbing arrangements which made it impractical to determine whether or not cross-connections exist.

(4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connections survey.

(5) Premises having a repeated history of cross-connections being established or reestablished.

(6) Premises which utilize non-potable or reclaimed water.

(c) An approved backflow prevention assembly shall be installed on each water line to a consumer's water system serving, but not necessarily limited to, the following types of facilities or to isolate specific equipment or hazards unless the officer determines that no actual or potential hazard to the public water supply system exist:

(1) Aircraft and missile plants, RP.

(2) Animal clinics and animal grooming shops, RP.

(3) Automotive plants, RP.

(4) Auxiliary water systems (interconnected), RP.

(5) Auxiliary water systems (not interconnected), RP.

(6) Beverage bottling plants, RP.

(7) Breweries, RP.

(8) Buildings greater than three (3) stories or greater than thirty-four (34) feet in height from curb level, RP.

(9) Buildings with house pumps and/or potable water storage tank, RP.

(10) Canneries, packing houses and reduction plants, RP.

(11) Carbonated beverage equipment, Stainless Steel, RP.

(12) Car wash facilities or car washes with water reclamation system, RP.

(13) Centralized heating and air conditioning plants, RP.

(14) Chemical plants, RP.

(15) Chemically treated potable or nonpotable water systems, RP.

(16) Commercial laundries, RP.

(17) Cooling tower, boiler, condenser, chiller, and other cooling systems, RP.

(18) Dairies and cold storage plants, RP.

(19) Decorative fountain, baptismal, pond, or any location water is exposed to atmosphere, RP or Air Gap.

(20) Dye works, RP.

(21) Film processing laboratories, RP.

(22) Food processing plants, RP.

(23) High schools, grade schools, day-care centers, and colleges, RP.

(24) Holding tank disposal stations, RP.

(25) Hospitals and mortuaries, RP.

(26) Medical and dental buildings or suites, sanitariums, rest and convalescent homes, RP.

(27) Mobile home and travel trailer parks, RP.

(28) Irrigation systems (premises having separate systems such as parks, playgrounds, cemeteries, golf courses, schools, estates, ranches, etc.), RP.

(29) Laboratories using toxic materials, RP.

(30) Manufacturing, processing and fabricating plants using toxic materials, RP.

(31) Manufacturing, processing and fabricating plants using nontoxic materials, RP.

(32) Motion picture studios, RP.

(33) Non-Carbonated beverage equipment, DC.

(34) Oil and gas production facilities, RP.

(35) Paper and paper production plants, RP.

(36) Pesticide, herbicide, fertilizer, and chemical applicators, RP.

(37) Plating plants, RP.

(38) Radioactive materials processing facilities, RP.

(39) Restricted, classified or other closed facilities, RP.

(40) Recreational vehicle dump stations (sewer), or any other location where water may be exposed to bateria, birus or gas, RP.

(41) Rubber plants, RP.

(42) Sand and gravel plants, RP.

(43) Sewage and storm drainage facilities, RP.

(44) Any premises where a cross-connection is maintained, RP.

(45) Water trucks, temp. water storage units, hydraulic sewer cleaning equipment, street sweepers, steel wheeled rollers, RP or air-gap.

(46) Water treatment facilities and all water processing equipment (other than residential water softeners), RP.

(47) X-ray equipment, planting equipment, or any other photographic processing equipment, RP.

(48) Any premises on which chemicals, oils, solvents, pesticides, disinfectants, cleaning agents, acids or other pollutants and/or contaminants are handled in a manner by which they may come in direct contact with water, or there is evidence of the potential to contact water, RP.

(49) Any premises where water supplied by the city is subject to deterioration in sanitary quality and its entry into the public water system is permitted, DC.

(50) Any connection to a fire hydrant (except fire department equipment), RP.

(Code 1977, § 8-2-7)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-115. Type of protection required.

(a) The type of protection required shall depend on the degree of hazard which exists as follows:

(1) An approved fixed air gap or an approved reduced pressure zone principle backflow prevention assembly shall be installed where the public water supply system may be contaminated causing a system health hazard.

(2) An approved fixed proper air gap separation or an approved DC backflow prevention assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(b) All American Water Works Association classes 1, 2 and 3 fire systems six (6) inches in size and larger or any system three (3) inches in size and larger constructed of a piping material not approved as a potable water system material per Section 5-44 of the Peoria City Code (1992) by the city shall have a DC. All American Water Works Association classes 4, 5 and 6 shall have an RP. Fire systems where backflow protection is required on the industrial/domestic service connection that is located on the same premises, both service connections will have adequate backflow protection for the highest degree of hazard effecting either system.

(c) Any property with more than one (1) water service shall, at the discretion of the department have backflow protection on each service to the property.

(d) At the discretion of the department a strainer shall be required on assemblies.
(Code 1977, § 8-2-8)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-116. Backflow prevention devices.

(a) All backflow prevention assemblies required by the provision of this division shall be approved by the department. Installation of an approved assembly shall be made in accordance with the departmental regulations. Maintenance as recommended by the manufacturer of the device, and the department, shall be performed. The manufacturer's maintenance manual shall be available on-site. Installation standards are available at the department. All backflow prevention assemblies shall be testable units and equipped with test cocks.

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

(c) The assembly shall be in an accessible location and installed as close to the service connection as practicable.

(d) All backflow prevention assemblies must comply with the standards of the department and the provisions of this division. A double check valve assembly shall only be used to protect against a nonhealth hazard (i.e. pollutant). A double check-detector valve assembly shall only be used to protect against a nonhealth hazard (i.e., pollutant).
(Code 1977, §§ 8-2-3(8), (15), (16), 8-2-9)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-117. Inspection and maintenance.

(a) *Generally.* The consumer at premises on which backflow prevention assembly required by the provisions of this chapter are installed shall have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions, at the consumer's expense:

(1) Fixed proper air gap separations shall be inspected at the time of installation and at least annually thereafter.

(2) Double check valve assemblies shall be inspected and tested for tightness at the time of installation or repair and at least annually or more frequently if recommended by the manufacturer, or the department.

(3) Reduced pressure principle backflow prevention devices shall be tested at the time of the installation and at least annually or more frequently if recommended by the manufacturer, or the department.

(4) All commercial pressure vacuum breakers shall be tested at the time of the installation or repair and at least annually or more frequently if recommended by the manufacturer, or the department.

(b) *Testing.* Testing shall be performed by a person who has been approved by the department. Proof of approval shall be in writing. Testing procedures shall be conducted in accordance to the current edition of the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research Manual for Cross-Connection Control. Testers who wish to perform backflow testing within the City must possess and maintain the following credentials:

(1) Complete and sign an application for recognition.

(2) Certified as a backflow assembly tester from an agency approved by the Department.

(3) Test Gauge calibration reports.

(4) Liability insurance policy with a $1,000,000 minimum liability per occurrence.

(5) Commercial Arizona Registrar of Contractors License as determined by the Department.

(6) City of Peoria Tax & Business License.

(c) *Repairs.* Whenever backflow prevention assemblies required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer within forty-five (45) days or as specified by the officer.

(d) *Alterations.* Backflow prevention assemblies shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the department.

(e) *Rebuilding.* All backflow prevention assemblies shall be rebuilt as determined by the officer.

(f) *Security.* All backflow assemblies installed shall have a chain with a padlock from the first O.S. & Y. valve to the second O.S. & Y. valve, or an alarm system, or both.

(g) *Painting.* All backflow assemblies shall be painted tan or a color to match the background.

(h) *Test cocks.* Test cocks are to be used for testing only, any unauthorized use is unlawful. All test cocks shall have plugs in place at all times. These plugs shall only be removed for testing.
(Code 1977, § 8-2-10)
(Ord. No. 2011-22, 11/1/2011, Amended) SUPP 2011-4

Sec. 5-118. Booster pumps.

Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cutoff device designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to twenty (20) pounds per square inch or less. It shall be the duty of the water consumer to maintain the low pressure cutoff device in proper working order and to certify to the department at least once a year that the device is operable.
(Code 1977, § 8-2-11)

Secs. 5-119. through 5-125. Reserved.

(Ord. No. 90-38, 8/28/90)

Sec. 5-126. Reserved.
(Ord. No. 07-11, 4/17/07, Repealed)

Sec. 5-127. Reserved..
(Ord. No. 07-11, 4/17/07, Repealed)

Secs. 5-128. through 5-130. Reserved.
(Ord. No. 90-38, 8/28/90)

Sec. 5-131. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, art. 15-2)

Sec. 5-132. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-1-2)

Sec. 5-133. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-1-3)

Sec. 5-134. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-1-4)

Sec. 5-135. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-1)

Sec. 5-136. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-7)

Sec. 5-137. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-3)

Sec. 5-138. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-8)

Sec. 5-139. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-9)

Sec. 5-140. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)

(Code 1977, § 15-3-2)

Sec. 5-141. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, §§ 15-3-4 -- 15-3-6)

Sec. 5-142. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-3-10)

Sec. 5-143. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-4-2(E))

Secs. 5-144. through 5-151. Reserved.

Sec. 5-152. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-4-2(A) -- (D), (F) -- (H))

Sec. 5-153. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, § 15-4-1)

Sec. 5-154. Reserved.
(Ord. No. 98-102, 9/22/98, Repealed)
(Code 1977, §§ 15-6-1, 15-6-2)

Secs. 5-155. through 5-161. Reserved.

Sec. 5-162. Special flood hazard areas; standards for construction.

In all areas of special flood hazards the following standards are required:

(1) *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes shall meet the anchoring standards of section 5-166.

(2) *Construction materials and methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) *Elevation and floodproofing.*

a. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the regulatory flood elevation. Nonresidential structures may meet the standards in subsection c. of this section. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified a professional engineer or surveyor and provided to the floodplain administrator.

b. New construction and substantial improvement of any structure in zone AD shall have the lowest floor, including basement, higher than the highest adjacent grade at least one (1) foot higher than the depth number on the FIRM, or at least two (2) feet if no depth number is specified. Nonresidential structures may meet the standards in subsection c. of this section. Upon completion of the structure a registered professional engineer shall certify to the floodplain administrator that the elevation of the structure meets these standards.

c. Nonresidential construction shall either be elevated in conformance with subsection (3)a. or b. of this section or together with attendant utility and sanitary facilities complies with all of the following:

1. Be floodproofed so that below the regulatory flood level the structure is watertight with walls substantially impermeable to the passage of water.

2. Have structural components capable of resisting hydrostatic and

hydrodynamic loads and effects of buoyancy.

3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.

d. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect to meet or exceed the following minimum criteria:

1. A minimum of two (2) openings have a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one (1) foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. Manufactured homes shall meet the above standards and also the standards in section 5-166.

(Code 1977, § 15-5-1)

Sec. 5-163. Standards for storage of materials and equipment.

(a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(b) Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(Code 1977, § 15-5-2)

Sec. 5-164. Floodwaters; standards for utilities.

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into flood- waters.

(b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(c) Waste disposal systems shall not be installed wholly or partially in a floodway.

Cross reference(s) -- Water, sewers and sewage disposal, Ch. 25.

(Code 1977, § 15-5-3)

Sec. 5-165. Flood hazard areas; standards for subdivisions.

(a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

(b) All final subdivision plans will provide the elevation of proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

Cross reference(s) -- Subdivisions, Ch. 24.

(Code 1977, § 15-5-4)

Sec. 5-166. Flood elevations; Standards for manufactured homes.

All new and replacement manufactured homes and additions to manufactured homes shall:

(1) Be elevated so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at the regulatory flood elevation.

(2) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

(Code 1977, § 15-5-5)

Sec. 5-167. Special flood hazard areas; requirements for floodways.

Located within areas of special flood hazard established in section 5-140 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer

or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) All new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this division.

(Code 1977, § 15-5-6)

Sec. 12-1. Words of tense, number and gender; code references.

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

(b) For the purposes of this Chapter, all code references, unless specified otherwise, shall:
(1) refer to this City Code.
(2) be deemed to include all amendments to such code references.

(Code 1977, § 9A-1)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-2 through 12-99. Reserved.

Sec. 12-100. General definitions.

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

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

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

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

"Business Day" means any day of the week when the Tax Collector's office is open for the public to conduct the Tax Collector's business.

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

"Combined Taxes" means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as authorized by Article III, Chapter 6, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

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

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

"Construction Contracting" refers to the activity of a construction contractor.

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

"Delivery (of Notice) by the Tax Collector" means "receipt (of notice) by the taxpayer".

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

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

"Equivalent Excise Tax" means either:

(1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or

(2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or

(3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

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

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106.

Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "Food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana.

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

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

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

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

"Licensing (for Use)" means any agreement between the user ("licensee") and the owner or the owner's agent ("licensor") for the use of the licensor's property whereby the licensor receives consideration, where such agreement does not qualify as a "sale" or "lease" or "rental" agreement.

"Lodging (Lodging Space)" means any room or apartment in a hotel or any other provider of rooms, trailer spaces, or other residential dwelling spaces; or the furnishings or services and accommodations accompanying the use and possession of said dwelling space, including storage or parking space for the property of said tenant.

"Manufactured Buildings" means a manufactured home, mobile home or factory built building, as defined in A.R.S. Section 41-2142.

"Manufacturer" means a person engaged or continuing in the business of fabricating, producing, or manufacturing products, wares, or articles for use from other forms of tangible personal property, imparting to such new forms, qualities, properties, and combinations.

"Medical Marijuana" means "Marijuana" used for a "Medical Use" as those terms are defined in A.R.S. § section 36-2801.

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 12-432 for such use. This definition shall not include:

(1) janitorial equipment and supplies.
(2) office equipment, office furniture, and office supplies.

(3) motor vehicles licensed for use upon the highways of the State.

"Modifier" means a person who reworks, changes, or adds to products, wares, or articles of manufacture.

"Nonprofit Entity" means any entity organized and operated exclusively for charitable purposes, or operated by the Federal Government, the State, or any political subdivision of the State.

"Occupancy (of Real Property)" means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in such property.

"Out-of-City Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) transference of title and possession occur without the City; and
(2) the stock from which such personal property was taken was not within the corporate limits of the City; and
(3) the order is received at a permanent business location of the seller located outside the City; which location is used for the substantial and regular conduct of such business sales activity. In no event shall the place of business of the buyer be determinative of the situs of the receipt of the order.

For the purpose of this definition it does not matter that all other indicia of business occur within the City, including, but not limited to, accounting, invoicing, payments, centralized purchasing, and supply to out-of-City storehouses and out-of-City retail branch outlets from a primary storehouse within the City.

"Out-of-State Sale" means the sale of tangible personal property and job printing if all of the following occur:

(1) The order is placed from without the State of Arizona; and
(2) the property is delivered to the buyer at a location outside the State; and
(3) the property is purchased for use outside the State.

"Owner-Builder" means an owner or lessor of real property who, by himself or by or through others, constructs or has constructed or reconstructs or has reconstructed any improvement to real property.

"Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the Federal Government, this State, or any political subdivision or agency of this State. For the purposes of this Chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

"Prosthetic" means any of the following tangible personal property if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath,

optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

(1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
(2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
(3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
(4) drugs or medicine, including oxygen.
(5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
(6) durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
(7) Under no circumstances shall "Prosthetic" include medical marijuana regardless of whether it is sold or dispensed pursuant to a prescription, recommendation, or written certification by any authorized person.

"Qualifying Community Health Center" means an entity that is recognized as nonprofit under 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
(1) the sole provider of primary care in the community.
(2) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue.

"Qualifying Hospital" means:
(1) a licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
(2) a licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.
(3) a hospital, nursing care institution or residential care institution which is operated by the federal government, this State or a political subdivision of this State.

"Receipt (of Notice) by the Taxpayer" means the earlier of actual receipt or the first attempted delivery by certified United States mail to the taxpayer's address of record with the Tax Collector.

"Remediation" means those actions that are reasonable, necessary, cost-effective and technically feasible in the event of the release or threat of release of hazardous substances into the environment such that the waters of the State are or may be affected, such actions as may be necessary to monitor, assess and evaluate such release or threat of release, actions of remediation, removal or disposal of hazardous substances or taking such other actions as may be necessary to prevent, minimize or mitigate damage to the public health or welfare or to the waters of the State which may otherwise result from a release or threat of release of a hazardous substance that will or may affect the waters of the State. Remediation activities include the use of biostimulation with indigenous microbes and bioaugmentation using microbes that are nonpathogenic, nonopportunistic and that are naturally occurring. Remediation activities may include community information and participation costs and providing an alternative drinking water supply.

"Rental Equipment" means tangible personal property sold, rented, leased, or licensed to customers to the extent that the item is actually used by the customer for rental, lease, or license to others; provided that:

(1) (Reserved)
(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Rental Supply" means an expendable or nonexpendable repair or replacement part sold to become part of "rental equipment", provided that:

(1) the documentation relating to each purchased item so claimed specifically itemizes to the vendor the actual item of "rental equipment" to which the purchased item is intended to be attached as a repair or replacement part; and
(2) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
(3) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

"Repairer" means a person who restores or renews products, wares, or articles of manufacture.

"Resides within the City" means in cases other than individuals, whose legal addresses are determinative of residence, the engaging, continuing, or conducting of regular business activity within the City.

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including

bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".

"Retail Sale (Sale at Retail)" means the sale of tangible personal property, except the sale of tangible personal property to a person regularly engaged in the business of selling such property.

"Retailer" means any person engaged or continuing in the business of sales of tangible personal property at retail.

"Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. "Sale" includes any transaction whereby the possession of such property is transferred but the seller retains the title as security for the payment of the price. "Sale" also includes the fabrication of tangible personal property for consumers who, in whole or in part, furnish either directly or indirectly the materials used in such fabrication work.

"Solar Daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

"Solar Energy Device" means a system or serires of mechanisms designed primarily to provide heating, to provide colling, to produce electrical power, to produce mechanical power, to provide solar day lighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as part of a normal strucutre, such as a window.

"Speculative Builder" means either:

(1) an owner-builder who sells or contracts to sell, at anytime, improved real property (as provided in Section 12-416) consisting of:
    (a) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
    (b) improved residential or commercial lots without a structure; or
(2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
    (a) prior to completion; or
    (b) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

"Substantially Complete" means the construction contracting or reconstruction contracting:

(1) has passed final inspection or its equivalent; or

(2) certificate of occupancy or its equivalent has been issued; or
(3) is ready for immediate occupancy or use.

"Supplier" means any person who rents, leases, licenses, or makes sales of tangible personal property within the City, either directly to the consumer or customer or to wholesalers, jobbers, fabricators, manufacturers, modifiers, assemblers, repairers, or those engaged in the business of providing services which involve the use, sale, rental, lease, or license of tangible personal property.

"Tax Collector" means the Finance Director or his designee or agent for all purposes under this Chapter.

"Taxpayer" means any person liable for any tax under this Chapter.

"Taxpayer Problem Resolution Officer" means the individual designated by the City to perform the duties identified in Sections 12-515 and 12-516. In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the City. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

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

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

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.
(Code 1977, § 9A-100)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 07-07, 3/20/07, amended) SUPP 2007-1
(Ord. 08-08, 4/15/08, amended) SUPP 2008-2
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-101 through 12-109. Reserved

Sec. 12-110. Definitions: Income-producing capital equipment.

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

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

(2) mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

(3) tangible personal property, sold to persons engaged in business classified under the telecommunications classification, consisting of central office switching equipment; switchboards; private branch exchange equipment; microwave radio equipment, and carrier equipment including optical fiber, coaxial cable, and other transmission media which are components of carrier systems.

(4) machinery, equipment, or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

(5) pipes or valves four inches (4") in diameter or larger and related equipment, used to transport oil, natural gas, artificial gas, water , or coal slurry. For the purpose of this section, related equipment includes: compressor units, regulators, machinery and equipment, fittings, seals and any other parts that are used in operating the pipes or valves.

(6) aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

(A) a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or united states mail in intrastate, interstate or foreign commerce.

(B) any foreign government for use by such government outside of this State.

(C) persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subdivision also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.

(7) machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

(8) railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

(9) machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

(10) buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by a city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

(11) metering, monitoring, receiving, and transmitting equipment acquired by persons engaged in the business of providing utility services or telecommunications services; but only to the extent that such equipment is to be used by the customers of such persons and such persons separately charge or bill their customers for use of such equipment.

(12) groundwater measuring devices required under A.R.S. § 45-604.

(13) machinery or equipment used in research and development. In this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

(14) (Reserved)

(15) included in income producing capital equipment are liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development or job printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involving direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This subsection does not include chemicals that are used or consumed in activities such as packaging , storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this Code. Chemicals meeting the requirements of this subsection are deemed not to be expendable under subsection (d) of this Section. of this subsection are deemed not to be expendable under subsection (d) of this Section.

(16) cleanrooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph (13) of this subsection, of semiconductor products. For purposes of this paragraph, "cleanroom" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Cleanroom:

(A) includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the cleanroom environment.

(B) does not include the building or other permanent, nonremovable component of the building that houses the cleanroom environment.

(17) machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

(A) "motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, cd-rom, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(B) "soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

(18) tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(A) any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(B) any satellite television or data transmission facility, if both of the following conditions are met:

(i) over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For purposes of subdivision (B) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast

satellite television or data transmission service first transmits information to its customers.

(19) machinery and equipment that is used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

(20) machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development that is used directly to meet or exceed rules or regulations adopted by the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the United States Nuclear Regulatory Commission, the Arizona Department of Environmental Quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

(21) machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the Telecommunications Act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code Section 336) and the Federal Communications Commission Order issued April 21, 1997, 47 Code of Federal Regulations Part 73. This paragraph does not exempt any of the following:

(A) repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(B) machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(C) any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

(b) The term “income-producing capital equipment” shall further include ancillary machinery and equipment used for the treatment of waste products created by the business activities which are allowed to purchase “income-producing capital equipment” defined in subsection (a) above.

(c) The term “income-producing capital equipment” shall further include repair and replacement parts, other than the items in subsection (d) below, where the property is acquired to become an integral part of another item itemized in subsections (a) or (b) above.

(d) The tangible personal property defined as income-producing capital equipment in this Section shall not include:

(1) expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsections (a), (b) or (c) of this Section regardless of the cost or useful life of that property.

(2) janitorial equipment and hand tools.

(3) office equipment, furniture, and supplies.

(4) tangible personal property used in selling or distributing activities.
(5) motor vehicles required to be licensed by the State of Arizona, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection (a)(10) above without regard to the use of such motor vehicles.
(6) shops, buildings, docks, depots, and all other materials of whatever kind or character not specifically included as exempt.
(7) motors and pumps used in drip irrigation systems.

(e) For the purposes of this Section:
(1) "aircraft" includes:
(A) an airplane flight simulator that is approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 Code of Federal Regulations Part 121.
(B) tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.
(2) "other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

(Code 1977, § 9A-110)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-111 through 12-114. Reserved.

Sec. 12-115. Definitions: computer software; custom computer programming.

(a) "Computer Software" means any computer program, part of such a program, or any sequence of instructions for automatic data processing equipment. Computer software which is not "custom computer programming" is deemed to be tangible personal property for the purposes of this Chapter, regardless of the method by which title, possession, or right to use the software is transferred to the user.

(b) "Custom Computer Programming" means any computer software which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer.

(1) The term does not include a prewritten program which is held or existing for general or repeated sale, lease, or license, even if the program was initially developed on a custom basis for in-house, or for a single customer's, use.

(2) Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the customer.

(Code 1977, § 9A-115)

(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-116 through 12-199. Reserved.

Sec. 12-200. Determination of gross income: in general.

(a) Gross income includes:
   (1) the value proceeding or accruing from the sale of property, the providing of service, or both.
   (2) the total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
   (3) all receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.
   (4) all other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.

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

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

(Code 1977, § 9A-200)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-201 through 12-209. Reserved.

Sec. 12-210. Determination of gross income: transactions between affiliated companies or persons.

In transactions between affiliated companies or persons, or in other circumstances where the relationship between the parties is such that the gross income from the transaction is not indicative of the market value of the subject matter of the transaction, the Tax Collector shall determine the "market value" upon which the City Privilege and Use Taxes shall be levied. "Market value" shall correspond as nearly as possible to the gross income from similar transactions of like quality or character by other taxpayers where no common interest exists between the parties, but otherwise under similar circumstances and conditions.
(Code 1977, § 9A-210)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-211 through 12-219. Reserved.

Sec. 12-220. Determination of gross income: artificially contrived transactions.

The Tax Collector may examine any transaction, reported or unreported, if, in his opinion, there has been or may be an evasion of the taxes imposed by this Chapter and to estimate the amount subject to tax in cases where such evasion has occurred. The Tax Collector shall disregard any transaction which has been undertaken in an artificial manner in order to evade the taxes imposed by this Chapter.
(Code 1977, § 9A-220)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-221 through 12-229. Reserved.

Sec. 12-230. Determination of gross income based upon method of reporting.

The method of reporting chosen by a taxpayer, as provided in Section 12-520, necessitates the following adjustments to gross income for all purposes under this Chapter:

(a) Cash basis - When a person elects to report and pay taxes on a cash basis, gross income for the reporting period shall include:
   (1) the total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and
   (2) all amounts received on accounts receivable, conditional sales contract, or other similar transactions, against which no deductions and no exclusions from gross income are allowed. Interest on finance contracts may be deducted if separately itemized on all books and records.

(b) Accrual basis - When a person elects to report and pay taxes on an accrual basis, gross income shall include all gross income 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:
   (1) the amount deducted for the bad debt must be deducted from gross income 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 gross income; and
   (2) if any amount is subsequently collected on such charged-off account, it shall be included in gross income for the month in which it was collected, without deduction for expense of collection.

(Code 1977, § 9A-230)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-231 throught 12-239.

Sec. 12-240. Exclusion of cash discounts, returns, refunds, trade-in values, vendor issued coupons, and rebates from gross income.

(a) The following items are not included in gross income:

(1) Cash discounts allowed by the vendor for timely payment, but only discounts allowed against taxable gross income.
(2) The value of property returned by customers to the extent of the amount actually refunded either in cash or by credit and the amount refunded was included in taxable gross income.
(3) The trade-in allowance for tangible personal property accepted as payment, not to exceed the full sales price for any tangible personal property sold, when the full sales price is included in taxable gross income. Trade-in allowances are not allowed for manufactured buildings taxable under Section 12-427.
(4) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from gross 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 gross income.
(5) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from gross income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from gross income, even when the vendee assigns his right to the rebate to the vendor.
(6) In computing the tax base, gross proceeds of sales or gross income does not include a manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

(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 gross income of that subsequent reporting period, but only to the extent that the excludable amount was reported as taxable gross income in that prior reporting period.

(Code 1977, § 9A-240)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-241 through 12-249. Reserved.

Sec. 12-250. Exclusion of combined taxes from gross income; itemization; notice; limitations.

(a) When tax is separately charged and/or collected. The total amount of gross income shall be exclusive of combined taxes only when the person upon whom the tax is imposed shall establish 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 gross income, unless such records are completed and/or clarified to the satisfaction of the Tax Collector.
(1) Remittance of all tax charged and/or collected. When an added charge is made to cover City (or combined) Privilege and Use Taxes, the person upon whom the tax is imposed shall pay the full amount of the City taxes due, whether collected by him or

not, and in the event he collects more than the amount due he shall remit the excess 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 by him, and the Tax Collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this Chapter, the Tax Collector may determine the amount collected and collect the tax so determined in the manner provided in this Chapter.

(2) Itemization. A taxpayer, in order to be entitled to exclude from his gross income any amounts paid to him by customers for combined taxes passed on to the customer, must prove that he has provided his customer 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 addition to the record required to be kept under subsection (a) above.

(b) When tax has been neither separately charged nor separately collected. When the person upon whom the tax is imposed shall establish 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 gross income by 1.00 plus a decimal figure representing the effective combined tax rate expressed as a fraction of 1.00.

(Code 1977, § 9A-250)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs 12-251 through 12-259. Reserved

Sec. 12-260. Exclusion of fees and taxes from gross income; limitations.

(a) There shall be excluded from gross income of vendors of motor vehicles those motor vehicle registration fees, license fees and taxes, and lieu taxes imposed pursuant to Title 28, Arizona Revised Statutes in connection with the initial purchase of a motor vehicle, but only to the extent that such taxes or fees or both have been separately itemized and collected from the purchaser of the motor vehicle by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Article III, regarding recordkeeping, are met. For the purpose of the exclusion provided by this subsection only, the terms vendor and vendee shall also apply to a lessor and lessee respectively, of a motor vehicle if, in addition to all other requirements of this subsection, the lease agreement specifically requires the lessee to pay such fees or taxes, and such amounts are separately itemized in the documentation provided to the lessee.

(b) There shall be excluded from gross income of vendors at retail of heavy trucks and trailers, the amount attributable to Federal Excise Taxes imposed by 26 U.S.C. Section 4051, but only to the extent that the provisions of Article III, relating to recordkeeping, have been met.

(c) There shall be excluded from gross income the following fees, taxes, and lieu taxes, but only to the extent that such taxes or fees or both have been separately itemized and

collected from the purchaser by the vendor, actually remitted to the proper registering, licensing, and taxing authorities, and the provisions of Article III, regarding recordkeeping, are met:

(1) emergency telecommunication services excise tax imposed pursuant to A.R.S. Section 42-5252. "Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls;
(2) the telecommunication devices for the deaf and the severely hearing and speech impaired excise tax imposed pursuant to A.R.S. Section 42-5252;
(3) federal excise taxes on communications services as imposed by 26 U.S.C. § 4251;
(4) car rental surcharge imposed pursuant to A.R.S. Section 48-4234;
(5) federal excise taxes on passenger vehicles as imposed by 26 U.S.C. §4001(.01);
(6) waste tire disposal fees, imposed pursuant to A.R.S. Section 44-1302; lead acid battery fees, imposed pursuant to A.R.S. Section 44-1323; and used oil fees imposed pursuant to A.R.S. Section 49-814(B), (C).

(d) There shall be excluded from gross income of vendors of motor vehicles dealer documentation fees, but only to the extent that such fees have been separately itemized and collected from the purchaser of the motor vehicle by the vendor.

(Code 1977, § 9A-260)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-261 through 12-264. Reserved.

Sec. 12-265. (Reserved)
(Code 1977, § 9A-265)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-266. Exclusion of motor carrier revenues from gross income.

There shall be excluded from gross income the gross proceeds of sale or gross income derived from any of the following:

(a) A motor carrier's use on the public highways in this State if the motor carrier is subject to a fee prescribed in A.R.S. Title 28, Chapter 16.

(b) Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under A.R.S. Title 28, Chapter 16.

(c) The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle, to a motor carrier who is subject to a fee prescribed in A.R.S. Title 28, Chapter 16 and who is engaged in the business of leasing, renting or licensing such property.

(d) For the purposes of these exclusions, "motor carrier" includes a motor vehicle weighing 26,000 pounds or more, a lightweight motor vehicle which weighs 12,001 pounds to

26,000 pounds and a light motor vehicle weighing 12,000 pounds or less, which pay the fee prescribed in A.R.S. Title 28, Chapter 16.

(Code 1977, § 9A-266)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-267 through 12-269. Reserved.

Sec. 12-270. Exclusion of gross income of persons deemed not engaged in business.

(a) For the purposes of this Section, the following definitions shall apply:
   (1) "Federally Exempt Organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "non-licensed business", or "public educational entity".
   (2) "Governmental Entity" means the Federal Government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
   (3) "Non-Licensed Business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this Chapter.
   (4) "Proprietary Club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 501(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.
   (5) "Public Educational Entity" means any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.

(b) Transactions which, if conducted by any other person, would produce gross income subject to tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by Regulation; or non-licensed business.

(c) Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:
   (1) Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501(c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation.

In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.

(2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and his administrative interpretations and guidelines.

(3) (Reserved)

(d) Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:

(1) a statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay City Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and

(2) the Privilege License number of the otherwise exempt vendee; and

(3) such other information as the Tax Collector may require.

(e) Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this Chapter, except as provided in the definition of governmental entity, regarding urban mass transit.

(f) In any case, if a federally exempt organization, proprietary club, or non-licensed business rents, leases, licenses, or purchases any tangible personal property for its own storage or use, and no City Privilege or Use Tax or equivalent excise tax has been paid on such transaction, said organization, club, or business shall be liable for the Use Tax upon such acquisitions or use of such property.

(Code 1977, § 9A-270)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-271 through 12-279. Reserved.

Sec. 12-280. (Reserved)
(Code 1977, § 9A-280)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-281 through 12-284. Reserved.

Sec. 12-285. (Reserved)
(Code 1977, § 9A-285)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-286 through 12-289. Reserved.

Sec. 12-290. (Reserved)
(Code 1977, § 9A-290)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-291 through 12-299. Reserved.

Sec. 12-300. Licensing requirements.

(a) The following persons shall make application to the Tax Collector for a Privilege License, accompanied by a nonrefundable fee of ten dollars ($10.00), and no person shall engage or continue in business or engage in such activities until he shall have such a license:
   (1) every person desiring to engage or continue in business activities within the City upon which a Privilege Tax is imposed by this Chapter.
   (2) every person, engaging or continuing in business within the City, storing or using tangible personal property in this City upon which a Use Tax is imposed by this Chapter.
   (3) every person required to report and pay a tax upon Rental Occupancy, as imposed by Section 12-440.

(b) A person engaged in more than one activity subject to City Privilege and Use Taxes at any one business location is not required to obtain a separate license for each activity; provided that, at the time such person makes application for a license, he shall list on such application each category of activity in which he is engaged. The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.

(c) Limitation. The issuance of a Privilege License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

(Code 1977, § 9A-300)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-301 through 12-304. Reserved.

Sec. 12-305. Special licensing requirements.

(a) Partnerships. Application for a Privilege License for a partnership engaging or continuing in business in the City shall provide, as 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 Privilege License for a corporation engaging or continuing in business in the City shall provide, as 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 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) 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 be complied with in total.

(Code 1977, § 9A-305)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-306 through 12-309. Reserved.

Sec. 12-310. Licensing: duration of license; transferability; display.

(a) Except as provided in section 12-320, the privilege license shall be valid only for the calendar year in which it is issued unless renewed each year by filing renewal information as required by the tax collector and paying a renewal fee as prescribed by section 12-530 (a) and (b) and shall be due and payable on January 1 and shall be considered delinquent if not received on or before the last business day of January each year. Information for renewal must be received within the Tax Collector's office by such date to be deemed filed and paid timely.

(b) The Privilege 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 who permits his license to expire through cancellation as provided in Section 12-320, by his 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 Privilege License which is still in effect shall be charged the current license fee for each reissuance of a license.

(d) Any taxpayer who fails to renew his license on or before the date provided in subsection (a) above shall be deemed to be operating without a license after such date and until the appropriate application for renewal and a renewal fee of ten dollars ($10.00) has been received by the Tax Collector.

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) (Reserved)
(Code 1977, § 9A-310)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-315. (Reserved)
(Code 1977, § 9A-315)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-316 through 12-319. Reserved.

Sec. 12-320. Licensing: cancellation; revocation.

(a) Cancellation. The Tax Collector shall be authorized to cancel the City Privilege License of any licensee as "inactive" 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 Chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this Chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this Chapter 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 Chapter, or if such licensee fails to comply with any other provisions of this Chapter, the Tax Collector shall be authorized to revoke the City Privilege License of said licensee.

(c) Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the Privilege License. If within twenty (20) days the licensee so notified requests a hearing, he shall be granted a hearing before the Tax Collector.

(d) 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 he is in compliance with the provisions of this Chapter.
(Code 1977, § 9A-320)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-321 through 12-329. Reserved.

Sec. 12-330. Operating without a license.

It shall be unlawful for any person who is required by this Chapter to obtain a Privilege 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 Chapter.
(Code 1977, § 9A-330)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-331 through 12-349. Reserved.

Sec. 12-350. Recordkeeping requirements.

(a) It shall be the duty of every person subject to the tax imposed by this Chapter to 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 Chapter. 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. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period 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.

(Code 1977, § 9A-350)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-350.1 through 12-350.2. Reserved

Sec. 12-350.3. Recordkeeping: out-of-City and out-of-State sales.

(a) Out-of-City Sales. Any person engaging or continuing in a business who claims out-of-City sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-City branches or locations.

(b) Out-of-State sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:

(1) documentation of location of the buyer at the time of order placement; and
(2) shipping, delivery, or freight documents showing where the buyer took delivery; and
(3) documentation of intended location of use or storage of the tangible personal property sold to such buyer.

(Ord. 2010-11, 6/1/2010, Enacted) SUPP 2010-2

Secs. 12-351 through 12-359. Reserved.

Sec. 12-360. Recordkeeping: claim of exclusion, exemption, deduction, or credit; documentation; liability.

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

(b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this Chapter, 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 if he is 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.

(Code 1977, § 9A-360)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-361 through 12-369. Reserved.

Sec. 12-370. 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 Chapter, it is the responsibility of the taxpayer either:

(1) to provide such other records required by this Chapter or Regulation; or
(2) to correct or to reconstruct his records, to the satisfaction of the Tax Collector.

(Code 1977, § 9A-370)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-371 through 12-399. Reserved.

Sec. 12-400. Imposition of Privilege Taxes; presumption.

(a) There are hereby levied and imposed, subject to all other provisions of this Chapter, the following Privilege Taxes 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:

(1) a Privilege Tax upon persons on account of their business activities, to the extent provided elsewhere in this Article, to be measured by the gross income of persons, whether derived from residents of the City or not, or whether derived from within the City or from without.

(2) a Privilege Tax upon certain persons for the privilege of occupancy of real property, in accordance with the provisions of Section 12-440.

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

(c) Presumption. For the purpose of proper administration of this Chapter and to prevent evasion of the taxes imposed by this Chapter, 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 Chapter. All exemptions, deductions, and credits set forth in this Chapter shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax.

(Code 1977, § 9A-400)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs.12-401 through 12-404. Reserved.

Sec. 12-405. Advertising.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 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) the 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)

(Code 1977, § 9A-405)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Sec. 12-406. Reserved.

Sec. 12-407. (Reserved)
(Code 1977, § 9A-407)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-407.1 Reserved
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Secs. 12-408 – 12-409. Reserved.

Sec. 12-410. Amusements, exhibitions, and similar activities.

(a) The tax rate shall be at an amount equal to two and eight tenths percent (2 8/10%) 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, dance halls, 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) (Reserved)

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

(3) Income received from a hotel business subject to tax under Section 12-444, 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.

(4) 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.

(5) 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 the third party independent contractors. For the purposes of this Paragraph, "Arranging" includes billing for or collecting amusement charges from a person's customer on behalf of the persons providing the amusement.

(Code 1977, § 9A-410)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended (a) Enacted (b) and (c)) SUPP 2007-1

Secs. 12-411 through 12-414. Reserved.

Sec. 12-415. Construction contracting: prime contractors.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 12-427.

(4) For taxable periods beginning from and after July 1, 2008, the portion of 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 paragraph, "Direct Costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(b) Deductions and exemptions.

(1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.

(2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

(3) 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:

(A) Section 12-465, subsections (g) and (p)

(B) Section 12-660, subsections (g) and (p)

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

(4) 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 12-110, that is deducted from the retail classification pursuant to Section 12-465(g) 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 of the following:

(A) to be incorporated into real property.

(B) to become so affixed to real property that it becomes part of the real property.

(C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) 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.

(6) 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 12-465, subsection (g) shall be exempt from the tax imposed under this Section.

(7) 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.

(8) The gross proceeds of sales or gross income received from a post-construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.

(9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

(A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. § 9-499.08, subsection D.

(B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(C) Any other information considered to be necessary.

(10) 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. For the purposes of this paragraph:

(A) The attributable amount shall not exceed the value of the development fees actually imposed.

(B) 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.

(C) "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.

(11) 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 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.

(c) Subcontractor means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City Privilege License number.
- (2) an owner-builder who has provided the subcontractor with a written declaration that:
  - (A) the owner-builder is improving the property for sale; and
  - (B) the owner-builder is liable for the tax for such construction contracting activity; and
  - (C) the owner-builder has provided the contractor his City Privilege License number.
- (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his City Privilege License number.

Subcontractor also includes a construction contractor performing work for another subcontractor as defined above.
(Code 1977, § 9A-415)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended (b) enacted b(9) and b(10)) SUPP 2007-1
(Ord. 08-08, 4/15/08, Amended, enacted a(4), b(11)) SUPP 2008-2
(Ord. 2010-11, 6/1/2010, Amended) SUPP 2010-2
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-416. Construction contracting: speculative builders.

(a) The tax shall be equal to one and eight tenths percent (1 8/10%) 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) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.

(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:

(i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and

(ii) retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) 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.

(D) For taxable periods beginning from and after July 1, 2008, the portion of 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 paragraph, "Direct Costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) Tax liability for speculative builder s 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:
(i) Section 12-465, subsections (g) and (p)
(ii) Section 12-660, subsections (g) and (p)
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 12-465, subsection (g) 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. For the purposes of this paragraph:
(i) The attributable amount shall not exceed the value of the development fees actually imposed.
(ii) 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.
(iii) "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) <u>Deductions.</u>
(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(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 12-110, that is deducted from the retail classification pursuant to Section 12-465(g), 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 of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) 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 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) <u>Tax credits.</u>

The following tax credits are available to owner-builders or speculative builder s, 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.

(Code 1977, § 9A-416)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended by enacting c(1)(E)) SUPP 2007-1
(Ord. 08-08, 4/15/08, Amended by enacting b(5), c(2)(C)) SUPP 2008-2
(Ord. 2010-11, 6/1/2010, Amended) SUPP 2010-2
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-417. 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 one and eight tenths percent (1 8/10%) 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 12-415(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 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 paragraph, "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) <u>Exemptions.</u>
    (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:
      (i) Section 12-465, subsections (g) and (p)
      (ii) Section 12-660, subsections (g) and (p)
      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 12-465, subsection (g) 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. For the purposes of this paragraph:

(i) The attributable amount shall not exceed the value of the development fees actually imposed.

(ii) 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.

(iii) "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 percent (35%).

(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 12-110, that is deducted from the retail classification pursuant to Section 12-465(g), 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 of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) 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 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 s, 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 (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 12-540, will be based on reportable date.

(E) (Reserved)

(Code 1977, § 9A-417)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/1305) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended by enacting (b)(1)(E)) SUPP 2007-1
(Ord. 08-08, 4/15/08, Amended by enacting (b), enacting (c) (2)(C)) SUPP 2008-2
(Ord. 2010-11, 6/1/2010, Amended) SUPP 2010-2
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-418. (Reserved)
(Code 1977, § 9A-418)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-419. Reserved.

Sec. 12-420. (Reserved)
(Code 1977, § 9A-420)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-421 through 12-424. Reserved.

Sec. 12-425. Job printing.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 12-435(a) or an equivalent excise tax; provided further that said 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)

(Code 1977, § 9A-425)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Sec. 12-426. Reserved.

Sec. 12-427. Manufactured buildings.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) of the gross income, including site preparation, moving to the site, and/or set-up, 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) 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. Sales of such items are subject to the tax under Section 12-460.

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

(Code 1977, § 9A-427)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-428 through 12-429. Reserved.

Sec. 12-430. Timbering and other extraction.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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)

(Code 1977, § 9A-430)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Sec. 12-431. Reserved.

Sec. 12-432. Mining.

(a) The tax rate shall be at an amount equal to one tenth of one percent (.1%), not to exceed one tenth of one 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.

(Code 1977, § 9A-432)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-433 through 12-434. Reserved.

Sec. 12-435. Publishing and periodicals distribution.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 12-405. 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" 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" 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", 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 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.

(Code 1977, § 9A-435)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-436 through 12-439. Reserved.

Sec. 12-440. Rental occupancy.

(a) For the purposes of this Section only, the following definitions shall apply:
   (1) "Landlord" means any lessor of real property under a pre-existing lease.
   (2) "Pre-existing Lease" means any written lease, license for use, or rental agreement entered into prior to December 1, 1967; except for the following:
      (A) any bilateral amendment to such written agreement which was entered into subsequent to December 1, 1967, wherein the length of the term or the size of the premises affected is changed or both.
      (B) any such agreement for lodging or lodging space.
   (3) "Rent" means all consideration paid by the tenant to his landlord or to another in payment of or diminution of his own or his landlord's obligation in connection with the real property occupied by the tenant, whether or not such occupancy is designated as a rent, lease or license for use of real property.
   (4) "Tenant" means any lessee of real property under a pre-existing lease.

(b) The tax rate shall be at an amount of one and eight tenths percent (1 8/10%) of the gross rent paid by a tenant, to the extent of his occupancy of real property in this City under a pre-existing lease, upon such tenant, for the privilege of such occupancy, subject to the provisions of this Section.

(c) Exclusions. The tax imposed by this Section shall not apply to:
- (1) occupancy by a tenant which the Constitution or laws of the United States or of the State of Arizona prohibit the City from taxing.
- (2) occupancy by a tenant of a landlord which the Constitution or laws of the United States or of the State of Arizona prohibit the City from taxing.
- (3) occupancy of lodging or lodging space.
- (4) occupancy of real property under other than a pre-existing lease.

(d) Duty of landlords. Every landlord of a tenant subject to the tax:
- (1) shall collect the tax imposed by this Section from the tenant liable for the tax at the same time as and together with the tenant's periodic or other payment of rent. The tax required to be collected shall constitute a debt owed by the landlord to the City.
- (2) shall be considered a taxpayer subject to all licensing, recordkeeping, and reporting requirements of this Chapter.

(e) Duty of tenants. Every tenant liable for the tax:
- (1) shall, in any instance in which the tax has not been collected by his landlord, remit such tax to the Tax Collector, and in such case, be subject to all licensing and reporting requirements of this Chapter.
- (2) shall maintain, and provide upon request, books and records sufficient for the Tax Collector to determine the tax liability of such tenant.

(f) Interest and civil penalties shall be the liability of the landlord collecting and remitting the tax; provided, however, that if the landlord can present clear and convincing evidence that the delinquency was caused by the tenant, then said interest and penalties shall be the liability of the tenant.

(g) Extension of rights of appeal to include tenants and landlords.
- (1) Any landlord or tenant may avail himself of the provisions of Sections 12-570 through 12-575, relating to appeals, and, except as modified hereunder, all provisions of said Sections shall apply.
- (2) For the purposes of preserving appeal rights, an assessment against a landlord may be protested and appealed by any tenant paying or liable to pay the tax for the occupancy included in such assessment.
- (3) Payment of the tax herein imposed to a landlord by a tenant shall be deemed payment of the tax for the tenant for the purposes of allowing a protest to be initiated under Sections 12-570 through 12-575.
- (4) The filing of a protest petition by a tenant shall not relieve the landlord of his obligation to report and remit the protested tax, or any subsequent periodic payments of tax governed by the initial protest.

(h) Refunds. Any refunds of taxes authorized by this Chapter shall be made to the tenant. Any refunds of interest and civil penalties authorized by this Chapter shall be made to the person liable for such, as provided in subsection (f) above.

(Code 1977, § 9A-440)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-441 through 12-443. Reserved.

Sec. 12-444. Hotels.

The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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:

(a) 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 12-410 or Section 12-475 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 12-445 or Section 12-450 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, which 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 12-470 as telecommunication services.

(Code 1977, § 9A-444)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended (b)added (1-6), deleted (c)) SUPP 2007-1

Sec. 12-445. Rental, leasing, and licensing for use of real property.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 12-470.

(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) Effective from and after September 1, 1988, all real property rental gross income from a person who has obtained a permit to enter into life care contracts pursuant to A.R.S. §20-1802(B) and subject to the tax under this Section shall be allowed a deduction of thirty-five percent (35%).

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 12-444 of this code.

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) Notwithstanding the provisions of Section 12-200(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 sales or gross income derived from a commercial lease in which a reciprocal insurer or a corporation leases real property to an affiliated corporation for the purposes of this paragraph:

(1) "Affiliated Corporation" means a corporation that meets one of the following conditions:

(A) The corporation owns or controls at least eighty percent of the lessor.

(B) The corporation is at least eighty percent owned or controlled by the lessor.

(C) The corporation is at least eighty percent owned or controlled by a corporation that also owns or controls at least eighty percent of the lessor.

(D) The corporation is at least eighty percent owned or controlled by a corporation that is at least eighty percent owned or controlled by a reciprocal insurer.

(2) For the purposes of subsection (1), ownership and control are determined by reference to the voting shares of a corporation.

(3) "Reciprocal Insurer" has the same meaning as prescribed in A.R.S. Section 20-762.
(Code 1977, § 9A-445)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended added ®) SUPP 2007-1
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-446. (Reserved)
(Code 1977, § 9A-446)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-447. Rental, leasing, and licensing for use of real property: additional tax upon transient lodging.

In addition to the taxes levied as provided in Section 12-445, there is hereby levied and shall be collected an additional tax in an amount equal to three and eight tenths percent (3.8%) of the gross income from the business activity of any hotel engaging or continuing within the City in the business of charging for lodging and/or lodging space furnished to any transient.
(Code 1977, § 9A-447)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/05/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended) SUPP 2007-1

Secs. 12-448 through 12-449. Reserved.

Sec. 12-450. Rental, leasing, and licensing for use of tangible personal property.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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) 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 12-410, 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) (Reserved)

(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 and licensing for use of an alternative fuel vehicle as defined in A.R.S. Section 43-1086 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.

(Code 1977, § 9A-450)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 2010-11, 6/1/2010, Amended) SUPP 2010-2

Sec. 12-451. Reserved.

Sec. 12-452. (Reserved)
(Code 1977, § 9A-452)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-453 through 12-454. Reserved

Sec. 12-455. Restaurants and Bars.

(a) The tax rate shall be at an amount equal to two and eight tenths percent (2 8/10%) 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.

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises shall also be allowed to exclude separately charged delivery, set-up, and clean-up 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 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. § 42-1310.01(a)(48), 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.

(Code 1977, § 9A-455)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-456 through 12-459. Reserved.

Sec. 12-460. Retail sales: measure of tax; burden of proof; exclusions.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

(b) 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 Chapter, 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 Article I, Chapter 5, Title 5, Arizona Revised Statutes.
   (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.
   (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 Article 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.
   (5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(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 Chapter 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.

(Code 1977, § 9A-460)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-461 through 12-464. Reserved.

Sec. 12-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 12-460:

(a) sales of tangible personal property to a person regularly engaged in the business of selling such property.

(b) out-of-City sales or out-of-State sales.

(c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.

(d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.

(e) sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.

(f) sales of prosthetics.

(g) sales of income-producing capital equipment.

(h) sales of rental equipment and rental supplies.

(i) sales of mining and metallurgical supplies.

(j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.

(l) 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.

(m) sales of 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.

(n) sales made directly to the Federal government to the extent of:
   (1) one hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.
   (2) fifty percent (50%) of the gross income derived from retail sales made by any other person.

(o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 12-455 or the equivalent excise tax upon such income.

(p) sales of tangible personal property 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 or sales of tangible personal property purchased 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.

(q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.

(r) (Reserved)
   (1) (Reserved)
   (2) (Reserved)

(3) (Reserved)
(4) (Reserved)

(s) sales of groundwater measuring devices required by A.R.S. Section 45-604.

(t) (Reserved)

(u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.

(v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

(aa) the sale of tangible personal property used in remediation contracting as defined in Section 12-100 and Regulation 12-100.5.

(bb) sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
(1) printed or photographic materials.
(2) electronic or digital media materials.

(cc) 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)(50), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. 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.

(dd) 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 12-470, 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.

(ee) 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 12-470 is considered to be a sale for resale in the regular course of business.

(ff) 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.

(gg) sales of food, beverages, condiments and 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. 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.

(hh) sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 12-444 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.

(ii) 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.

(jj) 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.

(kk) sales of motor vehicles that use alternative fuel as defined in A.R.S. Section 43-1086 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. Section 1-215.

(ll) for taxable periods beginning from and afater July 1, 2008, sales of solar energy devices. 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 solary energy devices available to the Department of Revenue and the City, as applicable, for examination.

(Code 1977, § 9A-465)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 08-08, 4/14/08, amended (kk) and enacted (ll)) SUPP 2008-2

Secs. 12-466 through 12-469. Reserved.

Sec. 12-470. Telecommunication services.

(a) The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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 12-444.

(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) Tax credit offset for franchise fees. There shall be allowed as an offset, up to the amount of tax due, any amounts paid to the City for license fees or franchise fees, but such offset shall not be allowed against taxes imposed by any other Section of this Chapter. Such offset shall not be deemed in conflict with or violation of subsection 12-400(b).

(e) (Reserved)

(f) Prepaid calling cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 12-460 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.

(Code 1977, § 9A-470)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended, added (2)(E)) SUPP 2007-1

Secs 12-471 through 12-474. Reserved.

Sec. 12-475. Transporting for hire.

The tax rate shall be at an amount equal to one and eight tenths percent (1 8/10%) 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:

(a) 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 of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

(b) transporting of oil or natural or artificial gas through pipe or conduit.

(c) transporting of property by aircraft.

(d) 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:

(1) gross income subject to the tax imposed by Article IV, Chapter 16, Title 28, Arizona Revised Statutes.
(2) gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.
(3) (Reserved)
(4) (Reserved)

(e) 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 IV 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.

(f) 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 Paragraph, "Arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

(Code 1977, § 9A-475)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3
(Ord. 07-07, 3/20/07, Amended, added (e) and (f)) SUPP 2007-1

Secs. 12-476 through 12-479. Reserved.

Sec. 12-480. Utility services.

(a) The tax rate shall be at an amount equal to three and three tenths percent (3 3/10%) 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) (Reserved)

(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 12-460 and 12-465, 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 provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

(d) Reserved.

(e) 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) 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) 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) 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. § 49-426 or § 49-480.

(Code 1977, § 9A-480)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 04-21, 5/4/04, Amended) SUPP 2004-3
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Secs. 12-481 through 12-485. Reserved

Sec. 12-485. (Reserved)
(Code 1977, § 9A-485)

(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-486 through 12-499. Reserved.

Sec. 12-500. Administration of this Chapter; rule making.

(a) The administration of this Chapter is vested in the Tax Collector, except as otherwise specifically provided, and all payments shall be made to the Tax Collector.

(b) The Tax Collector shall prescribe the forms and procedures necessary for the administration of the taxes imposed by this Chapter.

(c) Except as provided in this Section, no rule or regulation shall be adopted until approved by formal action of the City Council.

(d) (Reserved)

(e) The unified audit committee shall publish uniform guidelines that interpret the model city tax code and that apply to all cities and towns that have adopted the model city tax code as provided by A.R.S. Section 42-6005.
   (1) Prior to finalization of uniform guidelines that interpret the model city tax code, the unified audit committee shall disseminate draft guidelines for public comment.
   (2) Pursuant to A.R.S. Section 42-6005(D), when the state statutes and the model city tax code are the same and where the Arizona Department of Revenue has issued written guidance, the department's interpretation is binding on cities and towns.

(Code 1977, § 9A-500)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-501 through 12-509. Reserved.

Sec. 12-510. Divulging of information prohibited; exceptions allowing disclosure.

(a) Except as specifically provided, it shall be unlawful for any official or employee of the City to make known information obtained pursuant to this Chapter concerning the business financial affairs or operations of any person.

(b) The City Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this Chapter by authorized agents of the Federal Government, the State of Arizona, or any political subdivisions.

(c) The Tax Collector may provide to an Arizona county, city, or town any information concerning any taxes imposed in this Chapter relative to the taxing ordinances of that county, city, or town.

(d) Successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees, if directly interested, may be given information by the Tax Collector as to the items included in the measure and amounts of any unpaid tax, interest, and penalties required to be paid.

(e) Upon a written direction by the City Attorney or other legal advisor to the City designated by the City Council, officials or employees of the City may divulge the amount and source of income, profits, leases, or expenditures disclosed in any return or report, and the amount of such delinquent and unpaid tax, penalty, or interest, to a private collection agency having a written collection agreement with the City.

(f) The Tax Collector shall provide information to appropriate representatives of any Arizona city or town to comply with the provisions of A.R.S. Section 42-6003, A.R.S. Section 42-6005, and A.R.S. Section 42-6056.

(g) The Tax Collector may provide information to authorized agents of any other Arizona governmental agency involving the allocation of taxes imposed by Section 12-435 upon publishing and distribution of periodicals.

(h) The Tax Collector may provide information regarding the enforcement and collection of taxes imposed by this Chapter to any governmental agency with which the City has an agreement.

(Code 1977, § 9A-510)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-511 through 12-514. Reserved.

Sec. 12-515. Duties of the Taxpayer Problem Resolution Officer.

(a) The Taxpayer Problem Resolution Officer shall assist taxpayers in:
   (1) obtaining easily understandable tax information and information on audits, corrections and appeals procedures of the City.

(2) answering questions regarding preparing and filing the returns required under this Chapter.
(3) locating documents filed with or payments submitted to the Tax Collector by the taxpayer.

(b) The Taxpayer Problem Resolution Officer shall also:
(1) receive and evaluate complaints of improper, abusive or inefficient service by the Tax Collector or any of his designees, employees, or agents and recommend to the City Manager or, for a City without a City Manager, the Chief Administrative Officer appropriate action to correct such service.
(2) identify policies and practices of the Tax Collector or any of his designees, employees, or agents that might be barriers to the equitable treatment of taxpayers and recommend alternatives to the City Manager or, for a City without a City Manager, the Chief Administrative Officer.
(3) provide expeditious service to taxpayers whose problems are not resolved through normal channels.
(4) negotiate with the Tax Collector, his designees, employees, or agents to resolve the most complex and sensitive taxpayer problems.
(5) take action to stop or prohibit the Tax Collector from taking an action against a taxpayer.
(6) participate and present taxpayers' interests and concerns in meetings formulating the City's policies and procedures under and interpretation of this Chapter.
(7) compile data each year on the number and type of taxpayer complaints and evaluate the actions taken to resolve those complaints.
(8) survey taxpayers each year to obtain their evaluation of the quality of service provided by the Tax Collector, his designees, employees, and agents.
(9) perform other functions which relate to taxpayer assistance as prescribed by the City Manager or, for a City without a City Manager, the Chief Administrative Officer.

(c) Actions taken by the Taxpayer Problem Resolution Officer may be reviewed and/or modified only by the City Manager or, for a City without a City Manager, the Chief Administrative Officer upon request of the Tax Collector or a taxpayer.

(d) The Mayor and Council of the City shall be provided with a report quarterly which identifies:
(1) any complaints of improper, abusive or inefficient service received by the Taxpayer Problem Resolution Officer since the date of the last report.
(2) any recommendations made, action taken or surveys obtained by the Taxpayer Problem Resolution Officer pursuant to subsection (b)(1)-(9), above, since the date of the last report.

(Code 1977, § 9A-515)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-516. Taxpayer Assistance Orders.

(a) The Taxpayer Problem Resolution Officer, with or without a formal written request from a taxpayer, may issue a taxpayer assistance order that suspends or stays an action or proposed action by the Tax Collector if, in the Problem Resolution Officer's determination, a taxpayer is suffering or will suffer a significant hardship due to the manner in which the Tax Collector is administering the tax laws.

(b) A taxpayer assistance order may require the Tax Collector to release any lien perfected under this Chapter, or cease any action or refrain from taking any action to enforce against the taxpayer any Section of this Chapter pending resolution of the issue giving rise to the taxpayer assistance order.

(c) The Taxpayer Problem Resolution Officer, City Manager or, for a City without a City Manager, the Chief Administrative Officer may modify, reverse or rescind a taxpayer assistance order. A taxpayer assistance order is binding on the Tax Collector until it is reversed or rescinded.

(d) The running of the applicable statute of limitations for any action that is the subject of a taxpayer assistance order is suspended from the date the taxpayer applies for the order or the date the order is issued, whichever is earlier, until the order's expiration date, modification date or recision date, if any. Interest that would otherwise accrue on an outstanding tax obligation is not affected by the issuance of a taxpayer assistance order.

(e) A taxpayer assistance order may not be used:
   (1) to contest the merits of a tax liability.
   (2) to substitute for informal protest procedures or administrative or judicial proceedings to review a deficiency assessment, collection action or denial of a refund claim.

(Code 1977, § 9A-516)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-517. Basis for evaluating employee performance.

(a) The Tax Collector shall solicit evaluations from taxpayers and include such evaluations in the performance appraisals of his employees, where applicable.

(b) The Tax Collector shall not evaluate an employee on the basis of taxes assessed or collected by that employee.

(Code 1977, § 9A-517)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-518 through 12-519. Reserved.

Sec. 12-520. Reporting and payment of tax.

(a) Returns. The returns required under this Chapter shall be made upon forms prescribed or approved by the Tax Collector, and shall be considered filed only when the accuracy of the

return has been attested to, by signature upon the form, by an authorized agent of the taxpayer, and when such form has been received by the Tax Collector.

(b) Payment. If payment is made in any form other than United States legal tender, the tax obligation shall not be satisfied until the payment has been honored in funds.

(c) Requirement of Security. If a taxpayer has remitted payment in the form of a check or other form of draw upon a bank or third party and such remittance has not been honored in funds, the Tax Collector may demand security for future payments.

(d) Method of Reporting. Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the Privilege License application. A taxpayer shall not change his reporting method without receiving prior written approval by the Tax Collector.

(1) Taxpayers must report all gross income subject to the tax using the same basis of reporting.

(2) Taxes imposed upon construction contracting shall be reported as follows:

(A) Construction contractors shall report on either a progressive billing ("accrual") basis or cash receipts basis.

(B) Speculative builders shall report the gross income derived from sale of improved real property at close of escrow or at transfer of title or possession, whichever occurs earlier.

(C) Owner-builders who are not speculative builders shall report taxable amounts as provided in Section 12-417.

(Code 1977, § 9A-520)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-521 through 12-529. Reserved.

Sec. 12-530. When tax due; when delinquent; verification of return; extensions.

(a) Except as provided elsewhere in this Section, the taxes shall be due and payable monthly on or before the twentieth (20th) day of the month next succeeding the month in which the tax accrues.

(1) Quarterly returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City Privilege and Use Tax liability on taxable gross income in excess of five thousand dollars ($5,000.00) but less than fifty thousand dollars ($50,000.00) to file returns on a calendar-quarterly basis. The taxes for each calendar quarter shall be due and payable on or before the twentieth (20th) day of the month next succeeding the end of each calendar quarter.

(2) Annual returns. The Tax Collector may authorize a taxpayer whose reporting history indicates an estimated annual City Privilege and Use Tax liability on taxable gross income of not more than five thousand dollars ($5,000.00) to file returns for such taxes on a calendar-annual basis. The taxes for each calendar year shall be due and payable on or before the twentieth (20th) day of January of the following year.

(b) Special Requirements of taxpayers filing quarterly or annual returns. No taxpayer may report on a quarterly or annual basis until he has established, to the Tax Collector's satisfaction, six (6) months reporting history. It is the taxpayer's responsibility to notify the Tax Collector and increase his reporting frequency (to quarterly or monthly as applicable) when his taxable income or tax due exceeds the maximum limits for his current reporting frequency. Failure to do so may be deemed negligence or evasion, and penalties may apply. Failure to file returns timely, without good cause shown to the satisfaction of the Tax Collector, is sufficient cause for the Tax Collector to deny future filings by the taxpayer on a quarterly or annual basis.

(c) Delinquency Date. Except as provided in subsection (d) below, all returns and remittances received within the Tax Collector's office on or before the last business day of the month when due shall be regarded as timely filed. The start of business of the first business day following the month when due shall be the delinquency date. It shall be the taxpayer's responsibility to cause his return and remittance to be timely received. Mailing the return or remittance on or before the due date or delinquency date does not relieve the taxpayer of the responsibility of causing his return or remittance to be received by the last business day of the month when due.

(d) Jeopardy reporting. If the Tax Collector determines that the collection of any tax due to the City is in jeopardy, the Tax Collector may direct the taxpayer to file his return and remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and remittance shall be due upon the date fixed by the Tax Collector, and the "delinquency date" shall be the following day.

(e) Extensions. The Tax Collector may extend the time for filing a return, for good cause shown, and only when requested in writing and received by the Tax Collector prior to the tax due date. However, the time for filing such return shall not be extended beyond the last business day of the month next succeeding the due date of such return. In such cases, only the penalties for late filing and late payment may be waived by the Tax Collector for filing and payment within the extension period. Notwithstanding the granting of an extension, the interest payable for late payment of taxes shall be paid for the period commencing upon the original delinquency date and ending on the date the tax is paid. The interest may not be waived by the Tax Collector.

(Code 1977, § 9A-530)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-531 through 12-539. Reserved.

Sec. 12-540. Interest and civil penalties.

(a) Any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject to and shall pay interest upon such tax until paid. From and after October 1, 2005, the interest rate shall be determined in the same manner and at the same times as prescribed by section 6621 of the United States Internal Revenue Code and compounded annually under the method

described in Subsection (1) below. The rate of interest for both overpayments and underpayments for all taxpayers is the federal short-term rate, determined pursuant to Section 6621(b) of the Internal Revenue Code, plus three percentage points. The interest rate prior to October 1, 2005 shall be one percent (1%) per month. Said interest may be neither waived by the Tax Collector nor abated by the Hearing Officer except as it might relate to a tax abated as provided by Section 12-570.

(1) On January 1 of each year any interest outstanding as of that date that was accrued from and after October 1, 2005 is thereafter considered a part of the principal amount of the tax and accrues interest pursuant to this Section.

(2) Interest accrued prior to October 1, 2005 shall not be added to the principal.

(b) In addition to interest assessed under subsection (a) above, any taxpayer who failed to pay any of the taxes imposed by this Chapter which were due or found to be due before the delinquency date shall be subject to and shall pay any or all of the following civil penalties, in addition to any other penalties prescribed by this Chapter:

(1) A taxpayer who fails to timely file a return for a tax imposed by this Chapter shall pay a penalty of five percent (5%) of the tax for each month or fraction of a month elapsing between the delinquency date of the return and the date on which it is filed, unless the taxpayer shows that the failure to timely file is due to reasonable cause and not due to willful neglect. This penalty shall not exceed twenty-five percent (25%) of the tax due.

(2) A taxpayer who fails to pay the tax within the time prescribed shall pay a penalty of ten percent (10%) of the unpaid tax, unless the taxpayer shows that the failure to timely pay is due to reasonable cause and not due to willful neglect. If the taxpayer is also subject to a penalty under subsection (b)(1) above for the same tax period, the total penalties under subsection (b)(1) and this subsection shall not exceed twenty-five percent (25%) of the tax due.

(3) A taxpayer who fails or refuses to file a return within thirty (30) days of having received a written notice and demand from the Tax Collector shall pay a penalty of twenty-five percent (25%) of the tax, unless the taxpayer shows that the failure is due to reasonable cause and not due to willful neglect or the tax collector agrees to a longer time period.

(4) If the cause of a tax deficiency is determined by the Tax Collector to be due to negligence, but without regard for intent to defraud, the taxpayer shall pay a penalty of ten percent (10%) of the amount of deficiency. If the taxpayer is also subject to a penalty under subsection (b)(1) or (b)(2) above for the same tax period, the total penalties imposed under subsection (b)(1), (b)(2) and this subsection shall not exceed twenty-five percent (25%) of the tax due.

(5) If the cause of a tax deficiency is determined by the Tax Collector to be due to civil fraud or evasion of the tax, the taxpayer shall pay a penalty of fifty percent (50%) of the amount of deficiency.

(c) Penalties and interest imposed by this Section are due and payable upon notice by the Tax Collector.

(d) If, following an audit, penalties attributable to the audit period are to be assessed pursuant to subsection (b)(1) or (b)(2) above, the Tax Collector, before assessing such penalties, must take into consideration any information or explanations provided by the taxpayer as to why the return was not timely filed and/or the tax was not timely paid. If such information and/or explanations are provided by the taxpayer, and the Tax Collector nevertheless decides to assess penalties pursuant to subsection (b)(1) or (b)(2) above, then, at the time the penalties are assessed, the Tax Collector must provide the taxpayer with a detailed written explanation of the basis for the Tax Collector's determination that the information and/or explanations provided by the taxpayer did not constitute reasonable cause.

(e) The assessment of the penalties prescribed by subsections (b)(3) through (b)(5) above must be approved on a case-by-case basis by the Tax Collector prior to such assessment. In addition, any assessment which includes penalties based upon subsection (b)(3), (b)(4), or (b)(5) above must be accompanied by a statement signed by the Tax Collector setting forth in detail the basis for the Tax Collector's determination that the penalties are warranted under the circumstances.

(f) The Tax Collector shall waive or adjust penalties imposed by subsections (b)(1) and (b)(2) above upon a finding that:

(1) In the past, the taxpayer has consistently filed and paid the taxes imposed by this Chapter in a timely manner; or

(2) The amount of the penalty is greatly disproportionate to the amount of the tax; or

(3) The failure of a taxpayer to file a return and/or pay any tax by the delinquency date was caused by any of the following circumstances which must occur prior to the delinquency date of the return or payment in question:

(A) the return was timely filed but was inadvertently forwarded to another taxing jurisdiction.

(B) erroneous or insufficient information was furnished the taxpayer by the Tax Collector or his employee or agent.

(C) death or serious illness of the taxpayer, member of his immediate family, or the preparer of the reports immediately prior to the due date.

(D) unavoidable absence of the taxpayer immediately prior to the due date.

(E) destruction, by fire or other casualty, of the taxpayer's place of business or records.

(F) prior to the due date, the taxpayer made application for proper forms which could not be furnished in sufficient time to permit a timely filing.

(G) the taxpayer was in the process of pursuing an active protest of the tax in question in another taxing jurisdiction at the time the tax and/or return was due.

(H) the taxpayer establishes through competent evidence that the taxpayer contacted a tax advisor who is competent on the specific tax matter and, after furnishing necessary and relevant information, the taxpayer was incorrectly advised that no tax was owed and/or the filing of a return was not required.

(I) the taxpayer has never been audited by a city for the tax or on the issue in question and relied, in good faith, on a State exemption or interpretation.

(J) the taxpayer can provide some public record (court case, report in a periodical, professional journal or publication, etc.) stating that the transaction is not subject to tax.

(K) the Arizona Department of Revenue, based upon the same facts and circumstances, abated penalties for the same filing period.

A taxpayer may also request a waiver or adjustment of penalty for a reason thought to be equally substantive to those reasons itemized above. All requests for waiver or adjustment of penalty must be in writing and shall contain all pertinent facts and other reliable and substantive evidence to support the request. In all cases, the burden of proof is upon the taxpayer.

(g) No request for waiver of penalty under subsection (f) above may be granted unless written request for waiver is received by the Tax Collector within forty-five (45) days following the imposition of penalty. Any taxpayer aggrieved by the refusal to grant a waiver under subsection (f) above may appeal under the provisions of Section 12-570 provided that a petition of appeal or request for an extension is submitted to the Tax Collector within forty-five (45) days of the taxpayer's receipt of notice by the City that waiver has been denied.

(h) For the purpose of this Section, "reasonable cause" shall mean that the taxpayer exercised ordinary business care and prudence, i.e., had a reasonable basis for believing that the tax did not apply to the business activity or the storage or use of the taxpayer's tangible personal property in this City.

(i) For the purpose of this Section, "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention, or the like, rather than an "honest mistake". Examples of negligence include:

(1) the taxpayer's failure to maintain records in accordance with Article III of this Chapter;

(2) repeated failures to timely file returns; or

(3) gross ignorance of the law.

(Code 1977, § 9A-540)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 07-07, 3/20/07, Amended, (a)(1) and (2)) SUPP 2007-1

Sec. 12-541. Erroneous advice or misleading statements by the Tax Collector; abatement of penalties and interest; definition.

(a) Notwithstanding Section 12-540(a), no interest or penalty may be assessed on an amount assessed as a deficiency if either:

(1) the deficiency assessed is directly attributable to erroneous written advice furnished to the taxpayer by an employee of the City acting in an official capacity in response to a specific request from the taxpayer and not from the taxpayer's failure to provide adequate or accurate information.

(2) all of the following are true:

(A) a tax return form prepared by the Tax Collector contains a statement that, if followed by a taxpayer, would cause the taxpayer to misapply this Chapter.
(B) the taxpayer reasonably relies on the statement.
(C) the taxpayer's underpayment directly results from this reliance.

(b) Each employee of the Tax Collector, at the time any oral advice is given to any person, shall inform the person that the Tax Collector is not bound by such oral advice.

(c) For purposes of this Section, "tax return form" includes the instructions that the Tax Collector prepares for use with the tax return form.

(Code 1977, § 9A-541)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-542. Prospective application of new law or interpretation or application of law.

(a) Unless expressly authorized by law, the Tax Collector shall not apply any newly enacted legislation retroactively or in a manner that will penalize a taxpayer for complying with prior law.

(b) If the Tax Collector adopts a new interpretation or application of any provision of this Chapter or determines that any provision applies to a new or additional category or type of business and the change in interpretation or application is not due to a change in the law:
(1) the change in interpretation or application applies prospectively only unless it is favorable to taxpayers.
(2) the Tax Collector shall not assess any tax, penalty or interest retroactively based on the change in interpretation or application.

(c) For purposes of subsection (b), "new interpretation or application" includes policies and procedures which differ from established interpretations of this Chapter.

(Code 1977, § 9A-542)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 07-07, 3/20/07, amended, deleted (d)) SUPP 2007-1

Secs. 12-543 through 12-544. Reserved.

Sec. 12-545. Deficiencies; when inaccurate return is filed; when no return is filed; estimates.

(a) If the taxpayer has failed to file a return, or if the Tax Collector is not satisfied with the return and payment of the amount of tax required, and additional taxes are determined by the Tax Collector to be due, the Tax Collector shall deliver written notice of his determination of a deficiency to the taxpayer, and such deficiency, plus penalties and interest, shall be due and payable forty-five (45) days after receipt of the notice and demand. Such additional taxes shall bear any applicable civil penalties and interest as provided in Section 12-540, and every such notice of a determination of an additional amount due shall be assessed within the limitation period provided in Section 12-550.

(1) When a return is filed. If the Tax Collector is not satisfied with a return and payment of the amount of tax required by this Chapter to be paid to the City, he may examine the return or examine the records of the taxpayer, and redetermine the amount of tax, penalties, and interest required to be paid, for any periods available to the Tax Collector under Section 12-550, based upon the information contained in the return or records or based upon any information within his possession or which comes into his possession.

(2) When no return is filed. If any person fails to make a return, the Tax Collector may make an estimate of the amount of tax due under this Chapter and compute any applicable penalties and interest due, based upon any information within his possession or which comes into his possession.

(b) Estimates by the Tax Collector. Any estimate made by the Tax Collector is to be made on a reasonable basis. The existence of another reasonable basis of estimation does not, in any way, invalidate the Tax Collector's estimate. It is the responsibility of the taxpayer to prove that the Tax Collector's estimate is not reasonable and correct, by providing sufficient documentation of the type and form required by this Chapter or satisfactory to the Tax Collector.

(Code 1977, § 9A-545)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-546. Closing agreements in cases of extensive taxpayer misunderstanding or misapplication; approval; rules.

(a) If the Tax Collector determines that noncompliance with tax obligations results from extensive misunderstanding or misapplication of provisions of this Chapter it may enter into closing agreements with those taxpayers under the following terms and conditions:

(1) extensive misunderstanding or misapplication of the tax laws occurs if the Tax Collector determines that more than sixty percent (60%) of the persons in the affected class have failed to properly account for their taxes owing to the same misunderstanding or misapplication of the tax laws.

(2) the Tax Collector shall publicly declare the nature of the possible misapplication and the proposed definition of the class of affected taxpayers and shall conduct a public hearing to hear testimony regarding the extent of the misapplication and the definition of the affected class.

(3) if, after the public hearing, the Tax Collector determines that a class of affected taxpayers has failed to comply with their tax obligations because of extensive misunderstanding or misapplication of the tax laws it shall issue a tax ruling announcing that finding and publish the ruling in a newspaper of general circulation in the City and through the next two model city tax code updates.

(4) a closing agreement under this Section may abate some or all of the penalties, interest and tax that taxpayers have failed to remit, or the agreement may provide for the prospective treatment of the matter as to the class of affected taxpayers. All taxpayers in the class shall be offered the opportunity to enter into a similar agreement for the same tax periods.

(5) taxpayers in the affected class who have properly accounted for their tax obligations for these tax periods shall be offered the opportunity to enter into an equivalent closing agreement providing for a pro rata credit or refund of their taxes previously paid.

(6) the closing agreement shall require the taxpayers to properly account for and pay such taxes in the future. If a taxpayer fails to adhere to such a requirement, the closing agreement is voidable by the Tax Collector and he may assess the taxpayer for the delinquent taxes. The Tax Collector may issue such a proposed assessment within six months after the date that he declares that closing agreement void or within the period prescribed by Section 12-550 of this Chapter.

(b) Before entering into closing agreements pursuant to this Section, the Tax Collector shall secure such approval as required by charter, ordinance or administrative regulation.

(c) After a closing agreement has been signed pursuant to this Section, it is final and conclusive except on a showing of fraud, malfeasance or misrepresentation of a material fact. The case shall not be reopened as to the matters agreed upon or the agreement shall not be modified by any officer, employee or agent of the City. The agreement or any determination, assessment, collection, payment abatement, refund or credit made pursuant to the agreement shall not be annulled, modified, set aside or disregarded in any suit, action or proceeding.

(d) The Tax Collector shall report in writing its activities under this Section to the Mayor and City Council on or before February 1 of each year.

(Code 1977, § 9A-546)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-547 through 12-549. Reserved.

Sec. 12-550. Limitation periods.

(a) Limitation when a return has been filed.

(1) Except as provided elsewhere in this Section, the Tax Collector may assess additional tax due at any time within four (4) years after the date on which the return is required to be filed, or within four (4) years after the date on which the return is filed, whichever period expires later.

(2) However, if a taxpayer does not report an amount properly reportable which is in excess of twenty-five percent (25%) of the taxable amount stated on the return, the Tax Collector may assess additional tax due at any time within six (6) years after the date on which the return was filed.

(3) Any delay in commencement or completion of any examination by the Tax Collector, which is requested or agreed to in writing by the taxpayer, shall be excluded from the computation of any limitation period prescribed by this Section, and the Tax Collector shall be entitled to make a determination for taxes due without exclusion of any such time period, and any limitation period shall be extended for a length of time equivalent to the period of the agreed upon delay.

(4) Any assessment of additional tax due by the Tax Collector shall be deemed to have been made by mailing a copy of a notice of audit assessment by certified mail to the taxpayer's address of record with the Tax Collector or by personal delivery of a copy of a notice of audit assessment to the taxpayer or his authorized agent.

(b) Suspension of limitation period. The limitation period on assessment shall be suspended for any period:
(1) the assets of the taxpayer are in the control or custody of the court in any proceeding before any court of jurisdiction within the United States of America, and for one hundred and eighty (180) calendar days thereafter; or
(2) which the taxpayer and the Tax Collector agree upon in writing.

(c) When no return filed; fraudulent return. In the case of a fraudulent return with the intent to evade tax, or the failure or refusal to file a return for any month, the Tax Collector may assess the amount of taxes payable for that month at any time, without any reliance by the taxpayer upon any time limitation provided elsewhere in this Chapter.

(d) Special provisions relating to owner-builders. The limitation for an owner-builder subject to the tax as prescribed in Section 12-417 shall be based upon the date such tax liability is reportable or was reported, as provided in Section 12-417.

(Code 1977, § 9A-550)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-551 through 12-552.

Sec. 12-553. Examination of Taxpayer Records; Joint Audits.

(a) Waiver of Joint Audit. A taxpayer that does not authorize a joint audit to be conducted for a tax jurisdiction is subject to audit by that tax jurisdiction at any time subject to the limitation provisions provided in Section 12-550.

(b) Tax Jurisdiction Acceptance of Joint Audit. If the Arizona Department of Revenue intends to conduct an audit of a taxpayer, the cities or towns for whom a joint audit is being conducted may accept the audit by the Arizona Department of Revenue or may elect to have a representative participate, provided that no more than two city or town representatives in total may participate.
(1) If a city or town does not accept the audit as a joint audit, the city or town may not conduct an audit of the taxpayer for forty-two months from the close of the last tax period covered by the audit unless an exception applies to that taxpayer pursuant to A.R.S. Section 42-2059.
(2) If a joint audit is performed by a city or town, the Arizona Department of Revenue is not prohibited from conducting an audit that does not violate the provisions of A.R.S. Section 42-2059.

(Code 1977, § 9A-553)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-554. Reserved.

Sec. 12-555. Tax Collector may examine books and other records; failure to provide records.

(a) The Tax Collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the Tax Collector, might be liable for any tax under this Chapter, for any periods available to him under Section 12-550.

(b) In order to perform any examination authorized by this Chapter, the Tax Collector may issue an Administrative Request for the attendance of witnesses or for the production of documents, as provided by Regulation.

(c) If within sixty (60) days of receiving a written request for information in the possession of the taxpayer, the taxpayer fails or refuses to furnish the requested information, the Tax Collector may, in addition to penalties prescribed under Section 12-540, impose an additional penalty of twenty-five percent (25%) of the amount of any tax deficiency which is attributable to the information which the taxpayer failed to provide, unless the taxpayer shows that the failure was due to reasonable cause and not due to willful neglect.

(d) The Tax Collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The Tax Collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

(e) The fact that the taxpayer has not maintained or provided such books and records which the Tax Collector considers necessary to determine the tax liability of any person does not preclude the Tax Collector from making any assessment. In such cases, the Tax Collector is authorized to use estimates, projections, or samplings, to determine the correct tax. The provisions of Section 12-545(b), concerning estimates, shall apply.

(f) The Tax Collector shall give the taxpayer written notice of his determination of a deficiency by certified mail to the taxpayer's address of record with the tax collector, and the tax deficiency, plus interest and penalties, is final forty-five (45) days from the date of receipt of the notice by the taxpayer, unless an appeal is taken pursuant to the provisions of Sections 12-570 through 12-575.

(Code 1977, § 9A-555)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-556. No additional audits or proposed assessments; exceptions.

(a) Once the Tax Collector completes an examination authorized by Section 12-555 and a written notice of the determination of a deficiency has been issued to the taxpayer pursuant to Section 12-545(a) or 12-555(f), the taxpayer's liability for the time period subjected to the examination is fixed and determined, and no additional audit or examination may be

conducted by the Tax Collector with respect to such time period except under the following circumstances.

(1) if a taxpayer files a claim for refund under Section 12-560, the Tax Collector may conduct an examination limited to the issues presented in the refund claim.

(2) if the taxpayer failed to disclose material information during the initial examination, falsified books or records, or otherwise engaged in conduct which prevented the Tax Collector from conducting an accurate examination. The applicability of this subsection, and the Tax Collector's right to proceed thereunder, may be raised and contested by the taxpayer in a subsequent administrative review brought pursuant to Section 12-570.

(b) An audit or examination conducted by any other taxing jurisdiction will not preclude the Tax Collector from conducting an audit or examination for the same time period.

(c) If the Tax Collector issues a notice of deficiency pursuant to either Section 12-545(a) or Section 12-555(f), the Tax Collector may not increase the proposed deficiency except in one or more of the following circumstances:

(1) the taxpayer made a material misrepresentation of fact.

(2) the taxpayer failed to disclose a material fact.

(3) the Tax Collector submitted a written request for information prior to issuance of the assessment, and the taxpayer, despite possessing or having access to such information, failed to provide it within 60 days as required by Section 12-555(c).

(4) after issuing the notice of determination of deficiency but before the deficiency became final, the Arizona Tax Court, Court of Appeals or Supreme Court issued a decision, the applicability of which causes the deficiency initially proposed to increase.

(Code 1977, § 9A-556)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-557 through 12-559. Reserved.

Sec. 12-560. Erroneous payment of tax; credits and refunds; limitations.

(a) The Tax Collector may authorize either credits or payments of refunds for any taxes, penalties or interest paid in excess of the amount actually due. Any credit authorized by the Tax Collector shall be canceled from the accounts of the City if no timely filed request for credit or refund is made by the claimant claiming same within one (1) year following the date of determination and notice by the Tax Collector of the excess payment. For purposes of this Section, "Claimant" means a taxpayer that has paid a tax imposed under this Article and has submitted a credit or refund claim under this Section. Except where the taxpayer has granted a customer a power of attorney to pursue a credit or refund claim on the taxpayer's behalf, "claimant" does not include any customer of such taxpayer, whether or not the claimant collected the tax from customers by separately stated itemization.

(b) No credit shall be allowed or refund paid except under one of the following conditions:

(1) as provided in Section 12-565.
(2) upon examination of filed returns for any period not excluded by Section 12-550, and not to exceed the tax, penalty, or interest actually paid with such returns.
(3) upon audit or other examination of the books and records of the taxpayer, but only for periods as provided in Section 12-550. In the case of an examination performed at the taxpayer's request, credit shall be allowed or refund paid only for any taxes, penalties, or interest actually paid within the limitation period provided in Section 12-550, such period to be calculated from the date of receipt of the taxpayer's request by the Tax Collector. Requests by taxpayers for audits to authorize credits shall be honored unless, in the opinion of the Tax Collector, the taxpayer has made excessive requests for audits.
(4) Upon the claimant's submission of a written claim for credit or refund of any taxes, penalties, or interest paid to the City by the claimant.

(c) A credit or refund submitted by a claimant pursuant to subsection (b)(4) of this Section must identify:
(1) The name, address and city tax identification number of the taxpayer; and
(2) The dollar amount of the credit or refund requested; and
(3) The specific tax period involved; and
(4) The specific grounds upon which the claim is based.

(d) When a written claim for credit or refund is submitted pursuant to Subsection (b)(4) of this Section, no credit shall be allowed or refund paid except for those taxes, penalties, or interest paid in excess of the amount due within the limitation period provided Section 12-550. The credit or refund limitation period shall be calculated from the date the tax collector receives the claimant's written claim meeting the requirements of Subsection (c) of this Section.

(e) The following additional requirements apply to the Tax Collector and the claimant for claims for credit or refund submitted pursuant to Subsection (b)(4) of this Section:
(1) The tax collector shall notify the claimant that the claim for credit or refund has been received and shall indicate whether the claim meets the requirements of Subsection (c) of this Section. If the claim does not meet the requirements of Subsection (c) of this Section, the tax collector shall identify the deficiency in writing. Any claim that does not meet the requirements of Subsection (c) of this Section shall not secure the limitation period pursuant to Section 12-550.

(2) The tax collector may request, in writing, additional information or documentation from the claimant to support the requested credit or refund. Such information or documentation must be reasonably related to the claim and required to be maintained under this chapter in the normal course of business.

(A) The claimant may request in writing one or more extensions to supply the requested information or documentation. The tax collector may reject an extension request only by denying the claim in whole or in part, subject to appeal by the claimant pursuant to Section 12-570.

(B) A claimant aggrieved by a request for information or documentation under this Subsection may file an appeal in the manner provided for in Section 12-570 regarding the scope of the request for information or documentation. Such petition must be filed no later than the last day by which requested information or documentation must be provided to the tax collector, including any extensions. The decision of the hearing officer regarding a request for information or documentation may not be appealed by either party until the claim has been approved or denied, in whole or in part, under Subsection (h) of this Section or through Subsubsections (e)(3) or (e)(4) of this Section. A claimant shall not be barred from raising the issue of the reasonableness of the tax collector's information or documentation request in an appeal filed under Subsection (h) of this Section or through Subsubsections (e)(3) or (e)(4) of this Section through a lack of filing a petition under this Subsubsection.

(3) If the tax collector fails to request additional information or documentation pursuant to this Section and fails to issue a determination on any claim for credit or refund within six (6) months after the claim is filed, the claimant may consider the claim denied and may file an appeal pursuant to Section 12-570.

(4) If the tax collector fails to issue a determination within six (6) months of receiving all requested additional information or documentation, the claimant may consider the claim for credit or refund denied and may file an appeal pursuant to Section 12-570.

(5) The burden of proof to show that a notice, request, determination, or other communication was received by the claimant in this Section is on the tax collector, and will be satisfied by receipt of notice. The burden of proof to show that a claim or additional information or documentation was received by the tax collector is on the claimant and will be satisfied by receipt of notice.

(f) Interest shall be allowed on the overpayment of tax for any credit or refund authorized pursuant to Subsections (b)(3) or (b)(4) of this Section at the rate and in the manner set forth in Section 12-540(a) as follows:

(1) For credits or refunds authorized pursuant to Subsection (b)(3) of this Section, interest shall be calculated from the date the tax collector receives the claimant's written claim following the date of notice to the claimant authorizing the credit or refund.

(2) For credits or refunds authorized pursuant to Subsection (b)(4) of this Section, interest shall be calculated from the date the tax collector receives the claimant's written claim meeting the requirements of Subsection (c) of this Section.

(g) The tax collector shall give the claimant a written notice of determination for a claim made under Subsection (b) of this Section. If the determination is a denial of a claim, in whole or in part, the determination must state that the claim for credit or refund has been denied in whole or in part, with the reason for denial, and must include the claimant's rights of appeal pursuant to Section 12-570.

(h) A determination by the tax collector under this Section, whether an approval of a claim or a denial of a claim, in whole or in part, shall become final forty-five (45) days from the date of receipt of the notice by the claimant, unless an appeal is made pursuant to Section 12-570. If the claimant is the prevailing party in an appeal of a determination under this section, Section 12-578 shall apply, except that reasonable fees and other costs may be awarded either by the hearing officer or court and are not subject to the monetary limitations of Subsection 12-578(e) if the tax collector's position was not substantially justified or was brought for the purpose of harassing the claimant, frustrating the credit or refund process, or delaying the credit or refund. For the purposes of this Section, “Reasonable Fees and Other Costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, not to exceed the amounts actually paid for expert witnesses, the cost of any study, analysis, report, test, project or computer program that is found to be necessary to prepare the claimant's case, and necessary fees for attorneys or other representatives.

(i) The amendments to this Section as enacted shall be effective as follows:

(1) For any claim for refund or credit received by the tax collector before October 1, 2005:

(A) The provisions of this Section as it existed prior to March 20, 2007 shall apply, except that interest shall be allowed from and after October 1, 2005 as provided in Subsection (f) of this Section.

(B) Except as noted in Subsection (1)(a) above, the amendments to this section as enacted on March 20, 2007_shall not be cited or considered in the construction or the interpretation of the City tax refund or credit provisions, interest provisions, or appeal provisions in effect prior to October 1, 2005.

(2) The provisions of this Section enacted on March 20, 2007 shall apply to all claims for refund or credit, for any periods as determined by Subsections (d) or (e) of this Section, received by the tax collector from and after October 1, 2005, except for claims that, in whole or in part, had been received by the tax collector prior to October 1, 2005.

(j) Any refund paid under the provisions of this Section shall be paid from the Privilege Tax revenue accounts.

(Code 1977, § 9A-560)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 07-07, 3/20/07, amended (a),(b),(c),(d),(e), enacted (f),(g),(h),(i),(j)) SUPP 2007-1

Secs. 12-561 through 12-564.

Sec. 12-565. Payment of tax by the incorrect taxpayer or to the incorrect Arizona city or town.

(a) When it is determined that taxes have been reported and paid to the City by the wrong taxpayer, any taxes erroneously paid shall be transferred by the City to the privilege tax account of the person who actually owes and should have paid such taxes, provided that

the City receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax.

(b) An assignment and waiver provided under this Section, must:
(1) identify the name and City privilege license number of the person who erroneously paid the tax and the person who should have paid the tax.
(2) provide that the person who erroneously paid the tax waives any right such person may have to a refund of the taxes erroneously paid.
(3) authorize the City Treasurer to transfer the erroneously paid tax to the privilege tax account of the person who should have paid the tax.

(c) When it is determined that taxes have been reported and paid to the wrong Arizona city or town, such taxes shall be remitted to the correct city or town, provided that the city or town to whom the taxes were erroneously paid receives an assignment and waiver signed by both the person who actually paid the tax and the person who should have paid the tax. Where the person who actually paid the tax and the person who should have paid the tax are one and the same, no assignment and waiver need be provided. The City shall neither pay nor charge any interest or penalty on any overpayment or underpayment except such interest and penalty actually paid by the taxpayer relating to such tax.

(d) This Section in no way limits or restricts the applicability of any remedies which may otherwise be available under A.R.S. Section 42-6003. The limitations and procedures set forth in A.R.S. Section 42-6003 shall apply to all payments under this Section.

(e) When reference is made in this Section to this City or an Arizona city or town, and payments made to or requested from this City or an Arizona city or town, the provisions shall be applicable to the Arizona Department of Revenue when it is acting for or on behalf of this City or an Arizona city or town.

(Code 1977, § 9A-565)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-566. Reserved.

Sec. 12-567. (Reserved)
(Code 1977, § 9A-567)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-568 through 12-569. Reserved.

Sec. 12-570. Administrative review; petition for hearing or for redetermination; finality of order.

For the purposes of this section, “Municipal Tax Hearing Office” means the administrative offices of the Municipal Tax Hearing Officer.

(a) Informal Conference. A taxpayer shall have the right to discuss any proposed assessment with the auditor prior to the issuance of any assessment, but any such informal conference is not required for the taxpayer to file a petition for administrative review.

(b) Administrative Review.

(1) Filing a Petition. Other than in the case of a jeopardy assessment, a taxpayer may contest the applicability or amount of any tax, penalty, or interest imposed upon or paid by him pursuant to this Chapter by filing a petition for a hearing or for redetermination with the Tax Collector as set forth below:

(A) within forty-five (45) days of receipt by the taxpayer of notice of a determination by the Tax Collector that a tax, penalty, or interest amount is due, or that a request for refund or credit has been denied; or

(B) by voluntary payment of any contested amount when accompanied by a timely filed return and a petition requesting a refund of the protested portion of said payment; or

(C) by petition accompanying a timely filed return contesting an amount reported but not paid; or

(D) by petition requesting review of denial of waiver of penalty as provided in subsection 12-540(g).

(2) Extension to file a petition. In all cases, the taxpayer may request an extension from the Tax Collector. Such request must be in writing, state the reasons for the requested delay, and must be filed with the Tax Collector within the period allowed above for originally filing a petition. The Tax Collector shall allow a forty-five (45) day extension to file a petition, when such written request has been properly and timely made by the taxpayer. The Tax Collector may grant an additional extension and may determine the corresponding time of any such extension at his sole discretion.

(3) Requirements for petition.

(A) The petition shall be in writing and shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of reduction or refund requested. The petition may be amended at any time prior to the time the taxpayer rests his case at the hearing or such time as the Hearing Officer allows for submitting of amendments in cases of redeterminations without hearings. The Hearing Officer may require that amendments be in writing, and in that case, he shall provide a reasonable period of time to file the amendment. The Hearing Officer shall provide a reasonable period of time for the Tax Collector to review and respond to the petition and to any written amendments.

(B) The taxpayer, as part of the petition, may request a hearing which shall be granted by the Hearing Officer. If no request for hearing is made the petition shall be considered to be submitted for decision by the Hearing Officer on the matters contained in the petition and in any reply made by the Tax Collector.

(C) The provisions of this Section are exclusive, and no petition seeking any correction, abatement, or refund shall be considered unless the petition is timely and properly filed under this Section.

(4) Transmittal to Hearing Officer. The city shall designate a Hearing Officer, who may be other than an employee of the City. The Tax Collector, if designated to receive petitions, shall forward any petition to the Municipal Tax Hearing Office (MTHO) within twenty (20) days after receipt, accompanied by documentation as to timeliness. In cases where the Hearing Officer determines that the petition is not timely or not in proper form, he shall notify both the taxpayer and the Tax Collector; and in cases of petitions not in proper form only, the Hearing Officer shall provide the taxpayer with an extension up to forty-five (45) days to correct the petition.

(5) Hearings shall be conducted by a Hearing Officer and shall be continuous until the Hearing Officer closes the record. The taxpayer may be heard in person or by his authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Hearing Officer shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary accounting records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Hearing Officer shall be made solely upon substantial and reliable evidence. All expenses incurred in the hearing shall be paid by the party incurring the same.

(6) Redeterminations upon a "petition for redetermination" shall follow the same conditions, except that no oral hearing shall be held.

(7) Hearing Ruling. In either case, the Hearing Officer shall issue his ruling not later than forty-five (45) days after the close of the record by the Hearing Officer.

(8) Notice of Refund or Adjusted Assessment. Within sixty (60) days of the issuance of the Hearing Officer's decision, the Tax Collector shall issue to the taxpayer either a notice of refund or an adjusted assessment recalculated to conform to the Hearing Officer's decision.

(c) Stipulations that future tax is also protested. A taxpayer may enter into a stipulation with the Tax Collector that future taxes of similar nature are also at issue in any protest or appeal. However, unless such stipulation is made, it is presumed that the protest or appeal deals solely and exclusively with the tax specifically protested and no other. When a taxpayer enters into such a stipulation with the Tax Collector that future taxes of similar nature will be included in any redetermination, hearing, or court case, it is the burden of that taxpayer to identify, segregate, and keep record of such income or protested taxable amount in his books and records in the same manner as the taxpayer is required to segregate exempt income.

(d) When an assessment is final.

(1) If a request for administrative review and petition for hearing or redetermination of an assessment made by the Tax Collector is not filed within the period required by subsection (b) above, such person shall be deemed to have waived and abandoned the right to question the amount determined to be due and any tax, interest, or penalty determined to be due shall be final as provided in subsections 12-545(a) and 12-555(f).

(2) The decision made by the Hearing Officer upon administrative review by hearing or redetermination shall become final thirty (30) days after the taxpayer receives the notice of refund or adjusted assessment required by subsection (b)(8) above, unless the taxpayer appeals the order or decision in the manner provided in Section 12-575.

(e) (Reserved)
(Code 1977, § 9A-570)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 2010-11, 6/1/2010, Amended) SUPP 2010-2

Sec. 12-571. Jeopardy assessments.

(a) If the Tax Collector believes that the collection of any assessment or deficiency of any amounts imposed by this Chapter will be jeopardized by delay, he shall deliver to the taxpayer a notice of such finding and demand immediate payment of the tax or deficiency declared to be in jeopardy, including interest, penalties, and additions.

(b) Jeopardy assessments are immediately due and payable, and the Tax Collector may immediately begin proceedings for collection. The taxpayer, however, may stay collection by filing, within ten (10) days after receipt of notice of jeopardy assessment, or within such additional time as the Tax Collector may allow, by bond or collateral in favor of the City in the amount Tax Collector declared to be in jeopardy in his notice.

(c) "Bond or Collateral", as required by this Section,
(1) shall mean either:
(A) a bond issued in favor of the City by a surety company authorized to transact business in this State and approved by the Director of Insurance as to solvency and responsibility, or
(B) collateral composed of securities or cash which are deposited with, and kept in the custody of, the Tax Collector.
(2) shall be of such form that it may, at any time without notice, be applied to any tax, penalties, or interest due and payable for the purposes of this Chapter. Securities held as collateral by the Tax Collector must be of a nature that they may be sold at public or private sale without notice to the taxpayer.

(d) If bond or collateral is not filed within the period prescribed by subsection (b) above, the tax collector may treat the assessment as final for purposes of any collection proceedings. The taxpayer nevertheless shall be afforded the appeal rights provided in Sections 12-570 and 12-575. The filing of a petition by the taxpayer under Section 12-570, however, shall not stay the tax collector's rights to pursue any collection proceedings.

(e) If the taxpayer timely files sufficient bond or collateral, the jeopardy requirements are deemed satisfied, and the taxpayer may avail himself of the provisions of Section 12-570, including requests for additional time to file a petition.
(Code 1977, § 9A-571)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-572. Expedited review of jeopardy assessments.

(a) Within thirty (30) days after the day on which the Tax Collector furnishes the written notice required by Section 12-571(a), the taxpayer, pursuant to Section 12-570, may request the Tax Collector to review the action taken. Within fifteen (15) days after the request for review, the Tax Collector shall determine whether both the jeopardy determination and the amount assessed are reasonable.

(b) Within thirty (30) days after the Tax Collector notifies the taxpayer of the determination he reached pursuant to subsection (a) above, the taxpayer may bring a civil action in the appropriate Court. If the taxpayer so requests, the City shall stipulate to an accelerated and expedited resolution of the civil action. If the Court determines that either the jeopardy determination or the amount assessed is unreasonable, the Court may order the Tax Collector to abate the assessment, to redetermine any part of the amount assessed or to take such other action as the Court finds to be appropriate. A determination made by the Court under this subsection is final except as provided in Arizona Revised Statutes Section 12-170.

(Code 1977, § 9A-572)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-573 through 12-574. Reserved.

Sec. 12-575. Judicial review.

(a) A taxpayer may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action against the City in the appropriate Court of this County. A taxpayer is not required to pay any tax, penalty, or interest upheld by the Hearing Officer before seeking such judicial review.

(b) The Tax Collector may seek judicial review of all or any part of a Hearing Officer's decision by initiating an action in the appropriate Court of this County.

(c) An action for judicial review can not be commenced by either the taxpayer or the Tax Collector more than thirty (30) days after receipt by the taxpayer of notice of any refund or assessment recalculated or reduced to conform to the Hearing Officer's decision, unless the time to commence such an action is extended in writing signed by both the taxpayer and the Tax Collector. Failure to bring the action within thirty (30) days or such other time as is agreed upon in writing shall constitute a waiver of any right to judicial review, except as provided in subsection (g) below.

(d) The Court shall hear and determine the appeal as a trial de novo; however, the Tax Collector cannot raise in the Court any grounds or basis for the assessment not asserted before the Hearing Officer. Nothing in this subsection, however, shall preclude the Tax Collector from responding to any arguments which are raised by the taxpayer in the appeal.

(e) The City has the burden of proof by a preponderance of the evidence in any court proceeding regarding any factual issue relevant to ascertaining the tax liability of a taxpayer. This subsection does not abrogate any requirement of this Chapter that requires a taxpayer to substantiate an item of gross income, exclusion, exemption, deduction, or credit. This subsection applies to a factual issue if a preponderance of the evidence demonstrates that:

(1) the taxpayer asserts a reasonable dispute regarding the issue.

(2) the taxpayer has fully cooperated with the tax collector regarding the issue, including providing within a reasonable period of time, access to and inspection of all witnesses, information and documents within the taxpayer's control, as reasonably requested by the tax collector.

(3) the taxpayer has kept and maintained records as required by the City.

(f) The issuance of an adjusted or corrected assessment or notice of refund due to the taxpayer, where made by the Tax Collector pursuant to the decision of the Hearing Officer, shall not be deemed an acquiescence by the City or the Tax Collector in said decision, nor shall it constitute a bar or estoppel to the institution of an action or counterclaim by the City to recover any amounts claimed to be due to it by virtue of the original assessment.

(g) After the initiation of any action in the appropriate court by either party, the opposite party may file such counterclaim as would be allowed pursuant to the Arizona Rules of Civil Procedure.

(Code 1977, § 9A-575)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-576. Reserved.

Sec. 12-577. Refunds of taxes paid under protest.

In the event the Hearing Officer's decision or a final judgment by the Court is rendered in favor of the taxpayer to recover protested taxes, it shall be the duty of the Tax Collector, upon receipt of such decision or of a certified copy of such final judgment, to authorize a warrant in favor of the taxpayer in an amount equal to the amount of the tax found by such decision or by the final judgment to have been paid under protest, and such warrant shall include the amount of interest or other cost that may have been recovered against the City by the final judgment in such action in the courts, to be paid from the Privilege Tax revenue accounts.

(Code 1977, § 9A-577)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-578. Reimbursement of fees and other costs; definitions.

(a) A taxpayer who is a prevailing party may be reimbursed for reasonable fees and other costs related to any administrative proceeding brought by the taxpayer pursuant to Section 12-570(b). For purposes of this Section, a taxpayer is considered to be the prevailing party only if both of the following are true:

(1) the Tax Collector's position was not substantially justified.
(2) the taxpayer prevails as to the most significant issue or set of issues.

(b) Reimbursement under this Section may be denied if any of the following circumstances apply:
(1) during the course of the proceeding the taxpayer unduly and unreasonably protracted the final resolution of the matter.
(2) the reason that the taxpayer prevailed is due to an intervening change in the applicable law.

(c) The taxpayer shall present an itemization of the reasonable fees and other costs to the Taxpayer Problem Resolution Officer within thirty (30) days after receipt by the taxpayer of a notice of refund or recalculated assessment issued by the Tax Collector pursuant to Section 12-570(b)(8). The Taxpayer Problem Resolution Officer shall determine the validity of the fees and other costs within thirty (30) days after receiving the itemization. The Taxpayer Problem Resolution Officer's decision is considered a final decision. Either the taxpayer or the Tax Collector may seek judicial review of the Taxpayer Problem Resolution Officer's decision. An action for judicial review, however, shall not be commenced more than thirty (30) days after receipt of the Resolution Officer's decision.

(d) In the event judicial review is not sought pursuant to subsection (c) above, the City shall pay the fees and other costs awarded as provided in this Section within thirty days after demand by a person who has received an award pursuant to this Section.

(e) Reimbursement to a taxpayer under this Section shall not exceed twenty thousand dollars or actual monies spent, whichever is less. The reimbursable attorney or representative fees shall not exceed one hundred dollars per hour or actual monies spent, whichever is less, unless the Taxpayer Problem Resolution Officer determines that an increase in the cost of living or a special factor such as the limited availability of qualified attorneys or representatives for the proceeding involved justifies a higher fee.

(f) For purposes of this Section "reasonable fees and other costs" means fees and other costs that are based on prevailing market rates for the kind and quality of the furnished services, but not exceeding the amounts actually spent for expert witnesses, the cost of any study, analysis, report, test or project that is found to be necessary to prepare the party's case and necessary fees for attorneys or other representatives.

(Code 1977, § 9A-580)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-579. Reserved.

Sec. 12-580. Criminal penalties.

(a) It is unlawful for any person to knowingly or willfully:
(1) fail or refuse to make any return required by this Chapter.

(2) fail to remit as and when due the full amount of any tax or additional tax or penalty and interest thereon.
(3) make or cause to be made a false or fraudulent return.
(4) make or cause to be made a false or fraudulent statement in a return, in written support of a return, or to demonstrate or support entitlement to a deduction, exclusion, or credit or to entitle the person to an allocation or apportionment or receipts subject to tax.
(5) fail or refuse to permit any lawful examination of any book, account, record, or other memorandum by the Tax Collector.
(6) fail or refuse to remit any tax collected by such person from his customer to the Tax Collector before the delinquency date next following such collection.
(7) advertise or hold out to the public in any manner, directly or indirectly, that any tax imposed by this Chapter, as provided in this Chapter, is not considered as an element in the price to the consumer.
(8) fail or refuse to obtain a Privilege License or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license fee.
(9) reproduce, forge, falsify, fraudulently obtain or secure, or aid or abet another in any attempt to reproduce, forge, falsify, or fraudulently obtain or secure, an exemption from taxes imposed by this Chapter.

(b) The violation of any provision of subsection (a) above shall constitute a Class One Misdemeanor.

(c) In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and on conviction thereof shall be punished in the manner provided by law.

(Code 1977, § 9A-580)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-581 through 12-589. Reserved.

Sec. 12-590. Civil actions.

(a) Liens.
(1) Any tax, penalty, or interest imposed under this Chapter which has become final, as provided in this Chapter, shall become a lien when the City perfects a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty, and interest, the period or periods for which the same is due, and the date of accrual thereof, the amount of the recording costs by the county recorder in any county in which the taxpayer owns real property and the documentation and lien processing fees imposed by the City council and further, stating that the City claims a lien therefor.
(2) The notice of claim of lien shall be signed by the Finance Director under his official seal or the official seal of the City, and, with respect to real property, shall be recorded in the office of the County Recorder of any county in which the taxpayer owns real property, and, with respect to personal property shall be filed in the office

of the Secretary of State. After the notice and claim of lien is recorded or filed, the taxes, penalties, interest and recording costs and lien processing fees referred to above in the amounts specified therein shall be a lien on all real property of the taxpayer located in such county where recorded, and all tangible personal property of the taxpayer within the State, superior to all other liens and assessments recorded or filed subsequent to the recording or filing of the notice and claim of lien.

(3) Every tax and any increases, interest, penalties, and recording costs and lien processing fees referred to above, shall become from the time the same is due and payable a personal debt from the person liable to the City, but shall be payable to and recoverable by the Tax Collector and which may be collected in the manner set forth in subsection (b) below.

(4) Any lien perfected pursuant to this Section shall, upon payment of the taxes, penalties, interest, recording costs and lien processing fees referred to above and lien release fees imposed by the county recorder in any county in which the lien was recorded, thereby, be released by the Tax Collector in the same manner as mortgages and judgments are released. The Tax Collector may, at his sole discretion, release a lien in part, that is, against only specified property, for partial payment of moneys due the City.

(b) Actions to recover tax. An action may be brought by the City Attorney or other legal advisor to the City designated by the City Council, at the request of the Tax Collector, in the name of the City, to recover the amount of any taxes, penalties, interest, recording costs, lien processing fees and lien release fees due under this Chapter; provided that:

(1) no action or proceeding may be taken or commenced to collect any taxes levied by this Chapter until the amount thereof has been established by assessment, correction, or reassessment; and

(2) such collection effort is made or the proceedings begun:

(A) within six (6) years after the assessment of the tax; or

(B) prior to the expiration of any period of collection agreed upon in writing by the Tax Collector and the taxpayer before the expiration of such six (6) year period, or any extensions thereof; or

(C) at any time for the collection of tax arising by reason of a tax lien perfected, recorded, or possessed by the City under this Section.

(Code 1977, § 9A-590)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-591 through 12-594. Reserved.

Sec. 12-595. Collection of taxes when there is succession in and/or cessation of business.

(a) In addition to any remedy provided elsewhere in this City Code that may apply, the Tax Collector may apply the provisions of subsections (b) through (d) below concerning the collection of taxes when there is succession in and/or cessation of business.

(b) The taxes imposed by this Chapter are a lien on the property of any person subject to this Chapter who sells his business or stock of goods, or quits his business, if the person fails to

make a final return and payment of the tax within fifteen (15) days after selling or quitting his business.

(c) Any person who purchases, or who acquires by foreclosure, by sale under trust deed or warranty deed in lieu of foreclosure, or by any other method, improved real property or a portion of improved real property for which the Privilege Tax imposed by this Chapter has not been paid shall be responsible for payment of such tax as a speculative builder or owner builder, as provided in Sections 12-416 and 12-417.

(1) Any person who is a creditor or an affiliate of creditor, who acquires improved real property directly or indirectly from the creditor's debtor by any means set forth in this subsection, shall pay the tax based on the amount received by the creditor or its affiliate in a subsequent sale of such improved real property to a party unrelated to the creditor, regardless of when such subsequent sale takes place. Such tax shall be due in the month following the month in which the sale of the improved real property by the creditor or its affiliate occurs. Notwithstanding the foregoing, if the real property meets the definition of partially improved residential real property in section 12-416(A)(4) and all of the requirements of section 12-416(B)(4) are met by the parties to the subsequent sale transaction, then the tax shall not apply to the subsequent sale.

(2) In the event a creditor or its affiliate uses the acquired improved real property for any business purpose, other than operating the property in the manner in which it was operated, or was intended to be operated, before the acquisition or in any other manner unrelated to selling the property, the tax shall be due. The gross income upon which the tax shall be determined pursuant to sections 12-416 and 12-417 shall be the fair market value of the improved real property as of the date of acquisition. The tax shall be due in the month following the month in which such first business use occurs. When applicable, the credit bid shall be deemed to be the fair market value of the property as of the date of acquisition.

(3) Once the subsequent sale by the creditor or its affiliate has occurred and the creditor or its affiliate has paid the tax due from it pursuant to this subsection, neither the creditor nor its affiliate, nor any future owner, shall be liable for any outstanding tax, penalties or interest that may continue to be due from the debtor based on the transfer from the debtor to the creditor or its affiliate.

(4) If the tax liability imposed by either section 12-416 or section 12-417 on the transfer of the improved real property to the creditor or its affiliate, or any part thereof, is paid to the tax collector by the debtor subsequent to payment of the tax by the creditor or its affiliate, the amount so paid may constitute a credit, as equitably determined by the tax collector in good faith, against the tax imposed on the creditor or its affiliate by either paragraph 1 or paragraph 2 of this subsection.

(5) Notwithstanding anything in this chapter to the contrary, if a creditor or its affiliate is subject to tax as described in paragraph 1 or paragraph 2 of this subsection and

such creditor or affiliate has not previously been required to be licensed, such creditor or affiliate shall become licensed no later than the date on which the tax is due.

(d) A person's successors or assignees shall withhold from the purchase money an amount sufficient to cover the taxes required to be paid, and interest or penalties due and payable, until the former owner produces a receipt from the Tax Collector showing that all City tax has been paid or a certificate stating that no amount is due as then shown by the records of the Tax Collector. The Tax Collector shall respond to a request from the seller for a certificate within fifteen (15) days by either providing the certificate or a written notice stating why the certificate cannot be issued.

(1) If a subsequent audit shows a deficiency arising before the sale of the business, the deficiency is an obligation of the seller and does not constitute a liability against a buyer who has received a certificate from the Tax Collector.

(2) If the purchaser of a business or stock of goods fails to obtain a certificate as provided by this Section, he is personally liable for payment of the amount of taxes required to be paid by the former owner on account of the business so purchased, with interest and penalties accrued by the former owner or assignees.

(Code 1977, § 9A-595)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 2011-24, 11/15/2011, Amended) SUPP 2011-4

Sec. 12-596. Agreement for installment payments of tax.

(a) The City may enter into an agreement with a taxpayer to allow the taxpayer to satisfy a liability for any tax imposed by this Chapter by means of installment payments. The Tax Collector may require a taxpayer who requests an installment payment agreement to complete a financial report in such form and manner as the Tax Collector may prescribe.

(b) The Tax Collector, without notice, may alter, modify or terminate an installment payment agreement if the taxpayer:

(1) fails to pay an installment at the time the installment payment is due under the agreement.
(2) fails to pay any other tax liability at the time the liability is due.
(3) fails to file any tax report or return at the time the report or return is due.
(4) fails to furnish any information requested by the Tax Collector within thirty days after receiving a written request for such information.
(5) fails to notify the Tax Collector of a material improvement in the taxpayer's financial condition above the income previously reported in the most recent income statement within thirty days after the material improvement.
(6) provides inaccurate, false or incomplete information to the Tax Collector.

(c) Notwithstanding any installment payment agreement, the Tax Collector may offset any tax refunds against the liabilities provided for in the installment payment agreement, may file

and perfect any tax liens and, in the event the taxpayer breaches any term or provision of the installment payment agreement, may engage in collection activities.

(d) The Tax Collector, without notice, may terminate an installment payment agreement if the Tax Collector believes that the collection of tax to which the payment agreement pertains is in jeopardy.

(e) If the Tax Collector determines that the financial condition of a taxpayer has improved, the Tax Collector may alter, modify or terminate the agreement by providing notice to the taxpayer at least thirty days before the effective date of the action. The notice shall include the reasons why the Tax Collector believes the alteration, modification or termination is appropriate.

(f) An installment payment agreement shall remain in effect for the term of the agreement except as otherwise provided in this Section.

(g) A taxpayer who is aggrieved by a decision of the Tax Collector to refuse to enter into an installment payment agreement or to alter, modify or terminate an agreement entered into pursuant to this Section may petition the Taxpayer Problem Resolution Officer to review that determination. The Taxpayer Problem Resolution Officer may stay such alteration, modification or termination pending its review and may modify or nullify the determination.

(h) The City and the taxpayer may modify any installment payment agreement at any time by entering into a new or modified agreement.

(Code 1977, § 9A-596)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-597. Private taxpayer rulings; request; revocation or modification; definition.

(a) The Tax Collector shall issue private taxpayer rulings to taxpayers and potential taxpayers on request. Each request shall be in writing and shall:
   (1) state the name, address and, if applicable, taxpayer identifying number of the taxpayer or potential taxpayer who requests the ruling.
   (2) describe all facts that are relevant to the requested ruling.
   (3) state whether, to the best knowledge of the taxpayer or potential taxpayer, the issue or related issues are being considered by the Tax Collector or any other taxing jurisdiction in 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 12-570 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 12-510.

(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 or more Sections contained in this Chapter and any applicable regulations.

(k) A private taxpayer ruling issued by the Arizona Department of Revenue pursuant to A.R.S. Section 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.

(Code 1977, § 9A-597)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-598 through 12-599. Reserved.

Sec. 12-600. Use tax: definitions

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

"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 Article IV, 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.

(Code 1977, § 9A-600)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Sec. 12-601. (Reserved)
(Code 1977, § 9A-601)

Sec. 12-602. (Reserved)
(Code 1977, § 9A-602)

Secs. 12-603 through 12-609. Reseved.

Sec. 12-610. 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 one and eight tenths percent (1 8/10%) 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 12-620(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) cost of food consumed by the owner or by employees or agents of the owner of a restaurant or bar subject to the provisions of Section 12-455 of this Chapter.

(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 Article, 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 Article I, Chapter 5, Title 5, Arizona Revised Statutes.
(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)
(Code 1977, § 9A-610)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 05-55, 9/19/05, Resolution # 05-44 approved by voters 09/13/05) SUPP 2006-3

Sec. 12-620. Use tax: liability for tax.

The following persons shall be deemed liable for the tax imposed by this Article; 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:

(a) 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.

(b) 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.

(c) 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 Article 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.

(d) 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.

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

(Code 1977, § 9A-620)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-621 through 12-629. Reserved.

Sec. 12-630. Use tax: recordkeeping requirements.

All deductions, exclusions, exemptions, and credits provided in this Article are conditional upon adequate proof of documentation as required by Article III or elsewhere in this Chapter.
(Code 1977, § 9A-630)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-631 through 12-639. Reserved.

Sec. 12-640. 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 Article.
(Code 1977, § 9A-640)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-641 through 12-649. Reserved.

Sec. 12-650. Use tax: exclusion when acquisition subject to Use Tax is taxed or taxable elsewhere in this Chapter; limitation.

The tax levied by this Article 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 Article IV 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.
(Code 1977, § 9A-650)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2

Secs. 12-651 through 12-659. Reserved.

Sec. 12-660. 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 Article:

(a) 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.

(b) tangible personal property, the value of which does not exceed the amount of one thousand dollars ($1,000) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.

(c) charges for delivery, installation, or other customer services, as prescribed by Regulation.

(d) charges for repair services, as prescribed by Regulation.

(e) separately itemized charges for warranty, maintenance, and service contracts.

(f) prosthetics.

(g) income-producing capital equipment.

(h) rental equipment and rental supplies.

(i) mining and metallurgical supplies.

(j) 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 Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.

(k) 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.

(l) 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.

(m) 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.

(n) rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 12-410, or by a radio station, television station, or subscription television system.

(o) food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 12-455, but not food consumed by owners, agents, or employees of such business.

(p) 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.

(q) food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786).

(r) (Reserved)
  (1) (Reserved)
  (2) (Reserved)
  (3) (Reserved)
  (4) (Reserved)

(s) groundwater measuring devices required by A.R.S. Section 45-604.

(t) (Reserved)

(u) aircraft acquired for use outside the State, as prescribed by Regulation.

(v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) tangible personal property used or stored by this City.

(aa) tangible personal property used in remediation contracting as defined in Section 12-100 and Regulation 12-100.5.

(bb) materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
(1) printed or photographic materials.
(2) electronic or digital media materials.

(cc) food, beverages, condiments and accessories used for serving food and beverages by a commercial airline, as defined in A.R.S. § 42-5061(A)(50), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. 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.

(dd) wireless telecommunication equipment that is held 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 12-470.

(ee) (Reserved)

(ff) alternative fuel as defined in A.R.S. § 1-215, by 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.

(gg) food, beverages, condiments and accessories purchased by or for 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. 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.

(hh) personal hygiene items purchased by a person engaged in the business of and subject to tax under Section 12-444 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.

(ii) 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.

(jj) Food, beverages, condiments and accessories purchased by or for 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.

(kk) Sales of motor vehicles that use alternative fuel as defined in A.R.S. Section 43-1086 if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternate 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. Section 1-215.

(ll) The storage, use or consuption of tangible personal property in the city or town by a school school district or charter school.

(Code 1977, § 9A-660)
(Ord. 03-17, 4/15/03, renumbered from Chapter 9A) SUPP 2003-2
(Ord. 2011-24, 11/15/2012, Amended) SUPP 2011-4

Sec. R12-100.1 Brokers

(a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 12-405, relating to advertising commissions.

(b) Brokers for vendors. A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subjeet to the tax if he conducted such activily in his own behalf, by reason of the activity being deemed a "casual" one. For example:

(1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if sueh sales would be deemed "casual" if his principal had sold such items himself.

(2) A property manager is subject to the tax imposed upon rental, leasing, or licensing of real property, even if such rental, leasing, or licensing would be deemed "casual" if his principal managed such real property himself.

(c) Brokers for vendees. A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.

(d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.

(e) (Reserved)

(f) Location of Business. Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine "out-of-city sales"; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-100.2 Delivery, installation, or other direct customer services.

(a) "Delivery Charges" exist only when the total charges to the ultimate customer or consumer include, as separately charged to the ultimate customer, charges for delivery to the ultimate consumer, whether the place of delivery is within or without the City, and when the taxpayer's books and records show the separate delivery charges.

(1) Identification to the customer or consumer that the listed price has "delivery included" or other similar expression is insufficient to show the delivery as a separate charge. Only the separately stated charge for the delivery shall be deemed a "delivery charge".

(2) Freight in. Charges for delivery from place of production or the manufacturer to the vendor either directly or through a chain of wholesalers or jobbers or other middlemen are deemed "freight -in" and are not considered delivery.

(b) "Installation", as used in this definition, relates only to tangible personal property. Installation to real property is deemed construction contracting in this Chapter. Examples of installation relating to tangible personal property are: installing a radio in an automobile; applying sun screens on the windows of a boat; installing cabinets, carpeting, or "built~in appliances" to a camper or motorized recreational vehicle.

(c) Repair of tangible personal property is not included in this definition. See Regulation 12-465.1.

(d) "Direct Customer Services" means services other than repair rendered directly to the customer. Services or labor provided by any person prior to the transfer of tangible personal property to the customer or consumer are not included in this definition. In the following examples, the requirements of subsection (e) below are referred to by the words "identify" or "identification."

(1) A retailer sells a customer a $100 "plug-in" appliance, with a $25 delivery and installation charge. If the retailer identifies the $25 delivery and installation charge, it is a charge for direct customer services.

(2) A caterer charges his customer $1,000 for the food and drink served, $300 for setup and site cleanup, and $500 for bartender and waiters. If all charges are properly identified, only the $300 for set up and cleanup is a charge for direct customer services, and the $1,500 for food and service is restauranting gross tncome.

(3) Persons engaged in engraving on wood, metal, stone, etc. or persons engaged in retouching photographs or paintings may consider such charges for labor as direct customer services.

(4) All charges by a photographer resulting in the sale of a photograph (sitting charges, developing, making enlargements, retouching, etc.) for services that occur prior to transfer of tangible personal property are not direct customcr services.

(5) An equipment rental company charging $25 for delivery may consider such delivery charge as a charge for direct customer service only if such charge is properly identified.

(6) Even if identified, charges for labor incurred in the production of any manufactured article or of a custom-made article (jewelry, artwork, tailoring, draperies, etc.) are not included in this definition, as such labor occurs prior to the transfer of property.

(e) Recordkeeping requirements.

(1) Any person who engages in transactions involving these services must:

(A) Separately bill, invoice, or charge the customer for such services in a manner by which the customer or consumer may readily identify the specific dollar amount of the service charge; and

(B) Maintain business books and records in a manner in which the separate charge for such services can be clearly identified, to the satisfaction of the Tax Collector.

(2) Rendering a statement to a customer for a transaction involving such services and the transfer of tangible personal property which only indicates the total amount of the charges with words such as "services included" or "charge includes labor and parts" or a similar expression does not satisfy the requirements of this subsection.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-100.3 Retailers.

When in the opinion of the Tax Collector it is necessary for efficient administration of this Chapter, he may regard any salesman, representative, peddler, canvasser, or agent of any dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains tangible personal property for sale, rental, lease, or license as a retailer for the purposes of this Chapter, irrespective of whether he is making sales, rentals, leases, or licenses on his own behalf or on behalf of others. The Tax Collector may also regard such dealer, distributor, supervisor, or employer as a retailer for the purposes of this Chapter.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-100.4 Out-of-City/Out-of-State Sales: Sales to Native Americans.

Sales to Native Americans or tribal councils by vendors located within the City shall be deemed sales within the City, unless all of the following conditions exist:

(1) The vendor has properly accounted for such sales, in a manner similar to the recordkeeping requirements for out-of-City sales; and,

(2) All of the following elements of the sale exist:

(a) solicitation and placement of the order occurs on the reservation; and

(b) delivery is made to the reservation; and

(c) payment originates from the reservation.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-100.5 Remediation Contracting

The following activities are considered remediation contracting and are exempt:

(l) excavation, transportation, treatment, and/or disposal of contaminated soil for purposes of site remediation (rather than characterization);

(2) installation of groundwater extraction and/or injection wells for purposes of groundwater remediation;

(3) installation of pumps and piping into groundwater extraction wells for remediation purposes;

(4) installation of vapor extraction wells for the purpose of soil or groundwater remediation;

(5) construction of remediation systems, such as groundwater treatment plants, vapor extraction systems, or air injection systems;

(6) connection of remediation systems to utilities;

(7) abandonment of groundwater or vapor extraction wells;

(8) removal/demolition of remediation systems;

(9) capping/closure construction activities; and

(10) service or handling charges for subcontracted remediation contracting activities.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-115.1 Computer hardware, software, and data services.
(a) Definitions.

(1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, network.

(2) "Computer Software" (also called "computer program") is tangible personal property, and includes:

(A) "Operating Program (Software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.

(B) "Applied Program (Software)", which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.

(3) "Storage Medium" is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.

(4) A "Terminal Arrangement" (also called "'on-line' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.

(5) A "Computer Services Agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

(b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:

(1) Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.

(2) Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:

(A) the entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.

(B) the entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.

(C) license fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.

(D) the entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.

(E) any charge for the purchase of a maintenance contract which entitles the customcr to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:

(i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(ii) if such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.

(iii) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

(c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:

(1) statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.

(2) additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same

program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.

(d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.

(e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 12-100.2(e):

(1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.

(A) Custom computer programming is deemed a professional service regardless of the form in which the programming is transferred.

(B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.

(C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.

(2) Training services related to computer hardware or software, provided further that:

(A) the provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.

(B) training deemed a direct customer service does not include:

(i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.

(ii) training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.

(3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).

(4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.

(f) The purchase, rental, lease, or license for use of computer hardware, storage media, or computer software which is not deemed custom programming is deemed the use or storage of tangible personal property for the purpose of this Chapter, and the amount which may be subject to Use Tax shall be determined in the same manner as the determination of the gross income from the sale, rental, lease, or license for use of such.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-120.1 Reserved.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-200.1 When deposits are includable in gross income.
(a) Refundable deposits shall be includable as gross income of the taxpayer for the month in which the deposits are forfeited by the lessee.

(b) Nonrefundable deposits for cleaning, keys, pet fees, maintenance. or for any other purpose are deemed gross income upon receipt.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-250.1 Excess tax collected.

If a taxpayer collects taxes in excess of the combined tax rate from any customer in any transaction, all such excess tax shall be paid to the taxing jurisdictions in proportion to their effective rates. The right of the taxpayer to charge his customer for his own liability for tax does not allow the taxpayer fo enrich himself at the cost of his customers. Tax paid on an activity that is not subject to tax or that qualifies for an exemption, deduction, exclusion or credit is not excess tax collected.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-270.1 Proprietary activities of municipalities are not considered activities of a governmental entity.

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 12-270:

(a) rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.

(b) producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

(c) sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-270.2 Proprietary clubs.

(a) Equity requirements. In order to qualify for exclusion under Section 12-270, a proprietary club must actually be owned by the members. For the purposes of qualification, a club will be deemed to be member-owned if at least eighty-five percent (85%) of the equity of the total amount of club-owned property is owned by bona fide individual members whose membership is represented in the form of shares, certificates, bonds, or other indicia of capital interest. A corporation may he considered an individual owner provided that it owns a membership solely for the benefit of one or more of its employees and it is not engaged in any business activity connected with the operation of the club.

(b) Gross revenue requirements. In computing gross revenue for the computation of this fifteen percent (15%) rule of subsection l2-270(c)(1),

(1) the following shall be excluded:

(A) membership dues.

(B) membership fees which relate to the general admission to the club on a periodic (or perpetual) basis.

(C) assessments.

(D) special fund raising events, raffles, etc.

(E) donations, gifts, or bequests.

(F) gate receipts, admissions, and program advertising for not more than one tournament in any calendar year.

(2) the following must be included:

(A) green fees, court use fees, and similar charges for the actual use of a facility or part thereof.

(B) pro shop sales if the shop is owned by the club.

(C) golf cart rental if the carts are owned by the club.

(D) rentals, percentages, or commissions received for permitting the use of the premises or any portion thereof by a caterer, concessionaire, professional, or any

other person for sales, rental, leasing, licensing, catering, food or beverage service, or instruction.

(E) all receipts from food or beverage sales, room use or rental charge, corkage and catering charges, and similar receipts.

(F) locker and locker room fees and attendants charges if paid to the club.

(G) tournament entry fees other than entry fees for the one annual tournament exempt under subsection (b)(1)(F) above.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-300.1 Who must apply for a license.

(a) For the purposes of determining whether a license is required under Section 12-300, a person shall be deemed to be "engaged in or continuing in business" within the City, if he meets any of the following conditions:

(1) He is engaged in any activity subject to the City's Privilege Taxes as principal or broker.

(2) He has or maintains within the City directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this City under the authority of such person or if a corporation its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily or whether such person or subsidiary is authorized or licensed to do business in this State or this City.

(3) He is soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the City from customers, consumers, or users located within the City, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this City.

(4) He is regularly engaged in any activity subject to the City's Use Tax; provided, however, that individuals are not normally required to obtain a license because they acquire items outside the City for their own or their family's personal use and enjoyment.

(5) He is required to report and pay the tax upon Rental Occupancy imposed by Section 12-440.

(b) (Reserved)

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-300.2 Reserved

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Secs. R12-310.1 through R12-310.3 Reserved.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-350.1 Recordkeeping: income.

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this Chapter must show:

(a) the gross income of the taxpayer attributable to any activity occurring in whole or in part in the City.

(b) the gross income taxable under this Chapter, divided into categories as stated in the official City tax return.

(c) the gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.

(d) the gross income claimed to be exempt, and with respect to each activity or transaction so claimed:

(1) if the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:

(A) the City Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent city, if applicable, and state tax numbers of the city and state where the customer resides), and

(B) the name, business address, and business activity of the customer, and

(C) evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.

(2) if the transaction is claimed to be exempt for any other reason:

(A) the name, business address, and business activity of the customer, and

(B) evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by Regulation.

(e) with respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.

(f) with respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-350.2 Recordkeeping: expenditures.

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this Chapler are:

(a) the total price of all goods acquired for use or storage in the City.

(b) the date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the City.

(c) documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.

(d) the gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.

(e) as applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:

(1) all construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.

(2) disbursement of collected gratuities and related payroll information required of restaurants.

(3) franchise and license fee payments and computations thereto which relate to:

(A) utility service

(B) telecommunication service.

(4) the validity of any claims of proof of exemption, as provided by Regulation.

(5) a claimed alternative prior value for reconstruction.

(6) all claimed exemptions to the Use Tax imposed by Article VI of this Chapter.

(7) costs used to compute the "computed charge" claimed for retail service and repair.

(8) payments of tax to the Arizona Department of Transportation and computations therefor, when a motor-vehicle transporter claims such the exemption.

(9) payments by tenants subjcct to thc tax upon Rental Occupancy imposed by Section 12-440.

(f) any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpaycr by reason of the specialized business activity of spccific exemptions afforded to that class of taxpayer.

(g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-350.3 Recordkeeping: out-of-City and out-of-State sales

(a) Out-of-City Sales. Any person engaging or continuing in a business who claims out-of-City sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-City branches or locations.

(b) Out-of-State sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:

(1) documentation of location of the buyer at the time of order placement; and

(2) shipping, delivery, or freight documents showing where the buyer took delivery; and

(3) documentation of intended location of use or storage of the tangible personal property sold to such buyer.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-360.1 Proof of exemption: sale for resale; sale, rental, lease, or licnese of rental equipment.

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a Privilege License number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold. rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for disallowance of any claimed deduction on returns filed for such transactions.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-360.2 Proof of exemption: exemption certificate.

For the purpose of proof of exemption, in transactions other than those in which the proof is set by standard documentation as detailed in Regulations 12-350.1 and 12-360.1, the minimum acceptable proof and documentation for each transaction shall be the completion, at the time of the transaction, in all material respects, of a certificate containing all the information set forth below. For the purpose of validating the vendor's claim of exemption, such certificate is sufficient if executed by any person with apparent authority to act for the customer, and the information provided validates the claim.

INVALID UNLESS COMPLETED IN FULL

VENDOR'S NAME _____ Sales Invoice No. _____

Customer's Exemption Claim
City of Peoria Privilege License (Sales) Tax

Customer's Business Name: _____
Customer's Business Address: _____

Specific Business Activity: _____
(e.g., if retailer, lessor, _____
or manufacturer, specify items _____
leased, sold or made, i.e., cars,
computers, clothes, etc.)

Customer's License Nos. _____ City: _____ State: _____

ITEMS CLAIMED AS EXEMPT FROM TAX
_____: All Items on This Invoice or Purchase Order.
Or
_____: Only Those Items Marked With an "E".

REASON FOR CLAIMED EXEMPTION:
_____: The items claimed as exempt are sold, rented, leased, or licensed by the above named customer in the normal course of its business activity.
Or
_____: The items claimed as exempt are exempt fro the City of Poeira Privilege Tax for the following specific reason(s):

_____
_____

CUSTOMER'S CERTIFICATE
I certify that the above information is accurate to the best of my information and belief, and that I am authorized by the Customer above to acquire the items claimed as exempt on a tax-free basis on its behalf. I further understand that the making of a false or fraudulent claim to obtain a tax ecemption is a Class One Misdemeanor under City Code Section 12-580.

_____ _____
Name Date

_____
Title

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-405.1 Local advertising examples.

For the purposes of illustration only, and not by way of limitation, the following are provided as examples of local advertising subject to the tax:

(1) retail sales and rental establishments doing business within the State when only one commonly designated business entity is identified by name in the advertisement.

(2) financial institutions doing business within the State whether part of a national chain or local business only.

(3) sales of real estate located within the State.

(4) health care facilities located within the State.

(5) hotels, motels, and apartments, whether a national chain or local so long as the advertisement identifies any location within the State.

(6) brokers doing business within the State whether stockbrokers, real estate brokers, insurance brokers, etc.

(7) nonprofit organizations, which even though tax exempt, have an office, whether national, local, or branch, within the State.

(8) political activity, except United States Presidential and Vice Presidential candidates.

(9) restaurants or food service establishments which have one or more branches, outlets, or franchises within the State even though the local franchisee or licensee may not be responsible for the placement of the advertisement.

(10) services provided by individuals or entities within the State such as doctors, lawyers, architects, hairdressers, auto repair shops, counseling services, utilities, contractors, auction houses, etc.

(11) coupons redeemable only at a single commonly designated business entity within the State.

(12) theater, sports, and otber entertainment events held at locations within the State.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-405.2 Advertising activity within the City.

(a) In General. Except as provided elsewhere in this Regulation, a person engaged in advertising activity shall be considered to be doing business entirely within the City if all or a major portion of the dissemination facilities such as broadcasting studios, printing plants. or distribution centers arc located within the Cily limits. Remote studios patched to an in-City

studio and subject to engineering modulation or control at the in-City studio are considered studios doing business in the City.

(b) Billboards and other outdoor advertising companies shall be considered to be doing business within the City to the extent they have billboards or similar displays within the City.

(c) Publishers and distributors of newspaper and other periodicals shall be subject to the tax upon advertising imposed by Section 12-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 12-435.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-415.1 Distinction between the categories of construction contracting.

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

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

(1) an "Owner-Builder" when the work is performed by the owner or lessor or lessee-in-possession. An "owner-builder" may also be a "speculative builder".

(2) a "Construction Contractor" when performing work for the owner or lessor or lessee-in-possession of the real property, unless that person has provided a written declaration stating that:

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

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

(C) the owner-builder has provided the contractor his City Privilege License number.

(3) a "Subcontractor" as provided in Section 12-415 (c).

(b) An owner or lessor ("owner-builder") of improved real property is one of the following:

(1) a "Speculative Builder" as provided in Section 12-100; or

(2) an "owner-builder who is not a speculative builder" in all other cases.

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

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-415.2 Distinction between construction contracting and certain related activities.

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) Rental of pumps or cranes is rental of tangible personal property, whether or not an operator is provided with the equipment rented.

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

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

(2) Items attached or installed on tangible personal property are retail sales.

(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscaping maintenance).

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

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

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

(1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to

real property" must include more than connection to water, power, gas, communication, or other service.

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

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

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

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-415.3 Construction contracting; tax rate effective date.

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

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

C For purposes of this section, "enactment date" shall be:

(1) in the event an election is held, the date of election.

(2) in lhe event no election is held, the date of final adoption by the mayor and council.

(3) notwithstanding the above, nothing in this section shall be construed to prevent the city from establishing a later enactment date.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-416.1 Speculative builders: homeowner’s bona fide non-business sale of a family residence.

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

(1) the property was actually used as the principal place of family residence or vacation residence by the immediate family of the seller for the six (6) months next prior to the offer for sale; and

(2) the seller has not sold more than two (2) such residences (or, if the residence is a vacation residence, two (2) such vacation residences) within the thirty-six (36) months immediately prior to the offer for sale; and

(3) the seller has not licensed, leased, or rented the sold premises for any period within twenty-four (24) months prior to the offer for sale.

(b) In the event that a homeowner of a family residence contracts with a licensed construction contractor for improvements to a residence, the construction contracting on a family residence shall be presumed to be for an owner's bona fide non-business purpose and all construction contractors shall be required to report and pay the tax imposed on all such improvements.

(c) Purchases by a homeowner of tangible personal property for inclusion in any construction, alteration, or repair of his residence shall be subject to tax as retail sales to the ultimate consumer.

(d) "Owner" and "Homeowner" as used in this Regulation shall only mean an individual. and no other entity, association, or representative shall qualify; except that an administrator, executor, personal representative, or guardian in guardianship or probate proceedings, for the estate of a deceased or incompetent person or a minor, may claim "homeowner" status for such person if such person would have otherwise qualified with respect to the specific property involved.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-416.2 Reconstruction contracting

(a) "Reconstruction (of Real Property)" shall mean the subdividing of real property and, in addition, all construction contracting activities performed upon said real property; provided, however, that each of the following conditions are met:

(1) a structure existed on said real property prior to the reconstruction activity; and

(2) the "prior value" of said structure exceeds fifteen percent (15%) of the "prior value" of the integrated property (land, improvements, and structure); and

(3) the total cost of all construction contracting activities performed on said real property in the twenty-four (24) month period prior to the sale of any part of the real property exceeds fifteen percent (15%) of the "prior value" of the real property; and

(4) tbe structure which existed on the real property prior to tbe reconstruction activity still exists in some form upon the property, and is included, in whole or in part, in the property sold.

(b) Except as provided in subsection (c) below, "prior value" means the value of the total integrated property, with improvements, as existing immediately prior to any reconstruction activity. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary tax purposes is intended to represent the property's fair market value, "prior value" shall be the property's full cash value for secondary property tax purposes as detennined by the County Assessor in the year immediately preceding the year in which the reconstruction improvement(s) are or could have been included in the County Assessor's valuation. If the County Assessor's valuation is contested or appealed, the final determination at either the administrative Or judicial level shall apply. Where, according to Title 42 of the Arizona Revised Statutes, a property's full cash value for secondary property tax purposes is not intended to represent the property's fair market value, "prior value" shall be the property's fair market value prior to the reconstruction improvement(s).

(c) "Alternative Prior Value" shall mean that as an alternative to the "prior value" defined above, the taxpayer may use his actual cost of the reconstructed property prior to reconstruction, provided that evidence of such cost is presented to the Tax Collector and is determined by the Tax Collector, in his sole discretion, to be satisfactory. Such evidence shall consist, at a minimum, of proof of the actual, arms-length acquisition price, accompanied by a full appraisal of all property involved which appraisal shall have been performed by a real estate broker or MAI appraiser specifically for the purpose of assisting in the acquisition and further shall have been performed on behalf of the seller or a lending institution which has lent at least sixty-five percent (65%) of the acquisition price. (Only long term lending - not interim or construction financing will be considered.) This alternative value shall be used only if the property was acquired by the reconstruction taxpayer not more than thirty-six (36) months prior to a "sale" as defined below.

(d) A "sale" for the purpose of determining "alternative prior value" or "reconstruction" only shall be deemed to have occurred as of the date of the execution of a contract of sale or a deed (joint tenancy or warranty) whichever is earlier, to a purchaser or grantee of any single residential or other occupancy unit. In addition to the foregoing, a lease with option to purchase a single residential unit shall be considered a "sale" at the date of execution of such lease if said option is exercisable by the lessee in not later than nine (9) months. Further in the case of cooperative apartments, the sale date shall be the date of execution of the contract selling (subject or not to encumbrances, liens or security interests) of a share, or a sufficient number of shares which entitle the purchaser to the occupancy of a residential unit. In all cases a person shall include a husband and wife as a community, or any co-occupants of a single unit as joint tenants.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-425.1 Distinction between job printing and certain related activities.

(a) Computerized Printing. Computerized versions of all items which would be taxable under Section 12-425 if performed without computerized assistance are considered taxable under that Section, and therefore, are not exempt services.

(b) Book publishing. The printing of books shall be deemed job printing. Sales of books shall be deemed retail sales.

(c) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-435.1 Distinction between publishing of periodicals and certain related activities.

(a) Book publishing shall not be considered publication of newspapers, magazines, or other periodicals for purposes of this Chapter. Sales of books shall be deemed retail sales. The printing of books shall be deemed job printing.

(b) Publication of newspapers, magazines, or other periodicals shall not be considered job printing for the purposes of this Chapter.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-435.2 Advertising income of publishers and distributors of newspapers and other periodicals.

Publishers and distributors of newspapers and other periodicals shall be subject to the tax upon advertising imposed by Section 12-405 and such tax shall be allocated in the manner prescribed by subsection (e) of Section 12-435.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-445.1 Reserved
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-445.3 Rental, leasing, and licensing of real property as lodging: room and board; furnished lodging.

(a) Room and board.

(1) Rooming houses, lodges, or other establishments providing both lodging and meals, shall maintain a record of the separate charges made for the lodging and the meals.

(2) The charge for lodging shall be subject to the tax imposed by Section 12-444 or Section 12-445. The charge for meals is subject to the tax upon restaurants and bars prescribed by Section 12-455.

(b) Furnished lodging. A person who provides lodging with furnishings shall be deemed to be only in the business of rental, leasing, and licensing of lodging, and not in the business of rental, leasing, and licensing of such furnishings as tangible personal property, unless:

(1) Any tenant of any lodging space may choose to rent, lease, or license such lodging space either furnished or unfurnished; and

(2) The lessor separately charges tenants for lodging and for furnishings; and

(3) The lessor separately maintains his gross income from lodging and from furnishings separately in his accounting books and records.

If all of the above conditions are met, such person shall report both sources of income separately to the City.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-450.1 Distinction between rental, leasing, and licensing for use of tangible personal property and certain related activities.

(a) Certain rentals, leases, and licenses for use in connection with construction contracting. Rental, leasing, or licensing of earthmoving equipment with an operator shall be deemed construction contracting activity. Rental, leasing, or licensing of any other tangible personal property (with or without an operator) or of earthmoving equipment without an operator shall be deemed rental, leasing, or licensing of tangible personal property. For example:

(1) Rental of a backhoe, bulldozer, or similar earthmoving equipment with operator is construction contracting. Rental of these items without an operator is rental of tangible personal property.

(2) Rental of scaffolding, temporary fences, or barricades is rental of tangible personal property.

(3) Rental of pumps or cranes is rental of tangible personal property, regardless of whether or not an operator is included with the equipment rented.

(b) Distinction between equipment rental, leasing, or licensing for use and transporting for hire. The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is considered rental, leasing, or licensing of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-450.2 Rental, leasing, and licensing for use of tangible personal property: membership fees; other charges.

(a) Membership, admission, or other fees charged by any rental club or limited access lessor are considered part of taxable gross income.

(b) Gross income from rental, leasing, or licensing for use of tangible personal property must include all charges by the lessor to the lessee for repair, maintenance, or other service upon the tangible personal property rented, leased, or licensed.

(c) Sale of a warranty, maintenance, or service contract as a requirement of, or in conjunction with, a rental, leasing, or licensing contract is exempt.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-450.3 Rental, leasing, and licensing for use of equipment with operator.

In cases where the tangible personal property is rented, leased, or licensed with an operator provided by the lessor, the charge for the operator shall not be includable in the gross income from the rental, lease, or license of such tangible personal property if the charge for the operator and the charge for the use of the equipment are separately itemized to the lessee and separately maintained on the books and records of the lessor.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-450.4 Rental leasing, and licensing for use of tangible personal property: semi-permanently or permanently installed tangible personal property.

(a) The term "semi-permanently or permanently installed" means that the item of tangible personal property has and is expected to have at the time of installation a permanent location at the site installed, as under a long-term lease agreement, except that the person using or applying said property may eventually replace it because it has become worn out or has become obsolete or the person ceases to have the right to possession of said property.

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

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

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

(1) For example, use of a mobile crane, trencher, automobile, or other similar equipment shall be considered a rental, lease, or license transaction subject to taxation only by the city or town in which such business office of the lessor is based.

(2) Other similar examples include, but are not limited to: camping equipment, contracting equipment, chain saw, forklift, household items, invalid needs, janitorial

equipment, reducing equipment, furniture of portable design, trucks or trailers, tools, towbars, sump pumps, arc welders.

(e) A rental, lease, or license agreement which specifies that the item in question shall remain, under the terms of the agreement, located within the same city or town for more than one hundred eighty (180) consecutive days shall be sufficient evidence that such rented, leased, or licensed item is "permanently or serni-permanently installed" in said city or town, except when the item is mobile transportation equipment or one of the other types of portable equipment or property described in subsection (d) above.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-450.5 Rental, leasing, and licensing for use of tangible personal property: delivery, installation, repair, and maintenance charges.

(a) Delivery and installation charges in connection with the rental, leasing, and licensing of tangible personal property are exempt from the tax imposed by Section 12-450; provided that the provisions of Regulation 12-100.2 have been met.

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

(c) Separately stated charges for repair not included as part of a warranty, maintenance, or similar service contract relating to the rental, leasing, or licensing of tangible personal property arc exempt from the tax imposed by Section 12-450; however, such income is subject to the provisions of Sections 12-460 and 12-465. and the provisions of Regulation 12-465.1.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-455.1 Gratuities related to restaurant activity.

Gratuities charged by or collected by persons subject to Ihe tax imposed by Section 12-455 may be excluded from gross income if:

(1) such charge is separately stated upon the bill, invoice, etc. provided the customer, and such amounts are maintained separately in the books and records of the taxpayer; and

(2) such gratuities are distributed in total to employees of the taxpayer in addition to customary and regular wages.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.1 Distinction between retail sales and certain other transfers of tangible personal property.

(a) Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 12-460:

(1) tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 12-415 through 12-418.

(2) (Reserved)

(3) job printing, per Section 12-425.

(4) mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 12-430.

(5) publication of newspapers, magazines, and other periodicals, per Section 12-435.

(6) rental, leasing, and licensing of real or tangible personal property, per Sections 12-445 or 12-450.

(7) restaurants and bars, per Section 12-455.

(8) telecommunications services, per Section 12-470.

(9) utility services, per Section 12-480.

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

(1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.

(2) Items attached or installed on tangible personal property are retail sales.

(3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).

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

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

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

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

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

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

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

(4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.2 Retail Sales: trading stamp company transactions.

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

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

The rate of tax shall be the retail rate based upon the retail dollar value of the redeemed merchandise as expressed in the redemption dollar value per book of stamps or portion thereof. The tax imposition described herein is in lieu of any Privilege or Use Tax upon the business of issuing stamps, redeeming the same, or using or storing property redeemed.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.3 Retail sales: membership fees of retailers.

Membership, admission, or other fees charged by limited access retailers are considered part of taxable gross income of the business activity of selling tangible personal property.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.4 Retail sales: professional services.

(a) "Professional Services" refer to services rendered by such persons as doctors, lawyers, accountants, architects, etc. for their customers or clients where the services meet particular needs of a specific client and only apply in the factual context of the client and the

final product has no retail value in itself. For example, opinion letters, workpapers, reports, etc. are not in a form which would be subject to retail sales to customers. However, transfer of items in a form which would be subject to retail sales (e.g., artwork, forms, manuals, etc.) would not be considered professional services. The issue is one of fact which must be resolved in each situation.

(b) Creative ("idea") labor and design labor that do not result in tangible personal property that will be or can be sold are deemed professional services and, if charged separately and maintained separately in the taxpayer's books and records, are not includable in gross income.

(c) "Professional services" shall be deemed to include those items of tangible personal property which are incidental to the services rendered, provided such tangible personal property is "inconsequential."

(1) Incidental transfers of tangible personal property shall be regarded as "inconsequential" if,

(A) the purchase price of the tangible personal property to the person rendering the professional services represents less than fifteen percent (15%) of the charge, billing, or statement rendered to the purchaser in connection with the transaction, and

(B) the tangible personal property transferred is not itself in a form which is subject to retail sale.

(2) In cases where the tangible personal property transferred is deemed inconsequential, the provider of the tangible personal property so transferred is deemed the ultimate consumer of such tangible personal property, and subject to all applicable taxes imposed by this Chapter upon such transfer.

(d) Examples:

(1) The transfer of paper embodying the result or work product of the services rendered by an attorney or certified public accountant is regarded as inconsequential to the charges for professional services.

(2) An appraisal report issued by an appraiser, reflecting such appraiser's efforts to appraise real estate, is regarded inconsequential.

(3) Use of a hair care product on a client's hair by a barber or beautician in connection with performing professional services is usually inconsequential. On the other hand, if the barber or beautician supplies the customer with a bottle of the product for the client's use thereafter and without the professional's assistance, the transfer of the bottle of hair care product is deemed not inconsequential.

(4) If a mortician properly segregates his professional services from other taxable activities on his bill (invoice, contract), his gross income would include only the income derived from the sale of tangible personal property (casket, cards, flowers, etc.) and rental, leasing, or licensing of real and tangible personal property. His charges for professional services (embalming, cosmetic work, etc.) would not be includable in gross income.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.5 Retail sales: monetized bullion; numismatic value of coins.

(a) "Monetized Bullion" means coins or other forms of money manufactured or minted from precious metals or other metals and issued as legal tender or a medium of exchange by or for any government authorized to do so.

(b) Any coin shall be considered to have been transferred or acquired primarily for its "Numismatic value" if the sale or acquisition price:

(1) is equal to or greater than twice (2 times) the value of the metallic content of the coin as of the date of transfer or acquisition; and

(2) is equal to or greater than twice (2 times) its face value, in the case of a coin which, at the time of transfer or acquisition, was legal tender or a medium of exchange of the government issuing or authorizing its issuance.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-460.6 Retail sales: consignment sales.

Sales of merchandise acquired on consignment are taxable as retail sales. In cases where the merchant is acting as an agent on behalf of another dealer, sales of the consigned merchandise are taxable to the principal, provided the merchant makes full disclosure to customers that he is acting only as an agent for the named principal. However, when the principal is not deemed to be a dealer, such sales are considered to be those of the merchant and are taxable to him.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-465.1 Retail sales: repair services

(a) Fair market value of parts and labor charges. The Tax Collector may examine the reporting of all transactions covered by this Section to determine if an "arms-length" price is charged for the parts and materials. The applicable tax may not be avoided by pricing a part, which ordinarily sells to the customer at $10, at $5 and including the difference as "service" or "labor". In the absence of satisfactory evidence supplied by the taxpayer as to industry or business practice, the Tax Collector may use the cost of the part or materials to the taxpayer marked up by a reasonable profit, to estimate the gross income subject to tax.

(b) Notwithstanding Regulation 12-350.l(e),

(1) in the case where the taxpayer does not normally and regularly sell items of tangible personal property apart from a repair transaction, the taxpayer may determine the sale price of the tangible personal property transferred by means of a "computed charge". The "computed charge" shall be the sum of the cost of the item of tangible personal property transferred, plus a "reasonable markup." The "reasonable markup" shall be that amount needed to achieve a representative retail price for which such items of tangible personal property are normally sold at retail by comparable businesses within the State (not under circumstances involving the combination of such sale with the providing of repair services). The taxpayer shall have the initial responsibility of determining such reasonable markup, and providing to the Tax Collector, if requested, the basis for his determination.

(2) in the event that there is a disagreement between the Tax Collector and the taxpayer as to the proper determination of the "computed charges", the burden shall be upon the taxpayer to satisfy the Tax Collector, the Hearing Officer in the event of a hearing, or the court in any subsequent court action involving an assessment, of the validity of the taxpayer's method of determination of such "computed charges". The determination by the Tax Collector as to the proper "computed charge" shall be considered valid, and shall be sustained unless it is proven by the taxpayer that such determination is arbitrary and unreasonable.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-465.2 Retail sales: warranty, maintenance, and similar service contracts.

(a) Gross income from sales of warranty, maintenance, and service contracts is exempt from the tax imposed by Section 12-460.

(b) Transfers of tangible personal property in connection with a service, warranty, guaranty, or maintenance agreement between a vendor and a vendee shall be subject to tax under Section 12-460 only to the extent of gross income received from separately itemized charges made for the items of property transferred.

(c) The gross income derived from a maintenance insurance agreement, which agreement is entered into between the purchaser and any person other than the seller is not subject to tax imposed by Section 12-460. If the provider of the maintenance insurance agreement pays for tangible personal property on behalf of the insured in the performance of the agreement, such sales are subject to all applicable taxes imposed by this Chapter.

(d) Charges for tangible personal property provided under the terms of a warranty, maintenance, or service contract exempted under Section 12-465 are subject to tax as retail sales.

(e) However, gross income received by a dealer from a manufacturer for work performed under a manufacturer's warranty is not taxable under Section 12-460.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-465.3 Retail sales: sale of containers, paper products, and labels.

(a) The sale of a container or similar packaging material which contains personal property and which is transferred to the customer with the sale of the product is not taxable as a sale for resale. Examples of such nontaxable containers include but are not limited to:

(1) packaging materials sold to a manufacturer of video equipment for containment of the product during shipment.

(2) cellophane-type wrap sold to a meat department or butcher for containment of the individually wrapped or contained meat.

(3) bags used to contain loose fungible goods such as fruits, vegetables, and other products sold in bulk, where such bags or containers are used to contain and measure the amount purchased by the customer.

(4) shopping bags and similar merchandising bags sold to grocery stores, department stores or other retailers.

(5) gift wrappings and gift boxes sold to department stores or other retailers.

(b) Sales of non-returnable or disposable paper (and similar products such as plastic or styrofoam) cups, lids, plates, bags, napkins, straws, knives, forks and other similar food accessories to a restaurant or others taxable under Section 12-455 for transfer by the restaurant to its customer to contain or facilitate the consumption of the food, drink or condiment are sales for resale and not taxable.

(c) Where a retailer imposes a charge for gift wrapping and the charge includes the container, paper, and other appropriate materials, the wrapping charge shall be considered a sale.

(d) Charges for returnable containers, where the charges are imposed on the customer, are subject to tax at the time of the transaction. A credit may be taken for the amount of refund after such refund is made.

(e) The sale of labels to a purchaser who affixes them to a primary container is a sale for resale and not taxable. Directional or instructional material included with products sold are considered to be part of the product and a sale for resale. However, the sale of items such as price tags, shipping tags, and advertising matter delivered to the customer in connection with the retail sale is taxable to the retailer as a retail sale to it, and is not exempt as a sale for resale.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-465.4 Retail sales: aircraft acquired for use outside the State

"Aircraft acquired for use outside the State" means aircraft, navigational and communication instruments, and other accessories and related equipment sold to:

(a) Any foreign government for use by such government outside of this State.

(b) Persons who are not residents of this State and who will not use such property in this State other than in removing such property from this State. This subsection also applies to corporations that are not incorporated in this State, regardless of maintaining a place of business in this State, if the principal corporate office is located outside this State and the property will not be used in this State other than in removing the property from this State.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-470.1 Telecommunication services

(a) Gross income from the business activity of providing telecommunication services to consumers within this City shall not include:

(1) charges for installation, maintenance, and repair of telecommunication equipment which are subject to the provisions of Sections 12-415, 12-416, or 12-417 (construction contracting); 12-445 (real property rental); l2-450 (tangible personal property rental); or 12-460 (retail sales); depending upon the nature of the work performed.

(2) separately billed advertising charges which are subject to the provisions of Section 12-405 or 12-435.

(b) Mobile equipment. In cases where the customer is being provided telecommunication services to receiving/transmission equipment designed to be mobile in nature (for example, mobile telephones, portable hand-held two-way radios, paging devices, etc.), the provider shall, for the purposes of the tax imposed by this Section, determine whether such provider's customers are "within this City" as follows:

(1) by the billing address of the customer, provided that such address is a permanent residence or business location of the consumer within the State.

(2) in all other cases, the business location of the telecommunications provider.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-475.1 Distinction between transporting for hire and certain related activities.

The hiring of mobile equipment (cranes, airplanes, limousines, etc.) is deemed rental, leasing, or licensing for use of tangible personal property whenever the charge is for a fixed sum or hourly rate. By comparison, the activity of a common carrier conveying goods or persons for a fee based upon distance, and not time, shall be considered transporting for hire.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-520.1 Reports made to the City.

(a) Each taxpayer shall provide, as a minimum, all of the following when reporting taxes due as provided in this Chapter:

(1) legal business name of the taxpayer or his agent.

(2) mailing address of the taxpayer.

(3) City Privilege License number of the taxpayer.

(4) period of time for which the report is intended.

(5) for each category of income to which the taxpayer is subject, for the reporting period, as provided on the official City tax return:

(A) all amounts subject to, excluded from, exempt from, or deductible from the tax imposed upon that category of business activity, summarized in tolal as "gross receipts" of that category of business activity.

(B) the total amount claimed as excludable, exempted, or deducted from such "gross receipts", itemized as provided on the official City tax return, and summarized in total as "total deductions" for that category.

(C) the difference between such "gross receipts" and "total deductions" as "net taxable" for that category.

(D) the tax due and payable for that category.

(6) that total amount subject to Use Tax, summarized as "net taxable", and the Use Tax due and payable for that reporting period.

(7) any excess tax collected which is due and payable.

(8) any claimed tax credits against taxes due and payable.

(9) total amount remitted with the return.

(10) a statement verifying that the information provided on the return is accurate to the best of the preparer's knowledge. Such statement must be accompanied by a dated signature of the preparer, and also show the preparer's title or relationship to the taxpayer.

(11) The Tax Collector may prescribe and will notify taxpayers of alternative methods for signing, subscribing or verifying any report or statement required to be filed, including but not limited to electronic signatures and/or security codes, and such methods shall have the same validity and consequence as the actual signature or written declaration of the taxpayer or other person required to sign, subscribe or verify the return, statement or other document.

(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-520.2 Change of method of reporting.

(a) Any taxpayer electing to change his reporting method shall be permitted to do so only upon filing a written request to the Tax Collector and after receiving written approval of the Tax Collector. The approval shall state the effective date of the change.

(b) The Tax Collector may postpone such approval to allow for examination of the records of the taxpayer and may further require that all tax liability be satisfied up to the effective date of the change.

(c) Failure of the taxpayer to notify the Tax Collector and await approval before changing the method of reporting will subject the taxpayer to interest and penalties if his original method of reporting would produce higher taxes due the City. When a person makes such change without the consent of the Tax Collector, the Tax Collector may audit his books and records to verify the tax liability as of the date of the change.

(d) Any taxpayer who has failed to indicate a choice of reporting method upon the application for a Privilege License shall be deemed to have chosen the accrual method of reporting.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-555.1 Administrative Request for the attendance of witnesses or the production of documents; service thereof; remedies and penalties for failure to respond.

(a) If a taxpayer refuses or fails to comply in whole or in part with a request to provide records authorized by Section 12-555, the Tax Collector may issue his written Administrative Request which shall:

(1) designate the individual to provide information.

(2) describe specifically or generally the information to be provided, and any documents sought to be examined.

(3) state the date, time, and place in which the individual shall appear before the Tax Collector to provide the information and to produce the documents sought.

(4) be directed to:

(A) any director, officer, employee, agent, or representative of the person sought to be examined; or

(B) any independent accountant, accounting firm, bookkeeping or financial service retained or employed by such person for any purpose connected with business activity subject to taxation; or

(C) any other person who, in the opinion of the Tax Collector, has knowledge of facts bearing upon any tax liability of the person or taxpayer from whom information is sought.

(b) The failure of a taxpayer to comply with reasonable requests for records without good reason or cause may, in the exercise of judicial discretion by a court, be held to constitute a failure to exhaust administrative remedies.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

Sec. R12-571.1 Collection of tax in jeopardy.

Evidence that collection of tax due is in jeopardy shall include documentation that:

(a) the taxpayer is going out of business.

(b) the taxpayer has no City Privilege License or has no pennanent business location in the State.

(c) the taxpayer has failed to timely pay any tax (or penalties and interest thereon) due to the City on three (3) or more occasions within the previous thirty-six (36) calendar months.

(d) the taxpayer has remitted payment by check, which has been dishonored.

(e) the taxpayer has failed to comply with a formal written request of the Tax Collector made pursuant to Regulation 12-555.1.
(Ord. 2010-25, 9/7/2010, Reenacted) SUPP 2010-03

TABLE 20-53(a)

Repealed
(Ord. No. 99-98, 9/1/99, Amended) SUPP 1999-3
(Ord. No. 01-164, 10/2/01, Amended) SUPP 2001-3
(Ord. No. 04-09, 02/03/04, Amended) SUPP 2004-1
(Ord. No. 05-65, 11/15/05, Amended) SUPP 2005-4
(Ord. No. 07-43, 12/18/07, Amended Table (a)) SUPP 2007-4
(Ord. No. 2011-28, 12/06/2011, Repealed Table 20-53(a)) SUPP 2011-4

TABLE 20-53(b)

DEVELOPMENT FEES PER EQUIVALENT DWELLING UNIT AND PER 1,000 SQUARE FEET FOR NON-RESIDENTIAL USES

FEES EFFECTIVE: January 1, 2012

North District Development Fees (North of Dynamite Rd and West of the Agua Fria River)							
Building Type	Libraries		Law Enforcement	Fire Protection		Transportation	
RESIDENTIAL Per Housing Unit							
Single Family Detached	$209		$452	$624		$8,160	
Single Family Attached	$209		$452	$624		$4,996	
Multi-Family	$144		$311	$429		$5,660	
Mobile Homes	$144		$311	$429		$4,256	
Other Residential Types	$144		$311	$429		$4,802	
Building Type	Neighbor-hood Parks	Community Parks					TOTAL
Single Family Detached	$1,281	$931					$11,657
Single Family Attached	$1,281	$931					$8,493
Multi-Family	$880	$640					$8,134
Mobile Homes	$880	$640					$6,660
Other Residential Types	$880	$640					$7,206
Non-Residential Per 1000 Square Foot							
			Law Enforcement	Fire Protection		Transportation	TOTAL
Commercial/Shopping Center	N/A	N/A	$434	$602		$18,490	$18,490
Office/Institution			$434	$602		$6,305	$7,341
Business Park	N/A	N/A	$434	$602		$12,206	$13,242
Light Industrial	N/A	N/A	$434	$602		$3,665	$4,701
Warehousing	N/A	N/A	$434	$602		$2,608	$3,644
Manufacturing	N/A	N/A	$434	$602		$2,010	$3,046

TABLE 20-53(b) continued

Central District Development Fees							
Building Type	Libraries		Law Enforcement	Fire Protection		Transportation	
Residential-Per Housing Unit							
Single Family Detached	$209		$452	$624		$5,304	
Single Family Attached	$209		$452	$624		$3,247	
Multi-Family	$144		$311	$429		$3,725	
Mobile Homes	$144		$311	$429		$2,766	
Other Residential Types	$144		$311	$429		$3,121	
Building Type	Neighbor-hood Parks	Community Parks					TOTAL
Residential-Per Housing Unit							
Single Family Detached	$1,281	$931					$8,801
Single Family Attached	$1,281	$931					$6,744
Multi-Family	$880	$640					$6,129
Mobile Homes	$880	$640					$5,138
Other Residential Types	$880	$640					$5,525
Non Residential Per 1,000 Square Foot							
			Law Enforcement	Fire Protection		Transportation	TOTAL
Commercial/Shopping Center	N/A	N/A	$434	$602		$12,019	$13,055
Office/Institution	N/A	N/A	$434	$602		$4,098	$5,134
Business Park	N/A	N/A	$434	$602		$7,934	$8,970
Light Industrial	N/A	N/A	$434	$602		$2,382	$3,418
Warehousing	N/A	N/A	$434	$602		$1,695	$2,731
Manufacturing	N/A	N/A	$434	$602		$1,307	$2,343

TABLE 20-53(b) continued

South District Development Fees							
Building Type	Libraries		Law Enforcement	Fire Protection		Transportation	
Residential-Per Housing Unit							
Single Family Detached	$209		$452	$624		$2,300	
Single Family Attached	$209		$452	$624		$1,409	
Multi-Family	$144		$311	$429		$1,615	
Mobile Homes	$144		$311	$429		$1,199	
Other Residential Types	$144		$311	$429		$1,353	
Building Type	Neighbor-hood Parks	Community Parks					TOTAL
Single Family Detached	$1,281	$931					$5,797
Single Family Attached	$1,281	$931					$4,906
Multi-Family	$880	$640					$4,019
Mobile Homes	$880	$640					$3,603
Other Residential Types	$880	$640					$3,757
Non Residential Per 1000 Square Foot							
			Law Enforcement	Fire Protection		Transportation	TOTAL
Commercial/Shopping Center	N/A	N/A	$434	$602		$5,218	$6,254
Office/Institution	N/A	N/A	$434	$602		$1,778	$2,814
Business Park	N/A	N/A	$434	$602		$3,443	$4,479
Light Industrial	N/A	N/A	$434	$602		$1,034	$2,070
Warehousing	N/A	N/A	$434	$602		$736	$1,772
Manufacturing	N/A	N/A	$434	$602		$567	$1,603

(Ord. No. 99-98, 9/1/99, Amended) SUPP 1999-3
(Ord. No. 01-164, 10/2/01, Amended) SUPP 2001-3
(Ord. No. 04-09, 02/03/04, Amended) SUPP 2004-1
(Ord. No. 05-65, 11/15/05, Amended) SUPP 2005-4
(Ord. No. 07-43, 12/18/07, Amended Table (b)) SUPP 2007-4
(Ord. No. 2011-28, 12/06/2012, Amended Table (b)) SUPP 2011-4

TABLE 20-53(c)

RESIDENTIAL IMPACT FEES

TIERRA DEL RIO

FEES EFFECTIVE: JANUAR 1, 2012

Tierra Del Rio						
Residential Impact Fees						
	SINGLE FAMILY RESIDENTIAL			**MULTI-FAMILY**		
	Fees	**Agreement Credit**	**TOTAL**	**Fee**	**Agreement Credit**	**TOTAL**
Library	$209	$172	$37	$144	$118	$26
Neighborhood Parks	$1,281	$0	$1,281	$880	$0	$880
Community Parks	$931	$0	$931	$640	$0	$640
Law	$452	$0	$452	$311	$0	$311
Fire	$624	$0	$624	$429	$0	$429
Transportation	$898	$898	$0	$622	$0	$622
TOTALS	**$4,395.00**	**$2,203.00**	**$2,192.00**	**$3,026.00**	**$118.00**	**$2,908.00**

(Ord. No. 08-28, 108/26/08, Enacted Table (c)) SUPP 2008-03
(Ord. No. 2011-28, 12/06/2012, Amended Table (c)) SUPP 2011-4

20-60
SECTION 20-62
REQUIREMENTS FOR SHIELDING AND FILTERING

FIXTURE LAMP STYLE	SHIELDED	FILTERED[4]
Low Pressure Sodium[1]	Partially	None
High Pressure Sodium	Partially	None
Metal Halide	Fully	Yes
Florescent	Partially[3]	Yes[5]
Quartz[2]	Partially	None
Incandescent Greater than 150W	Partially	None
Incandescent 150W or less	None	None
Fossil Fuel	None	None
Glass Tubes filled with Neon, Argon, Krypton	None	None
Other Lamp Types	As approved by the Community Development /Public Works Director	

Footnotes:

1. This is the preferred lamp type to minimize undesirable light into the night sky affecting astronomical observations.

2. For the purposes of this Chapter, quartz lamps shall not be considered an iridescent light source.

3. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.

4. Glass, acrylic, or translucent enclosures satisfy these filter requirements.

5. Warm White and Natural Lamps are preferred to minimize detrimental effects.

Ord. No. 98-114. 11/3/98, Enacted)

Chapter 22

SOLID WASTE[1]

[1]State law reference(s)--Solid waste generally, A.R.S. ∋ 49-701 et seq.; municipal authority relative thereto, A.R.S. ∋∋ 49-704, 49-741 et seq., 49-765; public dumps, A.R.S. ∋ 9-441 et seq.; municipal utilities generally, A.R.S. ∋ 9-511 et seq.

Cross reference(s)--Nuisances, Ch. 17; lot clearing, ∋ 17-51 et seq.; litter in parks, ∋ 18-66; water, sewers and sewage disposal, Ch. 25.

CHAPTER 22 - SOLID WASTE

PEORIA CITY CODE
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CHAPTER 22 - SOLID WASTE

Sec. 22-1. Solid waste; definitions.

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

Assessment means the fee imposed for recovery of garbage collection costs incurred for benefiting particular property which is levied pursuant to this chapter.

Brush means leaves, twigs, grass, and weed cuttings and tree limbs and shrubbery clippings not exceeding three (3) feet in length.

Bulk rubbish means materials that cannot be placed in refuse containers and are not readily containable due to size or shape and cannot be picked up by regularly used collection vehicles. ``Bulk rubbish" includes major appliances, furniture, building materials, tree limbs, and non-contained piles of trash.

City-owned container means those containers supplied to residential or commercial refuse generators by the city whether or not the cost of the container was paid for by a person other than the city.

Collection employee means any individual employed by the city for the purpose of effectuating the provisions of this chapter.

Commercial solid waste generator means any person in charge of owning, leasing, renting or occupying any business, industrial or commercial building other than a mobile home park, single-family and multifamily dwelling unit, including a store, office or factory, who generates refuse, solid waste or recyclables which refuse is picked up by the city or licensed solid waste collector in large rectangular metal containers having a capacity of not less than three hundred (300) gallons each and which is of a waste stream not characterized as residential in nature.

Construction waste means materials from construction, remodeling, construction site preparation, including but not limited to rocks, trees, debris, dirt, brick, fill, plaster, and all types of scrap building materials.

Containable rubbish means all putrescible and nonputrescible solid wastes including, but not limited to wrapped garbage, wrapped small dead animals, wrapped or boxed ashes, wastepaper, excelsior rags, bottles, crockery, bedding, clothing, carpets, leather, tin cans, metal scraps, small mechanical parts, shavings, floor sweeping, brush and other similar waste or debris.

Filth means manure, excrement or any similar substance.

Garbage means putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Hazardous waste means any chemical, compound, mixture, substance, product or other material which is a hazardous waste pursuant to Arizona Revised Statutes, Title 49, Chapter 4, Article 2 and 40 C.F.R. Part 261 and poly-chlorinated biphenyls (PCB'S).

Licensed solid waste collector means any person, firm or entity holding a license issued by the City of Peoria that permits the licensed solid waste collector to operate within the city for the purpose of providing solid waste collection services to commercial solid waste generators.

Lien means a charge which attaches in favor the city to real property benefitted by the collection of any brush, trash, bulk rubbish, containable rubbish, filth, construction waste, or refuse; and which also attaches to any other real or personal property of a person or any refuse generator, owning or in charge of benefitted property to secure the payment of unpaid monthly collection costs.

Medical waste means any solid waste that is generated in the diagnosis, treatment, or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals, but not including hazardous waste as defined in Title 49, Chapter 4, Article 2, Arizona Revised Statutes.

Notice means a written instrument served by the city in one (1) of the following manners, with time commencing from date of mailing, serving, filing or recording:

(1) By the use of ordinary mail to the last known address of the person to whom it is required to be given.

(2) By personal service upon the person or his lawful representative.

(3) By filing or recording with the clerk of the superior court or county recorder.

Open area means any park, street, gutter, sidewalk, sewer, boulevard, alley greenbelt, square, vacant lot, space, ground or other area where refuse material may accumulate.

Prohibited substance means any of the following:

(1) Any liquid, solid, or gas with an ignition temperature or flash point of less than two hundred (200) degrees Fahrenheit, including gasoline, benzine, naphtha, alcohol or other flammable substances or explosive.

(2) Any material having a Ph lower than five and one-half (5 1/2) or higher than nine (9) or having any other corrosive property that could be injurious or hazardous to city collection employees or which could cause damage to equipment.

(3) Any noxious or malodorous substance offensive to the senses and depriving a

neighborhood or a considerable number of persons of the comfortable enjoyment of life or property.

(4) Construction waste.

(5) Tree limbs and shrubbery clippings over three (3) feet in length and greater than three and one-half (3 1/2) inches in diameter.

Recyclables: means any solid waste including, but not limited to, metals, plastics, glass or paper products that have been separated from other solid waste for the purpose of being collected and recycled under the city; licensed solid waste contractor their agents, grantees or assigns recycling programs:

Residential noncommercial solid waste generator means any person generating refuse other than a commercial refuse generator.

Solid waste means any garbage, trash and other materials or products including putrescible and nonputrescible wastes, organic and inorganic wastes, combustible and non-combustible wastes and liquid non-hazardous waste, but not including hazardous waste or human body parts.

Solid waste collection services means the collection and disposal, including the cost of landfills, and other disposal technology required to dispose of solid waste and the collection, sorting, sale and disposal of recyclable materials.

Standard refuse containers means a nonabsorbent enclosed receptacle of standard manufacture, which meets city specifications that are compatible to city's collection equipment.

Trash means rubbish, waste, debris, refuse and all other nonputrescible wastes.

Vehicle parts means automobile bodies, chassis, engines, transmissions or any large component of a vehicle, including but not limited to abandoned, wrecked or junk vehicles.

Vicious animal means any animal of a vicious species or an animal of a domesticated species, including cats and dogs, which without provocation is prone to attack persons.

Cross reference(s) -- Definitions and rules of construction generally, э 1-2.
(Code 1977, э 10-1-1)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-2. Hauling solid waste.

It shall be in violation of this chapter for any person to haul, or cause to be hauled, on or

along any public street, right of way or alley in the city any solid waste or recyclables unless such materials shall be so contained in vehicles or receptacles so constructed or covered so as to prevent the contents from falling, leaking or spilling and to prevent any obnoxious odor escaping therefrom. Solid waste that could blow or fall from a vehicle shall be transported in an enclosed vehicle or be completely covered. All vehicles engaged in the business of collecting, transporting or disposing of solid waste shall be subject to the approval and the Maricopa County Environmental Services Department. Any person hauling solid waste or recyclables shall immediately and safely pick up any of the contents that may fall from the vehicle used to haul the solid waste or recyclables. To protect the public health and welfare and to prevent a public nuisance, the city manager or his designee may designate streets in which haulage of specified obnoxious materials are prohibited.
(Code 1977, э 10-3-1)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-3. Spilled refuse.

Any person hauling any refuse along the streets of the city shall immediately replace in the conveyance used for such hauling any refuse which falls upon any street.
(Code 1977, э 10-3-3)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-4. Dumping refuse.

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the city, except as specifically permitted in this chapter.
(Code 1977, э 10-3-4)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-5. Use of another's containers.

It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that they have not subscribed to receive service for from the city or a licensed solid waste contractor pursuant to this code or are authorized to use as a tenant in a facility receiving solid waste disposal services.
(Code 1977, э 10-2-4)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-6. Unobstructed passage in streets and alleys.

(a) it is the responsibility of the owner or legal occupant of the property to trim trees or shrubbery on their property and in the adjacent right-of way when such vegetation interferes with the

movement of solid waste collection vehicles. Upon a violation of this section, an inspector designated by the city manager shall issue a notice of violation to the responsible party to trim or remove the vegetation. Failure to do so within ten (10) days after the notice is issued may result in a complaint being filed by the city attorney and the city may remove the vegetation at the owner's expense in the manner provided for removal of trash and rubbish under this code.

(b) It shall be unlawful to park a vehicle or have other obstructions within fifteen (15) feet of a solid waste or recycling contained placed out for collection service or to obstruct access to any residential or commercial collection bin. Violations of this subsection are deemed a civil traffic violation.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-7. Responsibility for solid waste and recyclables.

(a) the owner and occupants of any non commercial and commercial establishments shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the city, licensed solid waste contractors, their agents and assigns. The owner and occupants of commercial solid waste generators shall be responsible for their solid waste or recyclables and shall comply with all provisions of any solid waste license and this chapter until the solid waste is picked up by the city or a licensed solid waste contractor.

(b) The owner and occupant of any parcel, property or premises within the city shall be responsible for the proper storage, containment and placement for collection of all solid waste and recyclables. It shall be unlawful to place, deposit or allow to be placed or deposited on any premises, private or public property any solid waste or recyclables, except in facilities designated by the city.

(c) The owner and occupant of any parcel, property or premises within the city shall prior to the placement of any container for the collection of recyclables obtain a permit from the city. The city shall collect a fee for each permit for each container to collect recyclables. The applicant for a permit shall complete an application on a form prescribed by the city and containing, but not limited to the name, business address and telephone number of the person owning the container and a diagram indicating the location of the container and means of access to the container. The city may deny permits for containers located within the public right of way, or where access to the container is not sufficient or where the location is not consistent and compatible with other adjacent land uses.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-8. Reserved.

Sec. 22-9. Disturbing contents of container.

It shall be unlawful for:

(a) any person not authorized by the city to utilize for other than its intended purpose the lid from any solid waste or recycling container.

(b) Any person not authorized by the responsible party to remove, collect or disturb the solid waste and recyclables stored in such containers or to remove from a solid waste or recycling container any solid waste or recyclables (i) set out for recycling or collection and disposal by the city, licensed solid waste contractors, their agents or assigns or (ii) deposited at a city recycling drop off center. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.

(c) Any person to scatter solid waste or recyclables upon any private or public property.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-10. Inspection of containers; condemnation and removal.

(a) The Public Works Department, Sanitation Division, shall inspect not less than annually all containers used for the proper containment of solid waste and recyclables generated by commercial solid waste generators. If the container fails to meet the standards of this chapter, a notice of violation shall be issued by the city manager or his designee, to the responsible party of the property upon which the violation occurs. Notification consists of tagging the container with a violation notice or delivering a notice in person or by first class united states mail to the responsible party. The city shall have the right to enter upon commercial, industrial and institutional establishments for inspection purposes.

(b) All non-city solid waste and recycling containers that are in excess of three (3) cubic yards or accessible to the general public shall be identifiable by indicating the responsible party's name, address and telephone number on the container and shall meet all city zoning and permit requirements. The container identification must be readable from a minimum of ten feet.

(c) If a violation of this section presents a serious health or safety hazard in the judgment of the city, the city manager or his designee, taking into consideration potential harm that may result based on the nature of the health or safety hazard, may remove the solid waste or recycling container and dispose of it at the responsible party's expense as specified in this chapter. If an imminent health or safety hazard exists that dictates immediate removal, the city manager or his designee shall have the right to remove the solid waste or recycling container at the responsible party's expense as specified in this chapter.
(Ord. No. 96-30, 6/4/96, Enacted)

(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2

Sec. 22-11. Licenses; non-exclusive; term; indemnity; audit and inspection

(a) it is the policy of the City of Peoria to encourage competition in the provision of solid waste collection services to commercial development.

(b) No license granted by the City of Peoria for the operation of solid waste collection services to commercial development may be an exclusive license or promise in all or any part of the city that there will be no competition.

(c) No license shall be granted by the city for a term greater than ten (10) years.

(d) Any license granted for the operation of solid waste services to commercial development shall provide as a condition of granting the license, that the licensee agree to indemnify the city and hold the city harmless from any loss, harm, claim, cost or liability of any kind arising out of any operation of the licensee. The licensee shall agree to reimburse the city for all costs including litigation costs and attorney fees in connection with any such claim or liability .

(e) At all reasonable times, the licensed solid waste contractor shall permit any duly authorized representative of the city to examine all property of the licensed solid waste contractor, together with any appurtenant property of the licensed solid waste contractor situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the licensed solid waste contractor or under its control which relate to license compliance and deal with the operations, affairs, transactions or property of the licensed solid waste contractor.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-12. License; issuance.

(a) Definitions. The following terms shall have the meanings set forth in this section.

(1) Licensed solid waste contractor means any person or firm or corporation receiving the grant of a license under this chapter to provide solid waste collection services and shall include any lawful successor to the interest of such person, firm or corporation.

(2) license means any authorization granted under this chapter to a person or entity to provide solid waste collection services to commercial solid waste generators.

(3) License area means the incorporated area consisting of the City of Peoria, which licensed solid waste contractor is authorized to operate and any subsequent annexations thereto.

(b) All applications for a license to provide solid waste collection services to commercial generators shall be filed with the city clerk and each such application shall contain the following:

(1) the name, address and telephone number of the applicant.

(2) A detailed statement of the corporate or other business entity organization of the applicant.

(3) The names and business addresses of all officers, directors and partners of the applicant.

(4) The names and business addresses of all persons and entities having controlling or being entitled to have or control five percent or more of the ownership of the applicant and the respective ownership share of each such person or entity.

(5) The names and addresses of any parent or subsidiary of the applicant and of any other business entity owning or controlling in whole or in part or owned or controlled in whole or in part by the applicant and a statement describing the nature of any such parent of subsidiary business entity, including but not limited to all solid waste collection systems owned or controlled by the applicant, its parent or subsidiary and the areas served thereby.

(6) A detailed description of all previous experience of the applicant in providing solid waste collection service or related or similar services.

(7) A detailed and complete financial statement of the applicant prepared by a certified public accountant for the fiscal year preceding the date of the application hereunder.

(8) Evidence of financial responsibility consisting of the following:

(i) audited annual financial reports for the prior two years of applicant.

(ii) A performance bond or letter of credit in an amount not less than one hundred thousand dollars acceptable to the city attorney, guaranteeing the performance of applicant during the license period that the applicant will comply with all provisions of the license and providing that city may recover from applicant all costs incurred by the city in the event of non-performance by applicant of any of its obligations under a licensee or this chapter.

(9) A copy of the form of any agreement, undertaking or other instrument that is entered into between licensed solid waste contractor and user.

(10) Any other information deemed pertinent to the subject matter of such application and requested by the city manager or his designee.

(11) An application fee in the amount of five hundred dollars ($500.00), Which shall be in the form of cash, certified or cashier's check or money order to pay the cost of processing such application. The application fee is non-refundable.

(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-13. License, city council action.

(a) Upon receiving the application for a license for solid waste collection services to commercial generators, the city manager or his designee shall review the application. A copy of the report shall be filed with the city clerk and the matter placed on a city council agenda for action. A copy of the report and the date on which it will be before the city council shall be provided to the applicant. The city clerk shall cause notice of such application and hearing to be published once in the city's official newspaper, indicating the date, time and place of the meeting and that comments from the public on the application will be heard.

(b) The council shall receive the report of the city manager or his designee. If no comments are received from the public in advance of the hearing, the council may waive the public hearing and proceed to shall consider the report, the application and comments from the public, if any. The council shall determine whether the license shall be granted or denied and shall consider the following:

(1) Quality of service proposed.
(2) Experience, character and financial responsibility of the applicant and its management and owners.
(3) Willingness of the applicant to comply with requirements of this code and proposed license.
(4) All requirements imposed by this ordinance, Title 49, Arizona Revised Statutes and any other considerations deemed pertinent by the council.

(c) The decision of the council shall be deemed final and conclusive.

(d) If the council determines that the application shall be denied, the determination shall be by resolution. If the council shall determine that the application shall be granted, it shall instruct the office of the city attorney to draft the appropriate license which shall be executed by the applicant and approved by the city manager or his designee.

(e) The license shall not become effective until the licensed solid waste contractor has executed the license and the council approved the license application and the city manager or his designee has executed the license.

(f) Upon acceptance of the license by the applicant, the licensed solid waste contractor shall file and maintain in effect during the term of the license, a corporate surety bond, or some other

form of financial guarantee acceptable to the city attorney providing that in the event the licensed solid waste contractor fails to comply with one or more of the conditions of the license, there shall be recoverable by the city any damages or costs suffered or incurred by the city, including the full amount of costs and attorneys fees.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-14. License charge.

(a) In consideration of the granting and exercise of a license to use the streets and public rights of ways and to operate within the city to collect solid waste from commercial solid waste generators for their use and benefit, the licensed solid waste contractor shall pay to the city a license charge as set forth below on the date of issuance of the license and on each subsequent anniversary date of the issuance of the license.

License charges

YEAR	ANNUAL LICENSE CHARGE
July 1, 1996 - June 30, 1997	2,000.00
July 1, 1997 - June 30, 1998	3,000.00
July 1, 1998 - June 30, 1999	4,000.00
July 1, 1999 - June 30, 2000	5,000.00

(b) Commencing on July 1, 2000, the annual license charge shall be adjusted by the annual change in the Gross Domestic Price deflator as defined in A.R.S. ∋41-563.E.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-15. Prohibited practices.

(a) It shall be unlawful and a violation of a license for any licensed solid waste contractor holding a license for solid waste collection services to engage in any of the following practices:

(1) refusal by a licensed solid waste contractor to enter into a contract with a commercial waste generator for solid waste collection service that is located within the City of Peoria.

(2) Failure to comply with any provision of this chapter or of a license between the city and licensed solid waste contractor.

(3) Provision of solid waste collection services to commercial waste generators in the

City of Peoria without a license provided under the provisions of this chapter, and unless such license is in full force and effect.

(4) Failure to comply with any of the provisions of Title 49, Arizona Revised Statutes or Arizona Administrative Code, Title 18, Chapter 8 or any applicable county regulation.

(5) To contract, combine or conspire with one or more other licensed solid waste contractors under this chapter or persons for the purpose of restraining competition or limiting competition for the provision of solid waste collection services to commercial generators.

(6) To engage in predatory pricing practices in violation of the Arizona Uniform Anti-trust Act as set forth in A.R.S. §44-1401, et.seq.

(7) To engage in any violation of the Arizona Uniform Anti-trust Act as set forth in A.R.S. §44-1401, et.seq.

(8) To provide solid waste collection services to any commercial solid waste generator within one thousand feet of any residence during the hours of ten o'clock p.m. and five o'clock a.m.

(9) To provide solid waste collection services to any non-commercial (i.e., residential, multi-family, etc.) solid waste generator without a written agreement executed by the City. It is a prohibited practice for a licensed solid waste contractor to serve any non-commercial solid waste generator in the City of Peoria.

(b) Any person violating any part of section 22-15 shall be guilty of a class one misdemeanor.

(c) The city retains all jurisdiction granted political subdivisions under A.R.S. э44-1408 for violations of this chapter.
(Ord. No. 96-30, 6/4/96, Enacted)
(Ord. No. 05-13, 2/15/05, Amended) SUPP 2005-1

Sec. 22-16. License revocation

(a) each license granted by the city shall state that a licensed solid waste contractor understands and shall agree that failure to comply with any time and performance requirements as stipulated in this chapter and the license will result in damage to the city, and that the city may revoke the license as provided by this chapter. Further the city may revoke the license for any of the following violations:

(1) commission of a prohibited practice set forth in section 22-15 of this code.

(2) Failure to provide solid waste collection services within the time specified in the license.

(3) Failure to properly restore the public right-of-way or to correct related violations of specifications, code, or standards after having been notified by the city to correct such defects;

(4) failure to cure any violation of section 22-15, following notice and an opportunity to cure pursuant to the provisions of that section; and

(5) any other action or non-action by the licensed solid waste contractor, as agreed upon between the city and licensed solid waste contractor, and set forth in the license.

(b) Before proceeding with a revocation hearing, the city manager shall make a written demand that the licensed solid waste contractor comply. If a violation by the licensed solid waste contractor continues for a period beyond that set forth in the written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the city council appointed hearing officer may revoke the license.

(c) if the city manager concludes that a licensed solid waste contractor is in violation of this code or the conditions of the license, the city manager may order one or more of the following:

(1) find that licensed solid waste contractor is in violation of the terms of the license, order corrective action and may recommend foreclosure on all or any appropriate part of the letter of credit.

(2) In the case of a material violation recommend that the city council appointed hearing officer terminate the license, provided that the city council may take action on any such recommendation only after a public hearing.

(3) Shall temporarily revoke the license effective twenty days from the date of the revocation order. The revocation shall be served by certified mail to the licensed solid waste contractor and shall set forth the nature of the violation. The licensed solid waste contractor shall, within twenty (20) days of receipt of such notice:

(a) respond to the city in writing, contesting the city's assertion of violation and providing such information or documentation as may be necessary to support the licensed solid waste contractors's position; or

(b) cure any such violation (and provide written evidence of the same), or, if, by the nature of the violation, such violation cannot be cured within such twenty (20) day period, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensed solid waste contractor shall report to the city, in writing, at thirty (30) day intervals as to licensed solid waste contractor's efforts, indicating the steps taken by licensed solid waste contractor to cure said violation and reporting the licensed solid waste contractor's progress until such violation is cured.

(c) If the licensed solid waste contractor contests the city's revocation, within fifteen (15) days the city shall schedule a hearing. During this time, the temporary revocation order shall be stayed.

(d) If the city manager determines that licensed solid waste contractor has committed a violation, the determination shall be accompanied by a detailed statement of reasons for the determination, including findings of fact.

(e) The decision of the city manager shall become final unless licensed solid waste contractor requests a public hearing before the a hearing officer appointed by the city council within fifteen (15) days of its receipt of the statement of reasons and findings of fact by the city manager.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-17. Hearing by city council.

(a) if a public hearing before a city council appointed hearing officer is requested by licensed solid waste contractor, it shall be de novo and it shall convene within thirty (30) days of the request therefor. All witnesses shall be sworn and shall be subject to cross-examination; however, formal rules of evidence shall not apply. The hearing officer's decision, which shall include findings of fact, shall be made not later than forty-five (45) calendar days after the conclusion of the hearing. In that decision, the hearing officer may:

(1) find that licensed solid waste contractor is not in violation of the terms of the license;

(2) find that licensed solid waste contractor is in violation but that such violation was

with just cause and waive penalty that may otherwise to imposed;

(3) find that licensed solid waste contractor is in violation of the terms of the license, take corrective action and foreclose on all of any appropriate part of the letter of credit or performance bond.

(4) In the case of a material violation of the license , declare the licensed solid waste contractor in violation and revoke the license.

(b) In addition to all other rights and powers retained by the city council under this chapter or otherwise, the hearing officer shall have the right to revoke the license and all rights and privileges of the licensed solid waste contractor thereunder upon a recurring or protracted substantial breach of the license terms and conditions, or this chapter, which substantially affects the provision or quality of solid waste collection services, the ability of the City of Peoria to effectively regulate the licensed solid waste contractor, or Peoria's collection of all fees and charges. The power of revocation shall not be used if the breach is a result of force majeure. The breaches appearing on the list set forth below in this section shall be considered substantial breaches. The list is not exhaustive:

(1) willful or grossly negligent repeated violations of this chapter, the license, or the representations made in the proposal process, or any rule, order or regulation of the City of Peoria made pursuant to this chapter;

(2) attempt to evade any material provision of the license or practice any fraud or deceit upon the city or its subscribers or customers;

(3) recurrent failures after notice by the city manager to provide service to any part of the licensed solid waste contractor service area;

(4) unlawful acts or omissions by licensed solid waste contractor or its servants, officials, agents, representatives or employees, which result in the city's refusal to award a license to any other person, partnership, corporation or other legal entity.

(Ord. No. 96-30, 6/4/96, Enacted)

Secs. 22-18. through 22-19. Reserved.
(Ord. No. 96-30, 6/4/96)

Sec. 22-20. Residential Solid Waste Collection, authorized collection.

The city sanitation service or its agents and contractors authorized by the city shall collect all solid waste generated by non-commercial generators within the city. Except as provided in this chapter, no person shall collect or gather solid waste or recyclables within the city from non-commercial generators.
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-21. Reserved.

State law reference(s) -- Development fees, A.R.S. ээ 9-463.05, 9-499.01.
Cross reference(s) -- Park development fees, э 18-36 et seq.; water system expansion fee, э 25-18. Development fees, э 20-50 et seq.;
Charter reference(s) -- Sanitation fee authorized, art. I, э 3(9).
(Code 1977, э 10-1-2)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)
(Ord. No. 97-03, 1/21/97, Amended to enact Table 22-21)
(Ord. No. 2011-27, 12/6/2011, Repealed and Reserved) SUPP 2011-4

Sec. 22-22. Reserved.

(Code 1977, ээ 10-1-8 -- 10-1-12)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)
(Ord. No. 05-65, 11/15/05, Table 22-22A Amended) SUPP 2005-04
(Ord. No. 07-44, 12/18/07, Table 22-22A Amended) SUPP 2007-04
(Ord. No. 08-28, 08/26/08, Table 22-22A(2) Enacted) SUPP 2008-03
(Ord. No. 2011-27, 12/6/2011, Repealed and Reserved) SUPP 2011-4

Sec. 22-23. Precollection practices generally.

(a) Except as otherwise provided, residential refuse generators not equipped with city-owned containers shall place containable refuse in refuse cans with tightfitting covers or approved plastic bags having a gross weight not exceeding sixty (60) pounds. All containers or bags shall be suitable for handling by one (1) collecting employee. All refuse placed in containers not owned by the city for collection by the city shall be subject to the same storage procedures as prescribed in subsection (c) of this section.

(b) City-owned containers shall be distributed and positioned as scheduled by the city. Containers serving more than one (1) residence shall be positioned along rear of side alley not more than one hundred (100) feet from the property line of any residence so serviced. If there are no alleys, individual portable containers may be supplied by the city.

(c) Residential refuse generators equipped with city-owned containers shall first place or cause to be placed in such containers all garbage followed by other containable rubbish. Before being placed in city-owned containers, garbage shall be drained and securely wrapped, ashes shall be thoroughly cooled and placed in a stout sack, animal and bird droppings, vacuum sweeper dirt, soot, feathers, sawdust and excelsior shall be securely wrapped.

(d) *Trash and brush.* In areas served by the mechanized collection system, all trash, and other materials must be placed in the city-owned refuse containers. Cardboard boxes shall be crushed or flattened before being placed in the container. In areas where refuse cannot be entirely handled in city-owned containers or where city-owned containers are not provided, grass clippings, leaves, small tree cuttings and similar material shall be placed in disposal boxes, cartons or plastic bags weighing a maximum of sixty (60) pounds and not to exceed three (3) feet in length. Such uncontained refuse shall be placed next to the property line parallel to the alley or street in as orderly a fashion as possible.

(e) The city manager or his designee may prescribe requirements for the sorting and collection of recyclable materials. Such requirements shall be imposed of solid waste customers after thirty (30) notice to such customers.
(Code 1977, э 10-2-1(1), (2))
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-24. Container location for pickup and storage.

(a) Where there is an alley in the rear of the premises that is accessible for mechanized collection service, containers shall be placed at the alley. City-owned containers must be placed in a manner such that the opening is toward the alley to facilitate the proper dumping of containers by the mechanized collection trucks. The three-hundred- and six-hundred-gallon city-owned containers shall be located on one (1) side of the alley as determined by the director of public works.

(b) Where an alley does not exist or is inaccessible, the city-owned refuse container shall be placed on the sidewalk or parkway at the front of the premises. Containers must be placed in such a manner that the lids open toward the street in order to facilitate proper dumping of the container by the mechanized collection vehicles. Containers must also be located in areas free of parked vehicles in order to ensure the collection vehicle has adequate maneuvering area.

(c) Underground containers shall receive collection service only if the containers are removed from the underground receptacle and placed at the curbline by the owner. This subsection does not apply to homes located in subdivisions with such underground receptacles provided service to such homes was commenced prior to November 1, 1984.

(d) Privately-owned containers shall be a maximum of thirty (30) gallons, weighing a

maximum of sixty (60) pounds.

(e) Each city-owned refuse container shall be assigned to the property and not to the occupant of the property. No person who occupies any property to which the container has been assigned may remove the container from the assigned property for any reason.

(f) No person, unless authorized by the city, may move or relocate any three-hundred-gallon or six-hundred-gallon city-owned container from its assigned location.

(g) Residential and commercial refuse containers which are provided by the city shall be kept in good repair by the city. Containers will be replaced when found to be no longer serviceable through disrepair or maintained in an insanitary condition. Containers not owned by the city shall be kept in good repair by the owner. Containers found to be no longer serviceable through disrepair or maintained in an insanitary condition shall be condemned for future use. Legal notice of such condemnation shall consist of a label or tag affixed to the unsatisfactory condition within ten (10) days shall be removed and destroyed by the city. All customers shall maintain their alleys and the area surrounding the refuse containers free from refuse and other health hazards.

(h) All residential refuse containers of one-hundred-gallon size or less shall be removed from curbline by the owner by 6:00 p.m. on the day of collection. All such containers shall be stored no closer to the street right-of-way than the building setback. This requirement may be waived by the city upon application based upon hardship due to difficult terrain, physical problems or advanced age.
(Code 1977, э 10-2-2)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-25. Residential collection by bins.

(a) Motels, hotels, apartments, condominiums, mobile home parks or travel trailer parks may submit an application to the city requesting garbage and trash collection for the facility involved to be effective by use of city bins instead of individual residential unit collection. The number and size of bins required shall be determined by the city, and must be of such number and size so as to contain all garbage and rubbish within entirely enclosed bins for twice weekly collection, unless otherwise authorized by the director for good cause shown. Before authorizing bin collection, the city must find the following:

(1) A sufficient number of units and other considerations involved would make it economical for the city to provide bin service.

(2) Bin collection may be made under conditions of sanitation and cleanliness so that no adverse health impact exists and that all state and county health requirements are complied with.

(3) The applicant has provided a location for the bins that does not interfere with traffic and is not unsightly.

(b) The city may require the facility requesting bin service to make advance payment covering the cost of the bins. The facility purchasing the bins shall receive a credit against future collection fees up to the amount of the bin. Not more than fifty (50) percent of each monthly collection fee shall be applied against the price of the bins.
(Code 1977, э 10-5-1(A), (C))
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-26. Lids and covers.

The lids or covers of all containers required by this article shall at all times be kept secure so that flies and other insects may not have access to the contents, and shall only be removed while the containers and receptacles are being filled, emptied, or cleaned.
(Code 1977, э 10-2-3)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-27. Collection hours.

(a) The city may include in any commercial solid waste license hours for the collection of solid waste from commercial users, other than those provided by this code.

(b) The city manager or his designee shall establish dates and times for the collection of solid waste from residential and non-residential users. The city shall provide all users thirty (30) days notice of intent to change dates and times of collection.
(Code 1977, э 10-1-4)
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Sec. 22-28. Pickup of special items.

(a) In this section ``special items" means appliances and vehicles; building materials such as lumber scraps, shingles, plaster, brick, stone, concrete, and other building materials; by-products; dangerous waste; soil, masonry blades, sod and rocks.

(b) residences desiring a special pickup of special items from any property may request a special pickup from the city. The city shall establish a charge for such special pickups, as set forth in chapter 2 of this code. The city may require pre-payment of the charge or may collect the charge in the same manner as other utility payments.

(Code 1977, э 10-2-1(3))
(Ord. No. 96-30, 6/4/96, Repealed)
(Ord. No. 96-30, 6/4/96, Enacted)

Secs. 22-29. through 22-37. Reserved.

Sec. 22-38. Reserved.
(Code 1977, ээ 10-1-4, 10-1-6, 10-5-1(B))
(Ord. No. 91-12, 5/14/91)
(Ord. No. 96-30, 6/4/96, Repealed)

Sec. 22-39. Reserved.
(Code 1977, э 10-1-5)
(Ord. No. 91-12, 5/14/91)
(Ord. No. 96-30, 6/4/96, Repealed)

Sec. 22-40. Reserved.
(Ord. No. 90-13, 4/10/90)
(Ord. No. 96-30, 6/4/96, Repealed)

Sec. 22-41. Reserved.
Charter reference(s) -- Assessments and liens authorized, art. I, э 3(4).
(Code 1977, э 10-1-7)
(Ord. No. 96-30, 6/4/96, Repealed

CHAPTER 25

WATER, SEWERS AND SEWAGE DISPOSAL[1]

[1]Cross reference(s) -- Standard specifications for public works, § 5-5; plumbing code, § 5-91 et seq.; flood hazard reduction standards for utilities, §20-225; damaging public property, § 13-21; solid waste, Ch. 22.

CHAPTER 25 – WATER, SEWERS AND SEWAGE DISPOSAL

PEORIA CITY CODE

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CHAPTER 25 – WATER, SEWERS AND SEWAGE DISPOSAL

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Administrative/General

Sec. 25-1. Definitions.

For the purpose of this Chapter, the following words, terms and phrases shall have the following meaning ascribed to them, except where the context clearly indicates a different meaning:

Approach mains shall be those mains subject to repayment and defined as follows:

(i) Mains extended beyond the limits of the project or mains constructed through the project or mains constructed along the frontage or boundary of the development; and
(ii) Mains which serve other property owners other than the owner who is developing the property; and
(iii) Mains which are constructed to contain additional capacity to provide adequate fire flow and water pressure above and beyond that required by the development based on the most recent Water Master Plan.

Approved means accepted by the Utilities Director or their authorized deputy, agent, designee or representative as meeting an applicable specification stated or cited in this code, or as suitable for the proposed use.

City means the City of Peoria, Maricopa County, Arizona and/or the Utilities Department. For purposes of certain sections, the City shall be defined as the Utilities Department and the Engineering Department with the Engineering Department performing reviews on behalf of the Utilities Department to assure compliance with the Utilities Department standards and specifications.

City Engineer means the Director of the Engineering Department, (i.e., City Engineer) or their deputy, agent, designee or representative.

City Water Service Area means all incorporated areas of the City, which are not currently served water by a private water company.

Civil Sanction means that part of the law (i.e., this code) which is designed to secure enforcement by imposing a penalty. A punitive act taken by the City against an individual or customer, which has violated this code.

Commercial Unit means non-residential units which are intended to facilitate all types of employment-generating or business uses, including, but not limited to retail and service establishments, neighborhood convenience stores, business parks and professional offices, research and development centers, storage warehouses and industrial units.

Conveniently Accessible (for meter locations) means located in an open area with not less than three (3) feet in diameter access around the meter.

Customer(s) means any person (legal or natural), partnership, association, company, private corporation, public corporation, political subdivision, the United States and the State of Arizona, who requests or receives water from the City's public water distribution system or reclaimed water from the City's reclaimed water distribution system or untreated Central Arizona Project water from City facilities.

Development Fees means a fee assessed by the City to offset costs to the City associated with providing necessary public services to a development.

Director or *Utilities Director* means the Public Works – Utilities Director of the City of Peoria or their authorized deputy, agent, designee or representative.

Dwelling Unit means:

(i) *Multiple-Family Dwelling Unit* means mobile home space within a mobile home park, a travel trailer space within a travel trailer park, a hotel, motel, rest home, apartment, condominium units served by a single meter, and any other building in which more than one (1) family may reside either temporarily or on a permanent basis.

(ii) *Single-Family Dwelling Unit* means any unit attached or detached served by an individual meter in which only a single-family may reside, other than a multiple-family dwelling unit.

Industrial Unit means a business use or an activity involving and/or including, but not limited to, resource extraction, manufacturing, fabrication, assembly, and warehousing.

Institutional Unit means a use or activity involving and/or including, but not limited to a pubic and public/private group use of a nonprofit nature, typically engaged in public service or a religious institution, hospital, public or private school or college, and public agency.

Minor Land Division means:

(i) The division of one parcel of land into three or less parcels.

(ii) Application for a building permit on a single lot, parcel or tract that is not a lot, parcel or tract located within a recorded subdivision and which may be divided into one or more additional lots, parcels or tracts, regardless of whether the property owner has indicated any intent to do so.

Non-Potable Water means water delivered through the City's non-potable water distribution system. Non-potable water is not designated to meet the Environmental Protection Agency's and Arizona Department of Environmental Quality's drinking standards but is appropriate for other use.

Non-Potable Water Delivery means City service to provide non-potable water for, but not limited to, commercial, recreational and landscaping purposes and recharge.

Non-Potable Water Distribution System means the network of public non-potable wells, waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for non-potable water service to the point of delivery for non-potable water.

Non-Potable Water Service Line means an approved type of pipe carrying non-potable water from the public non-potable waterline to the point of delivery.

Non-Potable Water Use Service Agreement means a separate written agreement between the City and a City non-potable water customer that governs the delivery of non-potable water by the City. It is an implied condition of every non-potable water service agreement that all of the provisions of this Code pertaining to non-potable water and any failure to deliver non-potable water because there is inadequate availability of non-potable water for any priority customer is not a breach of the non-potable water use service agreement.

Point of Delivery for Non-Potable Water means the non-potable water meter or such other location as determined in the sole discretion of the Utilities Director and located on or proximately to a customer's property to which the City will deliver non-potable water and have access to for inspection and/or replacement.

Point of Delivery for Reclaimed Water means the reclaimed water meter or such other location as determined in the sole discretion of the Utilities Director or their designee and located on or proximately to a customer's property to which the City will deliver reclaimed water and have access to for inspection and/or replacement.

Point of Delivery or Point of Service Delivery means the terminal end of a service connection from public water system. If a meter is installed at the end of the service connection, then the point of service delivery shall mean the downstream end (i.e., customer side) of the meter. If an un-metered connection exists, then the point of service delivery shall mean at the point of demarcation between the public right-of-way or easements and private property. Also, the water meter or such other location as will be determined in the sole discretion of the Director or their authorized deputy, agent, designee or representative, and located on or proximately to a customer's property to which the City will deliver water and have access to for inspection and/or replacement.

Point-of-Use Compliance Program means a water treatment technology program designed to treat only a portion of the total flow at the point of use with the intent that water treated is for direct consumption (drinking and cooking) and achieves compliance with the maximum contaminant levels established in the National Primary Drinking Water Regulations.

Point-of-Use Treatment Device means a City-furnished treatment apparatus installed at a customer's faucet, which is an option for the City for compliance with some of the maximum contaminant levels for public water systems where central treatment is not feasible. A point-of-Use ("POU") device is considered a complete water treatment device that includes all components needed to

connect it to a public water system under a POU compliance program.

Potable Water means water delivered through the City's domestic water delivery system after treatment designated to meet the Environmental Protection Agency's and Arizona Department of Environmental Quality's drinking standards.

Property Owner means the person, company, entity or developer which is developing the property. A property owner may in certain circumstances also be the individual requiring an approach main extension and/or be a customer (or future customer).

Public Water Distribution System means the network of public waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for water service to the point of delivery.

Public Waterline or Public Water Main means a waterline (or water main) owned and maintained by the City.

Reclaimed Water means effluent (or a combination of effluent and non-potable water) that has been collected in a sanitary sewer for subsequent treatment in a facility which adheres to federal and state water quality control standards (i.e., Arizona Revised Statutes § 45-101 and any successor statutes), to achieve a quality suitable for its intended use.

Reclaimed Water Delivery means City service to provide reclaimed water for, but not limited to, commercial, recreational and landscaping purposes and recharge.

Reclaimed Water Distribution System means the network of public reclaimed waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for reclaimed water service to the point of delivery for reclaimed water.

Reclaimed Water Service Line means an approved type of pipe carrying reclaimed water from the public reclaimed waterline to the point of delivery.

Reclaimed Water Use Service Agreement means a separate written agreement between the City and a City reclaimed water customer, which is not part of any development agreement and that governs the delivery of reclaimed water by the City. It is an implied condition of every reclaimed water service agreement that all of the provisions of this code pertaining to reclaimed water and any failure to deliver reclaimed water because there is inadequate availability of reclaimed water for any priority customer is not a breach of the reclaimed water use service agreement.

Turf means an area of land, which is planted primarily with plants other than low water using plants.

Utilities or Utility means water and wastewater services provided by the city and all lines and facilities related to the provision, distribution, collection, transmission, or disposal of water and wastewater, singularly or collectively.

Utilities Director means the Director of the Public Works – Utilities Department, or their authorized deputy, agent, designee or representative.

Water means any water (i.e., clear, colorless, nearly odorless and tasteless liquid), from the City's public water distribution system including potable water, non-potable water, reclaimed water or untreated Central Arizona Project water.

Water Deficiency means any or all of the following: (1) the use of the water supply and delivery system has approached a level that exceeds the City's ability to provide a supply of water to each customer within a pressure zone or throughout the City or where the available supplies of ground water or surface water delivered to the City are reduced; or (2) the general welfare requires that the water resources available to the City be put to the maximum beneficial use, or unreasonable method of use of water be prevented, and the conservation of such water is to be extended with a look at the reasonable and beneficial use thereof in the interests of the City and for the public welfare. A water deficiency shall be designated a Stage 1 (Water Watch), Stage 2 (Water Alert), Stage 3 (Water Warning), or Stage 4 (Water Emergency).

Water Distribution Main means water pipelines, which are generally between eight (8) inches and sixteen (16) inches in diameter, are considered part of the local water delivery system, and may be tapped for individual service connections to properties.

Water Transmission Main means water pipelines, which are generally greater than sixteen (16) inches in diameter, are considered part of the regional water delivery system, and are not permitted to be tapped for individual service connection.
(Code 1977, §12-5-15(e))
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-1; enacted new Section 25-1) SUPP 2007-4
(Ord. No. 08-25, 12/02/08, Amended Sec. 25-1) SUPP 2008-4
(Ord. No. 2010-35, 12/07/2010, Amended) SUPP 2010-4
(Ord. No. 2011-23, 11/01/2011, Amended) SUPP 2011-4

Sec. 25-2. Water; code part of water service contract.

The provisions of this code shall be a part of the contract of every customer taking water service from the City and such customer taking water service shall be considered as having expressly consented to be bound thereby.
(Ord. No. 91-07, 2/13/91)
(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 98-115, 1/5/99, Sec. 25-6 renumbered to Sec 25-2)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-2; enacted new Section 25-2) SUPP 2007-4

Sec. 25-3. Water; applicability.

This Chapter shall not be construed to invalidate or prohibit the enforcement of any agreement entered into prior to the effective date of this Chapter. All such agreements shall be administered in accordance with the provisions of this Chapter.
(Ord. No. 91-07, 2/13/91)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-3; enacted new Section 25-3) SUPP 2007-4

Sec. 25-4. Water; liability of City limited.

(a) No liability shall attach to the City for any injury or damage that may result from turning on or shutting off the water in any main, service connection, or pipe; or the restriction of use or discontinuance of any water service, or any failure of the water supply, regardless of any notice or lack of notice thereof. The City shall not be held liable, in any respect, for the conditions, defects, failures, or use of any pipe, connection, fixture, or appurtenance, not belonging to the City, on any customer's (or non-customer's) property, or for loss or damage resulting therefrom.

(b) The City shall not be responsible for any interruption of water service caused by reasons beyond its control.
(Ord. No. 91-07, 2/13/91)

(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-4; enacted new Section 25-4) SUPP 2007-4

Sec. 25-5. Water; turn offs and turn ons.

The charge for each turn off and each turn on of water service for reasons other than change of occupancy shall be made in an amount in accordance with this code.
(Code 1977, art. 13-9)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-5; enacted new Section 25-5) SUPP 2007-4

Sec. 25-6. Water; customer responsibility.

The customer shall have complete responsibility for the installation and maintenance of adequate water facilities on their property and the City shall not in any way be responsible for the installation, maintenance, inspection, or damage of such facilities or damage caused by any defect in such facilities on the customer's property. The customer shall be responsible for such facilities from the customer side of the meter to the home. Such facilities shall be maintained by the customer in full compliance with all rules and regulations of the City in addition to applicable state statutes.
(Code 1977, §§ 13-8-1, 13-8-2)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Renumbered to Sec. 25-2)
(Ord. No. 98-115, 1/5/99, Renumbered Sec. 25-12 to Sec. 25-6)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-6; enacted new Section 25-6) SUPP 2007-4

Sec. 25-7. Water; customer negligence

(a) Any damage to the City water system or injury to City employees caused by any customer and which requires any repairs, replacements or damages, the cost of such repairs, replacements or damages, together with a twenty percent (20%) administrative fee shall be added to that customer's bill, and if such charges are not paid, water service may be discontinued.

(b) The customer shall be responsible for providing the City or its designee with access upon the property for the purpose of reading the meter and maintaining the City's utility services. Should the customer fail to maintain their property in such a manner as to provide access to the meter for reading purposes and maintenance of the utility system, an administrative fee equal to twenty percent (20%) of the most recent utility service bill may be imposed to cover the cost of special trips to complete the reading of the meter.

Charter reference(s) -- Water fee authorized, art. I, § 3(9).

Cross reference(s) -- Park development fees, §18-36 et seq.; sewer expansion fees, § 25-95. Development fees, A.R.S. §§ 9-463.05, 9-499.01.
(Code 1977, §§ 13-11-1 through 13-11-5)
(Ord. No. 92-03, 2/11/92, Renumbered)

(Ord. No. 99-96, 9/1/99, Repealed existing Section 25-7 Enacted new Section 25-7)
SUPP 1999-3
(Ord. No. 01-162, 10/2/01, Amended Table 25-7)
(Ord. No. 04-09, 02/03/04, Amended Table 25-7) SUPP 2004-1
(Ord. No. 05-65, 11/15/05, Amended Table 25-7) SUPP 2005-4
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-7; enacted new Section 25-7) SUPP 2007-4

Sec. 25-8. Water; inspections.

(a) Authorized officers and employees of the City may inspect the property or buildings of any water customer for the purpose of examining the condition of all pipes, motors, meters and fixtures, or the manner in which the water is used or any violation of the purpose or provisions of this code and of any other law or standard affecting water use.

(b) Authorized City personnel may enter any building or property at a reasonable time

(whenever necessary) to inspect the building or property, or to perform any duty authorized by this code, for the purpose of making an inspection to enforce any of the provisions of this code, or whenever the City has reasonable cause to believe that there exists in any building or upon any property any condition that makes such building or property unsafe due to violations under this code; provided that if such building or property is occupied, the authorized City personnel shall first present proper credentials and request entry; and if such building or property is unoccupied, the City shall first make a reasonable effort to locate the owner or other persons having charge or control of such building and request entry. If such entry is refused, the City shall have recourse to every remedy provided by law to secure entry.

(c) If the owner or occupant denies entry, the authorized City personnel may obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners, occupants or any other person having charge, care or control of any building or property shall, after proper request is made as provided herein, promptly permit entry therein by the City for the purpose of inspection and examination pursuant to this code.

(d) If the City determines that a violation of this code exists on the property, the City may turn off water service to the property until such violation is corrected, depending on the magnitude of the violation.
(Code 1977, §§13-12-1 through 13-12-6)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Renumbered to Sec. 25-12)
(Ord. No. 07-37, 11/20/07, Enacted new Section 25-8) SUPP 2007-4

Sec. 25-9. Water; liability for damage.

Any expense caused to the City for the repair or replacement of damaged, stolen, tampered with or misused water facilities, including administrative and processing charges, shall be charged against and collected from the customer or person who caused the expense in an amount as established in this code. Unless authorized by the Utilities Director, all work (i.e., restoration, repair, etc.) shall be performed by City personnel.
(Code 1977, §§ 13-2-1 through 13-2-3)
(Ord. No. 90-05, 2-13-90)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 07-37, 11/20/07, Enacted new Section 25-9) SUPP 2007-4

Sec. 25-10. Water; unauthorized shutdown of water mains

(a) Only authorized City personnel shall operate water valves or perform other work for the shutdown of the City water mains. Except as otherwise provided in this Chapter, no customer or person shall shutdown or reopen any City water mains.

(b) If a customer or person seeks a scheduled shutdown of a City water main, other than as provided in subsection (c) of this section, they shall make such shutdown request in writing, at least ten days prior to the contemplated shutdown, to the City's Utilities Department to accomplish

such shutdown. The City shall provide City personnel to accomplish the shutdown if, in the Utilities Department's sole discretion, personnel will be available to perform such shutdown. If City personnel cannot be available when requested, an alternative time shall be established by agreement between the City and the customer or person when, in the sole discretion of the Utilities Department, personnel are deemed to be available. The reopening of the water main by the City shall be accomplished in the same manner as the shutdown.

(c) Any request for a scheduled shutdown shall contain a schedule indicating the time and date of the proposed shutdown, its main location and point of shutdown and the contemplated time and date of the reopening of the water main.

(d) The customer or person causing a break in any City water line shall immediately notify the City's Utility Department of the time, date and location of such break together with any other information the City may request in relation to such break. Only City personnel may place the closed valve back in service. Any costs to the City arising from such break including, but not limited to, the repair thereof and the opening or closing of necessary valves shall be paid by the customer or persons causing the break.

(e) Any customer or person violating this section shall be subject to the imposition of a Civil Sanction by the Utilities Director in an amount not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00). Each day that a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the customer or person to a separate Civil Sanction in the amount provided by this section.
(Code 1977, § 13-7-3)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-10, Enacted new Sec. 25-10) SUPP 2007-4
(Ord. No. 08-35, 12/02/08, Amended Sec. 25-10) SUPP 2008-4

Sec. 25-11. Water; prevention of cross-connection or backflow.

The city shall refuse to provide service or connection to the public water system operated by the city, unless the lines or piping are installed on the premises so as to prevent cross-connections or backflow in accordance with the provisions of Chapter 5 of this Code.
(Code 1977, § 13-7-4)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Amended)

Sec. 25-12. Water; protection of, access to City property Water, service main extensions.

(a) It shall be the responsibility of the customer to provide proper protection for City property placed on their property and shall only permit access to such City property on their property to authorized representatives of the City.

(b) It shall be the responsibility of the customer to maintain the area surrounding the City property placed on their property for utility service in a manner that will provide access to

authorized City representatives.
(Code 1977, § 13-7-5)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 98-115, 1/5/99, Renumbered to Sec. 25-6)
(Ord. No. 98-115, 1/5/99, Renumbered from Sec. 25-8)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-12, Enacted new Sec. 25-12) SUPP 2007-4

Sec. 25-13. Water; customer to provide rights-of-way, easements, etc. Water, main extensions; definitions.

Prior to the approval of a minor land division, an individual lot, a final subdivision plat or issuance of a building permit, each person developing a parcel shall provide to the City such easements and rights-of-way as are necessary in the determination of the City to provide water connections to the meter for water and/or such other points as may be required pursuant to the determination of the Utilities Director and City Engineer.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended (b))
(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-13, Enacted new Sec. 25-13) SUPP 2007-4

Sec. 25-14. Water and Wastewater; payment of development fees over time.

(a) If a person who is requesting to commencement of utility services is obligated to pay water or wastewater development fees required by Chapter 25 of this Code, the person may submit a written request to the Finance Director to pay the fees over time.

(b) The Finance Director shall consider the following criteria in determining whether to grant a request to pay a water or wastewater development fee over time:

(1) The requestor's financial ability (or inability) to pay the fee.

(2) The number of connections provided by the utility service shall be no more than three.

(3) The payment schedule must be in the best interests of the City.

(4) The Payment Schedule shall be no longer than 12 months.

(5) To secure payment of the fees, the person must be willing to execute and record a deed of trust for the person's property on behalf of the City.

(c) The Finance Department shall adopt an administrative procedure that addresses the review, approval, and implementation of such requests.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-14) SUPP 2007-4

(Ord. No. 2010-01, 01/19/2010, Enacted) SUPP 2010-01

Sec. 25-15. Water; point-of-use compliance program.

The City retains and reserves the right to use Point-of-Use ("POU") compliance programs and associated POU treatment for the delivery of water service to certain customers taking City water services. The Arizona Department of Environmental Quality safe drinking water rules allow the City to employ POU compliance programs.

POU compliance programs, if established by the City are necessary conditions of water service delivery to certain customers taking water service from the City and such customers are subject to all of the elements and requirements of the POU compliance program.

(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-15) SUPP 2007-4
(Ord. No. 2011-23, 11/01/2011, Enacted) SUPP 2011-4

Sec. 25-16. Reserved.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended (b),(c),(d) and (f))
(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-16) SUPP 2007-4

Main Extensions and Construction (Service Connections)

Sec. 25-17. Water; distribution main extensions.

(a) If it becomes necessary to extend water mains from a distant point in order to serve a new development, the cost of the main extension will be the responsibility of the developer. The developer shall be responsible to construct at a minimum a sixteen (16) inch diameter line on section lines, streets, and arterials, and on mid-section lines streets or other such streets (generally half-mile intervals) twelve (12) inch diameter lines will be required.

(b) The plans and specifications for the approach main must be approved by the City Engineer.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended (a),(b),(c) and (d))
(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-17, Enacted new Sec. 25-17) SUPP 2007-4
(Ord. No. 08-35, 12/02/08, Amended Sec. 25-17) SUPP 2008-4

Sec. 25-18. Water; main extensions, requirements.

If the City determines that the extension of water mains to undeveloped areas is in the public interest, then all such extensions shall comply with the provisions of this Chapter and Chapter 23 of the City code.

(a) The property owner must pay all costs for constructing mains of such sizes as to afford adequate service during peak demands for the entire area to be served by the extension main.

(b) The Utilities Director shall establish the minimum water pressure and water delivery requirements for fire protection and peak daily service, which must be met.

(c) The property owner's engineer shall submit (i.e., recommend) for the Utilities Director approval the required size and layout of public water mains that will meet domestic water needs and fire flow requirements as required by this code. The final decision on size and layout of public water mains shall be solely that of the Utilities Director.

(d) The field engineering, plans and specifications required shall be prepared by the developer and approved by the City Engineer or their designee prior to construction. The engineering costs for preparation of plans and staking of the water main extensions on the property which are incurred by the property owner, may be included in the agreed construction costs as determined by the City Engineer and as provided in this section. The City shall perform the inspections during construction.

(e) Where booster pumps are necessary to maintain adequate pressures in the mains due to the development being near or above the hydraulic gradient of the distribution system of the City service area, the property owner shall construct at their own expense the necessary booster pumping station and storage facilities to City specifications. If the booster pump facility provides pressure for

more than a single residential lot, the City will assume ownership and operation of such installations upon their completion and acceptance by the City. If the booster pump facility provides pressure for a single residential lot, the property owner shall be solely responsible to operate and maintain the facility after it is approved by the City for operation.

(f) The City may require the construction of the water main extension to meet additional specifications and requirements if such is determined to be in the best interest of the City and necessary to protect the public health, safety and welfare.

State Law Reference. A.R.S. §48-701.

(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-18, Enacted new Sec. 25-18) SUPP 2007-4
(Ord. No. 08-35, 12/02/08, Amended Sec. 25-18) SUPP 2008-4

Sec. 25-19. Water; main extensions; subdivisions, single lots, sub lot developments and all other developments.

(a) Where the City is to provide water service to and for all new subdivisions, single lot development, and all other developments other than a single residence on a single lot, the property owner shall furnish and install in accordance with plans approved by the City Engineer, all water mains, service connections, valves, fittings and appurtenances within the boundary of the development as well as the streets bounding the entire development. In addition, the property owner shall furnish and install all off-site water mains as necessary to complete a looped connection to existing City water mains as determined by the City.

(b) The City's water system standards shall be defined in accordance with this Chapter. All development in the City’s water service area must conform with the City Water Master Plan, the approved Water System Analysis for the development, the City Development Guidelines, the Maricopa County Association of Government Standards and the development plans and specifications approved by the City Engineer.

(c) For development primarily residential in character, sixteen (16) inch diameter lines shall be provided on section line streets or arterials, (generally one-mile intervals), twelve (12) inch diameter lines shall be provided on mid-section line streets or other such streets, (generally half-mile intervals). The minimum size of mains installed by the developer on interior streets shall be eight (8) inch diameter. The Utilities Director shall require larger size mains to meet the needs of all developments to be served by the extension, including minimum fire flow requirements, as determined by the current Water Master Plan.

(d) Fire hydrants, valves, pipes and fittings required for hydrant installation shall be installed by the property owner in accordance with plans approved by the City.

(e) Where no water main is existing along the frontage of a single existing residential lot zoned for single family use, and the property owner of the single lot requests water service, sufficient length of main shall be constructed by the property owner to extend the new main from an existing water main and across the entire lot frontage.

(f) The service connections installed by the property owner's contractor shall be guaranteed against any and all defects by the property owner for a period of one (1) year after the City's acceptance of the installations.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended (b),(d) and (f))
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-19; Enacted new Sec. 25-19) SUPP 2007-4
(Ord. No. 08-35, 12/02/09, Amended Sec. 25-19) SUPP 2008-4

Sec. 25-20. Water; minimum supply requirements; connection with water system.

(a) As the City complies with the mandate of the State to convert from groundwater mining to renewable water sources, the City becomes subject to such renewable supplies being interrupted, reduced or unavailable. Therefore, the City requires all new development to provide to the City a redundant (back-up) water supply source. The purpose of requiring a redundant (back-up) water supply source is to ensure reliable water delivery to municipal customers in the event of an interruption, reduction, unavailability or other partial or total failure of the primary water source. A redundant (back-up) water supply source shall meet the following requirements:

(1) The redundant supply shall be hydrologically separate and distinct from the primary supply of water.

(2) The property owner shall submit to the City a water plan for approval by the City prior to the start of development that provides a sufficient redundant water supply source. It shall be the sole determination and discretion of the Utilities Director to determine if the water plan meets the requirements of this section.

(b) All development within the City's water service area and within a quarter of a mile (i.e., 1320 feet) from a City water line is required to connect to the City's water system. The extension of a City water line and the connection to the City's water line will be constructed in accordance with City standards, City approved plans and the sole financial responsibility of the developer and/or customer. The connection to the City's water system and the extension of the water line are a condition of issuance of a building permit. The Utilities Director will have discretion to allow variances to this requirement for single lot developments if such development is on a major arterial road or if the connection is determined not be feasible.

State Law Reference. A.R.S. §34-201.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115. 1/5/99, Amended (a)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-20; Enacted new Sec. 25-20) SUPP 2007-4
(Ord. No. 08-35, 12/02/08, Amended 25-20) SUPP 2008-4

Sec. 25-21. Water; extensions, construction; ownership and maintenance.

(a) The extension of water mains and service connections shall be constructed in strict accordance with plans approved by City and all review fees shall be paid as provided in the City code. Main extensions and service connections shall be maintained by the Utilities Department up to and including the customer's meter and shall be operated by the City as part of the distribution

system. The City shall exercise complete control over such extensions upon completion and the property owner shall relinquish all responsible for the extension and rights to or interest in the ownership of the extension to the City. The property owner may request and/or the Utilities Director may authorize additions to or variances from the standards and specifications, if the Utilities Director determines such variance or addition is in the best interest of the City and the public health, safety and welfare. All such additions or variances shall be in writing and shall be approved by the Utilities Director.

(b) The ownership of all extensions and service connections, upon acceptance by the Utilities Director shall be vested in the City.

(c) All decisions of the Utilities Director under this section may be appealed to the City Manager or their designee. The appeal shall be in writing and shall specify the specific decision of the Utilities Director, which is being appealed and the specific relief being requested. The decision of the City Manager or their designee shall be final.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2
(Ord. No. 02-42, 6/7/02 Amended) SUPP 2002-2
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-21; Enacted new Sec. 25-21) SUPP 2007-4

Sec. 25-22. Water; construction water access. Applicability.

Any customer requesting construction water shall file/complete an application with the City Customer Service Center. The request to use water for construction shall be filed prior to any water being used for construction. The City Finance Department will prepare a separate billing for each service connection used to supply water for construction, if such request has been approved.

(a) Requests for construction water access shall include a water use summary with the following information: (1) location of project, (2) duration of requested water access, (3) estimate of daily water usage, and (4) estimate of total water usage. The water use summary shall be reviewed by the Utilities Director who reserves the right of denial for any construction water access or termination of use of construction water for any inappropriate use of construction water. Upon approval, access to the City water distribution system shall be provided only at those locations approved by the Utilities Director. The Utilities Director shall have the authority to limit access to construction water to certain dates and times under any permit issued or limit or suspend entirely access to construction water.

(b) City owned hydrants shall be metered for all construction water sold by the City. Any customer or property owner who has obtained potable, recharged, reclaimed or other water owned by the City that has not passed through a meter, or City approved calculating method, shall be subject to imposition of a Civil Sanction by the Utilities Director in the amount of One Thousand Dollars ($1,000.00) in accordance with the provisions of this Chapter. Each day such a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the property owner to a separate Civil Sanction in the amount provided by this section.

(c) It shall be a violation of any construction water access approval and a violation of this code to open or operate any fire hydrant without the appropriate backflow device and meter or to draw or to attempt to draw, injure, damage or tamper with a fire hydrant. Authorization to utilize a fire hydrant shall be granted by the Utilities Director. Operation of hydrant turn nuts shall only be completed by authorized City personnel. In addition to the other provisions of this section, the Utilities Director may immediately revoke the approval for construction water use and remove the meter and all equipment accessing the City system and charge the property owner for the expense of such removal, together with an administrative fee of twenty percent (20%).

(d) For each service connection used to supply water for construction, there shall be a minimum charge in an amount as set forth in this code. The minimum charge shall not be construed as a monthly minimum, but shall apply as a minimum for the initial one hundred twenty (120) days of the construction period. After the initial period, monthly minimums shall apply.

(e) At the time a customer or property owner submits a request/application for construction water access, the customer or property owner shall be required to prepay the minimum billing for each connection. The customer or property owner will be held responsible for all water used from the date the construction water access permit is issued until there is a change of ownership. The property owner will be required to submit in writing to the City Finance Department, the name of any new property owner, the correct street address and the date of the change in ownership. When this information is provided, a final billing will be prepared. In no event will any portion of the minimum billing be refundable and any charge in excess of the minimum will be billed to the property owner.

(f) For each service connection for which construction water access is being requested (and approval has been issued), the customer or property owner shall have on file a completed City Customer Service Center Hydrant Meter Account Information application.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-22; Enacted new Sec. 25-22) SUPP 2007-4

Sec. 25-23. Water; fire hydrants inside City in areas served by private water companies.

In any new development, other than the construction of a single family residence, which is located in the service area of a private water company within the City, the owner/developer shall furnish and install fire hydrants in accordance with City specifications and standards at locations designated by the City. The installation of hydrants, including all valves and appurtenances shall be at the expense of the property owner.
(Ord. No. 92-03, 2/11/92)
(Ord. No. 07-37, 11/20/07, Repealed Sec. 25-23 Reserved; Enacted new Sec. 25-23) SUPP 2007-4

Sec. 25-24. Reserved.
(Code 1977, § 13-4-1)
(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 98-115, 1/5/99, Renumbered Sec. 25-26 to Sec. 25-24)
(Ord. No. 07-37, 11/20/07, Repealed Existing Sec. 25-24; Reserved new Sec. 25-24) SUPP 2007-4

Meters

Sec. 25-25. Water; meters. Water; violations; civil sanctions.

(a) All water sold by the City shall be metered by meters which shall be owned and maintained by the City.

(b) The City may install a water meter on the property line or on the customer's property in such location as deemed necessary and which is conveniently accessible by a meter reader.

(c) Water meter installation fees shall be paid to the City in an amount in accordance with this code.

(d) Any obstruction, alteration or tampering with City owned meters by an individual other than authorized City personnel shall be subject to a Civil Sanction not to exceed One Thousand Dollars, ($1,000.00) for the first occurrence assessed by the Utilities Director in the manner provided by this Chapter. Each day such a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the individual to a separate Civil Sanction in the amount provided by this section. Additional fees may also be assessed for tampering or damaging the water meter and/or appurtenance City property.
(Code 1977, § 13-4-2)
(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 98-115, 1/5/99, Enacted)
(Ord. No. 07-37, 11/20/07, Repealed Existing Sec. 25-25; Enacted new Sec. 25-25) SUPP 2007-4

Sec. 25-26. Water; location of meters.

(a) Water pipes and equipment belonging to the customer shall be so arranged to permit the placing of a single water meter for that property convenient to the City. If the water pipes and equipment belonging to the customer are not arranged to permit such placement of a meter, and additional meters are required, each such additional meter shall be considered as an additional account and shall be billed as such.

(b) When two (2) or more meters are installed on the same property for different customers, they shall be closely grouped and each meter shall be clearly marked and maintained by the property owner, as to the customer to whom it belongs. However, no one meter shall serve more than one single family dwelling unit.

(c) If a meter reading cannot be taken, a bill may be prepared by the City in an amount based on the average monthly billing of the previous three (3) months.
(Code 1977, §§ 13-13-1, 13-13-2)
(Ord. No. 98-115, 1/5/99, Renumbered to Sec. 25-24)
(Ord. No. 07-37, 11/20/07, Repealed Reserved Sec. 25-26; Enacted new Sec. 25-26) SUPP 2007-4

Sec. 25-27. Water; testing meter accuracy.

Any customer may, upon written application accompanied by a deposit in an amount in accordance with this code, have their meter tested for accuracy by the City. If the meter registers a divergence from accuracy greater than three (3) percent, the deposit shall be refunded to the customer and the indicated adjustment made in the water service charges for a total period not longer than the current period and the monthly period immediately preceding. If a tested meter registers within three (3) percent of accuracy, the deposit shall be retained by the City as a fee to pay for the cost of the test. All inaccurate and defective meters shall be replaced by the City immediately when detected.

The charge for each turn off and each turn on of water service for reasons other than change of occupancy shall be made in amount included in the water rate schedule.
(Code 1977, § 13-5-5)
(Ord. No. 07-37, 11/20/07, Repealed Existing Sec. 25-27; Enacted new Sec. 25-27) SUPP 2007-4

Sec. 25-28. Reserved.
(Code 1977, §§ 13-10-1, 13-10-2)
(Ord. 98-115, 1/5/99, (c), (d) and (e) repealed)
(Ord. No. 07-37, 11/20/07, Repealed Existing Sec. 25-28; Reserve new Sec. 25-28) SUPP 2007-4

Deposits, Rates, Billing Procedures and Miscellaneous Charges

Sec. 25-29. Water; rate schedules, generally.

The City Council shall by resolution adopt a rate schedule setting the rates to be charged for water services provided by the City. Service for a time period less than one (1) month shall be prorated. The City shall commence service charges for a customer when the water meter is installed and the connection is made, regardless of whether water passes through the meter or otherwise.
(Code 1977, §13-7-1)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-29; Enacted new Sec. 25-29) SUPP 2007-4

Sec. 25-30. Water; reclaimed and Non-Potable Water Use; rate.

The use of reclaimed or non-potable water instead of potable water in certain circumstances and for certain uses is an important element in water resource management in the City. Rate setting for reclaimed and non-potable water shall be in accordance with the following:

The City Council shall by resolution adopt a rate schedules setting the rates to be charged for reclaimed water service provided by the City and non-potable water service provided by the City. Both reclaimed water service and non-potable water service for a time period less than one (1) month shall be charged at the minimum monthly rate. The City shall commence service charges for a customer when a water meter is installed and the connection is made regardless of whether reclaimed or non-potable water passes through the meter or not.
(Code 1977, §13-7-2)
(Ord. No. 98-115, 1/5/99, Amended (a) and added (b))
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-30; Enacted new Sec. 25-30) SUPP 2007-4
(Ord. No. 08-35, 12/02/08, Amended Sec. 25-30) SUPP 2008-4

Sec. 25-31. Water; system development fee.

(a) For each dwelling unit and commercial, industrial and institutional unit connected to the City's water supply system a water system development fee shall be charged.

(b) The water system development fee shall be charged in accordance with Table 25-31 of this Chapter.

See Table 25-31 Water System Development Fee .

(c) The fee shall be used to offset costs to the City associated with providing for the expansion of the City's public water supply system for the purpose of providing necessary services to the units against which the fee is charged. Such expansion to the City's public water system shall include, but not be limited to, acquisition and construction of well sites, water treatment facilities and drilling and equipping wells, booster pumps, storage tanks, water transmission mains larger than sixteen (16) inches in diameter, debt service and other expenses or improvements related to the public water supply system.

(d) The water system development fee shall become due and payable to the City at the time the building permit is issued for the unit, commercial or industrial project that will be connected to the public water supply system. For spaces in a mobile home or travel trailer park or multi-family attached housing, the water system development fee shall be due and payable for all the units at the time the first building permit is obtained for the construction of the project. For other situations, the water system development fee shall be due and payable as follows:

(1) For an existing property within the City not connected to the public water distribution system requesting to connect to the public water distribution system, the water system development fee shall be due after City approval of the connection (if approved) or

(2) For a property outside of the City not connected to the public water distribution system requesting to connect to the public water distribution system, the water system development fee shall be due after City approval of the connection (if approved pursuant to City Council policy).

(e) A separate fund shall be kept and maintained for the water system development fees into which the moneys collected from developments shall be deposited and accounted for. The fees deposited to each such account shall be used only for uses provided for in this section and result in a beneficial use to development. The moneys in the separate account may be used by the City for the uses contemplated by this section without regard to the status of such improvements, facilities or work to be performed as long as such expenditures result in a beneficial use to the development from which they were collected.
(Code 1977, §13-7-6)(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 98-115, 1/5/99, Renumbered from Sec. 25-51)
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-31; Enacted new Sec. 25-31) SUPP 2007-4
(Ord. No. 07-45, 12/18/07, Amended Table 25-31) SUPP 2007-4
(Ord. No 08-35, 12/02/08, Amended 25-31) SUPP 2008-4

Sec. 25-32. Water; resource development fee.

(a) For each dwelling unit and commercial, industrial and institutional unit connected to the City's water supply system in areas designated as subject to this fee, a water resources development fee shall be charged.

(b) The water resources development fee shall be charged in all areas of the City not included within the Salt River Valley Water Users Association Reclamation Project and generally consisting of all areas north of the Arizona Canal and Skunk Creek and west of New River.

See Table 25-32 Water Resource Development Fee

(c) The fee shall be used to offset costs to the City associated with providing for the acquisition of additional water resources for municipal and industrial uses, including acquisition by lease or purchase of additional Central Arizona Project Allocation; groundwater storage and recharge for the purpose of earning storage credits from the Arizona Department of Water

Resources; development of effluent and water reuse, reclamation and storage facilities and related expansion of the City's water resources.
(Code 1977, §13-7-8)
(Ord. No. 98-115, 1/5/99, Amended)
(Ord. 03-156, 7/1/03, Receded "Water; emergency declaration; ratification; restrictions; public notice." Adopted and Amended, "City of Peoria Drought Contingency Plan Management Procedure") SUPP 2003-3
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-32; Enacted new Sec. 25-32) SUPP 2007-4
(Ord. No. 07-45, 12/18/07, Amended Table 25-32) SUPP 2007-4

Sec. 25-33. Water; agreements; repayment agreements.

(a) The City and a property owner may execute a repayment agreement for certain projects. The project shall be bid in accordance with the provisions pertaining to public works projects contained in Title 34, of the Arizona Revised Statutes. The bids shall be opened at a location designated by the City on a pre-determined date agreeable to the property owner and the City. The City and the property owner reserve the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the City. In the event that the agreed upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the City.

(b) Upon completion of the project, the water main shall become the property of the City.

(c) Upon entry into a repayment agreement with the City, the property owner may connect into existing City water mains with the approval of the Utilities Director in consideration for their entry into the repayment agreement.

(d) The Utilities Director shall have sole and exclusive control of connections to the proposed water main.

(e) A repayment agreement will assist in establishing a reasonable charge to permit a connection. The connection charge will be made on a cost per frontage foot, using the agreed approach main construction costs and the extent to which new development is adjacent to the water main.

(f) The connection charge will be paid to the City, and the City agrees to repay such amounts to the property owner. Repayments shall be made by the City within sixty (60) days of receipt. The total of such repayments shall not exceed that portion of the agreed construction costs of the approach main allotted to frontage outside the service area of the property owner. The repayment agreement shall terminate in ten (10) years, or upon the repayment of the total amount in conformance with this Chapter, whichever is earlier. The City shall have the option to provide for repayment to the property owner by allowing a credit against water expansion fees due from the property owner to the City. The connection charge shall be paid into the water expansion fee account.
(Code 1977, § 13-7-9)

(Ord. 98-115, 1/5/99, Amended to add (b), (c) and (d))
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-33; Enacted new Sec. 25-33) SUPP 2007-4

Sec. 25-34. Water; repayments; water mains.

(a) This Chapter shall apply where a water main is extended by one property owner and connected to at a later date by one or more additional property owners. A property owner who extends a water main which is sixteen (16) inches in diameter or less and which provides a means of service to property owned by others may enter into an agreement with the City providing for repayment of a portion of the costs when the property abutting the main extensions develops. The project shall be bid in accordance with the provisions pertaining to public works projects contained in Title 34, of the Arizona Revised Statutes. The bids shall be opened at a location designated by the City on a pre-determined date agreeable to the property owner and the City. The City and the property owner reserve the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the City. In the event that the agreed upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the City.

(b) The City reserves the right to increase the diameter of the approach main above the standards in this Chapter if it deems advisable, but under the condition, that the City will assume the additional cost to increase the diameter of the water main above that which the property owner would incur for the approach main under the standards required by this code.

(c) The final detailed plans and specifications for the water main extension must be approved by the City prior to construction. The engineering costs for the preparation of plans, specifications and staking of the approach main incurred by the property owner may be included in the agreed construction costs as provided for in this section. The costs of distribution mains within the boundary of the project shall not be eligible for repayment.

(d) Agreements must be executed prior to construction of the water main and shall run for a period not to exceed ten (10) years from the date of execution by the City Engineer, who is authorized to execute the agreements in accordance with the provisions of this code. The agreements shall automatically terminate at the end of a ten (10) year period or upon repayment of the total amount possible being repaid, whichever is earlier. The City will not approve and/or execute an agreement after construction or acceptance by the City of the water main. There will be no repayments for buy-in assessments collected prior to receipt of the developer's request to enter into an agreement.

(e) Repayment will assist in establishing a reasonable charge to permit a connection. The connection charge will be made on a cost per frontage foot, using the agreed water main construction costs (and the extent to which new development is adjacent to the water main), less the repayment transaction fee established by City Council to cover administrative costs associated with the repayment agreement.

(f) The City Engineer will determine the amount of footage to be reimbursed, and such determination will be made a part of the agreement. Such agreements must be recorded in the office

of the Maricopa County Recorder.

(g) The City will make repayments within sixty (60) days of receipt of payment from adjacent property owners. The developer to whom the reimbursement is to be made must be stated on the agreement at the time of execution and it will be the duty of the developer (the individual to whom reimbursement is to be made) to keep the City Engineer advised as to the correct mailing address, etc. for reimbursement. Repayment agreements under this Chapter may be assigned to subsequent property owners of property who purchase or acquire the entire interest of the original property owner who entered into the repayment agreement and in accordance with the specific terms of the repayment agreement.

(h) The City retains and reserves the right (and ability) to enter into separate special agreements to cover unique situations where a standard repayment agreement is not applicable.

(i) Existing water lines, which are greater than sixteen (16) inches in diameter are considered part of the water transmission system and are not part of the water distribution grid. Property owners may be required to construct distribution mains of the required size parallel with such existing transmission system mains. Where existing distribution system mains within a development or along streets bounding the development, are smaller in size than that required by this code, or are otherwise inadequate, the property owner may be required to replace or parallel such mains with those of the required size.
(Code 1977, § 13-7-10)
(Ord. 98-115, 1/5/99. Amended to (b) and (c))
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-34; Enacted new Sec. 25-34) SUPP 2007-4

Sec. 25-35. Water; system repair fees.

Any individual, customer, developer, contractor, etc. who damages, cuts, destroys, or causes the need for repair to the City's water distribution system or any part thereof (i.e., mains, service lines, waterlines, etc.) shall be held financially responsible for the cost of the repair. The City shall assess the individual, customer, developer, etc. for the cost of the repair in an amount in accordance with this code.
(Ord. No. 07-37, 11/20/07, Enacted new Sec. 25-35) SUPP 2007-4

Sec. 25-36. Reserved.

Sec. 25-37. Reserved.

Enforcement of Chapter

Sec. 25-38. Water; discharge in violation, adoption of administrative regulations.

The City may establish administrative regulations, forms and rules as deemed appropriate to regulate and prohibit the discharge of water in violation of this Chapter.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-38; Enacted new Sec. 25-38) SUPP 2007-4

Sec. 25-39. Water, unlawful discharge, penalties, enforcement.

(a) The City may establish administrative regulations providing for the imposition of Civil Sanctions for violations of this Chapter.

(b) The unlawful discharge of water in violation of this Chapter or any other provision of this code is declared to be a nuisance. The City Attorney, on behalf of the City or any individual affected by the nuisance, may bring a civil action in the municipal court to abate the nuisance.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-39; Enacted new Sec. 25-39) SUPP 2007-4

Sec. 25-40. Water; use; penalties.

In addition to any other penalties provided in this Chapter, any individual or customer violating any of the provisions of this Chapter shall be guilty of a class one (1) misdemeanor.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-40; Enacted new Sec. 25-40) SUPP 2007-4

Sec. 25-41. Water; violations, civil sanctions.

(a) If the Utilities Director has reasonable cause to find that a violation of this code has occurred, the Utilities Director shall send written notice of the violation to the customer and any other individual on the utility account requesting notice. The notice shall be sent by certified mail within fifteen (15) days after the Utilities Director determines that reasonable cause exists to find that a violation has occurred. The notice shall provide with reasonable particularity the nature of the violation, a statement of the penalties provided in this Chapter for such violation and the steps required to be in compliance with this Chapter (i.e., abate the violation).

(b) An individual or customer shall have fifteen (15) days after receipt of the notice to come into compliance (i.e., correct the violation) pursuant to the provisions set forth in the notice. For each day after the notice is received by the customer until the Utilities Director approves the steps taken by the individual or customer to come into compliance with the provisions of this Chapter a Civil Sanction shall be assessed of Ten Dollars ($10.00) per day for each violation contained in the notice, not to exceed the maximum Civil Sanction of One Thousand Dollars ($1,000.00) for each violation as provided in this Chapter. Each day such a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the individual or customer to a separate civil sanction in the amount provided by this section.

(c) Should an individual or customer fail to respond to the Utilities Director notice of violation within fifteen (15) days after receiving the notice, the individual or customer shall be liable

for a Civil Sanction of Fifty Dollars ($50.00) per day for each violation contained in the notice up to the maximum Civil Sanction of One Thousand Dollars ($1,000.00) for each violation as provided in this Chapter.

(d) If an individual or customer fails to respond to the notice of violation within fifteen (15) days after receipt, the Utilities Director shall issue a compliance order stating with reasonable particularity the nature of the violation, steps required for compliance and the amount of Civil Sanctions which have accrued to date. The Utilities Director at the time of issuance of a compliance order shall impose the maximum Civil Sanction of One Thousand Dollars ($1,000.00) for each violation as provided in this Chapter. However, the same compliance order may address multiple violations arising out of the same set of facts occurring on multiple dates. A copy of the compliance order shall be served on the individual or customer by certified mail. The individual or customer shall have ten (10) days from the date of receipt to request a hearing by filing a notice with the Utilities Director.

(e) The hearing shall be held before a hearing officer appointed by the City for such purpose. All relevant evidence may be admitted, whether admissible under the Arizona Rules of Evidence. The hearing shall be held in the manner provided for State administrative hearings pursuant to Title 41, Chapter 6, of the Arizona Revised Statutes. The hearing officer shall issue a written decision within ten (10) days after the hearing.

(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-41; Enacted new Sec. 25-41) SUPP 2007-4

Sec. 25-42 Water; point-of-use device violations.

Because a water system must obtain one hundred percent (100%) Point-of-Use ("POU") customer compliance, if a customer fails or refuses to allow the installation of a POU treatment device, or the maintenance of such device despite the City's best efforts to obtain the customer's voluntary compliance, the customer will be deemed in violation of the program.

A customer in violation, who fails or refuses to authorize a POU treatment device or the maintenance of such device, will be subject to the City shutting-off water service to their residence. Water service shut-off will be sought after other methods of achieving compliance have been tried without success. The City will not terminate service until after the customer receives ten (10) days notice and an opportunity to comply with the POU program prior to termination of service.

(Ord. No. 2011-23, 11/01/2011, Enacted) SUPP 2011-4

Sec. 25-43. through 25-45. Reserved.
(Ord. No. 2011-23, 11/01/2011, Reserved) SUPP 2011-4

Sec. 25-46. Reserved.
(Code 1977, §§13-5-1, 13-5-2, 13-5-6, 13-5-7, 13-10-3)
(Ord. No. 07-37, 11/20/07, Repealed Sec. 25-46; Reserved new Sec. 25-46) SUPP 2007-4

Sec. 25-47. Reserved.
(Code 1977, §13-3-1)
(Ord. No. 90-05, 2-13-90)
(Ord. No. 91-12, 5/14/91)
(Ord. No. 96-30, 6/4/96, Repealed, see section 2-405, et.seq. Utility Services)

Sec. 25-48. Reserved.
(Code 1977, §13-3-2)
(Ord. No. 90-05, 2-13-90)
(Ord. No. 96-30, 6/4/96, Repealed, see section 2-405, et.seq. Utility Services)

Sec. 25-49. Reserved.
Charter reference(s) -- Assessments and liens authorized, art. I, § 3(4).
(Code 1977, § 13-5-3)
(Ord. No. 96-30, 6/4/96, Repealed, see section 2-405, et.seq. Utility Services)

Sec. 25-50. Reserved.
(Code 1977, § 13-5-4)
(Ord. No. 98-115, 1/5/99, Repealed)
(Ord. No. 05-23, 4/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed Sec. 25-50; Reserved new Sec. 25-50) SUPP 2007-4

Sec. 25-51. Reserved.
(Code 1977, § 13-6-1 through 13-6-7)
(Ord. No. 98-115, 1/5/99, Renumbered to Sec. 25-31)
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-51; Reserved new Sec. 25-51) SUPP 2007-4

Sec. 25-52. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-52; Reserved new Sec. 25-52) SUPP 2007-4

Water Conservation and Drought Management Procedures

Sec. 25-53. Water; unnecessary waste, turnoffs, water leaks.

(a) Customers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. All water outlets, including those used in conjunction with hydrants, urinals, water closets, bathtubs and other fixtures, shall not be left running for any purpose other than the use for which they were intended. The City may immediately terminate the water supply (i.e., it may be turned off) where any such waste occurs.

(b) Water running off a landscaped area to another area where the water is not beneficially used, such as on to streets, sidewalks, gutters, alleys, public utility easements, public or private parking areas is prohibited.

(c) Customers' shall repair water leaks upon their property within fourteen (14) days after discovery. Failure to repair a water leak shall subject the customer to a civil sanction.

(d) The Utilities Director may impose Civil Sanctions for violations of this Chapter in an amount not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00). Each day such a violation occurs shall be deemed a separate violation for purposes of this Chapter and shall subject the customer to a separate Civil Sanction in the amount provided by this Chapter.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-53; Enacted new Sec. 25-53) SUPP 2007-4

Sec. 25-54. Water; City drought contingency plan management procedure.

(a) Scope. There is hereby established the following City Drought Contingency Plan Management Procedure ("Management Procedure"), which establishes policies, rules, duties, penalties, and plan for the City to be implemented during a declared water deficiency. The Management Procedure shall promulgate guidelines, which set forth the criteria for determining when particular regulations with reference to which water deficiency stage is to be implemented and terminated. The City will also adopt a Drought Contingency Plan, which shall include the rules and guidelines, adopted pursuant to this Chapter. Additionally, such plans shall be updated when, in the opinion of the Utilities Director, the conditions of the current plan have changed so as to necessitate such update. The Plan shall be available for inspection at the City Clerk's office, and the City Utilities Department during normal business hours.

(b) Declaration of policy. It is hereby declared that when in the judgment of the City Manager: (1) the use of the water supply and delivery system has approached a level that exceeds the City's ability to provide a supply of water to each customer within a pressure zone or throughout the City or where the available supplies of ground water or surface water delivered to the City are reduced; or (2) the general welfare requires that the water resources available to the City be put to the maximum beneficial use, or unreasonable method of use of water be prevented, and the conservation of such water is to be extended with a look at the reasonable and beneficial use thereof in the interests of the City and for the public welfare, a water deficiency may be declared. A water

deficiency shall be designated a Stage 1 (Water Watch), Stage 2 (Water Alert), Stage 3 (Water Warning), or Stage 4 (Water Emergency). The water deficiency shall continue until the declaration is rescinded by the City Manager or terminated by the City Council in accordance with this Chapter.

Upon designation by the City Manager, the water deficiency shall go into immediate effect. At the next regularly scheduled City Council meeting, a resolution ratifying the deficiency will be placed before the City Council. If the City Council rejects the resolution, the water deficiency will be terminated, otherwise the water deficiency shall continue in effect until terminated by the City Manager.

The surcharges and measures adopted herein are an exercise of the City's police power.

(c) Application. The provisions of this Chapter shall apply to all individuals, customers, and property served by the Utilities Department. Upon the designation of any stage of a water deficiency, the City shall make public announcements that a water deficiency is in effect and the designated stage. The City shall also post a copy of the declaration in each location where public notices of the City are required to be posted.

(d) Stage 1 (Water Watch). Upon the designation of a Stage 1 (Water Watch), the City shall implement the latest Drought Contingency Plan on file in the City Clerk's office that has been approved and made available for public use and inspection. The Water Watch shall trigger a voluntary five percent (5%) reduction goal, except for the City, the City shall be subject to a mandatory five percent (5%) reduction goal. Additionally, such designation shall trigger an intensive public education and information program to assist all City customers (i.e., residential, commercial/industrial, public and government) to understand the nature of the deficiency and the need for voluntary compliance.

(e) Stage 2 (Water Alert). Upon the designation of a Stage 2 (Water Alert), all elements of a Stage 2 water deficiency as described in the Drought Contingency Plan shall become mandatory and be enforced, which may include, in addition to any other remedy available in this Chapter, a water deficiency rate surcharge as declared in this Chapter for the purpose of rationing, aggressive code enforcement and providing adequate revenues to operate the water utility system in accordance with the water deficiency and Drought Contingency Plan adopted by the City Council.

(f) Stage 3 (Water Warning). Upon the designation of a Stage 3 (Water Warning), all elements of a Stage 3 water deficiency as described in the Drought Contingency Plan shall become mandatory and be enforced, which may include, in addition to any other remedy available in this Chapter, a water deficiency rate surcharge as declared in this code for the purpose of rationing, aggressive code enforcement and providing adequate revenues to operate the water utility system in accordance with the water deficiency and Drought Contingency Plan adopted by the City Council.

(g) Stage 4 (Water Emergency). Upon the designation of a Stage 4 (Water Emergency), all elements of a Stage 4 water deficiency as described in the Drought Contingency Plan shall become mandatory and be enforced, which may include, in addition to any other remedy available in this Chapter, a water deficiency rate surcharge as declared in this code for the purpose of rationing, aggressive code enforcement and providing adequate revenues to operate the water utility

system in accordance with the water deficiency and Drought Contingency Plan adopted by the City Council. Additionally, extra measures and or procedures deemed necessary by the City may be instituted to protect human health and safety and to ensure that the residents of the City shall have the minimum amounts of water necessary for human consumption and use.

(h) Water deficiency rate surcharge. Upon designation of a Stage 2, 3, or 4 water deficiency, the City Manager may declare effective immediately a schedule of water deficiency rate surcharges to provide rationing, aggressive code enforcement and providing adequate revenues to operate the water utility system in accordance with the water deficiency and Drought Contingency Plan adopted by the City Council.

(i) Sanction. It shall be unlawful for any individual, customer, corporation and property served by the Utilities Department to violate the provisions of this section. If and when the City becomes aware of any violation of any regulation pertaining to this section (water use or misuse), a written notice (citation) shall be placed on the property where the violation occurred and a duplicate mailed to the individual who is regularly billed for the service where the violation occurs and to any other individual known to the City who is responsible for the violation or its correction. If such violation is not complied with, the City may disconnect the service where the violation occurs.

Violations of this section shall be subject to the imposition of a Civil Sanction by the Utilities Director in an amount not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00). Each day such a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the violator to a separate Civil Sanction in the amount provided in this section.

In addition to any other remedies available water service may be disconnected where the violation occurs. A fee, to be established by the Utilities Director, may be imposed for reconnection of any service disconnected pursuant to non-compliance and shall be in addition to other fees or charges imposed by this Chapter for disconnection or reconnection of service.

(j) Severability. If any provision, section, subsection, sentence, clause or phrase of this section, or the application of the same to any individual or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this section shall not be affected. It being the intent of the City Council in adopting this section that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this section are declared to be severable for that purpose.

(k) Citations. Code compliance officers/code compliance supervisors of the City are hereby authorized, empowered and given the duty to enforce provisions of the City code and to issue citations for violations of said code.

(l) Publication of Terms of Water Use. Upon such water deficiency declaration by the City Manager, it shall be the duty of the City Manager to have public notice given by publishing a notice giving the extent, terms and conditions respecting the use and consumption of water, at least once (1) for three (3) consecutive days in the official newspapers of the City. Upon such declaration

and publication of such notice, due and proper notice shall be deemed to have been given to each and every consumer supplied with water by the City.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-54; Enacted new Sec. 25-54) SUPP 2007-4

Sec. 25-55. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-55; Reserved Sec. 25-55) SUPP 2007-4

Sec. 25-56. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-56; Reserved Sec. 25-56) SUPP 2007-4

Sec. 25-57. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-57; Reserved Sec. 25-57) SUPP 2007-4

Sec. 25-58. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-58; Reserved Sec. 25-58) SUPP 2007-4

Sec. 25-59. Reserved.
(Ord. No. 05-23, 04/05/05, Enacted) SUPP 2005-02
(Ord. No. 07-37, 11/20/07, Repealed existing Sec. 25-59; Reserved Sec. 25-59) SUPP 2007-4

Sec. 25-60. Reserved.

Reclaimed Water Service.

Sec. 25-61. Water; Reclaimed Water Service; promulgation and enforcement of procedures and regulations. Reserved.

(a) The Utilities Director shall have the authority to promulgate procedures and regulations relative to the City reclaimed water distribution system with respect to the following matters and which procedures and regulations shall become effective in the manner provided by this code:

(1) Application procedures and requirements including execution of a Reclaimed Water Use Service Agreement.

(2) Installation requirements, including specification of acceptable materials, devices and regulations to help prevent backflow or cross-connections with other systems, all of which shall be subject to right-of-way permits and construction procedures approved by the City Engineer. System development requirements, including onsite facilities needed for a customer to receive reclaimed water service from the point of delivery, will not be subject to any reimbursement or refund by the City. A customer must pay all costs to extend the Reclaimed Water Distribution System necessary to serve that customer including onsite and offsite facilities.

(3) Procedures for enforcement of the ordinances and regulations pertaining to reclaimed water including, but not limited to, procedures for inspection of customer's system and requiring appropriate signage pertaining to use of reclaimed water.

(4) Procedures for the orderly expansion of the City reclaimed water distribution system.

(5) Procedures and regulations for the efficient operation of the City reclaimed water distribution system.

(6) The time of day or night during which customers may use reclaimed water.

(7) The maximum rate of use for reclaimed water.

(b) It shall be unlawful for any individual or customer to construct, operate, maintain or allow to remain present on property owned or controlled by them, any device or system that is connected to or that controls a device or system connected to the City's reclaimed water distribution system that is not in compliance with all provisions of this code related to reclaimed water and with all procedures and regulations promulgated pursuant to this Chapter. In addition to any other Civil Sanctions that may be imposed by law, any individual or customer who owns or controls property upon which a non-complying device or system is found shall be liable to the City for a Civil Sanction of Five Hundred Dollars ($500.00) or the amount by which the costs associated with the securing and/or removal of the non-complying device or system exceeds the cost of a normal discontinuance of service, whichever is greater. This Civil Sanction shall constitute a lien against

the property upon which the non-complying device or system is located in the same manner as other unpaid utility fees under this Chapter.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-61; Enacted new Sec. 25-61) SUPP 2007-4

Sec. 25-62. Water; Reclaimed Water Service; priority of delivery.

(a) The Utilities Director shall determine, on or before December 1 of each year, the total amount of reclaimed water, which shall be available for the next calendar year, and the minimum quantity of reclaimed water needed to operate the City recharge facilities. The Utilities Director shall first allocate quantities needed to operate all City recharge facilities. The Utilities Director may make such determinations on a service area basis depending on the location of publicly operated treatment works providing reclaimed water. Such determinations (i.e., deductions and priority of delivery) shall be made at the discretion of the Utilities Director.

(b) After making the deductions of reclaimed water needed for City recharge facilities, the Utilities Director at their discretion shall allocate the remaining reclaimed water in the following order of priority:

(1) Priority A. The use of reclaimed water for City recharge facilities (reclaimed water shall first be allocated to completely satisfy all of the City recharge facilities).

(2) Priority B. The use of reclaimed water for City dedicated rights-of-way landscaping, municipal parks and other municipal turf facilities.

(3) Priority C. The use by customers who have a reclaimed water service use agreement with the City for reclaimed water on turf areas or uses required by this Chapter, development agreements with the City requiring the use of reclaimed water and as required by statute.

(4) Priority D. The use by customers who have a reclaimed water service use agreement with the City for reclaimed water on privately maintained landscaping and private turf facilities such as homeowner association parks and common areas, but not including private or public golf courses.

(5) Priority E. The use of reclaimed water by customers who make a request to the City Utilities Department for a single year's delivery of reclaimed water.

(c) Allocation of reclaimed water for Priority C and D will be in order determined by the original execution date of the Reclaimed Water Use Service Agreement with the City (as it may be amended or renewed from time to time) for the Priority.

(d) If the requested allocation from all contracted customers is greater than the quantity of reclaimed water available, but all applicants meet the requirements of paragraphs 3 and (c) or 4

and (c) above, the Utilities Director may allocate the reclaimed water based on contributory flow from the drainage basin or sub basin as solely determined by the Utilities Director.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-62; Enacted new Sec. 25-62) SUPP 2007-4

Sec. 25-63. Water; Reclaimed Water Service; use required.

(a) It is the policy of the City to actively work with new and existing large water customers, including golf courses, parks, schools, cemeteries, industrial and multi-family complexes, to provide water service by the City reclaimed water distribution system. Additionally, all new and amendments to existing water and land use plans must evaluate and address the potential for using reclaimed water.

(b) New turf facilities of ten (10) acres or more designed or constructed after May 7th, 2005 and located within a half (1/2) a mile (i.e., 2,640 feet) of a reclaimed water service line, including right-of-way landscaping, whether public or private, parks, retention and detention basins, whether public or private, designated open space, whether public or private and golf course development shall use reclaimed water for irrigation purposes.

(c) Any conditions of interim water use pending access to the City reclaimed water distribution system will be permitted only upon execution of a reclaimed water use service agreements and other appropriate contracts to assure prompt conversion to use of reclaimed water for such specified purposes. Conditions of interim water use may not extend use of potable water for a period longer than permitted by law. These conditions shall include, but not be limited to:

(1) The date by which the City anticipates having its portion of the City reclaimed water distribution system in place, however such date is contingent upon approval and funding within the City's Capital Improvements Program.

(2) Requirements for financial participation by a developer in the construction of a project.

(3) Penalties for non-compliance with interim water use conditions.

(4) A surcharge as established by resolution not to exceed twenty-five percent (25%) of the potable water rate in addition to the regular rates and charges during the period of interim use.

(5) Compliance with City specifications for construction and maintenance of temporary interim water use connections.

(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-63; Enacted new Sec. 25-63) SUPP 2007-4

Sec. 25-64. Water; Reclaimed Water Service; discontinuance of service.

(a) In the event a customer desires to discontinue the use of reclaimed water, the Reclaimed Water Use Service Agreement shall address and govern the compensation to be paid to the City for the remainder of the fiscal year in which such water use is terminated. Upon the termination of the use of reclaimed water by a customer, that customer's allocation will be reallocated to other customers by priority.

(b) Any customer whose reclaimed water system is in violation of any State or County statute, ordinance or regulation or City ordinance, regulation, procedure or permit shall be subject to immediate discontinuance of reclaimed water service. Such discontinuance of service shall not relieve such (former) customer of any liability for civil actions for criminal or municipal ordinance violation prosecution.

(c) The City may suspend or discontinue reclaimed water service to any customer that violates the provisions of this Chapter, including delinquency of any money (i.e., payment, fee, fine, assessment, etc.) owed the City. The procedure for discontinuance shall be as follows:

(1) Where the sole reason for discontinuance of service is delinquency of money owed the City, the matter will be handled as provided in Chapter 2 of this Code.

(2) Where the reason for discontinuance of service is due to a violation of an ordinance or regulation governing the City reclaimed water distribution system (or a reclaimed water service line) or where the violation endangers the health or safety of the public or the customer, discontinuance of service may occur without prior written notice or hearing.

(3) Where the reason for discontinuance is a refusal to permit an inspection being conducted pursuant to this Chapter, neither notice or a hearing shall be required prior to discontinuance of service.

(4) In cases where reclaimed water service has been turned on or a connection made to the City reclaimed water distribution system without authorization from the City, discontinuance of the service shall be immediate. No prior notice or pre-discontinuance hearing shall be required.

(5) Any customer who is found to be in violation of any City ordinance, regulation or procedure governing reclaimed water shall be subject to immediate discontinuance of reclaimed water service.

(6) A customer whose service has been discontinued for delinquency of money (i.e., payment, fee, assessment, etc.) owed to the City may resume reclaimed water service after paying any past due amounts of money owed to the City and a reconnection fee. For discontinuance for any other reason, the customer must apply for reclaimed water as a Priority D applicant, unless a

new agreement is entered into between the customer and City.

(d) After disconnection of reclaimed water service for violation of any provision of this Chapter, such remaining reclaimed water shall be allocated to other customers having the same Class on a pro-rata basis, unless all needs within the Class are satisfied in full, in which case, it will be allocated to customers in a different Class who request reclaimed water service on a pro-rata basis.

(e) Where service has been disconnected for a violation of an ordinance or regulation regarding reclaimed water, such service shall not be reconnected until the Utilities Director receives adequate assurances and guarantees that such a violation will not recur.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-64; Enacted new Sec. 25-64) SUPP 2007-4

Sec. 25-65. Water; Reclaimed Water Service; customer responsibility.

(a) The customer shall provide connections and appurtenances from the point of delivery after approval of the construction specifications (i.e., connections and appurtenances) by the Utilities Department, at the customer's own cost and without reimbursement in any form by the City as set forth in this subsection.

(1) The customer shall be responsible for scheduling an inspection of the connection assembly with the Utilities Department upon completion of the installation.

(2) The customer shall not tamper with or modify or connect any unauthorized hose, fitting or fixtures to the connection assembly.

(3) The customer shall be responsible for all maintenance including equipment, etc. associated with receiving reclaimed water from the point of delivery to the customer's property line and beyond.

(b) The customer shall restrict the use of reclaimed water for such uses as promulgated by the Utilities Director who may take into account the Class level of the user and state law. The customer shall post such signage as determined appropriate by the Utilities Director advising customers of such facilities and the public that reclaimed water is being used on the property.

(c) The customer will not allow the reclaimed water to:

(1) Enter dwelling units for toilet flushing or other potable uses;

(2) Be plumbed for consumption by humans or animals;

(3) Interconnect with another water source;

(4) Sprinkle edible crops or gardens;

(5) Contact humans or animals for recreation;

(6) Flow through unapproved types of connections as determined by the Utilities Director;

(7) Fill swimming pools;

(8) Be resold (i.e., the act of selling reclaimed water again);

(9) Be used for any purpose in violation of regulations promulgated by the Utilities Director governing such use; and

(10) Be used in any way that violates state or federal law.

(d) It shall be unlawful for any individual or customer to tamper with City property to receive reclaimed water in a manner inconsistent with this Chapter.

(e) It shall be unlawful for any individual or customer to interfere in any way with any officer, employee or agent of the City charged with management, construction, operation, inspection, testing or maintenance of the reclaimed water system in the discharge of their duties.

(f) It shall be unlawful for any individual or customer to receive reclaimed water from the City reclaimed water distribution system on any parcel unless the City shall have placed or directed the placing of a reclaimed water meter upon such parcel. It shall be the responsibility of the Utilities Director to approve or decline each application for reclaimed water. The Utilities Director shall direct the type and size of any reclaimed water meter to be installed in the turnout based on the proposed quantity of reclaimed water to be used. It is the responsibility of the customer to pay for the meter, however the meter shall remain the property of the City.
(Ord. No. 07-37, 11/20/07, Repealed Sec. 25-65; Enacted new Sec. 25-65) SUPP 2007-4

Sec. 25-66. Water; Reclaimed Water Service; unauthorized work.

(a) It shall be unlawful for any individual or customer to tamper with, or perform work on the City reclaimed water distribution system or to operate City turnouts to receive reclaimed water unless expressly authorized by the Utilities Director. Tampering or performing work shall include, but is not limited to, opening or closing of valves, turning on hydrants, or the causing of any water to flow from the system. It is also unlawful for any individual or customer, unless authorized by the Utilities Director to:

(1) Cut into or make any improper connection to the City reclaimed water distribution system.

(2) Use any unapproved connector.

(3) Cause or allow their reclaimed water system to have any cross connections (between two or more water supplies), any illegal connections or tie-ins, or

any discharge of reclaimed water into the public sewer system.

(4) Let, rent, or resale to any other party or property any part of the reclaimed water system or use of the reclaimed water in any manner or for any purpose other than described in the ordinance and documents governing the reclaimed water system and usage executed by the customer of the reclaimed water service and the City. Any violations of the aforementioned nature may result in discontinuance or termination of reclaimed water service as provided in this Chapter. The offending individual or customer shall be liable for the cost of all charges attributable to the correction of such tampering, including, but not limited to legal expenses, payment for or correcting of such damage shall not relieve the offending individual or customer from criminal or Civil Sanctions the City or a court of law may impose for a violation of a City ordinance.

(b) It is unlawful for the customer to permit the reclaimed water to be used for human or animal consumption, inter-connecting with another water source, sprinkling of edible crops (gardens), body contact, recreation, use through hose bibs, faucets, quick couplers, etc., filling of swimming pools, sharing a common reclaimed water service or connection between properties, supplying air cooling systems (a/c units), or washing of equipment such as cars, boats, driveways, roofs, structures, etc.
(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-66; Enacted new Sec. 25-66) SUPP 2007-4

Sec. 25-67. Water; Reclaimed Water Use; customers, service agreements.

(a) Reclaimed water service shall only be provided to customers through reclaimed water use service agreements or annual orders for delivery as provided by the Utilities Director. The Utilities Director is authorized to execute such agreements on behalf of the City under the supervision of the City Attorney and approved as to form as required by the City Charter.

Since contractual rights for/to the use of reclaimed water may result in added value to a customer's property, agreements/contracts shall recognize that possibility and require a waiver by the customer of any such added value in the event of purchase or condemnation of the property by the City through negotiation. This requirement shall be an implied term of all reclaimed water use service agreements or similar agreements between the City and a customer.

(b) Reclaimed water use shall be controlled as follows:

(1) The use of all reclaimed water derived from water developed by the City, including but not limited to the City's allocation of groundwater, Salt River Project and Central Arizona Project water, shall be directly controlled by the City.

(2) The use of all reclaimed water derived from water developed by entities other than the City, but served to customers within the corporate boundaries of the City, shall be directly controlled by the City.

(c) It shall be unlawful to receive or use reclaimed water in any area within the City limits other than by a Reclaimed Water Use Service Agreement or annual delivery agreement with the City.

(d) When private development requires reclaimed water service in advance of the City's construction schedule, such customers/developers shall work with the Utilities Department to formulate a plan of service to be implemented at the sole expense of the customer/developer with facilities to be dedicated to City upon completion. Nothing herein will be construed to require the City to enter into such an agreement.

(e) The Reclaimed Water Use Service Agreement shall be in accordance with the Water Reuse System Master Plan, the Water Resources Master Plan and the City's water policy. Additionally, the Reclaimed Water Use Service Agreement recognizes that the use of reclaimed water may reduce the amount of groundwater or surface water that the City would have otherwise provided.

(f) Capital costs are those costs associated with providing distribution mains from the wastewater treatment facility to the point of delivery, up to, but not including, the connection. The Utilities Director may designate areas as not being appropriate for capital cost recovery taking into account the benefit of promoting reclaimed water use and the benefit to the City from not receiving full capital cost recovery.

(g) No customer will be allowed to connect property to the reclaimed water system unless such customer has made payment in full for the share of the capital costs. Alternatively, the customer may enter into an assessment agreement and provide for a lien to be secured against and recorded upon such property. Additionally, the customer may provide such other financial security to cover such capital costs acceptable to the Chief Financial Officer and City Attorney.

(h) The City Council's adopted rate schedule for Reclaimed Water shall dictate the cost of reclaimed water. Such schedule may be amended from time to time, as needed.

(i) To the extent funding is available in the City's adopted Capital Improvement Program, the City may elect to finance or participate in the construction of reclaimed water pipelines in the City's water service area to serve customers whose estimated reclaimed water usage is sufficient to justify pipeline construction on the basis of economic feasibility and such participation is consistent with the City's adopted Water Reuse Master Plan.

(Ord. No. 07-37, 11/20/07, Repealed reserved Sec. 25-67; Enacted new Sec. 25-67) SUPP 2007-4

Non-Potable Water Service.

Sec. 25-68 Water; Non-Potable Water Service; Promulgation and Enforcement of Procedures and Regulations

(a) The Utilities Director shall have the authority to promulgate procedures and regulations relative to the City non-potable water distribution system with respect to the following matters and which procedures and regulations shall become effective in the manner provided by this Code:

(1) Application procedures and requirements including execution of a Non-Potable Water Use Service Agreement.

(2) Installation requirements, including specification of acceptable materials, devices and regulations to help prevent backflow or cross-connections with other systems, all of which shall be subject to right-of-way permits and construction procedures approved by the City Engineer. System development requirements, including onsite facilities needed for a customer to receive non-potable water service from the point of delivery, will not be subject to any reimbursement or refund by the City. A customer must pay all costs to extend the Non-Potable Water Distribution System necessary to serve that customer including onsite and offsite facilities.

(3) Procedures for enforcement of the ordinances and regulations pertaining to non-potable water including, but not limited to, procedures for inspection of the customer’s system and requiring appropriate signage pertaining to use of non-potable water.

(4) Procedures for the orderly expansion of the City non-potable water distribution system.

(5) Procedures and regulations for the efficient operation of the City non-potable water distribution system.

(6) The time of day or night during which customers may use non-potable water.

(7) The maximum rate of use for non-potable water.

(b) It shall be unlawful for any individual or customer to construct, operate, maintain, or allow to remain present on property owned or controlled by them, any device or system that is connected to or that controls a device or system connected to the City's non-potable water distribution system that is not in compliance with all provisions of this Code related to non-potable water and with all procedures and regulations promulgated pursuant to this Chapter. In addition to any other Civil Sanctions that may be imposed by law, any individual or customer who owns or controls property upon which a non-complying device or system is found shall be liable to the City for a Civil Sanction of Five Hundred Dollars ($500.00) or the amount by which the costs associated with the securing and/or removal of the non-complying device or system exceeds the cost of a

normal discontinuance of service, whichever is greater. This Civil Sanction shall constitute a lien against the property upon which the non-complying device or system is located in the same manner as other unpaid utility fees under this Chapter.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-68; Enacted new Sec. 25-68) SUPP 2008-4

Sec. 25-69. Water; Non-Potable Water Service; use required

(a) In order to establish non-potable water service with the City, all of the following criteria must be satisfied:

(1) The non-potable water service will be located within one-half mile of an existing City well.

(2) The water quality in such existing City well fails to meet current water quality standards.

(3) Construction of water treatment facilities for such well is not economically feasible as determined by the Utilities Director.

(4) Reclaimed water is not available to the location of service.

(b) If all of the criteria identified in Subsection (a) is satisfied, non-potable water service may be established for one or both of the following limited purposes:

(1) Irrigation of landscaping that was in place prior to December 1, 2008.

(2) Filling of lakes or other large bodies of water that were created prior to January 1, 1987.

(c) The Utilities Director may waive a time limitation prescribed in Section (b)(1) if the Utilities Director finds that all other required criteria have been satisfied and that the purpose of the requested use of non-potable water service is consistent with the intent of this Code.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-69; Enacted new Sec. 25-69) SUPP 2008-4

Sec. 25-70. Water; Non-Potable Water Service; discontinuance of service.

(a) In the event a customer desires to discontinue the use of non-potable water, the Non-Potable Water Use Service Agreement shall address and govern the compensation to be paid to the City for the remainder of the fiscal year in which such water use is terminated. Upon the termination of the use of non-potable water by a customer, that customer's allocation will be reallocated to other customers by priority.

(b) Any customer whose non-potable water system is in violation of any State or County statute, ordinance, or regulation or City ordinance, regulation, procedure, or permit shall be subject to immediate discontinuance of non-potable water service. Such discontinuance of service shall not

relieve such (former) customer of any liability for civil actions for criminal or municipal ordinance violation prosecution.

(c) The City may suspend or discontinue non-potable water service to any customer that violates the provisions of this Chapter, including delinquency of any money (i.e., payment, fee, fine, assessment, etc.) owed the City. The procedure for discontinuance shall be as follows:

(1) Where the sole reason for discontinuance of service is delinquency of money owed the City, the matter will be handled as provided in Chapter 2 of this Code.

(2) Where the reason for discontinuance of service is due to a violation of an ordinance or regulation governing the City non-potable water distribution system (or a non-potable water service line) or where the violation endangers the health or safety of the public or the customer, discontinuance of service may occur without prior written notice or hearing.

(3) Where the reason for discontinuance is a refusal to permit an inspection being conducted pursuant to this Chapter, neither notice or a hearing shall be required prior to discontinuance of service.

(4) In cases where non-potable water service has been turned on or a connection made to the City non-potable water distribution system without authorization from the City, discontinuance of the service shall be immediate. No prior notice or pre-discontinuance hearing shall be required.

(5) Any customer who is found to be in violation of any City ordinance, regulation,or procedure governing non-potable water shall be subject to immediate discontinuance of non-potable water service.

(6) A customer whose service has been discontinued for delinquency of money (i.e., payment, fee, assessment, etc.) owed to the City may resume non-potable water service after paying any past due amounts of money owed to the City and a reconnection fee. For discontinuance for any other reason, the customer must apply for non-potable water as a Priority D applicant, unless a new agreement is entered into between the customer and City.

(d) Where service has been disconnected for a violation of an ordinance or regulation regarding non-potable water, such service shall not be reconnected until the Utilities Director receives adequate assurances and guarantees that such a violation will not recur.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-70; Enacted new Sec. 25-70) SUPP 2008-4

Sec. 25-71. Water; Non-potable Water Service; customer responsibility.

(a) The customer shall provide connections and appurtenances from the point of delivery after approval of the construction specifications (i.e., connections and appurtenances) by

the Utilities Department, at the customer's own cost and without reimbursement in any form by the City as set forth in this subsection.

(1) The customer shall be responsible for scheduling an inspection of the connection assembly with the Utilities Department upon completion of the installation.

(2) The customer shall not tamper with or modify or connect any unauthorized hose, fitting, or fixtures to the connection assembly.

(3) The customer shall be responsible for all maintenance including equipment, etc. associated with receiving non-potable water from the point of delivery to the customer's property line and beyond.

(b) The customer shall restrict the use of non-potable water for such uses as promulgated by the Utilities Director, who may take into account the Class level of the user and state law. The customer shall post such signage as determined appropriate by the Utilities Director advising customers of such facilities and the public that non-potable water is being used on the property.

(c) The customer will not allow the non-potable water to:

(1) Enter dwelling units for toilet flushing or other potable uses;

(2) Be plumbed for consumption by humans or animals;

(3) Interconnect with another water source;

(4) Sprinkle edible crops or gardens;

(5) Flow through unapproved types of connections as determined by the Utilities Director;

(6) Fill swimming pools;

(7) Be resold (i.e., the act of selling non-potable water again);

(8) Be used for any purpose in violation of regulations promulgated by the Utilities Director governing such use; and

(9) Be used in any way that violates state or federal law.

(d) It shall be unlawful for any individual or customer to tamper with City property to receive non-potable water in a manner inconsistent with this Chapter.

(e) It shall be unlawful for any individual or customer to interfere in any way with any officer, employee, or agent of the City charged with management, construction, operation, inspection, testing, or maintenance of the non-potable water system in the discharge of their duties.

(f) It shall be unlawful for any individual or customer to receive non-potable water from the City non-potable water distribution system on any parcel unless the City shall have placed or directed the placing of a non-potable water meter upon such parcel. It shall be the responsibility of the Utilities Director to approve or decline each application for non-potable water. The Utilities Director shall direct the type and size of any non-potable water meter to be installed in the turnout based on the proposed quantity of non-potable water to be used. It is the responsibility of the customer to pay for the meter; however the meter shall remain the property of the City.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-71; Enacted new Sec. 25-71) SUPP 2008-4

Sec. 25-72. Water; Non-potable Water Service; unauthorized work.

(a) It shall be unlawful for any individual or customer to tamper with, or perform work, on the City non-potable water distribution system or to operate City turnouts to receive non-potable water unless expressly authorized by the Utilities Director. Tampering or performing work shall include, but is not limited to, opening or closing of valves, turning on hydrants, or the causing of any water to flow from the system. It is also unlawful for any individual or customer, unless authorized by the Utilities Director to:

(1) Cut into or make any improper connection to the City non-potable water distribution system.

(2) Use any unapproved connector.

(3) Cause or allow their non-potable water system to have any cross connections (between two or more water supplies), any illegal connections or tie-ins, or any discharge of non-potable water into the public sewer system.

(4) Let, rent, or resale to any other party or property any part of the non-potable water system or use of the non-potable water in any manner or for any purpose other than described in the ordinance and documents governing the non-potable water system and usage executed by the customer of the non-potable water service and the City. Any violations of the aforementioned nature may result in discontinuance or termination of non-potable water service as provided in this Chapter. The offending individual or customer shall be liable for the cost of all charges attributable to the correction of such tampering, including, but not limited to legal expenses. Payment for or correcting of such damage shall not relieve the offending individual or customer from criminal or Civil Sanctions the City or a court of law may impose for a violation of a City ordinance.

(b) It is unlawful for the customer to permit the non-potable water to be used for human or animal consumption, inter-connecting with another water source, sprinkling of edible crops (gardens), body contact, recreation, use through hose bibs, faucets, quick couplers, etc., filling of

swimming pools, sharing a common non-potable water service or connection between properties, supplying air cooling systems (a/c units), or washing of equipment such as cars, boats, driveways, roofs, structures, etc.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-72; Enacted new Sec. 25-72) SUPP 2008-4

Sec. 25-73. Water; Non-potable Water Use; customers, service agreements.

(a) Non-potable water service shall only be provided to customers through non-potable water use service agreements or annual orders for delivery as provided by the Utilities Director. The Utilities Director is authorized to execute such agreements on behalf of the City under the supervision of the City Attorney and approved as to form as required by the City Charter.

Since contractual rights for/to the use of non-potable water may result in added value to a customer's property, agreements/contracts shall recognize that possibility and require a waiver by the customer of any such added value in the event of purchase or condemnation of the property by the City through negotiation. This requirement shall be an implied term of all non-potable water use service agreements or similar agreements between the City and a customer.

(b) Non-potable water use shall be controlled as follows:

(1) The use of all non-potable water derived from water developed by the City, including but not limited to the City's allocation of groundwater, Salt River Project and Central Arizona Project water, shall be directly controlled by the City.

(2) To be eligible to use non-potable water, a customer shall be in compliance with Section 25-69 of this Code.

(3) The use of all non-potable water derived from water developed by entities other than the City, but served to customers within the corporate boundaries of the City, shall be directly controlled by the City.

(c) It shall be unlawful to receive or use non-potable water in any area within the City limits other than by a Non-Potable Water Use Service Agreement or annual delivery agreement with the City.

(d) When private development requires non-potable water service in advance of the City's construction schedule, such customers/developers shall work with the Utilities Department to formulate a plan of service to be implemented at the sole expense of the customer/developer with facilities to be dedicated to City upon completion. Nothing herein will be construed to require the City to enter into such an agreement.

(e) The Non-Potable Water Use Service Agreement shall be in accordance with applicable City master plans and the City's water policy. Additionally, the Non-Potable Water Use Service Agreement recognizes that the use of non-potable water may reduce the amount of potable water or surface water that the City would have otherwise provided.

(f) Capital costs are those costs associated with providing distribution mains from a non-potable well to the point of delivery, up to, but not including, the connection. The Utilities Director may designate areas as not being appropriate for capital cost recovery taking into account the benefit of promoting non-potable water use and the benefit to the City from not receiving full capital cost recovery.

(g) No customer will be allowed to connect property to the non-potable water system unless such customer has made payment in full for the share of the capital costs. Alternatively, the customer may enter into an assessment agreement and provide for a lien to be secured against and recorded upon such property. Additionally, the customer may provide such other financial security to cover such capital costs acceptable to the Chief Financial Officer and City Attorney.

(h) The City Council's adopted rate schedule for non-potable water shall dictate the cost of non-potable water. Such schedule may be amended from time to time, as needed.
(Ord. No. 08-35, 12/02/08, Repealed reserved Sec. 25-73; Enacted new Sec. 25-73) SUPP 2008-4

Sec. 25-74. Reserved.
(Ord. No. 99-97, 9/1/99, Enacted) SUPP 1999-3
(Ord. No. 01-163, 10/2/01, Amended Table 25-74)
(Ord. No. 04-09, 02/03/04, Amended Table 25-74) SUPP 2004-1
(Ord. No. 05-65, 11/15/05, Amended Table 25-74) SUPP 2005-4
(Ord. No. 07-37, 11/20/07, Repealed existing Table 25-74; new Table 25-32) SUPP 2007-4

Sec. 25-75. Reserved.
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 02-41, 6/7/02, amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, repealed Sec. 25-75) SUPP 2008-4

Wastewater.

Sec. 25-76. Wastewater; definitions.

For purposes of the Wastewater (including Pretreatment) sections of this chapter, the following words, terms and phrases shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

Act or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

Approval authority means the United States Environmental Protection Agency (EPA), Arizona Department of Environmental Quality (ADEQ), City, or any other authority responsible for the administration and enforcement of all applicable Federal, State, and City laws, including the Act, the general Pretreatment Regulations (40 CFR Part 403), and the Pretreatment provisions in this Chapter.

Approved laboratory means a facility licensed by the Arizona Department of Health Services pursuant to Title 36, Chapter 4.3, Article 1, Section 36-495, ET.SEQ. Arizona Revised Statutes.

Approved laboratory procedures means the measurements, tests and analyses of the characteristics of water and wastes in accordance with analytical procedures as established in 40 C.F.R. part 136, as revised.

Authorized representative means any person authorized by the City or other governmental entity.

Authorized representative of the Industrial User – An authorized representative of an Industrial user may be any of the following individuals:

(i) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(a) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(b) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(c) The individuals described in this Subsection (ii) may designate an Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the City.

Average quality means the arithmetic average (weighted by flow value) of all the daily determinations of concentration made during a calendar month.

AZPDES (Arizona Pollutant Discharge Elimination System) means the regulatory program administered by the Arizona Department of Environmental Quality pursuant to Arizona law.

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees centigrade, expressed in milligrams per liter.

Best Management Practices (BMP) means schedules of activities, pollution treatment practices or devices, prohibition of practices, general good housekeeping practices, pollution prevention, waste minimization, educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the amount of pollutants entering the sanitary sewer system, surface water, air, land or groundwater. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Best Management Practices may include a physical, chemical, structural or managerial practice or device that can help to achieve compliance with this Chapter.

Branch sewer means an arbitrary term for a sewer which receives sewage from lateral sewers from a relatively small area.

Building connection or *sewer tap* means the connection to the public sewer and the extension therefrom of the sewer to the property line in an alley or street, or to the easement line in an easement, or to the edge of the paved roadway, whichever is applicable, depending on the location of the public sewer.

Building official means the individual so designated by the City Manager and head of the respective division of the Development Services Department responsible for implementing the Uniform Building Codes adopted by the city.

Building sewer means the extension from the building drain to the building connection or other place of disposal.

Categorical Industrial User means an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of Users and which appear in 40 CFT Chapter I, Subchapter N, Parts 405-471.

City means City of Peoria, Arizona.

City Engineer means the Director of the Engineering Department, (i.e., City Engineer) or their deputy, agent, designee or representative.

COD (chemical oxygen demand) means the quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

Cooling water means the clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling or refrigeration.

Combined Sewer means a sewer receiving both surface runoff and sewage.

Control authority means the "Approval Authority", defined herein above, or the Director if the City has an approved pretreatment program under the provisions of 40 CFR 403.11.

Daily average effluent limitation means the maximum allowable concentration in the discharge as measured in a representative sample during a sampling day. In determining compliance with the daily average effluent limitation, City samples should not be combined with non-City samples.

Daily composite sample means a sample of effluent continuously collected over a normal operating day.

Daily composite sample quality means the concentration of some parameter tested in a daily composite sample and reported proportional to flow.

Daily determination of concentration means:

(i) For composite samples means the daily composite sample quality.

(ii) For grab samples, the arithmetic average (weighted by flow value) of all grab sample qualities, determined for any calendar day.

Daily maximum means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily maximum limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Department means the Public Works-Utilities Department.

Developer means any person engaged in the organizing and financing of a sewage collecting system within an area contributing to a branch, main, or a trunk sewer of the city sewer system. Such may be either a subdivider or a legally-constituted improvement district.

Director or *Public Works-Utilities Director* means the Public Works-Utilities Director of the City of Peoria or their authorized deputy, agent, designee or representative.

Director of Engineering means the Director of Engineering or his authorized deputy, agent, designee, or representative.

Finance Director or his authorized deputy, agent or representative shall have the authority to determine and collect all flow service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State of Arizona.

Discharge means the disposal of sewage, water or any liquid from any sewer User into the sewerage system.

Domestic sewage means a typical, residential-type waste which requires no pretreatment under the provisions of this article before discharging into the sanitary sewer system. Domestic sewage includes sewage or wastewater that (a) has a five (5) day biochemical oxygen demand less than 300 milligrams per liter by weight; (b) contains less than 350 milligrams per liter by weight of suspended solids, and (c) does not contain a non-permissible quantity of the type of waters and wastes described in section 25-138.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Establishment or *plant* means any establishment or plant producing liquid waste, with or without suspended solids, required to be discharged into the City sewer system.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Finance Director or his authorized deputy, agent or representative shall have the authority to determine and collect all flow service rates and to make such regulations as necessary for same, including the ordering of a discontinuance of service for non-payment of required service fees.

Garbage means solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

Grab sample means an individual sample of effluent collected in less than fifteen (15) minutes.

Grab sample quality means the concentration of some parameter tested in a grab sample.

Holding Tank Waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(B), (C), or (D) of the Act, (33 U.S.C. 1317), into the POTW.

Industrial cost recovery means recovery by the City from the Industrial Users of the sewer system of the Federal grant amount allocable to the treatment of wastes for such Users.

Industrial cost recovery period means the industrial cost recovery period shall be equal to thirty (30) years from the date of completion of the facilities.

Industrial discharge (Waste) means any introduction into the POTW of an non-domestic pollutant which:

(i) Is produced by a source which would be subject to any Categorical Standards or Pretreatment Requirements if such source were to be discharged to the POTW; and

(ii) Contains any substance or pollutant for which a discharge limitation or prohibition has been established by any Categorical Standard or Pretreatment Requirement.

Industrial unit means a business use or an activity involving and/or including, but not limited to, resource extraction, manufacturing, fabrication, assembly, and warehousing.

Industrial User or User means any one or more of the following:

(i) Any non-residential User of the sewer system who causes an industrial discharge; or

(ii) Any non-residential User of the sewer system which either discharges or produces a waste which potentially could be discharged to a POTW which could be subject to any Categorical Standard or Pretreatment Requirement; or

(iii) Any Significant Industrial User;

(iv) Has control over the disposal of a waste as described in (1) and (2) above; or

(v) Has the right of possession and control over any property which produces a waste as described in (1), (2), (3), or (4) above.

Industrial waste means any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids excluding uncontaminated water.

Industrial wastewater discharge permit means the permit granted by the City to an Industrial User granting the right to discharge to the sewer works subject to the terms and conditions set forth in the permit.

Inflow means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters or drainage.

Instantaneous effluent limitation means the maximum allowable concentration in the discharge at any time as measured in a grab sample. In determining compliance with the instantaneous effluent limitation, City samples shall not be combined with non-City samples.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources, both:

(i) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(ii) Therefore is a cause of a violation of any requirement of the POTW'S AZPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (Including Title II, more commonly referred to as the Resource Conversation and Recovery Act (RCRA), and including State regulations

contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, The Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Lateral sewer means a sewer which discharges into a branch or other sewer and has no other common sewer tributary to it.

Main sewer means a sewer which receives sewage from two (2) or more branch sewers as tributaries.

Maintenance means keeping the treatment works in a state of repair, including expenditures necessary to maintain the capacity (capability) for which the works were designed and constructed.

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pretreatment Standard, Pretreatment Standard or Standard means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term included prohibitive discharge limits established pursuant to 40 CFR 403.5. Reference the standards located in 40 CFR chapter i, subchapter n., Parts 405 - 471.

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of 307(B) of the Act and 40 CFR, Section 403.5.

Natural outlet means any outlet into a watercourse, ditch, or other body of surface or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants if its construction occurred under the following timeframes:

(i) The construction commenced after the publication of proposed pre-treatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that one or more of the following criteria is met:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent

to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (i)(a), (i)(b) or (i)(c) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a New Source has commenced if the owner or operator has either:

(a) Begun, or caused to begin, as part of a continuous onsite construction program either or both of the following:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

Noncontact cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

National Pollutant Discharge Elimination System (NPDES) Permit means a national pollutant discharge elimination system permit, issued to the City by the EPA, or an Arizona pollutant discharge elimination system permit (AZPDES), issued to the City by the State of Arizona, which imposes standards governing the quality of the treatment effluent discharge from the POTW into a navigable water of the United States.

Oil & grease means the measure of oil and grease content of a sample as determined by EPA method 1664A, Or other equivalent test method approved by the Director.

Oil & grease (TPH) means for purposes of determining compliance with the oil and grease limitation contained in this chapter, oil and grease is defined as the measure of the petroleum and mineral oil(Total Petroleum Hydrocarbons, "TPH”) content of a sample as determined by EPA method 1664A, or other equivalent test method approved by the Director.

Pass through means a discharge which exits the Publicly Owned Treatment Works into waters of the United States in quantities or concentrations which, alone or in conjunction with a

discharge or discharges from other sources, is a cause of violation of any requirement of the POTW's AZDPES permit (including an increase in the magnitude or duration of a violation). 40 CFR 403.5(A)(1)

Permittee or *permit holder* means any person who owns, operates, processes or controls an establishment or plant being operated under a valid industrial waste permit to discharge wastewater into the city sewer system.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all Federal, State, and local governmental entities.

pH means a measurement of the acidity or alkalinity of a solution, expressed in standard units defined as the logarithm of reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural wastes. This includes any substance and effluent limitation identified in this Chapter 25 of the City Code and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand ("COD"), toxicity, or odor).

Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pollution prevention means source reduction and other practices that reduce or eliminate the creation of pollutants through either or both of the following:

(i) Increased efficiency in the use of raw materials, energy, water or other resources, or

(ii) Protection of natural resources by conservation.

Publicly Owned Treatment Works (POTW) means a treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the City as defined in Section 502(4) of the Act, which has jurisdiction over Indirect Discharges from such treatment works..

POTW residuals means all POTW effluent and/or solids, including sludge, scum, screenings and grit, which are the by-product of the wastewater treatment operations and which must be discharged to the environment for ultimate disposal and/or reuse.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment means the physical, chemical, biological or other treatment of any industrial discharge, prior to discharge to the POTW for the purpose of the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a User other than a Pretreatment Standard.

Pretreatment Standards, National Pretreatment Standards, or Standards means any regulation containing pollution discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act which apply to Industrial Users. This term includes prohibited discharge limits established pursuant to 40 CFR § 403.5.

Producer means any person, firm, association, corporation or trust which owns, operates, possesses or controls an establishment or plant, whether or not a permittee.

Prohibited discharge standards or prohibited discharges mean absolute prohibitions against the discharge of certain substances.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) of an inch in any dimension.

Public sewer means a lateral, branch, main or trunk sewer controlled and maintained by the City.

Replacement means those expenditures made for obtaining and installing equipment, accessories and/or appurtenances during the useful life of the treatment works which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (showers, dishwashing, laundry operations, etc.).

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works, sewer system or *sewerage works* means all facilities used for collecting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer Tap - See "Building Connection".

Shall means mandatory. May is permissive.

Significant Industrial User(SIU) means:

(i) All Users subject to Categorical Pretreatment Standards under 40 CFR §403.6 and 40 CFR Chapter I, Subchapter N; or.

(ii) Any other User that meets one or more of the following criteria:

(a) Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.

(iii) The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on finding the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and/or boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and all of the following conditions are met:

(a) The Industrial User, prior to the City’s finding has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in this Chapter, together with any additional information necessary to support the certification statement; and

(c) The Industrial User never discharges any untreated concentrated wastewater.

(iv) Upon a finding that an Industrial User meeting the criteria in Subsection (ii) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR § 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Significant noncompliance means an industrial user is in a state of significant noncompliance (SNC) when violations meet one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all the measurements taken during any six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements For each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 FOR BOD, TSS, fats, oil and grease, And 1.2 For all other pollutants except pH).

(iii) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Publicly Owned Treatment work's exercise of its emergency authority under this Chapter to halt or prevent such a discharge.

(v) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within thirty (30) days after the due date, required reports such as BMR’s, ninety day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules.

(vii) Failure to accurately report non compliance; or

(viii) Any other violation or group of violations which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

Slug discharge means *or Slug* means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions.

Source reduction means any practice which:

(i) Reduces the amount of any pollutant or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal; and

(ii) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants or contaminants.

Standard industrial classification (SIC) means a coded classification of industries based upon economic activity developed by the U. S. Department of Commerce as published in the most recent edition of the Standard Industrial Classification Manual, Office of Management and Budget.

Standard methods means the procedure as described in the most current edition of Standard Methods for the Examination of Water and Wastewater published by the American Health Association, or the most current edition of Manual of Methods for Chemical Analysis of Water and Wastes published by the U. S. Environmental Protection Agency.

State means State of Arizona.

Storm sewer or *storm drain* means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

Storm water means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

Suspended solids (SS) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

System design capacity means the design capacity for normal domestic sewage as established by accepted engineering standards.

Total organic carbon (TOC) means the total of all organic compounds expressed in milligrams per liter as determined by the combustion-infrared method prescribed by approved laboratory procedures.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(A) or other acts.

Treatment parameter means a fundamental characteristic of sewage around which treatment is designed such as, but not limited to, flow, BOD, and Suspended Solids.

Trunk sewer means a sewer which receives sewage from many tributary main sewers and serves as an outlet for a large territory.

User or Industrial User means a source of indirect discharge.

Waste minimization means an activity which eliminates or reduces the amount of any pollutant from entering the waste stream or the environment. This may include a change in raw materials, operational improvement, process improvement, product reformulation, reuse or reclamation.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater contribution permit means as set forth in this Chapter.

Wastewater treatment plant means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, draining systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Cross reference(s) -- Definitions and rules of construction generally, § 1-2.

(Code 1977, §12-1-1)

State Law Reference: A.R.S. §36-495.

(Ord. No. 95-66, 8/1/95, Amended)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 02-42, 6/7/02 Amended) SUPP 2002-2
(Ord. No. 04-197, 9/21/04, Amended) SUPP 2004-3
(Ord. N. 08-35, 12/02/08, Amended Sec. 25-76) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-77. Wastewater; Code part of water service contract.

The provisions of this Code shall be a part of the contract of every customer receiving wastewater service from the City, and such customer receiving wastewater service shall be considered as having expressly consented to be bound thereby.
(Ord. No. 87-43, § III, 9-22-87)
(Ord. No. 95-66, 8/1/95, Repealed)
(Ord. No. 95-66, 8/1/95, Enacted)
(Ord. No. 08-35, 12/02/08, Repealed & Renumbered Sec. 25-77. Enforcement Response Plan to

Sec. 25-94. Wastewater; Enforcement Response Plan.; Enacted Sec. 25-77 Wastewater; Code part of water service contract.) SUPP 2008-4

Sec. 25-78 Wastewater; applicability to existing agreements.

This Chapter shall not be construed to invalidate or prohibit the enforcement of any agreement involving wastewater service entered into prior to the effective date of this Chapter. Where possible, all such agreements shall be administered in accordance with the provisions of this Chapter.
(Code 1977, §§ 12-1-1, 12-10-1)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Enforcement and waivers, Enacted 25-78: Wastewater; applicability to existing agreements) SUPP 2008-4

Sec. 25-79 Wastewater; liability of City limited.

(a) No liability shall attach to the City for any injury or damage that may result from the restriction of use or discontinuance of any wastewater service, or any failure of the wastewater system regardless of any notice or lack of notice thereof. The City shall not be held liable, in any respect, for the conditions, defects, failures, or use of any pipe, connection, fixture, or appurtenance, not belonging to the City, on any customer's (or non-customer's) property, or for loss or damage resulting therefrom.

(b) The City shall not be responsible for any interruption of wastewater service caused by reasons beyond its control.
(Code 1977, §§12-4-6(b), 12-8-1)
(Ord. No. 08-35, 12/02/08, Renumbered Sec. 25-79. to Sec. 25-90. Wastewater; service outside city generally, Enacted Sec. 25-79 Wastewater; liability of City limited) SUPP 2008-4

Sec. 25-80 Wastewater; customer responsibility.

The customer shall have complete responsibility for the installation and maintenance of adequate wastewater facilities on the customer's property. The City shall not be responsible for the installation, maintenance, inspection, or damage of such facilities or damage caused by any defect in such facilities on the customer's property. The customer shall be responsible for such facilities from the edge of street pavement to the home. Such facilities shall be maintained by the customer in full

compliance with all rules and regulations of the City in addition to applicable federal and state statutes.
(Code 1977, §12-10-2)
(Ord. No. 08-35, 12/02/09, Renumbered Sec. 25-80. Termination of service for violations; restoration of service. to Sec. 25-95. Wastewater; Termination of service for violations; restoration of service.; Enacted Sec. 25-80. Wastewater; customer responsibility.) SUPP 2008-4

Sec. 25-81. Wastewater; customer negligence

In the event that any damage to the City wastewater system or injury to City employees is caused by a customer and requires repairs, replacements, or damages, the cost of such repairs, replacements, or damages, together with a twenty percent (20%) administrative fee, shall be added to that customer's bill. If such charges are not paid by the customer, the City may discontinue water service.
(Code 1977, § 12-1-3)
(Ord. No. 91-41, 11/12/91, Amended)
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-81. Interference with Public Works Department, digging up streets without permit; tampering with equipment prohibited, Enacted Sec. 25-81. Wastewater; customer negligence) SUPP 2008-4

Sec. 25-82. Wastewater; inspections.

(a) Authorized officers and employees of the City may inspect every facility that is involved, either directly or indirectly, with the discharge of wastewater to the City's sewage system. These facilities shall include sewers, sewage pumping plants, pollution control plants, all industrial processes, industrial wastewater generation, conveyance and pretreatment facilities, devices and connecting sewers, and all similar sewage facilities. Inspections may be made to determine that such facilities are maintained and operated properly and are adequate to meet the provisions of this Chapter or any other law or standards applicable to wastewater.

(b) Authorized City personnel my enter any building or property at a reasonable time (whenever necessary) to inspect the building or property, or to perform any duty authorized by this Code, for the purpose of making an inspection to enforce any provisions of this Code. Authorized personnel also may conduct an inspection if the City has reasonable cause to believe that there exists in any building or upon any property any conditions that makes such building or property unsafe due to violations under this Code. In such a case, if the building or property is occupied, the authorized City personnel shall first present proper credentials and request entry. If the building or property is not occupied the City first shall make a reasonable effort to locate the owner of other persons having charge or control of such building and request entry. If such entry is denied, the City shall have recourse to every remedy provided by law to secure entry.

(c) If the owner or occupant denies entry, the authorized City personnel may obtain a proper inspection warrant or other remedy provided by law to secure entry. Owners,

occupants, or any other person having charge, care, or control of any building or property, after proper request is made as provided in this Section, shall promptly permit entry therein by the City for the purpose of inspection and examination pursuant to this Code.

(d) If the City determines that a violation of this Code exists on the property, the City may turn off water service to the property until such violation is corrected, depending on this magnitude of the violation.

(Code 1977, §12-3-4)
(Ord. No. 95-66, 8/1/95, Amended (a))
(Ord. No. 08-35, 12/02/08, Amended Sec. 25-82) SUPP 2008-4

Sec. 25-83. Wastewater; liability for damage.

Any expense incurred by the City for the repair or replacement of damaged, stolen, tampered with or misused wastewater facilities, including administrative and processing charges, shall be charged against and collected from the customer or person who caused the expense in an amount as established in this Code. Unless authorized by the Utilities Director, all work (i.e., restoration, repair, etc.) shall be performed by City personnel.

(Code 1977, §12-2-1)
(Ord. No. 08-35, 12/02/08, Renumbered Sec. 25-83. Wastewater; unsanitary disposal of excrement prohibited. to Sec. 25-98., Enacted Sec. 25-83 Wastewater; liability for damage) SUPP 2008-4

Main Extensions and Construction (Service Connections).

Sec. 25-84. Wastewater; connections to existing sewer mains.

(a) All sewers to be attached directly or indirectly to a City sewer shall be inspected by personnel of the City during construction. At least ten days prior to cutting into the City's sewer, the City shall be notified. In making a connection to a City sewer, no physical alteration of the City's facilities shall commence until an inspector is present. No wastewater shall be discharged into any sewage facility tributary to a City facility prior to obtaining inspections and approval of sewage construction by the City.

(b) Any request for a scheduled shutdown of the City's wastewater collection system shall contain a schedule indicating the time and date of the proposed shutdown, its main location and point of shutdown, and the contemplated time and date of the reopening of the water main.

(c) The customer or person causing a break in any City sewer line shall immediately notify the City's Utility Department of the time, date and location of such break, together with any other information the City may request in relation to such break. Any costs to the City arising from such break, including the repair thereof and the costs of sewer bypasses, shall be paid by the customer or persons causing the break.

(d) Any customer or person violating this Section shall be subject to the imposition of a Civil Sanction by the Utilities Director in an amount not less than Two Hundred Fifty Dollars ($250.00) and not more than One Thousand Dollars ($1,000.00). Each day that a violation occurs shall be deemed a separate violation for purposes of this section and shall subject the customer or person to a separate Civil Sanction in the amount provided by this Section.
(Code 1977, §§12-2-2, 12-2-6.1)

(Ord. No. 08-35, 12/02/08, Renumbered Sec. 25-84. Wastewater; treatment of polluted wastes required. to Sec. 25-108., Enacted Sec. 25-84. Wastewater; connections to existing sewer mains.) SUPP 2008-4

Sec. 25-85. Wastewater; sewer main extensions.

(a) If it becomes necessary to extend sewer mains from a distant point in order to serve a new development, the cost of the main extension will be the responsibility of the developer. The developer shall be responsible to construct at a minimum an eight (8)- inch diameter sewer main.

(b) The plans and specifications for the approach main must be approved by the City Engineer.
(Code 1977, §§12-3-5 through 12-3-7)
(Ord. No. 95-66, 8/1/95, Amended (a), added (b), renumbered (b),(c) and (d)
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-85. Wastewater; private sewage disposal systems., Enacted Sec. 25-85. Wastewater; sewer main extension) SUPP 2008-4

Sec. 25-86. Wastewater; Sewer main extension requirements .

If the City determines that the extension of sewer mains to undeveloped areas is in the public interest, then all such extensions shall comply with the provisions of this Chapter and Chapter 23 of the City Code.

(a) The property owner must pay all costs for constructing sewer lines of such sizes as to afford adequate service during peak flows for the entire area to be served by the extension main.

(b) The Utilities Director shall establish the area that the sewer main shall service, which may extend beyond the limits of the property being developed.

(c) The property owner's engineer shall submit for the Utilities Director's approval the required size and layout of public sewer mains that will meet sewer flow requirements as required by this Code. The final decision on size and layout of public sewer mains shall be made by the Utilities Director.

(d) The field engineering, plans, and specifications required for sewer main extensions shall be prepared by the developer and approved by the City Engineer prior to construction. The engineering costs for preparation of plans and staking of the water main extensions on the property which are incurred by the property owner may be included in the agreed construction costs as determined by the City Engineer and as provided in this Section. The City shall perform the inspections during construction.

(e) Where lift stations are necessary to transport sewage due to ground elevation issues within the City service area, the property owner shall construct at the owner's expense the necessary lift station to City specifications. If the lift station facility provides service for more than a single residential lot, the City will assume ownership and operation of such installation upon its completion and acceptance by the City. If a booster pump facility provides pressure for a single residential lot, the property owner shall be solely responsible to operate and maintain the facility after it is approved by the City for operation.

(f) The City may require the construction of the sewer main extension to meet additional specifications and requirements if such is determined to be in the best interest of the City and necessary to protect the public health, safety, and welfare.
(Code 1977, §§12-9-1 through 12-9-6)
(Ord. No. 92-03, 2/11/92, Amended)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-86. Extension mains, definitions., Enacted Sec. 25-86. Wastewater; sewer main extension requirements.) SUPP 2008-4

Sec. 25-87. Wastewater; sewer main extensions; subdivisions, single lots, sub lot developments and all other developments.

(a) Where the City is to provide sewer service to and for all new subdivisions, single lot development, and all other developments other than a single residence on a single lot, the property owner shall furnish and install in accordance with plans approved by the City Engineer,

all sewer mains, sewer taps, manholes, and appurtenances within the boundary of the development as well as the streets bounding the entire development. In addition, the property owner shall furnish and install all off-site sewer mains as necessary to extend sewer service to the edges of the proposed development as determined by the City.

(b) The City's sewer system standards shall be defined in accordance with this Chapter. All development in the City's sewer service area must conform with the City Sewer Master Plan, the approved Sewer System Analysis for the development, the City Development Guidelines, the Maricopa County Association of Government Standards, and the development plans and specifications approved by the City Engineer.

(c) For development primarily residential in character, the minimum size of mains installed by the developer on interior streets shall be eight (8)-inch diameter. The Utilities Director shall require larger size mains to meet the needs of all developments to be served by the extension, as determined by the current Sewer Master Plan.

(d) Where no sewer main is existing along the frontage of a single existing residential lot zoned for single family use, and the property owner of the single lot requests sewer service, sufficient length of main shall be constructed by the property owner to extend the new main from an existing sewer main to the point of connection of the new sewer tap.

(e) All sewer main, taps, and appurtenances installed by the property owner's contractor shall be guaranteed against any and all defects by the property owner for a period of one year after the City's acceptance of the installations.
(Code 1977, § 12-3-1)
(Ord. No. 92-03, 2/11/92, Amended)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-87. Wastewater; public sewer extensions; approval by the engineering department required., Enacted Sec. 25-87. Wastewater; sewer main extension; subdivision, single lots, sub lot developments and other developments.) SUPP 2008-4

Sec. 25-88. Wastewater; minimum requirements for connection to sewer system.

All development within the City's sewer service area and within a quarter of a mile (1,320 feet) from a City sewer line is required to connect to the City's sewer system. The extension of a City sewer line and the connection to the City's sewer system will be constructed in accordance with City standards and City approved plans. Any such extension and connection shall be the sole financial responsibility of the developer and/or customer. The connection to the City's sewer system and the extension of the sewer line are a condition of issuance of a building permit. The Utilities Director will have discretion to allow variances to this requirement for single lot developments, if either such development is on a major arterial road or the connection is determined not to be feasible.
(Code 1977, § 12-3-2)
(Ord. No. 92-03, 2/11/92, Amended)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-88. Wastewater; construction and ownership of public

sewer lines and related facilities maintained by the engineering department., Enacted Sec. 25-88. Wastewater; minimum requirements for connection to sewer system.) SUPP 2008-4

Sec. 25-89. Wastewater; extensions, construction, ownership, and maintenance.

(a) The extension of sewer mains and service taps shall be constructed in strict accordance with plans approved by City, and all review fees shall be paid as provided in the City Code. Main extensions and service taps shall be maintained by the Utilities Department up to the edge of pavement in improved areas and to the point of connection of the service tap to the sewer main in unimproved areas. Main extension and service taps shall be operated by the City as part of the collection system. The City shall exercise complete control over such extensions upon completion, and the property owner shall relinquish to the City all responsibility for the extension and rights to or interest in the ownership of the extension. The property owner may request and/or the Utilities Director may authorize additions to or variances from the standards and specifications, if the Utilities Director determines such variance or addition is in the best interest of the City and the public health, safety, and welfare. All such additions or variances shall be in writing and shall be approved by the Utilities Director.

(b) The ownership of all extensions and service taps, upon acceptance by the Utilities Director, shall be vested in the City.

(c) All decisions of the Utilities Director under this Section may be appealed to the City Manager or designee. The appeal shall be in writing and shall specify the specific decision of the Utilities Director which is being appealed and the specific relief being requested. The decision of the City Manager or designee shall be final.
(Ord. No. 92-03, 2/11/92, Renumber existing Sec. 25-89 to 25-95 and enact new section)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2

(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-89. Wastewater; trunk sewer extensions.; Enacted Sec. 12-89. Wastewater; extensions, construction, ownership, and maintenance.) SUPP 2008-4

Sec. 25-90. Wastewater; service outside City generally.

Any sewer connection made outside the corporate limits of the City shall be at the discretion of the City Council. City sewer service offered to users outside the city limits shall be offered by the City subject to compliance by the users with the terms of this article.

For all places outside the corporate limits of the city not mentioned in this article where sewer service is rendered by the City, and for which no rate is specifically fixed, the rate to be charged, including a connection charge, shall be as fixed by the City Council.

State Law Reference A.R.S. §34-201.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-90. Wastewater, Trunk Sewer Extensions; bid procedures; costs; connections; access control.; Renumbered Sec. 25-79. Wastewater; service outside City generally to Sec. 25-90) SUPP 2008-4

Sec. 25-91. Wastewater; agreements; repayment agreements.

(a) The City and a property owner may execute a repayment agreement for certain projects. The project shall be bid in accordance with the provisions pertaining to public works projects contained in Title 34 of the Arizona Revised Statutes. The bids shall be opened at a location designated by the City on a pre-determined date agreeable to the property owner and the City. The City and the property owner reserve the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the City. In the event that the agreed-upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the City.

(b) Upon completion of the project, the main sewer line shall become the property of the City.

(c) The maximum service area to be serviced by the proposed main sewer lines and its ultimate branches and laterals shall be determined by the Utilities Director based on sewer capacity requirements.

(d) Upon entry into a repayment agreement with the City, the property owner may connect into existing City sewer lines with the approval of the Utilities Director in consideration for entering into the repayment agreement.

(e) The Utilities Director shall have sole and exclusive control of connections to any proposed sewer line.

(f) A repayment agreement will assist in establishing a reasonable charge to permit a connection. The connection charge will be calculated on a cost per frontage foot, using the agreed approach main construction costs and the extent to which new development is adjacent to the sewer line.

(g) The connection charge will be paid to the City, and the City agrees to repay such amounts to the property owner. Repayments shall be made by the City within sixty (60) days of receipt. The total of such repayments shall not exceed that portion of the agreed construction costs of the approach sewer line allotted to frontage outside the service area of the property owner. The repayment agreement shall terminate in ten years, or upon the repayment of the total amount in conformance with this Chapter, whichever is earlier. The City shall have the option to provide for repayment to the property owner by allowing a credit against sewer expansion fees due from the property owner to the City. The connection charge shall be paid into the sewer expansion fee account.
(Ord. No. 92-03, 2/11/92, Enacted)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-91. Wastewater; repayment provisions, development agreement.; Enacted Sec. 25-91. Sec. 25-91. Wastewater; agreements; repayment agreements.) SUPP 2008-4

Sec. 25-92. Wastewater; repayments; sewer lines.

(a) Sewer main extensions shall be those mains subject to repayment and defined as any one or more of the following:

(1) Mains extended beyond the limits of the project, constructed through the project, or constructed along the frontage or boundary of the development;

(2) Mains which serve other property owners other than the owner who is developing the property; or

(3) Mains which are constructed to contain additional capacity to provide adequate flow above and beyond that required by the development based on the volume of flow and type of waste generated by the development.

(b) This Section shall apply where a wastewater line is extended by one property owner and connected to at a later date by one or more additional property owners. A property owner who extends a sewer line which provides a means of service to property owned by others may enter into an agreement with the City providing for repayment of a portion of the costs when the property abutting the sewer line extensions develops. The project shall be bid in accordance with the provisions pertaining to public works projects contained in Title 34 of the Arizona Revised Statutes. The bids shall be opened at a location designated by the City on a pre-determined date agreeable to the property owner and the City. The City and the property owner reserve the right to reject any or all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the City. In the event that the agreed upon construction costs increase, the repayment agreement may be amended upon approval of the additional construction costs by the City.

(c) The City reserves the right to increase the diameter of the approach sewer mains above that needed to serve the individual property/development if it deems advisable, but under the condition that the City will assume the additional cost to increase the diameter of the sewer line above that which the property owner would incur for the approach sewer line required to serve the development.

(d) The final detailed plans and specifications for the sewer line extension must be approved by the City Engineer prior to construction. The engineering costs for the preparation of plans, specifications, and staking of the approach sewer line incurred by the property owner may be included in the agreed construction costs as provided for in this Section. The costs of distribution mains within the boundary of the project shall not be eligible for repayment.

(e) Agreements must be executed prior to construction of the wastewater main and shall run for a period not to exceed ten years from the date of execution by the City Engineer, who is authorized to execute the agreements in accordance with the provisions of this Code. The agreements shall automatically terminate at the end of a ten-year period or upon repayment of the total amount possible being repaid, whichever is earlier. The City will not approve and/or execute an agreement after construction or acceptance by the City of the wastewater main. There will be no

repayments for buy-in assessments collected prior to receipt of the developer's request to enter into an agreement.

(f) Repayment will assist in establishing a reasonable charge to permit a connection. The connection charge will be made on a cost per frontage foot, using the agreed wastewater main construction costs (and the extent to which new development is adjacent to the wastewater main), less the repayment transaction fee established by the City Council to cover administrative costs associated with the repayment agreement.

(g) The City Engineer will determine the amount of footage to be reimbursed, and such determination will be made a part of the agreement. Such agreements must be recorded in the office of the Maricopa County Recorder.

(h) The City will make repayments within 60 days of receipt of payment from adjacent property owners. The developer to whom the reimbursement is to be made must be stated on the agreement at the time of execution and it will be the duty of the developer (the individual to whom reimbursement is to be made) to keep the City Engineer advised as to the correct mailing address, etc. for reimbursement. Repayment agreements under this Chapter may be assigned to subsequent property owners of property who purchase or acquire the entire interest of the original property owner who entered into the repayment agreement and in accordance with the specific terms of the repayment agreement.

(i) The City retains and reserves the right (and ability) to enter into separate special agreements to cover unique situations where a standard repayment agreement is not applicable.

(j) Where existing wastewater system lines within a development or along streets bounding the development are smaller in size than that required by this Code, or are otherwise

inadequate, the property owner may be required to replace or parallel such lines with those of the required size.

State Law Reference. A.R.S. '48-571; '48-701.

(Ord. No. 92-03, 2/11/92, Enacted)

(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2

(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-92. Sewer extensions prior to a municipal improvement district or community facilities district., Enacted Sec. 25-92. Wastewater; repayments; sewer lines.) SUPP 2008-4

Sec. 25-93. Wastewater; system repair fees.

Any customer, developer, contractor, or other person who damages, cuts, destroys, or causes the need for repair to the City's wastewater collection system or any part thereof (i.e., mains, laterals, service connections, etc.) shall be held financially responsible for the cost of the repair. The City shall assess the responsible party for the cost of the repair in an amount in accordance with this Code.

(Ord. No. 92-03, 2/11/92, Enacted)

(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-93.Wastewater; repayment zones; applicability.;

Enacted Sec. 25-93.Wastewater; system repair fees.) SUPP 2008-4

Sec. 25-94. Reserved.
(Ord. No. 91-41, 11/12/91)
(Ord. No. 92-03, 2/11/92)
(Ord. No. 08-35, 12/02/08, Renumbered Sec. 25-77 Wastewater; Enforcement Response Plan to Sect. 25-94) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, repealed) SUPP 2009-4

Sec. 25-95. Wastewater; Termination of service for violations; restoration of service.

Violation of this article is sufficient cause for the city to discontinue water or sewer service to any premises. Such service shall not be restored until the violations have been discontinued or eliminated and all outstanding charges paid. The discontinuance of sewer service shall be accomplished by physically cutting and blocking the building connection. A charge in the amount established by ordinance or resolution shall be paid to the city for reconnecting the sewer service.
(Code 1977, §§ 12-11-1 through 12-11-5)
(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 94-16, 4/19/94, Amended)
(Ord. No. 96-13, 2/20/96, Amended)
(Ord. No. 97-42, 8/5/97, Amended (f))
(Ord. No. 99-96, 9/1/99, Deleted (e) (g) Amended (f) now (e) added new (g) (h) SUPP 1999-3
(Ord No. 01-162, 10/2/01, Deleted (e), Amended (f) now (e)) SUPP 2001-3
(Ord. No. 04-09, 02/03/04, Amended Table 25-95.1 and Table 25-95.2) SUPP 2004-1
(Ord. No. 05-65, 11/15/05, Amended Table 25-95.1) SUPP 2005-4
(Ord. No. 07-45, 12/18/07, Amended Table 25-95.1) SUPP 2007-4
(Ord. No. 08-28, 08/26/08, Enacted Table 25-95.1(b)) SUPP 2008-03
(Ord. No. 08-35, 12/02/08, Repealed Sec. 25-95. Sewer Development Fee, and Renumbered Sec. 25-80 Termination of service for violations; restoration of service. to Sec. 25-95 Wastewater; Termination of service for violations; restoration of service) SUPP 2008-4

Sec. 25-96. Wastewater; Sewer development fee.

(a) For single-family residences, multiple-family units, and commercial, industrial and institutional facilities connected or to be connected to the City's public waste water system a sewer development fee in addition to other sewer charges shall be charged. The fee to be charged for single-family residences and the fee to be charged for multiple-family dwelling units shall be based on an equivalent dwelling Unit basis in accordance with Table 25-96.1. In this section:

(1) *Multiple-family dwelling unit* means a mobile home space within a mobile home park, a travel trailer space within a travel trailer park, a hotel, motel, rest home, hospital, apartment, condominium, and any other building in which more than one (1) family may reside either temporarily or on a permanent basis.

(2) *Institutional facility* includes any public and private school, college, university, charity relief or rehabilitation center or church.

(3) *Single-family residence* means any unit attached or unattached in which only a single-family may reside other than on a unit defined as a multiple-family dwelling unit.

(b) The sewer development fee shall be used to offset costs to the City associated with providing for the expansion of the City's public waste water system for the purpose of providing necessary services to the residences, units and facilities against which the fee is charged. Expansion to the City's waste water system includes but is not limited to, acquisition, construction and expense of waste water treatment plants, trunk lines to transport waste water, lift stations, debt service and other expenses or improvements related to the public waste water system.

(c) The sewer development fee charged in unincorporated areas to connect to the public wastewater system operated by the city, shall be the fee charged in the city, plus an additional factor as determined by the City Manager or his designee on an annual basis to reflect municipal contributions not charged in unincorporated areas. The City Manager or his designee may establish a sewer development fee in those portions of the City not designated as part of any area.

(d) The fee shall become due and payable to the City at such time as a building permit is issued for the unit, commercial or industrial project that will be connected to the public waste water system. For spaces in a mobile home or travel trailer park or multi-family housing, the sewer development fee shall become due and payable for all units at the time the first building permit is obtained for the construction of the project. For all other situations, the sewer development fee shall become due and payable as follows:

(1) An existing property within the city not connected to the public wastewater system requests to connect to the public wastewater system, or

(2) A property outside of the City not connected to the public wastewater system requests to connect to the public wastewater system.

See Table 25-96.1

(e) A separate fund shall be kept and maintained for the waste water system development fees into which the moneys collected from developments shall be deposited and accounted for. The fees deposited to each such account shall be used only for uses provided for in this section and result in a beneficial use to development. The moneys in the separate account may be used by the city for the uses contemplated by this section without regard to the situs of such improvements, facilities or work to be performed so long as such expenditures result in a beneficial use to development from which they were collected.

(f) For each non residential use, a presumptive equivalent dwelling use shall be established based upon the Average Daily Sewage Flow established by the Arizona Department of Environmental Quality as set forth in Table 25-96.2. Any person may request the Utilities Director to review the presumptive equivalent dwelling use based on the following:

(1) Water Use Records for a period not less than twelve months from other similarly sized facilities located in the Southwestern United States owned or operated by the applicant.

(2) A fixture units analysis for the use that equates the total number of fixture units to an equivalent dwelling unit basis and done in accordance with generally accepted professional standards.

Upon receipt of the above, the Utilities Director shall establish a new equivalent dwelling use and shall notify the applicant and Community Development Department in writing.

(g) Applications for credits and offsets against water system development fees imposed under this section shall be made in the manner provided by Section 20-54 of this Code.

25-96. Reserved.

(Ord. No. 91-41, 11/12/91)

(Ord. No. 92-03, 2/11/92)

(Ord. No. 08-35, 12/02/08, Enacted Sec. 25-96 Wastewater; Sewer development fee.) SUPP 2008-4

Sec. 25-97. Interference with City employees; digging up streets without permit; tampering with equipment prohibited.

Every person who shall in any way interfere with employees of the City in any discharge of their duties, either in the tapping of any sewer pipe, main, or lateral belonging to the City, or the cleaning, laying, or connection of any such pipe or main or lateral, or who shall dig up or cause to be dug up, any street or alley in the City for the purpose of connecting with the sewer system of the City without first obtaining a permit from the City Engineer, or who, having a permit, shall dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City, and shall fail or neglect to place the street or alley in its original condition, or who shall maliciously or willfully break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the municipal sewer system shall be guilty of a misdemeanor.

(Ord. No. 91-41, 11/12/91)

(Ord. No. 92-03, 2/11/92)

(Ord. No. 08-35, 12/02/08, Renumbered Sec. 25-81. Interference with city employees; digging up streets without permit; tampering with equipment prohibited. to Sec. 25-97. Interference with City employees; digging up streets without permit; tampering with equipment prohibited.) SUPP 2008-4

Sec. 25-98. Wastewater; unsanitary disposal of excrement prohibited.

It shall be unlawful for any person to deposit, or permit to be deposited, in an unsanitary manner, upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement or other objectionable waste.

(Ord. No. 91-41, 11/12/91)

(Ord. No. 92-03, 2/11/92)

(Ord. No. 08-35, 12/02/08, Enacted Sec. 25-98 by Renumber Sec. 25-83. Wastewater; unsanitary

disposal of excrement prohibited. to Sec. 25-98) SUPP 2008-4

Sec. 25-99. Reserved.

State Law Reference A.R.S. §49-391, Local Enforcement of Water Pretreatment Requirements; Civil Penalities.

(Ord. No. 92-03, 2/11/92, Renumbered)
(Ord. No. 95-66, 8/1/95, Repealed)
(Ord. No. 95-66, 8/1/95, Enacted)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 04-197, 9/21/04, Amended) SUPP 2004-3
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, renumbered to 25-136) SUPP 2009-4

Sec. 25-100. Wastewater; discharges; prohibited substances.

(a) It shall be unlawful for any person to discharge or cause to be discharged to the sanitary sewers:

(1) Any storm water, surface water, ground water, roof runoff, surface drainage, cooling water or unpolluted process waters that may constitute inflow as defined in this Chapter.

(2) Pollutants which create a fire or explosion hazard to the system or POTW with a flashpoint limit or less than 140° Fahrenheit or 60° Centigrade (using the test methods specified in 40 CFR 261.21).

(3) Solid or viscous pollutants, animal fats, oils and grease, petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass-through or that may cause obstruction to the flow in sewers or other damage to the POTW.

(4) Any waters or wastes containing toxic, radioactive, poisonous or other substances in sufficient quantity to cause or have the potential to cause injury or interfere with any sewage treatment process, cause corrosive structural damage, constitute a hazard to humans or create any hazard to the sewerage system or in receiving waters of the POTW or pollutants which result in the presence of toxic gases, vapors of fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(5) Any water with a pH less than 5.0 standard units (S.U.) or greater than 10.5 S.U. However, the Utilities Director shall have the authority to adopt, implement and enforce a policy on waivers from the pH low and high limits.

(6) Any waters with a temperature greater than 150f = 65.49C or 66C = 150.8F, or heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no event heat in such quantities that the temperature at the headworks of the POTW treatment plant exceeds 104° Fahrenheit (40° Centigrade).

(7) Any water or waste exceeding the limits for the substances (shown on Table 25-100) that are expressed in the total form except if otherwise stated:

SEE TABLE 25-100

(b) Provide all of the pretreatment necessary to comply with the categorical standards, pretreatment requirements and Best Management Practices imposed by this Chapter.

(c) The Utilities Director shall issue and enforce, through the issuance of wastewater contribution permits, other prohibitions and limitations required by state and federal law, or as the Utilities Director deems necessary.

(d) There shall be no new connections from inflow sources as defined in this Chapter into the POTW.
(Ord. No. 91-41, 11/12/91, Enacted)
(Ord. No. 92-43, 11/3/92, Amended)
(Ord. No. 95-66, 8/1/95, Amended)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 04-197, 9/21/04, Amended text and table) SUPP 2004-3
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4

Sec. 25-101. Wastewater facilities; permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the director.
(Code 1977, § 12-4-1)

Sec. 25-102. Wastewater; application for building connection.

Each person making application for a building connection of a sewer shall present a valid plumbing permit issued by the city to the city engineer as a prerequisite for the approval of the requested building connection. All applications for building connections to be constructed by the city shall be accompanied by the current fee for such work.
(Code 1977, § 12-4-2)

Sec. 25-103. Wastewater; approval of design, number, location, size and construction of connections.

The design, number, location, manner of connection and size of all building connections to sewers shall be subject to the approval of the director. The city will install all building connections less than eight (8) inches in diameter, except as provided elsewhere in this article. All building connections eight (8) inches in diameter or larger shall be installed by a private contractor at the property owner's expense. Building connections shall be installed on lateral sewers only, unless

specifically authorized and approved by the director. All building connections shall be constructed in accordance with standards and specifications on file with the city.
(Code 1977, § 12-4-3)

Sec. 25-104. Installing building connections in new subdivisions and developments.

In new subdivisions or developments where public sewer extensions are authorized by the city and constructed at the developer's expense, the city may authorize the developer or his agent, if he so desires, to install building connections with wyes or tees and connect the building sewers to the building connection under the following provisions:

(1) The construction of the public sewer, building connections, and connections of the building sewers to the building connection shall be under the supervision of a registered civil engineer holding registration in the state, who shall submit “as-built plans,” bearing the registered civil engineer's registration seal and number, to the city. It shall be the duty of the developer to require that all building connections, serving lots in the development upon which no buildings are constructed, be effectively sealed until such time as buildings will be constructed on the lots left vacant. Such sealed connections shall be inspected and approved by the director before being backfilled and shall be designated and located on the “as-built plans.” The effective seal shall consist of a vitrified clay stopper inserted in the bell of the sewer extending to the property line from the public sewer. Such stopper shall be jointed according to the standard details on file with the city. The stopper shall be permanently flagged by attaching one (1) end of a length of copper wire to the stopper and the other end to a broken piece of clay pipe, which shall be placed under the soil surface directly over the end of a sewer pipe.

(2) Before any building sewer construction is commenced, plumbing permits must be obtained by the developer or his agent from the city.

(3) When the “as-built plans” are submitted to the city, a record of the building connections will be made.

(Code 1977, § 12-4-4)

Sec. 25-105. City records.

The director shall keep a record of all building connections made, the purpose for which they are to be used.
(Code 1977, § 12-4-5)

Sec. 25-106. Wastewater; connections fee.

(a) The cost of making a tap or connection to the city-owned sewer line shall be one hundred twenty-five (125) percent of the actual cost to the city of making the tap or connection. This fee shall cover construction, administration and overhead costs.

(b) In addition to all other requirements, the connection fee to be paid by the owner of any premises located outside the corporate limits shall be twice that paid within the corporate limits.

(c) No premises may be connected to the city sewer system until the required tap or connection fee is paid.
(Code 1977, § 12-4-6)

Sec. 25-107. Property owner responsible for cleaning, repair and replacement of building sewers and connections.

(a) The property owner shall be responsible for the cleaning, unstopping, maintenance, and repair of the building connection piping serving his property from his home or building to the public sewer line.

(b) Where the correction of the stoppage requires the repair or replacement of a damaged or broken section of the building connection and the damaged or broken section is located off property in a street or alley, the necessary repairs must be made by a licensed contractor, the scope of which license allows him to work within a public right-of-way subject to securing a permit from the Engineering Department.
(Code 1977, § 12-1-4)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91, Amended)

Sec. 25-108. Wastewater; treatment of polluted wastes required.

It shall be unlawful to discharge without a City permit to any natural outlet within the City, or in any area under the jurisdiction of the City and/or to the POTW, any wastewater, industrial wastes, or other polluted waters, except where suitable treatment has been provided and as authorized by the director in accordance with the provisions of this Code.
(Ord. No. 95-67, 7/31/95, Reserved Sec. 25-108)
(Ord. No. 08-35, 12-02-08, Renumbered Sec. 25-84. Wastewater; treatment of polluted wastes required. to Sec. 25-108) SUPP 2008-4

Sec. 25-109. Wastewater; private sewage disposal systems, connection with sewer system.

It is the City's intent to have all properties with the City's sewer service area to be connected to the City's wastewater collection system.

(a) Except as provided in this chapter, it is unlawful to construct or maintain within the city any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(b) It shall be unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage on a parcel less than 43,560 square feet in size, without a private sewage disposal permit issued by the County. If such a permit is granted by County, the Utilities Director may impose conditions upon the issuance

of the building permit including but not limited to the installation of dry sewer lines, construction of a package sewer plant or development of a community sewage disposal system.

(c) All development within the City's wastewater service area and within a quarter of a mile (1,320 feet) from a City sewer line is required to connect to the City's sewer system. The extension of a City sewer line and the connection to the City's sewer line will be constructed in accordance with City standards and City approved plans. Such extension and connection shall be the sole financial responsibility of the developer and/or customer. The connection to the City's sewer system and the extension of the sewer line are a condition of issuance of a building permit. The Utilities Director will have discretion to allow variances to this requirement for single lot residential developments if such development is on a major arterial road or if the connection is determined not to be feasible.

(d) At such time as a public sewer system becomes available to the property served by a private sewage disposal system, the Utiliites Director shall notify each property owner that a direct connection shall be made to the public sewer in accordance with the provisions of this Code.

(e) Where a public sanitary sewer is not available within the City, or in any area under the jurisdiction of the City, the building sewer shall be connected to a private sewage disposal system, permitted and complying with the rules and regulations of the state and county. A private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner and in accordance with the terms of any private sewage disposal system permit issued by the state and county.

(f) None of the provisions of this section shall be construed to interfere with any additional requirements that may be imposed by the state and county.
(Ord. No. 95-67, 7/31/95, Reserved Sec. 109)
(Ord. No. 08-35, 12/02/08. Enacted by Renumbering Sec. 25-85. Wastewater; private sewage disposal systems, connection with sewer system. to Sec. 25-109) SUPP 25-4

25-110. through 25-112. Reserved.
(Ord. No. 95-67, 7/31/95)

Sec. 25-113. Environmental Mandate Fees.

(a) There shall be an environmental mandate fee designated on the monthly sewer service bill as the EPA Mandate Fee and added to each monthly sewer service billing issued by the City. The purpose of this charge is to identify and communicate separately the costs imposed on the City by the United States Environmental Protection Agency and the State of Arizona Department of Environmental Quality in the pretreatment and treatment of wastewater and to reimburse the City for the costs of meeting environmental standards and regulations related to water quality.

(b) All sewer user accounts shall be charged the environmental mandate fee on the monthly utility bill, which shall be a separately identified charge.
(Ord. No. 95-67, 7/31/95, enacted)

Sec. 25-114. Sewer Environmental Mandate Fee.

(a) In addition to other rates and charges set forth in this chapter, there shall be charged monthly the sewer environmental mandate fee set forth in Table 25-C attached to this ordinance for customers receiving City of Peoria sewer service located inside or outside of the City of Peoria.
(Ord. No. 95-67, 7/31/95, enacted)

Sec. 25-115. Utilization of Environmental Mandate Fee Revenues.

(a) Financial records shall be maintained for the proper distribution of environmental mandate fee revenues.

(b) The environmental mandate fee revenues may be utilized for any of the following purposes:

(1) Operation, maintenance and replacement costs of the City's industrial user pre-treatment program or advance sewage treatment operations.

(2) Administrative allocations of costs that support the operation of the City's industrial user pre-treatment program or advanced sewage treatment operations.

(3) Debt service and direct capital costs incurred for facilities and equipment required for the City's industrial user pre-treatment program or advanced sewage treatment operations

(4) Additional water quality programs required by the National Pollutant Discharge Elimination System (NPDES) permit and surface water quality standards such as industrial pretreatment enforcement and monitoring, customer education, laboratory analysis and monitoring.
(Ord. No. 95-67, 7/31/95, enacted)

Sec. 25-116. Sewer rates and charges; generally.

(a) In order to provide for the protection of the public health, safety and welfare of the citizens of the city, a system of charges for sewerage use services is established.

(b) The council shall by ordinance or resolution establish sewer user charges.

(c) Sewer user charge rates shall be reviewed at least biennially. Such review shall result in revision of user charges to:

(1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes.

(2) Generate sufficient revenue to pay the total costs necessary to the proper operation and maintenance of the sewerage system.

(3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

(d) The finance director or city manager shall submit to the council, at least every two (2) years, a sewer report including recommended rate schedules for each sewer user class. The city council shall adopt sewer user charges and rates by resolution.

(e) In addition to other pertinent factors deemed relevant by the council, the rate schedules adopted by the council shall be based upon the following cost factors:

(1) The total applicable cost of salaries and benefits of employees engaged in providing sewerage service.

(2) Applicable operating expenses, including parts, materials and services incurred in providing sewer service.

(3) Applicable equipment replacement costs necessitated by the provision of sewer services.

(4) Appropriate indirect costs of the department and other city departments in rendering sewer related services such as purchasing, accounting, billing and administration.

(5) Annual debt service charge for the retirement of sanitary sewer bonds.

(f) Rate schedules may distribute cost based upon the volume of wastewater discharged as well as Flow, BOD and SS of the wastewater discharged.
(Code 1977, §§ 12-5-1, 12-5-3(b) through (d), 12-5-7.3, 12-5-11, 12-5-12)
(Ord. No. 95-66, 8/1/95, amended (f))

Sec. 25-117. Annual notification to users.

Each user will be notified at least annually, in conjunction with a regular bill, of the sewer user charge rate and that portion of the total bill attributable to operation, maintenance and replacement costs for sewer service.
(Code 1977, § 12-5-7.1)

Sec. 25-118. Precedence of user charge system over inconsistent agreements.

The sewer user charge system shall take precedence over any terms or conditions of agreements or contract between the city and users which are inconsistent with the requirements of Public Law 95-217 and federal regulations issued pursuant thereto.
(Code 1977, § 12-5-7.2)

Sec. 25-119. Deposit.

(a) All persons applying for residential utility service from the city shall make a deposit equal to the amount established in Table 2-224 for each property for which utility service is requested. No deposit shall be required if the applicant or responsible party shows proof of ownership of the residential property for which utility service is requested.

(b) All commercial and multi-residential businesses applying for utility service shall place a deposit equal to the amount established in Table 2-224 for each property for which utility service is requested. However, a single deposit may be allowed for those entities applying for service at more than one property if the entity is a public elementary or secondary schools, state or county college, or other governmental agency.

(c) Notwithstanding any other provision of this section, if utility service has been discontinued, or where a customer service contact has been attempted or made, on account of default in payment two (2) times or more during any consecutive twelve-month period of time, the finance director may require a deposit from any property owner or entity equal to the amount established in Table 2-224.

(d) All deposits shall remain with the city to ensure payment of all utility bills. The deposit shall be non-interest bearing and shall be refunded to the applicant upon discontinuance of such service, and upon payment of all charges and surcharges for utility services to the premises for which the application is made, unless otherwise provided in this code.

(1) The deposit required by this section shall be applicable to all applications for utility service made to the city on or after June 13, 1991.

(Code 1977, §§ 12-5-8 through 12-5-10)
(Ord. No. 91-12, 5/14/91)
(Ord. No. 2010-35, 12/07/2010, Amended) SUPP 2010-4

Sec. 25-120. Determination of wastewater quantity and billings.

(a) For users with installed water meters that are to be billed on basis of water

consumption, sewer charges herein shall become effective after each user's first regular meter reading. For uses to be billed on a flat rate the charges shall be effective on the first month after the rates established herein become effective.

(b) Any affected user who fails or refuses to install a water meter to any source of water supply used, within thirty (30) days after written notice by the director of finance to do so, shall be charged on water usage estimated by the director of finance.

(c) If a user discharges sanitary sewage, industrial wastes, water or other liquids into the city sewer system, either directly or indirectly, and it can be shown by such party, to the satisfaction of the director of finance that a portion of the water as measured by the water meter does not and cannot enter the sewer system, then the director of finance may determine in such manner and by such method as he may find practicable the percentage of metered water entering the sewer system. The quantity of water used to determine the sewer charge shall be that percentage, determined by the director of finance, entering the sewer system. In the absence of suitable data to make such a determination the sewer user charge will be based on the amount of water supplied to the premises. The director of finance may require or permit the installation of acceptable additional water or sewer meters at such party's expense and in such a manner as to determine the quantity of water actually entering the sewer system, in which case, the quantity of water used to determine the sewer charge shall be the quantity of water actually entering the sewer system as so determined.

(d) After installation of approved measuring equipment, it shall be the obligation of each user to conduct a test on such measuring equipment at least once every twelve (12) months to determine its accuracy and the results thereof shall be furnished in writing to the director. Those users seeking renewal of an industrial wastewater discharge permit or an interim industrial wastewater discharge permit shall file the results as part of the report required in this chapter. It shall also be the user's responsibility to notify the city within a reasonable time in advance so that the department may, if it chooses, have a witness present during the test. If upon test the percentage of accuracy is found to be within the accuracy tolerance as established by the manufacturer's specifications, the measuring equipment shall be determined to have correctly measured the quantity delivered to the sewer system. If, however, upon test the percentage of accuracy is found to be in excess of the accuracy tolerance specified by the manufacturers, then the measuring equipment shall be immediately adjusted to register correctly the quantity delivered to the sewer system. The billings to such user shall be adjusted for a period extending back to the time when the inaccuracy began, if

such time is ascertainable, or for a period extending back one-half of the time elapsed since the date of the last test or the date of the last adjustment, if the time is not ascertainable.

(e) All users for which the water supply is from other suppliers of water shall furnish to the city either a certified meter reading of water delivered to its plant or company, or a copy of the billing from the water supplier. In this event, the user's charges will be calculated and the same conditions will apply as if the city were the supplier of water to the user.
(Code 1977, § 12-5-13)

Sec. 25-121. Billing and payment.

(a) All sewer rental charges to be added to, and collected with, the bills rendered for water service by the city. Where the user does not use city water the bill shall be due for sewer service rendered. All rules and regulations promulgated by the city shall apply to, and be effective in, the collection of sewer service charges.

(b) All sewer user accounts shall be carried on the books of the finance department by the house and street number. All notices sent out by the city regarding sewer user accounts, and all notices regarding any other matter pertaining to the use of the city sewer system shall be sent to the house and street number of such property. Should the owner of the property desire personal notice from the city, he should file an application on a form to be furnished by the finance department. To insure proper delivery of notices, all errors in house numbers should be promptly reported to the finance department.
(Code 1977, §§ 12-5-6, 12-5-15(a))

Sec. 25-122. Due date; collection procedures and remedies.

(a) All utility rates and service charges are due and payable when rendered and shall be delinquent twenty (20) days after date rendered. Any delinquent account requiring special collection effort may be assessed a delinquent collection charge, as established by the finance director subject to the approval of the city manager. If the total of such bill shall not be paid within five (5) days after date of delinquency and notice of delinquency having been given, utility service may be disconnected from the premises of the delinquent consumer and a delinquent turn-off fee charged to customer's account. The delinquent turn-off fee plus the total amount of the bill due and any deposit, if such deposit is required, shall be collected before again providing utility service. In addition to all other remedies, a service charge of one and one-half (1 1/2) percent shall be charged on past due amounts.

(b) A consumer's utility service may be disconnected for nonpayment of a bill for utility service rendered at a previous location served by the city, provided such bill is not paid within twenty (20) days after the unpaid bill has been presented to the consumer at his new location.

(c) When a user of the utility system has been notified of the amount of utility user charges remaining due after the deduction of his trust deposit, and payment for same has not been received, the finance director may assign the account to a bona fide collection agency.

(d) Before utility service will be turned on to any premises all charges against the premises then due and payable to the city as required by this article, including any of the following items must have been paid:

(1) On account of labor supplied or materials furnished by the city in the installation of service pipes connecting the premises with the city utility mains, or for tapping the city utility system.

(2) On account of utility service previously supplied to the premises.

(3) On account of the assessment of any fine or penalty, or for turning utility services

off or on, or for repair or replacement of damaged, stolen or misused utility works facilities.

(e) Before discontinuing utility service for nonpayment of any utility user charge, deposit or other assessment provided for in this article, the finance director shall give written notice to the person of the discontinuance and an opportunity to appear before the finance director or his designee on any disputed matter relative to the discontinuance of sewer service.

Charter reference(s) -- Assessments and liens authorized, art. I,§ 3(4).

(Code 1977, §§ 12-5-15(c), (d), (f), (g), 12-5-16)

(Ord. No. 2010-35, 12/07/2010, Amended) SUPP 2010-4

Sec. 25-123. Use of funds.

(a) Funds shall be established for the proper distribution of sewer revenues. They shall include, but not be limited to, the following:

(1) Sewer system operations and maintenance fund.

(2) Sewer system replacement and extension fund.

(3) Sewer system debt retirement fund.

(b) The distribution of sewer charges to the above funds shall be as follows:

(1) The applicable portion of the sewer use charge revenues shall be allocated to the sewer system operations and maintenance fund.

(2) The applicable portion of the sewer user charge revenues shall be allocated to the sewer system replacement and extension fund.

(3) The applicable portion of the sewer user charge revenues shall be allocated to the sewer system debt retirement fund.

(c) The utilization of the above funds shall be as follows:

(1) The sewer system operations and maintenance fund shall be utilized for personal services and operational expenses associated with the provision of sewerage system services.

(2) The sewer system replacement and extension fund shall be utilized for equipment replacement expenses associated with the provision of sewerage system services.

(3) The sewer system debt retirement fund shall be utilized in servicing the debt of retirement of sanitary sewer bonds.

(Code 1977, § 12-5-17)

Secs. 25-124. through 25-133. Reserved.

Cross reference(s) -- Definitions and rules of construction generally, § 1-2.

(Code 1977, § 12-2-3.2)
(Ord. No. 90-11, 4/10/90, Amended Sec. 25-133)
(Ord. No. 91-41, 11/12/91, Amended Sec. 25-133)
(Ord. No. 95-66, 8/1/95, Repealed and Reserved Sec. 25-133.)

Sec. 25-134. Wastewater Pretreatment; abbreviations.

The following abbreviations shall have the designated meanings:

AZPDES…….Arizona Pollutant Discharge Elimination System
BMP……....Best Management Practice
BMR……Baseline Monitoring Report
BOD ..... Biochemical Oxygen Demand
CFR ..... Code of Federal Regulations
CIU…….Categorical Industrial User
COD ..... Chemical Oxygen Demand
CWA……Clean Water Act
EPA ..... Environmental Protection Agency
GPD……Gallons Per Day
l ..... Liter
mg..... Milligram
mg/l..... Milligrams per liter
NPDES ..... National Pollutant Discharge Elimination System
NSCIU……Non-Significant Categorical Industrial User
POTW ..... Publicly Owned Treatment Works
RCRA…….Resource Conservation and Recovery Act
SIC..... Standard Industrial Classification
SIU…….Significant Industrial User
SNC……Significant Noncompliance
SWDA..... Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
USC ..... United States Code
TSS ..... Total Suspended Solids
USC…….United States Code

(Code 1977, § 12-2-3.3)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No 09-39, 10/20/09, amended) SUPP 2009-4

Sec. 25-135. Wastewater Pretreatment, Purposes and Policy.

(a) The Pretreatment provisions in this Chapter 25 set forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Peoria, Arizona, and enable the City to comply with all applicable State and Federal laws, including the Clean Water Act of 1977, and the General Pretreatment Regulations (40 CFR Parts 401 and 403 through 471).

(b) The objectives of the Pretreatment provisions in this Chapter are:

(1) To prevent the introduction of pollutants into the POTW which will interfere with the operation of the system, including treatment facilities or contaminate the resulting sludge.

(2) To prevent the introduction of pollutants into the POTW which have the potential pass through the system inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system.

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

(4) To provide for equitable distribution of the cost of the maintenance and operation of the POTW.

(5) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public.

(6) To enable the City to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

(c) The Pretreatment provisions in Chapter 25 provides for the regulation of direct and indirect contributors to the POTW through the issuance of permits to certain non-domestic Users and through enforcement of general requirements for the other Users, authorize monitoring and enforcement activities, require User reporting, assumes that existing customers' capacity will not be pre-empted, and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) The Pretreatment provisions in Chapter 25 shall apply to the City of Peoria, Arizona, and to persons outside the City of Peoria who are, by contract or agreement with the City, Users of the POTW. Except as otherwise provided herein, the Director of Public Works-Utilities and Director of Engineering shall administer, implement, and enforce the provisions.

(e) The City at all times shall have a Pretreatment Plan which may provide more specific guidelines for compliance and enforcement. Users shall refer to the City's most current Pretreatment Plan.

(f) The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this Section.
(Code 1977, § 12-2-3.1)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-136. Wastewater Pretreatment; authority of the Director; Best Management Practices.

The Director is authorized to enforce Industrial User compliance with the requirements of

this Chapter. In carrying out this responsibility, the Director has authority to:

(a) Issue or amend (as applicable) class A and class B wastewater discharge permits within sixty (60) days of receiving the application for such permit or amended permit. Once issued, a permit:

(1) Will be for a period of time not to exceed two years. A permit may be terminated by revocation by the Director or upon voluntary surrender of the permit by the permittee at an earlier date;

(2) Is non-transferable by the permittee;

(3) Will specifically identify all applicable discharge prohibitions and limitations which the Director will enforce;

(4) May be amended as deemed appropriate by the Director;

(5) May contain monitoring requirements;

(6) May contain reporting requirements;

(7) May contain requirements for installation and maintenance of inspection and sampling facilities;

(8) May contain required notifications;

(9) May contain requirements for a plan to control slug discharges and spills. The plan shall contain at a minimum:

(i) A description of discharge practices, including non-routine batch discharges; and

(ii) A description of stored chemicals; and

(iii) Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containments structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

(10) May require implementation of Best Management Practices to reduce or eliminate the amount of pollutants discharged to the POTW;

(11) May contain requirements to control or reduce the concentrations of any of the substances identified in this Code through the use of Best Management Practices;

(12) May contain standard permit conditions;

(13) May contain other conditions and requirements as deemed reasonably necessary by the Director to prevent Pass Through or Interference, to protect the quality of the water body receiving the treatment plant's effluent, to protect worker health and safety, to facilitate sludge management and disposal, to protect against damage to the POTW and to ensure User compliance with this Chapter, and State and Federal laws, rules and regulations.

(b) A permit may be revoked by the Director for good cause, including, but not limited to:

(1) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Director of changed conditions pursuant to Section 25-144;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Director timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines and penalties;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the permit application;

(12) Failure to provide advance notice of the transfer of business ownership of permitted facility; or

(13) Violation of any Pretreatment Standard or requirement, or any terms of the permit or requirement of this Chapter.

(c) Incorporate the pertinent requirements of this Chapter into every City contract with any Industrial User located outside of the municipal jurisdiction of the City. Such contracts may also provide for liquidated damages and, if applicable, specific performance as remedies for breach of

contract.

(d) Receive and analyze all self-monitoring reports and notices submitted by Industrial Users.

(e) Randomly sample and analyze effluent from Industrial Users and conduct those surveillance and inspection activities needed to identify, independently of any information supplied by such Users, occasional or continuing non-compliance with any Categorical Standard or Pretreatment requirement.

(f) Investigate instances of non-compliance with any Categorical Standard or pretreatment requirement when notice of any actual or probable non-compliance has been received by the Director.

(g) Notify Industrial Users of non-compliance with Categorical Standards or pretreatment requirements discovered by the Director. Such notice shall also contain demand for any appropriate corrective action, which is necessary to meet the applicable requirements of this Chapter. Any Industrial User will be allowed opportunity to respond to an order of the Director before any enforcement action against such User is initiated, unless the discharge is a threat to the public health, safety and welfare, in which case the Director may initiate enforcement action without giving notice.

(h) Comply with the public participation requirements of 40 CFR Part 25 and Arizona Revised Statutes §49-391 in connection with the City's enforcement of any Pretreatment Standards and requirements.

(i) Impose appropriate penalties for non-compliance with any or all of the following:

(1) Suspension or revocation of any Industrial User permit for the failure of an Industrial User to comply with the pertinent requirements of such permit;

(2) Termination of POTW services;

(3) Restricting or otherwise limiting allowable discharges;

(4) Requesting that the City attorney commence criminal and/or civil action against any User violating any requirement of this Chapter.

(j) The Director shall:

(1) Determine which actual or threatened discharge to the POTW will cause interference with the POTW or will present (or may present) an imminent or substantial endangerment to the health or welfare of any person and/or to the environment;

(2) Abate any actual or threatened discharge which would violate any Categorical Standard or pretreatment requirement imposed by this Chapter. This may include plugging

or disconnecting any sewer service connection to the POTW;

(3) Correct or mitigate any injury to the environment, the POTW or to any other property as a result of any discharge in violation of a Categorical Standard or pretreatment requirement imposed by this Chapter.

(k) Annually publish, in the largest daily newspaper published in the City, public notice of all Industrial Users who at least once during the prior calendar year were in significant noncompliance (SNC). SNC is determined by any time during the year, except that for chronic and TRC violations, SNC is determined at the beginning of each quarter using the prior six (6) months. Thus, chronic and TRC SNC is determined four (4) times during the year and the total evaluation period covers fifteen (15) months (i.e., beginning with the last quarter of the previous year through the end of the current year). The notification shall also summarize any enforcement actions taken against such Users during the same twelve (12) month period.

(l) Notify Industrial Users of applicable Pretreatment Standards and any applicable requirements under Section 204(b) and 405 of the Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act.

(m) The Director shall maintain one (1) copy of all Federal statutes, rules and regulations cited by this Chapter in order to allow regulated Users adequate opportunity to review the applicable Federal requirements that are herein incorporated by reference.

(n) The Director has the authority to require individual Users or class of Users to implement Best Management Practices for any pollutant.

(o) All affected individual Users or class of Users shall comply with any Best Management Practices required by the Director.

(p) The Director shall have the ability to discontinue individual Users or class of Users water service for failure to comply with the requirements of this Chapter.
(Code 1977, § 12 5 14)
(Code 1977, § 12-2-4.6)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, repealed and renumbered 25-99 to 25-136) SUPP 2009-4

Sec. 25-137. Authority of the Utilities Director to establish prohibitions and effluent limitations.

(a) In addition to the prohibitions and effluent limitations contained in this Chapter, the Utilities Director shall have the authority to: (1) establish quantity of discharges and permissible limits of concentration for various specific substances, materials, waters, or wastes that can be accepted into the sewer system; (2) specify those pollutants materials, waters, or wastes that are prohibited from entering the sewer system; and (3) identify those pollutants, materials, waters or wastes that shall be controlled with Best Management Practices.

(b) All prohibitions and effluent limitations so established shall be placed on file with the City Clerk and will become effective and enforceable on the thirty-first (31st) calendar day after the date of filing.

(c) All affected individual users or class of users shall comply with the prohibitions and effluent limitations established pursuant to this Section.

(d) Pollutants, materials, waters or waste to be controlled with Best Management Practices that have been identified by the Utilities Director shall be placed on file with the City Clerk and will become effective and enforceable on the thirty-first (31st) calendar day after the date of the filing.
(Code 1977, § 12-2-3.1)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 04-197, 9/21/04, Amended) SUPP 2004-3

Sec. 25-138. Discharge of certain wastes prohibited.

(a) Any person who violates any provisions of this Chapter may be assessed a civil penalty by a court of competent jurisdiction or by the Director pursuant to this Chapter in an amount not more than Twenty-five Thousand Dollars ($25,000) per day. For violations deemed by the court or the director to be continuing, the penalty may be assessed based on each day constituting a separate offense. In seeking the assessment of a civil penalty, the following factors shall be considered:

(1) The seriousness of the violation.

(2) The economic benefit, if any resulting from the violation.

(3) Any history of such violations.

(4) Any good faith efforts to comply with the applicable requirements.

(5) The economic impact of the penalty on the violator.

(6) Such other factors as justice may require.

(b) In addition to the civil penalty imposed herein, the User shall be liable for any civil penalties imposed on the City as the result of the violation, together with the City's costs and attorney's fees incurred as a result of the civil penalty.

(c) In addition to any civil penalty imposed herein, the city attorney may commence proceedings in a court of competent jurisdiction to obtain a temporary and/or permanent injunction against the User to prevent further State or Federal statutes and regulations, or any administrative

regulation adopted by the City or permit requirement imposed by the director to carry out the provisions of this chapter.

(d) General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other Federal, State, or local Pretreatment Standards or requirements.

(e) Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, gasoline, naphtha, fuel oil or other flammable or explosive liquid, solid or gas, or any wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference [but in no case solids greater than one-half inch (1/2") or one and twenty-seven hundredths centimeters (1.27 cm) in any dimension].

(4) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

(5) Wastewater having a temperature greater than 104o F 40o, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.

(7) Any waters or wastes containing toxic, poisonous or other substances in sufficient quantity to cause or have the potential to cause injury or interfere with any sewage treatment process, cause corrosive structural damage, constitute a hazard to humans or create any hazard to the collection system or in receiving waters of the POTW or pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.

(8) Trucked or hauled pollutants, except at discharge points designated by the Director. Any water or waste that is transported from the point of discharge to the POTW by any septic tank, pumper, chemical waste hauler, or similar transporter unless the transporter has

first:

(a) Disclosed to the Director the origin, nature, concentration and volume of all pollutants to be discharged; and

(b) Obtained the consent of the Director to discharge.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's AZPDES permit.

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director.

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes.

(14) Medical wastes, except as specifically authorized by the Director in an individual wastewater discharge permit.

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 0 mg/L.

(18) Any waters or wastes that have been in any way diluted as a substitute for pretreatment for the purpose of obtaining compliance with any Categorical Standard or pretreatment requirement imposed by this Chapter.

(19) Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(20) Any waters or wastes that could cause a violation of any Categorical Standard or pretreatment requirement.

(21) Any discharge that exhibits a characteristic of a hazardous waste or contains a substance that is listed as a hazardous waste pursuant to the Arizona Administrative code R18-8-261 or Title 40, Code of Federal Regulations, whichever is applicable, whether or not the discharge is otherwise subject to hazardous waste regulations. This provision does not apply to domestic sewage or discharges of hazardous wastes that are authorized by the Director.

(Code 1977, §§ 12-2-6.15 through 12-2-6.18)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 92-43, 11/3/92, Amended)
(Ord. No. 95-66, 8/1/95, Amended)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-139. Wastewater Pretreatment; Federal Categorical Pretreatment Standards; State Pretreatment Standards; Local Limits.

(a) Upon the promulgation of any Federal Categorical Pretreatment Standard, the Federal Standard if more stringent than limitations imposed under this Code for sources in that subcategory, shall immediately supersede the limitations imposed under this Code. The Director shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12. To ensure applicability of current Federal standards to local Industrial Users, the City shall update its Code as necessary to remain current with applicable Federal and State regulations. The national Categorical Pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated by reference into this Chapter and made a part hereto.

(b) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).

(c) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users in accordance with 40 CFR § 403.6(c)(2).

(d) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR § 403.6(e).

(e) A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR § 403.13, that factors

relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

(f) An Industrial User may obtain a net gross adjustment to a Categorical Pretreatment Standard in accordance with the following Subsections of this Section and 40 CFR § 403.15:

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

(i) Either;

a. The applicable Categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

b. The Industrial User demonstrates that the control system it proposes or uses to meet applicable Categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

(ii) Credit for generic pollutants such as Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and Oil and Grease shall not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(iii) Credit shall be granted only to the extent necessary to meet the applicable Categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this Section.

(iv) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.

(g) When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director. The City may establish equivalent mass limits only if the Industrial User meets all of the following conditions:

(1) To be eligible for equivalent mass limits the Industrial user must meet all of the following criteria:

(i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its' individual wastewater discharge permit;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(iv) Not all daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(v) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(2) An Industrial User subject to equivalent mass limits must meet all of the following criteria:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary more than twenty (20) percent from its' baseline production rates determined in Subsection (1)(iii) of this Section. Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Subsection (1)(i) of this Section so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the Director:

(i) Will calculate the equivalent mass limit by multiplying the actual average

daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;

(ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit necessary to reflect changed conditions at the facility; and

(iii) May retain the same equivalent mass limit in the subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rate used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for pretreatment pursuant to Section 25-141. The Industrial User must also be in compliance with Section 25-186 regarding the prohibition of bypass.

(h) The Director may convert mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for the purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.

(i) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived in accordance with 40 CFR § 403.6(c)(7).

(j) Many Categorical Pretreatment Standards specify one limit for calculating maximum monthly average or 4-day average limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation in accordance with 40 CFR § 403.6(c)(8).

(k) Any Industrial User operating under a permit incorporating mass or concentration limits calculated from a production-based Standard shall notify the Director within (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its' permit that were based on the original estimate of the long term average production rate in accordance with 40 CFR § 403.6(c)(9).

(l) State Pretreatment Standards. Upon the promulgation of State of Arizona Pretreatment Standards, the State Standard if more stringent than limitations imposed under the pretreatment provisions of this Chapter for sources in that subcategory, shall immediately supersede the limitations imposed under the Pretreatment provisions of this Chapter. To ensure applicability of current State standards to local Industrial Users, the City shall update the Pretreatment provisions of this Chapter as necessary to reflect limitations promulgated by the State. The State Pretreatment Standards found in A.A.C. R18-9-906(A) are incorporated by reference into this Chapter and made a part hereto.

(m) Local Limits.

(1) The Director is authorized to establish Local Limits pursuant to 40 CFR § 403.5(c).

(2) The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following standards:

Pollutant of Concern	**Daily Average Effluent Limitation mg/L**
Arsenic	0.13
Benzene	0.035
Cadmium	0.047
Chloroform	2.0
Chromium, Total	7.0
Copper	1.5
Cyanide, Total	0.5
Lead	0.35
Mercury	0.0002
Molybdenum	Monitoring Only
Nickel	3.3
Selenium	0.045
Silver	0.6
Thallium	0.05
Zinc	2.0
1,2 Dichloroethane	0.4
Di(2-ethylhexyl) phthalate (DEHP)	0.3
Dichloromethane	0.3
BOD5	400
TSS	400
NH3	40
NO3	Monitoring Only
FOG	100

PROHIBITED SUBSTANCES
4,4’ - DDE
4,4 - DDT
ALDRIN
BHC-ALPHA
BHC-BETA BHC-GAMMA (LINDANE)
PROHIBITED SUBSTANCES (cont.)
HEPTACHLOR
HEPTACHLOR EPOXIDE
POLYCHLORINATED BIPHENYL COMPOUNDS (PCB)

(3) The Director may develop Best Management Practices (BMPs) pursuant to Section 25-136, by Ordinance, Pretreatment Plan, or in individual wastewater discharge permits, to implement Local Limits and the pretreatment requirements of this Chapter.

(4) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metals unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration based limitations above.

(5) The Director reserves the right to establish in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of the pretreatment provisions of this Chapter.

(6) The Director may impose a surcharge fee on Users based on the pollutant load factors identified in Subsection (2), pursuant to authority that may be granted by the City Council and located in Title 2 of this Code.

(Code 1977, § 12-2-4.2)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord No. 92-43, 11/3/92, Amended)
(Ord. No. 08-35, 12/02/08, Amended)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-140. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent that federal requirements and limitations or those in this Code.

(Code 1977, § 12-2-4)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

Sec. 25-141. Wastewater Pretreatment; Prohibition Against Dilution.

No User shall ever increase the use of process water, or in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement.

(Code 1977, § 12-2-6.19)

(Ord. No. 90-11, 4/10/90)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-142. Wastewater Pretreatment; Accidental Discharge; Slug Control Plans.

(a) Each User shall provide protection from accidental discharge or prohibited materials or other substances regulated by this Code. Facilities, equipment, or processes used to prevent

accidental discharge of prohibited materials shall be provided and maintained at the owner or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and shall be approved by the Director before Construction of the facility. No User who commences contribution to the POTW after the effective date of this Code shall be permitted to introduce pollutants into the system until accidental discharge procedures, if required, have been approved by the Director. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of this Code. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. The Director shall once every two years evaluate each Significant Industrial User to determine the need of a slug control plan as per 40 CFR 403.8.

(b) The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharge. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action as may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, all of the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director of any accidental or slug discharge; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(c) Written Notice . Within five (5) days following an accidental discharge, the User shall submit to the Utilities Director a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; such notification shall not relieve the User of any fines, civil penalties, or other liability which may be imposed by this Code or other applicable law.

(d) Notice to Employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a prohibited discharge. Employers shall ensure that all employees who may cause or experience prohibited a dangerous discharge are advised of the emergency notification procedure.

(Code 1977, §§ 12-2-3, 12-2-4.1)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-143. Wastewater Pretreatment; Certification Statements.

(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 25-145; Users submitting BMRs under Section 25-145(f); Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 25-145(f); Users submitting periodic compliance reports required by Section 25-149, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 25-149(f). The following certification statement must be signed by an Authorized Representative as defined in Section 25-76:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non Significant Categorical Industrial User by the Director pursuant to Section 25-76 must annually submit the following certification statement signed in accordance with the signatory requirements in Section 25-76. This certification must accompany an alternative report required by the Director:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:
>
> (1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 25-76
>
> (2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
>
> (3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

_____

_____

(c) Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on Section 25-149(f) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report.

(Code 1977, § 12-2-4.2)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95)
(Ord. No. 09-39, 10/20/09, Repeal and enacted) SUPP 2009-4

Sec. 25-144. Wastewater Pretreatment; Wastewater Contribution Permits.

In addition to all other requirements each Industrial User who discharges an industrial discharge into the sewer system and who is designated a Significant Industrial User by the Director shall also:

(a) Obtain a class A wastewater contribution permit from the Director.

(1) Any User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to November 1, 2009 and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Director for an individual wastewater discharge permit in accordance with Section 25-145, and shall not cause or allow discharges to the POTW to continue, except in accordance with an individual wastewater discharge permit issued by the Director.

(2) Any User required to obtain an individual wastewater dischargepermit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. Any person intending to commence any new industrial discharge(s) not previously permitted pursuant to an existing permit shall apply for a new or an amended permit at least ninety (90) days prior to initiating such discharge.

(3) A Significant Industrial User that has filed a timely application pursuant to Section 25-145 may continue to discharge for the time period specified therein.

(b) Provide all pretreatment necessary to comply with Categorical Standards and pretreatment requirements required by this Chapter.

(c) In addition to all other requirements imposed by this Chapter upon Industrial Users, the following types of Industrial Users who are not Significant Industrial Users may be required to obtain a class B wastewater contribution permit if the Director determines the Industrial Discharge causes or has the reasonable potential to cause harm or damage to the POTW, worker safety, public safety or the environment:

(1) Zero process discharge User.

(2) Users which discharge the equivalent strength of 25,000 gallons per day of domestic sewage as measured by BOD and SS.

(3) Discharges of polluted groundwater.

(4) Users discharging any of the substances identified in sections 25-139.

The Industrial User shall comply with all requirements and conditions of a class B wastewater contribution permit issued by the Director under this chapter.

(d) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of the pretreatment provisions of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in those provisions. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with any other requirements of Federal, State, and local law.
(Code 1977, § 12-2-4.3)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95, Amended)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-145. Wastewater Pretreatment; Wastewater contribution permits; applications.

(a) Permit Applications Users required to obtain a Wastewater Contribution Permit shall complete and file with the City, an application in the form prescribed by the City, and accompanied by a fee as contained in this Code. Existing Users shall apply for a Wastewater Contribution Permit within 30 days after the effective date of this Code, and proposed new Users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

(1) The name and address of the facility including the name of the operator and owners;

(2) A list of any environmental control permits held by or for the facility;

(3) A description of the facility operations, including all of the following information:

(i) The nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and Standard Industrial Classification of the operations carried out by such Industrial User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

(ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(iv) Type and amount of raw materials processed (average and maximum per day); and

(v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e);

(5) Identify the pretreatment applicable to each regulated process along with the results of sampling and analysis identifying the nature and concentration of regulated pollutants. Samples shall be representative of daily operations as defined in 40 CFR 403.12(b)(v)(iii) and (iv);

(6) Time and duration of discharges;

(7) The location for monitoring all wastes covered by the permit;

(8) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(9) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 25-149(f).

(10) Any other information as may be deemed necessary by the Director to evaluate the

permit application.

(11) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(b) Certification The application for a Wastewater Contribution Permit shall include the following certification statement defined in 40 CFR 403.6(a)(2)(ii) and shall be signed as defined in 40 CFR 403.12(l).

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(c) Signatory requirements for Industrial User reports. The reports required by paragraphs by this Section shall include the certification statement as set forth in 40 CFR, 403.6(a)(2)(ii), and shall be signed as follows:

(1) For a corporation: by a corporate officer or other persons performing a similar policy or decision-making function for the corporation;

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a governmental entity: by the administrator, chairman, director, or principal executive responsible for operations at the facility.

(4) Ensure that all applications, correspondence, reports, and self-monitoring reports are signed by a duly authorized representative of the person described in this paragraph. Any change in signatures or positions shall be submitted to the Director in writing within 30 days after the change.

(5) A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in subparts 1-3 of this paragraph; and

(ii) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, supervisor, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any

individual occupying a named position.

(6) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

(d) Permit conditions Wastewater discharge permits shall be expressly subject to all provisions of this Code, and all other applicable regulations, User charges and fees established by the City.

(e) Record Keeping Requirements Any Industrial User subject to the reporting requirements established in this Chapter shall maintain records of all information resulting from any monitoring activities required by this Chapter. Such records shall include for all samples:

(1) The date, exact place, method, and time of sampling and the names of the person or person taking the samples.

(2) The dates analyses were performed.

(3) Who performed the analyses.

(4) The analytical techniques/methods used.

(5) The results of such analyses.

(6) Any Industrial User subject to the reporting requirements established in this Chapter (including documentation associated with Best Management Practices) shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this Chapter), and shall make such records available for inspection and copying by the Director or any Federal or State agency. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the User or City or where the User has been specifically notified of a longer retention period by the Director.

(f) Reporting Requirements for Users upon effective date of Categorical Pretreatment Standard - Baseline Monitoring Report (BMR).

Within 180 days after the effective date of the Categorical Pretreatment Standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR § 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Director a report which contains the information listed in this Subsection. Where reports containing this information have already been submitted to the Director in compliance with the requirements, the User will not be required to submit this information again. At least 90

days prior to commencement of discharge, New Sources and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Director a report that contains the information listing in this Subsection. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described in this Subsection shall submit the following information:

(1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes as well as the location for monitoring all wastes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR §403.6e.

(5) Measurement of Pollutants.

(i) The User shall identify the Pretreatment Standards applicable to each regulated process.

(ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Director) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;

(iii) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Subsection.

(iv) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater

prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR § 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.

(v) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Director determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures.

(vi) The Director may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(vii) The BMR shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(viii) The Categorical Pretreatment Standards applicable to each regulated process.

(ix) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Section.

(x) Sampling must be performed in accordance with procedures set out in Section 25-151.

(6) Compliance Certification. A statement, reviewed by the User's authorized representative as defined in Section 25-76 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later

than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 25-149.

(8) Signature and Certification. All BMRs must be signed and certified in accordance with Section 25-143 and signed by an Authorized Representative as defined in Section 25-76.

(g) Hazardous Waste Notification

(a) The City expressly prohibits any discharge of hazardous wastes, as defined in 40 CFR Part 261.3, into the POTW. Should these wastes be accidentally discharged into the POTW, the following provisions would apply:

(1) The User shall notify the Director orally within twenty-four (24) hours of becoming aware of the discharge and notify the Director, the EPA Regional Wastewater Management Division Director, and State Hazardous Waste authorities in writing within ten business days of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA Hazardous Waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waster per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharge during the following twelve months. All written notifications must take place no later than ten business days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

(2) Discharges are exempt from the requirements of subpart (i) of this paragraph during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the Director, the EPA Regional Waste Management Waste

Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this paragraph, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable.

(b) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by the pretreatment provisions of this Chapter, a permit issued thereunder, or any applicable Federal or State law.
(Code 1977, § 12-2-4.3)
(Code 1977, § 12-2-4.5)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95, Repealed)
(Ord. No. 95-66, 8/1/95, Enacted)
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-146. Wastewater Pretreatment; Wastewater contribution permits; modifications; transfers; revocations; reissuance.

(a) Permit Modifications.

(1) The Director retains the right to deny or condition new or increased contributions of pollutants, or changes in the nature of the pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its AZPDES permit.

(2) Within ninety (90) days of the promulgation of a Federal Categorical Pretreatment Standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standard. Where a User, subject to a Federal Categorical Pretreatment standard, has not previously submitted an application for a Wastewater Contribution Permit as required by Section 25-14 the User shall apply for a Wastewater Contribution Permit within one hundred and eighty (180) days after the promulgation of the applicable Federal Categorical Pretreatment Standard. In addition, the User with an existing Wastewater Contribution Permit shall submit to the Director within one hundred and eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information as required by Section 25-145.

(3) The Director may modify a wastewater discharge permit for good cause, including, but not limited to any one or more of the following reasons:

(i) To incorporate any new or revised Federal, State, or local Pretreatment Standard or requirement;

(ii) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;

(iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iv) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;

(v) Violation of any terms or conditions of the wastewater discharge permit;

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(vii) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR §403.13;

(viii) To correct typographical or other errors in the wastewater discharge permit; or

(ix) To reflect a transfer of the facility ownership or operation to a new owner operator.

(b) Permit Transfers. Wastewater Contribution Permits are issued to a specific User for a specific operation. A Wastewater Contribution Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises or a new or changed operation unless specifically approved by the Director. All requests for the transfer of an Industrial User permit shall be provided to the Director at least (90) days in advance notice to the Director and the Director approves the wastewater discharge permit transfer. Any succeeding owner or User shall also comply with the terms and conditions of the existing permit.

(1) The notice to the Director must include a written certification by the new owner or operator which includes all of the following:

(i) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes and understands that any proposed changes or alterations of operations or processes require permit modification;

(ii) Identifies the specific date on which the transfer is to occur; and

(iii) Acknowledges full responsibility for complying with the existing wastewater discharge permit;

(2) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(c) Permit Revocations.

(1) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, any one or more of the following reasons:

(i) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(ii) Failure to provide prior notification to the Director of changed conditions;

(iii) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(iv) Falsifying self-monitoring reports;

(v) Tampering with monitoring equipment;

(vi) Refusing to allow the Director timely access to the facility premises and records;

(vii) Failure to meet effluent limitations;

(viii) Failure to pay fines;

(ix) Failure to pay sewer charges;

(x) Failure to meet compliance schedules;

(xi) Failure to complete a wastewater survey or the wastewater discharge permit application;

(xii) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(xiii) Violation of any Pretreatment Standard or requirement, or any terms of the wastewater discharge permit or the pretreatment provisions of this Chapter.

(2) Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

(d) Individual Wastewater Discharge Permit Reissuance. A User with an expiring

individual wastewater discharge permit shall apply for an individual wastewater discharge permit reissuance by submitting a complete permit application a minimum of one hundred twenty (120) days prior to the expiration of the User's existing individual wastewater discharge permit.
(Code 1977, §§ 12-2-3, 12-2-4.4)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95, Amended adding subsections (a) and (b))
(Ord. No. 09-39, 10/20/09, Amending) SUPP 2009-4

Sec. 25-147. Wastewater Pretreatment; Wastewater Contribution Permits; permit issuance.

(a) Individual Wastewater Discharge Permit Decisions. The Director will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete individual wastewater discharge permit application, the Director will determine whether or not to issue an individual wastewater discharge permit. The Director may deny any application for any individual wastewater discharge permit.

(b) Permit Appeals. A User may petition the Director to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the User must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.

(3) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Director fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decision must do so by filing a complaint with the appropriate court within the time period established by law.

(c) Duration. Permits shall be issued for a specific time period, not to exceed five (5) years from the effective date of the permit. Each individual wastewater discharge permit will indicate a specific date upon which it will expire. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. A User shall apply for a permit reissuance a minimum of 120 days prior to the expiration of the User 's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term

of the permit as limitations or requirements as identified in this Code are modified or other just cause exists. The User shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(d) Individual Wastewater Discharge Permit Contents.

(1) An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(2) Individual Wastewater discharge permits must contain all of the following information:

(i) A statement that indicates wastewater discharge permit issuance date, expiration date, and effective date which in no event shall exceed five (5) years;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the City of Peoria in accordance with this Section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or Best Management Practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;

(v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge;

(vi) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;

(vii) Requirements to control Slug Discharge, if determined by the Director to be necessary; and

(viii) Any grant of the monitoring waiver by the Director must be included as a condition in the User's permit.

(3) Individual Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the Director to ensure compliance with the pretreatment provisions of this Chapter, and State and Federal laws, rules, and regulations.

(Code 1977, § 12-2-4.7)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-148. Wastewater Pretreatment; Compliance Date Report.

Within Ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any user subject to Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Section 25-145(f). For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR § 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards

expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. The reports shall state whether the applicable Pretreatment Standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This report shall include the certification statement and be signed as described in Section 25-143. The compliance report shall be reviewed by an authorized representative of the Industrial User and shall be certified by a qualified professional. The qualified professional shall certify the Industrial User's compliance with applicable categorical standards and whether any pretreatment or operation and maintenance is required to attain compliance. This report shall be due ninety (90) days from final date for compliance in accordance with 40 CFR 403.12(d). All sampling will be done in accordance with Section 25-151.
(Code 1977, §§ 12-2-4.8, 12-7-4)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-149. Wastewater Pretreatment; Periodic Compliance Reports.

(a) Any Industrial User, whether or not subject to a Categorical Pretreatment Standard, except as specified in Section 25-151, after the compliance date if such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Director, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported except that the Director may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with Best Management Practices (or pollution prevention alternative), the User shall submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc, the Director may modify the months during which the above reports are to be submitted.

(b) The Director may reduce mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Paragraph (1) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature, and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be as prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, and amendments thereto, or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR, Part 136, does not include a

sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator.

(c) This Periodic Compliance Report shall include the certification statement and be signed described in Section 25-143.

(d) Compliance schedule for meeting Categorical Pretreatment Standards. The following conditions shall apply to the schedule required by 40 C.F.R. 403-12(c).

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Categorical Pretreatment Standards (e.g., Hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, beginning and conducting routine operation, etc.)

(2) No increment referred to in paragraph (d)(1) of this subsection shall exceed nine (9) months.

(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the appropriate steps being taken by the Industrial User to return the construction to the schedule established.

(4) In no event shall more than nine (9) months elapse between such progress reports to the Director.

(e) The City may authorize an Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels

from intake water and without any increase in the pollutant due to activities of the Industrial User. [see 40 CFR § 403.12(e)(2)] This is authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the

individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 25-76, and include the certification statement in Section 25-143.

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Director must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Director for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the User's permit by the Director, the Industrial User must certify on each report with the statement in Section 25-143(c), that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements of Section 25-149(a), or other more frequent monitoring requirements imposed by the Director, and notify the Director.

(9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

(g) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(h) If a User subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Director, the results of this monitoring and a chain of custody for all samples analyzed shall be included in the report.
(Code 1977,§§ 12-2-5, 12-2-6)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-150. Monitoring Facility.

(a) The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manholes or facilities to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements, and all applicable local construction standards and specification. Construction shall be completed within 90 days following written notification by the city.
(Code 1977, §§ 12-2-6.2 through 12-2-6.6, 12-2-6.14)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

Sec. 25-151. Wastewater Pretreatment; Inspection; Sampling and Analytical Procedures.

(a) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by the EPA.

(b) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of the conditions occurring during the reporting period.

(1) Except as indicated in Subsections (2) and (3), the User must collect wastewater samples using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate

preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols; and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 25-148 and 25-149, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Sections 25-149, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements. Chain of Custodies for all sampled parameters shall accompany the compliance reports.

(c) Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(d) The Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Persons or occupants of premises where wastewater is created or discharged shall allow the City to have ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties.

(2) The City shall have the right to set upon on the User's property or require installation of such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering of the User’s operations.

(3) Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City will be permitted without delay for the purpose of performing their specific responsibilities.

(4) Any User subject to the reporting regulations established in this Chapter, shall make such records available upon request for the purposes of inspection and copying by the Director.

(5) The Director may require the User to install monitoring equipment as necessary, as further described in the City's Engineering Development Guidelines for Wastewater, currently found in Chapter 6-3.B. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated monthly to ensure their accuracy.

(6) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

(7) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of the pretreatment provisions of this Chapter.

(8) If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of the wastewater pretreatment provisions of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with the wastewater pretreatment provisions of this Chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from the Peoria Municipal Court or other appropriate court.

(9) The Director retains the right to carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by Industrial User, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under 40 CFR §403.12(0) to assure compliance with Pretreatment Standards.

(Code 1977, § 12-2-6.7)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, amended) SUPP 2009-4

Sec. 25-152. Wastewater Pretreatment; pretreatment required.

(a) All Users are required to properly operate and maintain all pretreatment equipment and processes in a manner that will provide for the effective pretreatment of wastes. All Users have a duty to halt and/or reduce, to the extent possible, any discharge that has the potential to cause

either Pass-Through or Interference with the operation of the POTW. Users shall provide necessary wastewater treatment as required to comply with this Code, and shall achieve compliance with all Federal Categorical Pretreatment Standards, Local Limits, and all other applicable Federal, State, and local requirements within the time limitations as specified by the EPA, ADEQ, or the Director, whichever is more stringent. Any facilities required to pre-treat wastewater to a level acceptable by the Director shall be provided, operated and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce a discharge acceptable to the City under the provisions of this Code. Any subsequent changes in the pretreatment facility or method of operation shall be reported to and be approved in writing by the Director prior to the initiation of the changes.

(b) The City shall annually publish in any newspaper of general circulation within the City a list of the Users found in noncompliance with any Pretreatment Requirements or Standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement action taken against the User(s) during the same twelve (12) months.

(c) Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User’s compliance with the requirements of the pretreatment provisions of this Chapter.

(d) The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(e) Grease, oil, sand and lint interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, sand, lint or other objectionable material; except that such interceptors shall not be required for residential Users. All interception units shall be of type and capacity approved by the Director and shall be located so as to be easily accessible for cleaning and inspection. Such

interceptors shall be inspected, cleaned, and repaired regularly, as required by Sections 25-174, by the User at their expense.

(f) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Code 1977, § 12-2-6.8)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-153. Confidentiality of Information.

(a) Information and data obtained from reports, questionnaires, individual waste discharge permits, monitoring programs and/or from the Director's inspections and sampling activities shall be available to the public or any governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the User by law. To claim this trade secret protection, the User must specify at the time of submitting their report or information, that part the User desires to protect.

(b) When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but such portion of the submission shall be available immediately upon request for use by the State or any other governmental agency for uses related to the AZPDES program or pretreatment program and in judicial review or enforcement proceedings involving the person furnishing the information. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR §2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Code 1977, § 12-2-6.9)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-154. Harmful Contributions.

(a) A user may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. This general prohibition and specific prohibitions in Section 25-138 apply to each user introducing pollutants into a POTW whether or not a user is subject to other National Pretreatment Standards, national, state, or local pretreatment requirements.

(b) The City shall suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary to stop an actual or threatened violation which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or cause the City to violate any conditions of its NPDES Permit.

(c) Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City may reinstate the Wastewater Contribution Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the cause of the harmful contribution and the measures taken to prevent any further

occurrence shall be submitted to the City within 15 days of the date of the occurrence.
(Code 1977, § 12-2-6.10)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

Sec. 25-155. Fees, Purposes.

(a) It is the purpose of this Section to provide for the recovery of costs from user's of the City's wastewater disposal system for the implementation of the program established herein.

(b) In addition to user charges and other charges, all residential, commercial and industrial users shall pay a billing and collection charge.

(c) The applicable charges or fees shall be set forth in the City's schedule of charges and fees.
(Code 1977, § 12-2-6.11)
(Ord. No. 90-11, 4/10/90)
(Ord. 04-197, 9/21/04, Amended) SUPP 2004-3

Sec. 25-156. Wastewater Pretreatment; charges; fees.

The city may adopt charges and fees which may include:

(a) Fees for reimbursement of costs of setting up and operating the City's Pretreatment Program.

(b) Fees for monitoring, inspections, and surveillance procedures.

(c) Fees for reviewing accidental discharge procedures and construction of facilities.

(d) Fees for permit applications.

(e) Fees for filing appeals.

(f) Fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards.

(g) Other fees as the city may deem necessary to carry out the requirements contained herein.

These fees related solely to the matters covered by this Code are separated from all other fees chargeable by the city.
(Code 1977, § 12-2-6.12)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

Sec. 25-157. Revocation of permit.

Any user who violates the following conditions of this Code, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of Section 25-159 of the Code:

(a) Failure of user to factually report the wastewater constituents and characteristics of his discharge; or

(b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics; or

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit.
(Code 1977, § 12-2-6.13)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)

Sec. 25-158. Reserved.
(Ord. No. 90-11, 4/10/90, Enacted)
(Ord. No. 91-41, 11/12/91)

Sec. 25-159. Wastewater Pretreatment; Notification of violation.

(a) Whenever the Director finds that any User has violated or is violating this Code, the conditions of their individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may serve upon that User by any manner calculated to provide reasonable notice, a written Notice of Violation setting forth the nature of the violation.

(b) Within thirty (30) calendar days of the receipt of such a notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Director by the User.

(c) Submission of this plan by a User in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation.

(d) Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-160. Wastewater Pretreatment; Administrative hearing; Orders; Fines.

(a) Consent Orders. The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance with the Pretreatment sections in this Code. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this Section and shall be enforceable judicially.

(b) Show Cause Administrative Hearings.

(1) The Director may order any User who has violated, or continues to violate, any provision of this Code concerning Pretreatment, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement to appear and show cause why a proposed enforcement action should not be taken. A notice shall be served upon the User in any manner calculated to provide reasonable notice specifying the time and place of a hearing to be held by the Director regarding the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. Service may be made in any manner permitted under Rule 4, Arizona Rules of Civil Procedure, except publication. Such notice may be served on any Authorized Representative of the User.

(2) The Director shall conduct the show cause hearing and may:

(i) Hear and consider all relevant and probative evidence, regardless of whether such evidence is admissible under the Arizona Rules of Evidence.

(ii) Issue subpoenas, compel the testimony of witnesses and production of evidence in the manner provided by A.R.S.§12-2212. Testimony shall be taken under oath and shall be recorded.

(3) Following the completion of a show cause hearing, the Director shall issue a written decision explaining the Director's conclusion as to whether the User committed the cited violation(s). If the Director concludes that a violation did occur, the Director may impose any of the penalties and remedies provided for Pretreatment violations.

(4) A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against a User who is in non-compliance.

(c) Compliance Orders. When the Director finds that a User has violated, or continues to violate, any Pretreatment provision of this Code, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be bar against, or a prerequisite for, taking any other action against the User.

(d) Cease and Desist Orders. When the Director finds that a User has violated, or continues to violate, any Pretreatment provision of this Code, a individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(e) Administrative Fines.

(1) When the Director finds that a User has violated, or continues to violate, any Pretreatment provision of this Code, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may fine such User in an amount not to exceed $1,000.00. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) This administrative fine shall constitute a lien against the property upon which the violation is located in the same manner as other unpaid utility fees under this Chapter.

(3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, the Director taking any other action against the User.

(4) A User may seek judicial review of an administrative fine issued pursuant to this Subsection.

(f) Emergency Suspensions. The Director may suspend immediately a User’s discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also suspend immediately a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless termination proceedings are initiated against the User.

(2) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing.

(3) Nothing in this Subsection shall be interpreted as requiring a hearing prior to any emergency suspension.

(g) Termination of Discharge.

(1) In addition to other enforcement options, any User who violates any one or more of the following conditions is subject to discharge termination:

(i) Violation of an individual wastewater discharge permit condition;

(ii) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(iii) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(iv) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

(v) Violation of the Pretreatment Standards in this Code.

(2) The Director will notify such User of the proposed termination of its discharge and offer an opportunity to show cause under this Section why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

(Ord. No. 91-41, 11/12/91, Enacted)

Sec. 25-161. Wastewater Pretreatment; Enforcement generally.

(a) The Director or representatives of the POTW shall be authorized to enter any premises of any User in which a discharge source or treatment system is located or in which records are required to be kept under 40 CFR 403.12(m) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the Act.

(b) The Director or representatives of the POTW shall obtain remedies for noncompliance by the User with any Pretreatment Standards and Requirements and shall be able to seek injunctive relief for noncompliance by Users with Pretreatment Standards and Requirements.

(c) The remedies provided for violation of the pretreatment provisions of this Chapter are not exclusive. The Director or City Attorney may take any or all of the enforcement actions prescribed against a noncompliant User.

(d) The Director may assess a penalty of up to $1,000 to any User for each day that a report required by the pretreatment provisions of this Chapter, a permit or order issued hereunder is late, beginning five days after the date the report is due. Actions taken by the Director to collect late reporting penalties shall not limit the Director’s authority to initiate other enforcement actions that may include penalties for late reporting violations.

(e) The Director may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any pretreatment provision of this Chapter, a previous individual wastewater discharge permit, or order issued hereunder.

(f) Whenever a User has violated or continues to violate any Pretreatment provision of

this Chapter an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may sever water service to the User. Service only will recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

(g) A violation of any Pretreatment provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 17 of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

(h) For interceptors required under Sec. 25-171 of this Code, the City shall charge a fee of $150 per re-inspection for each incident of violation, until the violation is remedied.
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-162. Wastewater Pretreatment; Civil penalties and injunctive relief.

(a) Any person who has violated, or continues to violate, any Pretreatment provision of this Chapter, an individual wastewater discharge permit, or order issued thereunder, or any other Pretreatment Standard or Requirement may be assessed a civil penalty by a court of competent jurisdiction or by the Director pursuant to this Code in an amount not more than twenty five thousand dollars ($25,000.00) per day. For violations deemed by the court or the Director to be continuing (including monthly or other long-term average discharge limits), the penalty may be assessed based on each day constituting a separate offense. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User. In seeking the assessment of a civil penalty, the following factors shall be considered:

(1) The seriousness of, extent of harm caused by, and magnitude and duration of the violation.

(2) The economic benefit, if any resulting from the violation.

(3) Any history of such violations and the User's general compliance.

(4) Any good faith efforts to comply with the applicable requirements, including corrective actions undertaken by the User.

(5) The economic impact of the penalty on the User.

(6) Such other factors as justice may require.

(b) In addition to the civil penalty imposed herein, the User shall be liable for any civil penalties imposed on the City as the result of the violation, together with the City's costs (including sampling and monitoring expenses, as well as damages to the City) and attorney's fees incurred as a result of the civil penalty.

(c) In addition to any civil penalty imposed herein, the City Attorney may commence proceedings in a court of competent jurisdiction to obtain a temporary and/or permanent injunction against the User to prevent further violations of any Pretreatment provision of this Chapter, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement. The City Attorney also may seek an injunction that compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this Chapter on activities of the User. The City Attorney further may seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.
(Ord. No. 91-41, 11/12/91, Enacted)
(Ord. No. 92-43, 11/3/92, Amended)
(Ord. 04-197, 9/21/04, Amended) SUPP 2004-3
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-163. Wastewater Pretreatment; Criminal penalties.

(a) Any person who violates any Pretreatment provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be guilty of a class 1 misdemeanor. Each such violation shall constitute a separate offense on each successive day the violation continues. The City magistrate shall impose a mandatory minimum fine of one thousand dollars ($1,000.00) up to a maximum fine of two thousand five hundred dollars ($2,500) per violation, per day, which shall not be waived or suspended. The City magistrate also may impose a jail term of up to six (6) months.

(b) A person who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a class 1 misdemeanor and be subject to a penalty up to two thousand five hundred dollars ($2,500) or imprisonment up to six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(c) A person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to the Pretreatment provisions of this Chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the Pretreatment provisions of this Chapter shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars ($2,500) per violation, per day, or imprisonment for not more than six (6) years, or both.
(Ord. No. 91-41, 11/12/91)

Sec. 25-164. through 25-170. Reserved.
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-171. Interceptors -- Required.

(a) Grease, oil, lint, sand or other interceptors shall be required for laundries, restaurants, service stations, auto repair shops, car washes and other facilities when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing grease or oil in excessive amounts or any flammable wastes, sand, or any other substance considered by the Director to have the potential to adversely affect the POTW.

(b) All internal interceptors shall be required for those facilities that will have minimal fixtures being discharged and require minimal retention time. The minimum internal interceptor shall be no smaller than a device rated at 50-gallon-per-minute flow with a 100-pound grease capacity (50/100). A flow control device shall be installed upstream of the interceptor and in accordance to manufacturer's specifications.

(c) All external interceptors shall be required for those facilities that will have numerous fixtures being discharged and require extended retention time. The minimum external interceptor shall be no smaller than a two compartment container rated at 500-gallon capacity and no larger than a three compartment container rated at 2500-gallon capacity. All external interceptors shall be installed according to City of Peoria Standard Detail PE-450 and must include a sample vault.
(Ord. No. 87-43, § III(12-2-12), 9-22-87)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. 04-197, 9/21/04, Amended) SUPP 2004-3
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-172. Interceptors -- Type, Capacity, Location.

(a) All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection in accordance with the City's Engineering Development Guidelines for Wastewater, currently under Chapter 6-3.A.1.f.

(b) Where installed, all interceptors shall be maintained by and at the expense of the owner in continuously efficient operation at all times.

(c) The Director may grant a variance in writing for use of shared or common interceptors if the Director determines that the use will be in accordance with City's Engineering Development Guidelines for Wastewater, currently under Chapter 6-3.A.2.
(Code 1977, §§ 12-2-7 through 12-2-10;)
(Ord. No. 87-43, § I, 9-22-87)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-173. Interceptors -- Construction of Grease and Oil Interceptors.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water tight, and equipped with easily removable covers. When bolted covers are required, they shall be gastight and watertight. All external interceptors must include a sample vault.
(Code 1977, §§ 12-2-7 through 12-2-10)
(Ord. No 87-43, § I, 9-22-87)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-174. Interceptors -- Maintenance.

(a) Where installed, interceptors such as grease, oil, or sand shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times. Maintenance shall include the complete removal of all contents, including floating materials wastewater, and bottom sludges and soils. Decanting or discharging of removed waste back into the trap or interceptor or any appurtenance of the wastewater collection system shall be strictly prohibited. All grease traps and interceptors shall be pumped out or cleaned out completely at least once every ninety (90) days, or more frequently if, in the opinion of the Director, an increased pumping frequency is warranted. The Director may grant a variance in writing for pumping frequency if the Director determines that such variance will be consistent with the purposes of this Chapter.

(b) The use of enzymes, chemicals, or bacteria as a substitute for grease trap or interceptor maintenance shall be prohibited. The Director may authorize the use of such additives as a supplement upon a written request that includes MSDS sheets for all additives involved. Addition of emulsifiers into grease traps or interceptors shall be strictly prohibited. The owner shall keep written records and documentation of all cleaning, repair, calibration and maintenance required by this Section. Records shall be kept at the facility for a minimum of three (3) years and be made available to the Director upon request.
(Code 1977, § 12-2-11)
(Ord. No. 90-11, 4/10/90)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95, Amended)
(Ord. 04-197, 9/21/04, Amended) SUPP 2004-3
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-175. Control manholes.

When required by the Director, the owner of any property served by a building sewer carrying potentially harmful or industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, measurement, and sampling of the wastes. Control manholes shall be required for all New Source interceptors. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
(Code 1977, § 12-2-11)

(Ord. No. 91-41, 11/12/91)
(Ord. No. 02-41, 6/7/02, Amended) SUPP 2002-2
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25-176. Traps/Interceptors -- Violations.

It shall be unlawful and a violation of the Peoria City Code for any person(s) under any conditions to:

(a) Fail to properly install and maintain any required trap or interceptor to protect the sewer lines of the City of Peoria.

(2) Fail to correct any improperly sized or any malfunctioning trap or interceptor.

(3) Enter into the city sewer lines anything as per Section 25-138.

(4) Fail to comply with corrective or initial installation process as per the Community Development Department, Building Safety Division and the requirements of this chapter.

(5) Fail to protect any life from within any structure or on any premises by omitting, failing to repair, disregarding or rendering useless, any trap or interceptor.

(b) The City shall conduct inspections to ensure compliance with this Section.

(c) Fines, Penalties, Legal Action

(1) In any case involving a violation of sections 25-171 - 25-176, all fines, penalties and/or legal actions shall be as provided in Sections 25-161 and 162 of Chapter 25 of this Code.

(2) The City Attorney may commence an action for injunctive relief in a court of competent jurisdiction to prevent or remedy a violation of this chapter.

(Ord. No. 87-43, § III(12-2-12), 9-22-87)
(Ord. No. 91-41, 11/12/91)
(Ord. No. 95-66, 8/1/95, Amended (a))
(Ord. No. 08-35, 12/02/08, Amended) SUPP 2008-4
(Ord. No. 09-39, 10/20/09, Amended) SUPP 2009-4

Sec. 25 177. Hauled Wastewater.

The City currently does not accept any hauled waste from outside sources. Should the circumstance arise wherein the City would elect to accept a load of hauled waste, all of the following provisions will apply:

(a) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate this

Chapter or any other requirements established by the City. The Director may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The Director shall require haulers of industrial waste to obtain individual wastewater discharge permits. The Director may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
(Ord. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-178. Regulation of Waste Received from Other Jurisdictions.

(a) If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Director shall enter into an intergovernmental agreement with the contributing municipality:

(b) Prior to entering into an agreement required by this Section, the Director shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the Director may deem necessary.

(c) An intergovernmental agreement shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use Plan which is at least as stringent as the pretreatment provisions of this Chapter and Local Limits, including required baseline monitoring reports ("BMR's") which are at least as stringent as those set out in this Chapter. The requirement shall specify that such provisions and limits must be revised as necessary to reflect changes made to this Chapter or local limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;

(4) A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Director access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and

(8) A provision specifying remedies available for breach of the terms of the intergovernmental agreement. The City shall have the right to take legal action to enforce the terms of the intergovernmental agreement (such as compliance with the contributing municipality's Code provisions) or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-179. Reports of Changed Conditions.

(a) Each User must notify the Director of any planned significant changes to the User’s operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

(b) The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 25-145.

(c) The Director may issue a wastewater discharge permit under Section 25-144 or modify an existing wastewater discharge permit under Section 25-146 in response to changed conditions or anticipated changed conditions.

(d) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge or any previously unreported

pollutants.

(e) All periodic compliance reports must be signed and certified in accordance with Section 25-143.

(f) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(g) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 25-151, the results of this monitoring shall be included in the report.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009

Sec. 25-180. Reports of Potential Problems

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a Slug Discharge or Slug Load, that may cause potential problems for the POTW, the User shall immediately and no later than within 24 hours telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Within ten business days following such discharge, the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to the pretreatment provisions of this Chapter.

(c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the Director immediately of any changes at its' facility affecting the potential for a Slug Discharge.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-181. Reports from Unpermitted Users

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to

the Director as the Director may require.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-182. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the facility between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-183. Publication of Users in Significant Noncompliance.

The Director shall publish annually, in the largest daily newspaper published in the City, a list of the Users which, during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users and shall mean any one or more of the following:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 25-76 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a Pretreatment Standard or Requirement (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance

schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including BMRs, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s) which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the City's pretreatment program.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-04

Sec. 25-184. Upset.

(a) For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of Subsection (c) are met.

(c) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the User can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and

(3) The User has submitted the following information to the Director within twenty four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-185. Prohibited Discharge Standards.

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions contained in Section 25-135(A) or the specific prohibitions contained in Section 25-135(B) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either of the following circumstances exist:

(a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(b) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its AZPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.
(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

Sec. 25-186. Bypass.

(a) For the purposes of this Section, the following definitions shall apply:

(1) “Bypass” means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections (c) and (d) of this Section.

(c) Notice.

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) business days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission also shall be provided within ten (10) business days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.

(d) Prohibition on Bypass.

(1) Bypass is prohibited, and the Director may take an enforcement action against a User for a bypass, unless all of the following criteria are met:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The User submitted notices as required under Subsection (c) of this Section.

(2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Subsection (d)(1) of this Section.

(Ord. No. 09-39, 10/20/09, Enacted) SUPP 2009-4

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		4	2-406 Amended
		5	2-407 Amended
		6	2-410 Amended
		7	2-224 Amended
		8	Table 2-224 Amended
2011-07	2/15/2011	1	17-72 Amended
2011-17	9/06/2011	1	8-5 Amended
2011-22	11/01/2011	1	5-101 Amended
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		4	12-417 Amended
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		6	12-595 Amended
		7	12-660 Amended
2011-27	12/06/2011	1	22-21 Repealed
		2	22-22 Repealed
		3	Table 22-22A Repealed
			Table 22-22A(2) Repealed
		4	22-21 Reserved
			22-22 Reserved
2011-28	12/06/2011	1	Table 20-53(a) Repealed
			Table 20-53(b) Amended
			Table 20-53(c) Amended

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