

**TUCSON, ARIZONA**  
Supp. No. 114 – Instruction Sheet

Enclosed with this instruction sheet are new and replacement pages for your loose-leaf copy of the Code, bringing the Code current through March 21, 2017. In order to keep your copy of the Code up to date, you must remove the following indicated obsolete pages from your Code and replace them with the indicated revised pages. The current revision number appearing on the lower left corner of each page revised in this package is “Supp. No. 114”. If you have any questions, please contact American Legal Publishing at 1-800-445-5588.

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# TUCSON CODE

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CONTAINING  
THE CHARTER AND GENERAL ORDINANCES  
CITY OF TUCSON, ARIZONA

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Adopted, October 19, 1964  
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## Checklist of Up-to-Date Pages

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

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

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

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

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chapter. Such subpoenas may be personally served by the human resources department or by any process server recognized in the state.

(1953 Code, ch. 10, § 19; Ord. No. 7369, § 16, 3-12-90; Ord. No. 9675, § 2, 2-25-02, eff. 6-30-02)

**Sec. 10-22. Salaries of civil service commissioners.**

Commissioners shall receive a salary of twenty-four hundred dollars (\$2,400.00) per annum. The chairperson of the commission shall, for the performance of those additional duties required of the position, receive an additional six hundred dollars (\$600.00) per annum.

(Ord. No. 6839, § 1, 11-23-87; Ord. No. 9675, § 2, 2-25-02, eff. 6-30-02)

**Secs. 10-23 – 10-30. Reserved.**

**ARTICLE II. COMPENSATION PLAN\***

**Sec. 10-31. Establishment and adoption of compensation plan; payment of employees.**

*Sec. 10-31(1). Compensation policy.* The city's compensation system provides equitable and consistent treatment of employees commensurate with internal and external values of classifications and the objective of attracting, retaining and motivating employees. Key measures of employee compensation shall be labor market information and job performance. In addition, for classifications subject to Tucson Code section 10-7, a key measure will be job evaluation grades assigned to classifications based on compensable factors. Job evaluation grades shall be correlated with compensation ranges set forth in salary schedules. Classifications not subject to Tucson Code section 10-7 shall be assigned a range or rate set forth in a salary schedule. Other pay provisions such as commission, shift differential, overtime, standby, weekend premium pay for regularly schedule hours, incentive, special

skills, education, and other certification and special duty pays for designated employee groups may be provided for when adopted and/or reenacted by the mayor and council as part of the annual compensation plan.

(Ord. No. 9675, § 3, 2-25-02; Ord. No. 10003, § 3, 6-28-04)

*Sec. 10-31(2). Formulation.* Subject to the prior approval of the city manager, the human resources director shall, as part of the budget process, annually recommend a compensation plan for adoption by the mayor and council. The recommended compensation schedules of the compensation plan will retain a competitive posture in the relevant labor markets subject to available funding and current economic trends. Under the direction of the city manager, the human resources director shall annually conduct, or cause to be conducted a labor market survey which, subject to available funding and current economic trends, shall be the basis for the annual compensation schedules recommendation. Such schedules shall provide for the compensation of all persons employed by the city whether classified or unclassified, except the mayor and council and those charter officers appointed directly by the mayor and council (city manager, city attorney, city clerk and city magistrates). (Ord. No. 9675, § 3, 2-25-02)

*Sec. 10-31(3). Amendments.* Subject to the prior approval of the city manager, amendments to the annual compensation plan may from time to time be initiated, formulated and recommended to the mayor and council.

(Ord. No. 4411, § 1, 11-17-75; Ord. No. 4418, § 1, 12-8-75; Ord. No. 9675, § 3, 2-25-02)

*Sec. 10-31(4). Adoption and filing.* Prior to the beginning of each fiscal year, subject to Tucson Charter Chapter VII, Sec. 2, the mayor and council shall adopt a compensation plan. Three (3) copies of the compensation plan and all current amendments thereto, shall be kept on file in the office of the city clerk. (Ord. No. 9675, § 3, 2-25-02)

*Sec. 10-31(5). Applications.* Each person employed by the city, except the mayor and council and those charter officers appointed directly by the mayor and council, (city manager, city attorney, city clerk and city magistrates), shall be paid within a designated range or rate of the compensation schedules. For

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\***Cross references** – Compensation of senior officers acting as department heads, § 2-3; salary of employees during injury or sickness, § 2-13.

classifications subject to Tucson Code section 10-7, the range shall correlate to the job evaluation grade assigned to the class in which employed. Each person, whether subject to Tucson Code section 10-7 and within a salary range or rate of the compensation schedules, subject to the approval of the city manager shall be placed within a range or at a rate by the human resources director on implementation of the annual compensation plan and as provided by city administrative directive for compensation administration. Changes in rates within the hourly range schedule may be made by the appointing authority in accordance with established criteria. (Ord. No. 7653, § 3, 6-24-91; Ord. No. 8206, § 2, 2-7-94; Ord. No. 8519, § 3, 6-12-95; Ord. No. 9675, § 3, 2-25-02; Ord. No. 10003, § 3, 6-28-04)

*Sec. 10-31(6). Implementation.* Effective retroactive to June 27, 2004, the position compensation schedules for the Annual Compensation Plan provided for in section 10-31(6) of the Tucson Code for the classified and unclassified employees of the city are amended by adding new rates to special rate schedule, Exhibit J to Appendix A, for weekend premium pay and shift differential pay for that employee group eligible for representation by the American Federation of State County and Municipal Employees to read as set forth in amended attached schedule. (Ord. No. 7780, § 1, 3-16-92; Ord. No. 8316, § 1, 7-5-94; Ord. No. 8712, § 1, 6-10-96; Ord. No. 9675, § 3, 2-25-02; Ord. No. 9866, § 1, 6-23-03; Ord. No. 10003, § 1, 6-28-04; Ord. No. 10021, § 1, 8-2-04)

*Sec. 10-31(7). Providing percentages for calculation of compensation from salary schedules for employees in specified assignment positions.*

a. Notwithstanding any other provision of section 10-31 of the compensation plan, the assignment positions of chief deputy city attorney; deputy city attorney; fire fighter, trainee; water treatment plant operator, trainee; and utility service worker, trainee, shall be compensated as follows:

- (1) Chief deputy city attorney, one hundred ten (110) percent of the range (from minimum to maximum) for principle assistant city attorney.

- (2) Deputy city attorney, one hundred five (105) percent of the range (from minimum to maximum) for principle assistant city attorney.
- (3) Fire fighter, trainee, eighty-five (85) percent of range 401, step 1.
- (4) Water treatment plant operator, trainee, ninety (90) percent of range 916, step 1.
- (5) Utility service worker, trainee, ninety (90) percent of range 915, step 1.
- (6) Code inspector trainee, ninety-five (95) percent of range 918, step 1.
- (7) Emergency 911 operator, police service operator and public safety dispatcher will receive temporary assignment pay for five (5) percent of the employees base hourly rate for all hours when employee is assigned to train and evaluate an operator-trainee or dispatcher-trainee as part of the departments formal training program.

b. This section is subject to yearly readoption and reenactment by the mayor and council as part of the annual compensation plan. (Ord. No. 9724, § 2, 6-17-02; Ord. No. 9727, § 2, 6-24-02; Ord. No. 10165, § 2, 6-14-05; Ord. No. 10365, § 1, 12-19-06; Ord. No. 10426, § 2, 6-19-07; Ord. No. 10550, § 2, 6-17-08; Ord. No. 10558, § 1, 6-25-08; Ord. No. 10675, § 2, 6-2-09, eff. 7-1-09; Ord. No. 10806, § 2, 6-15-10, eff. 7-1-10; Ord. No. 10900, § 2, 6-28-11, eff. 7-1-11; Ord. No. 10989, § 3, 6-5-12, eff. 7-1-12; Ord. No. 11075, § 5, 5-21-13, eff. 7-1-13; Ord. No. 11134, § 2, 12-17-13; Ord. No. 11180, § 2, 6-3-14, eff. 6-29-14; Ord. No. 11273, § 2, 6-9-15, eff. 6-28-15; Ord. No. 11373, § 2, 6-7-16, eff. 6-26-16; Ord. No. 11429, eff. 12-25-16)

**Editor's note** – Ord. No. 11180, § 2, adopted June 3, 2014, ratified, reaffirmed, and reenacted this section for Fiscal Year 2015. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 29, 2014. Ord. No. 11273, § 2, adopted June 9, 2015, ratified, reaffirmed, and reenacted this section for Fiscal Year 2016. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 28, 2015. Ord. No. 11373, § 2, adopted June 7, 2016, ratified, reaffirmed, and reenacted this section for Fiscal Year 2017. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 26, 2016.

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 Ord. No. 11273, § 1, 6-9-15 (effective June 28, 2015)  
 Ord. No. 11291, § 3, 8-5-15  
 Ord. No. 11373, § 1, 6-7-16 (effective June 26, 2016)  
 Ord. No. 11407, § 1, 11-9-16 (effective November 27, 2016)  
 Ord. No. 11429, § 1, 1-24-17 (effective December 25, 2016)

#### **Sec. 10-32. Administration of plan.**

(a) Under the direction and supervision of the city manager, the human resources director shall administer the annual position-compensation plan which is predicated on performance and skill based components and principles. A skill based pay component of the position-compensation for any department will not be implemented or administered without prior approval of a department proposal by the human resource director. Consideration and implementation of a proposal for a skill based component requires:

- (1) That a comprehensive review of departmental work practices has been undertaken. This review shall include the evaluation of work practices, the identification of potential improvements that integrate organization change, new work practices and use of new technologies and,
- (2) That benefits and cost savings which will result from the utilization of a skill based pay component for the department have been identified and quantified.
- (3) That there has been a job analysis identifying skill, job description, skill objectives, training program supporting the acquisition of identified skills, and skill based compensation structure.

- (4) That the human resources is satisfied with and approves the proposed skill based component to be appropriate for the classification involved.

(b) In no event shall a skill based pay component for a department be approved if the proposal results in the compensation of positions in a city classification both under the performance and skill based component of the compensation plan. (1953 Code, ch. 10, § 21; Ord. No. 7369, § 18, 3-12-90; Ord. No. 10003, § 3, 6-28-04)

**Cross references** – Duties of director of personnel pertaining to pensions, § 22-23; duties pertaining to group insurance, § 22-84.

**Sec. 10-33. Language communication compensation.**

(a) In addition to the compensation authorized by section 10-31, employees who use a language other than English, with proficiency at a conversational level as verified by the director of the department of human resources, a minimum of five (5) percent of the work week, or occupy a position designated by an appointing authority and approved by the city manager as a “language communication” position, shall receive extra compensation in the amount of thirty dollars (\$30.00) per pay period.

(b) Designation of a “language communication” position by the appointing authority and its authorization by the city manager shall be pursuant to procedures to be set forth in city administrative directives.

(c) The director of the department of human resources is responsible for the administration of the language communication compensation program, including, but not limited to, fixing: competency standards; verification procedures for confirming five (5) percent language usage; and criteria to be utilized by appointing authorities when designating “language communications” positions.

(Ord. No. 7937, § 1, 10-26-92; Ord. No. 9540, § 1, 4-16-01; Ord. No. 9562, § 1, 6-11-01; Ord. No. 9727, § 2, 6-24-02; Ord. No. 10165, § 3, 6-14-05; Ord. No. 10426, § 2, 6-19-07; Ord. No. 10550, § 3, 6-17-08, eff. 7-1-08; Ord. No. 10675, § 2, 6-2-09, eff. 7-1-09; Ord. No. 10806, § 2, 6-15-10, eff. 7-1-10; Ord. No. 10900, § 2, 6-28-11, eff. 7-1-11; Ord. No. 10989, § 3, 6-5-12, eff. 7-1-12; Ord. No. 11075, § 5, 5-21-13, eff. 7-1-13;

Ord. No. 11134, § 2, 12-17-13; Ord. No. 11180, § 2, 6-3-14, eff. 6-29-14; Ord. No. 11273, § 2, 6-9-15, eff. 6-28-15; Ord. No. 11373, § 2, 6-7-16, eff. 6-26-16)

**Editor’s note** – Ord. No. 11180, § 2, adopted June 3, 2014, ratified, reaffirmed, and reenacted this section for Fiscal Year 2015. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 29, 2014. Ord. No. 11273, § 2, adopted June 9, 2015, ratified, reaffirmed, and reenacted this section for Fiscal Year 2016. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 28, 2015. Ord. No. 11373, § 2, adopted June 7, 2016, ratified, reaffirmed, and reenacted this section for Fiscal Year 2017. Appendix A and accompanying schedules are implemented for all classified and unclassified employees, effective June 26, 2016.

**Sec. 10-33.1. Proficiency pay for commissioned police personnel certified as bilingual users of American Sign Language (ASL) or Spanish.**

(a) Effective July 1, 2011, commissioned police personnel who are certified as bilingual users of ASL or Spanish, who use ASL or Spanish a minimum of five (5) percent of the work week, or who occupy a position designated by the police chief and approved by the city manager as regularly requiring a certified bilingual user of ASL or Spanish, will receive eighty-five dollars (\$85.00) per pay period.

(b) Designation of a position as regularly requiring the use of a certified bilingual user of ASL or Spanish by the appointing authority and if authorized by the city manager, shall be pursuant to procedures to be set forth in city administrative directives.

(c) Certified bilingual officers who are receiving compensation under this section are not eligible for language communication compensation under section 10-33.

(d) The director of the department of human resources is responsible for establishing and/or adopting certification standards to ensure that bilingual ASL or Spanish proficiency is at a speed and technical level necessary to accomplish all critical aspects of a commissioned law enforcement officer’s duties in those languages. The department of human resources is also responsible for the administration of the certified ASL or Spanish proficiency program including but not limited to verification procedures for confirming five (5) percent usage and criteria to be utilized by appointing authorities when designating a position as

## Chapter 11

### CRIMES AND OFFENSES\*

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

#### Article I. In General

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

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

## TUCSON CODE

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

### Article II. Methamphetamine

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



- (2) To submit to public view the named areas with cover of less than one (1) layer of fully opaque covering.  
(1953 Code, ch. 18, § 9a; Ord. No. 2358, § 2, 11-5-62; Ord. No. 4486, § 1, 5-24-76)

**Cross reference** – Licensing of adult entertainment enterprises and establishments, § 7-206 et seq.

**Sec. 11-30. Prohibition of hate crimes and institutional vandalism; penalties.**

- (a) *Definitions.* As used in this section:
- (1) Hate crime means the commission of any misdemeanor offense under A.R.S. § 13-1203 (Assault), A.R.S. § 13-1602 (Criminal Damage), A.R.S. § 13-1502/1503/1504 (Criminal Trespass), A.R.S. § 13-2904 (Disorderly Conduct), A.R.S. § 13-1201 (Endangerment), A.R.S. § 13-2921 (Harassment), A.R.S. § 13-1802 (Telephone Harassment), A.R.S. § 13-1202 (Threats and Intimidation), A.R.S. § 13-1303 (Unlawful Imprisonment), or T.C. § 16-30 (Graffiti) against an individual or group of individuals or the property of an individual or group, accompanied by malicious intent as defined in subsection (2) hereof.
- (2) Malicious intent means the intent to commit any act, the commission of which is a necessary element of any offense referred to in subsection (a)(1) above, motivated by malice toward a victim because of the victim's actual or perceived race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, gender identity, ethnicity, familial status and/or marital status.
- (3) Institutional vandalism means knowingly vandalizing, defacing or otherwise damaging:
- a. Any church, synagogue, mosque, other building structure, or place used for religious worship and/or the grounds adjacent to, rented by, or owned by such entities;
- b. Any cemetery mortuary or other facility used for the purpose of burying or memorializing the dead;

- c. Any school, educational facility or community center and/or grounds adjacent to, rented by, or owned by said entities.
- d. Any hospital, health clinic, or other health care facility.

(b) It shall be unlawful for any person to commit a hate crime or institutional vandalism, as defined in this section, against another individual or group of individuals.  
(Ord. No. 8506, § 1, 5-22-95; Ord. No. 11057, § 2, 3-27-13; Ord. No. 11443, § 1, 3-21-17)

**Sec. 11-30.1. Same – Minimum penalty; subsequent convictions.**

A person convicted for the first time of an offense prohibited by section 11-30 shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months and by a fine of not less than one hundred dollars (\$100.00) nor more than twenty-five hundred dollars (\$2,500.00). A person convicted for a second offense prohibited by section 11-30 shall be punished by imprisonment for not less than twenty (20) days nor more than six (6) months and by a fine of not less than two hundred dollars (\$200.00) nor more than twenty-five hundred dollars (\$2,500.00). A person convicted for a third or subsequent offense prohibited by section 11-30 shall be punished by imprisonment for not less than forty (40) days nor more than six (6) months and by a fine of not less than four hundred dollars (\$400.00) nor more than twenty-five hundred dollars (\$2,500). No judge may grant probation to, or suspend the imposition of the minimum jail sentence and fine prescribed herein, upon a person convicted of any offense prohibited in section 11-30. In addition, a person convicted of any offense prohibited in section 11-30 may be placed on probation for a maximum of three (3) years. This shall not be construed to affect, in any way, the imposition of the minimum mandatory penalties herein.  
(Ord. No. 8506, § 2, 5-22-95; Ord. No. 11443, § 1, 3-21-17)

**Sec. 11-31. Lampposts, hydrants, brackets; injuring.**

Any person who shall negligently, willfully or maliciously injure, pull down or in any manner break

any lamppost, bracket or hydrant shall be deemed guilty of a misdemeanor and shall be liable for the damage.  
(1953 Code, ch. 18, § 21)

**Sec. 11-32. Legal business; soliciting by police.**

It shall be unlawful for the chief of police or any police officer or any other person connected with the police department to solicit legal business for either the defense or prosecution of any case pending or which may be filed in any court, or to urge, recommend or suggest to any person, whether in legal detention or not, that any particular person practicing law should or should not be employed for the defense or prosecution of such person or any other person.  
(1953 Code, ch. 18, § 22)

**Sec. 11-33. Aggressive solicitation, legislative findings; definitions.**

(a) The mayor and council find that the increase in aggressive solicitation throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to, and enjoyment of, public places, but has also led to an increased sense of fear intimidation and disorder.

(b) Aggressive solicitation may include, without limitation: approaching or following pedestrians; approaching or following children repeating solicitations despite refusals; using abusive or profane language to cause fear and intimidation; causing unwanted physical contact; or intentionally blocking pedestrian and vehicular traffic. The mayor and council further find that the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Such solicitation carries with it an implicit threat to both persons and property, as well as public safety.

(c) The law is not intended to limit any person from exercising the constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

(d) Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use or the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

(e) Aggressive manner means and includes:

- (1) Intentionally or recklessly making physical contact with or touching another person in the course of the solicitation without the person's consent;
- (2) Approaching or following the person being solicited, if that conduct is intended to or is likely to: a) cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the property in the person's possession; or (b) intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to: a) cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (b) intimidate the person being solicited into responding affirmatively to the solicitation;
- (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver or a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to chapter 7 of the Tucson City Code, shall not constitute obstruction of pedestrian or vehicular traffic;
- (5) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to: a) cause a reasonable person to fear imminent bodily harm or the commission of

a criminal act upon property in the person's possession; or b) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation.

(f) Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and/or mortgage and loan payments.

(g) Automated teller machine facility means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular business hours.

(h) Check cashing business means any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

(i) Public area means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them. (Ord. No. 8674, §§ 1, 2, 4-8-96; Ord. No. 8891, § 1, 9-15-97)

**Editors Note:** Ordinance No. 8674, § 1, deleted § 11-33 in its entirety. Formerly, such section pertained to loitering and derived from ch. 18, § 24 of the 1953 Code; Ord. No. 3094, § 1, 3-11-68; Ord. No. 3599, § 1, 1-25-71. Subsequently, section 2 of same ordinance added a new § 11-33 pertaining to legislative findings; definitions.

### **Sec. 11-33.1. Prohibited acts.**

*Section 11-33.1(1) Aggressive solicitation prohibited.* It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) In any public transportation vehicle, or bus, vantran or trolley station or stop;

- (3) Within fifteen (15) feet of any entrance or exit of any bank or check cashing business or within fifteen (15) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business, without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility; or
- (4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

*Section 11-33.1(2) Obstruction of doorways entrances on a public sidewalk prohibited.* It shall be unlawful for any person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, to remain within ten (10) feet of a doorway entrance on a public sidewalk or any other public right-of-way if that person's continued presence obstructs a doorway entrance.

*Section 11-33.1(3) Exceptions to 11-33.1(2) above.* An exception to the prohibition in the preceding subsection against obstructing a public sidewalk or other public right-of-way within ten (10) feet of a doorway entrance shall be made in circumstances involving physical emergencies or the administration of medical assistance; sidewalk cafes, parades, rallies, demonstrations, performances or meetings for which street use permits have been issued; chairs or benches provided by a public agency or abutting private property owner; and seats in bus zones occupied by persons waiting for the bus.

*Section 11-33.1(4) Solicitation of children.* It shall be unlawful for any person to solicit money or other things of value from any person under the age of sixteen (16) years who is unaccompanied by an adult. (Ord. No. 8674, § 2, 4-8-96; Ord. No. 8891, § 1, 9-15-97; Ord. No. 11331, § 2, 12-8-15)

**Sec. 11-33.2. Penalties.**

(a) A person convicted of a first offense for a violation of this ordinance may be ordered to perform community service or fined in an amount up to two hundred and fifty dollars (\$250.00).

(b) A person convicted of a second or subsequent violation of this ordinance may be ordered to perform community service or fined up to five hundred dollars (\$500.00); may be sentenced to jail for not more than ten (10) days; and shall be placed on probation for not less than one (1) year and no more than three (3) years.

(c) A person convicted of a violation of this ordinance may be required to perform community service work as described by the court in lieu of, or in addition to, the fine imposed under this Section. The rate of substitution of community service work for the fine amount shall be calculated at ten dollars (\$10.00) per hour.  
(Ord. No. 8674, § 2, 4-8-96)

**Sec. 11-34. Juveniles; curfew.**

*Sec. 11-34(1). Definitions.* As used in this section:

- (a) Juvenile is any person who has not yet reached eighteen (18) years of age.
- (b) Parent is any natural, adoptive, or step-parent of a juvenile.
- (c) Guardian is any person, other than a parent, who has legal guardianship of a juvenile; or any person over eighteen (18) years of age who has been authorized by a parent or legal guardian to have temporary care and custody of a juvenile.
- (d) Emancipated minor is any juvenile who is married, serving in the military, or is otherwise legally recognized as emancipated.
- (e) Emergency is an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term “emergency” includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation that requires immediate action to prevent serious bodily injury or loss of life or property.

(f) *Establishment* is any privately-owned place of business, and all property appurtenant thereto, to which the public or a substantial portion of the public is invited, including, but not limited to, any place of amusement or entertainment.

(g) *Public place* is any place to which the public or a substantial portion of the public has access and includes, but is not limited to, streets, sidewalks, alleys, rights-of-way, parks, playgrounds, or government buildings or facilities; vacant lots; and the common and/or parking areas of government buildings and facilities, schools, hospitals, apartment homes and complexes, office buildings, shops, malls, and other establishments.

(h) *Residence* is the dwelling house or usual place of abode of a juvenile and his parent or legal guardian.

*Sec. 11-34(2) Curfew – Juveniles under age 16.* It is unlawful for any juvenile, prior to his sixteenth birthday, to be present in, about or upon any public place or establishment in the city between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

*Sec. 11-34(3) Curfew – Juveniles age 16 and older.* It is unlawful for any juvenile, on or after his sixteenth birthday to be present in, about or upon any public place or establishment in the city between the hours of 12:00 midnight and 5:00 a.m. of the following day.

*Sec. 11-34(4). Parental responsibility.* It is unlawful for the parent or guardian of any juvenile to permit, or by insufficient control allow, the juvenile to be present in, about or upon any public place or establishment in the city in violation of this section.

*Sec. 11-34(5). Exceptions.* The provisions of this section shall not apply to any juvenile who:

- (a) Is accompanied by his parent or guardian;
- (b) Is an emancipated minor;
- (c) Is involved in an emergency;

- (d) Has permission from his parent or guardian to travel to, or be in or at, a specific public place or establishment for a reasonable, legitimate and specific purpose;
- (e) Is exercising First Amendment rights protected by the United States Constitution, including free exercise of religion, speech, and assembly.
- (f) Is engaged in interstate travel;
- (g) Is attending, or travelling to or returning from, an official school, religious or other civic or recreational event supervised by adults and sponsored by a governmental entity, a civic organization, or another similar entity that takes responsibility for the juvenile;
- (h) Is engaged in employment activity, or travelling to or returning from such activity; or
- (i) Is on the sidewalk immediately abutting the juvenile's residence.



reasonable and necessary actions, such as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent unruly gathering at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the petition and shall notify both the petitioner and the criminal division of the city attorney's office of the hearing date. At the hearing, the petitioner has the burden of proving by a preponderance of evidence that the petitioner has taken reasonable and necessary actions to prevent the occurrence of a subsequent unruly gathering. This petition process is not available to an owner who was present at the unruly gathering and engaged in conduct causing the gathering to be unruly.

(d) *Notification of property owner.*

- (1) Notification of the posting of the notice of unruly gathering shall be mailed to any property owner at the address shown on the Pima County Property Tax Assessment Records. The notification shall advise the property owner that any subsequent unruly gathering within one hundred eighty (180) days on the same premises shall result in liability of the property owner for all applicable penalties as provided in this article. Notification shall be made by certified mail. The return receipt shall be prima facie evidence of service.
- (2) Additionally, notice shall be provided to an agent of the owner who controls or regulates the use of the premises, if known. Notice to the owner's agent may be provided by hand delivery or by certified or regular mail sent to the agent's last known address.
- (3) The failure to serve notice to any person described in this subsection shall not invalidate any citation or other proceedings as to any other person duly served, or relieve any such person from any duty imposed by this section.

(e) *Unruly gathering a civil infraction; parties responsible.* An unruly gathering is unlawful and constitutes a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (g)(1):

- (1) The person or persons who organized or sponsored the event constituting the unruly gathering, including any owner or occupant in attendance at the unruly gathering.
- (2) Any person in attendance at the unruly gathering who engaged in any conduct causing the gathering to be unruly.

(f) *Subsequent unruly gathering a civil infraction; parties responsible.* The occurrence of an unruly gathering on the same premises more than once in any one hundred eighty (180) day period is a civil infraction. The following parties, if found responsible for such an infraction, are liable for the penalties provided in subsection (g)(2):

- (1) The owner of the property where the subsequent unruly gathering occurred, if either:
  - a. The owner was present when the property was posted, or
  - b. Notification of posting was mailed or delivered to the owner of the property per subsection (d), and the subsequent unruly gathering occurred not less than two (2) weeks after the mailing of such notification.
- (2) The occupant or tenant of the property where the subsequent unruly gathering occurred.
- (3) The person or persons who organized or sponsored the event constituting the subsequent unruly gathering.
- (4) Any person in attendance at the subsequent unruly gathering who engaged in any conduct causing the gathering to be unruly.

Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the event constituting the unruly gathering, for the conduct of persons who are in

attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant or sponsor has taken steps reasonably necessary to prevent a subsequent unruly gathering or to exclude the uninvited persons from the premises, including owners who are actively attempting to evict a tenant from the premises. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purposes of determining liability under this section.

(g) *Penalties.*

- (1) *Unruly gathering.* The penalty for a party found responsible for an unruly gathering, as provided in subsection (e), shall be a minimum mandatory fine of five hundred dollars (\$500.00). Additionally, if the party found responsible for an unruly gathering has previously been found responsible for an unruly gathering, regardless of the location of the prior violation, the penalty shall be a minimum mandatory fine of seven hundred and fifty dollars (\$750.00).
- (2) *Subsequent unruly gathering.* The penalty for a party found responsible for the occurrence of a subsequent unruly gathering, as provided in subsection (f), shall be a minimum mandatory fine of seven hundred fifty dollars (\$750.00) for a first violation, a minimum mandatory fine of one thousand dollars (\$1,000.00) for a second violation, and minimum mandatory fines of one thousand five hundred dollars (\$1,500.00) for each third or subsequent violation. Additionally, any party found responsible for the occurrence of a subsequent unruly gathering is responsible for the reasonable costs of response by law enforcement to that occurrence. Reasonable costs of law enforcement response include the salaries of the responding law enforcement officers, at the salary then in effect for each classification of each responding officers, for the amount of time actually spent in responding to and remaining at the unruly gathering, together with associated overhead

costs; and any actual costs of any medical treatment to injured officers and/or the costs of repairing any damaged city equipment or property. In no event shall the response costs imposed under this subsection exceed \$1,000.

- (3) *Abatement.* The civil fines provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an unruly gathering. The court shall also enter an order of abatement against a party found responsible for a violation of this section pursuant to Chapter 8 of the Tucson Code.

(h) *Enforcement.* The police department is authorized to enforce the provisions of this section provided that enforcement is initiated by a complaint from a member of the public. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible. Peace officers shall enforce the provisions of this section using their sound discretion and the consideration of the totality of the circumstances, including but not limited to the use of the premises (e.g. residential, commercial, etc.). (Ord. No. 9816, § 15, 2-24-03; Ord. No. 10126, § 9, 3-1-05; Ord. No. 11014, § 1, 8-7-12; Ord. No. 11445, § 1, 3-21-17)

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

- (a) No person shall place any refuse upon any private or public property not owned or under the control of that person. In addition to any penalty that may be imposed by this chapter or the Tucson Code, such person shall be liable for all costs for the removal, abatement or enjoining of the refuse.
- (b) No person shall litter, discard refuse, or allow refuse to be discarded except at the places and in the manner authorized in Chapter 15 of this Code.
- (c) The following persons are jointly and individually liable for a violation of subsection (b):
  - (1) The resident of the property upon which the debris has been discarded;



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

(Ord. No. 9816, § 15, 2-24-03)

**Sec. 16-34. Public nuisance.**

(a) Anything that is injurious to health, or is indecent or offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, is hereby declared to be a public nuisance. Any act or thing that affects an entire community or neighborhood, or any considerable number of persons, as herein described, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

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

(Ord. No. 9816, § 15, 2-24-03)

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

No person shall obstruct any public sidewalk, street or alley in the city, or any portion of any public sidewalk, street or alley in the city, by placing, maintaining or allowing to remain thereon any item or object that prevents full, free and unobstructed public use in any manner, except as otherwise specifically permitted by law. Under this section, an item or thing that is placed on a sidewalk shall not be in violation if all of the conditions established in subsection 25-51(b) are satisfied.

(Ord. No. 10126, § 10, 3-1-05; Ord. No. 11331, § 3, 12-8-15)

**Sec. 16-36. Posting of handbills prohibited.**

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

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

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

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

(Ord. No. 10126, § 11, 3-1-05)

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

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

- (1) The dwelling unit is treated as a lawful nonconforming group dwelling under LUC Section 3.5.7.1.I; and
- (2) The dwelling unit is the location of a documented pattern of nuisance activity which shall consist of at least three (3) incidents on separate dates within a two (2) year period resulting in criminal charges, or in civil infraction citations involving nuisance conduct; and
- (3) At least one (1) of the violations is a criminal offense or a violation of section 16-31 (excessive noise) or section 16-32 (unruly gatherings) of this code.

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

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

property owner may appeal a designation of a group dwelling as a public nuisance under this paragraph within thirty (30) days of the designation by filing an appeal in accordance with section 16-73.

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

- (1) The code official shall first attempt to consult with the property owner in which the dwelling unit is located to determine appropriate steps to abate the group dwelling public nuisance through a remediation plan. Within fifteen (15) working days, the code official shall determine the appropriate remediation plan to abate the group dwelling public nuisance. The code official may extend the time for completing the remediation plan by up to fifteen (15) days. By the same date, the remediation plan shall be delivered to the property owner, and shall be effective for one (1) year. Within five (5) days of delivery to the property owner, the designation as a group dwelling public nuisance and the remediation plan shall also be delivered to property owners within fifty (50) feet of the subject site and mailed to any registered neighborhood association that includes the subject site. Failure to deliver the designation and/or remediation plan to these nearby property owners shall not affect the validity of the designation or remediation plan. The code official shall keep and maintain any nuisance designation or remediation plan issued under this section as a public record, and shall make such documents available to any person upon request.
- (2) A property owner may file an administrative appeal to appeal the requirements of the remediation plan in accordance with section 16-70 of this chapter.

(e) *Subsequent violations a civil infraction; abatement by court order.* If, within twenty-four (24) months of the designation of a dwelling unit as a group dwelling public nuisance and the issuance of a remediation plan, the dwelling unit is the location of an additional violation or violations of the City Code or of

any criminal laws or statutes, the property owner is responsible for a civil infraction. Upon finding a property owner responsible for a violation under this subsection, the court shall order such person to correct and abate the violations. Such order may include an order to reduce or limit the number of unrelated tenants in the dwelling unit to not more than four (4), except that any order limiting occupancy in this manner can only apply for a time period not to exceed six (6) months. A reduction of the number of tenants as a result of a court order issued pursuant to this paragraph shall not terminate or discontinue the nonconforming use of the dwelling unit.

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

(g) *Voluntary abatement.* Where a property owner voluntarily reduces the number of occupants to whom a dwelling unit is leased and occupied to less than five (5) unrelated persons for a period of not less than one (1) year, the designation of the property as a group dwelling public nuisance shall be deemed abated. A subsequent determination that the dwelling unit is a group dwelling public nuisance after the period of voluntary abatement shall be based upon violations occurring after the voluntary abatement period. To qualify for the voluntary abatement in this subsection, the property owner shall provide written notice of the abatement and applicable lease period to the code official, property owners within fifty (50) feet of the property to be abated, and the registered neighborhood association.  
(Ord. No. 10965, § 6, 2-15-12)

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

Fraudulent transfer as a misdemeanor. Any person who has been served with a remediation plan or court order and who then transfers an ownership interest in the real property against which the notice has been served is guilty of a misdemeanor if the transfer is made without first obtaining a written acceptance of responsibility from the new owner for the items listed in the remediation plan or court order.  
(Ord. No. 10965, § 6, 2-15-12)

**Sec. 16-39. Shopping cart impoundment.**

(a) *Definitions.*

1. "Abandoned shopping cart" means a shopping cart, whether marked or unmarked, located outside the premises or parking area of a retail establishment, which parking area shall include parking areas of common usage in multi-store complexes and shopping centers.
2. "Unmarked" means lacking attached identification compliant with A.R.S. § 44-1799.32(b).
3. "Marked" means compliant with A.R.S. § 44-1799.32(b).

(b) Unmarked abandoned shopping carts are declared a nuisance and the city may impound and/or immediately sell, discard, or otherwise dispose of such carts at the city's discretion without notice.

(c) The city may immediately impound any abandoned shopping cart located in such a manner as to impede emergency services; obstruct vehicle traffic, bicycle traffic, or pedestrian sidewalk traffic; or create a safety hazard to the public on a public right-of-way.

(d) The city may impound a marked abandoned shopping cart if the shopping cart is not retrieved from its place of abandonment within three (3) business days after the date the owner of the shopping cart, or the owner's agent, receives actual notice from the city of the shopping cart's discovery and location.

(e) The owner or retailer identified on marked abandoned shopping carts impounded pursuant to subsections (c) or (d) above will be given notice of the fact of impoundment and the location and hours of operation of the impound lot.

(f) If an impounded abandoned shopping cart has not been retrieved from impound by the owner within thirty (30) days of notice pursuant to subsection (e) above, the city may sell, discard, or otherwise dispose of such cart at the city's discretion.

(g) The owner of any abandoned shopping cart impounded in accordance with subsections (c) or (d) above shall pay the City a retrieval fee of thirty dollars (\$30.00) per cart. The payment shall be made at the time of retrieval from impound. If the owner does not retrieve the cart from impound within thirty (30) days after notice, the fee shall be applied to the owner's next water service bill. Provisions for discontinuance of water service for non-payment and for customer right to dispute the bill shall apply as provided in section 27-50 of this code.  
(Ord. No. 11118, § 1, 10-8-13, eff. 11-11-13)

**Sec. 16-39.1. Limitations on yard sales.**

(a) An owner or responsible party of residential property shall not operate, conduct, manage, or allow more than four (4) yard sales within a single calendar year at the residential property.

(b) An owner or responsible party of residential property shall not operate, conduct, manage, or allow any yard sale event that exceeds three (3) consecutive days.

(c) A violation of this Section shall be a civil infraction, with a sanction as provided in Section 16-48(2) of this Chapter.  
(Ord. No. 11126, § 5, 11-6-13)

**ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

**Sec. 16-40. Authority to enforce.**

(a) The code official shall enforce the provisions of this chapter. In addition, the code official is authorized to make safe any structure, in whole or part, which in the opinion of the code official, is an

imminent hazard to the health or safety of any person or persons due to the conditions of such structure.

(b) No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully engaged in the enforcement or execution of the provisions of this chapter.  
(Ord. No. 9816, § 15, 2-24-03)

**Sec. 16-41. Rules and regulations.**

The code official is authorized to make reasonable and necessary rules and regulations to carry out the provisions of this chapter. When approved by the mayor and council, such rules and regulations shall be binding upon and obeyed by all persons affected by this chapter after three (3) copies of any such rules and regulations shall have been filed in the office of the city clerk as a public record and there kept for use or inspection by any member of the public at any time during the regular office hours of that office. A printed copy of such rules and regulations shall be furnished any member of the public upon request and payment of a reasonable charge therefor as set forth in such printed copy.  
(Ord. No. 9816, § 15, 2-24-03)

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

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

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

as a lien against the real property where the violation occurred.

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

- (2) A statement of the violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
- (3) A statement of the actions required to correct and abate the violations. The statement of required action shall direct the owner or responsible party to perform

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

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

**Sec. 16-44. Cooperation of other departments.**

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

**Sec. 16-45. Notice of violation.**

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

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

- (1) The identification of the property in violation; a street address or legal description of the property is sufficient identification of the property;

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## MOTOR VEHICLES AND TRAFFIC

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

### Article III. Pedestrians

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

### Article IV. Traffic-Control Devices

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

### Article V. Operation

- Sec. 20-135. Reserved.
- Sec. 20-136. State speed laws applicable generally.
- Sec. 20-137. Intersections where fifteen miles per hour speed limit imposed.
- Sec. 20-138. Speed limit in all city parks.
- Sec. 20-138.1. Speed limit in bicycle boulevards.
- Sec. 20-138.2. Designating current streets or parts of streets as bicycle boulevards where twenty miles per hour speed limit is imposed.
- Sec. 20-139. Speed limit in alleys.
- Sec. 20-140. Where thirty miles per hour speed limit imposed.
- Sec. 20-141. Where thirty-five miles per hour speed limit imposed.
- Sec. 20-142. Where forty miles per hour speed limit imposed.
- Sec. 20-143. Where forty-five miles per hour speed limit imposed.
- Sec. 20-144. Where fifty miles per hour speed limit imposed.
- Sec. 20-145. Where fifty-five miles per hour speed limit imposed.
- Secs. 20-145.1 – 20-145.4. Reserved.
- Sec. 20-146. Special speed restrictions on certain streets.
- Sec. 20-146.1. Special speed limit reductions in temporary traffic control zones.
- Sec. 20-146.2. Special speed limit reductions during nighttime hours.
- Sec. 20-146.3. Speeding in temporary traffic control zone prohibited.
- Sec. 20-147. Regulation of speed by traffic signals.
- Sec. 20-148. Following fire or rescue apparatus.
- Sec. 20-149. Driving over fire hose.

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

### Article VI. One-Way Streets and Stop Streets

- Sec. 20-173. Signs required.
- Sec. 20-174. Through streets.
- Sec. 20-175. Stop sign required at each intersection with through street.
- Sec. 20-176. Traffic engineer to designate hazardous intersections for “stop.”
- Sec. 20-176.1. Traffic to stop at intersection when traffic signals are out of service.
- Sec. 20-177. Traffic engineer to designate hazardous intersections for “yield.”
- Sec. 20-178. Reserved.
- Sec. 20-179. One-way streets and alleys.
- Secs. 20-180 – 20-199. Reserved.

### Article VII. Stopping, Standing and Parking

#### Division 1. Generally

- Sec. 20-200. Unlawful parking prohibited; classification; parking defined; parties liable; applicability of regulations; continuous violations; mandatory fines and fees; community service.
- Sec. 20-201. Reserved.
- Sec. 20-202. Prima facie evidence of parking infraction.
- Sec. 20-203. Failure to respond to citation; default fee; booting and impounding vehicle authorized, booting and impound fees; damages to boot.
- Sec. 20-204. Booting or impounding list.
- Secs. 20-205 – 20-209. Reserved.

#### Division 2. Administration

- Sec. 20-210. Director of transportation; duties; Park Tucson Administrator duties; authorization to issue citations and collect violation fines.
- Sec. 20-211. Administrative guidelines.
- Sec. 20-212. Civilian volunteer police assist specialists authorized to issue citations.
- Sec. 20-213. Parking enforcement agents exempt.
- Secs. 20-214 – 20-219. Reserved.

#### Division 3. Parking for Individuals with Physical Disabilities

- Sec. 20-220. Parking for individuals with physical disabilities; designation; enforcement.
- Sec. 20-221. Penalty.
- Sec. 20-222. Parking prohibited in spaces reserved for individuals with physical disabilities.
- Sec. 20-222.1. Parking prohibited in access aisles of spaces reserved for individuals with physical disabilities.
- Sec. 20-222.2. Paratransit loading zones.
- Sec. 20-223. Wheelchair curb access ramps.
- Sec. 20-224. Reserved.



**Sec. 20-153. Reserved.**

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

**Sec. 20-154. Operation of unsafe vehicles.**

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

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

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

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

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

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

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

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

**Sec. 20-156. Obstructing intersections, crosswalks.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.  
(1953 Code, ch. 17, § 89)

**Sec. 20-157. Reserved.**

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

**Sec. 20-158. Regulation of towing services.**

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

**Sec. 20-159. Traffic signal preemptor devices.**

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

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

**Sec. 20-160. Use of handheld mobile telephone or portable electronic device; prohibited conduct; exceptions.**

A. Definitions.

1. "Hands-free use" means the use of a mobile communication device or portable electronic device without the use of either hand by employing an internal feature of, or an attachment to, the device.
2. "Mobile communication device" and "portable electronic device" means a wireless communication device that is designed to engage in calls; and/or receive and transmit text, images, and/or data; but excludes devices that are physically or electronically integrated into a motor vehicle and are operated hands-free so that the user composes, sends, accesses, communicates or receives messages or data without the use of a hand except to activate, deactivate or initiate the hands-free use.
3. "Operating a motor vehicle" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but excludes operating a motor vehicle when the vehicle has pulled over to the side of the road or off an active roadway and has stopped at a location in which the vehicle can safely remain stationary.

B. No person shall, except as otherwise provided in this section, use a mobile communication device or portable electronic device while operating a motor vehicle upon a street or highway, regardless of whether the motor vehicle is in motion or not, unless that device is specifically designed or configured to allow hands-free use and is used in that manner while operating a motor vehicle.

C. Exemptions. This section shall not apply to:

1. The use of a mobile communication device or portable electronic device for the sole purpose of communicating with any of the

following regarding an immediate emergency situation:

- a. An emergency response operator;
  - b. An ambulance company;
  - c. Fire department and rescue service personnel;
  - d. Law enforcement personnel;
  - e. A hospital; or
  - f. A physician's office or health clinic.
2. The activation or deactivation of hands-free use, as long as the mobile telephone or portable electronic device is securely configured and attached to the vehicle or integrated into the vehicle.
  3. Law enforcement and public safety personnel, and persons operating authorized emergency vehicles, using a mobile communications device or portable electronic device while operating a vehicle in the course and scope of his or her duties.

D. Penalty.

1. A violation of this section is a civil traffic violation. A law enforcement officer shall not stop or issue a citation to a person operating a motor vehicle for a violation of this section unless the law enforcement officer has reasonable cause to believe there is another alleged violation of a motor vehicle law.
2. A person who violates this section and is not involved in a motor vehicle collision is subject to a civil penalty of \$100 for the first violation, \$250 for the second violation, and \$500 for the third violation.
3. A person who violates this section and is involved in a motor vehicle collision is subject to a civil penalty of a minimum amount of \$500.

(Ord. No. 11442, § 3, 3-21-17, eff. 5-1-17)

**Secs. 20-161 – 20-172. Reserved.**

## ARTICLE VI. ONE-WAY STREETS AND STOP STREETS

### Sec. 20-173. Signs required.

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

(1953 Code, ch. 17, § 92)

### Sec. 20-174. Through streets.

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

(Ord. No. 4070, § 1, 8-6-73)

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

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



receipt and acceptance of a statement designating a beneficiary(ies) by the system administrator, the designation shall become effective and shall remain in effect until an updated statement is received and accepted by the system administrator. A change in the marital status of a member does not impact the validity or enforceability of a beneficiary designation on file with the system administrator. A member must update the beneficiary designation to reflect changes in marital status, as necessary. Upon ratification by the board of a member's application for retirement benefits, the member's beneficiary designation shall become irrevocable with regard to any joint and survivor annuity elected in accordance with section 22-42(c). All other beneficiary designations become irrevocable upon the member's death. There shall be no liability on the part of the city, the board or the system administrator with respect to any payment made in accordance with the most recent beneficiary designation on file with the system administrator.

(Ord. No. 10657, § 1, 4-28-09, eff. 7-1-09; Ord. No. 10711, § 2, 9-9-09, eff. 7-1-09; Ord. No. 10712, § 2, 9-9-09, eff. 7-1-09; Ord. No. 10915, § 2, 6-21-11, eff. 7-1-11; Ord. No. 11020, § 2, 9-11-12, eff. 7-1-09; Ord. No. 11327, §§ 2, 3, 12-8-15, eff. 1-1-16)

#### **Sec. 22-34. Membership contributions.**

*Sec. 22-34(a). Fixed contribution rate.* Each member hired prior to July 1, 2006, shall make mandatory member contributions to the system for every pay period during which the member receives compensation in an amount equal to five (5) percent of the member's compensation. The finance director shall deduct this amount and credit it to the member's accumulated contributions account.

*Sec. 22-34(b). Variable contribution rates.* Each member hired on or after July 1, 2006, shall make mandatory member contributions to the system for every pay period during which the member receives compensation in an amount equal to the applicable percentage of the Employee Segment Normal Cost: For purposes of this Section 22-34(b), the applicable percentage shall equal the percentage determined by the City on an annual basis prior to the beginning of each fiscal year, and which shall equal no less than fifty (50) percent and no more than one hundred (100) percent. Notwithstanding the foregoing, the member's annual contribution rate (1) shall in no event be less than five (5) percent of compensation and (2) shall be subject to an annual fiscal year adjustment (increase or decrease) equal to no more than two and one-half

(2 1/2) percent of member compensation. The finance director shall deduct the applicable member contributions from each member's compensation and credit it to the member's accumulated contributions account.

*Sec. 22-34(c). Contribution rates for rehired members.* If a member separates from employment with the city and is later re-hired, the rate of mandatory member contributions applicable to the rehired member shall be determined in accordance with this section. Any member who was originally hired by the city prior to July 1, 2006, who was a vested member at the time of separation from employment with the city and who does not request a refund of member contributions in accordance with section 22-41 prior to his date of reemployment with the city shall make mandatory member contributions to the system in accordance with section 22-34(a) above. All other rehired members shall make mandatory member contributions in accordance with section 22-34(b) above.

*Sec. 22-34(d). Employer pick-up/member contributions.* All member contributions to the system are mandatory and are picked up by the city in accordance with Code Section 414(h). As a result of the city's pick-up arrangement, the member contributions are contributed to the system on a pre-tax basis and shall not be included in the member's gross income until the member requests a refund of contributions or receives retirement benefit payments. All member contributions are deposited into the individual accumulated contributions account maintained by the system administrator on behalf of each contributing member.

*Sec. 22-34(e). Qualified military service.* A member who leaves employment for qualified military service and is timely reinstated by the city and meets all other applicable requirements for benefits following qualified military service including, without limitation, the requirements set forth in the city's Administrative Directive 2.01-7G regarding military leave, as amended, shall be permitted (but not required) to make up missed member contributions to the system. Any reinstated member who wishes to make up missed member contributions shall contribute all or a portion of the member contributions that would have been made by the member but for the qualified military service, calculated at the compensation rate in effect for the member immediately preceding the commencement of the qualified military service and the member contribution rate in effect during the qualified

military service, and without interest or any other adjustment. The missed member contributions shall be contributed to the system during a period that begins on the date of reinstatement and ends on the earliest of (1) the date that is five (5) years from the date of reinstatement; (2) the date that marks the end of a period which is three (3) times the length of the member's most recent period of qualified military service; or (3) the member's termination date. Any and all member contributions made up pursuant to this section shall be treated as regular member contributions made in accordance with section 22-34(d). Following the contribution of missed member contributions to the system, the system administrator shall take all steps necessary to increase the member's accrued benefit to include the portion of the member's qualified military service covered by the missed member contributions. Notwithstanding the foregoing, to the extent the member is paid his full city salary during military leave in accordance with Section IV of the city's Administrative Directive 2.01-7G, as amended (Paid Military Leave Not to Exceed 30 Calendar Days in any Two (2) Consecutive Federal Fiscal Years), member contributions shall be deducted from the member's military leave pay on the same basis as member contributions would be made by the member under section 22-34 if the member was actively employed.

*Sec. 22-34(f). Accrued vacation cash out.* All hours of accumulated vacation earned by a tier I member and cashed out by the city as of the earlier of the member's termination date or election to enter the end of service program shall be included in a member's compensation for member contribution purposes, provided that member contributions are made in accordance with this section. The member contributions applicable to accumulated vacation shall be calculated using the tier I member's compensation and member contribution rate as in effect immediately preceding the tier I member's termination date. The calculation and collection of member contributions under this section shall trigger the city's obligation to make corresponding employer contributions under section 22-35(a) for the accumulated vacation hours.

*Sec. 22-34(g). Non-forfeiture and refund of contributions.* It is the right of each member to request a refund of the member's accumulated contributions, plus interest, upon separation from city service and the right of each beneficiary to be paid the member's accumulated contributions, plus interest, upon the member's death before retirement or unused

contributions, plus interest, upon the member's death after retirement, whichever is applicable. All refunds, and the related forfeiture of credited service, shall be administered in accordance with section 22-41.

*Sec. 22-34(h). Employment status changes.* Effective July 1, 2011 and notwithstanding any provision of the Code to the contrary, the mandatory member contribution rate for an employee who first becomes a member in the system after the employee's date of hire or rehire with the city will be determined pursuant to this section. If an employee is hired or rehired by the city in an employment position that does not qualify for membership in the system and later becomes a member, the applicable member contribution rate shall be determined as of the date on which the employee first satisfies the requirements for membership under section 22-33, as opposed to the employee's date of hire or rehire. The member contribution rate for a reemployed member shall be determined in accordance with section 22-34(c). (Ord. No. 10657, § 2, 4-28-09, eff. 7-1-09; Ord. No. 10915, § 3, 6-21-11, eff. 7-1-11; Ord. No. 11062, § 3, 3-27-13, eff. 7-1-13; Ord. No. 11243, § 1, 2-18-15, eff. 7-1-15; Ord. No. 11327, §§ 4, 5, 12-8-15, eff. 1-1-16; Ord. No. 11349, § 1, 4-5-16, eff. 7-1-16; Ord. No. 11430, § 1, 1-24-17, eff. 7-1-17)

### **Sec. 22-35. City contributions.**

*Sec. 22-35(a). Contribution by the city.* At the end of each payroll period, the finance director shall cause the city to contribute to the trust fund an amount equal to the employer contribution for the particular payroll period, plus any and all member contributions picked up by the city in accordance with section 22-34(d) and section 22-36(g)(2).

*Sec. 22-35(b). Certification of rates and charges.* The board shall certify to the city manager, on a fiscal year basis, the annual required contribution, the member contribution rate and the employer contribution for the system.

*Sec. 22-35(c). City's funding requirement for system.* The city council shall appropriate no less than one hundred (100) percent of the employer contribution for a particular fiscal year.

*Sec. 22-35(d). Determination and deposit of employer contributions.* The finance director at the end of each pay period shall apply the appropriate employer

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