City of Glendale

5850 West Glendale Avenue
Glendale, AZ 85301

City Council Workshop Agenda

Mayor Jerry Weiers
Vice Mayor Yvonne J. Knaack
Councilmember Norma Alvarez
Councilmember Samuel Chavira
Councilmember Ian Hugh
Councilmember Manny Martinez
Councilmember Gary Sherwood

Tuesday, December 2, 2014 | **1:30 PM** | **Council Chambers - Room B3**

Workshop

One or more members of the City Council may be unable to attend the Workshop or Executive Session Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

CALL TO ORDER

WORKSHOP SESSION

1. **14-439** COUNCIL ITEM OF SPECIAL INTEREST: MUNICIPAL PROPERTY CORPORATION AND WESTERN LOOP 101 PUBLIC FACILITIES CORPORATION
Staff Contact: Tom Duensing, Director, Finance and Technology

2. **14-474** COUNCIL ITEM OF SPECIAL INTEREST: RESEARCH ZONING CODE TO SEE IF "MIL" COULD BE ADDED
Staff Contact and Presenter: Sam McAllen, Development Services Director
Staff Contact and Presenter: Jon Froke, AICP, Planning Director

3. **14-457** COUNCIL ITEM OF SPECIAL INTEREST: DISCUSSION OF NON-DISCRIMINATION ORDINANCE AND HUMAN RELATIONS COMMISSION
Staff Contact and Presenter: Jim Brown, Director, Human Resources and Risk Management
Staff Contact and Presenter: Brian Friedman, Director, Economic Development
Staff Contact and Presenter: Nancy Mangone, Assistant City Attorney

Attachments:
Attachment A - Example Ordinances and City Codes
Attachment B - City Ordinance Comparison Chart 11-07-14
Attachment C - Community Matrix
Attachment D - UNITY Pledge Packet

4. **14-446** COUNCIL ITEM OF SPECIAL INTEREST: CITY SUITE POLICY
Staff Contact: Julie Watters, Director, Communications

Attachments: COG Suite Policy Revised October 2014

5. **14-408** COUNCIL ITEM OF SPECIAL INTEREST: USE OF DEDICATED MOTORPOOL VEHICLE BY MAYOR'S OFFICE
Staff Contact: Brent Stoddard, Director, Intergovernmental Programs

Attachments: Motor Pool Vehicle Use Guidelines

CMD18 City Vehicles

6. **14-450** COUNCIL ITEM OF SPECIAL INTEREST: INFORMATION ON FRONT END PARKING IN CITY HALL PARKING GARAGE
Staff Contact: Debora Black, Police Chief

Attachments: Ordinance 1392 11-26-1985

City Council Meeting Minutes 11-26-1985

Ordinance 2541 1-23-2007

Parking Ordinance Amendments CR 1-23-2007

CITY MANAGER'S REPORT

This report allows the City Manager to update the City Council. The City Council may only acknowledge the contents to this report and is prohibited by state law from discussing or acting on any of the items presented by the City Manager since they are not itemized on the Council Workshop Agenda.

CITY ATTORNEY'S REPORT

This report allows the City Attorney to update the City Council. The City Council may only acknowledge the contents to this report and is prohibited by state law from discussing or acting on any of the items presented by the City Attorney since they are not itemized on the Council Workshop Agenda.

COUNCIL ITEMS OF SPECIAL INTEREST

Councilmembers may indicate topic(s) they would like to have discussed by the Council at a future Workshop and the reason for their interest. The Council does not discuss the new topics at the Workshop where they are introduced.

MOTION TO GO INTO EXECUTIVE SESSION

EXECUTIVE SESSION

1. LEGAL MATTERS

A. The City Council will meet with the City Attorney for legal advice, discussion and consultation regarding the city's position in pending or contemplated litigation, including settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. § 38-431.03(A)(3)(4))

B. Council will meet to discuss and consider records exempt by law from public inspection and are specifically required to be maintained as confidential by state or federal law. (A.R.S. § 38-431.03(A)(4))

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

(i) discussion or consideration of personnel matters (A.R.S. § 38-431.03(A)(1));
(ii) discussion or consideration of records exempt by law from public inspection (A.R.S. § 38-431.03(A)(2));
(iii) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3));
(iv) discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation (A.R.S. § 38-431.03(A)(4));
(v) discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. § 38-431.03(A)(5)); or
(vi) discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. § 38-431.03(A)(7)).

Confidentiality

Arizona statute precludes any person receiving executive session information from disclosing that information except as allowed by law. A.R.S. § 38-431.03(F). Each violation of this statute is subject to a civil penalty not to exceed $500, plus court costs and attorneys' fees. This penalty is assessed against the person who violates this statute or who knowingly aids, agrees to aid or attempts to aid another person in violating this article. The city is precluded from expending any public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced for violation of the statute unless the City Council takes a legal action at a properly noticed open meeting to approve of such expenditure prior to incurring any such obligation or indebtedness. A.R.S. § 38-431.07(A)(B).

This agenda has been reviewed and approved for posting by Brenda S. Fischer, ICMA-CM, City Manager.

File #: 14-439, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: MUNICIPAL PROPERTY CORPORATION AND WESTERN LOOP 101 PUBLIC FACILITIES CORPORATION

Staff Contact: Tom Duensing, Director, Finance and Technology

Purpose and Policy Guidance

At the October 7, 2014 City Council Workshop meeting, Councilmember Alvarez requested information about the Municipal Property Corporation be brought to a future workshop. This report provides information to the City Council on the background and purpose of the Glendale Municipal Property Corporation (MPC) and the Western Loop 101 Public Facilities Corporation (PFC).

Background

Capital improvements are non-routine capital expenditures resulting in the construction, renovation or acquisition of land, infrastructure, buildings and/or the purchase of equipment, with an expected useful life of at least five years. Capital improvements are typically financed through available cash funding, typically referred to as "pay-as-you-go" financing or through debt financing, typically referred to as debt or bond financing. For debt financed projects, governments issue bonds or similar types of debt instruments and use the proceeds to pay for the capital improvements. The bonds are then repaid over a period of time, for example repaid over 20 years, and the repayments of the bonds are referred to as the debt service payments.

It is not uncommon for Arizona cities to utilize non-profit corporations as the financing conduit for municipal capital improvements. In addition to the City of Glendale, examples of cities utilizing this type of financing include the cities of Chandler, Gilbert, Mesa, Peoria, Phoenix, Scottsdale, Surprise, and Tempe.

For the City of Glendale, two related non-profit corporations were incorporated for such a purpose: The Western Loop 101 Public Facilities Corporation (PFC), incorporated in 2007, and the City of Glendale Municipal Property Corporation (MPC), incorporated in 1982. The PFC currently has no outstanding debt and a resolution was adopted to dissolve the corporation on May 14. 2013. The PFC will be reviewed in this communication as the debt of the PFC was refinanced into MPC debt.

Western Loop 101 Public Facilities Corporation

Incorporated in July 2007, the PFC's primary purpose was to be the financing conduit for the construction and equipping of the Camelback Ranch Spring Training Facility. A total of $199,750,000 in excise tax bonds was issued in October 2008 to finance construction costs of $141.7 million in construction costs. In December 2012, these bonds were refinanced under the MPC. As the PFC no longer had outstanding bonds payable, Council subsequently passed a resolution to dissolve the corporation on May 14, 2013.

City of Glendale Municipal Property Corporation

The MPC was incorporated August 1982. Similar to the PFC, the primary purpose of the MPC is to issue and sell bonds to finance the acquisition and construction of public capital facilities for the City of Glendale. Although the MPC is a legally separate corporation, the financial activities of the MPC are included in the City's audited financial statements. Separate City funds have been established, and currently, the only financial activities reported in the funds are the MPC debt service payments funded through budgeted transfers from the City's General Fund.

The MPC Board of Directors consists of five at-large members, is approved by the Government Services Committee, and is voted upon by the Glendale City Council. Staff and the Board can make recommendations for the appointment of Board members to the Government Services Committee.

Any projects financed through the MPC must be authorized by the City Council. Since the inception of the MPC in 1982, a total of eight projects have been financed through the MPC. It is important to know that several of the bond issuances have been refinanced. The date, project, and initial amount of debt issued follows:

- 1982 - Municipal Office Complex - $15.6 million
- 1985 - Street Lighting Equipment - $4.8 million
- 2003 - Arena - $167.5 million
- 2004 - Improvement District Bonds - $10.9 million
- 2006 - Public Safety Training Facility - $26.3 million
- 2006 - Zanjero Infrastructure - $6.9 million
- 2006 - Parking Garage, Media Center, Convention Center - $87.0 million
- 2012 - Camelback Ranch Spring Training Facility - $200.3 million (this represents the refinancing amount of the PFC debt)

There is currently no outstanding debt for the two projects initially financed in 1982 and 1985. For the six projects initially financed starting in 2003, the total outstanding principal amount of debt is $459.6 million which will be repaid through FY37-38. In addition to the principal repayment, $322.9 million in interest payments will be made through FY37-38 bringing the total debt service through FY37-38 to $782.5 million.

It is important to know that Council approved an ordinance on November 24, 2014 to refinance a portion of the MPC debt. This is to take advantage of market interest rate savings in order to lower the overall debt service costs. Staff anticipates the refinancing to occur in January 2015.

Previous Related Council Action

On August 25, 1982, the Glendale Municipal Property Corporation was formed.

On June 26, 2007, a Council resolution was passed authorizing the creation of the Western Loop 101 Public Facilities Corporation.

On July 7, 2007, the Western Loop 101 Public Facilities Corporation was formed.

On May 14, 2013, a Council resolution was passed authorizing the dissolution of the Western Loop 101 Public Facilities Corporation.

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Community Benefit/Public Involvement

The MPC and the PFC were created and used to finance and construct public facilities.

Budget and Financial Impacts

There is no outstanding PFC debt; therefore, there are no PFC debt service payments. The annual debt service of the MPC is financed through the General Fund. The annual debt service payments (principal plus interest), totaling $782.5 million, is summarized as follows.

- FY14-15 - $31.4 million
- FY15-16 - $31.9 million
- FY16-17 - $31.4 million
- FY17-18 - $31.2 million
- FY18-19 - $33.6 million
- FY19-20 - $34.7 million
- FY20-21 to FY32-33 (13 Years, $36.6 million/year) - $475.8 million
- FY33-34 to FY37-38 (5 Years, $22.5 million/year) - $112.5 million

As stated previously, staff anticipates refinancing certain MPC bonds, in January 2015, in order to lower the overall debt service costs.

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File #: 14-474, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: RESEARCH ZONING CODE TO SEE IF "MIL" COULD BE ADDED
Staff Contact and Presenter: Sam McAllen, Development Services Director
Staff Contact and Presenter: Jon Froke, AICP, Planning Director

Purpose and Policy Guidance

At the August 5, 2014 Council Workshop, Mayor Weiers identified a Council Item of Special Interest asking about the potential of adding a Zoning Ordinance designation to properties near Luke Air Force Base. The Mayor stated that including a Zoning Ordinance designation would serve to inform land owners and potential land owners of a property's proximity to Luke Air Force Base. This report provides City Council with possible options associated with this Council Item of Special Interest.

Background

Luke Air Force Base is located within the City of Glendale. The City's current General Plan, Glendale 2025, does identify a special land use category, Luke Compatible Land Use (LCLU), in the geographic area in and around Luke Air Force Base. The LCLU area is adjacent to Luke Air Force Base and is delineated by the 1988 JLUS 65 ldn noise contour line created by military fight operations. The LCLU from the General Plan is not tied to the specific zoning designation associated with individual properties.

Analysis

The City of Glendale does not have a Zoning Ordinance designation that specifically identifies properties located within the 1988 JLUS 65 ldn noise contours associated with Luke Air Force Base's military flight operations. Staff has identified two options for City Council's consideration as ways to potentially increase awareness about a property's location in relation to the noise contour lines created by Luke Air Force Base's military flight operations.

Option 1. City Council to consider adding an official land use designation (i.e. "MIL") to the Zoning Ordinance. This option could be considered through the Zoning Text Amendment (ZTA) process and would include a review by the Planning Commission and then eventually be considered by City Council. If this option is of interest to City Council, staff recommends that outreach first take place with potentially impacted property owners (some properties near Luke Air Force Base have been annexed into Glendale while others are under Maricopa County jurisdiction), West Maricopa County Association of REALTORS, other municipalities that may have a similar land use designation near a military installation and a review of laws to determine if such a change creates any legal impact to the City of Glendale.

Option 2. City Council to consider adding the 1988 JLUS 65 ldn noise contours associated with Luke Air Force Base to the City's Official Zoning Map. This would provide clarity regarding the location of the noise

contours in context to the properties in and around Luke Air Force Base.

Planning Division staff contacted Luke Air Force Base and asked for their input related to the options identified above. The representative from Luke Air Force Base stated that they were supportive of adding a land use designation and/or adding noise contour delineations to the Official Zoning Map.

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File #: 14-457, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: DISCUSSION OF NON-DISCRIMINATION ORDINANCE AND HUMAN RELATIONS COMMISSION

Staff Contact and Presenter: Jim Brown, Director, Human Resources and Risk Management
Staff Contact and Presenter: Brian Friedman, Director, Economic Development
Staff Contact and Presenter: Nancy Mangone, Assistant City Attorney

Purpose and Policy Guidance

The purpose of this report is to provide information to Council on options for enacting an inclusive non-discrimination Human Rights ordinance and whether there is a need for the City to establish a Human Relations Commission. This item was brought forward as a Council Item of Special Interest by Councilmember Sherwood at the October 21, 2014 Council Workshop.

Background

Non-discrimination policies can include groups or protected classes such as veterans, disabled, persons of a certain age, marital status or familial status, and the LGBTQ (Lesbian, Gay, Bisexual, Transgender, and Questioning) community. Staff is providing empirical research data on various actions Council could consider taking to demonstrate the City's commitment to non-discrimination and inclusion. The data provided below is a summary of recent federal, state and local anti-discrimination laws and data collection from communities that have elected to implement anti-discrimination policies and laws.

Federal Laws

Numerous federal laws protect government and non-government workers from discriminatory employment practices. They include:

1. Equal Pay Act and the Fair Labor Standards Act, both prohibit discrimination based on sex
2. Title VII of the Civil Rights Act of 1964 which prohibits discrimination based on race, color, religion, sex or national origin
3. Pregnancy Discrimination Act and the Family and Medical Leave Act which prohibits unlawful sex discrimination, includes discrimination based on pregnancy, childbirth, and related medical conditions
4. Age Discrimination in Employment Act which prohibits discrimination based on age; and,
5. Americans with Disabilities Act and Rehabilitation Act of 1973 prohibiting discrimination based on disability.

There is no federal law specifically prohibiting private businesses from discrimination in hiring and employment on the basis of sexual orientation or gender identity. While federal workers already had protections based on sexual orientation, on July 21, 2014, President Obama signed Executive Order 13672, which extended protection against discrimination in hiring and employment of civilian federal workforce on

the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity. Over the last ten years, the United States Congress has considered proposed legislation numerous times entitled the Employment Non-Discrimination Act (ENDA). This proposed legislation would prohibit employers with at least 15 employees from discriminating against persons who are members or perceived to be members of the LGBTQ community; but the legislation has failed to pass out of Congress.

State Laws

Arizona law prohibits discrimination in housing, employment, voting and providing services or goods in places of public accommodation based on race, color, religion, sex, age, national origin, ancestry, disability and family status. Current State law does not prohibit discrimination based on sexual orientation, gender identity or genetic characteristics.

Municipal Ordinances

In Arizona, the communities of Phoenix, Tucson, Flagstaff, and Tempe have adopted ordinances prohibiting discrimination on the basis of sexual orientation, gender identity or genetic characteristics. The four Arizona municipal ordinances and/or City Codes are attached as Attachment A. The anti-discrimination City Codes of Denver and Boulder, Colorado are also attached for information. These two cities were among the first in the country to implement such ordinances and have been amended as the government's knowledge and experience in implementing and enforcing them has grown and public opinion has changed, and are therefore considered best practice.

Phoenix originally adopted an Anti-Discrimination ordinance in 1992 and updated its provisions in 2013 to add "sexual orientation", "gender identity" and "disability" as protected classes. The Tucson ordinance was enacted in 1999, while Flagstaff and Tempe adopted their ordinances in 2013 and 2014, respectively. The City of Tempe also amended its City Charter in 2014 to prohibit the City from discriminating against employees or potential employees based on gender, gender identity, sexual orientation, familial status, age, disability and veteran status. The Tempe ordinance prohibits its vendors and contractors from doing the same.

Tables describing the components of the various City ordinances and the process each City went through to adopt its ordinance is included in Attachments B and C, respectively.

In addition to these city ordinances, the City of Scottsdale signed the UNITY Pledge (See Option 1 below) and is in the process of considering the adoption of a non-discrimination ordinance. Across the country, more than 200 cities and counties have adopted anti-discrimination ordinances.

The four Arizona cities that have adopted equal rights/anti-discrimination ordinances cited the belief that it serves to protect its citizens from discrimination, and furthers the social and economic growth of the city, its residents, businesses and community members. Additionally, these cities advised that soliciting public feedback should be part of the process.

Glendale

It is the custom and practice of the City of Glendale not to discriminate in hiring, firing, benefit eligibility and other conditions of employment based on sexual orientation, genetic characteristics, gender identity, marital status or veteran status. The City offers benefits and leave to all married couples. The City does not, however, currently have any written policy or statement affirmatively prohibiting discrimination against these employees based on sexual orientation, genetic characteristics, gender identity, marital status or veteran

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status. Staff has been directed by City management to move forward in adopting internal anti-discrimination, fair housing, and public accommodation policies that demonstrate the City's commitment to diversity and inclusion. These policy changes state that the City of Glendale will not discriminate against its employees and do not require any action by Council to become effective.

The City previously budgeted for diversity efforts to support programs aimed at promoting workplace diversity and inclusion for everyone regardless of protected class. Funds were also used to pay for the services of a Diversity Coordinator. In 2012, however, the City Council elected not to continue funding this contracted position, in response to larger, citywide budgetary constraints.

Analysis

There has been recent media attention paid to Glendale and other larger municipalities regarding this broad topic. A civil rights organization working to achieve equality for LGBTQ Americans, the Human Rights Campaign (HRC), developed the Municipal Equality Index (MEI) which is a nationwide evaluation of municipal laws affecting the LGBTQ community. This index examines laws, policies, and progress toward equality being made by U.S. cities. Three communities in Arizona received a perfect score in 2014 (Phoenix, Tempe and Tucson). In 2014 Glendale's score improved to 36 out of 100 rating compared to only a 13 the year before. This improved score was partially due to Glendale staff working with key diversity groups outside the city to identify and understand progress areas and growth opportunities for the City as an organization.

One key area that is measured on the MEI is whether or not a city has laws that prohibit discrimination specifically on the basis of sexual orientation and gender identity. The City of Glendale scored zero out of eighteen possible points in this area because there is currently no City Ordinance that prohibits this type of discrimination. Other key areas measured are whether or not the City offers equivalent benefits and protections to LGBTQ employees and whether or not it awards contracts to fair-minded businesses that do the same. The City scored eight out of twenty-nine possible points in this area.

There are a number of actions that Council could take to address the non-discrimination and inclusion issues raised in the October 21, 2014 Council Item of Special Interest. The full scope of options ranges from taking no action at this time to seeking a voter-approved amendment of the City Charter. Three options that would require Council action are described below:

Option A

The first legislative option Council could take is to sign and abide by the UNITY Pledge championed by One Community, an interactive web and events community for LGBTQ and allied individuals and businesses . This action affirms Glendale's commitment to inclusion and diversity, and encourages, but does not require, all other businesses and organizations in Glendale to support diversity. According to ONE Community, more than 1,100 businesses across Arizona, including the Glendale Convention and Visitors Bureau (CVB) and the Glendale Chamber of Commerce and 34 other Glendale businesses, have signed the pledge. By signing the UNITY Pledge on September 4, 2014, the Glendale CVB and the Chamber of Commerce reiterated the message that the Glendale business community is "open for business" and welcomes all business, residents and visitors regardless of their unique identities or characteristics. One Community's Unity Pledge states:

> As business and community leaders , we understand that if we want to compete for top talent,

we must have a diverse and inclusive workplace. We also understand that if our travel and tourism industry wants to be competitive-and if Arizona wants to be competitive on a national and international level-we must support all of our diverse communities. It's time for LGBT inclusive non - discrimination policies in the workplace, in housing, and in public accommodations including restaurants and hotels.

For our part, the company or organization below celebrates diversity and supports workplace equality. We are committed to fostering, cultivating, and preserving a culture of diversity, inclusion, fairness, and equality.

We celebrate our employees regardless of age, color , disability , ethnicity , family or marital status, gender identity or expression , language , national origin , physical and mental ability , political affiliation, race, religion , sexual orientation , veteran status , and other characteristics that make our employees unique.

It's time to ensure equality for all Arizona employees , residents , and consumers. It's the right thing to do. It's good for business. It's good for the business of Arizona.
Taking the UNITY Pledge is a stand-alone, immediate option that Council could take regardless of any other future action it could take. A packet of information describing One Community's UNITY Pledge is attached as Attachment D.

Option B
The second legislative option the Council could exercise is to adopt an ordinance adding a new "Human Relations" or "Civil Rights" chapter to the City Code. The ordinance could contain a variety of protections, exclusions, penalties and enforcement provisions like those adopted by other municipalities, each of which Council could accept or reject.

A defining provision would be the coverage of the Ordinance - will it apply to: (1) The City and its, contractors, vendors, suppliers, etc.; or (2) All persons and entities doing business in the City of Glendale.

If the City Council chooses sub-option (1) above, it is envisioned that all future contracts providing for the purchase of goods and services by the City will include language affirming that the city's contractors will not engage in discriminatory practices. City contracts will also provide remedies if the city contractor engages in impermissible discrimination. If the Council chooses, remedies could include termination, suspension or cancellation of an existing contract or suspension from bidding on a City contract for a period of time. However, in recognition that the City may contract with religious organizations or small or family-owned businesses who may object to this language based on their religious beliefs, the Code could have an exclusion or exemption for those entities.

If the Council chooses to have the ordinance apply to all businesses located in Glendale (sub-option 2 above), the ordinance would make it unlawful for any person or entity in Glendale, whether they do business with the City or not, to discriminate against any potential employee or customer in Glendale based on his/her actual or perceived sexual orientation, genetic characteristics, gender identity, marital status or veteran status.

No matter which businesses are covered, the other key issue with anti-discrimination ordinances is who does

not have to comply with its requirements. Most municipal ordinances exempt religious organizations, small and family-owned businesses, private clubs and "expressive" associations such as the Boy Scouts, and other governmental entities (*i.e.* , Native American tribes and the U.S. government) from its coverage. Council may want to consider explicitly excluding Luke Air Force Base and its related entities, as well as the Tohono O'Odham Nation, from the ordinance's coverage, although the law of sovereign immunity may already dictate whether the City has jurisdiction in these geographic areas.

Any anti-discrimination ordinance would also have to include procedures for investigating and penalizing violators for instances of discrimination, a process for filing complaints and for deciding whether a violation of the City Code has occurred. Cities in Arizona and elsewhere in the country vary on the appropriate body or decision-maker to perform these tasks. Some cities vest the investigation and decision making authorities in a Human Rights Advisory Council or Commission; others create a procedure using a City-controlled Equal Opportunity or Human Resources Department, the City Manager, a Hearing Officer and/or the City Council. The complaint and adjudication procedure, as well as the appropriate penalties for violations, can be fashioned by Council a number of different ways as long as the alleged violator is afforded procedural and substantive due process. Cities also vary the penalties imposed for proven instances of discrimination. Violations could result in a number of different types of penalties, such as criminal convictions and fines, civil monetary penalties, injunctive relief requiring the violator to cease the offending conduct, prohibitions against bidding on or securing a City contract for a period of time, or denying or revoking an existing business license or permit.

Option C

The third legislative action the City Council could take is to seek a voter-approved amendment to the City Charter similar to the one approved by the voters of Tempe. A City Charter amendment must be approved by a majority vote of the citizens of the City, in accordance with A.R.S. §9-283(C). A Charter amendment may include provisions similar to those described in the discussion of the draft ordinance in Option B.

Community Benefit and Public Involvement

Because any legislative action Council could take has the potential for City-wide cultural and economic impacts, it is anticipated that a series of workshops and listening sessions designed to obtain citizen views would be necessary on whether an anti-discrimination ordinance should be adopted, what classes should be protected, what organizations should be exempted and what administrative or quasi-judicial body should be utilized or created to address alleged violations and impose sanctions or penalties. Other internal and external policies may need to be addressed by staff and Council as well: (1) whether the City or any business will provide domestic partner benefits to their employees; (2) whether a new Human Relations or Civil Rights Commission must be established; and (3) whether bathroom, dressing room, or locker room use policies within City government facilities or places of public accommodation need to be amended.

Budget and Financial Impacts

Any fiscal impact to the City would depend on the direction Council chooses to pursue. Signing the UNITY Pledge and formalizing or codifying the custom or practice currently being followed by the City as internal Human Resources Department policies is not expected to have any financial impact to the City. Drafting, implementing and enforcing a new City ordinance and Code provisions or drafting and preparing for a vote on

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a new City Charter provision is expected to have an associated fiscal cost, again depending on specific council direction.

ORDINANCE NO. G-5780

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE I TO INCLUDE DISABILITY, SEXUAL ORIENTATION, AND GENDER IDENTITY OR EXPRESSION AS PROTECTED CATEGORIES FOR EMPLOYMENT AND PUBLIC ACCOMMODATIONS; AMENDING CHAPTER 18, ARTICLE II TO INCLUDE GENDER IDENTITY OR EXPRESSION AS A PROTECTED CATEGORY FOR CITY EMPLOYMENT, AMENDING CHAPTER 18, ARTICLE III TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION AS PROTECTED CATEGORIES FOR FAIR HOUSING, AMENDING ARTICLE IV TO REQUIRE CONTRACTORS DOING BUSINESS WITH THE CITY WHO HAVE THIRTY-FIVE OR MORE EMPLOYEES NOT TO DISCRIMINATE ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION, AND AMENDING ARTICLE V TO REQUIRE CONTRACTORS DOING BUSINESS WITH THE CITY WHO HAVE THIRTY-FIVE OR MORE EMPLOYEES NOT TO DISCRIMINATE ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows.

SECTION 1. Article I. In General is amended to read

18-1 Declaration of policy.

It is declared to be among the civil rights of the people of the City of Phoenix, Arizona, to be free from discrimination in public accommodations and employment, and for it to be contrary to the policy of the City and unlawful to discriminate against any person because of race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR

DISABILITY in places of public accommodation and employment and it is contrary to the policy of the City of Phoenix and is unlawful for employers doing business with the City of Phoenix that are vendors, suppliers or contractors and employ more than thirty-five persons to discriminate against any person because of sexual orientation OR GENDER IDENTITY OR EXPRESSION

18-2 Administrative provisions.

A *Powers and duties of Phoenix Commission on Human Relations and Equal Opportunity Department.*

1. There is created the Phoenix Commission on Human Relations. The Commission shall be composed of not less than nine nor more than 17 members appointed by the Mayor and City Council Each member shall serve a term of three years with one-third of the terms expiring on June 30 of each year.

2. The Mayor and City Council shall appoint a Chairperson for the Commission. The Chairperson shall appoint a Vice-Chairperson. The Vice-Chairperson shall act as Chairperson in the absence or disability of the Chairperson, or in the event of a vacancy in that office.

3 A majority of the serving members shall constitute a quorum except that if the chairman appoints a committee of the Commission, a majority of the members of the committee shall constitute a quorum of the committee. The concurrence of a majority of the members when in session as a Commission shall constitute an act of the Commission.

4. All recommendations of the Commission shall be filed with the Equal Opportunity Department and upon such filing shall be deemed public records of the City

5 The Phoenix Commission on Human Relations shall:

a Make periodic surveys of the existence and effect of discrimination in the City of Phoenix because of race, color, religion, sex, national origin, marital status, ~~and~~ sexual orientation, AND GENDER IDENTITY OR EXPRESSION in public accommodations and employment.

b. Foster positive intergroup relations and the elimination of discrimination based on race, color, religion, sex, national origin, marital status, ~~and~~ sexual orientation, AND GENDER IDENTITY OR EXPRESSION.

c Publish the results of such studies, investigations and research as, in its judgment, will tend to promote good will and the elimination of discrimination

d Counsel and provide such information to persons subject to the provisions of this chapter as may be reasonably necessary to further comply with the provisions of this chapter.

e. Plan, coordinate and conduct information, education and awareness programs.

f Plan, coordinate and conduct programs to eliminate discrimination and racism.

g. Establish committees appointed by the Chairman of the Commission from its membership and the community at large to assist the Commission in the execution of its duties.

h. At least once a year, report on its activities to the City Council.

6 The authority and responsibility for administering this chapter rests with the Director of the Equal Opportunity Department

a. The Equal Opportunity Director may delegate his or her functions, duties and powers as they pertain to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this chapter.

b The Equal Opportunity Director shall administer programs and activities relating to discrimination in public accommodations and employment in such a manner as to further the purposes of this article.

7. In exercising the authority granted under this chapter the Equal Opportunity Director may:

a. Make studies with respect to the nature and extent of discriminatory practices in Phoenix.

b. Publish and disseminate reports, recommendations and information derived from such studies.

c Cooperate with and render technical assistance to federal, State, local and other public or private agencies, organizations and institutions which formulate or carry out programs to prevent or eliminate discriminatory practices.

d. After notice and hearing, adopt, amend or rescind procedural rules and regulations to carry out the provisions of this chapter

e Conduct fact-finding conferences to aid any investigations or inquiry

f. Issue administrative subpoenas to any person, on his or her own initiative or upon application of any party to a proceeding, ordering the attendance and testimony of witnesses or requiring the production for examination of documents relating to any matter pursuant to this chapter.

g. Subject to the provisions and restrictions of this chapter, cooperate with and enter into agreements with the United States Equal Employment Opportunity Commission, United States Department of Housing and Urban Development and agencies of the United States or the State of Arizona interested in practices governed by this chapter, accept funds from such agencies and carry out and perform the covenants and conditions of any written agreement with such agencies not inconsistent with the provisions of this article

B *Powers and duties of the City Attorney.* The City Attorney is empowered to take all necessary action in the appropriate court to secure the production of all records, documents, or other evidence necessary to assist the Equal Opportunity Department in carrying out the provisions of this article.

18-3 Definitions.

In this ~~article~~ CHAPTER, unless the context otherwise requires·

Age means individuals who are 40 years of age or older.

Complainant means a person, including the Equal Opportunity Department, who files a complaint under this article

Commission means the Phoenix Commission on Human Relations

Department means the City of Phoenix Equal Opportunity Department

DISABLED INDIVIDUAL MEANS FOR THE PURPOSE OF THIS CHAPTER AS APPLICABLE TO EMPLOYERS OR EMPLOYMENT PRACTICES, A DISABLED INDIVIDUAL IS A PERSON WITH A PHYSICAL IMPAIRMENT WHO, WITH REASONABLE ACCOMMODATIONS, IS CAPABLE OF PERFORMING THE ESSENTIAL FUNCTIONS OF THE PARTICULAR JOB IN QUESTION WITHIN THE NORMAL OPERATION OF THE EMPLOYER'S BUSINESS IN TERMS OF PHYSICAL REQUIREMENTS, EDUCATION, SKILL AND EXPERIENCE.

DISABILITY MEANS WITH RESPECT TO AN INDIVIDUAL, EXCEPT ANY IMPAIRMENT CAUSED BY CURRENT USE OF ILLEGAL DRUGS, ANY OF THE FOLLOWING: A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES OF THE INDIVIDUAL, A RECORD OF SUCH PHYSICAL OR MENTAL IMPAIRMENT, OR BEING REGARDED AS

HAVING SUCH PHYSICAL OR MENTAL IMPAIRMENT. DISABILITY AND DISABILITY DISCRIMINATION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 (AS AMENDED), THE FEDERAL REGULATIONS PROMULGATED THEREUNDER, AND JUDICIAL DECISIONS CONSTRUING THEM.

Discriminate or discrimination means to make, directly or indirectly, any distinction with respect to any person or persons based on race, color, religion, sex, national origin, age, genetic information, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

Employee means any individual employed for pay to perform services for an employer covered by this article and whose activities are controlled and directed by the employer for whom the services are being performed.

Employer means a person DOING BUSINESS WITHIN THE CITY OF PHOENIX who has one or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such person but, for purposes of this article, the term does not include·

a The United States or any department or agency thereof, a corporation wholly owned by the government of the United States, or an Indian tribe.

b. The State of Arizona or any department or agency thereof, the City of Phoenix or any political subdivision of the State, including any community college district or high school or common school district.

c. A bona fide private membership club (other than a labor organization) which is exempt from taxation under the Internal Revenue Code of 1986

Employment agency means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for individuals opportunities to work for an employer and includes the employees of an employer charged with that responsibility.

Financial institution means any person or organization engaged in the business of lending money or guaranteeing loans

GENDER MEANS THE SOCIALLY CONSTRUCTED ROLES, BEHAVIORS, CHARACTERISTICS, OR ATTRIBUTES ASSOCIATED WITH MASCULINITY OR FEMININITY.

GENDER IDENTITY OR EXPRESSION MEANS AN INDIVIDUAL'S SELF-IDENTIFICATION AS MALE, FEMALE, OR SOMETHING IN BETWEEN, AND SHALL INCLUDE THE INDIVIDUAL'S APPEARANCE, MANNERISMS, OR OTHER

CHARACTERISTICS ONLY INSOFAR AS THEY RELATE TO GENDER, WITH OR WITHOUT REGARD TO THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH

Genetic information means information about an individual's genetic tests or the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual or a member of an individual's family Genetic information does not include information that an individual currently has a disease or disorder It does not include information about the sex or age of an individual or the individual's family members Genetic information also does not include tests for alcohol or drug use

Genetic test means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. It does not include an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes, or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

Labor organization means any person, group of persons or organizations which is constituted for the purpose, either in whole or in part, of collective bargaining, dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or any other terms or conditions of employment, any person, group of persons or organizations participating in the hiring or referring for hire of any person, receiving applications for apprenticeship, participating in or conducting an apprenticeship program; and any conference, general committee, joint or system board or joint council so engaged which is subordinate to a national or international labor organization.

Marital status means unmarried, married, separated, widowed or divorced

National origin pertains to the country or nation of origin of an individual or any of his or her forebears and also includes characteristics generally identified with persons so originating.

Person means an individual or group of one or more individuals such as but not limited to labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy or receivers, and any other commercial entity as well as an individual of flesh and blood. The term "persons," when applied to any of the foregoing, includes members, representatives, officers and directors, agents, owners, lessees, operators, proprietors, managers, superintendents, and employees.

Places of accommodation means all public places of entertainment, amusement or recreation, all public places where food or beverages are sold, public places operated for the lodging of transients or for the benefit, use or accommodation of those seeking

health or recreation and all establishments offering their services, facilities or goods to or soliciting patronage from the members of the general public Any dwelling, any private club or any place which is in its nature distinctly private is not a place of public accommodation

REASONABLE ACCOMMODATION MEANS AN ACCOMMODATION WHICH DOES NOT: (1) UNDULY DISRUPT OR INTERFERE WITH THE EMPLOYER'S NORMAL OPERATIONS; (2) THREATEN THE HEALTH OR SAFETY OF THE DISABLED INDIVIDUAL OR OTHERS; (3) CONTRADICT THE BUSINESS NECESSITY OF THE EMPLOYER, (4) IMPOSE UNDUE HARDSHIP ON THE EMPLOYER BASED ON THE SIZE OF THE EMPLOYEES BUSINESS, THE TYPE OF BUSINESS, FINANCIAL RESOURCES OF THE EMPLOYER AND THE ESTIMATED COST AND EXPENSE OF THE ACCOMMODATION

Religion means all aspects of religious observance and practice as well as belief.

Respondent means the person accused of a violation in a complaint filed under this article.

Sex ~~shall include, but is not limited to,~~ MEANS BIOLOGICAL OR ANATOMICAL SEX AS MALE OR FEMALES AS DESIGNATED AT BIRTH AND SHALL BE INTERPRETED BROADLY TO INCLUDE all distinctions based on gender, pregnancy, childbirth or related medical conditions.

Sexual orientation means ~~actual or perceived human male or female heterosexual, homosexual or bisexual orientation. The sexual orientation described herein must be between consenting adults.~~ AN ENDURING PATTERN OF EMOTIONAL, ROMANTIC, OR SEXUAL ATTRACTIONS TO MEN, WOMEN, OR BOTH SEXES AS WELL AS THE GENDERS THAT ACCOMPANY THEM AND SHALL INCLUDE DISCRIMINATION BASED UPON THE IDENTIFICATION, PERCEPTION, OR STATUS OF AN INDIVIDUAL'S SAME-SEX, OPPOSITE-SEX, OR BISEXUAL ORIENTATION.

18-4 Prohibited acts.

A *Discrimination in employment.*

1. Nothing contained in this article shall be interpreted to require that the less qualified be preferred over the better qualified because of race, color, religion, sex, national origin, age, genetic information, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

2 It is an unlawful employment practice for an employer:

a To fail or refuse to hire or to discharge or otherwise to discriminate against any individual with respect to compensation, terms, conditions or

privileges of employment because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

b To limit, segregate or classify employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

c To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of any right granted or protected by this article, or on account of his or her having exercised or enjoyed, or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.

d To discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs.

3 It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

4. It is an unlawful employment practice for a labor organization:

a. To exclude or to expel from its membership or otherwise to discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

b. To limit, segregate or classify its membership or applicants for membership or to fail or refuse to refer for employment or otherwise discriminate against or adversely affect an individual's status as an employee or as an applicant for employment because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

c. To cause, or attempt to cause, an employer to discriminate against an individual in violation of this section

d. To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of, or having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

e. To discriminate against any individual because of such individual's race, color, religion, sex, national origin, age, genetic information, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs

5. In addition to the provisions contained in section 18-4(a)(1) through section 18-4(a)(4), it is an unlawful employment practice for employers that are vendors, suppliers, or contractors doing business with the City of Phoenix which employ more than thirty-five persons:

a. To fail or refuse to hire or to discharge or otherwise to discriminate against any individual with respect to compensation, terms, conditions of privileges of employment because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION.

b. To limit, segregate or classify employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION.

c. To coerce, intimidate, threaten or interfere with any person in the exercise of or enjoyment of any right granted or protected by this article, or on account of his or her having exercised or enjoyed, or having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article

d. To discriminate against any individual because of such individual's sexual orientation OR GENDER IDENTITY OR EXPRESSION in admission to or employment in any apprenticeship or other training or retraining programs, including on-the-job training programs.

6. WITH RESPECT TO EMPLOYMENT, DISABILITY DISCRIMINATION INCLUDES

I. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;

II. FAILURE TO PROVIDE A REASONABLE ACCOMMODATION; OR

III UTILIZING QUALIFICATIONS, STANDARDS, OR OTHER SELECTION CRITERIA THAT SCREEN OUT DISABLED

INDIVIDUALS UNLESS THE CRITERIA ARE JOB RELATED AND CONSISTENT WITH BUSINESS NECESSITY.

~~6~~ 7. It is an unlawful practice for any person to aid, abet, incite, compel or coerce any employer to commit an act prohibited under this article.

~~7~~ 8. *Exemptions.* Notwithstanding any other provisions of this chapter, it is not an unlawful employment practice:

a. For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or classify or refer for employment any individual, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining program to admit or employ any individual in any such program, on the basis of the individual's race, color, religion, sex, national origin, age, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY, in those certain instances when race, color, religion, sex, national origin, age, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise

b For a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or institution of learning is in whole or in substantial part owned, supported, controlled or managed by a particular religion or religious corporation, association or society, or if the curriculum of such school, college, university or other educational institution of learning is directed toward the propagation of a particular religion as long as the position in question is one whose purpose is to further the propagation of that religion.

c For an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority system, merit system, or any other system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, national origin, age, genetic information, marital status, ~~or~~ sexual orientation, GENDER IDENTITY OR EXPRESSION, OR DISABILITY.

d For an employer to use marital status as a factor in determining eligibility for participation in employee benefit programs

~~8~~ 9. *Religious exemptions.* Notwithstanding any other provision of this chapter, the prohibitions concerning marital status, ~~or~~ sexual orientation, OR GENDER

IDENTITY OR EXPRESSION shall not apply to bona fide religious organizations. The provisions of this chapter prohibiting discrimination on the basis of marital status, ~~or~~ sexual orientation, OR GENDER IDENTITY OR EXPRESSION shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from taking any action with respect to matters of employment which is calculated by the organization to promote the religious principles for which it is established or maintained.

B. *Discrimination in public accommodations*

1 Discrimination in places of public accommodation against any person because of race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY is contrary to the policy of the City of Phoenix and shall be deemed unlawful.

2. No person shall, directly or indirectly, refuse, withhold from, or deny to any person, or aid in or incite such refusal, denial or withholding of accommodations, advantages, facilities or privileges thereof because of race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY nor shall distinction be made with respect to any person based on race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY in connection with the price or quality of any item, goods or services offered by or at any place of public accommodation

3. It is unlawful for any owner, operator, lessee, manager, agent or employee of any place of public accommodation to directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service shall be refused or restricted because of race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY or that any person, because of race, color, religion, sex, national origin, ~~or~~ marital status, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR DISABILITY would be unwelcome, objectionable, unacceptable, undesirable or not solicited

4. *Exemptions.*

A Notwithstanding any other provision of this chapter, the prohibitions concerning marital status, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION shall not apply to bona fide religious organizations. The provisions of this section prohibiting discrimination on the basis of marital status, SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or

educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from taking any action which is calculated by the organization to promote the religious principles for which it is established or maintained.

B NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, THE PROHIBITIONS CONCERNING DISABILITY SHALL NOT REQUIRE MODIFICATIONS:

I. THAT WOULD CREATE AN UNDUE BURDEN OR ARE OTHERWISE NOT EASILY ACCOMPLISHED AND ABLE TO BE CARRIED OUT WITHOUT SIGNIFICANT DIFFICULTY OR EXPENSE,

II. THAT WOULD FUNDAMENTALLY ALTER THE NATURE OF THE GOODS OR SERVICES PROVIDED BY THE PUBLIC ACCOMMODATION; OR

III. THAT WOULD POSE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHERS THAT CANNOT BE MITIGATED BY THE APPROPRIATE MODIFICATIONS IN THE PUBLIC ACCOMMODATION'S POLICIES OR PROCEDURES.

18-5 Filing of complaint; initiation of action; notice to parties; findings; mediation or conciliation; subpoena power; conciliation agreements; jurisdiction.

A. *Filing of complaint.* Any person claiming to be aggrieved by an alleged violation of this article shall file a complaint with the Equal Opportunity Department within one hundred eighty days after the occurrence of the alleged unlawful discriminatory practice A complaint is deemed filed upon receipt by the Equal Opportunity Department from or on behalf of a person claiming to be aggrieved or, if filed by a member of the Equal Opportunity Department, when executed by such member upon oath or affirmation. A complaint shall be filed upon oath or affirmation and shall contain such information, including the date, place and circumstances of the alleged unlawful practice, and be in such form as the Equal Opportunity Department requires. ~~During such hours as the office of the Equal Opportunity Department is not open, a person claiming to be aggrieved by violation of this article may report such complaint to the Phoenix Police Department or its members and the Phoenix Police Department shall forward a report of such complaint to the Phoenix Equal Opportunity Department~~

B *Initiation of action.* The Equal Opportunity Department may initiate action under this chapter when it believes a violation has occurred

C *Notice to parties.* Whenever a complaint is filed by or on behalf of a person claiming to be aggrieved or by a member of the Equal Opportunity Department, referred to as the complainant, alleging that a person has engaged in a practice unlawful by this

article, the Department shall serve a copy of the complaint on such person alleged to have committed the unlawful practice, referred to as the respondent, within ten days and shall make an investigation of the complaint and/or attempt resolution of the complaint through the process of persuasion, conciliation or mediation. The Equal Opportunity Department shall report the results of its investigation and its findings no later than two hundred forty days after the complaint is filed with the Equal Opportunity Department

D. *Findings.*

1 *No cause findings.* If the Equal Opportunity Department determines that reasonable cause does not exist to believe that a violation of this article has occurred, the Department shall notify the parties of its decision by a copy of the determination and shall enter an order indicating the absence of reasonable cause and dismissing the complaint. The complainant shall thereafter have the right to request that the City Attorney file a criminal complaint

2 *Cause findings.* If the Equal Opportunity Department determines that reasonable cause exists to believe that a discriminatory practice has occurred, it shall enter an order containing its findings of fact and shall endeavor to eliminate the alleged unlawful practice by informal methods of conference, conciliation and persuasion Any party to such informal proceeding may be represented by counsel.

E. *Mediation or conciliation.* At any time, during the course of the investigation, the Department may engage in efforts to resolve the charge through persuasion, mediation or conciliation in accordance with procedures to be established by the Department. If the Department determines after preliminary investigation not to proceed or if the matter is resolved by mediation or conciliation, an order will be entered dismissing the charge

F. *Subpoena power.* If a person fails to permit access to or the examination of witnesses or the access to or duplication of records or evidence relating to a violation of this chapter, the Department may issue a subpoena requiring compliance.

G. *Conciliation agreements.* All conciliation agreements shall provide that the complainant waives, releases and covenants not to sue the respondent or claim against the respondent in any forum with respect to the matters which were alleged as filed with the Department, subject to performance by the respondent of the promises and representations contained in the conciliation agreement. The complainant or the respondent may prepare a conciliation agreement which the Department shall submit to the other party and which, if accepted by the other party, may be accepted by the Department.

H. *Jurisdiction.* The Department shall have the authority to defer any complaint filed under this article to any enforcement body having appropriate jurisdiction.

18-6 Refusal to cooperate; failure to conciliate.

If within thirty days after the Department has made a determination that reasonable cause exists to believe that a violation of this article has occurred, the Department has not accepted a conciliation agreement to which the charging party and the respondent are parties, the Department may refer the case to the City Attorney for criminal prosecution.

18-7 Penalties.

A *Criminal sanctions.* Upon conviction of each violation of any provisions of this article not otherwise provided for, the person so convicted shall be guilty of a Class 1 misdemeanor

B. *Sole and exclusive remedies.* It is the intent of this article that the remedies described herein shall constitute the sole and exclusive remedies for violations under this article and no additional cause of legal action is deemed created hereby.

18-8 Conciliation agreement violations.

If the Equal Opportunity Department and a person accused of a violation of this chapter shall reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of said conciliation agreement, it shall be as if such agreement had never been executed In such event, the Equal Opportunity Department may issue a finding based on the evidence received and refer the case to the Phoenix City Attorney The Phoenix City Attorney may file criminal charges as are proper under the City Code, and further may take such other civil or criminal action as may be permitted under the Arizona Revised Statutes

18-9 Construction of ordinance.

The provisions of this ordinance shall be construed for the accomplishment of the purposes hereof Nothing herein shall be construed to limit civil rights granted or afforded by the laws of the United States government or of the State of Arizona.

18-9.01 Effect of state and federal laws.

Nothing in this ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the United States or the State of Arizona. Any remedies provided by this ordinance shall be cumulative with any other remedies provided by the State or federal law.

Nothing in this ordinance shall be deemed to prohibit any act which is required or to permit any act which is prohibited by the laws of the United States or the State of Arizona.

18-9.02 Severability.

If any provision or section of this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision or section shall be considered separately and apart from the remaining provisions or sections, which shall remain in full force and effect

SECTION 2. Article II. Sexual Orientation Nondiscrimination is amended to read.

18-10.01 City employment.

The City of Phoenix shall not refuse to hire any person or to bar or discharge from employment such person, or to discriminate against such person in compensation, conditions or privileges of employment, on the basis of sexual orientation OR GENDER IDENTITY OR EXPRESSION.

18-10.02 City services.

The City of Phoenix shall not deny any City service to any person on the basis of such person's sexual orientation OR GENDER IDENTITY OR EXPRESSION.

18-10.03 Enforcement.

The City Manager shall adopt appropriate administrative regulations to enforce this article

SECTION 3 Article III Fair Housing is amended to read:

18-11 Declaration of policy.

It is the intent of the City of Phoenix to undertake vigorous steps to provide equal opportunity in housing; resolve housing discrimination disputes at the local level in a timely, cost efficient and effective manner, extend housing discrimination protection ~~to the handicapped~~ BASED UPON DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, and TO families with children; exempt housing for the elderly from the provisions prohibiting discrimination against families with children provided that owners, managers and communities meet stated requirements; obtain substantial equivalency with the federal government's housing and discrimination enforcement efforts and enter into intergovernmental agreements with the State of Arizona Attorney General

18-11.01 Definitions.

In ADDITION TO THE DEFINITIONS SET FORTH IN 18-3, IN this article, unless the context otherwise requires:

~~1.~~ *Aggrieved person* includes any person who either.

(a) Claims to have been injured by a discriminatory housing practice.

(b) Believes that he will be injured by a discriminatory housing practice that is about to occur.

~~2~~ *Attorney General* means the State of Arizona Attorney General.

~~3.~~ *Complainant* means a person, including the City of Phoenix who files a complaint under section 18-11.24

4. *Conciliation* means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the respondent and the City of Phoenix.

~~5~~ *Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.

~~6~~ *Director* means the Director of the City of Phoenix Equal Opportunity Department

~~7.~~ *Discriminatory housing practice* means an act prohibited by sections 18-11 16 through 18-11 23

~~8.~~ *Dwelling* means either:

(a) Any building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one or more families.

(b) Any vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described by subdivision (a) of this paragraph.

~~9.~~ *Family* includes a single individual.

~~10 *Handicap* means a mental or physical impairment that substantially limits at least one major life activity, a record of such an impairment or being regarded as having such an impairment. Handicap does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. Handicap shall be defined as the term is defined by the Americans with Disabilities Act of 1990 (P.L. 101-336).~~

~~11. *Person* means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, receivers, fiduciaries, banks, credit unions and financial institutions.~~

~~12.~~ *Respondent* means either:

(a) The person accused of a violation of this article in a complaint of a discriminatory housing practice.

(b) Any person identified as an additional or substitute respondent under section 18-11.27 or an agent of an additional or substitute respondent.

~~13.~~ *To rent* includes to lease, to sublease, to let or to otherwise grant for a consideration the right to occupy premises not owned by the occupant

18-11.02 Discrimination due to familial status.

In this article, a discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

1. Pregnant.

2. Domiciled with an individual younger than eighteen years of age in regard to whom the person either

(a) Is the parent or legal custodian.

(b) Has the written permission of the parent or legal custodian for domicile with that person

3. In the process of obtaining legal custody of an individual younger than eighteen years of age.

18-11.03 Exempt sales and rentals.

A Except as provided in subsection B of this section, sections 18-11 16 through 18-11 23 do not apply to:

(1) The sale or rental of a single-family house sold or rented by an owner if.

(a) The owner does not:

(i) Own more than three single-family houses at any one time.

(ii) Own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time.

(b) The house was sold or rented without either

(i) The use of the sales or rental facilities or services of a real estate broker, agent or salesman licensed pursuant to A.R.S. § 32-2101 et seq or the use of an employee or agent of a licensed broker, agent or salesman or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families.

(ii) The publication, posting or mailing of a notice, statement or advertisement prohibited by section 18-11 17

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

B. The exemption in subsection A, paragraph 1 of this section applies to only one sale or rental in a twenty-four-month period if the owner was not the most recent resident of the house at the time of the sale or rental

18-11.04 Religious organization and private club exemption.

A. This article does not prohibit a religious organization, association or society or a nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from

1 Limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion

2. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color or national origin.

B This article does not prohibit a private club that is not open to the public and that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

18-11.05 Housing for older persons exempted; definition; rules.

A The provisions of this article relating to familial status do not apply to housing for older persons

B. In this section, "housing for older persons" means housing that

1. Is specifically designated by the U.S. Department of Housing and Urban Development as housing for older persons, or

2 Is intended for, and solely occupied by, persons sixty-two years of age or older; or

3. Is intended for and operated for occupancy by at least one person fifty-five years of age or older per unit.

C The Director may adopt rules setting forth criteria for housing older persons. The rules adopted for subsection B, paragraph 3 shall require the following factors

1 That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit.

2 The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older. Rules adopted establishing compliance with this paragraph shall be consistent with federal fair housing regulations.

D A person shall not be held personally liable for monetary damages under chapter 18, article III, if the person relied in good faith that the housing was exempt from this article because it was housing for older persons as defined under subsection B, paragraph 3 of this section. For the purposes of this subsection, a person may only demonstrate good faith reliance on the exemption from the provisions of this article if both

1 The person has no actual knowledge that the facility or community does not, or will not qualify as housing for older persons as defined under subsection b, paragraph 3 of this section

2. The facility or community has formally stated in writing that the facility or community is housing for older persons as defined under subsection b, paragraph 3 of this section

18-11.06 Appraisal exemption.

This article does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

18-11.07 Effect on other law.

A. This article does not affect a reasonable local or State restriction on the maximum number of occupants permitted to occupy a dwelling or a restriction relating to health or safety standards

B This article does not affect a requirement of nondiscrimination in any other State or federal law.

18-11.08 Administration by Director.

The Director shall administer this article in consultation with the City Attorney's office

18-11.09 Rules.

The Director may adopt interpretive and procedural rules necessary to implement this article.

18-11.10 Complaints.

The Director shall receive, investigate, seek to conciliate and act on complaints alleging violations of this article

18-11.11 Reports; studies.

A The Director shall publish annually a written report which shall contain, for the preceding fiscal year, the following information:

1. The number of complaints initiated by the Director

2. The number of complaints filed with the Directory by aggrieved persons.

3. The number of complaints dismissed by the Director.

4. The number of complaints that resulted in conciliation agreements.

5 The number of complaints for which the Director and the City Attorney found reasonable cause that a discriminatory housing practice occurred or was about to occur.

6 The number of civil actions filed by the City Attorney pursuant to section 18-11.36

B. The report shall include a description of the relief awarded in civil actions and, without attribution, benefits to complainants agreed to in conciliation agreements. The report shall also include the number of instances in the preceding fiscal year, and the reasons thereforE, but without attribution to parties, the number of investigations that were not completed within the time periods provided by section 18-11.26, subsection B or a determination made pursuant to section 18-11.31, subsection B.

C. The Director may make studies relating to the nature and extent of discriminatory housing practices in the City of Phoenix.

18-11.12 Cooperation with other entities.

The City of Phoenix shall cooperate with federal and State fair housing agencies and, as appropriate, may provide technical and other assistance to federal, State, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices

18-11.13 Subpoenas; discovery.

The Director may issue subpoenas and compel the production of documents and giving of testimony, as provided by section 18-11 14.

18-11.14 Right to examine and copy evidence; summoning witnesses and documents and taking testimony; right to counsel, court aid; process; service and return; fees of witnesses.

A. In connection with the investigation of a charge filed under this article, the Director, or a duly authorized employee, shall at all reasonable times have access to, for the purpose of examination, and have the right to copy any evidence of any person being investigated, provided such evidence relates to unlawful practices covered by this article and is relevant to the charge under investigation.

B. For the purpose of all hearings and investigations conducted by the City of Phoenix:

1. The Director, on his/her own initiative, or upon application of any party to the proceeding, may issue subpoenas compelling the attendance and testimony of witnesses or requiring the production for examination or copying of documents provided such evidence relates to unlawful practices as covered by this article and is relevant to the charge which is the subject matter of the hearing or investigation. Within five days after the service of a subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Director to revoke, limit or modify the subpoena. The Director shall revoke, limit or modify such subpoena if in his/her opinion the evidence required does not relate to unlawful practices covered by this article, is not relevant to the charge which is the subject matter of the hearing or investigation, does not describe with sufficient particularity the evidence whose production is required, or is unduly burdensome or oppressive. The Director, or his/her duly authorized employee, may administer oaths or affirmations, examine witnesses and receive such evidence.

2. Any person appearing before the Director, or his/her duly authorized employee, shall have the right to be represented by counsel.

3. The Superior Court, upon application by the City Attorney or by the person subpoenaed, shall have jurisdiction to issue an order (a) requiring such person to appear before the Director, or his/her duly authorized employee, to produce evidence

relating to the matter under investigation if so ordered, or (b) revoking, limiting or modifying the subpoena or conditioning issuance of the subpoena upon payment of costs or expenses incurred to comply with the subpoena if in the court's opinion the evidence required does not relate to unlawful practices covered by this article, is not relevant to the charge which is the subject matter of the hearing or investigation, does not describe with sufficient particularity the evidence whose production is required or is unduly burdensome or oppressive. Any failure to obey such order of the court may be punished by such court as a contempt

4. Charges, orders and other process and papers of the Director, or his/her duly authorized employee, may be served either personally or by registered mail. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of service. The return post office receipt, when registered and mailed as provided in this paragraph shall be proof of service Witnesses subpoenaed shall be paid the same fees and mileage that are paid witnesses in the Superior Court and witnesses whose depositions are taken and the persons taking the same shall be entitled to the same fees as are paid for like service in the Superior Court

18-11.15 Cooperation with other agencies.

The City of Phoenix may apply for recognition by the United States Department of Housing and Urban Development as having adopted an ordinance providing fair housing rights and remedies that are substantially equivalent to those granted under federal law and enter into an intergovernmental agreement with the Attorney General.

18-11.16 Discrimination in sale or rental.

A A person may not refuse to sell or rent after a bona fide offer has been made or refuse to negotiate for the sale of or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental, because of race, color, religion, sex, DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

C. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

18-11.17 Publication of sales or rentals.

A person may not make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling

that indicates any preference, limitation or discrimination based on race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION or an intention to make such a preference, limitation or discrimination.

18-11.18 Inspection of dwelling.

A person may not represent to any person because of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION that a dwelling is not available for inspection for sale or rental if the dwelling is available for inspection.

18-11.19 Entry into neighborhood.

A person, for profit, may not induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION

18-11.20 Prohibition of intimidation.

A person may not coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section and sections 18-11.16, 18-11.17, 18-11.18, 18-11.19, 18-11 21, 18-11.22 and 18-11 23.

18-11.21 Discrimination due to ~~handicap~~ DISABILITY; definition.

A. A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a ~~handicap~~ DISABILITY of·

1. That buyer or renter.

2. A person residing in or intending to reside in that dwelling after it is sold, rented or made available

3. A person associated with that buyer or renter.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a ~~handicap~~ DISABILITY of:

1. That person.

2. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available.

3. A person associated with that person.

C. Compliance with the appropriate requirements of the fair housing accessibility guidelines established by the United States Department of Housing and Urban Development satisfies the requirements of subsection E, paragraph 3, subdivision (c).

D Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

E. For purposes of this section, "discrimination" includes·

1. A refusal to permit, at the expense of the ~~handicapped~~ DISABLED person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that, in the case of a renter, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing, to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted

2. A refusal to make reasonable accommodations in rules, policies, practices or services if the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the federal Fair Housing Amendments Act of 1988 (P.L. 100-430), a failure to design and construct those dwellings in a manner that includes all of the following:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by ~~handicapped~~ DISABLED persons.

(b) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by ~~handicapped~~ DISABLED persons in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations

(iii) Reinforcements in bathroom walls to allow later installation of grab bars

(iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

F. As used in this section, "covered multifamily dwellings" means buildings consisting of four or more units if the buildings have one or more elevators and ground floor units in other buildings consisting of four or more units

18-11.22 Residential real estate related transaction; definition.

A. A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION

B. In this section, "residential real estate related transaction" means:

1. Making or purchasing loans or providing other financial assistance either.

(a) To purchase, construct, improve, repair or maintain a dwelling.

(b) To secure residential real estate

2. Selling, brokering or appraising residential real property.

18-11.23 Brokerage services.

A person may not deny any person access to, or membership or participation in, a multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or may not discriminate against a person in the terms or conditions of access, membership or participation in such an organization, service or facility because of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, ~~or~~ national origin, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

18-11.24 Complaints.

A The Director shall investigate alleged discriminatory housing practices. The Director, on his/her own initiative, may file such a complaint.

B A complaint shall be in writing, under oath and in the form prescribed by the Director

C. An aggrieved person may file, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, a complaint with the Director alleging the discriminatory housing practice

D. Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the Director may file his own complaint.

E A complaint may be amended at any time.

F. On the filing of a complaint the Director shall

1 Give the aggrieved person notice that the complaint has been received.

2 Advise the aggrieved person of the time limits and choice of forums under this article.

3 Not later than twenty days after the filing of the complaint or the identification of an additional respondent under section 18-11.27 serve on each respondent

(a) A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this article

(b) A copy of the original complaint

G. Notices and other documents required to be served under this article may be served as provided by section 18-11.14, subsection B, paragraph 4.

18-11.25 Answer to complaint.

A. Not later than ten days after receipt of the notice and copy under section 18-11 24, subsection F, paragraph 3, a respondent may file an answer to the complaint

B. The answer shall be in writing, under oath and in the form prescribed by the Director.

C. An answer may be amended at any time.

D. An answer does not inhibit the investigation of a complaint.

18-11.26 Investigation.

A If the federal and/or State government has referred a complaint to the Director or has deferred jurisdiction over the subject matter of the complaint to the Director, and if the Director has accepted the referral or deferral, the Director shall promptly investigate the allegations set forth in the complaint

B. The Director shall investigate all complaints and, except as provided by subsection C, shall complete an investigation not later than one hundred days after the date the complaint is filed, or if it is unable to complete the investigation within this period, shall dispose of all proceedings related to the investigation not later than one year after the complaint is filed

C. If the Director is unable to complete an investigation within the time periods prescribed by subsection B, the Director shall notify the complainant and the respondent in writing of the reasons for the delay.

18-11.27 Additional or substitute respondent.

A The Director may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the Director determines that the person should be accused of a discriminatory housing practice.

B. In addition to the information required in the notice under section 18-11.24, subsection F, paragraph 3, the Director shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent

18-11.28 Conciliation.

A The Director shall engage, to the extent feasible, in conciliation, including, if appropriate, mediation, with respect to the complaint.

B A conciliation agreement is an agreement between a respondent and the complainant and is subject to approval by the Director.

C. A conciliation agreement may provide for binding arbitration or another method of dispute resolution Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

D. A conciliation agreement shall not be made public unless all parties agree to the disclosure or the City of Phoenix determines that disclosure is necessary to further the purposes of this article.

E Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.

F. Materials in the investigative file may be disclosed to the parties to the extent reasonably necessary to further the investigation or conciliation discussions Materials in the investigative file may be disclosed to the complainant for the purpose of deciding whether to file a complaint in court and may be disclosed to the respondent for the purpose of formulating its answer. After a court action has been filed, information derived from the investigation and the final investigation report relating to the investigation shall be subject to discovery

18-11.29 Temporary or preliminary relief.

If the Director and the City Attorney conclude at any time after the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the City Attorney shall file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

18-11.30 Investigative reports.

A The Director shall prepare a final investigative report showing.

1. The names and dates of contacts with witnesses.

2. A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts.

3. A summary description of other pertinent records

4. A summary of witness statements

5 Answers to interrogatories

B. A final report under this section may be amended if additional evidence is discovered.

18-11.31 Reasonable cause determination.

A The Director shall consult with the City Attorney regarding any case in which there is evidence that a discriminatory housing practice has occurred or is about to occur. The Director and the City Attorney shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

B. The Director and the City Attorney shall make the determination under subsection A of this section not later than one hundred days after the date a complaint is filed unless either:

1. It is impracticable to make the determination.

2. The Director has approved a conciliation agreement relating to the complaint.

C. If it is impracticable to make the determination within the time period provided by subsection B of this section, the Director shall notify the complainant and respondent in writing of the reasons for the delay.

D. If the Director and the City Attorney determine that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director shall attempt for a period of not more than thirty days to effectuate a conciliation agreement. If no conciliation agreement has been reached after thirty days, the Director shall refer the case to the City Attorney. The City Attorney shall file a civil action in Superior Court, as provided in section 18-11.36

18-11.32 Dismissal of complaint.

If the Director determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Director shall promptly dismiss the complaint and give written notice of the dismissal to the complainant and respondent

18-11.33 Civil action.

A An aggrieved person may file a civil action in Superior Court not later than two years after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

B. The two-year period does not include any time elapsed between the filing of any court procedure to enforce an administrative subpoena and is not jurisdictional but is a statute of limitations subject to principles of estoppel, tolling and waiver.

C. An aggrieved person may file an action under this section whether or not a complaint has been filed under section 18-11 24 and without regard to the status of any complaint filed under section 18-11 24 The filing of an action under this section does not affect the Director's power and duty to investigate and make determinations based on the aggrieved person's administrative complaint

D. If the Director has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section with respect to the alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement

E An aggrieved person may intervene in a civil action filed by the City Attorney and based on that person's administrative complaint.

F. Any party aggrieved by any final order of the Director pursuant to the enforcement of this article shall have the right to petition the Superior Court for any such temporary relief, restraining order, or other order as the court determines is just and proper, or to affirm, modify, or set aside, in whole or in part, the order for further proceedings; or to enforce the order to the extent that the order is affirmed or modified.

G The rights granted by 42 United States Code sections 3603, 3604, 3605 and 3606 may be enforced in any civil action brought pursuant to this section.

18-11.34 Court-appointed attorney.

On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory housing practice is alleged, the Superior Court may appoint an attorney for the person

18-11.35 Relief granted.

In an action under section 18-11 33, if the Superior Court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff.

1. Actual and punitive damages

2 Reasonable attorney fees

3 Court costs.

4. A permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

18-11.36 Civil action by City Attorney.

A If the Director and the City Attorney find cause to believe that a discriminatory housing practice has occurred or is about to occur, and there is no conciliation agreement within thirty days, the City Attorney shall immediately file a civil action on behalf of the complainant in Superior Court against the respondent

B. If the Director and the City Attorney find reasonable cause to believe that a party has breached a conciliation agreement, the City Attorney shall immediately file a civil action for enforcement of the agreement

C. In an action under this section, the court may award on behalf of the complainant actual and punitive damages and may issue a permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering affirmative action, and may award court costs to the City Attorney

D. A person aggrieved by the alleged discriminatory housing practice or damaged by the alleged breach of the conciliation agreement may intervene in a civil action brought under this section.

18-11.37 Pattern or practice cases.

A The City Attorney shall file a civil action in Superior Court for appropriate relief if the City Attorney has reasonable cause to believe that either:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article.

2 A person has been denied any right granted by this article and that denial raises an issue of general public importance.

B In an action under this section the court may.

1. Award preventive relief, including a permanent or temporary injunction, restraining order or other order against the person responsible for a violation of this article as necessary to assure the full enjoyment of the rights granted by this article

2. Award other appropriate relief, including monetary damages, reasonable attorney fees and court costs

3. To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed

(a) Fifty thousand dollars for a first violation

(b) One hundred thousand dollars for a second or subsequent violation.

18-11.38 Prevailing party; fees and costs.

A court in a civil action brought under this article shall award reasonable attorney fees and costs to a prevailing plaintiff, except to the City Attorney in an action brought

under section 18-11.35. The court shall not award attorney fees to a prevailing defendant unless plaintiffs complaint was frivolous, unreasonable or without foundation.

~~**18-11.39 Effective date.**~~

~~This article is effective upon the passage of State enabling legislation that will make this ordinance valid.~~

SECTION 4. Article IV. City Construction Contractors' Equal Employment Opportunity Requirement is amended to read.

18-12 Declaration of policy.

It is the policy of the City of Phoenix that any construction contractor ("contractor") who anticipates establishing a business relationship with the City of Phoenix for contracts of ten thousand dollars or more adheres to a policy of equal employment opportunity to recruit, hire and promote regardless of race, color, religion, sex, national origin, age, or disability, and that all contractors uphold this policy with their subcontractors. CONTRACTORS WHO EMPLOY MORE THAN THIRTY-FIVE PERSONS SHALL ALSO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION IN THEIR EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

18-13 Definitions.

IN ADDITION TO THE DEFINITIONS SET FORTH IN 18-3, IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES.

~~*Age.* Age discrimination prohibitions shall apply to individuals who are at least forty years of age.~~

Business relationship. Any transaction between the City and one or more competent parties which includes, but is not limited to, bids, proposals, written quotes, contractual agreements or call for qualifications.

Construction contract. For the purposes of this article only, any contract for the construction, rehabilitation, alteration, conversion, demolition, extension or repair of buildings, utility systems, pavements, highways or other improvements to real property.

Contractor. Any person or business entity that contracts with the City of Phoenix (prime or general) to provide construction services.

~~*Department* The Equal Opportunity Department of the City.~~

~~*Disability.* A physical impairment that substantially restricts or limits an individual's general ability to secure, retain or advance in employment. Disability does not include any impairment caused by current or recent use of alcohol, drugs, controlled substances or chemical substance abuse.~~

~~*Disabled individual.* For the purpose of this article as applicable to employers or employment practices, a disabled individual is a person with a physical impairment who, with reasonable accommodations, is capable of performing the essential functions of the particular job in question within the normal operation of the employer's business in terms of physical requirements, education, skill and experience.~~

~~*Reasonable accommodation.* An accommodation which does not: (1) unduly disrupt or interfere with the employer's normal operations, (2) threaten the health or safety of the disabled individual or others; (3) contradict the business necessity of the employer; (4) impose undue hardship on the employer based on the size of the employees business, the type of business, financial resources of the employer and the estimated cost and expense of the accommodation.~~

Subcontractors. A firm, partnership, corporation or combination thereof having a direct contract with the contractor for all or any portion of the advertised work or who furnishes material worked into a special design according to the plans and specifications for such work, but not those who merely furnish equipment or materials required by the plans and specifications.

18-14 Exemption—Dollar amount.

The requirements of this article do not apply to contracts for less than ten thousand dollars

18-15 Requirements of contractors.

A. *Required contract language.*

1. The following clause is required to appear in all contracts between the City and prime contractors and contracts between the prime and subcontractors:

   Any contractor in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The contractor shall ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: Employment, promotion, demotion or transfer,

recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation, and selection for training; including apprenticeship The contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract

2 IF THE PRIME CONTRACTOR EMPLOYS MORE THAN THIRTY-FIVE EMPLOYEES, THE FOLLOWING LANGUAGE SHALL BE INCLUDED AS THE LAST SENTENCE TO THE CLAUSE ABOVE:

THE CONTRACTOR FURTHER AGREES NOT TO DISCRIMINATE AGAINST ANY WORKER, EMPLOYEE OR APPLICANT, OR ANY MEMBER OF THE PUBLIC, BECAUSE OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION AND SHALL ENSURE THAT APPLICANTS ARE EMPLOYED, AND EMPLOYEES ARE DEALT WITH DURING EMPLOYMENT WITHOUT REGARD TO THEIR SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION

B. *Documentation.* Contractors may be required to provide additional documentation to the Department verifying that a nondiscriminatory employment policy is being utilized

C *Monitoring* The Department shall monitor the employment policies and practices of contractors subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if deemed necessary.

D. *Exception federal monies.* In the event the federal government is requiring reporting, outreach, or affirmative action goals to establish or maintain eligibility for federal programs; and failure to adhere to these requirements would result in a loss of federal monies to the City, the federal requirements shall prevail.

18-16 Failure of contractor to comply.

A contractor who fails to comply with the provisions of this Article shall be subject to those sanctions allowed by law including, but not limited to, cancellation, termination, suspension of the contract, or exclusion from bidding on City contracts for a period not to exceed two years.

18-17 Administrative responsibility.

A *The Equal Opportunity Department.* The Equal Opportunity Department shall be responsible for administering the provisions of this article.

B. *City Departments.* City departments shall include the requirements of this article as expressed in Section 18-15 in all bids, proposals, written quotes, contractual agreements, or call for qualification.

C. *Federal monies.* In proposals where the federal government is requiring reporting, outreach, or affirmative action goals to establish or maintain eligibility for federal monies, the Equal Opportunity Department will evaluate the required submittal and determine whether the firm is responsive and responsible and, therefore, eligible for City business.

SECTION 5. Article V. Supplier's and Lessee's Equal Employment

Opportunity Requirements is amended to read·

18-18 Declaration of policy.

It is the policy of the City of Phoenix that Arizona and out-of-State suppliers of goods or services to the City and lessees of real property from the City for a period in excess of six months adhere to a policy of equal employment opportunity to recruit, hire and promote regardless of race, color, religion, sex, national origin, age, or disability. SUPPLIERS OR LESSEES WHO EMPLOY MORE THAN THIRTY-FIVE PERSONS SHALL ALSO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION IN THEIR EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

18-19 Definitions.

IN ADDITION TO THE DEFINITIONS SET FORTH IN 18-3, IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES·

~~*Age.* Age discrimination prohibitions shall apply to individuals who are at least forty years of age or older~~.

Business relationship Any transaction between the City and one or more parties which includes but is not limited to bids, proposals, written quotes, contractual agreements or call for qualifications.

~~*Department.* The Equal Opportunity Department of the City of Phoenix~~

~~*Disability.* A physical impairment that substantially restricts or limits an individual's general ability to secure, retain or advance in employment. Disability does not include any impairment caused by current or recent use of alcohol, drugs, controlled substances or chemical substances abuse~~

~~*Disabled individual.* For the purpose of this article as applicable to employers or employment practices, a disable individual is a person with a physical impairment who, with reasonable accommodation, is capable of performing the essential functions of the particular job in question within the normal operation of the employer's business in terms of physical requirements, education, skill and experience.~~

Goods. Equipment, goods, commodities, operating supplies purchased by the City for the daily operation of business.

Lessees For the purposes of this article, firms and/or individuals who lease real property directly from the City for a period, including renewal options, in excess of six months

~~*Reasonable accommodation* An accommodation which does not; (1) unduly disrupt or interfere with the employer's normal operations, (2) threaten the health or safety of the disabled individual or others; (3) contradict the business necessity of the employer; (4) impose undue hardship on the employer based on the size of the employer's business, the type of business, financial resources of the employer and the estimated cost and expense of the accommodation.~~

Services. Professional and nonprofessional services, including, but not limited to, employment services, technical services, computer services, maintenance contracts, architectural services, engineering services, legal services, financial services, medical services, consultant services, etc

Sole source acquisition. An acquisition when there is clear and convincing evidence that there is only one source from which the City can obtain goods or services suitable for the City's intended purpose

Suppliers. Firms, entities or individuals furnishing goods or services directly to the City.

18-20 Exemptions.

A. *Certain business transactions.* The requirements of this article do not apply to the following business transactions

1. Petty cash or canteen fund purchases or purchases within the petty cash limits as defined by the City Manager in the City's administrative regulations

2. Emergency purchases as defined by the City Manager in the City's administrative regulations.

3. Sole source purchases.

B. *Certain parties* The requirements of this article shall not apply to the following parties engaged in any business relationship with the City:

1. Governmental agencies of the United States, any state or municipality, any county or school district or other entity created under the laws of the United States, this State or any other state as a public entity

2. Property owners renting property under the provisions of the United States Housing and Urban Development Section 8 program.

3. Boards and commissions of the City, County or State.

4. Professional organizations or associations, provided that the articles of the association, incorporation, or other governing documents of such organizations or associations does not permit discrimination among their membership on the basis of race, color, religion, sex, national origin, age, ~~or~~ disability, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION

5. Nonprofit corporations formed for the express purpose of assisting the City or any other Arizona municipality in the financing of public projects, purchases or other acquisitions

C *Applicability of exemptions.* Questions regarding exemptions will be referred to and decided by the Equal Opportunity Department, with the advice of the Law Department concerning the legal status of entities described in paragraph B above

18-21 Requirements of suppliers and lessees.

A. *Required contract language.*

1. The following clause is required to appear in all contracts and leases between the City and suppliers and lessees covered by this article:

   Any supplier/lessee in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The supplier and/or lessee will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing

skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.

Supplier/lessee further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this agreement entered into by supplier/lessee

2. IF THE SUPPLIER/LESSEE EMPLOYS MORE THAN THIRTY-FIVE EMPLOYEES, THE FOLLOWING LANGUAGE SHALL BE INCLUDED AS THE LAST PARAGRAPH TO THE CLAUSE ABOVE·

   THE SUPPLIER/LESSEE FURTHER AGREES NOT TO DISCRIMINATE AGAINST ANY WORKER, EMPLOYEE OR APPLICANT, OR ANY MEMBER OF THE PUBLIC, BECAUSE OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION AND SHALL ENSURE THAT APPLICANTS ARE EMPLOYED, AND EMPLOYEES ARE DEALT WITH DURING EMPLOYMENT WITHOUT REGARD TO THEIR SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION.

B. *Documentation.* Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

C *Monitoring.* The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

18-22 Failure of suppliers or lessees to comply.

A supplier or lessee who fails to comply with the provisions of this Article shall be subject to those sanctions allowed by law, including, but not limited to, cancellation, termination, suspension of the contract or exclusion from bidding on City contracts for a period not to exceed two years.

18-23 Administrative responsibility.

A. *The Equal Opportunity Department.* The Equal Opportunity Department shall be responsible for administering the provisions of this article

B. *City departments.* City departments shall include the requirements of this article as expressed in Section 18-21 in all invitations for bids, request for proposals, requests for quotations, contractual agreements, or request for qualifications

18-24—18-99 Reserved.

PASSED by the Council of the City of Phoenix this 26th day of February, 2013.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

Acting City Attorney

REVIEWED BY

City Manager

HG/kb 1032593v1 – 2/26/13

PHOENIX

CITY COUNCIL REPORT

TO: Lisa Takata, Deputy City Manager

FROM: Lionel D. Lyons, Director
Equal Opportunity Department

SUBJECT: BACKGROUND INFORMATION FOR ITEM #2 ON THE FEBRUARY 26, 2013 CITY COUNCIL POLICY AGENDA REGARDING PROPOSED REVISIONS TO THE PHOENIX HUMAN RELATIONS ORDINANCE

This report provides background information for Item #2 on the February 26, 2013 City Council Policy Agenda regarding proposed revisions to the Phoenix Human Relations Ordinance.

THE ISSUE

The City of Phoenix Human Relations Ordinance prohibits discrimination in employment, public accommodations, housing, and certain contracts with the City. These non-discrimination provisions include the following categories:

(1) Employment and **(2)** Public Accommodations: race, color, religion, sex, national origin, age, genetic information, or marital status;

(3) Housing: race, color, religion, sex, familial status, national origin, handicap, pregnancy or domicile of a minor;

(4) City Construction Contracts and **(5)** City Supplier and Lessee Contracts: race, color, religion, sex, national origin, age, or disability.

The proposed changes will add "sexual orientation" and "gender identity or expression" to all five provisions, and also will add "disability" to provisions 1 and 2 (provisions 3 through 5 already contain disability).

The proposed amendments will not change the scope or exemptions from the current ordinances. The ordinances will continue to contain exemptions for religious organizations, small private landlords, senior housing, and private clubs, among others.

A summary of proposed ordinance amendments to Chapter 18, Sections 18-1 to 18-20, of the Phoenix City Code is presented as Attachment A.

OTHER INFORMATION

The proposed changes will add new standard definitions for protected categories:

Tucson, AZ Code of Ordinances

Chapter 17
HUMAN RELATIONS*

* **Editors Note:** Ord. No. 4169, §§ 1, and 2, adopted Apr. 15, 1974, amended this Code by repealing former ch. 17, §§ 17-1--17-6, 17-11--17-16 and 17-20--17-23, and enacting in lieu thereof new ch. 17, §§ 17-0--17-4, 17-11--17-14 and 17-20--17-23, pertaining to the same subject matter. Former ch. 17 was derived from 1953 Code, ch. 31, §§ 1--6 and the following ordinances:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
2107	1	11-7-60	3099	1	3-25-68
2121	2	12-19-60	3100	1	3-25-68
2303B	1, 2	5-28-62	3300	1	7-21-69
2630	1	6-26-64	3304	1	8-4-69
2867	1	4-25-66	3305	1	8-4-69
2872	1	5-16-66	3553	1	11-16-70
2993	1	4-10-67	3728	1--6	10-26-71
3086	1, 2	2-13-68	3975	1	1-15-73
3087	1	2-13-68			

Sec. 4 of Ord. No. 4169 provided that said ordinance shall neither add to nor detract from civil remedies now available to persons subjected to discrimination and stated that said ordinance shall not be construed to mean the city sanctions discrimination in any manner or in any place not mentioned specifically or excluded by the ordinance.

Cross References: Community services, ch. 10B.

Art. I. Short Title, § 17-0

Art. II. Declaration of Policy, §§ 17-1--17-10

Art. III. Civil Rights, §§ 17-11--17-19

Art. IV. Reserved, §§ 17-20--17-29

Art. V. Reserved, §§ 17-30--17-39

Art. VI. Reserved, §§ 17-40--17-49

Art. VII. Fair Housing, §§ 17-50--17-66

Art. VIII. Reporting Wrongful Conduct, §§ 17-67--17-69

Art. IX. Registered Civil Unions, §§ 17-70--17-78

Article I. Short Title

Sec. 17-0. Title.

Article II. Declaration of Policy

Sec. 17-1. Policy declaration.

Secs. 17-2--17-10. Reserved.

Article III. Civil Rights

Sec. 17-11. Definitions.

Sec. 17-12. Prohibited acts.

Sec. 17-13. Exclusion.

Sec. 17-14. Violation a civil infraction; procedure; penalties.

Sec. 17-15. Complaint procedures.

Sec. 17-16. Record-keeping; posting requirement; powers.

Secs. 17-17--17-19. Reserved.

Article IV. Reserved

Secs. 17-20--17-29. Reserved.

Article V. Reserved

Secs. 17-30--17-39. Reserved.

Article VI. Reserved

Secs. 17-40--17-49. Reserved.

Article VII. Fair Housing

Sec. 17-50. Definitions.

Sec. 17-51. Application.

Sec. 17-52. Discrimination in sale or rental of housing.

Sec. 17-53. Religious organization or private club exemption.

Sec. 17-54. Enforcement.

Sec. 17-55. Record-keeping; posting requirement; powers of commission or EOO.

Sec. 17-56. Violation a civil infraction; penalties; procedure.

Secs. 17-57--17-66. Reserved.

Art. VIII. Reporting Wrongful Conduct

Sec. 17-67. Reporting wrongful conduct.

Secs. 17-68, 17-69. Reserved.

Article IX. Registered Civil Unions

Sec. 17-70. Title.

Sec. 17-71. Registered civil unions defined.

Sec. 17-72. Criteria for civil union.

Sec. 17-73. Statement of civil union; additional evidence of civil union.

Sec. 17-74. Termination of civil union.

Sec. 17-75. Fees; civil union certificate.

Sec. 17-76. Rights of registered civil union partners.

Sec. 17-77. Limitation of liabilities.

Sec. 17-78. Public Records.

ARTICLE I.
SHORT TITLE

Sec. 17-0. Title.

This chapter may be cited and shall be known as the human relations chapter.

(Ord. No. 4169, § 2, 4-15-74; Ord. No. 4616, § 1, 2-7-77)

ARTICLE II.
DECLARATION OF POLICY

Sec. 17-1. Policy declaration.

It is the policy of the city to eliminate prejudice and discrimination due to race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status, in places of public accommodation, in employment, and in housing.

(Ord. No. 4169, § 2, 4-15-74; Ord. No. 4616, § 2, 2-7-77; Ord. No. 8307, § 1, 6-13-94; Ord. No. 9199, § 2, 2-1-99)

Secs. 17-2--17-10. Reserved.

ARTICLE III.
CIVIL RIGHTS*

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* **Editors Note:** Ord. No. 4616, § 3, adopted Feb. 7, 1977, specifically amended the Code by repealing former art. III, § 7-2--7-4. The article, which had pertained to the human relations commission, had been derived from Ord. No. 4169, § 2, adopted April 15, 1974.

Section 5 of Ord. No. 4616 redesignated former art. IV as art. III, as herein set out.

Sec. 17-11. Definitions.

In this chapter, unless the context otherwise requires:

(a) *Age* means at least eighteen years of age except:

(1) Where state law provides for a greater minimum or maximum legal age

(2) In section 17-12(b) which shall be deemed to protect any person who is at least forty

(40) years of age.

(b) *Discriminate* or *discrimination* means to make, directly or indirectly, any distinction with respect to any person or persons based on race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(c) *Disability,* with respect to an individual, means:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual, and specifically includes but is not limited to an individual who has HIV/AIDS;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment; but disability does not include the current illegal use of or addiction to a controlled substance (as defined in the controlled substances act, 21 U.S.C. § 801 et seq.) or the current use of alcohol that prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to the property or the safety of others.

Discrimination on the basis of disability shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the federal regulations promulgated thereunder, and judicial decisions construing them.

(d) *Educational institution* means any private educational institution located or operating in the City of Tucson which provides educational services including an academy, college, university, elementary or secondary school, kindergarten, extension course, nursery school system, and a business nursing, professional, secretarial, technical or vocational school.

(e) *Employer,* except as otherwise provided, means a person who has one (1) or more employees, not to exceed one hundred (100) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such a person; but such term does not include an Indian tribe, the City of Tucson, or a bona fide private membership club (other than a labor organization) which is exempt from federal taxation under section 501(c) of title 26, United States Code. The jurisdictional maximum limit of one hundred (100) employees shall not apply to protected classes who do not have remedies available under either A.R.S. § 41-1401 et seq., or 42 U.S.C. § 2000e et seq.

(f) *Employment agency* means and includes both public and private employment agencies and any person having an office regularly undertaking, with or without compensation, to procure, recruit, refer or place employees.

(g) *Familial status* means the state of one or more minor children under the age of eighteen (18) being domiciled with:

(1) A parent or another person having legal custody of such individual or individuals;

(2) The designee of such parent or other person having custody, with the written permission of such parent or other person; or

(3) A foster parent or other person with whom a minor child under the age of eighteen (18) is placed by court order.

The protections afforded against discrimination on the basis of family status also apply to any person who is in the process of securing legal custody of a minor child.

(h) *Gender identity* means an individual's various attributes as they are understood to be masculine and/or feminine and shall be broadly interpreted to include pre- and post-operative

transsexuals, as well as other persons who are, or are perceived to be, transgendered.

(i) *Labor organization* means and includes any organization or labor union, craft union, or such organization, conducting a hiring hall which engages in the hiring of employees, or any voluntary unincorporated association designed to further the cause of the rights of union labor, which is constituted for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or apprenticeships or applications for apprenticeships, or for other mutual aid or protection in connection with employment, including apprentice jobs or application for apprenticeship.

(j) *Marital status* means the state of being married, separated, or unmarried as defined by state law. The term "unmarried" includes persons who are single, engaged, divorced, or widowed.

(k) *Person* means and includes one or more individuals, partnerships, associations or corporations, legal representatives, trustees, receivers, or other organized groups of persons.

(l) *Reserved.*

(m) *Place of public accommodation* means facilities, establishments, accommodations, services, commodities or use offered to or enjoyed by the general public, including but not limited to:

(1) Hotels, motels, trailer courts and boardinghouses, which shall include any establishments offering lodging to transient guests for compensation.

(2) Restaurants, which shall include lunch counters, coffee shops, lunchrooms, luncheonettes, cafes, cafeterias, tearooms, snack bars or stands, mobile food service facilities, grills, sandwich shops, supper clubs, soft drink fountains, ice cream parlors or stands, and other places which offer food, ice cream or soft drink beverages for purchase and consumption on or off the premises.

(3) Taverns, which shall include bars, barrooms, saloons, roadhouses and like establishments, wherein spirituous or malt liquors or wines are offered for sale for consumption on or off the premises.

(4) Theaters, which shall include places, whether indoors or out-of-doors, at which any theatrical performance, moving picture show, musical concert or recital, dramatic reading or monologue, circus, carnival or other like entertainment or amusement is offered.

(5) Retail establishments, which shall include retail stores, garages, automobile and gasoline service stations, and other like establishments serving the public.

(6) Places of public amusement and recreation, which shall include bowling alleys, billiard halls and poolrooms, dance halls, race courses, shooting galleries, sports arenas or fields, gymnasiums, exhibitions, skating rinks and other like establishments.

(7) Educational facilities, which shall include institutions defined in paragraph (d) of this section.

(8) Public conveyances, which shall include all transportation facilities operated on land, air or water as well as the stations and terminals thereof.

(9) Funeral parlors and places of burial, including any cemetery, mausoleum, crypt, or any establishment for the embalming, processing or interment of corpses.

(n) *Protected class* means each classification for which discrimination is prohibited in this chapter: race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status and marital status.

(o) *Religion* includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he/she is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(p) *Religious organization* means a religious corporation, association or society: or a school, college, university, or other educational institution or institution of learning if the institution is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association or society; or the curriculum of the institution is directed toward the propagation of a religion.

(q) *Sex* shall include, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

(r) *Sexual orientation* means an individual's heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived.

(Ord. No. 4169, § 2, 4-15-74; Ord. No. 4616, § 5, 2-7-77; Ord. No. 6461, § 1, 7-7-86; Ord. No. 6947, § 2, 5-16-88; Ord. No. 8307, § 2, 6-13-94; Ord. No. 9199, § 3, 2-1-99; Ord. No. 10375, § 1, 2-21-07)

Sec. 17-12. Prohibited acts.

It is a violation of this article:

(a) For any owner, operator, lessee, manager, agent or employee of any place of public accommodation to discriminate against any person, or directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service shall be refused or restricted because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status, or that any person, because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status, would be unwelcome, objectionable, unacceptable, undesirable or not solicited.

(b) For an employer, because of the race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status to refuse to hire or employ any person or to bar or to discharge from employment such person, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(c) For a labor organization, because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status to exclude, expel, limit or restrict from its membership such person, or to provide only second class or segregated membership, or to discriminate in any manner against any of its members or against any employer or any person employed by an employer.

(d) For any employer or employment agency to print or circulate, or cause to be printed or circulated, any publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status or expresses any intent to make any such limitation, specification or discrimination.

(e) For any employer, labor organization or employment agency to discharge, expel or

otherwise discriminate against any person because he/she has opposed in a lawful manner any practices forbidden under this chapter, or because he/she has filed a complaint, testified or assisted in any proceeding under this chapter.

(f) For any person to cause or attempt to cause an employer to discriminate against an individual in violation of this chapter.

(g) For any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

(h) For any person to discriminate in places of public accommodation, employment or housing against any person, because that person has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this chapter.

(i) For any person subject to this article to fail to post notices, to maintain records, or to supply documents and information requested by the Office of Equal Opportunity Programs in connection with a matter under investigation.

(Ord. No. 4169, § 2, 4-15-74; Ord. No. 4616, § 5, 2-7-77; Ord. No. 6947, § 2, 5-16-88; Ord. No. 9199, § 3, 2-1-99; Ord. No. 10375, § 2, 2-21-07)

Sec. 17-13. Exclusion.

(a) This article shall not be applicable to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which preferential treatment is given to any individual because he/she is a Native American living on or near a reservation.

(b) This article shall not be applicable to any establishment operated by a bona fide private club not conducted for the purpose of evading this article, when the accommodations, advantages, facilities and services are restricted to members of such club and their guests; nor to any bona fide social, fraternal, public educational, civic or religious organization or such private club when the profits of the accommodations, advantages, facilities and services, above reasonable and necessary expenses, are solely for the benefit of such organization or club; nor, in the area of housing, (1) to the rental of housing accommodations for not more than two (2) families living independently of each other, if the lessor or a member of his/her family resides in one of the housing accommodations, or (2) to the lease or rental of sleeping facilities in any single-family housing unit if the lessor or a member of his/her family resides therein.

(c) Any person under the influence of alcohol or other drugs, or who is guilty of boisterous conduct, or who violates any regulation of any place of public accommodation that applies to all persons, regardless of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status may be excluded without penalty under this article from any such place of public accommodation; and nothing in this article shall be considered to limit the right of such exclusion.

(d) Except as provided in subsection (e) below, this article shall not be applicable to a religious organization.

(e) This article shall apply to employment or an employment opportunity with a religious organization, wherein the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the internal revenue code of 1986.

(f) Notwithstanding section 17-12, it shall not be a violation of this article:

(1) For an employer, labor organization, or employment agency to prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) For an employer, labor organization, or employment agency to require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) For an employer, labor organization, or employment agency to require that employees behave in conformance with the requirements established under the drug-free workplace act of 1988 (41 U.S.C. § 701 et seq.) or under the drug testing provisions of state law (A.R.S. § 23-493 et seq);

(4) For an employer, labor organization, or employment agency to hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee;

(5) For a place of public accommodation to afford beneficial pricing or policies to senior citizens, students, or individuals with disabilities.

(6) For a place of public accommodation to operate solely as a male-only or a female- only fitness center/gymnasium, as long as the fitness center/gymnasium does not include any of the facilities other than gymnasium listed in section 17-11(m), and does not discriminate against any other protected group identified in section 17-1.

(Ord. No. 4169, § 2, 4-15-74; Ord. No. 4616, § 5, 2-7-77; Ord. No. 5472, § 1, 12-14-81; Ord. No. 9199, § 3, 2-1-99; Ord. No. 10375, § 3, 2-21-07)

Sec. 17-14. Violation a civil infraction; procedure; penalties.

(a) It is a civil infraction for any person to violate any of the provisions of this article; however, complaints of violations of this article shall proceed as prescribed in sections 17-15 and 17-16.

(b) The following penalties shall be imposed by the city court for civil infractions under this article:

(1) A person found responsible for a civil infraction for the first time shall be fined not less than three hundred dollars ($300.00) nor more than twenty-five hundred dollars ($2,500.00) per civil infraction. a person found responsible for the same civil infraction for a second time shall be fined not less than six hundred dollars ($600.00) nor more than twenty-five hundred dollars ($2,500.00). A person found responsible for the same civil infraction for a third or subsequent time shall be fined not less than nine hundred dollars ($900.00) nor more than twenty-five hundred dollars ($2,500.00). The imposition of a fine for a civil infraction under this section shall not be suspended.

(2) Failure of a respondent to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than three hundred dollars ($300.00) nor more than twenty-five hundred dollars ($2,500.00) for each day the respondent fails to comply. A respondent's second failure to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than six hundred dollars ($600.00) nor more than twenty-five hundred dollars ($2,500.00) for each day after the first determination of the respondent's failure to comply. A respondent's third and subsequent failure to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than nine hundred dollars ($900.00) nor more than twenty-five hundred dollars ($2,500.00) for each day after the second determination of respondent's failure to comply.

(Ord. No. 6461, §§ 8, 9, 7-7-86; Ord. No. 9199, § 3, 2-1-99)

Editors Note: Ord. No. 4616, §§ 4, 5, adopted Feb. 7, 1977, specifically amended the Code by

repealing former § 17-14 and adopting in lieu thereof new § 17-14 as herein set out. Former § 17-14 had pertained to implementation of the chapter's provisions, and had been derived from Ord. No. 4169, § 2, adopted Apr. 15, 1974. Subsequently § 8 of Ord. No. 6461, adopted July 7, 1986, repealed § 17-14; and § 9 enacted a new § 17-14.

Sec. 17-15. Complaint procedures.

(a) Any person claiming to be aggrieved by an alleged violation of this article may file with the Office of Equal Opportunity Programs of the city manager's office (hereinafter referred to as the "OEOP") a verified charge, in writing, within ninety (90) calendar days after the alleged violation occurred, on such forms as may be required by the OEOP. The charge shall set forth the facts upon which it is based and shall identify the person charged (hereinafter the "respondent"). The OEOP shall furnish the respondent with a copy of the charge and shall promptly investigate the allegations of discriminatory practices set forth in the charge.

(b) The respondent may file, not later than twenty (20) days following receipt of the charge, a written verified answer to the charge.

(c) The OEOP shall render written findings as to whether there is reasonable cause to substantiate the charge not later than one hundred twenty (120) calendar days from the filing of the charge. The OEOP shall furnish a report of its findings to the charging party and to the respondent.

(d) The charging party, within thirty (30) calendar days after receiving an OEOP finding of no cause, may file with the Tucson Human Relations Commission (hereinafter referred to as the "commission"), a request for review of the finding. The commission, or such members of the commission as the chair thereof may designate, shall, not later than forty-five (45) calendar days after the request is filed, schedule a meeting to determine whether the finding of no cause issued by the OEOP should be upheld or overturned. If it is determined that the OEOP finding of no cause should be upheld, the commission shall issue an order dismissing the case and shall furnish a copy of its order to the OEOP, the charging party, and the respondent. If it is determined that the OEOP finding of no cause should be reversed, the commission shall issue an order reversing the OEOP no cause finding and remand the case back to the OEOP for appropriate action. The commission shall furnish a copy of its order to the city attorney, the OEOP, the charging party, and the respondent.

(e) If the OEOP or the commission, in the event of a request for review, finds there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, the OEOP may attempt to eliminate the alleged discriminatory practice by conference, conciliation and persuasion. The terms of a conciliation agreement may require the respondent to refrain in the future from committing discriminatory practices of the type stated in the agreement and to take such affirmative steps as the OEOP may require to carry out the purposes of this article. If a conciliation agreement is entered into, the OEOP shall issue an order stating its terms and furnish a copy of the order to the charging party and the respondent. Except for the terms of the conciliation agreement, neither the commission or the OEOP, nor any employee thereof, shall make public, without the written consent of the charging party and respondent, information concerning efforts in a particular case to eliminate a discriminatory practice by conference, conciliation or persuasion, whether or not there is a conciliation agreement.

(f) After a finding of reasonable cause by the OEOP, or by the commission in the event of a request for review and subsequent reversal of an OEOP finding of no cause, the OEOP may, in addition to the permissive remedy outlined in subsection (e), request the city attorney to file a complaint against respondent in the city court. Appeal of any judgment rendered by the magistrate shall be by way of special action to the superior court on the record as prescribed by Rule 23 of the Local Rules of Practice and Procedure in City Court Civil Proceedings.

(g) During the review process, the OEOP decision shall remain in effect.

(Ord. No. 5472, § 2, 12-14-81; Ord. No. 6461, § 3, 7-7-86; Ord. No. 7952, § 1, 11-23-92; Ord. No. 9199, § 3, 2-1-99; Ord. No. 10375, § 4, 2-21-07)

Sec. 17-16. Record-keeping; posting requirement; powers.

(a) In connection with an investigation of a charge filed under this article, the commission or the OEOP shall have access at any reasonable time to premises, records and documents relevant to the charge and the right to examine, photograph and copy evidence. The commission or the OEOP may require a respondent against whom a charge has been filed to file a statement or report in writing, under oath, as to all the facts and circumstances concerning the alleged act of discrimination set forth in the charge.

(b) Every person subject to this article shall preserve any regularly kept business records for a period of six (6) months from the date of the making of the record; such records shall include but not be limited to application forms submitted by applicants, sales and rental records, credit and reference reports, personnel records, and any other records pertaining to the status of an individual's enjoyment of the rights and privileges protected or granted under this article.

(c) Every employer, employment agency, and labor organization, subject to this article, shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.

(d) No member of the commission or employee of the OEOP shall make public with respect to a particular person, without his/her consent, information obtained by them pursuant to their authority under this article, except as required by law or as necessary to the conduct of a proceeding under this article.

(e) To accomplish the objectives and to carry out the duties prescribed in this article, the commission or the OEOP, in addition to other powers conferred upon it by this article, may:

(1) Conduct informal hearings in aid of any investigation or inquiry;

(2) Administer an oath or affirmation to any person;

(3) Issue subpoenas, interrogatories, or other discovery devices, to any person, on its own initiative or upon application of any party to a proceeding, compelling the attendance and testimony of witnesses or requiring the production of documents, provided such evidence relates to a violation of this article and is relevant to the charge which is the subject matter of the investigation.

(f) Any person being investigated by the commission or the OEOP under this article shall have the right to be represented by counsel.

(g) If a person fails to respond to a subpoena, to interrogatories, to permit access, examination, photographing or copying, or fails to make, keep, or preserve records in accordance with this article, the commission or the OEOP may issue an order requiring compliance. Upon a failure to comply with the order of the commission or the OEOP, or to obey a subpoena issued by the commission or the OEOP, the commission or the OEOP may apply to the city attorney's office for assistance. The city attorney is empowered to take all necessary action in the appropriate court, upon request of the commission or the OEOP, to secure the production of all records, documents or other evidence necessary to assist the commission or the OEOP in carrying out the provisions of this article. The city attorney is also empowered to seek fines as described in section 17-14 for civil infractions arising under this article.

(Ord. No. 5472, § 3, 12-14-81; Ord. No. 6461, §§ 4--7, 7-7-86; Ord. No. 9199, § 3, 2-1-99; Ord. No. 10375, § 5, 2-21-07)

Secs. 17-17--17-19. Reserved.

ARTICLE IV.
RESERVED*

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* **Editors Note:** Ord. No. 4616, § 6, adopted Feb. 7, 1977, specifically amended the Code by renumbering art. V, as art. IV, pertaining to discrimination in city employment and contracts. Ord. No. 7973, § 3, adopted Jan. 25, 1993, repealed this article in its entirety. Reference to discrimination in city employment and contracts can be found in chapter 28, Tucson Procurement Code.

Secs. 17-20--17-29. Reserved.

ARTICLE V.
RESERVED*

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* **Editors Note:** Article V, pertaining to affirmative action by city contractors and subcontractors, derived from Ord. No. 5472, § 4, adopted Dec. 14, 1981, and was amended by Ord. No. 6108, § 1, adopted Oct. 22, 1984. Ord. No. 7973, § 3, adopted Jan. 25, 1993, repealed this article in its entirety. Reference to affirmative action by city contractors and subcontractors can be found in chapter 28, Tucson Procurement Code.

Secs. 17-30--17-39. Reserved.

ARTICLE VI.
RESERVED*

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* **Editors Note:** Article VI, pertaining to affirmative action by city suppliers and consultants, derived from Ord. No. 5472, § 5, adopted Dec. 14, 1981, and was amended by Ord. No. 6108, §§ 5--9, adopted Oct. 22, 1984. Ord. No. 7973, § 3, adopted Jan. 25, 1993, repealed this article in its entirety. Reference to affirmative action by city suppliers and consultants can be found in chapter 28, Tucson Procurement Code.

Secs. 17-40--17-49. Reserved.

ARTICLE VII.
FAIR HOUSING

Sec. 17-50. Definitions.

As used in this article:

(a) *Discriminatory housing practice* means an act that is unlawful under section 17-52 of this article.

(b) *Dwelling* means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) *Family* includes a single individual.

(d) *Housing for older persons* means housing:

(1) Provided under any state or federal program that the U.S. secretary of housing and urban development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

(2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

(3) Intended and operated for at least one person fifty-five (55) years of age or older per unit as determined by the secretary of U.S. housing and urban development.

In determining whether housing qualifies as housing for older persons under this article, the EOO shall follow the standards set forth in the Fair Housing Act and regulations pertaining to housing for older persons as promulgated by the U.S. secretary of housing and urban development.

(e) *Person* includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(f) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-51. Application.

(a) Subject to the provisions of subsection (b) of this section and section 17-53 of this article, the prohibitions against discrimination in the sale or rental of housing set forth in section 17-52 of this article shall apply to all dwellings situated within the legal jurisdiction of the city.

(b) Nothing in this article (other than minor section (c) of section 17-52) shall apply to:

(1) Any single-family dwelling sold or rented by a private individual owner. Provided, that such private individual owner does not own more than three (3) such single-family dwellings at any one (1) time. Provided further, that in the case of the sale of any such single- family dwelling by a private individual owner not residing in such dwelling at the time of such sale or who was not the most recent resident of such dwelling prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty- four-month period. Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his/her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family dwellings at any one (1) time. Provided further, that the sale or rental of any such single-family dwelling shall be excepted from the application of this subchapter only if such dwelling is sold or rented (1) without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson and (2) without the publication, posting or mailing,

after notice, of any advertisement or written notice in violation of section 17-52 of this article; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title;

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence; or

(3) Housing for older persons.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He/she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-52. Discrimination in sale or rental of housing.

As made applicable by section 17-51 of this article and except as exempted by sections 17-51 (b) and 17-53 of this article, it shall be a violation of this article:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(d) To represent to any person because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status that any dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(f) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of

commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against such person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status of such person or of any person associated with such person in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the housing in relation to which such loan or other financial assistance is to be made or given. Provided, that nothing contained in this section shall impair the scope or effectiveness of the exceptions contained in section 17-51(b) hereof.

(g) To deny any person access to or membership or participation in any multiple- listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status.

(h) To coerce, intimidate, threaten, or interfere with any person in the exercise and enjoyment of, or on account of his/her having exercised and enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected under this article.

(i) To fail to post notices, to maintain records, or to supply documents and information requested by the EOO in connection with a matter under investigation.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-53. Religious organization or private club exemption.

Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-54. Enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he/she shall be irrevocably injured by a violation of this article that is about to occur (hereinafter "charging party") may file with the Equal Opportunity Office of the city manager's office (hereinafter referred to as the "EOO") a verified charge, in writing, within one hundred eighty (180) days after the alleged violation occurred, on such forms as may be required by the EOO. The charge shall set forth the facts upon which it is based and shall identify the person charged (hereinafter the "respondent"). The EOO shall furnish the respondent with a copy of the charge and shall promptly investigate the allegations of discriminatory practices set forth therein. The respondent may file, not later than twenty (20) days following receipt of the charge, a written verified answer to the charge. Whenever it would

be reasonable and fair to do so, the EOO shall grant leave to the charging party and respondent to file amended charges and answers thereto.

(b) The EOO shall, as promptly as possible and as far as practicable not later than sixty days (60) from the filing of the charge, render written findings as to whether there is reasonable cause to substantiate the charge. The EOO shall furnish a copy of its findings to the charging party and to the respondent.

(c) If, within sixty (60) days after a charge is filed with the EOO, the EOO has issued findings that there is no reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, the charging party may, within fifteen (15) days thereafter, file with the Tucson Human Relations Commission (hereinafter the "commission") a request for review of the findings. The commission, or such members of the commission as the chair thereof may designate, shall as promptly as possible and as far as practicable not later than forty-five (45) days after the request is filed, schedule a meeting to determine whether there is reasonable cause to believe that the respondent has engaged in a discriminatory housing practice. If it is determined that there is no reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, the commission shall issue an order dismissing the charge and furnish a copy of its order to the EOO, the charging party and the respondent.

(d) If the EOO, or the commission in the event of a request for review, finds there is reasonable cause to believe that the respondent has engaged in a discriminatory housing practice, the EOO shall promptly attempt to eliminate the alleged discriminatory practice by conference, conciliation and persuasion. The terms of a conciliation agreement may require the respondent to refrain in the future from committing discriminatory practices of the type stated in the agreement and to take such affirmative action as the EOO may require to carry out the purposes of this article. If a conciliation agreement is entered into, the EOO shall issue an order stating its terms and furnish a copy of the order to the charging party and the respondent. Except for the terms of the agreement, neither the commission or EOO nor any employee thereof shall make public, without the written consent of the charging party and respondent, information concerning efforts in a particular case to eliminate a discriminatory practice by conference, conciliation or persuasion, whether or not there is a conciliation agreement.

(e) After a finding of reasonable cause by the EOO, or by the commission in the event of a request for review, the EOO may, in addition to the remedy outlined in subsection (d) of this section, request the city attorney to file a complaint against respondent in the city court. Appeal of any judgment rendered by the magistrate shall be by way of special action to the superior court on the record as prescribed by rule 23 of the Local Rules of Practice and Procedure in City Court Civil Proceedings.

(f) At any time in its discretion, but not later than one (1) year from the date of a conciliation agreement, the EOO shall investigate whether the terms of the conciliation agreement are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the EOO shall request the commission to take appropriate action to assure compliance, which may include the issuance of a cease and desist order, or the filing of a complaint in city court.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-55. Record-keeping; posting requirement; powers of commission or EOO.

(a) In connection with an investigation of a charge filed under this article, the commission or the EOO shall have access at any reasonable time to witnesses, premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation.

(b) Every person subject to this article shall preserve any regularly kept business records for a period of six (6) months from the date of the making of the record; such records shall include but not be limited to application forms submitted by applicants, sales and rental records, credit and reference reports, and any other records pertaining to the status of an individual's enjoyment of the rights and privileges protected or granted under this article.

(c) Every person subject to this article, shall post in conspicuous places, notices setting forth the provisions of the nondiscrimination clause.

(d) It shall be unlawful for a member of the commission or an employee of the EOO to make public with respect to a particular person without his/her consent information obtained by them pursuant to their authority under this article, except as necessary to the conduct of a proceeding under this article.

(e) To accomplish the objectives and to carry out the duties prescribed in this article, the commission or the EOO, in addition to other powers conferred by this article, may:

(1) Conduct informal hearings in aid of any investigation or inquiry.

(2) Administer an oath or affirmation to any person.

(3) On its own initiative, conduct periodic tests to ascertain whether violations of this article are occurring within the city.

(4) Issue subpoenas, interrogatories or other discovery devices to any person, on its own initiative or upon application of any party to a proceedings, compelling the attendance and testimony of witnesses or requiring the production of documents, provided such evidence relates to a violation of this article and is relevant to the charge which is the subject matter of the investigation.

(f) Any person being investigated by the commission or the EOO under this article shall have the right to be represented by counsel.

(g) If a person fails to respond to a subpoena, interrogatories, to permit access, examination, photographing or copying or fails to make, keep or preserve records in accordance with this article, the commission or EOO may issue an order requiring compliance. Upon a failure to comply with the order of, or upon failure to obey a subpoena issued by the commission or EOO, the commission or EOO may apply to the city attorney's office for assistance. The city attorney is empowered to take all necessary action in the appropriate court, upon request of the commission or EOO, to secure the production of all records, documents or other evidence necessary to assist the commission or the EOO in carrying out the provisions of this article. The city attorney is also empowered to seek fines as described in section 17-56 for civil infractions arising under this article.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Sec. 17-56. Violation a civil infraction; penalties; procedure.

(a) It is a civil infraction for any person to violate any of the provisions of this article; provided, however, that complaints of violations of this article shall proceed as prescribed in section 17-54 and section 17-55.

(b) The following penalties shall be imposed by city court for civil infractions under this article:

(1) A person found responsible for a civil infraction for the first time shall be fined not less than three hundred dollars ($300.00) nor more than twenty-five hundred dollars ($2,500.00) per civil infraction. a person found responsible for the same civil infraction for a second time shall be

fined not less than six hundred dollars ($600.00) nor more than twenty-five hundred dollars ($2,500.00). A person found responsible for the same civil infraction for a third or subsequent time shall be fined not less than nine hundred dollars ($900.00) nor more than twenty-five hundred dollars ($2,500.00). The imposition of a fine for a civil infraction under this section shall not be suspended.

(2) Failure of a respondent to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than three hundred dollars ($300.00) nor more than twenty-five hundred dollars ($2,500.00) for each day the respondent fails to comply. A respondent's second failure to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than six hundred dollars ($600.00) nor more than twenty-five hundred dollars ($2,500.00) for each day after the first determination of the respondent's failure to comply. A respondent's third and subsequent failure to comply with any order contained in a judgment for a civil infraction shall result in an additional fine of not less than nine hundred dollars ($900.00) nor more than twenty-five hundred dollars ($2,500.00) for each day after the second determination of respondent's failure to comply.

(Ord. No. 6947, § 1, 5-16-88; Ord. No. 9199, § 4, 2-1-99)

Secs. 17-57--17-66. Reserved.

ARTICLE VIII.
REPORTING WRONGFUL CONDUCT

Sec. 17-67. Reporting wrongful conduct.

(a) *Definitions.*

(1) *Employee.* All city employees of any status or classification, except elected officials, persons appointed to an elected official's personal staff, or individuals appointed to a position in city government by a majority of the governing body.

(2) *Supervisory employee.* Any supervisor, superintendent, division director, department director or other employee who has influence over personnel actions, including disciplinary action.

(3) *Designated city official, public official or public agency.* The mayor, councilmembers, city manager, city department head, city clerk, city attorney, county attorney, state attorney general, or a federal, state or local law enforcement agency.

(4) *Wrongful conduct.* Mismanagement, gross waste of monies or an abuse of authority, or violation of any law on the part of any city official(s) or city employee(s) that is reasonably believed to be of public concern.

(5) *Adverse personnel action.* Unsatisfactory overall performance evaluation; disciplinary action, including a written reprimand, suspension without pay, demotion, involuntary transfer or reassignment, disciplinary probation, or termination; withholding of an appropriate salary adjustment or other significant change in duties or responsibilities which is inconsistent with the employee's salary or classification.

(6) *Layoff.* Elimination of an employee's position by reason of a shortage of funds or work or material changes in duties or organization.

(7) *Retaliation.* Any adverse personnel action, layoff and/or change in the conditions of employment in response to an employee's allegation of wrongful conduct to a designated city official, public official or public agency.

(b) Method of reporting wrongful conduct by an employee to a designated city official shall be as provided by city administrative directive. Reports of wrongful conduct made to other public official(s) or public agency(s) as the employee may choose shall be in accord with any requirements of those public officials or public agencies.

(c) Any employee who believes that he or she has been retaliated against may make a written complaint as provided by city administrative directive. The city administrative directive shall prescribe methods of reporting, investigating and determining whether retaliation has occurred. Notwithstanding, retaliation shall not be found to have been committed if the adverse personnel action or layoff was justified for legitimate reasons.

(d) A determination under the city procedure that retaliation has occurred shall immediately result in reversal of the action including restoration of lost compensation or other lost benefits which have occurred by reason of such action.

(e) Any supervisory employee who under the city procedure is found to have knowingly retaliated against an employee shall be subject to disciplinary action, which may include dismissal from city employment.

(f) An employee who knowingly makes false accusation that a city official or city employee has engaged in wrongful conduct shall be subject to disciplinary action which may include dismissal from city employment.

(g) This article neither limits nor extends any other civil or criminal liability or remedy of any current or former employee or city official who either alleged the wrongful conduct or was the person against whom the wrongful conduct was alleged.

(Ord. No. 8126, § 1, 9-20-93)

Secs. 17-68, 17-69. Reserved.

ARTICLE IX.
REGISTERED CIVIL UNIONS*

***Editor's note** – It should be noted that the provisions of Ord. No. 9898 became effective on December 1, 2003. The title of Article IX was revised by Ord. No. 11088, adopted June 18, 2013 and effective July 19, 2013; Article IX was formerly entitled "Registered Domestic Partnerships".

Sec. 17-70. Title.

This article shall be known and may be cited as the "Tucson Civil Union Ordinance".

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-71. Registered civil unions defined.

As used in this article, the term "registered civil union" exists between two (2) persons if one (1) or more of the following is true:

(1) The persons who meet the criteria for civil union have filed a statement of civil union with the city's finance department on the form provided by the city and paid the required fee.

(2) The persons have a valid certificate of domestic partnership issued by another

jurisdiction and meet the criteria for civil union set forth in this article.

(3) The persons are legally recognized as civil union spouses in another jurisdiction and meet the criteria for civil union set forth in this article.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-72. Criteria for civil union.

For purposes of this article, civil union partners are two (2) persons:

(1) Not related by blood closer than would bar marriage in the State of Arizona;

(2) Neither of whom is in a marriage expressly recognized by the State of Arizona or in any domestic partnership and/or civil union with another person;

(3) Both of whom are eighteen (18) years of age or older;

(4) Both of whom are competent to enter into a contract;

(5) Both of whom declare that they are each other's sole civil union partner;

(6) Both of whom currently share a primary residence, are in a relationship of mutual support, and declare that they intend to remain in such for the indefinite future.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-73. Statement of civil union; additional evidence of civil union.

(a) Civil union partners may make an official record of their civil union by executing a "civil union registration statement" on the form prescribed by the city.

(b) The statement must include a declaration that the persons are in a relationship of mutual support, caring and commitment and are responsible for each other's welfare. For these purposes, "mutual support" means that they contribute mutually to each other's maintenance and support.

(c) The statement must include a declaration that both persons agree to file a termination of the civil union if there is a change in the status of their relationship such that they cease to meet the criteria for a civil union under this ordinance.

(d) The sworn statement shall include the date on which the civil union was registered, and the mailing address(es) of both partners. The civil union statement shall further state that the civil union partners meet the criteria set forth in section 17-72.

(e) In addition to the registration statement, civil union partners may submit to the city, and the city shall maintain, a statement or list describing any additional documents, such as contracts and agreements, that document the rights, responsibilities and obligations that the civil union partners have established. In order to prevent public access to private, personal information, civil union partners may not submit, and the city will not maintain, the contracts and agreements themselves. By way of example, the statement or list of additional documents evidencing the parties' civil union may include a description of:

(1) Agreements between the parties regarding the management and ownership of real and personal property.

(2) Agreements between the parties regarding the obligations that either or both may have agreed to assume regarding the existing children or other family members of one or both of the parties.

(3) Agreements between the parties regarding the obligations that either or both may have agreed to assume regarding prospective children of one or both of the parties.

(4) Agreements between the parties regarding the disposition of their property upon the death of either party.

(5) Agreements for resolving any disputes that may arise should the relationship dissolve, through alternative dispute resolution procedures or otherwise.

(6) Documents that establish any other rights or obligations that may be legally exchanged by and between the parties.

(f) As part of the registration statement, the parties to a civil union may include a statement describing their shared intentions regarding the scope of the relationship, regardless of whether or not they have entered into any contracts or agreements of the kind described in subparagraph (e) above.

(g) Any documents described in the statement or list provided to the city pursuant to subsection (e) above, and any statement of shared intent provided pursuant to subsection (f) above, shall only be effective as provided under Arizona law and any other applicable law, and the fact that the statement or list has been submitted to the city and/or is maintained by the city shall not affect whether those documents are enforceable or binding upon the parties thereto. For example, some agreements may require additional documentation or formalities in execution in order to effectuate their intent under Arizona law.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-74. Termination of civil union.

A civil union shall terminate upon the occurrence of any one (1) of the following:

(1) The death of one (1) of the partners;

(2) The filing of a sworn termination statement with the city's finance department on the form prescribed by the city. The person filing the sworn termination statement shall declare that the civil union is terminated and, if the termination statement has not been signed by both parties to the civil union, that the other person has been notified in writing of such termination at the last known address of such person;

(3) The marriage, expressly recognized by the State of Arizona, of either one of the civil union partners.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-75. Fees; civil union certificate.

(a) The fee for filing a civil union statement and any attachments shall be fifty dollars ($50.00) which entitles the person filing the statement on behalf of the civil union to two (2) certified copies of the official statement, which shall constitute civil union certificates.

(b) The fee for obtaining additional copies shall be ten dollars ($10.00) per copy.

(c) The fee for filing a termination of civil union statement shall be ten dollars ($10.00).

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-76. Rights of registered civil union partners.

(a) *Health care visitation.* All health care facilities operating within the city shall allow the registered civil union partner of a patient to visit such patient unless no visitors are allowed or the patient expresses a desire that visitation by the civil union partner be restricted. As used in this section, "health care facility" means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice service agencies.

(b) *Use of and access to city facilities.* All facilities owned or operated by the city, including but not limited to recreational facilities shall allow the registered civil union partner of a user to be included in any rights and privileges accorded a spouse for purposes of use of and access to city facilities.

(c) *City employee benefits.* To the extent authorized by law, any city employee who is registered with the city as a civil union partner may designate his or her partner as a beneficiary of any of the benefits provided by the city in the same manner as a spouse of an employee.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-77. Limitation of liabilities.

(a) Nothing in this article shall be interpreted to contravene the general laws of the State of Arizona.

(b) Nothing in this article shall be construed to create additional legal liabilities greater than those already existing under law or to create new private causes of action.

(c) By maintaining records provided by civil union partners pursuant to this article, including the statement or list of documents as described in section 17-73(e) and the statement of shared intent as described in section 17-73(f), the city does not make any representation or warranty that such documents, records or stated intentions are legally enforceable or valid.

(Ord. No. 9898, § 1, 9-15-03; Ord. No. 11088, § 1, 6-18-13, eff. 7-19-13)

Sec. 17-78. Public Records.

The statement of civil union, the civil union certificate and all documents provided to the city by civil union partners pursuant to this article shall be treated as a public record pursuant to the laws of the State of Arizona and shall be subject to disclosure upon request.

(Ord. No. 11088, § 2, 6-18-13, eff. 7-19-13)

- "*Disability*" means with respect to an individual, except any impairment caused by current use of illegal drugs, any of the following: a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such physical or mental impairment, or being regarded as having such physical or mental impairment. Disability and disability discrimination shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990 (as amended), the federal regulations promulgated thereunder, and judicial decisions construing them.

- "*Gender*" means the socially constructed roles, behaviors, characteristics, or attributes associated with masculinity or femininity.

- "*Gender identity or expression*" means an individual's self-identification as male, female, or something in between, and shall include an individual's appearance, mannerisms, or other characteristics only insofar as they relate to gender with or without regard to the individual's designated sex at birth.

- "*Sex*" means biological or anatomical sex as male or female as designated at birth and shall be interpreted broadly to include all distinctions based upon gender, pregnancy, childbirth, or medically related conditions.

- "*Sexual orientation*" means an enduring pattern of emotional, romantic, or sexual attractions to men, women, or both sexes as well as the genders that accompany them and shall include discrimination based upon the identification, perception, or status of an individual's same-sex, opposite-sex, or bisexual orientation.

The Phoenix Human Relations Commission and Phoenix Mayor's Commission on Disability Issues on Tuesday, February 12, 2013, held a joint public meeting to solicit public comment on the ordinance changes. A majority of city residents that attended the meeting spoke in favor of the proposed changes. The commissions voted unanimously to accept the proposed changes to the ordinance, as presented.

RECOMMENDATION

Staff recommends the amendment of Chapter 18, Sections 18-1 to 18-20, of the Phoenix City Code to add "sexual orientation," "gender identity or expression," and "disability" as three additional categories protected from discrimination, as recommended by City staff.

Please note the following attachments:

Attachment A – Summary of Proposed Ordinance Amendments
Attachment B – U. S. Cities and Counties with Non-Discrimination Ordinances

ATTACHMENT A

SUMMARY OF PROPOSED AMENDMENTS TO CHAPTER 18, SECTIONS 18-1 TO 18-20 OF THE PHOENIX CITY CODE

Article 1- In General

The proposed changes expand the protected categories to include disability, sexual orientation, and gender identity or expression for employment and public accommodation complaints.

Current Ordinance	Proposed Changes
Race, color, religion, sex, national origin, age, genetic Information, and marital status are covered.	Add "sexual orientation," gender identity or expression," and "disability" as protected categories.
There is no definition of "disability" or "gender identity or expression." "Employer" includes vendors, suppliers, or contractors doing business with the City if they employ more than 35 employees.	Add definitions of "disability," "gender," "gender identity or expression" and clarify definitions of "sex" and "sexual orientation."
Current ordinance creates ability to file complaint with Police Department.	Amend to eliminate the Police Department's role in taking discrimination complaints. EOD would be identified as the entity responsible for such complaints, as has been the City's practice.

Article 2 - Sexual Orientation Nondiscrimination

The proposed changes expand the protection for City employees to include gender identity or expression for employment and provision of City services discrimination complaints.

Current Ordinance	Proposed Changes
Current ordinance does not include protection for "gender identity or expression."	Amend sections on City employment and providing City services to add protection for "gender identity or expression."

Article 3 - Fair Housing

The proposed changes would expand the protected categories to include sexual orientation and gender identity or expression for fair housing discrimination complaints. The proposed changes would also replace references to the words "handicap" or "handicapped." The Equal Opportunity Department (EOD) investigates allegations of discrimination for housing providers located in the city of Phoenix and receives funding from HUD for its investigations. The current ordinance is substantially equivalent to the federal fair housing law.

Current Ordinance	Proposed Changes
Current ordinance does not include protection for "sexual orientation" or "gender identity or expression."	Add "sexual orientation" and "gender identity or expression." Replace references to "handicap" or "handicapped" with "disability" or "disabled."

Article 4 - City Construction Contractor's Equal Employment Opportunity Requirement

The proposed changes expand the non-discrimination and contract language requirement to include sexual orientation and gender identity or expression.

Current Ordinance	Proposed Changes
Current ordinance does not include a requirement not to discriminate based on sexual orientation or gender identity or expression as a requirement for contracts greater than $10,000.	Add "sexual orientation" and "gender identity or expression" as protected categories, along with their respective definitions.

Article 5 - Supplier's and Lessee's Equal Employment Opportunity Requirements

The proposed changes expand the non-discrimination and contract language requirement to include sexual orientation and gender identity or expression.

Current Ordinance	Proposed Changes
Current ordinance does not include a requirement not to discriminate based on sexual orientation or gender identity or expression.	Add "sexual orientation" and "gender identity or expression" as protected categories, along with their respective definitions. Maintain the exemptions set forth in Section 18-20.

ATTACHMENT B

CITIES AND COUNTIES WITH NON-DISCRIMINATION ORDINANCES THAT INCLUDE GENDER IDENTITY

As of January 15, 2013, more than 165 cities and counties prohibit employment discrimination on the basis of gender identity in employment ordinances that govern all public and private employers in those jurisdictions. This list does not include those cities and counties that prohibit discrimination on the basis of gender identity for city and county employees - such policies do not affect private employers in those jurisdictions.

Cities and Counties that Prohibit Discrimination Based on Gender Identity in Public and Private Employment, By State (Year Effective).

Arizona
City of Tucson -1999

California
Allegheny County-2009
Santa Cruz County-1998
City of Los Angeles-1979
City of Oakland-2005
City of San Diego-2003
City of San Francisco-1994
City of San Jose-2002
City of Santa Cruz-1992
City of West Hollywood-1998

Colorado
City of Boulder-2000
City of Denver-2001

District of Columbia
City of Washington-2006

Florida
Broward County-2008
Leon County-2010
Monroe County-2003
Palm Beach County-2007
Volusia County-2011
City of Dunedin-2002
City of Gainesville-2008
City of Gulfport-2005
City of Key West-2003
City of Lake Worth-2007

City of Miami Beach-2004
City of Oakland Park-2007
City of Tampa-2009
City of West Palm Beach-2007

Georgia
City of Atlanta-2000
City of Decatur-2002

Idaho
City of Sandpoint-2011

Illinois
Cook County-2002
City of Bloomington-2002
City of Boise-2012
City of Carbondale-2005
City of Champaign-1977
City of Chicago-2002
City of Decatur-2002
City of DeKalb-2000
City of Evanston-1997
City of Peoria-2003
City of Springfield-2003
City of Urbana-1979

Indiana
Marion County-2005
Monroe County-2010
City of Bloomington-2006
City of Evansville-2011
City of Indianapolis-2005
City of South Bend-2012

Iowa
Johnson County-2006
City of Council Bluffs-2008
City of Iowa City-1995
City of Waterloo-2007

Kansas
City of Lawrence-2011

Kentucky
Jefferson County-1999
Lexington-Fayette County-1999

City of Covington-2003
City of Louisville-1999
City of Vicco-2013

Louisiana
City of New Orleans-1998

Massachusetts
City of Boston-2002
City of Cambridge-1997
City of Northampton-2005

Maryland
City of Baltimore-2002
Howard County-2011
Montgomery County-2007

Michigan
City of Ann Arbor-1999
City of Detroit-2008
City of East Lansing-2005
City of Ferndale-2006
City of Grand Rapids-1994
City of Huntington Woods-2002
City of Kalamazoo-2009
City of Lansing-2006
City of Saugatuck-2007
City of Traverse-2011
City of Ypsilanti-1997

Minnesota
City of Minneapolis-1975
City of St. Paul-1990

Missouri
City of Clayton-2011
City of Columbia-2011
City of Kansas City-2008
City of Kirkwood-2012
City of Olivette-2011
City of St. Louis-2010
County of St. Louis-2012
City of University City-2005

Montana
City of Missoula-2010

Nebraska
City of Omaha-2012

New York
City of Albany-2004
City of Buffalo-2002
City of Ithaca-2003
City of New York-2002
City of Rochester-2001
Suffolk County-2001
Tompkins County-2005

Ohio
City of Akron-2009
City of Bowling Green-2008
City of Cincinnati-2006
City of Cleveland-2009
City of Columbus-2008
City of Dayton-2007
City of Oxford-2008
Summit County-2009
City of Toledo-1998
Village of Yellow Springs-2009

Oregon
Benton County-1998
City of Beaverton-2004
City of Bend-2004
Benton County-1998
City of Corvallis-2007
City of Hillsboro-2006
City of Lake Oswego-2005
City of Lincoln City-2005
Multnomah County-2001
City of Portland-2000
City of Salem-2002

Pennsylvania
City of Allentown-2002
City of Bethlehem-2011
City of Doylestown-2011
City of Easton-2006

Erie County-2002
City of Harrisburg-1983
Haverford Township-2011
Jenkinstown Borough-2011
Lansdowne Borough-2006
Lower Marion Township-2011
New Hope Borough-2002
Newton Borough-2011
City of Philadelphia-2002
City of Pittsburgh-1997
City of Scranton-2005
Springfield Township-2011
State College Borough-2007
Susquehanna Township-2011
City of Swarthmore-2006
West Chester Borough-2006
Whitemarsh Township-2011
City of York-1998

South Carolina
City of Charleston-2009
City of Columbia-2008

Texas
City of Austin-2004
City of Dallas-2002
Dallas County-2011
City of Fort Worth-2009

Utah
City of Alta-2011
Grand County-2010
City of Harrisville-2012
City of Logan-2010
City of Midvale-2011
City of Moab-2011
City of Murray-2011
City of Ogden-2011
City of Park City-2010
Salt Lake County-2010
City of Salt Lake-2009
City of Springdale-2012
Summit County-2010
City of Taylorsville-2010
City of West Valley-2010

Washington
City of Burien-2005
King County-2006
City of Olympia-2005
City of Seattle-1986
City of Tacoma-2002

West Virginia
City of Charleston-2007

Wisconsin
Dane County-2001
City of Madison-2000
City of Milwaukee-2007

Source: Human Rights Campaign 2013

ORDINANCE NO. 2013-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING FLAGSTAFF CITY CODE TITLE 14, HUMAN RELATIONS, BY ADDING CHAPTER 2, CIVIL RIGHTS

RECITALS:

WHEREAS, its residents are the City of Flagstaff's most important asset; and

WHEREAS, the City of Flagstaff is committed to nondiscrimination and fair treatment of its residents, visitors, and employees; and

WHEREAS, the City Council ("Council") supports and values diversity and inclusiveness; and

WHEREAS, the City of Flagstaff ("City") is comprised of diverse and varied groups, communities, and individuals, and the practice of discrimination against these groups, communities, or individuals on the grounds of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, and gender identity or expression, in places of public accommodation and in employment, adversely affects the general welfare of the City and the vitality of its neighborhoods; and

WHEREAS, discriminatory practices are detrimental because they impede the social and economic progress of the City by preventing all people from contributing to or fully participating in the cultural, spiritual, social, and commercial life of the community, essential to the growth and vitality of its neighborhoods and businesses; and

WHEREAS, in developing this chapter, the Flagstaff City Council has investigated other urban centers throughout the nation and studied the effectiveness of ordinances enacted to prevent discriminatory practices; and

WHEREAS, every individual in the City has the right to work and earn wages through gainful employment; and

WHEREAS, the City has found that discrimination in employment and places of public accommodation on the basis of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation and gender identity or expression must be addressed, and the denial or deprivation of employment rights based on these factors is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well being; and

WHEREAS, the purpose of this chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in employment and in places of public accommodation, and this chapter shall be liberally construed to achieve that purpose.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: That Flagstaff City Code Title 14, Human Relations, is hereby amended as follows:

Sections:

14-02-001-0001 Policy Declaration
14-02-001-0002 Definitions
14-02-001-0003 Prohibited Acts
14-02-001-0004 Exclusion
14-02-001-0005 Violation a Civil Infraction; Procedure; Penalties
14-02-001-0006 Complaint Procedures
14-02-001-0007 No Private Right of Action; Effect of Federal and State Laws
14-02-001-0008 Severability
14-02-001-0009 Unlawful Intimidation, Retaliation, and Coercion
14-02-001-0010 Record-keeping; Posting Requirement; Powers

Section 14-02-001-0001 Policy Declaration.

It is the policy of the City of Flagstaff to eliminate prejudice and discrimination due to race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, and gender identity or expression, in places of public accommodation and in employment.

Section 14-02-001-0002 Definitions.

In this chapter, unless the context otherwise requires:

A. *Age* means at least eighteen years of age except:

1. Where state law provides for a greater minimum or maximum legal age.

2. In section 14-02-001-003(B), which shall be deemed to protect any person who is at least forty (40) years of age.

B. *Discriminate or discrimination* means to make, directly or indirectly, any distinction with respect to any person or persons based on race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression.

C. *Disability*, with respect to an individual, means:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

2. A record of such an impairment; or

3. Being regarded as having such an impairment; but disability does not include the current illegal use of or addiction to a controlled substance (as defined in the Controlled Substances Act, 21 U.S.C. § 801 et seq.) or the current use of alcohol that prevents such individual from performing the duties of the job in question or

whose employment, by reason of such current alcohol abuse, would constitute a direct threat to the property or the safety of others.

Discrimination on the basis of disability shall be interpreted in a manner consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the federal regulations promulgated thereunder, and judicial decisions construing them.

D. *Educational institution* means any private educational institution located or operating in the City of Flagstaff which provides educational services including an academy, college, university, elementary or secondary school, kindergarten, extension course, nursery school system, and a business, nursing, professional, secretarial, technical or vocational school.

E. *Employer*, except as otherwise provided, means any person employing fifteen (15) or more employees in the City of Flagstaff for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and includes any agent of such person.

F. *Employment agency* means and includes both public and private employment agencies and any person having an office regularly undertaking, with or without compensation, to procure, recruit, refer or place employees.

G. *Gender expression* means the ways in which a person manifests masculinity or femininity or "expresses" external characteristics and behaviors associated with gender.

H. *Gender identity* means an individual's various attributes as they are understood to be masculine and/or feminine and shall be broadly interpreted to include pre- and post-operative transsexuals, as well as other persons who are, or are perceived to be, transgender.

I. *Investigator* means an individual selected by the City Manager whose role shall be to determine the facts relevant to a charge filed pursuant to this chapter. The Investigator shall be selected by the City Manager, following established rules and procedures.

J. *Labor organization* means and includes any organization or labor union, craft union, or such organization, conducting a hiring hall which engages in the hiring of employees, or any voluntary unincorporated association designed to further the cause of the rights of union labor, which is constituted for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or apprenticeships or applications for apprenticeships, or for other mutual aid or protection in connection with employment, including apprentice jobs or application for apprenticeship.

K. *Mediator* means an individual selected by the City Manager whose role shall be to attempt to assist the Complainant and Respondent in reaching settlement of a charge filed under this chapter. The Mediator shall be selected by the City Manager, following established rules and procedures. The Mediator shall not be an employee of the City of Flagstaff. The Mediator may not be required to serve as a witness in any legal proceeding concerning matters related to the Mediator's involvement in carrying out his or her functions pursuant to this chapter.

L. *Person* means and includes one or more individuals, partnerships, associations or corporations, legal representatives, trustees, receivers, or other organized groups of persons.

M. *Place of public accommodation* means facilities, establishments, accommodations, services, commodities or use offered to or enjoyed by the general public, including but not limited to:

1. Hotels, motels, trailer courts and boardinghouses, which shall include any establishments offering lodging to transient guests for compensation.

2. Restaurants, which shall include lunch counters, coffee shops, lunchrooms, luncheonettes, cafes, cafeterias, tearooms, snack bars or stands, mobile food service facilities, grills, sandwich shops, supper clubs, soft drink fountains, ice cream parlors or stands, and other places which offer food, ice cream or soft drink beverages for purchase and consumption on or off the premises.

3. Taverns, which shall include bars, barrooms, saloons, roadhouses and like establishments, wherein spirituous or malt liquors or wines are offered for sale for consumption on or off the premises.

4. Theaters, which shall include places, whether indoors or out-of-doors, at which any theatrical performance, moving picture show, musical concert or recital, dramatic reading or monologue, circus, carnival or other like entertainment or amusement is offered.

5. Retail establishments, which shall include retail stores, garages, automobile and gasoline service stations, and other like establishments serving the public.

6. Places of public amusement and recreation, which shall include bowling alleys, billiard halls and poolrooms, dance halls, race courses, shooting galleries, sports arenas or fields, gymnasiums, exhibitions, skating rinks and other like establishments.

7. Educational facilities, which shall include institutions defined in paragraph (E) of this section.

8. Public conveyances, which shall include all transportation facilities operated on land, air or water as well as the stations and terminals thereof.

9. Funeral parlors and places of burial, including any cemetery, mausoleum, crypt, or any establishment for the embalming, processing or interment of corpses.

N. *Protected class* means each classification for which discrimination is prohibited in this chapter: race, color, religion, sex, age, disability, veteran’s status, national origin, sexual orientation, and gender identity or expression.

O. *Religion* includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he/she is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

P. *Religious organization* means a religious corporation, association or society; or a school, college, university, or other educational institution or institution of learning if the institution is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association or society; or the curriculum of the institution is directed toward the propagation of a religion.

Q. *Sex* shall include, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work.

R. *Sexual orientation* means an individual's heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived.

S. *Veteran's Status* means an individual who served in the armed forces of the United States, including the Army, Navy, Air Force, Marine Corps, and Coast Guard, and who was separated from the armed forces under honorable conditions.

Section 14-02-001-0003 Prohibited Acts.

It is a violation of this article:

A. For any owner, operator, lessee, manager, agent or employee of any place of public accommodation to discriminate against any person, or directly or indirectly display, circulate, publicize or mail any advertisement, notice or communication which states or implies that any facility or service shall be refused or restricted because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression, or that any person, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression, would be unwelcome, objectionable, unacceptable, undesirable or not solicited.

B. For an employer, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression to refuse to hire or employ any person or to bar or to discharge from employment such person, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

C. For a labor organization, because of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression to exclude, expel, limit or restrict from its membership such person, or to provide only second class or segregated membership, or to discriminate in any manner against any of its members or against any employer or any person employed by an employer.

D. For any employer or employment agency to print or circulate, or cause to be printed or circulated, any publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or

expression, or expresses any intent to make any such limitation, specification or discrimination.

E. For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he/she has opposed in a lawful manner any practices forbidden under this chapter, or because he/she has filed a complaint, testified or assisted in any proceeding under this chapter.

F. For any person to cause or attempt to cause an employer to discriminate against an individual in violation of this chapter.

G. For any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

H. For any person to discriminate in places of public accommodation or employment against any person, because that person has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this chapter.

Section 14-02-001-0004 Exclusion.

A. This chapter shall not be applicable to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which preferential treatment is given to any individual because he/she is a Native American living on or near a reservation.

B. This chapter shall not be applicable to any establishment operated by a bona fide private club not conducted for the purpose of evading this article, when the accommodations, advantages, facilities and services are restricted to members of such club and their guests; nor to any bona fide social, fraternal, public educational, civic or religious organization or such private club when the profits of the accommodations, advantages, facilities and services, above reasonable and necessary expenses, are solely for the benefit of such organization or club.

C. This chapter shall not be applicable to an expressive association whose employment of a person protected by this chapter would significantly burden the association's rights of expressive association under Boy Scouts of America v. Dale, 530 U.S. 640 (2000).

D. This chapter shall not apply to the United States government, any of its departments or agencies, or any corporation wholly owned by it; an Indian tribe; or the state of Arizona or any of its departments, agencies, or political subdivisions.

E. Any person under the influence of alcohol or other drugs, or who is guilty of boisterous conduct, or who violates any regulation of any place of public accommodation that applies to all persons, regardless of race, color, religion, sex, age, disability, veteran's status, national origin, sexual orientation, or gender identity or expression may be excluded without penalty under this article from any such place of public accommodation; and nothing in this article shall be considered to limit the right of such exclusion.

F. Except as provided in subsection (G) below, this chapter shall not be applicable to a religious organization.

G. This chapter shall apply to employment or an employment opportunity with a religious organization, wherein the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511 (a) of the Internal Revenue Code of 1986.

H. Notwithstanding section 14-02-001-003, it shall not be a violation of this chapter:

1. For an employer, labor organization, or employment agency to prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

2. For an employer, labor organization, or employment agency to require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

3. For an employer, labor organization, or employment agency to require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) or under the drug testing provisions of state law (A.R.S. § 23-493 et seq);

4. For an employer, labor organization, or employment agency to hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee;

5. For a place of public accommodation to afford beneficial pricing or policies to senior citizens, students, or individuals with disabilities;

6. For a place of public accommodation to operate solely as a male-only or a female- only fitness center/gymnasium, as long as the fitness center/gymnasium does not include any of the facilities other than gymnasium listed in Section 14-02-001-0002(M), and does not discriminate against any other protected group identified in Section 14-02-001-0001;

7. For an employer to establish a legitimate dress code that is applied uniformly to all employees within certain job categories and is reasonably related to the employer's business needs.

Section 14-02-001-0005 Violation a Civil Infraction; Procedure; Penalties.

A. It is a civil infraction for any person to violate any of the provisions of this chapter. Complaints of violations of this chapter shall proceed as prescribed in Section 14-02-001-0006.

B. The following penalties shall be imposed by the City Court for civil infractions under this chapter:

1. A person found responsible for a civil infraction for the first time shall be fined not more than five hundred dollars ($500.00) per civil infraction. A person found

responsible for the same civil infraction for a second time shall be fined not less than three hundred dollars ($300.00) nor more than one thousand dollars ($1,000.00). A person found responsible for the same civil infraction for a third or subsequent time shall be fined not less than nine hundred dollars ($900.00) nor more than twenty-five hundred dollars ($2,500.00). The imposition of a fine for a civil infraction under this section shall not be suspended.

2. Failure of a respondent to comply with any order contained in a judgment for a civil infraction shall result in an additional fine as established by the Flagstaff Municipal Court.

Section 14-02-001-0006 Complaint Procedures.

A. Any person claiming to be aggrieved by an alleged violation of this chapter (hereinafter the “Complainant”) may file with the City Manager's Office (“CMO”) a verified charge, in writing, within ninety (90) calendar days after the alleged violation occurred. The charge shall set forth the facts upon which it is based, shall identify the person charged (hereinafter the "Respondent"), and shall be signed by the Complainant.

B. The CMO shall furnish the Respondent with a copy of the charge via first class United States mail. The Respondent may file, not later than twenty (20) days following the CMO’s mailing of the charge to the Respondent, a written verified answer to the charge.

C. Within forty-five (45) days following receipt of the charge from the Complainant, the CMO shall conduct an initial screening of the charge to determine whether the City has jurisdiction over the charge, whether the charge was timely filed, and whether the allegations, if true, would constitute a violation of this chapter.

D. If the CMO determines, based on a review of the charge, that the City does not have jurisdiction, that the charge is untimely, or that the allegations would be insufficient to show a violation of this chapter, the CMO shall dismiss the charge. The decision of the CMO to dismiss the charge, after conducting the initial screening, is final. The CMO shall provide the Complainant, the Respondent, and the City Attorney with written findings concerning the CMO’s determination to dismiss the charge and the charge will be considered closed.

E. If the CMO issues an initial determination that the City has jurisdiction over the charge, the charge was timely filed, and the allegations, if true, would constitute a violation of this chapter, the CMO shall refer the matter to a Mediator.

F. The Mediator shall review the matter. The Mediator may attempt to assist the Complainant and Respondent in reaching settlement of the charge in a cooperative manner using mediation, conference, conciliation and persuasion. If the Mediator deems that such an attempt is not practicable, the Mediator shall refer the matter to an Investigator. The Investigator shall follow the process described in Section I below.

G. If the mediation is successful, the Mediator shall facilitate the drafting of an agreement with the Complainant and the Respondent for the purpose of eliminating the alleged discriminatory practice. The terms of the agreement may require the Respondent to refrain in the future from committing discriminatory practices of the type stated in the

agreement and to take such affirmative steps as the Mediator may require to carry out the purposes of this chapter. If an agreement is entered into, the Mediator shall furnish copies to the CMO, the City Attorney, the Complainant, and the Respondent. If an agreement is entered into, the charge will be considered closed.

H. To the extent permitted by law, except for the terms of the agreement, neither the Mediator nor the City Manager, nor any employee thereof, shall make public, without the written consent of the Complainant and Respondent, information concerning efforts in a particular case to eliminate a discriminatory practice through mediation or by conference, conciliation, or persuasion, whether or not there is an agreement. In addition, as stated under Rule 408 of the Arizona Rules of Evidence, such information may not be used as evidence in any judicial proceeding.

I. If the Mediator, the Complainant, and the Respondent cannot reach an agreement, the Mediator shall refer the matter to an Investigator, who shall attempt to determine the facts relevant to the charge filed under this chapter. The Investigator shall conduct an investigation of the charge to determine whether the facts support a finding that a violation of this chapter has occurred. If the Investigator determines that a violation of this chapter did not occur, the Complainant's charge will be dismissed and the matter will be considered closed. If the Investigator determines that a violation of this chapter did occur, the Investigator shall request the City Attorney file a complaint against the Respondent in the Flagstaff Municipal Court.

J. In situations involving repeat offenses, the CMO shall refer the matter to an Investigator, who shall follow the process described in Section I. If, at the conclusion of the investigation process, the City Attorney does not file a complaint in Court then the City Attorney may refer the charge back to the Mediator. The Mediator, in his or her discretion may attempt to assist in resolution of the charge or may close the matter.

Section 14-02-001-0007 No Private Right of Action; Effect of Federal and State Laws.

This chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. Nothing in this chapter shall supersede federal or Arizona law.

Section 14-02-001-0008 Severability.

If any section, sentence, paragraph, term, definition or provision of this chapter is for any reason determined to be illegal, invalid, superseded by other authority or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, definition or provision of this chapter, all of which will remain in full force and effect.

Section 14-02-001-0009 Unlawful Intimidation, Retaliation, and Coercion.

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation under this chapter.

Section 14-02-001-00010 Record-keeping; Posting Requirement; Powers.

A. The Investigator may request a Respondent against whom a charge has been filed to file a statement or report in writing, as to all the facts and circumstances concerning the alleged act of discrimination set forth in the charge. Additionally, in connection with any investigation of a charge filed under this chapter, the Investigator and the City Attorney (or designee) shall seek the voluntary cooperation of any person to obtain access to premises, records, documents, individuals, and any other possible source of information.

B. Every employer, employment agency, and labor organization subject to this article, shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of Section 14-02-001-0003, Prohibited Acts.

C. No employee of the City of Flagstaff shall make public with respect to a particular person, without his/her consent, information obtained by them pursuant to their authority under this article, except as required by law or as necessary to the conduct of a proceeding under this chapter.

D. Any person being investigated under this chapter shall have the right to be represented by counsel.

E. The City Attorney is empowered to seek fines as described in Section 14-02-001-0005 for civil infractions arising under this chapter.

SECTION 2. That the City Clerk be authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk be authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with the Flagstaff City Code.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2013.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

ORDINANCE NO. O2014.10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 2– ADMINISTRATION, TEMPE CITY CODE, BY ADDING NEW ARTICLE VIII RELATING TO HUMAN RELATIONS.

****

WHEREAS, the City of Tempe is comprised of various and diverse individuals and groups of people; and

WHEREAS, the City of Tempe values this diversity and wishes to encourage all persons to contribute to, fully participate in and contribute to the cultural, social, spiritual and commercial life and activities in Tempe; and

WHEREAS, discrimination and discriminatory practices prohibits the social and economic growth and progress of the City of Tempe; and

WHEREAS, existing practices in the City of Tempe already reflect anti-discriminatory practices among and toward its employees, contractors and vendors; and

WHEREAS, the City of Tempe desires to implement a process to resolve claims alleging discrimination, including those affecting businesses and individuals within the City of Tempe, that will observe and protect the dignity, rights and privacy, and interests of all parties involved to the maximum extent possible; and

WHEREAS, the purpose of this Ordinance is to make the appropriate conforming changes to the Tempe City Code;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 2, Administration of the Tempe City Code is hereby amended by adding Article VIII – Human Relations to read:

ARTICLE VIII

HUMAN RELATIONS

SEC. 2-600. 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:

ADULT: MEANS A PERSON WHO HAS ATTAINED EIGHTEEN (18) YEARS OF AGE.

STATE LAW REFERENCE—SIMILAR PROVISIONS, A.R.S., § 1-215(3).

CONTRACTOR: MEANS ANY PERSON WHO HAS A CONTRACT WITH THE CITY.

CROSS REFERENCE-PROCUREMENT, CH. 26A.

DISCRIMINATION MEANS TO EXCLUDE INDIVIDUALS FROM AN OPPORTUNITY OR PARTICIPATION IN ANY ACTIVITY BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, AND OCCURS WHENEVER SIMILARLY SITUATED INDIVIDUALS OF A DIFFERENT GROUP ARE ACCORDED DIFFERENT AND UNEQUAL TREATMENT IN THE CONTEXT OF A SIMILAR SITUATION.

EMPLOYEE MEANS AN INDIVIDUAL EMPLOYED FOR PAY TO PERFORM SERVICES FOR AN EMPLOYER COVERED BY THIS ARTICLE AND WHOSE ACTIVITIES ARE CONTROLLED AND DIRECTED BY THE EMPLOYER, FOR WHOM SERVICES ARE BEING PERFORMED.

EMPLOYER MEANS A PERSON DOING BUSINESS WITHIN THE CITY WHO HAS ONE (1) OR MORE EMPLOYEES FOR EACH WORKING DAY IN EACH OF TWENTY (20) OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR, AND ANY AGENT OF SUCH PERSON. THIS DEFINITION EXCLUDES:

(1) THE UNITED STATES OR ANY DEPARTMENT OR AGENCY THEREOF, A CORPORATION WHOLLY OWNED BY THE UNITED STATES OR ANY INDIAN TRIBE;

(2) THE STATE OF ARIZONA OR ANY DEPARTMENT OR AGENCY THEREOF, EXCEPT FOR ANY POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, INCLUDING ANY COMMUNITY COLLEGE DISTRICT OR HIGH SCHOOL OR ELEMENTARY SCHOOL DISTRICT;

(3) A BONA FIDE MEMBERSHIP CLUB (OTHER THAN A LABOR ORGANIZATION) THAT IS EXEMPT FROM TAXATION UNDER THE INTERNAL REVENUE CODE OF 1986 (AS AMENDED FROM TIME TO TIME);

(4) A RELIGIOUS ORGANIZATION; OR,

(5) AN EXPRESSIVE ASSOCIATION WHOSE EMPLOYMENT OF A PERSON PROTECTED BY THIS CHAPTER WOULD SIGNIFICANTLY BURDEN THE ASSOCIATION'S RIGHTS OF EXPRESSIVE ASSOCIATION.

STATE LAW REFERENCE—SIMILAR PROVISIONS, A.R.S., § 23-613.

FAMILIAL STATUS MEANS THE STATE OF HAVING ONE OR MORE MINOR CHILDREN UNDER THE AGE OF EIGHTEEN (18) BEING DOMICILED WITH: A PARENT, GUARDIAN OR ANOTHER PERSON HAVING LEGAL CUSTODY; THE DESIGNEE OF SUCH PARENT, GUARDIAN OR ANOTHER PERSON HAVING LEGAL CUSTODY WITH WRITTEN PERMISSION; OR, A FOSTER PARENT OR OTHER PERSON WITH WHOM A MINOR CHILD IS PLACED BY COURT ORDER. THIS DEFINITION INCLUDES PREGNANT WOMEN AND PEOPLE SECURING CUSTODY OF CHILDREN UNDER THE AGE OF EIGHTEEN (18) OR DISABILITY.

CROSS REFERENCE-FAIR HOUSING, CH. 22, ART. V.

GENDER IDENTITY MEANS AN INDIVIDUAL'S VARIOUS ATTRIBUTES AS THEY ARE UNDERSTOOD TO BE MASCULINE OR FEMININE AND SHALL BE BROADLY INTERPRETED TO INCLUDE PRE AND POST OPERATIVE GENDER INDIVIDUALS, AS WELL AS OTHER PERSONS WHO ARE OR ARE PERCEIVED TO BE TRANSGENDERED; AS WELL AS GENDER EXPRESSION, INCLUDING EXTERNAL CHARACTERISTICS AND BEHAVIORS THAT ARE SOCIALLY DEFINED AS EITHER MASCULINE OR FEMININE.

PLACE OF PUBLIC ACCOMMODATION MEANS FACILITIES, ESTABLISHMENTS, ACCOMMODATIONS, SERVICES, COMMODITIES, OR USE OFFERED TO OR FOR USE BY THE GENERAL PUBLIC, INCLUDING PUBLIC PLACES WHERE FOOD OR BEVERAGES ARE OFFERED FOR SALE, PUBLIC PLACES OPERATED FOR TEMPORARY LODGING, USE OR ACCOMMODATION OF THOSE SEEKING HEALTH OR RECREATION AND ALL ESTABLISHMENTS OFFERING SUCH GOODS OR FACILITIES, AND ENTITIES

SOLICITING PATRONAGE FROM THE GENERAL PUBLIC, EXCEPT FOR RELIGIOUS ORGANIZATIONS OR EXPRESSIVE ASSOCIATIONS WHOSE INCLUSION OF A PERSON PROTECTED BY THIS CHAPTER WOULD SIGNIFICANTLY BURDEN THE ASSOCIATION'S RIGHTS OF EXPRESSIVE ASSOCIATION. THIS DOES NOT INCLUDE ANY PRIVATE CLUB OR ANY PLACE WHICH IS IN ITS NATURE DISTINCTLY PRIVATE.

SOCIAL CLUB MEANS AN ORGANIZATION COMPOSED OF PEOPLE WHO VOLUNTARILY MEET ON A REGULAR BASIS FOR A MUTUAL PURPOSE OTHER THAN FOR EDUCATIONAL, RELIGIOUS, CHARITABLE, OR FINANCIAL PURSUITS. THIS INCLUDES ANY GROUP THAT HAS MEMBERS WHO MEET FOR A SOCIAL, LITERARY, OR POLITICAL PURPOSE. THIS DEFINITION DOES NOT INCLUDE ANY CLUB CONDUCTED FOR THE PURPOSE OF EVADING THIS CHAPTER.

SEXUAL ORIENTATION MEANS AN ENDURING PATTERN OF EMOTIONAL, ROMANTIC, OR SEXUAL ATTRACTIONS TO MEN, WOMEN, OR BOTH SEXES AS WELL AS THE GENDERS THAT ACCOMPANY THEM, INCLUDING THE PERCEPTION OR STATUS OF AN INDIVIDUAL'S SAME-SEX, OPPOSITE-SEX, OR BISEXUAL ORIENTATION.

VENDOR MEANS A PERSON OR FIRM IN THE BUSINESS OF SELLING OR OTHERWISE PROVIDING PRODUCTS, MATERIALS OR SERVICES.

CROSS REFERENCE-PROCUREMENT, CH. 26A.

SEC. 2-601. POLICY.

IT IS DECLARED TO BE THE POLICY FOR THE CITIZENS OF TEMPE, ARIZONA, TO BE FREE FROM DISCRIMINATION IN PUBLIC ACCOMMODATIONS, EMPLOYMENT, AND HOUSING, AND CONTRARY TO PUBLIC POLICY AND UNLAWFUL TO DISCRIMINATE AGAINST ANY PERSON ON THE BASIS OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, IN PLACES OF PUBLIC ACCOMMODATION, EMPLOYMENT, AND HOUSING; AND CONTRARY TO THE POLICY OF THE CITY AND UNLAWFUL FOR VENDORS AND CONTRACTORS DOING BUSINESS WITH THE CITY TO DISCRIMINATE, AS SET FORTH IN THIS CHAPTER.

SEC. 2-602. ADMINISTRATIVE PROVISIONS.

(A) *POWERS AND DUTIES.* ADMINISTRATION, AUTHORITY AND RESPONSIBILITY FOR ADMINISTERING THIS CHAPTER SHALL REST WITH THE CITY MANAGER.

(1) THE CITY MANAGER OR DESIGNEE MAY DELEGATE FUNCTIONS, DUTIES AND RESPONSIBILITIES FOR INVESTIGATION, MEDIATION, AND CONCILIATION AND MAY OTHERWISE ACT TO ASSIST THE CITY IN THE ADMINISTRATION OF THIS CHAPTER.

(2) THE CITY MANAGER OR DESIGNEE SHALL ADMINISTER PROGRAMS AND ACTIVITIES AS AUTHORIZED HEREIN TO FURTHER THE PURPOSES OF THIS CHAPTER, IN COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS, AND SHALL WORK WITH AND ENTER INTO AGREEMENTS AS APPROVED BY THE CITY COUNCIL, WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND OTHER AGENCIES OF THE UNITED STATES OR STATE OF ARIZONA THAT GOVERN OR AFFECT DISCRIMINATORY PRACTICES AS DEFINED BY THIS CHAPTER, INCLUDING THE ACCEPTANCE OF FUNDS FROM SUCH AGENCIES AND THE CARRYING OUT OF SUCH COVENANTS AND CONDITIONS OF SUCH AGREEMENTS, IN COMPLIANCE WITH THIS CHAPTER.

(3) THE CITY MANAGER OR DESIGNEE SHALL COOPERATE WITH AND RENDER ASSISTANCE TO, AS REASONABLY REQUESTED, OTHER PUBLIC OR PRIVATE AGENCIES, ORGANIZATIONS AND ENTITIES, TO FORMULATE OR CARRY OUT PROGRAMS TO FURTHER THE PREVENTION OR ELIMINATION OF DISCRIMINATORY PRACTICES AS DEFINED IN THIS CHAPTER.

(B) THE CITY ATTORNEY SHALL BE AUTHORIZED TO TAKE SUCH ACTIONS AS AUTHORIZED HEREIN TO CARRY OUT THE DUTIES AS SET FORTH IN THIS CHAPTER.

SEC. 2-603. UNLAWFUL PRACTICES.

THE FOLLOWING SHALL CONSTITUTE A VIOLATION OF THIS CHAPTER:

(1) FOR ANY OWNER, OPERATOR, LESSOR, MANAGER, AGENT OR EMPLOYER OF ANY PLACE OF PUBLIC ACCOMMODATION TO DISCRIMINATE AGAINST ANY PERSON, INCLUDING TO RESTRICT OR REFUSE ACCESS ON THE BASIS OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS.

(2) FOR AN EMPLOYER, BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, TO REFUSE TO HIRE OR EMPLOY OR BAR OR DISCHARGE FROM EMPLOYMENT ANY PERSON, OR TO DISCRIMINATE AGAINST SUCH PERSON IN COMPENSATION, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT.

(3) FOR A LABOR ORGANIZATION, BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, TO EXCLUDE, EXPEL, LIMIT OR RESTRICT FROM ITS MEMBERSHIP ANY PERSON, OR TO PROVIDE SEGREGATED MEMBERSHIP OR OTHERWISE DISCRIMINATE IN ANY MANNER AGAINST ANY OF ITS MEMBERS, APPLICANTS OR EMPLOYERS.

(4) FOR ANY OWNER OR LESSOR TO DISCRIMINATE AGAINST ANY PERSON IN THE TERMS, CONDITIONS, OR PRIVILEGES OF SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES THEREWITH, BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS.

(5) FOR A CITY VENDOR OR CITY CONTRACTOR, BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, TO REFUSE TO HIRE OR EMPLOY OR BAR OR DISCHARGE FROM EMPLOYMENT ANY PERSON, OR TO DISCRIMINATE AGAINST SUCH PERSON IN COMPENSATION, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT. CITY VENDORS AND CONTRACTORS SHALL PROVIDE A COPY OF ITS ANTIDISCRIMINATION POLICY TO THE CITY'S PROCUREMENT OFFICER, TO CONFIRM COMPLIANCE WITH THIS CHAPTER OR ATTEST IN WRITING TO COMPLIANCE WITH THIS CHAPTER.

(6) FOR ANY PERSON TO COERCE, INTIMIDATE, THREATEN, OR INTERFERE WITH ANY PERSON IN THE EXERCISE AND ENJOYMENT OF, OR ON ACCOUNT OF ANY AID OR ENCOURAGEMENT OF ANY RIGHT GRANTED OR PROTECTED UNDER THIS CHAPTER.

SEC. 2-604. EXCLUSIONS.

THIS CHAPTER SHALL NOT APPLY TO:

(1) A RELIGIOUS ORGANIZATION;

(2) AN EXPRESSIVE ORGANIZATION WHOSE EMPLOYMENT OF A PERSON PROTECTED BY THIS CHAPTER WOULD SIGNIFICANTLY BURDEN THE ASSOCIATION'S RIGHTS OF EXPRESSIVE ASSOCIATION;

(3) A BONA FIDE MEMBERSHIP CLUB (OTHER THAN A LABOR ORGANIZATION) THAT IS EXEMPT FROM TAXATION UNDER THE INTERNAL REVENUE CODE OF 1986 (AS AMENDED FROM TIME TO TIME), AS DEFINED IN THIS CHAPTER; OR

(4) A SOCIAL CLUB, AS DEFINED IN THIS CHAPTER.

SEC. 2-605. FAIR HOUSING.

(A) IT SHALL CONSTITUTE A VIOLATION OF THIS CHAPTER TO REFUSE TO SELL OR RENT AFTER THE MAKING OF A BONA FIDE OFFER, OR TO REFUSE TO NEGOTIATE FOR THE SALE OR RENTAL OF RESIDENTIAL REAL PROPERTY TO ANY PERSON BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, WITHIN THE LEGAL JURISDICTION OF THE CITY.

(B) IT SHALL CONSTITUTE A VIOLATION OF THIS CHAPTER TO REFUSE ANY PROVISION OF SERVICES OR FACILITIES, PRIVILEGES OR CONDITIONS OF THE SALE OR RENTAL OF RESIDENTIAL REAL PROPERTY TO ANY PERSON BECAUSE OF RACE, COLOR, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS, AGE, DISABILITY, OR UNITED STATES MILITARY VETERAN STATUS, WITHIN THE LEGAL JURISDICTION OF THE CITY.

(C) NOTHING IN THIS CHAPTER SHALL EXCLUDE OR DENY HOUSING DESIGNATED FOR SENIOR LIVING OR FOR THE DISABLED, OR AS OTHERWISE DESIGNATED OR DIRECTED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR THE STATE OF ARIZONA.

SEC. 2-606. PENALTIES, PROCESS AND APPEALS.

(A) ANY PERSON FOUND RESPONSIBLE OF VIOLATING ANY SECTION OR SUBSECTION OF THIS CHAPTER SHALL BE PUNISHED BY THE IMPOSITION OF A CIVIL SANCTION OF A FINE OF ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500) AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500) PLUS APPLICABLE SURCHARGES, FOR EACH VIOLATION.

(B) ANY PERSON CLAIMING TO BE AGGRIEVED OF A VIOLATION OF THIS CHAPTER MAY FILE WITH THE CITY MANAGER OR HIS DESIGNEE OF THE CITY, A WRITTEN CHARGE SIGNED BY THE COMPLAINANT AND VERIFIED BY SUCH SIGNATURE, WITHIN FORTY-FIVE (45) DAYS OF THE ALLEGED VIOLATION OCCURRING. THE CHARGE SHALL SET FORTH FACTS UPON WHICH IT IS BASED AND SHALL IDENTIFY THE PERSON CHARGED (HEREINAFTER "RESPONDENT"). THE CITY MANAGER OR DESIGNEE SHALL FURNISH THE RESPONDENT WITH A COPY OF THE CHARGE AND SHALL PROMPTLY INVESTIGATE THE ALLEGATIONS OF THE DISCRIMINATORY PRACTICES SET FORTH IN THE CHARGE.

(C) THE RESPONDENT MAY FILE, NO LATER THAN TWENTY (20) DAYS FOLLOWING RECEIPT OF THE CHARGE, A WRITTEN VERIFIED ANSWER TO THE CHARGE. FAILURE TO ANSWER OR PARTICIPATE IN THE PROCESS WILL BE CONSIDERED AN ADMISSION.

(D) THE CITY MANAGER OR DESIGNEE SHALL RENDER WRITTEN FINDINGS AS TO WHETHER THERE MAY BE REASONABLE CAUSE TO SUBSTANTIATE THE CHARGE NO LATER THAN ONE HUNDRED TWENTY (120) DAYS FROM THE FILING OF THE CHARGE. THE CITY MANAGER OR DESIGNEE SHALL FURNISH A COPY OF ITS REPORT OF FINDINGS TO THE CHARGING PARTY AND TO THE RESPONDENT.

(E) IF THE CITY MANAGER OR DESIGNEE FINDS THAT THERE IS REASONABLE CAUSE TO BELIEVE THAT THE RESPONDENT HAS ENGAGED IN A DISCRIMINATORY PRACTICE THAT IS PROHIBITED BY THIS CHAPTER, THE CITY MANAGER OR DESIGNEE MAY ATTEMPT TO ELIMINATE THE ALLEGED DISCRIMINATORY PRACTICE BY CONFERENCE, CONCILIATION, AND DISCUSSION. THE TERMS OF ANY AGREEMENT BETWEEN THE PARTIES MAY REQUIRE THE RESPONDENT TO REFRAIN FROM OR ENGAGE IN CERTAIN ACTIONS TO CARRY OUT THE PURPOSES OF THIS CHAPTER IN

THE FUTURE. IF AN AGREEMENT IS REACHED, THE CITY MANAGER OR DESIGNEE SHALL ISSUE AN ORDER STATING THE TERMS OF THE AGREEMENT AND FURNISH A COPY TO EACH PARTY.

(F) NO ACTIONS OR OMISSIONS UNDERTAKEN PURSUANT TO THIS CHAPTER, SHALL GIVE RISE TO LIABILITY OR LEGAL RESPONSIBILITY ON THE PART OF THE CITY OR ANY OF ITS EMPLOYEES, AGENTS OR OFFICIALS.

(G) IN CONNECTION WITH THE INVESTIGATION OF ANY CHARGE FILED UNDER THIS CHAPTER, THE CITY MANAGER OR DESIGNEE SHALL SEEK THE VOLUNTARY COOPERATION OF ANY PERSON TO: OBTAIN ACCESS TO PREMISES, RECORDS, DOCUMENTS, INDIVIDUALS AND OTHER POSSIBLE SOURCES OF INFORMATION; EXAMINE, RECORD AND COPY ANY MATERIALS; TAKE AND RECORD TESTIMONY AND OBTAIN STATEMENTS AS REASONABLY NECESSARY TO FURTHER THE INVESTIGATION.

(H) CHARGES MAY BE DISMISSED FOR REASONS INCLUDING: THE COMPLAINT WAS UNTIMELY FILED; THE LOCATION OF THE ALLEGED PRACTICE WAS OUTSIDE OF THE CITY'S JURISDICTION; INSUFFICIENT EVIDENCE EXISTS TO CONCLUDE THAT THE VIOLATION OCCURRED; OR A CONCILIATION AGREEMENT HAS BEEN EXECUTED BY THE PARTIES.

(I) IF UPON COMPLETION OF THE INVESTIGATION, THE CITY MANAGER OR DESIGNEE HAS CONCLUDED THAT A VIOLATION OF THIS CHAPTER OCCURRED, BUT IS UNABLE TO OBTAIN A CONCILIATION AGREEMENT, REFER THE CHARGE TO AN APPROPRIATE FEDERAL OR STATE AGENCY, OR OTHERWISE DISPOSE OF THE VIOLATION, IT SHALL IMPOSE A FINE OF ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500) PER CIVIL VIOLATION. A PERSON FOUND RESPONSIBLE FOR THE SAME CIVIL INFRACTION SHALL BE FINED NO MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500). IN ADDITION, THE CITY MANAGER OR DESIGNEE MAY REFER THE MATTER TO THE CITY ATTORNEY'S OFFICE, WHO SHALL DETERMINE HOW BEST TO PURSUE FURTHER ACTION, IF ANY, ON THE VIOLATION.

(J) THE CITY ATTORNEY'S OFFICE WILL DETERMINE WHETHER SUFFICIENT FACTS AND EVIDENCE EXIST IN ORDER TO WARRANT THE INITIATION OF AN ACTION IN A COURT OF COMPETENT JURISDICTION. IF THE CITY ATTORNEY'S OFFICE DETERMINES THAT THE FACTS OR EVIDENCE ARE INSUFFICIENT TO WARRANT THE INITIATION OF AN ACTION, THE CITY ATTORNEY WILL PROVIDE WRITTEN NOTIFICATION TO THE PARTIES, AND THE CHARGE WILL BE DISMISSED.

(K) FAILURE TO REMIT PAYMENT OF A FINE IMPOSED UNDER THIS CHAPTER SHALL RESULT IN COLLECTION EFFORTS AS ANY OTHER CIVIL JUDGMENT.

SEC. 2-607. SEVERABILITY AND LEGAL EFFECT.

(A) NOTHING CONTAINED IN THIS CHAPTER SHALL BE DEEMED OR INTERPRETED TO ALTER, CONTRAVENE, OR SUPERSEDE STATE OR FEDERAL LAWS, INCLUDING PRIVACY LAWS.

(B) NOTHING IN THIS CHAPTER SHALL BE DEEMED TO CONFER RIGHTS OR BENEFITS IN ADDITION TO WHAT IS DESCRIBED HEREIN.

(C) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO GIVE RISE TO CIVIL OR LEGAL LIABILITIES GREATER THAN THOSE ALREADY EXISTING UNDER LAW OR TO CREATE PRIVATE CAUSES OF ACTION, OTHER THAN TO BE REMEDIED AS SET FORTH HEREIN.

(D) IF ANY PROVISION, SECTION OR SUBSECTION OF THIS CHAPTER IS HELD TO BE INVALID BY A COURT OF COMPETENT JURISDICTION, THEN SUCH PROVISION, SECTION OR SUBSECTION SHALL BE CONSIDERED SEPARATELY AND APART FROM THE REMAINING PROVISIONS OR SECTIONS, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

SEC. 2-608. APPEALS.

THE FOLLOWING IS THE PROCESS FOR APPEALS OF ANY ACTION UNDER THIS CHAPTER:

(1) IF EITHER PARTY IS DISSATISFIED WITH THE FINDINGS OF A VIOLATION UNDER THIS CHAPTER, THE PARTY MAY ADMINISTRATIVELY APPEAL THE DECISION TO THE CITY MANAGER OR DESIGNEE, WITHIN FIVE (5) DAYS OF RECEIPT OF THE FINDINGS. THE CITY MANAGER OR DESIGNEE SHALL RENDER A DECISION WITHIN TEN (10) WORKING DAYS OF THE RECEIPT OF REQUEST FOR REVIEW.

(2) IF ANY FINES ARE LEVIED PUSUANT TO THIS CHAPTER, THE PARTY MAY APPEAL THE DECISION AND RESULTING FINE IN WRITING TO THE CITY MANAGER WITHIN FIVE (5) WORKING DAYS OF THE RECEIPT OF THE IMPOSITION OF THE FINE. SUCH APPEAL SHALL CONTAIN THE FACTUAL BASIS FOR THE PARTY'S POSITION AND THE REASONS WHY THE DECISION IS INCORRECT AND SHOULD BE OVERTURNED.

(3) IF EITHER PARTY IS DISSATISFIED WITH THE ADMINISTRATIVE REVIEW BY THE CITY MANAGER, THE PARTY MAY FILE AN APPEAL IN WRITING WITH THE CITY CLERK TO BE HEARD BY A HEARING OFFICER. SUCH APPEAL SHALL BE FILED WITHIN TEN (10) DAYS OF THE RECEIPT OF A DECISION BY THE CITY MANAGER, SETTING FORTH THE REASONS WHY THE DECISION IS INCORRECT AND SHOULD BE OVERTURNED.

(4) THE HEARING OFFICER SHALL CONSIDER ALL FACTS RELATING TO THE ISSUANCE OF THE CHARGE AND RESULTING FINE, IF ANY, AND MAY UPHOLD THE PENALTY IMPOSED, ELIMINATE IT OR MODIFY IT.

(5) THE COSTS OF THE ADMINISTRATIVE HEARING MAY BE ASSESSED TO THE RESPONSIBLE PARTY IN ADDITION TO ANY OTHER FINES AND PENALTIES, IN THE EVENT THE CHARGE IS UPHELD.

(6) IF EITHER PARTY IS DISSATISFIED WITH THE REVIEW BY THE HEARING OFFICER, THE PARTY MAY FILE AN APPEAL IN WRITING WITH THE CITY CLERK TO BE HEARD BY THE CITY COUNCIL. SUCH APPEAL SHALL BE FILED WITHIN TEN (10) DAYS OF THE RECEIPT OF A DECISION BY THE HEARING OFFICER, SETTING FORTH THE REASONS WHY THE DECISION IS INCORRECT AND SHOULD BE OVERTURNED. THE DECISION OF THE CITY COUNCIL SHALL CONSTITUTE THE FINAL DECISION.

SEC. 2-609. PUBLIC RECORDS.

ALL DOCUMENTS PROVIDED TO THE CITY PURSUANT TO THIS CHAPTER ARE PUBLIC RECORDS PURSUANT TO THE LAWS OF THE STATE OF ARIZONA AND MAY BE SUBJECT TO DISCLOSURE UPON REQUEST IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA.

Section 2. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 27th day of February, 2014.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney

DENVER

ARTICLE IV. PROHIBITION OF DISCRIMINATION IN EMPLOYMENT, HOUSING AND COMMERCIAL SPACE, PUBLIC ACCOMMODATIONS, EDUCATIONAL INSTITUTIONS AND HEALTH AND WELFARE SERVICES*

Sec. 28-91. Intent of council.

(a) It is the intent of the council that every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the city and to have an equal opportunity to participate in all aspects of life, including but not limited to employment, housing and commercial space, public accommodations, education and health and welfare services.

(b) It is the intent of the council in enacting this article to eliminate within the city **discrimination** by reason of race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability. Discriminatory practices as defined in this article may be subject to investigation, conciliation, administrative hearings and orders or other enforcement procedures.

(c) Except where specifically provided, the provisions of section 1-13 do not apply to this article.

(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 893-91, § 1, 12-2-91; Ord. No. 934-01, § 1, 11-5-01)

Sec. 28-92. Definitions.

The following words and terms when used in this article shall have the following meanings:

Age: A chronological age of at least forty (40) years.

Agency: The agency for human rights and community relations.

Director: The duly appointed executive director of the agency for human rights and community relations.

Educational institution: Any private educational institution, including an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system or university and a business, nursing, professional, secretarial, technical or vocational school and includes an agent of an educational institution.

Employee: Any individual employed by or applying for employment with an employer.

Employer: Any person, excluding governmental entities and political subdivisions but including any agent of such entity or subdivision where the agency relationship is created by a written contract, engaged in an industry affecting commerce who has twenty (20) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year; the term shall also mean any agent of such a person.

Employment agency: Any person regularly undertaking or attempting with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

Gender identity: A person's various individual attributes, actual or perceived, that may be in accord with, or sometimes opposed to, one's physical anatomy, chromosomal sex, genitalia, or sex assigned at birth.

Gender variance: A persistent sense that a person's gender identity is incongruent with the person's biological sex, excluding the element of persistence for persons under age twenty-one and including, without limitation, transitioned transsexuals.

Genital reassignment surgery: Surgery to alter a person's genitals, in order to complete a program of sex reassignment treatment.
Labor organization: Any organization, agency, employee representation committee, group, association or plan in which employees participate directly or indirectly and which exists for the purpose, in whole or in part, of dealing with employers or any agent thereof concerning grievances, labor disputes, wages, rates of pay, hours or other terms, conditions or privileges of employment and any conference, general committee, joint or system board or joint council which is subordinate to a national or international labor organization.
Marital status: The state of being married, single, divorced, separated or widowed and the usual conditions associated therewith, including parenthood.
Military status: Being or having been in the service of the military.
Physical or mental disability: A physical or mental impairment of an individual which substantially limits one (1) or more major life activities and includes a record of such impairment or being regarded as having such impairment; however, such term does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of a job or whose current alcohol abuse would constitute a direct threat to property or the safety of others; and in the areas of public accommodations or real estate transactions, such term does not include any individual who is an alcoholic and whose unreasonable conduct as a result of use of alcohol is the basis on which a covered entity acts; and such term does not include an individual who is currently engaged in the illegal use of drugs when a covered entity acts on the basis of such use.
Place of public accommodation:
(1) As defined by section 59-2 of this Code: All hostels; hotels; motels; rental rooms; rooming and/or boardinghouses; eating places; shops and stores dealing with goods or services of any kind; hospitals; recreational facilities, public parks; theaters of all kinds and any establishments licensed under chapter 7 (Amusements) of this Code.
(2) Any establishment licensed under the Colorado Liquor Code or the Colorado Beer Code; all banks, credit information services and all other financial institutions; insurance companies and establishments of insurance brokers; clinics, dental or medical; clubs and lodges; bathhouses and swimming pools; commercial or public garages, public transportation as well as the stations or terminals thereof; any establishment offering travel or tour services; and public areas and public elevators of buildings and structures.
Real estate broker or salesperson: Any person licensed as such in accordance with the provisions of the Colorado Real Estate Commission.
Religious organizations or associations: Any organization affiliated with a church, synagogue, congregation, parish, brotherhood, religious corporation or any religious society engaging in the works of education, benevolence, charity or missions.
Sex: Biological sex, the sum of a person's physical characteristics.
Sex reassignment treatment: Treatment to change a person's sex, based on medically recognized treatment protocols such as that published by the Harry Benjamin International Gender Dysphoria Association.
Transaction in real property: Exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, any interest in real property or improvements thereon.
Transitioning transsexual: A person experiencing gender variance who is undergoing sex reassignment treatment.

Transitioned transsexual: A person who has completed genital reassignment surgery.
(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 934-01, § 2, 11-5-01)

Sec. 28-93. Discriminatory practices in employment.

(a) *Generally.* It shall be a discriminatory practice to do any of the following acts based upon the race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability of any individual who is otherwise qualified:

(1) *By an employer:* To fail or refuse to hire an applicant or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, including promotion; or to limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect status as an employee; but with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to act as provided in this paragraph (a) if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job and the disability has a significant impact on the job;

(2) *By an employment agency:* To fail or refuse to refer for employment or to classify or refer for employment any individual or otherwise to discriminate against any individual; but with regard to a disability, it is not a discriminatory or an unfair employment practice for an employment agency to refuse to list and properly classify for employment or to refuse to refer an individual for employment in a known available job for which such individual is otherwise qualified if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the applicant from the job and the disability has a significant impact on the job;

(3) *By a labor organization:* To exclude or to expel from its membership or otherwise to discriminate against any individual or to limit, segregate or classify its membership or fail or refuse to refer any individual to employment or to classify any individual in any way which would deprive such individual of employment opportunities or would limit such employment opportunities or otherwise adversely affect the individual's status as an employee or as an applicant for employment; or

(4) *By an employer, employment agency, apprenticeship program, labor organization or joint labor/management council:*

a. To discriminate against any individual in admission to or employment in any program established to provide apprenticeship or other training or retraining, including an on-the-job training program; but with regard to a disability, it is not a discriminatory or an unfair employment practice to deny or withhold the right to be admitted to or participate in any such program if there is no reasonable accommodation that can be made with regard to the disability, the disability actually disqualifies the applicant from the program and the disability has a significant impact on participation in the program; and

b. To communicate, print or publish or cause to be communicated, printed or published any notice or advertisement or use any publication form relating to employment by such employer or to membership in or any classification or referral for employment by such a labor organization or to any classification or referral for employment by such an employment agency indicating any preference, limitation, specification or distinction based on the race, color, religion, national

origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability of any individual.

(b) *Women affected by pregnancy.*

(1) **Discrimination** on the basis of gender shall include but not be limited to **discrimination** on the basis of pregnancy, childbirth or related medical conditions.

(2) Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work; and this requirement shall include but not be limited to a requirement that an employer must treat an employee temporarily unable to perform the functions of her job because of pregnancy-related condition in the same manner as it treats other temporarily disabled employees.

(c) *Exceptions.*

(1) *Seniority system.* It shall not be considered a discriminatory practice for an employer to observe the conditions of a bona fide hiring or seniority system or a bona fide employee benefit system, such as retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this act, except that no such employee seniority system or benefit plan shall excuse the failure to hire any individual because of the age of such individual.

(2) *Elderly or physically or mentally disabled.* It shall not be discriminatory for employment to be limited to the elderly or physically or mentally disabled provided that such employment shall not discriminate among the elderly or physically or mentally disabled on the basis of other discriminatory criteria set forth in subsection (a) hereof.

(3) *Bona fide occupational classifications.* Any bona fide occupational qualifications or differentiation based on factors reasonably necessary to the normal operation of the particular employer shall not be deemed discriminatory.

(4) *Religious organizations.* This article shall not apply to employment by religious organizations or associations.

(5) *Individualized agreements.* Nothing in this section shall prohibit any employer from making individualized agreements with respect to compensation or the terms, conditions or privileges of employment for persons suffering a disability if such individualized agreement is part of a therapeutic or job-training program of no more than twenty (20) hours per week and lasting no more than eighteen (18) months.

(6) *Age; position.* It shall not be discriminatory to compel the retirement of any employee who is sixty-five (65) years of age or older who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan or any combination of such plans of the employer of such employee and if such plan equals in the aggregate at least forty-four thousand dollars ($44,000.00).

(7) *Sexual orientation; marital status.* With respect to sexual orientation or marital status, it shall not be discriminatory for fringe benefits, insurance coverage or any other term, condition or privilege of employment to be denied where the employee seeks coverage for an individual on the basis that the individual is their spousal equivalent.

(8) *Gender variance:* Notwithstanding any other provision of this chapter, a workplace supervisor may require that a worker have reasonably consistent gender presentation in the workplace.

(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 893-91, § 2, 12-2-91; Ord. No. 934-01, §§ 3, 4, 11-5-01)

Sec. 28-94. Discriminatory practices in educational institutions.

(a) *Generally.* It is a discriminatory practice for an educational institution to deny or restrict or to abridge or condition the use of or access to any of its facilities and services to any person otherwise qualified or to discriminate based on the race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability of any individual.

(b) *Exceptions.* It shall not be a discriminatory practice for admissions to be limited to persons with physical or mental disabilities, of specific religions or sex; except that when any of the above exempted colleges offers a course nowhere else available in the city, opportunity for admission to that course must be open to students of both sexes who otherwise meet lawful requirements for admission.

(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 934-01, § 5, 11-5-01)

Sec. 28-95. Discriminatory practices in real estate transactions.

(a) *Generally.* It shall be a discriminatory practice to do any of the following acts based upon the race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability of any individual:

(1) To interrupt or terminate or refuse to initiate or conduct any transaction in real property or to require different terms for such transaction or to represent falsely that an interest in real property is not available for transaction;

(2) To include in the terms or conditions of a transaction in real property any clause, condition or restriction prohibited by this article;

(3) To refuse to lend money, guarantee a loan, accept a deed of trust or mortgage or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property or impose different conditions on such financing or refuse to provide title or other insurance, relating to the ownership or use of any interest in real property;

(4) To refuse or restrict facilities, service, repairs or improvements for a tenant or lessee;

(5) To communicate, make, print or publish or cause to be communicated, made, printed or published any notice, statement or advertisement with respect to a transaction or proposed transaction in real property or financing related thereto, which notice, statement or advertisement indicates or attempts to indicate any preference, limitation or **discrimination** based on race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status, family status or physical or mental disability of any individual;

(6) To discriminate in any financial transaction involving real property on account of the location of residence or business, i.e., to red-line; or

(7) To restrict or attempt to restrict housing choices or to engage in any conduct relating to the sale or rental of a dwelling that otherwise denies the rental or sale or makes it unavailable.

(b) *Exceptions.*

(1) It shall not be a discriminatory practice for a person to act in conformity with chapter 59 (Zoning) of this Code, and nothing in this chapter of the Code shall supersede any provisions of chapter 59 (Zoning) of this Code.

(2) This section shall not apply to multiple-unit dwellings of not more than two (2) dwelling units where at least one (1) of the units is owner-occupied.
(3) Nothing in this section shall prohibit group homes, self-care elderly homes, special-care homes or other facilities whose use is restricted to the elderly or to individuals with physical or mental disabilities.
(4) This article shall not apply to religious organizations or associations.
(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 934-01, § 6, 11-5-01)

Sec. 28-96. Discriminatory practices in places of public accommodation.
(a) *Generally.* It shall be a discriminatory practice to do any of the following acts based upon the race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability of any individual:
(1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation.
(2) To communicate, print, circulate, post or mail or otherwise cause, directly or indirectly, to be published a statement, advertisement or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodation will be refused, withheld from or denied an individual or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable or undesirable.
(b) *Exceptions.*
(1) It shall not be a discriminatory practice for a person to act in conformity with chapter 59 (Zoning) of this Code, and nothing in this chapter of the Code shall supersede any provisions of chapter 59 (Zoning) of this Code.
(2) This section shall not apply to multiple-unit dwellings of not more than two (2) dwelling units where at least one (1) of the units is owner-occupied.
(3) Nothing in this section shall prohibit group homes, self-care elderly homes, special-care homes or other facilities whose use is restricted to the elderly or to individuals with physical or mental disabilities.
(4) This article shall not apply to religious organizations or associations.
(5) This article shall not apply to insurance risk classification.
(c) *Transitioned transsexuals.* Notwithstanding any other provision of this chapter, transitioned transsexuals may use the locker rooms and shower facilities of their new sex and shall be protected by this section from **discrimination** in their use of such locker rooms and shower rooms.
(d) *Transitioning transsexuals.* Notwithstanding any other provision of this chapter, transitioning transsexuals shall be granted reasonable accommodation in access to locker rooms and shower facilities.
(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 934-01, § 7, 11-5-01)

Sec. 28-97. Discriminatory practices in health and welfare services.
(a) *Generally.* It shall be a discriminatory practice to do any of the following acts based upon the race, color, religion, national origin, gender, age, sexual orientation, gender variance, marital status, military status or physical or mental disability, of any individual:
(1) To communicate, publish, advertise or represent or cause to be communicated, published, advertised or represented by any health and welfare agency or owner, supervisor, staff person,

director, manager or officer thereof, excluding governmental entities and political subdivisions, that any of the services, programs, benefits, facilities or privileges of any health or welfare agency are withheld from or denied to any person;
(2) For any health and welfare agency or worker, supervisor, staff person, director, manager or officer thereof, excluding governmental entities and political subdivisions, to deny or refuse to provide access to any of the services, programs, benefits, facilities or privileges of any health or welfare agency.
(b) *Exceptions.*
(1) This article shall not apply to religious organizations or associations.
(2) This article shall not apply to insurance risk classification.
(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 934-01, § 8, 11-5-01)

Sec. 28-97.5. Gender variance exemptions.
Competitive sports and sports-related records and sex-segregated housing for persons under age twenty-five shall be exempt from the gender variance **discrimination** provisions of this chapter.
(Ord. No. 934-01, § 9, 11-5-01)

Sec. 28-98. Coercion or retaliation.
(a) It shall be a discriminatory practice to coerce, threaten, retaliate against or interfere with any person in the exercise or enjoyment of or on account of having exercised or enjoyed or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this article.
(b) It shall be a discriminatory practice for any person to require, request or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person because that person has opposed any practice defined as discriminatory or unlawful by this article or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this article.
(c) It shall be a discriminatory practice for any person to cause or coerce or attempt to cause or coerce, directly or indirectly, any person to prevent any person from complying with the provisions of this article.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-99. Aiding or abetting.
It shall be a discriminatory practice for any person to aid, abet, invite, compel or coerce the doing of any of the acts forbidden under the provisions of this article or to attempt to do so.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-100. Conciliation agreements.
It shall be a discriminatory practice for a party to a conciliation agreement made under the provisions of this article to violate the terms of such agreement.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-101. Resisting the agency.
It shall be unlawful for any person to willfully resist, impede or interfere with the agency or any of its representatives in the performance of any duty under the provisions of this article or to

willfully violate an order of the agency. The provisions of section 1-13 of this Code shall apply to violations of this section. Each incident shall be treated as a separate offense.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-102. Falsifying documents and testimony.
It shall be unlawful to willfully falsify documents, records or reports which are required or subpoenaed pursuant to this article or willfully to falsify testimony or to intimidate any witness or complainant. The provisions of section 1-13 of this Code shall apply to violations of this section. Each incident of such intimidation or falsification shall be treated as a separate offense.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-103. Compliance with article prerequisite for licenses.
All permits or licenses issued by or on behalf of the city shall specifically require and be conditioned upon full compliance with the provisions of this article. The failure or refusal to comply with any provision of this article shall be a proper basis for revocation of such permit or license.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-104. Posting of notice.
(a) Every person subject to this article except private residences and rental complexes of fewer than five (5) units shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated a notice whose language and form have been prepared by the agency setting forth excerpts from or summaries of the pertinent provisions of this article and information pertinent to the filing of a complaint.
(b) It shall be a discriminatory practice for a person subject to this article to fail to post notices, maintain records, file reports as required by sections 28-105 and 28-106 or to fail to supply documents and information requested by the agency in connection with a matter under investigation.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-105. Preservation of business records.
(a) Where a charge of **discrimination** has been filed against a person under this article, the respondent shall preserve all records which may be relevant to the charge or action until a final disposition of the charge in accordance with subsection (b) of this section.
(b) All persons subject to this article shall furnish to the agency at the time and in the manner prescribed by the agency such reports relating to information under their control as the agency may require. The identity of persons and properties contained in reports submitted to the agency under the provisions of this section shall be kept confidential and shall not be made public. Every employer, employment agency and apprenticeship program, labor organization or joint labor/management council subject both to this article and to Title VII of the Civil Rights Act of 1964 as amended shall upon request furnish to the agency all reports that may be required by the equal employment opportunity commission established under the Civil Rights Act of 1964.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-106. Powers of agency.

(a) The agency is hereby empowered to undertake its own investigations and public hearings on any racial, religious and ethnic or other listed minority group tensions, prejudice, intolerance, bigotry and disorder and on any form of or reason for **discrimination** in accordance with section 28-91 against any person, for the purpose of making appropriate recommendations for action, including legislation, against such **discrimination**.
(b) The agency may adopt such rules and regulations as it deems necessary to effectuate and which are not in conflict with the provisions of this chapter.
(c) The agency may at its discretion choose to refer the investigation of any complaint to any other investigatory body, whether public or private, with which it shall arrange to perform such investigation.
(d) The agency may hold hearings pursuant to section 28-111, subpoena witnesses and compel their attendance, administer oaths and take the testimony of any person under oath and compel such respondent to produce for examination any books and papers relating to any matter involved in such complaint. Such hearings shall comply with due process requirements.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-107. Filing of complaints.
(a) Any person may file with the agency a complaint of a violation of the provisions of this article. The complaint shall state the name and address of the person alleged to have committed the violation, who shall be called the respondent, and shall set forth the substance thereof and such other information as may be required by the agency. Any complaint under this article shall be filed with the agency within one hundred eighty (180) days of the occurrence of the discriminatory practice.
(b) Complaints filed with the agency under the provisions of this article may be voluntarily withdrawn at the request of the complainant at any time prior to the completion of the agency's investigation and findings as specified in section 28-108, except that the circumstances accompanying said withdrawal may be fully investigated by the agency.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-108. Investigation.
(a) Within fifteen (15) days of the filing of any complaint, the agency shall serve a copy thereof upon the respondent and upon all persons it deems to be necessary parties and shall arrange for prompt investigation in connection therewith.
(b) Within two hundred seventy (270) days after service of the complaint upon all parties thereto or within two hundred seventy (270) days after the completion of the investigation by any person or agency to whom the complaint has been referred for investigation, the agency shall determine whether, in accord with its own rules, it has jurisdiction and, if so, whether there is probable cause to believe that the respondent has engaged or is engaging in a discriminatory practice.
(c) Upon determination of whether probable cause exists for crediting the allegations of the charge, the director shall follow one of the following courses of action:
(1) If the director determines that probable cause does not exist, the director shall dismiss the charge and shall notify the person filing the charge and the respondent of such dismissal. In addition, in such notice the director shall advise both parties:
(A) That if the charging party wishes to file a civil action in county court or state district court, which action is based on the alleged discriminatory or unfair practice that was the subject of the

charge, the charging party must do so within ninety (90) days of the date of mailing of the notice specified in this subparagraph (1);
(B) That, if the charging party does not file an action within the time limits specified in sub-subparagraph (A) of this subparagraph (1), such action will be barred and no county or district court shall have jurisdiction to hear such action.
(2) If the director determines that probable cause exists, the respondent shall be served with written notice which states with specificity the legal authority and jurisdiction of the agency and the matters of fact and law asserted and the director shall order the charging party and the respondent to participate in compulsory mediation. Immediately after such notice has been given, the director shall endeavor to eliminate such discriminatory or unfair practice by conference, conciliation, and persuasion and by means of the compulsory mediation required by this subparagraph (2). If such compulsory mediation does not result in a conciliation agreement between all parties, the charging party may request a notice of right to sue as provided by paragraph (b) of Sec. 28-110.5 of this ordinance.
(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 904-02, § 1, 11-4-02)

Sec. 28-109. Conciliation.
(a) If, in the judgment of the agency, the circumstances so warrant, it may at any time after the filing of the complaint endeavor to eliminate such discriminatory practice by conference, conciliation or persuasion.
(b) The terms of a conciliation agreement may require a respondent to refrain from committing specified discriminatory practices and to take such affirmative action as in the judgement of the agency will effectuate the purposes of this act.
(c) Upon agreement of all parties to a complaint and upon notice to all parties thereto, a conciliation agreement shall be deemed an order of the agency and shall be enforceable as such. Information concerning conciliation efforts shall be confidential.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-110. Service of process.
In all cases where the agency is required to effect service, it shall be accomplished by prepaid first-class mail or by personal service and shall otherwise be in accordance with rules of the agency regarding service and notice.
(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-110.5. Right to sue.
(a) No person may file a civil action in county court or state district court based on an alleged discriminatory or unfair practice prohibited by this ordinance without first exhausting the proceedings and remedies available to that person under this ordinance unless the person shows, in an action filed in the appropriate county or district court, by clear and convincing evidence, that the person's ill health which is of such a nature that pursuing administrative remedies would not provide timely and reasonable relief and would cause irreparable harm.
(b) The charging party in any action may request a written notice of right to sue at any time prior to service of a notice of determination of whether or not probable cause exists to credit the allegations of **discrimination**. Any request for notice of right to sue shall be in writing. A claimant's request for notice of right to sue made after the expiration of one hundred eighty (180) days following the filing of the charge shall be granted promptly. If a claimant makes a request

for a notice of right to sue prior to the expiration of one hundred eighty (180) days following the filing of the charge, said request shall be granted upon a determination by the agency that the investigation of the charge will not be completed within one hundred eighty (180) days following the filing of the charge. A notice of right to sue shall constitute final agency action and exhaustion of administrative remedies and proceedings pursuant to this section.

(c) If the agency has not made a determination of whether or not probable cause exists to credit the allegations of **discrimination** within two hundred seventy (270) days, if written notice that a formal hearing will be held is not served within two hundred seventy (270) days after the filing of a charge, or if the complainant has requested and received a notice of right to sue pursuant to subsection (b) of this section, the jurisdiction of the agency over the complaint shall cease, and the complainant may seek the relief by filing a civil action in county court or state district court for all appropriate remedies. Such action must be filed within ninety (90) days of the date upon which the jurisdiction of the agency ceased, and if not so filed, it shall be barred and the court shall have no jurisdiction to hear such action. If any party requests an extension of any time period prescribed by this section such extension may be granted for good cause by the agency, but the total period of all such extensions to either the respondent or the complainant shall not exceed ninety days each, and, in the case of multiple parties, the total period of all extensions shall not exceed one hundred eighty (180) days.

(Ord. No. 904-02, § 2, 11-4-02)

Sec. 28-111. Hearings.

(a) The agency may hold a formal hearing upon a finding of probable cause to believe that **discrimination** has occurred. The agency shall serve upon all parties a written notice which shall state the time and place of the hearing.

(b) In accordance with rules adopted by the agency, discovery procedures may be used by the agency and the parties as provided by the Colorado Rules of Municipal Procedure after the notice of hearing has been given.

(c) The respondent may file a written answer prior to or on the date of the hearing. When a respondent fails to answer at a hearing, the agency or its designee may enter a default judgment. For good cause shown, the entry of default may be set-aside within ten (10) days after the date of such entry. If the respondent fails to appear, testimony may be heard on behalf of complainant *ex parte.* After hearing such testimony, the agency or its designee may enter such order as the evidence warrants.

(d) The case in support of the complaint shall be presented at the hearing by one (1) of the agency's attorneys, but no one presenting the case in support of the complaint shall counsel or advise the agency representative or designee who hears the case.

(e) At any such hearing, the person presenting the case in support of the complaint shall have the burden of showing that the respondent has engaged or is engaging in an unfair or discriminatory practice, and the respondent's conduct shall be presumed not to be unfair or discriminatory until proven otherwise.

(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-112. Decision and order.

(a) If after a hearing the agency determines that a respondent has engaged in a discriminatory practice or has otherwise violated the provisions of this article, the agency shall issue and cause to be served on such respondent a decision and order accompanied by findings of fact and

conclusions of law which shall require such respondent to cease and desist from such discriminatory practice and may require such respondent to take action, including but not limited to:

(1) The hiring, reinstatement or upgrading of employees with or without back pay;

(2) The restoration to the membership in any respondent labor organization, admission to or participation in a program, apprenticeship training program, on-the-job training program or other occupational training or retraining program;

(3) The extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons;

(4) Appropriate injunctive relief;

(5) The payment of hearing costs as in the judgment of the agency will effectuate the purposes of this article, including a requirement for a report as to the manner of compliance with such decision and order.

(b) If upon all the evidence the agency finds that a respondent has not engaged in any discriminatory practice, the agency shall issue and cause to be served on the respondent and the complainant an order dismissing the complaint as to such respondent.

(Ord. No. 623-90, § 2, 10-15-90; Ord. No. 893-91, § 3, 12-2-91)

Sec. 28-113. Judicial review.

Any person suffering a legal wrong or adversely affected or aggrieved by an order or decision of the agency in a matter pursuant to the provisions of this article is entitled to a judicial review thereof in accordance with Colorado Rule of Civil Procedure 106 upon filing in the appropriate court a written complaint for such review.

(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-114. Enforcement and order.

The decision and order of the agency shall be served on the respondent with notice that, if the agency determines that the respondent has not corrected the discriminatory practice and complied with the order within thirty (30) calendar days following service of its order, the agency will conduct further enforcement proceedings.

(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-115. Referral to licensing agencies.

Whenever it appears that the holder of a permit or license issued by any agency or authority of the city is a person against whom the agency after a hearing has rendered a decision and order that a discriminatory practice or a violation of this article has occurred pursuant to section 28-112, the agency, notwithstanding any other action it may take under the authority of the provisions of this article, may refer to the proper entity of the city the facts and identities of all persons involved in the complaint for such action as such agency or authority in its judgment considers appropriate based upon the facts thus disclosed to it.

(Ord. No. 623-90, § 2, 10-15-90)

Sec. 28-116. Effective date.

This article shall become effective February 1, 1991.

(Ord. No. 623-90, § 2, 10-15-90)

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» **Chapter 12-1 Prohibition of Discrimination in Housing, Employment, and Public Accommodations**

Chapter 12-2 Landlord-Tenant Relations

Chapter 12-1: Prohibition of Discrimination in Housing, Employment, and Public Accommodations[1]

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12-1-1 Definitions. top↑

The following terms used in this chapter have the following meanings unless the context clearly requires otherwise:

"Age" means age forty years and older.

"Employer" means any person employing any person in any capacity.

"Employment agency" means any person undertaking, with or without compensation, to procure employees or opportunities to work for any person or holding itself out as equipped to do so.

"Gender identity" means a person's various individual attributes, actual or perceived, that may be in accord with, or sometimes opposed to, one's physical anatomy, chromosomal sex, genitalia, or sex assigned at birth.

"Gender variance" means a persistent sense that a person's gender identity is incongruent with the person's biological sex, excluding the element of persistence for persons under age twenty-one and including, without limitation, transitioned transsexuals.

"Genetic characteristics" means all characteristics of an individual that can be transmitted through the person's chromosomes.

"Genital reassignment surgery" means surgery to alter a person's genitals, in order to complete a program of sex reassignment treatment.

"Housing" means any building, structure, vacant land, or part thereof during the period it is advertised, listed, or offered for sale, lease, rent, or transfer of ownership, but does not include transfer of property by will or gift.[2]

"Labor organization" means any organization, or committee or part thereof, that exists for the purpose in whole or in part of collective bargaining, dealing with employers concerning grievances, terms, or conditions of employment, or other mutual aid or protection in connection with employment.[3]

"Marital status" means both the individual status of being single, divorced, separated, or widowed and the relational status of cohabitating and being married or unmarried.

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"Minor child" means a person under eighteen years of age.

"Person" or "individual" means any individual, group, association, cooperation, joint apprenticeship committee, joint stock company, labor union, legal representative, mutual company, partnership, receiver, trustee, and unincorporated organization and other legal, commercial, or governmental entity.

"Physical or mental disability" means a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such impairment. The term excludes current use of alcohol or drugs or other disabilities that prevent a person from acquiring, renting, or maintaining property, that would constitute a direct threat to the property or safety of others, or that would prevent performance of job responsibilities.

"Place of accommodation" means any place of business engaged in any sales to the general public and any place that offers services, facilities, privileges, or advantages to the general public or that receives financial support through solicitation of the general public or through governmental subsidy of any kind.

"Sex" means biological sex, the sum of a person's physical characteristics.

"Sex reassignment treatment" means treatment to change a person's sex, based on medically recognized treatment protocols such as that published by the Harry Benjamin International Gender Dysphoria Association.

"Sexual orientation" means the choice of sexual partners, i.e., bisexual, homosexual, or hetero-sexual.

"Transitioning transsexual" means a person experiencing gender variance who is undergoing sex reassignment treatment.

"Transitioned transsexual" means a person who has completed genital reassignment surgery.

(Ordinance Nos. 4969 (1986); 5061 (1987); 7040 (2000); 7905 (2013)

12-1-2 Discrimination in Housing Prohibited.[4] top↑

(a) It is an unfair housing practice, and no person:

(1) Who has the right of ownership or possession or the right of transfer, sale, rental, or lease of any housing or any agent of such person shall:

(A) Refuse to show, sell, transfer, rent, or lease, or refuse to receive and transmit any bona fide offer to buy, sell, rent, or lease, or otherwise to deny to or withhold from any individual such housing because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of that individual or such individual's friends or associates;

(B) Discriminate against any individual because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status,

religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of the individual or such individual's friends or associates in the terms, conditions, or privileges pertaining to any facilities or services in connection with a transfer, sale, rental, or lease of housing; or

(C) Cause to be made any written or oral inquiry or record concerning the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of an individual seeking to purchase, rent, or lease any housing or of such individual's friends or associates, but nothing in this section prohibits using a form or making a record or inquiry for the purpose of required government reporting or for a program to provide opportunities for persons who have been traditional targets of discrimination on the bases here prohibited;

(2) To whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing shall:

(A) Make or cause to be made any written or oral inquiry concerning the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parent-hood, custody of a minor child, or mental or physical disability of an individual seeking such financial assistance, such individual's friends or associates, or prospective occupants or tenants of such housing, or

(B) Discriminate against any individual because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of such individual, such individual's friends or associates, or prospective occupants or tenants in the term, conditions, or privileges relating to obtaining or use of any such financial assistance;

(3) Shall include in any transfer, sale, rental, or lease of housing any restrictive covenant limiting the use of housing on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability or shall honor or exercise or attempt to honor or exercise any such restrictive covenant pertaining to housing;[5]

(4) Shall print or cause to be printed or published any notice or advertising relating to the transfer, sale, rental, or lease of any housing that indicates any preference, limitation, specification, or discrimination based on race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability;

(5) Shall aid, abet, incite, compel, or coerce the doing of any act prohibited by this section or obstruct or prevent any person from complying with the provisions of this section or attempt either directly or indirectly to commit any act prohibited by this section;[6]

(6) For the purpose of promoting housing sales, rentals, or leases in a geographic

area, shall initiate, instigate, or participate in any representation, advertisement, or contract, directly or indirectly, within such geographic area that changes have occurred, will occur, or may occur in the composition of the geographic area with respect to race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of the owners or occupants or that such changes will or may result in lowering property values, in increased criminal or antisocial behavior, or in declining quality of schools in the geographic area;

(7) Shall discharge, demote, or discriminate in matters of compensation against any employee or agent because of said employee's or agent's obedience to the provisions of this section;

(8) Shall:

(A) Offer, solicit, accept, use, or retain a listing of housing with the understanding that an individual may be discriminated against in the purchase, lease, or rental thereof on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of such individual or such individual's friends or associates;

(B) Deny any individual access to or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting housing; or

(C) Discriminate against such individual on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical disability of such individual or such individual's friends or associates;

(9) Shall establish unreasonable rules or conditions of occupancy that have the effect of excluding pregnant women, parents, or households with minor children.

(b) The provisions of subsection (a) of this section do not apply to prohibit:

(1) Any religious or denominational institution or organization that is operated, supervised, or controlled by a religious or denominational organization from limiting admission or giving preference to persons of the same religion or denomination or from making such selection of buyers, lessees, or tenants as will promote a bona fide religious or denominational purpose.

(2)(A) An owner or lessee from limiting occupancy of a single dwelling unit occupied by such owner or lessee as his or her residence.

(B) An owner from limiting occupancy of rooms or dwelling units in buildings occupied by no more than two families living independently of each other if the owner actually maintains and occupies one of such rooms or dwelling units as his or her residence.

(C) An owner or lessor of a housing facility devoted entirely to housing

individuals of one sex from limiting lessees or tenants to persons of that sex.

(3) The transfer, sale, rental, lease, or development of housing de-signed or intended for the use of the physically or mentally disabled, but this exclusion does not permit discrimination on the basis of race, creed, color, sexual orientation, gender variance, genetic characteristics, marital status, religion, ancestry, or national origin.

(4) Compliance with any provisions of section 9-8-5, "Occupancy of Dwelling Units," or chapter 10-2, "Housing Code," B.R.C. 1981, concerning permitted occupancy of dwelling units.

(5) Discrimination on the basis of pregnancy, parent-hood, or custody of a minor child in:

(A) Any owner-occupied lot containing four or fewer dwelling units;

(B) Any residential building in which the owner or lessor publicly establishes and implements a policy of renting or selling exclusively to persons fifty-five years of age or older, but only as long as such policy remains in effect;

(C) Any residential institution, as defined in section 9-16-1, "General Definitions," B.R.C. 1981;

(D) Any dwelling unit rented, leased, or subleased for no more than eighteen months while the owner or lessee is temporarily absent, when the owner or lessee leaves a substantial amount of personal possessions on the premises;

(E) Any residential building located on real estate whose title was, as of November 17, 1981, encumbered by a restrictive covenant limiting or prohibiting the residence of minor children on such property, but only so long as such covenant remains in effect; and

(F) Up to one-third of the buildings in a housing complex consisting of three or more buildings; for purposes of this subparagraph, housing complex means a group of buildings each containing five or more units on a contiguous parcel of land owned by the same person or persons.

(c) The provisions of subsection (a) of this section shall not be construed to require an owner or lessor of property to make any improvement to a housing facility beyond minimal building code standards applicable to the housing facility in question and approved by a state or local agency with responsibility to approve building plans and designs.

(Ordinance Nos. 4803 (1984); 5061 (1987); 5117 (1988); 7040 (2000))

12-1-3 Discrimination in Employment Practices Prohibited.[7] top↑

(a) It is a discriminatory or unfair employment practice, and no person:

(1) Shall fail or refuse to hire, shall discharge, shall promote or demote, or shall discriminate in matters of compensation, terms, conditions, or privileges of employment against any individual otherwise qualified or to limit, segregate, or

classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect such individual's status as an employee because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability of such individual or such individual's friends or associates; but with regard to mental or physical disability, it is not a discriminatory or unfair employment practice for a person to act as provided in this paragraph if there is no reasonable accommodation that such person can make with regard to the disability, the disability actually disqualifies the individual from the job, and the disability has a significant impact on the job;

(2) Shall refuse to list and properly classify for employment or refer an individual for employment in a known available job for which such individual is otherwise qualified because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability of such individual or such individual's friends or associates or to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability; but with regard to mental or physical disability, it is not a discriminatory or unfair employment practice for an employment agency to refuse to list and properly classify for employment or refuse to refer an individual for employment in a known available job for which such individual is otherwise qualified if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the individual from the job, and the disability has a significant impact on the job;

(3) Shall exclude or expel any individual otherwise qualified from full membership rights in a labor organization, otherwise discriminate against any members of such labor organization in the full enjoyment of work opportunity, or limit, segregate, or classify its membership or applicants for membership, or classify or fail or refuse to refer for employment such individual in any way that deprives such individual of employment opportunities, limits employment opportunities, or otherwise adversely affects such individual's status as an employee or applicant for employment because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability of such individual or such individual's friends or associates;

(4) Shall print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or membership, or to make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly, any limitation, specification, or discrimination on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability or intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification;

(5) Shall establish, announce, or follow a policy of denying or limiting, through a quota system or otherwise, opportunities for employment or membership in a group on the basis of race, creed, color, sex, sexual orientation, gender variance,

genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability;

(6) Shall aid, abet, incite, compel, or coerce the doing of any act defined in this section to be a discriminatory or unfair employment practice, obstruct or prevent any person from complying with the provisions of this section, or attempt, either directly or indirectly, to commit any act defined in this section to be a discriminatory or unfair employment practice;

(7) That is an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs shall discriminate against any individual on the basis of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability of such individual or such individual's friends or associates in admission to or employment in any program established to provide apprenticeship or other training; but with regard to mental or physical disability, it is not a discriminatory or unfair employment practice to withhold the right to be admitted to or to participate in any such program if there is no reasonable accommodation that can be made with regard to the disability, the disability actually disqualifies the individual from the program, and the disability has a significant impact on participation in the program;

(8) Shall use in the recruitment or hiring of individuals any employment agency, placement service, training school or center, labor organization, or any other employee referral source known by such person to discriminate on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability;

(9) Shall use in recruitment, hiring, upgrading, or promoting any test that such person knows or has reason to know tends to discriminate on the basis of race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability; but it is not a discriminatory or unfair employment practice to provide employment opportunities for classes of individuals that have been the traditional targets of discrimination or to use a form or make a record or inquiry for the purpose of required government reporting, and with regard to mental or physical disability, it is not a discriminatory or unfair employment practice for a person to act as prohibited in this subsection if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the individual from the job, and the disability has a significant impact on the job; and

(10) Seeking employment, shall publish or cause to be published an advertisement with a specification or limitation based upon race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, age, or mental or physical disability, unless based upon a bona fide occupational qualification.

(b) The provisions of subsection (a) of this section do not apply to prohibit a religious organization or institution from restricting employment opportunities to persons of the religious denomination or persons of other defined characteristics and advertising such restriction if a bona fide religious purpose exists for the restriction.

(c) The provisions of subsection (a) of this section concerning discrimination based on marital status do not apply to the provision of employee health or disability insurance.

(d) Notwithstanding any other provision of this chapter, a workplace supervisor may require that a worker not change gender presentation in the workplace more than three times in any eighteen-month period.

(Ordinance Nos. 5061 (1987); 5468 (1992); 7040 (2000))

12-1-4 Discrimination in Public Accommodations Prohibited.[8]

(a) It is a discriminatory practice, and no person shall:

(1) Refuse, withhold from, or deny to any individual because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, or mental or physical disability of such individual or such individual's friends or associates, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation;[9] or

(2) Publish, circulate, issue, display, post, or mail any written or printed communication, notice, or advertisement that indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied an individual or that such individual's patronage or presence at a place of public accommodation is unwelcome, objectionable, unacceptable, or undesirable because of the race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, or mental or physical disability of such individual or such individual's friends or associates.

(b) The provisions of subsection (a) of this section do not apply to prohibit:

(1) Persons from restricting admission to a place of public accommodation to individuals of one sex if such restriction bears a bona fide relationship to the goods, services, facilities, privileges, advantages, or accommodations of such place of public accommodation;[10] or

(2) Any religious or denominational institution that is operated, supervised, or controlled by a religious or denominational organization from limiting admission to persons of the same religion or denomination as will promote a bona fide religious or denominational purpose.

(c) Notwithstanding any other provision of this chapter, transitioned transsexuals may use the locker rooms and shower facilities of their new sex and shall be protected by section 12-1-4, "Discrimination in Public Accommodations Prohibited," B.R.C. 1981, from any discrimination in their use of such locker rooms and shower rooms.

(d) Notwithstanding any other provision of this chapter, transitioning transsexuals shall be granted reasonable accommodation in access to locker rooms and shower facilities.

(Ordinance Nos. 5061 (1987); 7040 (2000))

12-1-5 Prohibition on Retaliation for and Obstruction of Compliance With Chapter. top↑

(a) No person shall use a threat, communicated by physical, oral, or written means, of harm or injury to another person, such other person's reputation, or such person's property, or discriminate against any person because such person has entered into a conciliation agreement under this chapter, because the final or any other ruling in any proceeding brought under this chapter has been in such other person's favor, because such other person has op-posed a discriminatory practice, or because such other person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing before a person charged with the duty to investigate or hear complaints relating to problems of discrimination, but this section does not apply when the threat involves knowingly placing or attempting to place a person in fear of imminent bodily injury by use of a deadly weapon;

(b) No person shall willfully obstruct, hinder, or interfere with the performance or the proper exercise of a duty, obligation, right, or power of the city manager, the municipal court, or other official or body charged with a duty, obligation, right, or power under this chapter.

12-1-6 Provisions of This Chapter Supplement Other Code Sections. top↑

Anything to the contrary notwithstanding, the substantive terms of this chapter and the remedies herein provided supplement those terms and remedies contained in this code and other ordinances of the city.

12-1-7 City Manager May Appoint Person to Assist in Enforcement. top↑

The city manager may appoint a person to carry out any or all of the duties, obligations, rights, or powers under the provisions of this chapter, who may have such job title as the manager designates.

12-1-8 Administration and Enforcement of Chapter. top↑

(a) Any person claiming to be aggrieved by a violation of this chapter may file a written complaint under oath with the city manager:

(1) Within one year of any alleged violation of section 12-1-2, "Discrimination in Housing Prohibited," B.R.C. 1981; within one hundred eighty days of any alleged violation of section 12-1-3, "Discrimination in Employment Practices Prohibited," B.R.C. 1981; or within sixty days of any alleged violation of section 12-1-4, "Discrimination in Public Accommodations Prohibited," B.R.C. 1981; and

(2) The complaint shall state:

(A) The name of the alleged violator, or facts sufficient to identify such person;

(B) An outline of the material facts upon which the complaint is based;

(C) The date of the alleged violation;

(D) That any conduct of the complainant was for the purpose of obtaining the housing, employment, or public accommodation in question and not for the

purpose of harassment or entrapment of the person against whom the complaint is made; and

(E) That a complaint concerning this same matter has not been filed with another agency or that any complaint concerning this matter filed with another agency has been dismissed by such agency with-out a final judgment on the merits.

(b) The city manager shall furnish a copy of the complaint to the person against whom the complaint is made.

(c) Before conducting a full investigation of the complaint, the city manager may attempt to negotiate a settlement of the dispute between the parties, if the manager deems that such an attempt is practicable.

(d) If the city manager does not deem it practicable to attempt a preinvestigation settlement or if such settlement attempt is unsuccessful, the manager shall conduct an investigation to determine whether there is probable cause to believe the allegations of the complaint.

(1) If the city manager determines there is no probable cause, the manager shall dismiss the complaint and take no further action thereon other than that of informing the concerned persons that the complaint has been dismissed.

(2) If the city manager determines that there is a sufficient basis in fact to support the complaint, the manager shall endeavor to eliminate the alleged violation by a conciliation agreement, signed by all parties and the manager, whereunder the alleged violation is eliminated and the complainant is made whole to the greatest extent practicable.

(3) The city manager shall furnish a copy of such signed conciliation agreement to the complainant and the person charged. The terms of a conciliation agreement may be made public, but no other information relating to any complaint, its investigation, or its disposition may be disclosed without the consent of the complainant and the person charged.

(4) A conciliation agreement need not contain a declaration or finding that a violation has in fact occurred.

(5) A conciliation agreement may provide for dismissal of the complaint without prejudice.

(e) If a person who has filed a complaint with the city manager is dissatisfied with a decision by the manager to dismiss the complaint under paragraph (d)(1) of this section or if conciliation attempts as provided in paragraph (d)(2) of this section are unsuccessful to resolve the complaint, the aggrieved party may request a hearing before the City of Boulder Human Relations Commission[11], which shall hold a hearing on the appeal. If the commission finds violations of this chapter, it may issue such orders as it deems appropriate to remedy the violations, including, without limitation, orders:

(1) Requiring the person found to have violated this chapter to cease and desist from the discriminatory practice;

(2) Providing for the sale, exchange, lease, rental, assignment, or sublease of housing to a particular person;

(3) Requiring an employer to: reinstate an employee; pay backpay for discriminatory termination of employment, layoff, or denial of promotion opportunity; make an offer of employment in case of discriminatory refusal of employment; make an offer of promotion in the case of discriminatory denial of promotion opportunity; or take other appropriate equitably remedial action;

(4) Requiring that a person make available a facility of public accommodation in the case of discriminatory denial of the use of such facility;

(5) Requiring that a person found to have violated this chapter report compliance with the order or orders issued pursuant to this section; and

(6) Requiring that a person found to have violated any provisions of this chapter make, keep, and make available to the commission such reasonable records as are relevant to determine whether such person is complying with the commission's orders.

(f) No person shall fail to comply with an order of the human relations commission.

(g) The city manager may initiate and file a complaint pursuant to this section based on the information and belief that a violation of this chapter has occurred. The manager may file such a complaint pursuant to the following standards:

(1) The manager has supervised any investigative testing used;

(2) Any investigative testing is not designed to induce a person to behave in other than such person's usual manner; and

(3) The case is not brought for the purpose of harassment.

(h) No complaint shall be accepted against the City or a city-appointed agency unless there is no state or federal protection for the human rights violation set forth in the complaint.

(Ordinance Nos. 4879 (1985); 7040 (2000))

12-1-9 Judicial Enforcement of Chapter. top↑

(a) The city manager may file a criminal complaint in municipal court seeking the imposition of the criminal penalties provided in section 5-2-4, "General Penalties," B.R.C. 1981, for violations of this chapter.

(b) The city manager may seek judicial enforcement of any orders of the human relations commission.

(c) Any party aggrieved by any final action of the human relations commission may seek judicial review thereof in the District Court in and for the County of Boulder by filing a complaint pursuant to the Colorado Rules of Civil Procedure 106(a)(4).

Ord. No. 7838 (2012)

12-1-10 City Contractors Shall Not Discriminate. top↑

The city manager shall require that all contractors providing goods or services to the City certify their compliance with the provisions of this chapter.

12-1-11 Authority to Adopt Rules. top↑

The city manager and the human relations commission are authorized to adopt rules to implement the provisions of this chapter.

12-1-12 Gender Variance Exemptions. top↑

Competitive sports and sports-related records and sex-segregated housing for persons under age twenty-five shall be exempt from the gender variance discrimination provisions of this chapter.

(Ordinance No. 7040 (2000))

12-1-13 Elements of Proof. top↑

Proof of the characteristics of the victim, while admissible to prove intent, and to determine reasonable accommodation for disabilities and for transitioning transsexuals, shall not otherwise be required as an element of proof in and of itself. The essential elements of proof shall be of discriminatory intent and of a nexus between such intent and an action or refusal or failure to act identified in this chapter.

(Ordinance No. 7040 (2000))

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[1] Adopted by Ordinance No. 4571. Amended by Ordinance Nos. 4574, 4646, 7264. Derived from Ordinance No. 3824.

[2] 24-34-501(2), C.R.S.

[3] 24-34-401(6), C.R.S.

[4] See 42 U.S.C. §§3604—3606.

[5] 24-34-502(1)(c), C.R.S.

[6] 24-34-502(1)(e), C.R.S.

[7] See 42 U.S.C. 2000e.

[8] See 42 U.S.C. 2000a.

[9] 24-34-601(1), C.R.S.

[10] 24-34-601(3), C.R.S.

[11] Section 2-3-6, "Human Relations Commission," B.R.C. 1981.

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Comparison of Arizona Municipal Anti-Discrimination Ordinance Provisions

City or Town	Phoenix	Tucson	Tempe	Flagstaff
Unity Pledge	Y	N	Y	N
Domestic Partner Benefits	Y	Y	Y	Y
Domestic Partner Registry	Y	Y	N	Y
Anti-Discrimination Ordinance	1992	1999	2014	2013
Protected Classes				
1. Sexual Orientation	Y	Y	Y	Y
2. Gender Identity	Y	Y	Y	Y
3. Genetic Characteristics	Y	N	N	N
4. Familial/Marital Status	Y	Y	Y	N
5. Military/Veteran Status	N	N	Y	Y
6. Age	Y	Y	Y	Y
Discrimination Prohibited				
1. Employment	Y	Y	Y	Y
2. Housing	Y	Y	Y	N
3. Public Accommodation	Y	Y	Y	Y
Coverage				
1. City Contractors and Vendors	Y[1]	Y	Y	N
2. All Businesses in City	Y[2]	Y[3]	Y	Y[4]
3. Contractor Proves Compliance	Y	N	Y	N
4. City Contract Contains Language	Y	N	N	N

[1] Phoenix policy does not apply to contractors doing less than $10,000 of business with City.
[2] Phoenix ordinance does not apply to small business as having less than 35 employees.
[3] Tucson ordinance applies to small businesses with less than 100 employees. Employers with more than 100 employees are excluded from definition of employer unless the employees have no other protections under federal or state law.
[4] Flagstaff ordinance does not apply to employers with less than 15 employees.

Comparison of Arizona Municipal Anti-Discrimination Ordinance Provisions

City or Town	Phoenix	Tucson	Tempe	Flagstaff
Exclusions				
1. Religious Orgs	Y	Y	Y	Y
2. Private/Social Clubs	Y	Y	Y	Y
3. Expressive Associations	N	N	Y	Y
4. Educational Institutions	Y[5]	N	Y	N
5. Native American Preference	Y	Y	Y	Y
6. Housing for Older Persons	Y	Y	Y	N/A
7. Owner-Occupied Adjacent Housing	Y	Y	N	N/A
Complaints Process				
1. Human Rights Commission	Y	Y	N	N
2. City Department	Y	Y	Y	N
3. City Manager	N	N	Y	Y
4. Hearing Officer	N	N	Y	N
5. City Council	N	N	Y	N
6. Court	Y	Y	Y	Y
Penalties and Remedies				
1. Conciliation/Mediation	Y	Y	Y	Y
2. Civil Fine	N	Y	Y	Y
3. Criminal Penalty	Y	N	N	N
4. Injunctive Relief	N	N	N	N
5. Exclude from City Contract	Y	N	N	N
6. Deny/Revoke License	N	N	N	N

[5] In Phoenix, educational institution is exempt only if it is owned or controlled by the State, City or a religious group.

Comparison of City Processes

	Phoenix	Tucson	Tempe	Flagstaff	Scottsdale
What was the impetus behind your efforts and how did you decide what course of action to take?	The original ordinance was put in place in 1992. The most recent update in 2013 was requested by the Mayor	Councilmember and public were the drivers. Tucson was looking for ways to make themselves more business friendly	Councilmembers were the impetus for the ordinance – MEI was a catalyst for change. This was one of four charter changes that appeared on the ballot	The Council tried to pass an ordinance back in 2008, which was community driven. Council pushed the subsequent effort forward	Mayor and Councilmember met with One Community on the UNITY Pledge.
How long did the process take?	~90 days. First step was a presentation to the Human Rights Commission, followed by two public hearings, and then added to Council agenda	~6 months	September 2013 to February 2014.	~3 to 6 months.	N/A – UNITY Pledge only
How were businesses and individuals involved?	No specific involvement; the city recommended involving the local chambers	Awaiting response	The city met with stakeholders and Chamber as well as Tempe tourism	Chamber was present both times	Working on obtaining residents feedback.
Who led the efforts within the City?	Mayor, Diversity Office and City Attorney	Councilmember. Awaiting response for additional information	The Diversity office	First effort was led by Diversity Awareness Commission. Second effort led by Deputy City Manager	Diversity Office and City Attorney
Did you use a consultant at any point?	No	Awaiting response	N/A	Consultant used to facilitate discussion the first time. Was not used the second time	N/A
Other	Recommended developing an FAQ and having more public hearings to address potential questions ahead of time. The City is now looking at options for spreading the word to the community about the ordinance	Expressed the importance of creating a policy that is good for Glendale	The city looked at other cities that had an ordinance already in place and how effective they were. Recommended getting feedback from stakeholders	Evaluated what other cities had done and brought it to workshop as comparison. Ordinance was drafted after hearing public feedback.	They did not do a workshop but would recommend using this forum

UNITY Pledge
It's good for business

WHAT IS UNITY PLEDGE?

UNITY Pledge is a concerted effort by Arizona businesses and individuals to advance workplace equality and equal treatment in housing and hospitality for Lesbian, Gay, Bisexual, and Transgender (LGBT) individuals and their allies. The business community and like-minded individuals understand that if we want to compete for top talent, we must have diverse and inclusive workplaces. UNITY Pledge was created by ONE Community, a member-based coalition of Arizona businesses and individuals dedicated to growing Arizona's economy and otherwise improving our community.

The goal of UNITY Pledge is simple: encourage at least 10,000 Arizona businesses and organizations to stand up for diversity. Businesses and organizations of all sizes who sign the UNITY Pledge publicly join thousands of other businesses and organizations that support workplace equality and equal treatment in housing and hospitality. Directions below explain how both your business and you individually may take the UNITY Pledge.

WHY UNITY PLEDGE?

Not much has changed in 50 years!

The UNITY Pledge was created because of the overwhelming outpouring of support that ONE Community received from business leaders following our *Spotlight on Success Local Heroes Awards Ceremony* in October 2012.

During the ceremony, ONE Community featured Karen and Nelda—an amazing lesbian couple that have been in a committed relationship for 54 years. Karen shared with us through a video shown at the ceremony how 50 years ago individuals could be fired from their job solely because they were gay. In 2013, it is *still* legal in Arizona and 28 other states to fire someone simply because they are gay or transgender. It is also perfectly legal to discriminate on the same basis in housing and hospitality.

This makes little sense when you understand that LGBT people make up a combined $790 billion in spending each year in the US. These professionals, families, and individuals are also some of the most talented in their industries. Moreover, according to a report from the *Center for American Progress*, workplace discrimination, including discrimination against LGBT employees, costs businesses $64 billion each year. The Human Rights Campaign's Corporate Equality Index reflects that 99% of responding businesses prohibit discrimination based upon sexual orientation and 84% of responding businesses prohibit discrimination based upon gender identify. Smart businesses want to attract LGBT professionals and travelers. Smart businesses value diversity and know that we have a responsibility to treat this community with the same dignity and respect as other communities.

We're sure you'll agree that Arizona's economic success depends upon great talent, and diversity is our greatest strength. Protecting LGBT Arizonans is the right thing to do and we know we can count on you to stand up in support of LGBT workplace, housing, and hospitality equality by taking the UNITY Pledge.

We stand in UNITY, we are ONE Community. Take the Pledge!

HOW DO ***BUSINESSES*** TAKE THE UNITY PLEDGE?

Taking the UNITY Pledge is easy for businesses. To take the pledge, either (1) complete the online form at www.UNITYPledge.co or (2) complete the attached *Business UNITY Pledge Form* and return it to ONE Community. By taking this step, your business pledges as follows:

UNITY Pledge for *Businesses*:

UNITY Pledge
It's good for business

As business and community leaders, we understand that if we want to compete for top talent, we must have a diverse and inclusive workplace.

We also understand that if our travel and tourism industry wants to be competitive—and if Arizona wants to be competitive on a national and international level—we must support all of our diverse communities. It's time for LGBT inclusive non-discrimination policies in the workplace, in housing, and in public accommodations including restaurants and hotels.

For our part, the company or organization below celebrates diversity and supports workplace equality. We are committed to fostering, cultivating, and preserving a culture of diversity, inclusion, fairness, and equality.

We celebrate our employees regardless of age, color, disability, ethnicity, family or marital status, gender identity or expression, language, national origin, physical and mental ability, political affiliation, race, religion, sexual orientation, veteran status, and other characteristics that make our employees unique.

It's time to ensure equality for all Arizona employees, residents, and consumers. It's the right thing to do. It's good for business. It's good for the business of Arizona.

HOW DO *INDIVIDUALS* TAKE THE UNITY PLEDGE?

Taking the UNITY Pledge is just as easy for individuals. To take the pledge, either (1) complete the online form at www.UNITYPledge.co or (2) complete the attached *Individual UNITY Pledge Form* and return it to ONE Community. By taking this step, you pledge as follows:

UNITY Pledge for *Individuals*:

I believe that diversity is our strength and that all Arizonans deserve fair and equal treatment. If Arizona wants to be competitive on a national and international level we must support all of our diverse communities. It's time for LGBT inclusive non-discrimination practices in the workplace, in housing, and in public accommodations including restaurants and hotels.

It's time to ensure equality for all Arizona employees, residents, and consumers. It's the right thing to do. It's good for business. It's good for the business of Arizona.

HOW DO I *PROMOTE* THE UNITY PLEDGE?

Promoting UNITY Pledge is just as easy as taking it. Here are some simple ways to promote UNITY Pledge:

- Word of mouth.
- Pass this informational brochure on to your friends, families, and businesses that you work with.
- Post the UNITY Pledge Badge on your website.
- Post the UNITY Pledge Text on your website.
- "Like" ONE Community's UNITY Pledge Page on Facebook.
- Post a favorable comment to Facebook (e.g., "Let's protect all Arizona employees, residents and consumers from discrimination. Take the UNITY Pledge and support ONE Community!").
- Spread the word through other social-media networks (e.g., LinkedIn and MySpace).

WHERE DO I OBTAIN ADDITIONAL INFORMATION ABOUT UNITY PLEDGE?

Additional information regarding UNITY Pledge is available at: www.UNITYPledge.co.

UNITY Pledge for ***Businesses***:

As business and community leaders, we understand that if we want to compete for top talent, we must have a diverse and inclusive workplace.

We also understand that if our travel and tourism industry wants to be competitive—and if Arizona wants to be competitive on a national and international level—we must support all of our diverse communities. It's time for LGBT inclusive non-discrimination policies in the workplace, in housing, and in public accommodations including restaurants and hotels.

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It's time to ensure equality for all Arizona employees, residents, and consumers. It's the right thing to do. It's good for business. It's good for the business of Arizona.

Representative Signature: _____

Representative Name: _____

Representative Title: _____

Representative E-mail: _____

Company/Organization Name: _____

Company/Organization Address: _____

_____

Company/Organization Telephone: _____

Company/Organization Website: _____

Number of Employees: _____

Return completed form by e-mail (info@unitypledge.co), facsimile (480-355-0088), or mail (ONE Community, P.O. Box 17836, Phoenix, AZ 85013). Additional information available at: www.UNITYPledge.co.

Company name and logo information may be used on ONE Community's UNITY Pledge website and in program materials, unless a specific exclusion is requested. However, all other information above will remain confidential as permitted by law. By providing my e-mail address, I agree to receive future communications via e-mail from UNITY Pledge and ONE Community unless I elect otherwise.

UNITY Pledge for ***Individuals***:

I believe that diversity is our strength and that all Arizonans deserve fair and equal treatment. If Arizona wants to be competitive on a national and international level we must support all of our diverse communities. It's time for LGBT inclusive non-discrimination practices in the workplace, in housing, and in public accommodations including restaurants and hotels.

It's time to ensure equality for all Arizona employees, residents, and consumers. It's the right thing to do. It's good for business. It's good for the business of Arizona.

Signature: _____

Name: _____

E-mail: _____

Address: _____

_____

Telephone: _____

Occupation: _____

Return completed form by e-mail (info@unitypledge.co), facsimile (480-355-0088), or mail (ONE Community, P.O. Box 17836, Phoenix, AZ 85013). Additional information available at: www.UNITYPledge.co.

Your name may be listed on ONE Community's UNITY Pledge website, unless a specific exclusion is requested. However, all other information above will remain confidential as permitted by law. By providing my e-mail address, I agree to receive future communications via e-mail from UNITY Pledge and ONE Community unless I elect otherwise.

File #: 14-446, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: CITY SUITE POLICY
Staff Contact: Julie Watters, Director, Communications

Purpose and Policy Guidance

At the October 21 Council Workshop, Councilmember Sherwood requested a Council Item of Special Interest on the city's suites located inside Gila River Arena and Camelback Ranch-Glendale. Councilmember Sherwood requested a report on the Council approved process and policies regarding suite usage by Councilmembers and whether or not the Council approved reserving two tickets for each Councilmember for each event.

Background

Since the arena opened in 2003, city staff and City Council have followed an administrative policy, not a Council approved policy, for suite usage at city facilities. The policy is attached to this report and summary highlights include:

- Suites are for conducting city business, City Council business, and recognition of youth, non-profit organizations and City of Glendale volunteers.
- Reservations are made on a first-come, first serve basis with a suite reservation form completed, appropriate supervisory signatures and an attendance list included.
- A maximum of 26 tickets per event for Gila River Arena and 8 tickets per event for Camelback Ranch-Glendale can be requested. This process allows the City to set aside a specific number of tickets for each event to allow for last minute requests. Those tickets may be released to the suite user on the day of the event if another request for their use is not made. (The suite at Gila River Arena has 36 seats, while the Camelback Ranch-Glendale suite has 12 seats).
- If reservations are not made two weeks prior to an event, the suite is offered to a non-profit organization with priority going to an organization in or with significant operations in Glendale.
- A record of suite usage is maintained including name, business affiliation and job title.

In creating the suite policy, staff reviewed and implemented best practices from other cities that also have suites and sporting/entertainment facilities including Phoenix, Mesa, Surprise and Peoria.

Since 2003, the city's suite policy has been followed with detailed record keeping and a well-structured approval process. The city's website also contains a transparent summary of the suite policy and detailed reports featuring all users for each event.

In eleven years, city staff has effectively managed the suites to advance the goals of the city, enhance

relationships, build business and create opportunities for those who might not otherwise attend an event at the arena or spring training facility. In that time, there has been supportive feedback from the community and positive news stories about the city's suite usage.

Analysis

The Council has never approved, nor has the administrative policy required, reserving two tickets at each event for any single Councilmember. In 2013, staff received a request from the Mayor's Office to provide 2 suite tickets to all events at Gila River Arena. The request was approved by a former acting City Manager. The Mayor also receives a lanyard from Camelback Ranch-Glendale each season which provides him admission for all events. He has also requested one additional suite ticket to all Camelback Ranch-Glendale events to bring a guest. With the exception of the Mayor, other reserved tickets are not held under specific names.

The current process does not address reserving suite tickets as a standing rule for elected officials. The current suite process would need to be revised if elected officials would like this change made.

Staff recommends that the policy be adjusted to create equity with the use of the suite by elected officials. Adjustments to the policy would either allow no Councilmembers to have reserved tickets or all Councilmembers to have reserved tickets.

There are a few key points for the Council to consider should all Councilmembers begin to receive reserved tickets for each event:

-The available pool of tickets for the suites would be impacted. At Gila River Arena, if 14 tickets (2 per Councilmember) were reserved for each event, there would be 22 tickets left per event. At Camelback Ranch-Glendale, there are only 12 tickets available in the entire suite, so it would not be possible for each Councilmember to receive 2 tickets per event.

-In addition, the available pool of tickets would decrease for conducting city business and recognizing youth, non-profit organizations and City of Glendale volunteers.

-If four or more Councilmembers were to use the suite that would be considered a quorum and appropriate public notice would have to be posted for each event on a regular basis.

-A structured RSVP system would need to be created so should a Councilmember choose to not use their reserved ticket, staff has enough time to make those seats available for other appropriate use.

Previous Related Council Action

At the December 3, 2013 City Council Workshop, the Council discussed the use of the city suite and the suite policy. This was a Council Item of Special Interest brought forward by Vice Mayor Knaack. As a result, the suite policy was updated to include using the city-owned suites to recognize the work of City of Glendale volunteers.

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Community Benefit/Public Involvement

The city's suite policy has created excellent goodwill with non-profit organizations. Non-profit groups have had the highest use of the suites with 76 non-profits using the suites an average of 55 times a year over the last seven years. Some of the groups include: The Salvation Army, Shriners International, Heart for the City, Relay for Life, Youth at Risk, Kiwanis, MADD, American Red Cross, Special Olympics, St. Mary's Food Bank and Younglife.

The policy has also strengthened business relationships and city partnerships. Examples include a military appreciation night for Fighter Country Partnership, an appreciation event for Glendale youth volunteers and a recognition event for sponsors of the city's special events.

Budget and Financial Impacts

There are no annual costs to own the suites.

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Communications

Memorandum

DATE: January 18, 2005 **REVISED: October 23, 2014**
TO: Department Heads
FROM: City Manager's Office
SUBJECT: Policy for use of the city suite in the Gila River Arena and Camelback Ranch

The City of Glendale possesses suites at Gila River Arena and Camelback Ranch Stadium for the following uses:

1. Conducting city business
2. City Council city business
3. Activities for youth and recognized, non-profit organizations
4. City of Glendale Volunteers

The Communications Department will maintain the master schedule of city-suite usage and date reservations will be accepted adhering to the priority ranking above. Reservations will be made on a first-come, first-serve basis. To request the use of the suite, a "Suite Reservation Form" must be completed, appropriate signatures obtained, and an invitation/attendance list must be included. The "Suite Reservation Form" can be accessed on the intranet site (glendaleaz.com/forms) or by contacting the Communications Department.

Should multiple requests for the same date be received, the suite will be awarded based on the order of priorities listed above. If requests with the same priority for the same date are received, a random drawing will determine the user of the suite. A request can be made for a maximum of 26 tickets per event at Gila River Arena. It is the city's policy to reserve ten tickets to accommodate more than one user/group in the suite and to allow for last minute requests. Reserve tickets will be released and distributed to the user(s) of the suite prior to the event if an official request for their use is not made. A request can be made for a maximum of 8 tickets per event at Camelback Ranch- Glendale. It is the city's policy to reserve four tickets to accommodate more than one user/group in the suite and to allow for last minute requests. Reserve tickets will be released and distributed to the user(s) of the suite prior to the event if an official request for their use is not made.

If reservations have not been made two weeks prior to an event, the suite will be given to a non-profit organization. Applications from youth and non-profit organizations will be requested and qualified organizations will be drawn at random for available dates. Priority will be given to organizations based in or with significant operations in Glendale. A minimum of 10 events annually will be designated for this purpose.

Cities suites will also be used to honor and reward city volunteers for donating their time to citywide services and programs. Eligible volunteers are given the opportunity to be part of a random drawing to win two tickets to either the city's suite at the arena or the suite at the spring training stadium. In order for volunteers to be eligible they must be an active volunteer who has donated a minimum of 25 hours a year at the end of the fiscal year. The Communications Department will choose 5 hockey games and

4 spring training games each season that will be designated as “volunteer days” in which the suite will be filled with the city’s volunteers who won the random drawing.

The Communications Department will also maintain records of suite usage. For confidential economic development prospects, specific names and companies may not be listed. This category of guest will be limited to representatives of companies who are considering locating or expanding in Glendale. For all other guests, the Communications Department will keep a record of the name, business affiliation (if any) and job title of suite guests.

For all city uses, the hosting department is responsible for all suite-related expenses. Operational expenses for other uses (including non-profit organizations and other public agencies) will be at their own expense. If food and beverage is purchased by a city department, a copy of the receipt should be sent to the Communications Department within one week after the event.

File #: 14-408, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: USE OF DEDICATED MOTORPOOL VEHICLE BY MAYOR'S OFFICE
Staff Contact: Brent Stoddard, Director, Intergovernmental Programs

Purpose and Policy Guidance

During the October 21, 2014 Council Workshop, as part of the call for Council Items of Special Interest, Councilmember Sherwood stated that he would like to know "how and when the Mayor's office received a pool car and if this has always been the case? In other words, did the prior Mayor have one and what need or roles require the usage of that car to the office alone instead of being shared with full Council and what are the policies/restrictions for its use?"

Background

Upon taking office, Mayor Weiers requested the use of a dedicated city vehicle to be used to travel on official business to numerous meetings and events across the city and valley. The then Acting City Manager, Horatio Skeete, directed staff to provide the Mayor with a vehicle dedicated for his office's use only, which ultimately came from the Police Department (unmarked 2007 Ford Taurus).

The motor pool vehicle use guidelines (attached), for the city employees, allow for long term use of a motor pool vehicle, which is defined as in excess of 30 days. The department responsible for the long term use is required to pay for any repairs and fuel costs in their own budget. The use of the Mayor's vehicle is budgeted for and paid out of the Mayor's Office operating budget. In FY 2013-14, a total of $1,351.36 was spent from the Mayor's Office budget on maintenance and fuel for the vehicle.

The prior Mayor did not have a dedicated city vehicle and instead drove her personal vehicle. The prior Mayor submitted for mileage reimbursements utilizing the standard IRS mileage rate consistent with the city's travel policies.

There have been no requests from the Council Office to have its own dedicated vehicle or to share the vehicle that is assigned to the Mayor's Office.

10/24/2014

MOTOR POOL VEHICLE USE GUIDELINES

The City has established a Motor Pool of vehicles available at City Hall and Field Operations. City employees can utilize these vehicles at **no cost** to their departments, and are not required to record mileage for pool vehicles. Motor Pool vehicles will be cleaned and serviced by Equipment Management staff. These vehicles are located in convenient reserved parking spaces at the City Hall parking garage and Field Operations.

Motor Pool vehicles are available for short term use, 5 days or less. The Equipment Management Superintendent or Shop Supervisor must approve long term motor pool requests. Approved requests will result in the using department being charged for all fuel costs for the period of the motor pool dispatch. Use of a motor pool vehicle in excess of 30 days will result in any repair and fuel costs to be charged to the using department.

City Hall Motor Pool:
Currently there are twelve motor pool vehicles located on the parking garage off the second floor of City Hall. These vehicles include: a Van, Sedans, compact SUVs, and Pickup Trucks.

You can reserve a City Hall Motor Pool vehicle by calling extension 2800 (Building Safety/Development Services Receptionist Desk) and the staff will make your reservation. You can also e-mail MP_Reservations and request a vehicle; the staff will make your reservations and send you a confirming e-mail. Keys for pool vehicles will be picked up and dropped off at the Receptionist Desk on the 2nd Floor. Hours of operation are Mon – Fri 8:00 am to 5:00 pm.

Field Operations Motor Pool:
You can reserve a Field Operations Motor Pool vehicle by calling extension 2624 (Equipment Management Shop Coordinators). The shop coordinators office is located on the south side of the Equipment Management Shop and is open Mon – Fri 6:30 am to 6:30 pm. Keys for pool vehicles will be picked up and dropped off at the Equipment Management Shop Coordinators' office. At this time we do not have an e-mail address for scheduling Field Operations Motor Pool Vehicles.

Motor Pool Operating Area
Motor Pool vehicles will not be operated outside of Maricopa County. Employees who need to travel by car outside of the county have the option of being reimbursed for mileage using their personal car or the department may elect to rent a car and the employee can be reimbursed for fuel costs if applicable.

CITY HALL MOTOR POOL VEHICLES

5-each SEDANS

1-each SUV, 5 PASSENGER

3-each PICKUPS, FULL SIZE (one with camper shell)

2-each PICKUPS, COMPACT (one with camper shell)

1-each 7-PASSENGER VAN

FIELD OPERATIONS MOTOR POOL

4-each SEDANS

2-each SUV, 5 PASSENGER

5-each PICKUPS, FULL SIZE

City of Glendale

City Manager Directives

No. 18

Title:	**AUTHORIZATION AND OPERATION OF CITY VEHICLES AND EQUIPMENT**		
Effective:	12/15/70	**Revised/Reviewed on:**	04/15/08 (Reviewed) 09/08/09 (Revised)
Contact:	RISK MANAGEMENT (623) 930-2855		

PURPOSE:

To establish consistent procedures relevant to the use, care, maintenance, and assignment of city-owned vehicles; and, specifically to establish that:

- It is the policy of the City of Glendale to secure and maintain vehicular equipment in a safe and functional condition.
- It is the responsibility of all city employees who operate city-owned vehicles to do so in a safe and responsible manner that is in compliance with Federal, State, and City laws, regulations, and rules.

APPLICATION:

This directive is applicable to all City of Glendale employees, contract employees, agents, or contractors who operate city-owned vehicles or equipment. Each city department shall adopt this regulation or may choose to adopt more stringent guidelines.

POLICY:

This regulation establishes uniform guidelines and procedures for:

1. Appropriate use of city owned and leased vehicles and equipment
2. Care of vehicles and equipment
3. Operation of vehicles and equipment and license requirements
4. Incidents and accidents involving city and private vehicles and equipment
5. Assignment and approval of city owned/leased take-home vehicles
6. Qualified service take-home vehicles exempt from fringe benefit taxation
7. Categories of Take-Home Vehicle Assignment subject to fringe benefit treatment
8. Restriction on Take-Home Vehicle Use
9. Restriction on Take-Home Vehicle Distance from the city
10. Fringe benefit/non-cash compensation value and taxation

PROCEDURE:

1. Operational Use: The use of city vehicles shall be restricted to official business, subject to the following guidelines.

    1.1. All city-owned vehicles and equipment shall only be operated by city employees for official use only. Transporting unauthorized persons and/or material shall be considered a violation of this directive.

    1.2. Authorization may be granted to other individuals representing the city in an official capacity only after approval of the department head and Risk Management. Authorization is to be limited to those instances when the performance of city business can be facilitated and when absolutely necessary.

    1.3. Transporting passengers shall be limited to city employees, persons in an advisory capacity to the city, persons participating in approved city programs including Ride-Along programs, and other agency representatives on city business.

    1.4. Employees assigned a city vehicle for use during the normal work day schedules may use the vehicle for lunch if their personal vehicle is not readily available.

    1.5. City vehicles are not to be used for personal business.

    1.6. Employees assigned a take home vehicle may use the vehicle during normal business hours for lunch, health care appointments and personal emergencies.

    1.7. City vehicles are not to be driven out-of-state unless such use would provide economic or operational benefit to the city. Such use requires specific authorization of the Police or Fire Chief, deputy city manager or equivalent.

2. Care

    2.1. The inspection of all city vehicles and equipment used is the responsibility of the vehicle operator. Inspection should be routinely performed and includes but is not limited to ensuring appropriate functionality of lights, turn signals, brake lights and other safety equipment. Operators are required to report any damage, mechanical deficiencies or unusual conditions to a supervisor prior to using the equipment, as well as the reporting of any damage that has occurred due to an accident or incident during use.

    2.2. Personnel operating a city vehicle are responsible for reporting vehicle problems to Equipment Management or taking vehicles to the facility to obtain service or repairs. Operating a vehicle that has inoperative safety systems or one that is excessively overdue for service can be considered to be in violation of this directive and the employee may be subject to disciplinary action.

2.3. Departments are required to have emissions tests completed during or prior to the end of month in which they are due for all vehicles assigned to the department. This is a requirement established by the Arizona Department of Environmental Quality. Equipment Management will forward a listing of vehicles that require emissions testing during the first week of each month to the department's fleet coordinator.

2.4. Each department will have a primary and alternate liaison assigned in writing that is responsible for coordinating with Equipment Management Division for reasons such as scheduling vehicle preventative maintenance and repairs in a timely manner.

2.5. Maintenance and repair of city vehicular equipment will be done only by the Equipment Management Division or by field service mechanics assigned to the Sanitation and Landfill Divisions. Repairs and service provided by outside vendors shall be approved by Equipment Management prior to authorizing the performance of work. Maintenance of leased vehicles will be performed in accordance with leasing agreements.

2.6. Vehicles will be marked with the city logo as outlined in the City of Glendale City Logo Standards Manual. The city logo and markings will not be removed without the approval of department heads and with coordination from Equipment Management. No posters, stickers or advertisements of any form shall be placed on city vehicles without prior approval of the Department Head.

2.7. Smoking is prohibited at all times in all city vehicles or equipment.

2.8. Storage and parking of city owned vehicles will be in designated lots and locations when not in use. Employees are prohibited from parking a city vehicle in locations other than those approved by the department's supervisors. This includes efforts to park in other areas in order to park closer to their homes.

2.9. Modification of city vehicles by using departments is not allowed. Automobiles, pickup trucks, light utility trucks and vans are not to be customized or modified by the using departments. Any requests for modification to city vehicles or equipment shall be submitted to Equipment Management for review and approval.

3. Operation of Vehicles, Equipment and License Requirements: Employees and other authorized users of city vehicles and equipment shall:

3.1. Have complete knowledge and understanding of the operation of the vehicle and equipment.

3.2. Have departmental approval to operate the vehicle and equipment.

3.3. Maintain in force the appropriate valid State of Arizona driver's license appropriate to the type of vehicle being driven; or, unrestricted Federal commercial driver's license as defined by law.

3.4. Maintain a driving record that is acceptable in accordance with the Employee Driving Record Evaluation Criteria Using Motor Vehicle Department Records as established, updated, and maintained by the Risk Management division and posted on the Risk Management web page at:

http://gnn.glendaleaz.com/HumanResources/RiskManagement.cfm#safety.

Employees with borderline or unacceptable driving records shall be subject to counseling, driving restrictions and disciplinary action up to and including termination.

3.5. Drive in accordance with Federal, State, and City laws and regulations.

3.6. Not operate a vehicle in excess of the established speed limits except for Police and Fire responding to emergency calls.

3.7. Not operate electronic service devices while driving unless hands-free equipment is used. If hands-free equipment is not available, employees should pull off the road at a safe location to use the device. Public Safety staff may utilize these devices while driving only for public safety related communications.

3.8. Not wear radios or portable music players equipped with headphones while operating a motor vehicle or piece of equipment, except for City issued communication devices.

3.9. Comply with all reporting requirements including but not limited to reporting to his/her immediate supervisor within 24 hours, the receipt of any motor vehicle citation that may result in the revocation or suspension of a driver's license.

3.10. Show their valid driver's license upon request of their supervisor.

3.11. Attend city conducted defensive driving classroom training within 90 days of hire and no less frequently than every three years thereafter.

3.12. Prior to operation of a 15-passenger van, complete a city of Glendale van safety training program.

3.13. Prior to operation of unlicensed equipment such as aerial lifts, backhoes, forklifts and other mobile equipment, have completed an operator training program or received training approved by the department or division assigned the equipment.

3.14. Wear seat belts while driving or riding in a vehicle equipped with seat belts. Any passenger who is not a city employee shall also be required to wear seat belts.

3.15. Service the vehicle including checking the gas, oil level, coolant level and tire pressure. City employees who, by the nature of their duties, are required to perform daily pre-trip inspections prior to operating a commercial vehicle will be personally responsible for vehicle equipment violations.

3.16. Keep the vehicle clean and clutter free, inside and out.

3.17. Not operate a city vehicle while under the influence of or in possession of alcohol or illegal drugs.

3.18. Not knowingly transport an illegal substance or alcoholic beverages. Such activity is prohibited except for Police personnel transporting confiscated evidence.

3.19. Not operate a city vehicle while using prescription medication(s) or over the counter drugs that may impair their ability to operate a motor vehicle. Employees will be personally responsible for any traffic citations.

4. Incidents and Accidents Involving City and Private Vehicles and Equipment: The driver of any city vehicle involved in an accident, or any city employee, who witnesses any personal injury, or damage to, or from, a city vehicle, shall notify their supervisor immediately. Failure to do so shall be deemed a violation of this directive. The vehicle operator shall:

4.1. Not admit liability or discuss the accident with anyone other than their immediate supervisor, the police, city accident investigators, and Risk Management personnel.

4.2. Not move the vehicle until the investigation has been completed by the police or accident investigators. If the incident involves a non-road machine off the public right-of-way, the machine or vehicle should not be moved until authorized by the supervisor.

4.3. Call the Glendale Police Department (623) 930-3000 and report the accident.

4.4. Communicate immediately with your supervisor.

4.5. Notify the Glendale Risk Management division as soon as possible but no later than 24 hours after the incident.

4.6. Complete an Employee Injury/Vehicle Accident Report found online at http://gnn.glendaleaz.com/HumanResources/forms.cfm#Risk_Mgmt and deliver by mail, FAX or email to Risk Management within 24 hours.

5. Assignment and Approval of City Owned/leased Take-Home Vehicles: Supervisors are responsible for requesting assignment of take-home vehicles for designated employees and/or programs by submitting a completed Vehicle Authorization Form which can be found online at:

http://gnn.glendaleaz.com/HumanResources/AuthorizationOperationofCityVehiclesEquipmentCMD18.cfm.

Take-home vehicle authorizations are not transferable and must be justified annually. The Take-Home Vehicle Authorization Request Form should include responses to the following:

5.1. The category of assignment, i.e. (exempt) (commuting) (on-call/standby).

5.2. An explanation of use of the vehicle to be authorized including a narrative of how the specific work assignment requires the need for a take-home vehicle.

5.3. Explanation of special vehicle characteristics required to fulfill the work assignment's business purpose, i.e. van, pickup, special equipment, etc.

5.4. Additional data demonstrating the actual number and nature of emergency responses, if emergency response is being used as justification, along with an explanation as to why alternative forms of transportation cannot be used to respond to the emergencies or pick up city-owned assigned vehicles at designated parking areas. As a rule of thumb, the individual should have a history of after-hours emergency response of at least once a month or twelve times per year.

5.5. The request for a take-home vehicle (Take-Home Vehicle Authorization Request Form) must be completed and approved for all vehicles taken home. Department heads may approve vehicles classified as Exempt or On Call/Standby. **A deputy city manager, chief of Fire or Police (or equivalent or higher rank) shall approve all vehicles classified as Commuting.**

5.6. Completed and approved Take-Home Vehicle Authorization Forms shall be routed to the Equipment Management division. Equipment Management shall forward a copy of approved Authorization Forms to the Payroll Section of the Finance Department. Equipment Management is charged with verifying proper classification based on the descriptions defined in this Directive. Payroll is responsible for reporting use in compliance with IRS regulations.

6. Qualified Service Take-Home Vehicles (Exempt): Qualified service vehicles are exempt from fringe benefit compensation consideration. Their use is deemed to be exclusively for city business purposes. They are vehicles that would not normally be likely to be used for personal purposes because of its design or modifications. They include clearly marked Police and Fire vehicles (emblems and lettering) that are on call at all times, unmarked police vehicles used for law enforcement purposes i.e. detectives, undercover surveillance, clearly marked cargo vehicles including specially equipped pickup trucks, cargo vans, special utility repair trucks, and other special purpose vehicles.

7. Categories of Take-Home Vehicle Assignment Subject to Fringe Benefit Treatment

7.1. Commuting – This type of vehicle is assigned on a long term basis and usually is a marked or unmarked sedan but may include pickup trucks and other forms of vehicles not categorized as Exempt or "On-Call" or "Stand-By." The authorization of assigned take-home vehicles on long term assignment may be granted for a period of not more than twelve months, unless re-assignment is approved. Commuting vehicle assignment should be supported by data demonstrating the actual number and nature of after hour call outs in the prior year and estimates of future emergency and after

hour responses. Consideration should be given to the type and frequency of call out, whether adequate response can be handled by other staff on duty, on call or on standby, whether the situation can be addressed telephonically, and the cost to the city.

The department head may authorize the occasional take home of a this type of vehicle on a case-by-case basis such as to facilitate attendance of early morning or late evening meetings, seminars, workshops, or conferences or to enhance facility oversight by maximizing the scheduling of personnel residing in close proximity to otherwise remote or distant facilities. The department head should review vehicle assignments on an annual basis to ensure compliance and conformity with this policy. Other than for occasional take home, long term assignment must be approved at a level above department head.

7.2. "On-Call" or "Stand-By" – On-call or stand-by vehicles are vehicles other than those defined in section 6 as service take-home vehicles and 7.1. above, long term assignment commuting vehicles. On-call, after-hours stand-by service, and/or emergency response personnel are assigned on an as-needed basis in order to ensure rapid response time and minimize the duration of service interruptions. They can be assigned to an individual or position and/or on a rotating assignment. Vehicles may be assigned as take-home to a specific division, without being assigned to a specific employee when several division employees share the on-call responsibility. It is the responsibility of the division to track the take-home vehicle assignments for this category of assignment.

8. Restriction on Take-Home Vehicle Use

8.1. Take-home vehicles are not to be used for personal uses while at home or in route to or from a worksite, except for occasional incidental purposes while in route to or from home. Specifically, take-home vehicles are not to be used to transport family, friends, associates, or others not engaged in official city-related business.

8.2. In all cases where take home vehicle use has been authorized, the vehicle must be kept locked or in a secure location so as to minimize the potential for vandalism, damage, and theft of the vehicle, its contents, and equipment. Inability to provide a secure location, as may be determined by occurrence of vandalism, damage, theft, or attempts thereof, and especially by repeated acts of vandalism, damage, or theft, may result in loss of the privilege of a take-home vehicle and may further impact an employee's ability to participate in on-call, stand-by, or after-hours programs.

9. Restriction on Take-Home Vehicle Distance from the city

9.1. Exempt and commuting vehicles may be assigned to those employees residing within a 17 mile radius from City Hall that are authorized to have a take-home vehicle. Distances beyond this range require approval of a deputy city manager, chief of Fire or Police (or equivalent or higher rank). The department head will determine the amount of response time that is required for an employee in a take-home vehicle to be

able to respond. The department head has the authority to modify these requirements on a case-by-case basis based on the needs of the department and to ensure adequate after-hours, emergency response coverage subject to the maximum distance noted above.

10. Fringe Benefit/non-cash Compensation Value and Taxation Record Keeping and Reporting: Per IRS regulations, a city-provided take-home vehicle is considered a fringe benefit under federal employment tax laws, and the imputed value of the use must be included in the employee's gross pay. Except for service vehicles as defined in Section 6, an employee taking a city vehicle home from work is considered personal use and must be treated as a taxable fringe benefit for federal tax purposes.

    10.1. Employees assigned a take-home vehicle on a long term basis shall have an imputed value of $3 per work day as the personal commuting benefit reflected in their payroll check until such time as notice is provided by the employee to Payroll that he/she no longer has a take-home vehicle.

    10.2. Each employee assigned a vehicle on an "on-call" or "stand-by" basis that is not a service vehicle as defined in Section 6. shall complete and submit to their supervisor for approval, a Monthly Assigned Vehicle Report form. The department shall maintain reports and forward the original Monthly Vehicle Report forms to the Payroll division no later than the 15th day of the next month. Failure of the employee to submit such reports will result in revocation of take-home use assignment.

    10.3. Employees authorized to take a vehicle overnight as an "occasional usage" are exempted from filing the report. Occasional usage must be authorized by the department head.

    10.4. Equipment Management shall maintain records of authorized take-home vehicles.

    10.5. Payroll shall maintain central records of monthly usage reports.

SEP 08 2009

Ed Beasley, City Manager — Date

Legislation Description

File #: 14-450, **Version:** 1

COUNCIL ITEM OF SPECIAL INTEREST: INFORMATION ON FRONT END PARKING IN CITY HALL PARKING GARAGE

Staff Contact: Debora Black, Police Chief

Purpose and Policy Guidance

During the October 21, 2014 Council Workshop, as part of the call for Council Items of Special Interest, Councilmember Sherwood requested information regarding the history and reasons for front end parking in the City Hall Parking Garage.

Background

On November 26, 1985, Ordinance No. 1392 New Series was adopted repealing Chapter 24 of the Glendale City Code and adding a new Chapter 24 relating to the regulation of motor vehicles, motor vehicle movements, motor vehicle parking, motor vehicle impoundment, loading and unloading motor vehicles and pedestrian's duties in the city; providing for the processing of parking offenses as civil matters; amending Chapter 26, Article 1, Section 26-3, relating to disabled parking; providing penalties for violation thereof.

Glendale City Code Chapter 24 (Motor Vehicles and Traffic), Article IV (Specific Parking Prohibitions), Section 24-53 (Parking upon public property) states in paragraph B, "No person shall park a vehicle on publicly owned property marked for parking, except as designated by lines or markings upon the pavement or ground. No person shall park a vehicle in diagonal or at an angle parking on publicly owned property ***except with the front of the vehicle headed into the curb, cement block, wall, etc., which indicates the front of the parking area.***"

On January 23, 2007, Ordinance No. 2541 New Series was adopted amending Glendale City Code Chapter 24 (Motor Vehicles and Traffic) to more clearly distinguish civil parking offenses from criminal parking offenses.

Analysis

If there is consensus from Council to pursue revisions to the current City Code, an ordinance amending Glendale City Code Chapter 24 (Motor Vehicles and Traffic), Article IV (Specific Parking Prohibitions), Section 24-53 (Parking upon public property) will need to be brought forward to a future Council Voting Meeting.

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ORDINANCE NO. 1392 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REPEALING CHAPTER 24 OF THE GLENDALE CITY CODE AND ADDING A NEW CHAPTER 24 RELATING TO THE REGULATION OF MOTOR VEHICLES, MOTOR VEHICLE MOVEMENTS, MOTOR VEHICLE PARKING, MOTOR VEHICLE IMPOUNDMENT, LOADING AND UNLOADING MOTOR VEHICLES AND PEDESTRIAN'S DUTIES IN THE CITY; PROVIDING FOR THE PROCESSING OF PARKING OFFENSES AS CIVIL MATTERS; AMENDING CHAPTER 26, ARTICLE I, SECTION 26-3, RELATING TO DISABLED PARKING; PROVIDING PENALTIES FOR VIOLATION THEREOF; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Chapter 24 of the Glendale City Code is hereby repealed.

SECTION 2. That the Glendale City Code is hereby amended by adding a new Chapter 24 to read as follows:

"CHAPTER 24. MOTOR VEHICLES AND TRAFFIC

ARTICLE I. DEFINITIONS

Sec. 24-1. Definitions of Words and Phrases.

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this article.

Sec. 24-2. Motor Vehicle Laws of Arizona Definitions to be Used.

Whenever any words or phrases used herein are not defined but are defined in the Motor Vehicles Section of the Arizona Revised Statutes and Supplements thereto, such definitions shall apply.

Sec. 24-3. Specific Definitions.

1. Alley or Alley Way. A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

2. Bicycle Path. For the purposes of this chapter, a bicycle path shall be any portion of a public highway which has been designated by the City Traffic Engineer for the exclusive use of bicycles and has been identified by appropriate signs as a bicycle path.

3. City. All the area that is said to be part of the City of Glendale, Arizona, and is under the jurisdiction of this City of Glendale, Arizona.

4. Curb Loading Zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

5. Commercial Vehicle. Every vehicle designed, maintained or used primarily for the transportation of property.

6. Council. The Council of the City of Glendale.

7. Cross Walk:

(a) That part of a roadway at an intersection included within the prolongations or connections of the lateral line of the sidewalks on opposite sides of the highway measured from the curbs, or, in absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

8. Divisional Island. A raised or painted island located in the roadway and separating opposing or conflicting streams of traffic.

9. Intersection. The area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two streets which join one another. Where a street includes two roadways thirty or more feet apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. In the event the intersecting street also includes two roadways thirty or more feet apart, then every crossing of two roadways of the streets shall be regarded as a separate intersection. The junction of an alley with a street shall not constitute an intersection.

10. Motor Vehicle. Every vehicle which is self propelled, but not operated on rails.

11. Parkway. That portion of a street other than a roadway or a sidewalk.

12. Passenger Loading Zone. The space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

13. Section Street. A street which is located upon a section line within the City.

14. Mid-Section Street. A street which is located upon a mid-section line within the City.

15. Stand or Standing. Means the halting of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

16. Traffic Engineering Division. The Traffic Engineering Division refers to the division of the Public Works Group/Engineering Department, which duties are to engineer, install and maintain all signals, signs and marking in the jurisdiction of the City of Glendale.

ARTICLE II. ADMINISTRATION

Sec. 24-10. Traffic Direction and Street Closure.

The Police Department shall have the authority to direct all traffic by voice, hand or signal in conformance with traffic laws. To expedite traffic, Officers may direct traffic as conditions require, not withstanding the provisions of the traffic laws. Police Officers may close freeways, streets, alleys, and bridges when, in their judgment, such action is warranted by emergency conditions, by parade permits or pursuant to Council authorized and approved special events.

Sec. 24-11. Traffic Engineer.

The office of City Traffic Engineer is hereby established.

The City Traffic Engineer shall be responsible to the City Engineer and shall exercise the powers and duties as provided in this ordinance, and in the traffic ordinances of the City, subject to the approval of the Public Works Deputy City Manager. The City Traffic Engineer is hereby authorized to place and maintain official traffic control devices as set forth in this ordinance and as set by State law. The City Traffic Engineer shall be named by the Public Works Deputy City Manager.

Sec. 24-12. Powers and Duties of the City Traffic Engineer - Delegation.

It shall be the general duty of the City Traffic Engineer to determine the installation and proper timing and maintenance of traffic control devices, to conduct engineering analysis of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of this City, and to cooperate with other City officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this City. Whenever, by the provisions of this ordinance a power is granted to the City Traffic Engineer or a duty imposed upon him, the power may be exercised or the duty performed by his assistants or by a person authorized in writing by him.

Sec. 24-13. Experimental Regulations.

The City Traffic Engineer may test traffic control devices under actual traffic conditions, and conduct research and tests on new traffic control devices not presently included in the Uniform Traffic Control Devices Manual. Such devices are not to remain in force beyond a period of one hundred days on an experimental basis, with the

exception of devices being tested for durability. Testing of traffic control devices shall be in accordance with the provisions of the Federal Manual on Uniform Traffic Control Devices.

Sec. 24-14. Traffic Accident Investigations and Reports - Accident Investigators.

The Police Department shall investigate all traffic accidents involving or potentially involving fatalities.

The Police Department shall maintain a suitable system of filing traffic accident reports relative to those accidents that they investigate, including fatalities. Such records shall be maintained for a five year period. Such reports shall be available for use and information of the City Traffic Engineer or his assistants, or by a person authorized in writing by him.

Sec. 24-15. Fire Department Authority and Responsibility.

Fire Chief and Officers of the Fire Department, when at the scene of a fire or other emergency, may direct or assist the Police in directing traffic at or in the immediate vicinity.

Sec. 24-16. Adoption of Federal Manual on Uniform Traffic Control Devices.

The following publication in its most current issue is hereby adopted by reference as if set out at length in this Code:

Federal Manual on Uniform Traffic Control Devices issued by the U.S. Department of Transportation, Federal Highway Administration, Washington, D.C.

ARTICLE III. TRAFFIC CONTROL DEVICES

Sec. 24-30. Authority to Install Traffic Control Devices.

The City Traffic Engineer shall have the power and duty to place and maintain or cause to be placed and maintained official traffic control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective the provisions of said ordinances, and may place and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the traffic ordinances of this City or under State law.

Sec. 24-31. Uniform Traffic Control Devices.

A. All traffic control devices installed and maintained by the City Traffic Engineer shall conform to the Federal Manual on Uniform Traffic Control Devices as adopted by the Arizona Highway Commission and issued by the U.S. Department of Transportation, Federal Highway Administration, Washington, D.C.

B. There shall be a rebuttable presumption that any traffic control device(s) have been placed by the official act or direction of lawful authority unless the contrary is established by competent evidence.

C. There shall be a rebuttable presumption that any Traffic control device(s) comply with the requirements of this ordinance and A.R.S. Subsection 28-643 unless the contrary is established by competent evidence.

Sec. 24-32. Obedience to Official Traffic Control Devices.

No person shall intentionally disobey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this ordinance, unless otherwise directed by a Police Officer or other authorized person, subject to the exceptions granted the driver of an authorized emergency vehicle.

Sec. 24-33. Crosswalks and Safety Zones.

The City Traffic Engineer is hereby authorized:

A. To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

B. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

Sec. 24-34. Traffic Lanes.

The City Traffic Engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

Sec. 24-35. Unauthorized Painting of Curbs, Sidewalks, or Streets, Highways and Freeways.

It shall be unlawful for any person, unless authorized by the City Traffic Engineer, to paint or deface any curb, sidewalk, street, highway or freeway within the jurisdiction of this City, provided, however, that this section shall not apply to the painting of numbers on a curb surface by any person who has complied with the provisions of any resolution or ordinance of this City pertaining thereto.

Sec. 24-36. Traffic Control Barricades and Signs.

A. No person or public utility in the City shall erect or place any barrier or sign on any street unless of a type approved by the City Traffic Engineer.

B. All barricades and signs used in the City on public streets and right-of-way shall meet all requirements on traffic controls for

highway construction and maintenance operations of the Federal Manual of Uniform Traffic Control Devices as adopted by the Arizona Highway Commission and issued by the USDOT, FHWA, Washington, D.C. The City shall be exempt from this requirement.

C. All barricading and traffic control for work or maintenance in streets and right-of-way of this City shall be done in accordance with the 'Traffic Control Manual for Highway Construction and Maintenance' as issued by the Arizona Highway Department and in accordance with the City of Phoenix Traffic Barricade Manual and must meet the approval of the City Traffic Engineer.

Sec. 24-37. Permission to Close Streets, Highways, Freeways and Alleys.

A. No person, firm, corporation or other entity shall temporarily, whether partially, or fully close any City street, highway, freeway, alley or pedestrian-way without first obtaining the approval of the City Traffic Engineer, except: 1) under emergency conditions; or 2) pursuant to a parade permit; or, 3) pursuant to Council authorized and approved activities.

B. Any closures shall comply with the regulations stated in the City of Phoenix Traffic Barricade Manual as named in Section 24-36 subsection (C) of this article, unless otherwise approved in writing by the City Traffic Engineer.

C. In an emergency situation, the responsible agency shall comply with the City of Phoenix Traffic Barricade Manual as soon as practicable.

ARTICLE IV. SPECIFIC PARKING PROHIBITIONS

Sec. 24-50. Applicability.

The provisions of this article prohibiting the standing, stopping or parking of a vehicle shall apply at all times or at those times specified or indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official control device. The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restricted provisions prohibiting or limiting the standing, stopping or parking of a vehicle in specified places or at specified times.

Sec. 24-51. Violation of State Law.

No person shall stop, stand or park a vehicle in violation of Arizona Revised Statutes Section 28-871 or 28-874, which sections are hereby adopted by reference.

Sec. 24-52. Parking for Certain Purposes Prohibited.

No person shall park a vehicle upon any right-of-way for the principal purpose of:

1. Displaying such vehicle for sale.

2. Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

3. Displaying advertising.

4. Displaying commercial exhibits.

Sec. 24-53. Parking Upon Public Property.

A. The City Traffic Engineer is hereby authorized to determine and designate No Stopping, No Standing, and No Parking areas on publicly owned property. In addition, the City Traffic Engineer is hereby authorized to restrict parking, stopping or standing in zones on publicly owned property for the public welfare. The above authority shall include, but not be limited to, creating the following zones:

(1) no parking zones which prohibit parking and standing altogether;

(2) zones where parking or standing is prohibited or allowed only during specified hours and/or during specified days;

(3) zones where parking is prohibited for longer than the maximum time period specified at any time;

(4) reserved parking zones where a person is only allowed to park or stand a vehicle where such person is a member of a designated group of persons;

(5) permit parking zones where a person may only park or stand a vehicle which displays a clearly visible permit issued by the City;

(6) motorcycle only zones which allow only motorcycles to park or stand therein;

(7) compact vehicle only zones which only allow compact vehicles to park or stand therein (for purposes of this subsection, a 'compact vehicle' is any vehicle not exceeding 180 inches in length);

(8) zones in front of any driveway or entrance way or within 10 feet of any driveway or entrance area to any publicly owned property where parking or standing is prohibited; and

(9) handicapped parking zones on publicly-owned property in accordance with State law and as more specifically described in this code.

The City Traffic Engineer shall place and maintain appropriate signs and/or markings indicating such zones. No person shall park a vehicle in violation of the restrictions of such a zone. Any person parking his vehicle in a parking zone in violation of restrictions of such zone shall be subject to the penalties specified in this chapter. Such a vehicle shall be subject to tow away and impoundment by order of the Chief of Police or his designee.

B. No person shall park a vehicle on publicly owned property marked for parking, except as designated by lines or markings upon the pavement or ground. No person shall park a vehicle in diagonal or at an angle parking on publicly owned property except with the front of the vehicle headed into the curb, cement block, wall, etc. which indicates the front of the parking area.

C. For purposes of this section, 'publicly owned property' shall mean any lands which the City owns either in fee simple or in which it has acquired a beneficial interest by virtue of an agreement of sale or conveyance and it shall include specifically parks and other recreation property including those parks and recreation properties which are leased to private parties and all publicly owned rights of way for streets and alleys. For purposes of this section, 'parking' shall include stopping, standing and/or parking as such terms are defined in Title 28 of the Arizona Revised Statutes.

D. Any violation of sub-sections A or B of this section occurring on the streets or highways shall be a civil traffic violation. Any other violation of this section shall be unlawful and shall constitute a misdemeanor.

Sec. 24-54. Parking Limitation on Corner Lots.

No person shall park any vehicle within thirty feet of the intersection of the right-of-way lines at any intersection of two or more streets and which prevents a clear view by the operators of vehicles on the streets of traffic proceeding on the intersecting street or streets.

Sec. 24-55. Parking Not to Obstruct Traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

Sec. 24-56. Parking in Alleys.

A. No person shall park or stand a vehicle in an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of roadway for the free movement of vehicular traffic, and

no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

B. No person shall park or stand any vehicle in any alley, except commercial cars, trucks, or wagons for the purpose of loading and unloading, and then not for a longer period than is actually necessary to load or unload. Vehicles displaying State 'Disabled Parking' identifying insignia may stand or park in an alley while loading or unloading persons for a period not exceeding five (5) minutes.

Sec. 24-57. Parking at Roadside.

No person shall park any vehicle at any time in that area between the curb and the sidewalk. On those roadways without curbs, no person shall park a vehicle so as to force, or potentially force, a pedestrian to walk in the traveled portion of the roadway or private property.

Sec. 24-58. Fire Lanes.

A. It shall be unlawful to park any vehicle in a space or area set aside and identified as a fire lane by the Fire Department.

B. The Fire Chief or his designee is hereby authorized to designate fire lanes on both public and private property.

C. Subsection (A) of this section shall apply only to those areas that are identified with signs stating 'no parking/fire lane/city code section 24-58.' The Fire Department through the Fire Chief or his designee shall determine the location of all fire lanes and shall affix a stamp of approval to all approved fire lane signs. Such stamp of approval shall consist of a one-inch by two-inch vinyl laminated sticker indicating fire lane approval.

D. It shall be the duty of the owner of record of private property over which the Fire Chief or his representative has designated a fire lane to post, at the owner's expense, approved signs prohibiting parking in the designated fire lane. Such signs shall be so placed, and be of sufficient number, that at least one (1) sign shall be visible to anyone attempting to park a vehicle at any location in the fire lane. The failure to erect signs in accordance with this subsection within thirty (30) days of receipt of a notice from the Fire Department specifying the designation of a space or area as a fire lane shall be a misdemeanor.

E. Any sign erected in compliance with Section 19-49 of the Code of the City of Glendale, 1963, and approved by the Fire Department while that Section was valid, is deemed to be valid, approved and in compliance with this Section 24-58.

Sec. 24-59. Parking Adjacent to Schools.

The City Traffic Engineer is hereby authorized to erect signs indicating no parking upon any street adjacent to any school property

when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

When official signs are erected indicating no parking upon that side of a street adjacent to any school property no person shall park a vehicle in any such designated place.

Sec. 24-60. Parking Long Vehicles in Diagonal or Angle Parking Areas Prohibited.

No person shall park any motor vehicle on any street in the City where diagonal or at an angle parking is in force at the time when the vehicle:

(1) Is longer than 24 feet, or

(2) Has a chassis capacity rated in excess of one ton, or

(3) Is equipped in such a fashion that it does not allow the driver an unobstructed view of at least two hundred feet to the rear of the vehicle.

Sec. 24-61. Parking of Mobile Homes or Travel Trailers.

1. It shall be unlawful, within the City limits, for any person to park any mobile home or travel trailer on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, within the City, except as provided by ordinance.

2. Emergency or temporary stopping or parking of a mobile home or travel trailer is permitted on any street, alley or highway for not longer than one hour subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

3. As used in this section:

(a) Mobile home shall mean a vehicular portable home designed and built for long-term residential occupancy. A mobile home shall be not less than eight feet in width and thirty-two feet in length, and shall be classified as a mobile home whether or not its wheels, rollers, skids or other rolling equipment have been removed, or whether or not any addition thereto has been built on the ground, and:

(1) Contains sleeping accommodations, a flush toilet, a tub or shower and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

(2) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable

wheels. Such fabrication shall include a built-in metal frame and hitch for transportation.

(3) Arrives at the site where it is to be occupied as a complete dwelling unit, including major appliances and furniture, and ready for immediate occupancy except for incidental unpacking and minor assembly operations, such as location on foundation supports and connection to utilities.

A prefabricated house shall not be considered a mobile home.

(b) Travel trailer shall mean a vehicular portable home designed as a temporary dwelling for travel, recreational and vacation uses. Such home shall not exceed the limits set forth by the state for movement over and upon the highways without a special permit.

Sec. 24-62. Stopping, Standing or Parking Prohibited in Specified Places.

No person may stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic-control device, in any of the following places:

1. on a sidewalk;

2. in front of a public or private driveway;

3. within an intersection;

4. within fifteen feet of a fire hydrant;

5. on a crosswalk;

6. within twenty feet of a crosswalk at an intersection;

7. within thirty feet upon the approach to any flashing beacon, stop sign, yield sign or traffic-control signal located at the side of a roadway;

8. between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless the director or local authorities indicate a different length by signs or markings;

9. within fifty feet of the nearest rail or a railroad crossing or within eight feet six inches of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars;

10. within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance when properly posted;

11. alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

12. on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

13. upon any bridge or other elevated structure upon a highway or within a highway tunnel;

14. at any place where official signs prohibit standing or stopping; and

15. on a controlled access highway as defined in Section 28-602 except for emergency reasons or except in areas specifically designated for parking, such as rest areas.

Sec. 24-63. Parking or Driving on Recreational Trails.

No person shall drive or park any motor vehicle upon or within any recreational trails except for emergency purposes. This provision shall not apply to official City vehicles.

ARTICLE V. PARKING IN GENERAL

Sec. 24-80. Owner's liability for parking offenses.

Every person in whose name a vehicle is registered or licensed shall be responsible for any parking of the vehicle in violation of any provision of this Chapter or Chapter 26 relating to the parking of vehicles whether on public or private property. It shall be no defense to such charge that the vehicle is illegally parked by another unless it is shown that at such time the vehicle was being used without the consent of the registered owner thereof.

Sec. 24-81. Parallel Parking.

Except as otherwise provided in this chapter, no person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curbside wheels of the vehicle within 18" of the curb or edge of the roadway.

Sec. 24-82. Parking trucks and trailers on residential streets.

1. No person shall park or stand a vehicle with a rated chassis capacity in excess of 1 ton or a truck tractor, road tractor, semi-trailer, trailer or bus on a residential street or on that one-half of any street adjacent to real property zoned residential by

the city except when expeditiously loading, unloading, delivering or making a service call at a residence or unless otherwise permitted by this code.

2. For purposes of this section, 'residential' shall mean that certain real property which is zoned R1-6, R1-7, R1-8, R1-10, SR-12, SR-17, SR-30, R-2, R-3, or R-4 by the City.

ARTICLE VI. SPEED REGULATIONS

Sec. 24-90. State Speed Laws Applicable.

The State Traffic Laws regulating the speed of vehicles shall be applicable upon all streets within the City, except as this ordinance, as authorized by State Law, hereby declares and determines upon the basis of study that certain speed regulations shall be applicable upon specified streets or in certain areas.

Sec. 24-91. Alteration of State Speed Limits.

The Council may by ordinance determine that the speed permitted by State Law upon any street under the jurisdiction of the City is greater or less than necessary for safe operation of vehicles thereon and may, upon the basis of an engineering and traffic investigation, declare a reasonable and safe maximum speed limit on any part of a street. The City Traffic Engineer shall cause speed limit signs to be erected giving notice of such speed limit and shall keep a record of all such speed limits. Three copies of such record shall be kept on file in the City Clerk's Office and the record shall be designated as 'Altered Speed Limits of the City of Glendale' which record is hereby adopted by reference as if set forth in full.

Sec. 24-92. Minimum Speed Limit.

Whenever the Council determines on the basis of an engineering and traffic investigation that slow speeds on any part of a street or highway consistently impede the normal and reasonable movement of traffic, the Council may by ordinance declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

Sec. 24-93. Regulation of Speed by Traffic Signals.

The City Traffic Engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

Sec. 24-94. Unnecessary Vehicle Noise.

No person shall intentionally operate any vehicle:

1. At such a speed on a curve or turn as to create loud and unnecessary noise through the squealing of tires upon the public right-of-way, or

2. So to accelerate or decelerate in such a manner as to create loud and unnecessary noise through the squealing of tires upon the public right-of-way, or

3. So as to cause damage to the public right-of-way.

Sec. 24-95. Speed Limits.

The State Traffic Laws regulating the speed of vehicles shall be applicable upon all streets within the City, except as this ordinance, as authorized by State Law, hereby declares and determines upon the basis of study that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event any speed in excess of any speed limit specified by an engineering and traffic investigation is prima facie evidence that the speed is too great and therefore unreasonable when signs are in place giving notice thereof.

Sec. 24-96. Speed Limits - City Property.

A. The Council may determine and declare a reasonable and safe maximum speed limit upon any publicly owned property and may place and maintain signs and/or markings indicating the same. No person shall drive a vehicle on publicly owned property at a speed greater than the posted speed limit. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person or other vehicle.

B. For purposes of this section, 'publicly owned property' shall mean any lands which the City owns either in fee simple or in which it has acquired a beneficial interest by virtue of an agreement of sale or conveyance and it shall include specifically parks and other recreation property including those parks and recreation properties which are leased to private parties and all publicly owned rights of way for streets and alleys.

ARTICLE VII. TURNING MOVEMENTS

Sec. 24-100. Restricted Turn Signs.

The City Traffic Engineer is authorized to place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

Sec. 24-101. Limitations on Turning Around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street when prohibited by

sign and shall not upon any other street so turn a vehicle unless such movement can be made in safety without interfering with other traffic.

ARTICLE VIII. STOP AND YIELD INTERSECTIONS

Sec. 24-110. Signs Required at Through Streets.

A. The City Traffic Engineer may place and maintain a stop or yield sign on each street intersecting through streets described and designated in the document titled 'Designation of Through Streets of the City of Glendale'. This document is attached as Exhibit B to this ordinance and is hereby adopted by reference; three copies of the document will be on file with the City Clerk.

B. At the intersection of two (2) through streets, the type of traffic control shall be determined by the City Traffic engineer from a traffic engineering investigation.

Sec. 24-111. Other Intersections where Stop or Yield Required.

The City Traffic Engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine (a) whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required, or (b) whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required. The City Traffic Engineer shall maintain current records of these designations and a copy shall be kept on file with the City Clerk.

Sec. 24-112. Stop When Traffic Obstructed.

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.

ARTICLE IX. IMMOBILIZATION AND IMPOUNDMENT OF VEHICLES

Sec. 24-120. Removal or Impoundment of Certain Vehicles.

(A) Members of the Police Department are hereby authorized to remove or have removed a vehicle from a street, alley or roadway to a place of safety or to a facility designated by City removal procedure policy or maintained by the Police Department, otherwise maintained by the City under the circumstances hereinafter enumerated:

1. When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

2. When a vehicle is so disabled as to constitute an obstruction to traffic or the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provided for its custody or removal;

3. When any vehicle is left unattended upon a street, alley or roadway and is so parked as to constitute a hazard or obstruction to the normal movement of traffic;

4. When any vehicle is left parked upon a street, alley or roadway for a period in excess of 48 hours.

5. When any vehicle is parked in violation of Section 24-82.

(B) Any unoccupied vehicle of any kind or description found violating any provisions of any of the laws of the city regulating the standing or parking of vehicles is hereby declared to be a nuisance and a menance to the safe and proper regulation of traffic, and such vehicle shall be taken in charge by any police officer and removed from the street, alley or roadway in accordance with the City removal procedure policy.

Sec. 24-121. Notice of Impoundment to be Sent to Owner.

Whenever an Officer removes a vehicle from a street, alley or roadway as authorized in this article and the Officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Police Department shall give or cause to be given as soon as possible written notice to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. The notice shall be mailed to the owner at the address given in the Motor Vehicle Division registration records, or, if known by the officer, to the last known address. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

Sec. 24-122. Impounded Vehicle - Release.

The Police Department shall return to the owner said impounded vehicle when the owner has furnished evidence of his identity and ownership, signed a receipt and paid a towing and storage charge such vehicle has been kept in custody of the Chief of Police. The payment of such towing and storage charges shall not release the owner or driver of such vehicle from any other penalty imposed for violation of the traffic laws of the City of Glendale.

Sec. 24-123. Immobilization Devices.

In addition to any other authority possessed by the Chief of Police, the Chief of Police or his designee in his discretion may use

immobilization devices in enforcing the City parking ordinances on publicly owned property.

ARTICLE X. CIVIL TRAFFIC VIOLATIONS; LIABILITY AND ENFORCEMENT

Sec. 24-130. Unlawful parking and traffic movement and control - civil infraction.

Violation of any City Ordinance or provision of this Code which regulates the time, place, or method of parking on the streets or highways is hereby designated as a civil violation, and shall be subject to the provisions of Arizona Revised Statutes Title 28, Chapter 6, Article 21 (as it now reads or may be hereafter amended in the future). In addition, any other section of this chapter regulating traffic movement and control shall constitute a civil traffic violation unless the section specifically provides that the conduct is unlawful, in which case a violation shall constitute a misdemeanor.

Sec. 24-131. Collection of Parking Penalties.

The City Manager is hereby authorized to enter into an agreement with a private party or to designate a city officer or employee to handle the collection of parking penalties for contested or uncontested notices of parking violations. Such designee or private party shall be known as the Parking Violation Hearing Officer, hereafter referred to as the 'hearing officer', and shall be responsible for collecting the parking penalties imposed by this Code for notices of parking violations.

Sec. 24-132. Parking citations; issuance.

A. In an action under this article, a copy of the notice of violation need not be personally served upon the owner or operator of the vehicle but may be served by leaving a copy on or in the vehicle.

B. The notice of violation should include the date, time and location of the violation, the license number of the vehicle unlawfully parked, the state that issued the license plate, reference to the City Ordinance or State Code provision violated, and notice that within 7 working days from the date on which the notice of violation was issued the parking penalty (fine) for the violation must be paid to or received by the City or a request made for a hearing to contest the notice of violation.

Sec. 24-133. Response to parking notice of violation.

Within 7 working days from the day on which the notice of violation was issued, the owner or operator of the vehicle involved in the violation shall respond to the notice of violation by one of the following methods:

A. By appearing in person, by representation, or by mail received by the City within said seven day period, admitting responsibility for the violation, and paying the parking penalty prescribed for the violation.

B. By contacting the City in person and requesting a hearing in front of a hearing officer to contest the notice of violation.

Sec. 24-134. Contests of notices of violation.

A. If the owner or operator of the vehicle involved in a notice of violation (hereafter referred to as the violator) responds as specified in 24-133(B), the hearing officer shall meet with the violator, listen to the violator's explanation of the circumstances, and

(1) Accept the explanation and cancel the notice of violation, or

(2) Find the person responsible and impose a parking penalty, or

(3) Reduce or eliminate the parking penalty to be imposed.

B. If the violator requests a hearing and does not appear at the scheduled time, the violator will be treated as though no Section 24-133 response had been made.

Sec. 24-135. Failure to pay parking penalty after hearing; increased penalty; filing of complaint.

A. If the violator fails to pay the parking penalty imposed by the hearing officer after a hearing, within 7 working days from the date the hearing officer imposed the penalty, the parking penalty for the violation shall increase in accordance with the schedule of parking fines then in effect.

B. If the hearing officer has not received payment for the parking penalty or has not otherwise resolved a notice of violation within 30 days from the date of the notice of violation, a complaint shall be filed with the City Court unless the City Prosecutor determines a complaint shall not be filed.

Sec. 24-136. Failure to Respond to Notice of Violation; Increase Penalty; Filing of Complaint.

A. If the owner or operator of the vehicle involved in the violation fails to respond by one of the methods prescribed in section 24-133 within 7 working days from the day the notice of violation was issued, the parking penalty for the violation shall increase in accordance with the schedule of parking fines then in effect.

B. If the hearing officer receives no response by one of the methods described in Section 24-133 within a time specified by the hearing officer not to exceed 30 days from the date of the notice of violation, he shall file the complaint with the City Court.

C. All parking complaints shall be routed to the City Prosecutor.

D. A summons and complaint may be sent by regular mail to the address provided to the Arizona Department of Transportation by the individual made responsible for the alleged violation by Section 24-80. Service of the summons and complaint is complete upon mailing.

E. If the person served with a summons and complaint pursuant to 24-136(D) fails to appear on or before the time directed to appear or at the time set for hearing by the court, the allegations in the complaint shall be deemed admitted and the court shall enter judgment for the City, and impose a parking penalty assessment.

F. A person served with a summons and complaint pursuant to 24-136(D) may contest the parking complaint in the manner set forth in 24-137.

Sec. 24-137. Hearing; Judgement and assessment of parking penalty.

A. A parking complaint may be contested in person or through an attorney only by an owner of the vehicle described in the complaint or by the person who parked the subject vehicle at the place described in the complaint. If it appears by the preponderance of the evidence that the violator is liable for the violation described in the complaint, the court shall enter judgement for the City and impose a parking penalty assessment.

B. If a violator fails to appear for a duly noticed and scheduled hearing, the allegations in the parking complaint shall be deemed admitted and the Court shall enter judgement for the City, impose a parking penalty assessment.

Sec. 24-138. Failure to Pay Civil Sanction; Suspension of Privilege to Drive; Collection Procedure.

All parking penalty assessments shall be paid within 30 days from the entry of judgement, except that if payment within 30 days will place an undue economic burden on the violator, the Court may extend the time for payment or may provide for installment payments. If the parking penalty assessment is not paid or an installment payment is not made when due, the Court may declare the entire parking penalty assessment due and may suspend the violator's operator's or chauffeur's license or driver's permit, or the privilege of a non-resident to drive a motor vehicle in this state, until such parking penalty assessment is paid.

Sec. 24-139. Appeal.

Appeals under this Article shall be made in accordance with ARS Section 28-1078 (as it now reads or maybe hereafter amended in the future) and in accordance with the rules promulgated by the Arizona Supreme Court.

ARTICLE XI. LOADING AND UNLOADING

Sec. 24-150. City Traffic Engineer to Designate Curb Loading Zone.

The City Traffic Engineer may determine the location of passenger and freight curb loading zones and public carrier stop and stands as defined in Section 24-153(B) and shall place and maintain appropriate signs and markings indicating the same and stating the hours during which the provisions of this article are applicable.

Sec. 24-151. Standing in Passenger Zone - Exception.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes, except that a vehicle displaying a State 'Disabled Parking' identifying insignia may stand or park in a passenger curb loading zone for a period not to exceed five minutes while loading or unloading persons.

Sec. 24-152. Standing in Freight Zone - Exceptions.

When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle in a freight curb loading zone during the hours when the provisions applicable to such zones are in effect, except:

A. to load or unload freight, or

B. the driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to load or unload in such zone. Vehicles displaying State 'Disabled Parking' insignia may stand or park in a freight or curb loading zone for a period not to exceed five minutes while loading or unloading persons.

Sec. 24-153. Standing in Public Carrier Stops and Stands.

A. When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle in a public carrier stop or stand during the hours when the provisions applicable to such zones are in effect, except a public carrier of the type designated on the sign.

B. A 'public carrier stop or stand' as used in this Section and 24-150 is any of the following:

1. Bus stop, or

2. Bus stand, or

3. Taxicab stand, or

4. Any other stand for a passenger public carrier.

ARTICLE XII. PEDESTRIAN'S DUTIES

Sec. 24-160. Crossing at Right Angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except where indicated by a crosswalk or other official traffic control devices.

Sec. 24-161. Prohibited Crossing.

No pedestrian shall cross a roadway other than in a crosswalk in any business district.

ARTICLE XIII. MISCELLANEOUS

Sec. 24-170. Vehicles Shall not be Driven on a Sidewalk, Curb or Gutter.

The driver of a vehicle shall not drive within any sidewalk area except upon or within a permanent or temporary driveway. The driver of a vehicle shall not drive across a curb or gutter unless the curb or gutter has been designed and built for that purpose.

Sec. 24-171. New Pavement and Markings.

No person shall ride or drive any animal or any vehicle over or across any newly made pavement, or freshly laid seal coating or freshly painted markings on any street when a barrier sign, cone marker or other warning device is in place warning persons not to drive over or across such pavement, seal coatings, or markings, or when any such device is in place indicating that the street or any portion thereof is closed.

Sec. 24-172. Moving Overweight, Oversize, and Extension Vehicles over Streets in the City.

It shall be unlawful to operate or move on a street maintained by the City any equipment, vehicle or structure which exceeds the limits set forth in Section 28-1001 through 28-1031, A.R.S., as amended, relating to oversize, overweight, and extensions over the front or rear, unless a special permit is issued by the City according to Section 28-1011, A.R.S., as amended.

Sec. 24-173. Operation of Vehicles on Vacant Lots.

It shall be unlawful to operate a vehicle on or across any portion of a vacant lot other than by the owner thereof unless the lot is dust free, as defined in this code.

Sec. 24-174. Movements Across Raised Traffic Islands or Medians.

No person shall drive a vehicle across any raised area as traffic islands, medians, or channelizing devices.

Sec. 24-175. Obedience to Traffic Control Barricades.

No person shall move a vehicle through or around a barricade or disobey the instructions, remove, tamper with or destroy any barrier or sign lawfully placed on any street by any person, public utility or by any department of this City.

Sec. 24-176. Pulling from Curb.

The driver moving a vehicle from the curb or side of the street into the traffic lane shall yield the right-of-way to all closely approaching vehicles on such street.

Sec. 24-177. Signing of One-Way Streets and Alleys.

The City Traffic Engineer shall place and maintain signs on any one-way street or alley so designated by the City Council. Such signs shall indicate the direction of lawful traffic movement and shall be placed at every intersection where movement of traffic in the opposite direction is prohibited on those streets, and alleys.

Sec. 24-178. Authority to Restrict Direction of Movement on Streets During Certain Periods.

A. The City Traffic Engineer is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The City Traffic Engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

B. No person shall operate any vehicle in violation of such markings, signs, barriers, or other devices so placed in accordance with this section.

ARTICLE XIV. CRIMINAL TRAFFIC PENALTIES.

Sec. 24-190. Criminal Penalties.

A violation of any section of this Chapter, which is declared to be unlawful, shall, unless otherwise specifically provided in this Chapter, be deemed a misdemeanor and be punished by a fine not to exceed $1,000.00 or by imprisonment for a term not to exceed 6 months, or both."

SECTION 3. That Chapter 26, Article I, Section 26-3 is hereby amended to read as follows:

"Sec. 26-3. Disabled parking; stopping, standing or parking prohibited in places reserved for disabled; revocation; violation.

A. Except as provided in subsection (C), no person shall stop, stand or park a motor vehicle within any such specially designated and marked parking space provided in accordance with article 14.1 of Title 28 of the Arizona Revised Statutes (A.R.S. Sec. 28-881 et seq.) unless the motor vehicle is transporting a person eligible for the distinguishing insignia placard or number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard.

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

B. If a law enforcement officer or a parking enforcement specialist employed by the city finds a motor vehicle in violation of this section, the person may issue a complaint to the operator or other person in charge of the motor vehicle or leave a notice of violation with the vehicle.

C. Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person. No complaint shall be issued to the driver for such momentary parking.

D. This section does not apply:

(1) To zones where stopping, standing or parking is prohibited to all vehicles.

(2) If there is an ordinance that prohibits parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

E. Each such parking space for physically disabled persons shall be prominently outlined with paint and posted with a permanent sign located not less than three (3) feet nor more than six (6) feet above the grade and of a color and design approved by the state department of transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking".

F. In this section, the term "physically disabled person" shall have the meaning assigned to it in Arizona Revised Statutes section 28-881.

G. Violations of this section occurring on the streets or highways shall be a civil traffic violation and violations of this section occurring on private property shall be unlawful and constitute a misdemeanor."

SECTION 4. The provisions of the new Article X of Chapter 24 of the Glendale City Code as set forth in Section 2 of this ordinance shall become effective on January 1, 1986, and apply to all notices of violation issued from and after December 31, 1985.

SECTION 5. If any provision of the new Article X, Chapter 24 of the Glendale City Code as set forth in Section 2 of this ordinance or the application thereof to any person or circumstance, is declared invalid, the invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions thereof are severable.

SECTION 6. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give affect to this ordinance; specifically, the provisions of Article X, Chapter 24 of the Glendale City Code.

SECTION 7. PENALTY. A violation of any of the provisions of this ordinance which is declared unlawful shall constitute a misdemeanor, and shall, unless otherwise specifically provided, be punished by a fine not exceeding $1,000.00 or by imprisonment for a term not exceeding 6 months, or both.

SECTION 8. Whereas the immediate operation of the provisions of this ordinance is necessary for the preservation of public peace, health and safety of the City of Glendale, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage, adoption and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 26th day of November, 1985.

MAYOR

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

EXHIBIT B

The following designated roads and avenues of the City are hereby established and declared to be through streets, except where the through street is intercepted by a like classified street. Control at such intersecting points shall be individually determined as provided for in Sec. 24-17.

1. Camelback Road
2. Missouri Avenue
3. Bethany Home Road
4. Maryland Avenue
5. Glendale Avenue
6. Orangewood Avenue
7. Northern Avenue
8. Butler Avenue
9. Olive Avenue
10. Mountain View Road
11. Peoria Avenue
12. Cholla Street
13. Cactus Road
14. Sweetwater Avenue
15. Thunderbird Road
16. Acoma Road
17. Greenway Road
18. Paradise Lane
19. Bell Road
20. Grovers Avenue
21. Union Hills Drive
22. Utopia Road
23. Beardsley Road
24. Rose Garden Lane
25. Deer Valley Road
26. Pinnacle Peak Road
27. 47th Avenue
28. 51st Avenue
29. 55th Avenue
30. 59th Avenue
31. 61st Avenue (Glnd to Olive Avenue)
32. 63rd Avenue
33. 67th Avenue
34. 71st Avenue
35. 75th Avenue
36. 79th Avenue
37. 83rd Avenue
38. 87th Avenue
39. 91st Avenue
40. 95th Avenue
41. 99th Avenue
42. 103rd Avenue
43. 107th Avenue
44. 111th Avenue
45. 115th Avenue
46. Grand Avenue

MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA
HELD TUESDAY, NOVEMBER 26, 1985 AT 7:30 P.M.

The first meeting in the new Council Chambers was called to order by Mayor Renner with the following members present: Bellah, Huffman, Heatwole, Tolby, Falbo and Ward. Members absent: None.

Also present were Martin Vanacour, City Manager; Gordon L. Pedrow, Assistant City Manager; Peter Van Haren, City Attorney; Lavergne Behm, City Clerk; and Linda Duke, Deputy Clerk.

Compliance with Article VII, Section 6, Glendale City Charter

A statement was filed by the City Clerk stating the three Ordinances and two Resolutions to be considered at this meeting were delivered to the Mayor and all members of the City Council, were available for public examination, and were posted at the Council Chambers more than 72 hours in advance of this meeting.

Business from the Floor

Mr. Rick Haywood, 5814 W. Orangewood, had a concern with the parking ordinance. Mayor Renner explained that it was on the agenda and he could express his views when that item was presented.

Minutes

Moved by Heatwole, seconded by Bellah, to dispense with the reading of the minutes of the regular meeting of November 12, 1985 as each member of the Council had been provided copies in advance, and approve them as submitted. Motion carried unanimously.

Awards and Presentations

Airman 1st Class Karen R. Varney was presented a Mayor's Pat-on-the-Back tee shirt award for coming to the aid of a motorcycle accident victim and consequently saving his life.

Iva Smith, Americanism Chairperson of the Women's Veterans Auxiliary of the Veterans of World War I, presented two United States flags to the City. The flags were given to Iva Smith by Congressman Bob Stump.

Consent Agenda

Mayor Renner asked if anyone present wished to address any item on the Consent Agenda. No one responded.

Moved by Heatwole, seconded by Huffman, to approve nine of the ten items under the consent agenda and hold the first item for discussion. Councilman Falbo interjected comment about being assured item No. 3, storm sewer and low water crossing at Skunk Creek, is not a similar situation as the 55th Avenue low water crossing.

Motion carried unanimously.

(2) Job Order Request: Water Transmission Mains (Project W856006) - Approved the job order and authorized the signing of the Professional Architect/Engineer Agreement with John Carollo Engineers, Inc., for the design of a water transmission main in Utopia Road from 59th to 67th Avenues, and a water transmission main crossing under Grand Avenue at Northern and 67th Avenues. Total cost estimated at $500,000.

(3) Job Order Request and Contract Award: Arrowhead Ranch Infrastructure: Major Streets, Phase VII (Project A856044 and A856A44) - Approved Job Order A856044 and A856A44 and awarded the contract to F.N.F. Construction Company, Inc., lowest responsible bidder, in the amount of $482,575. This project, designed by Lowry & Associates and Wilson & Company, consists of the construction of two lanes of pavement at 57th Drive, from Union Hills Drive to the north Sperry property line and includes a storm sewer and a low water crossing at Skunk Creek.

(4) Job Order Request: Police Station Radio Room Remodeling (Project B856022) - Approved job order for the design and construction of the radio room remodeling at the police communications center. The project, including design services furnished by the Engineering Department and construction remodeling accomplished by contract, is budgeted in the amount of $30,000 in Fiscal Year 1985-86.

(5) Change Order No. 1: Drainage Structure at 71st Avenue and Greenway Road (Project H845070) - Approved change order to the contract with Robert R. Adams Construction Corporation for a cost of $9,428.25. This change order is necessary to accommodate final quantities as well as provide protection to the newly installed corrugated metal pipe by extending the curbs and pavement to the headwall.

(6) Change Order No. 2 - Council Building - Authorized change order for Taft Broadcasting for a total increase of $11,605.04 and 61 calendar days for the Council Chambers and 75 calendar days in the Amphitheater. The time extension was needed because Taft Broadcasting was unable to start work until Liberty Builders' completion on the Council Chambers and Amphitheater. The items involved are: Item #1 is to provide a wiring diagram to indicate how many and which type of wires are to be placed into various conduits indicated on the audio/visual drawings. The cost is $374.04. Item #2 is to provide audio and video cable to tie the cable van parked at the top of the amphitheater

to the Council Chambers and the City Cable Television Control Room in the sub-basement of the Office Complex for transmission over cable TV. A set of video production control racks is also included to replace the counter top deleted in Liberty's Change Order No. 8. The cost is $11,231.00.

(7) Change Order No. 3 to Professional Architect/Engineer Agreement: Arrowhead Ranch Infrastructure Design Contract (Project A834045) - Approved change order to the agreement with Mettee-McGill-Murphy Engineers to increase the scope of work to include a four-way intersection at 75th Avenue and Beardsley Road. No intersection was originally planned in deference to a proposed interchange with the Outer Loop. The increase in costs is $5,200.

(8) Change Order No. 9 - Council Building - Authorized this change order for a total increase of $10,000.00 and time extension of five calendar days. **Item #1**: Mechanical ductwork needed to be lowered in the breakroom ceiling to pass below the I-beam that holds up the ceiling; $1,875.00. **Item #2 and Item #4**: A conduit large enough to allow easy placement of pre-manufactured cable for existing cameras to four locations within the Council Chambers was installed to enable productions to be transmitted out over cable TV; $3,446.00. The projection booth has been modified by revising the flooring to a computer-type access flooring from a framed in filled raised floor; $3,052.00. **Item #3**: This item sealed off an area in the ceiling where the garage and office complex meet on the basement and 1st floor level; $230.00. **Item #5**: Replacement of two palm trees that were stored by the City but died prior to being placed in the amphitheater; $1,047.00. **Item #6**: The curb and gutter at Glenn Drive was demolished and replaced with a handicap ramp; $350.00. **Time Extension**: The four day extension is for trades that could not perform work as scheduled because of the revised work in the projection booth floor, and the one day extension is for rain at a critical time when exterior work was being performed.

(9) Contract Award: Cardinal, Apollo, Rose Lane and O'Neil Pool Repairs (R845057) - Contract awarded to Aqua-Fab, second low bidder, in the amount of $78,000 to perform swimming pool repairs. Review of the documents of the apparent low bidder revealed that the bid bond was invalid which made that bid non-responsive.

(10) Right of Way Request: Our Lady of Perpetual Help Church Procession - Approval of the request, police escort and waiver of all fees and charges. The processions will be held Sunday, December 8, 1985 at 1:30 p.m., and Thursday, December 12, 1985 at 6:30 p.m.

Item #3 taken separately:

(3) 1985/86 Traffic Signalization Program - A modified traffic signalization plan was developed which reduces from 13 to 6 the number of traffic signal improvements scheduled for the current fiscal year.

Vice Mayor Heatwole expressed his concern with a delay of further left turn signalization until the evaluation comes out.

Discussion ensued. Mr. Martinsen recommended to Council that the two Bell Road intersections not be left turn signalized now as traffic conditions on Bell Road do not warrant the left turn phase.

Moved by Heatwole, seconded by Falbo, to approve the modified 1985/86 Traffic Signalization Program and recommended left-turn signal operation improvements, with the addition of the installation of left-turn signals at 51st and Glendale Avenues. Motion carried unanimously.

Bids and Contracts

Rate Increase Request: Storer Cable

Councilman Tolby suggested tableing this item until the negotiation committee has finished their report. If they can't reach an agreement on all the issues that are not in compliance at this time, that should be taken into consideration at the same time as a rate consideration.

Meeting dates of the Council in December were discussed.

Mr. Tim Ernster, Deputy City Manager, Community Services Group, said the committe's last meeting was on September 26, 1985. At that time they requested Storer Communications provide the City additional information and some legal language for a couple of key issues that are being negotiated. No reply has been received and the decision was made not to schedule another meeting until Storer Communications provide the information to the City. Mr. Ernster said he talked to the vice president of Storer Communications today and they are working on the information and will have it shortly, within next two weeks.

Moved by Tolby, seconded by Huffman, to table this item until December 23, 1985, until information is brought to Council concerning the progress on the renegotiation for the contract. Motion carried, Falbo voting nay.

Award of Bid: New Glendale Municipal Airport Terminal Building

Mr. Vanacour stated three bids were received and opened on October 30, 1985. Staff has reviewed the qualifications of all bidders and finds them acceptable, however the bids came in approximately $500,000 over the estimated cost. Staff feel it

is in the best interest of the City to redesign the building and rebid the project. He said he is not satisfied with the architect's work to date and with the work of the construction manager in seeing this project to completion. He recommended rejecting the bids and ask for permission to revise the plans and recall for bids.

Moved by Ward, seconded by Heatwole, to reject all bids and prior to any rebidding on the revised plans to bring information to Council at the December 3rd workshop session concerning possible alternatives available to the City. Motion carried unanimously.

Land Development Actions

Mayor Renner moved the last item up from the agenda to be the first item under land development actions, as a request was made because some people in attendance had to catch a plane.

Time Extension for Rezoning Application Z-84-49: South of Peoria Avenue 660 Feet West of 59th Avenue (Paul Gilbert)

Moved by Heatwole, seconded by Falbo, to remove Rezoning Application Z-84-49 from the table. Motion carried unanimously.

This item was tabled to provide staff the opportunity to answer some questions that Council posed regarding how the property would be used and how that will work in conjunction with the property to the east. The applicant is requesting a two year zoning extension with a C-2 PUD zoning district granted on October 23, 1984. Staff has reviewed the plans of the Charter Medical Corporation which wishes the 9.4 acres for a hospital and also have talked to the new owners adjacent to the property. They are willing to work with the City.

The Charter Medical Corporation submitted a plan for a hospital complex including a 45,000 square foot building housing sixty-five beds. Staff has found the proposal acceptable for this area and feels development at the southwest corner could be accomplished in a compatible manner.

Staff feels the plans can move along much faster than asked for by the applicant. The recommendation is to approve a time extension for three months from City Council action in which to gain final development plan approval and six months from plan approval in which to obtain building permits for the development.

Time limits were discussed. Review of the site plans has been completed and sent back to applicant today. It would be appropriate to add an additional two to four weeks to the three month recommendation.

Mr. Paul Gilbert, 3300 N. Central, representative of the owner and Charter Medical Corporation, expressed his concern with the three month time limit. They are asking for a one year time extension. They are willing to work with the adjacent land owner.

Ms. Wemberly Treadwell, and Mr. Bill Gibson, Charter Medical were present. Ms. Treadwell responded to question that the building is prototype and they should be able to have building permits into the City within a couple of months.

Turnaround time was discussed.

Moved by Falbo, seconded by Huffman, to approve the time extension for Rezoning Application Z-84-49 allowing for: (1) six months from City Council action in which to gain final development plan approval and (2) six months from plan approval in which to obtain building permits for the development of a hospital complex proposed by Charter Medical Corporation. Motion carried unanimously.

Use Permit ZU-85-32: 5710 North 67th Avenue (NCS Realty Company)

Moved by Bellah, seconded by Heatwole, to remove ZU-85-32 from the table. Motion carried unanimously.

A request to allow the retail sale of gasoline. The applicant plans to add self-service gasoline sales with the existing Stop-N-Go convenience market. The owners of the apartment development immediately to the south of the site oppose this use permit request. They have had some problems with the convenience store customers and believe the additional traffic created by the sale of gasoline would result in a nuisance and safety hazard. The Traffic Division does not believe the added traffic would be of great enough volumes to cause problems at this mid-block location.

Mr. Russell Young, 1385 Knollwood Circle, Anaheim, CA, representative of National Convenience Stores, stated they are aware of the stipulations of the project team and they are acceptable.

Vice Mayor Heatwole asked what contact had been made with the adjacent apartment owners to discuss the situation.

Mr. Jerry Goetz, 4532 W. Cinnabar, local district manager, stated he called the people that were managing the apartments and they relayed there was an incident a few months ago where a customer had backed away from the store into the retaining wall between the convenience store property and the apartment complex and had done some damage to it. He said if they had contacted him, he would have made an offer to repair the wall.

Councilman Ward asked if the existing pole sign be replaced with a low profile monument sign stipulation is going to be something Staff is going to recommend henceforth on these types of applications. Mr. Vanacour said yes.

Moved by Falbo, seconded by Ward, to approve Use Permit ZU-85-32 allowing for the retail sale of gasoline within the C-2 zoning district, subject to: (1) development plan review and approval by the Community Development Group; (2) the existing pole sign be replaced with a low profile monument sign; (3) landscaping improvements in accordance with the City's Landscape Ordinance; (4) dedication of necessary rights-of-way as determined by the City; and (5) curb stops be installed in all vehicle areas to protect perimeter walls. Motion carried unanimously.

Use Permit Application ZU-85-40: 5460 West Maryland Avenue (Grand Auto Auction)

A request for the allowance of a mobile home as a temporary sales office. The mobile home would be located on the east edge of the site in the existing Grand Auto Auction sales lot. The applicant does have existing facilities to operate his business from on the site. The applicant has stated he wants to utilize the temporary structure to determine whether the automobile market will support additional sales people and as a result, an added permanent structure on the site.

The project team recommends denial because it is not consistent with the intent of the City Code regarding temporary mobile home office uses. The intent is to allow for a temporary use and occupancy of a mobile home as an office while permanent office facilities are being planned and constructed on the site.

Ms. Denise McMillan, Modular Industries representative, stated they are the builder of the building proposed to be put on the property. She clarified that modular buildings are not mobile homes.

Mayor Renner said the concern is not so much the modular building as proposed but rather the temporary facility. He wanted to know if a representative of the applicant was present to speak specifically to the plans concerning a permanent building at this site.

Mr. Chris Cataldo, 520 W. Northern, owner of the property, stated he has plans in hand to expand business and add a second story to the property. They are not in a position right now to have the financing it takes to do it. If the plans are approved, the addition will be up within a year.

Moved by Heatwole, seconded by Falbo, to approve Use Permit Application ZU-85-40 for a one year period subject to: (1) approval of the site plans within six months of use permit

approval; (2) construction plan submission within eight months of the use permit approval; and (3) building permit must be obtained for consideration of a permanent structure within 10 months of a use approval. Motion carried unanimously.

Use Permit Application ZU-85-37: 6002 Northwest Grand Avenue (Circle K) and Development Plans: 6002 Northwest Grand Avenue (Circle K Store #41)

A request to allow the retail sale of gasoline. The applicant plans to remove the existing Circl-K Store and an adjacent garage on the site and construct a new store with gasoline pumps.

The proposed Circle-K will be located on a 1.42 net acre lot and contain 2,680 square feet. It will be constructed with a dutch cream stucco exterior finish, with a bronze anodized aluminum store front and a burnt red mision tile roof. The gasoline island canopy fascia will also have a dutch cream stucco finish with a burnt red mission tile inlay. The existing pole identification sign on this site is not in conformance with the downtown development objective for business signs, and the project team recommends that it be replaced with a maximum six-foot high low-profile monument sign.

Councilman Ward expressed his concern that all people are treated equally regarding signage, and that a policy be put in writing.

Mr. Bob Spaulding, Deputy City Manager, Community Development Group, said as part of the development review ordinance, staff has been requesting that sign packages be presented along with the development plan. It has just been recently staff has been bringing convenience market applications to Council, in which case they have included the sign package along with the architectural treatment of the building and the site plan. In this particular location, Circle-K feels because of the other businesses and competing signs on Grand Avenue that they would like to talk to Council about deleting the stipulation for low profile sign; in other locations they don't have a problem with low profile signs.

Discussion ensued regarding low profile signage.

Mr. Dwight Ipchin, 1601 N. 7th Street, representative of Circle-K, stated they feel it necessary to leave the existing pole sign. He said this store has been in existence for the last 25 years. They have added many amenities to the site. The proposed site will cost two to three times more money than what they spend on any other normal site. This is to demonstrate Circle-K's support of the City's redevelopment plan and is a collective effort of the City staff and Circle K Corporation. The existing pole sign will enable them to compete on Grand

Avenue and recoop the investment they have made to help improve the City.

Councilman Falbo asked if five years would be a reasonable length of time to establish a business in that area. Mr. Ipchin responded yes.

Moved by Bellah, seconded by Ward, to approve Use Permit ZU-85-37 allowing for the retail sale of gasoline within the C-2 PUD zoning district, in that the use is not materially detrimental to persons in the vicinity, subject to: (1) development plan review and approval by the Community Development Group; (2) landscaping improvements as required by the City Landscape Architect; (3) dedication of necessary rights-of-way and installation of off-site improvements as determined by the City; and (4) approval of a colored site plan and builidng elevations as viewed from all three adjacent streets by the City Council. Motion carried unanimously.

Moved by Heatwole, seconded by Ward, to approve the Development Plans for Circle K Store #41 subject to: (1) compliance with all applicable City Codes and Ordinances; (2) the undergrounding of all utilities existing or proposed, within or contiguous to the development site; (3) the existing pole sign being replaced with a maximum six-foot high low profile monument sign within five years following the completion of construction of the Circle K; and (4) heavy landscaping along the north elevation of the building that faces Myrtle Avenue. Motion carried unanimously.

Development Plans: 6829 North 57th Avenue (Culligan Central Addition)

The proposed office space and outside storage addition is located on a 14,000 square foot lot. The new office space and storage area will contain 8.028 square feet and will be located to the rear and south of the existing building. Extensive landscape areas and landscape plantings will be provided along North 57th Avenue to provide an aesthetic streetview of the property.

Moved by Bellah, seconded by Tolby, to approve the Development Plans for Culligan Central Addition subject to: (1) compliance with all applicable Codes and City Ordinances; (2) a sign package and landscape plan being submitted and approved by the Community Development Group; and (3) improvement of the alley. Motion carried unanimously.

Development Plan: 7150 North 57th Avenue (Fiddle-D-Dees Retail Shops)

The proposed retail dress shops are to be located in existing older single-family structures. The 14,000 square foot lot is currently zoned C-2 PUD. Net building area is 1,493

square feet which will cover fourteen percent of the lot. Maximum existing landscaping will be maintained and will be greater than that required by the Landscape Ordinance.

Moved by Bellah, seconded by Falbo, to approve the development plans for Fiddle-D-Dees Retail Shops subject to: (1) maximum existing landscaping to be maintained; and (2) signage for the project to be submitted and approved by the Community Development Group. Motion carried unanimously.

Development Plans: KBK Mechanical (7603 North 73rd Drive)

The proposed office/warehouse facility will be located on a .51 acre parcel of land located in the Glendale Business Park Industrial Subdivision. The proposed office/warehouse building will contain 3,025 square feet. An extensive landscaped area and a six-foot high screen wall will be provided along the site's street frontage to screen the large open asphalt area on the site and to provide an attractive street view.

Moved by Falbo, seconded by Heatwole, to approve the Developmenmt Plans for the KBK Mechanical building, subject to: (1) compliance with all applicable City Codes and Ordinances; (2) the undergrounding of all utilities, existing or proposed, within or contiguous to the development site; and (3) no outdoor storage or vehicle movement on the unpaved part of the site, taking dust abatement into consideration. Motion carried unanimously.

Development Master Plan for Glen Harbor Air Business Park

This Master Plan has been submitted to meet one of the stipulations of approval of zoning case Z-84-30 which zoned the subject site M-1 PUD. The Master Plan is to include appropriate provisions for open space buffer, street access, traffic circulation, building design parameters and other design features as may be necessary to depict and ensure the desired light industrial park and commerce park development for this area. Some of the major concerns previously expressed by area residents included concern for the type of industrial uses and the overall apprearance of the proposed industrial park. That has been answered by the developer.

The Glen Harbor site includes 416 acres of mixed employment uses including major employers, business park uses, offices, hotel and related commercial uses. The design guidelines which will control building setbacks, materials, colors, landscaping, parking and signage will be submitted to the Community Development Group prior to any plans being submitted for a specific project design review. All development plans will be approved by the City Council.

Councilman Ward asked if there is a plan to underground utilities inasmuch as it will be near our airport. Mr. Ray Jacobs, Project Manager, said yes, all utilities within the project will be underground.

Moved by Bellah, seconded by Heatwole, to approve the Development Master Plan for Glen Harbor Air Business Park subject to the following stipulations: (1) submission and approval of an infrastructure development agreement with the City for water, wastewater, streets, drainage and landscaping systems, prior to approval of any final subdivision plats; (2) submission and approval of Design Guidelines and CC&R's prior to submission of any specific site plans or final subdivision plats for the project; (3) submission of a master drainage study of the site prior to any preliminary plat application; (4) limited vehicular access on the Glendale Avenue frontage; (5) that the circulation system shall include provision for future development of 111th Avenue; (6) the landscape buffer area adjacent to Orangewood Avenue shall have a minimum width of forty feet; (7) the six-foot screen wall within the landscape buffer will be of residential character; (8) compliance with the Development Master Plan for Glen Harbor Air Business Park and the West GLendale Area Plan; (9) any major change in land use pattern or circulation system will require an amendment to this Development Master Plan; and (10) all utility service lines within the project be underground. Motion carried unanimously.

Rezoning Application Z-85-41: 5048 West Sierra Vista (Albert J. Schweiger)

A request to rezone a lot of approximately 8,900 square feet from R-1 single-family residential to C-3 unlimited commercial. The C-3 zone would be needed for a trade school which is the use the applicant desires. This request does not conform with the adopted City of Glendale General Plan and an approval would be a case of spot zoning, therefore staff recommended denial of the application.

Mr. Al Schweiger, 5040 W. Sierra Vista, applicant stated he is trying to rezone his home because of the noise level which is so great they can hardly live there. He wanted to know what he can do with his home.

Mayor Renner stated this application is for C-3 and if the applicant is asking for some other alternate use, he may want to consider asking Council to table this item so he can have an opportunity to pursue any other possible rezoning.

Moved by Huffman, seconded by Ward, to table Rezoning Application Z-85-41. Motion carried unanimously.

Ordinances

Permanent Easement to Mountain Bell for Placement of Underground Vault at 59th Avenue and Deer Valley Road

Moved by Heatwole, seconded by Ward to remove this item from the table. Motion carried unanimously.

This item was tabled to allow staff to determine the use of the easement and to add a reverter clause to the Exclusive Grant of Easement. Mountain Bell proposes to install equipment for communications purposes in an underground vault. This will serve Arrowhead Ranch and other portions of the north Glendale community. The ordinance has been revised to restrict the easement to utility purposes. Furthermore, the easement instrument has been modified to require Mountain Bell to obtain site plan approval by City of Glendale for all above ground installations. Mountain Bell is also to comply with all City Ordinances and Codes. A reverter clause has been added to the instrument to protect the City in the event of violation by the grantee.

Ordinance No. 1389 New Series was read by number and title only, it being AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE GRANTING OF AN EXCLUSIVE EASEMENT FOR UTILITY PURPOSES UPON, OVER AND ACROSS THE CITY PROPERTY LOCATED AT THE NORTHEAST CORNER OF 59TH AVENUE AND DEER VALLEY ROAD; AND DECLARING AN EMERGENCY.

Moved by Heatwole, seconded by Ward, to pass, adopt and approve Ordinance No. 1389 New Series and direct the Mayor to sign same. Motion carried with the following members voting "Aye": Bellah, Huffman, Heatwole, Renner, Tolby, Falbo and Ward. Members voting "Nay": None.

Awarding the Sale of Municipal Property Corporation Revenue Refunding Bonds

On November 12, 1985, the Municipal Property Corporation Board approved and the City Council adopted a resolution which authorized the sale of $16,000,000 in Municipal Property Corporation Refunding Bonds. On November 21, 1985 the results of this sale were presented to the Municipal Property Corporation.

Mr. Tom Hocking, 2621 E. Camelback Road, Phoenix, representative of Boettcher & Company, Inc. summarized the very successful bond sale. The bonds were offered and priced at an average interest rate of 8.76, 50 basis points below the Bond Buyer's Index. Mr. Hocking said the old bonds were at an average interest rate of 9.77. The purpose of the refunding is to release 1.9 million dollars currently in a reserve fund on

the old bonds for capital improvements. The refunding generates an actual present value savings of over $216,000 and a gross debt savings of nearly $259,000.

Ordinance No. 1391 New Series was read by number and title only, it being AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION AND DELIVERY OF A SERIES 1985 LEASE AGREEMENT WITH THE CITY OF GLENDALE MUNICIPAL PROPERTY CORPORATION RELATING TO THE ADVANCE REFUNDING OF CERTAIN BONDS OF SUCH CORPORATION ORIGINALLY ISSUED FOR THE PURPOSE OF FINANCING CERTAIN MUNICIPAL FACILITIES LEASED TO THE CITY; PLEDGING CERTAIN EXCISE TAXES AND RECEIPTS IMPOSED OR RECEIVED BY THE CITY AND ALL NET REVENUES DERIVED FROM THE OPERATION OF THE FACILITIES BEING LEASED; AUTHORIZING THE TERMINATION OF A CERTAIN PRIOR AGREEMENT; APPROVING THE OFFICIAL STATEMENT OF SAID CORPORATION AS IT RELATED TO THE CITY; APPROVING THE ISSUANCE OF $16,490,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF GLENDALE MUNICIPAL PROPERTY CORPORATION MUNICIPAL FACILITIES REFUNDING BONDS, SERIES 1985; AND DECLARING AN EMERGENCY.

Moved by Heatwole, seconded by Falbo, to pass, adopt and approve Ordinance No. 1391 New Series and direct the Mayor to sign same. Motion carried with the following members voting "Aye": Bellah, Huffman, Heatwole, Renner, Tolby, Falbo and Ward. Members voting "Nay": None.

Comprehensive Traffic and Parking Ordinance

This is a complete redraft of the former code regulating traffic and parking. In addition to reinstating the two hour and all other parking restrictions, the ordinance specifies responsibilities, procedures and regulations for installation and enforcement of all traffic control devices. Minor changes have been made to bring it current, however, no substantive changes are made from prior City policies and procedures.

Parking violations are changed from criminal to civil, thereby allowing the Court to more cost effectively process parking violations.

Mr. Rick Haywood, 5814 W. Orangewood, expressed his concern regarding not being able to park a car on right-of-way to sell it. He feels selling by putting a sign on a personally owned vehicle is not competing commercially with the car dealers in town. He said the problem with the Code is that it forbids that extra avenue.

Mayor Renner stated the Code deals with parking of the vehicle for sale on public right-of-way, which would not preclude private parking lots, or commercial parkings lots that have public property on them.

Peter Van Haren, City Attorney, stated the ordinance prohibits parking a vehicle on public right-of-way for the principal purpose of displaying it for sale.

Councilman Falbo brought up concern of "principal purpose" definition. Mr. Van Haren said he would take a look at that.

Ordinance No. 1392 New Series was read by number and title only, it being AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REPEALING CHAPTER 24 OF THE GLENDALE CITY CODE AND ADDING A NEW CHAPTER 24 RELATING TO THE REGULATION OF MOTOR VEHICLES, MOTOR VEHICLE MOVEMENTS, MOTOR VEHICLE PARKING, MOTOR VEHICLE IMPOUNDMENT, LOADING AND UNLOADING MOTOR VEHICLES AND PEDESTRIAN'S DUTIES IN THE CITY; PROVIDING FOR THE PROCESSING OF PARKIONG OFFENSES AS CIVIL MATTERS; AMENDING CHAPTER 26, ARTICLE 1, SECTION 26-3, RELATING TO DISABLED PARKING; PROVIDING PENALTIES FOR VIOLATION THEREOF; AND DECLARING AN EMERGENCY.

Moved by Heatwole, seconded by Falbo, to pass, adopt and approve Ordinance No. 1392 New Series and direct the Mayor to sign same. Motion carried with the following members voting "Aye": Bellah, Huffman, Heatwole, Renner, Tolby, Falbo and Ward. Members voting "Nay": None.

Resolutions

Authorization of Issuance of Tax-Exempt Industrial Revenue Bonds for the Cactus Investments Elderly Living Complex

A request to have City Council approve and authorize the issuance of tax-exempt Industrial Revenue Bonds in an amount not to exceed $22 million to finance the development of an elderly living complex to be located near 55th and Thunderbird Avenues. The project site includes 8.08 acres of land and includes 356 units. THe units will house elderly citizens who are limited in their activities but who do not require continuous supervision or nursing care.

Resolution No. 2236 New Series was read by number and title only, it being A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, GRANTING FINAL APPROVAL TO THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF GLENDALE, ARIZONA, IN PRINCIPAL AMOUNT NOT TO EXCEED $22,000,000 TO FINANCE A PROJECT FOR CACTUS INVESTMENTS (GNMA MORTGAGE-BACKED SECURITY PROGRAM--THUNDERBIRD GARDENS APARTMENTS PROJECT); AND DECLARING AN EMERGENCY.

Moved by Heatwole, seconded by Ward to pass, adopt and approve Resolution No. 2236 New Series and direct the Mayor to sign same. Motion carried unanimously.

Contracts with Phoenix Transit

Amendment 14 provides for the additional fixed route services requested by Glendale: Improvements to Routes 34 and 78; a new Route 80 on Olive to Glendale Community College; and a new Route 35 on Thunderbird to serve the medical centers. This amendment represents the total of all Phoenix Transit contractual services for the current fiscal year and is for an amount not to exceed $221,100.

Resolution No. 2237 New Series was read by number and title only, it being A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX PERTAINING TO THE FIXED ROUTE SERVICES OPERATED IN GLENDALE BY PHOENIX TRANSIT; AND DECLARING AN EMERGENCY.

Moved by Heatwole, seconded by Falbo, to pass, adopt and approve Resolution No. 2237 New Series and direct the Mayor to sign same. Motion carried unanimously.

Boards and Commissions

Moved by Heatwole, seconded by Falbo, to appoint Ms. Lee Berry, term to expire 10-30-88, and Mr. Nicholas Ferrari, term to expire 11-30-88, to the Board of Adjustment. Also, to reappoint Robert P. McCarroll to the Personnel Board, term to expire 12-23-88. Motion carried unanimously.

Workshop and Executive Session

Moved by Heatwole, seconded by Falbo, to hold a workshop session on Tuesday, December 3, and December 17, 1985 at 2:30 p.m. to be held in the Workshop Chambers, to be followed by an executive session for the purpose of discussing personnel matters and possible litigation. Motion carried unanimously.

Future Meetings

Moved by Heatwole, seconded by Falbo, to vacate the regularly scheduled meetings of December 10, 1985 since the National League Convention will preclude a quorum, and December 24, 1985 due to Christmas Eve, and set a special meeting of the Council on Monday, December 23, 1985 at 7:30 p.m. to be held in the Council Chambers. Motion carried unanimously.

Council Comments and Suggestions

Comments were made regarding this being the historic first meeting in the new Council Chambers building and about some things that have to be worked out in it.

Adjournment

There being no further business the meeting adjourned at 9:55 p.m.

Lavergne Fehm
City Clerk

ORDINANCE NO. 2541 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE CHAPTER 24 (MOTOR VEHICLES AND TRAFFIC), CHAPTER 25 (NUISANCES), CHAPTER 26 (OFFENSES—MISCELLANEOUS), AND CHAPTER 27 (PARKS AND RECREATION); PROVIDING PENALTIES FOR VIOLATION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code, Chapter 24, Article I, Sec. 24-3(o) is hereby amended to read as follows:

Sec. 24-3. Specific definitions.

. . .

(o) Residential street. For the purposes of this chapter, any street other than a freeway, major arterial, or arterial street is considered to be a residential street. ~~This includes local and collector (one half mile or mid-section) streets. Map 24-1 entitled, "City of Glendale, Major Street System" is hereby incorporated by reference, depicting the freeways, major arterial and arterial streets in the city for purposes of this definition~~.

. . .

SECTION 2. That Glendale City Code, Chapter 24, Article IV, Sec. 24-53 is hereby amended by deleting subsection (d) that read:

Sec. 24-53. Parking upon public property.

. . .

~~(d) Any violations of subsections (a) or (b) of this section occurring on the streets or highways shall be a civil traffic violation. Any other violation of this section shall be unlawful and shall constitute a misdemeanor.~~

SECTION 3. That Glendale City Code, Chapter 24, Article IV, Sec. 24-58(a) is hereby amended to read as follows:

Sec. 24-58. Fire lanes.

(a) ~~It shall be unlawful to~~ **NO PERSON SHALL** park any vehicle in a space or area set aside and identified as a fire lane by the fire department.

. . .

SECTION 4. That Glendale City Code, Chapter 24, Article IV, Secs. 24-61(a) and 24-62 are hereby amended to read as follows:

Sec. 24-61. Parking of mobile homes or travel trailers.

(a) ~~It shall be unlawful,~~ **NO PERSON SHALL** ~~within the city limits, for any person to~~ park any mobile home or travel trailer on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, ~~within the city,~~ except as provided by ordinance.

. . .

Sec. 24-62. Stopping, standing or parking prohibited in specified places.

No person ~~may~~ **SHALL** stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic-control device, in any of the following places:

. . .

SECTION 5. That Glendale City Code, Chapter 24, Article IV is hereby amended by adding Secs. 24-64 through 24-68 to read as follows:

Sec. 24-64. Parking in City Parks.

(a) No person shall park any vehicle in a city park except within designated parking areas.

(b) No person shall park a vehicle overnight in a city park.

Sec. 24-65. Sale, Storage and Repair of Vehicles.

(a) No person shall park or permit to be parked any vehicle for the purpose of sale upon any public street or private property including vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona. Except as follows:

(1) The display of one (1) vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved parking surface on the property and is not being sold in connection with an automobile sales business.

(2) No more than three (3) vehicles may be displayed for sale at the same residence within a calendar year and only one (1) vehicle shall be displayed for sale at one (1) time.

(b) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

(c) Vehicle covers placed on any vehicle that is visible from any public street or sidewalk must be properly maintained and made exclusively for covering vehicles. A proper cover does not include bed linen, paper, cardboard, plastic sheeting, tarps or any other item or material not manufactured specifically as a vehicle cover. The use of a vehicle cover on any abandoned or inoperable vehicle as defined in this subsection is limited to a vehicle that is stored in a carport.

(d) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk is prohibited except where the storage, repair or restoration is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

(e) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles as described in this section.

(f) Within any residentially zoned district, any vehicle undergoing repair must be titled to the owner or occupant of the property. No more than three (3) vehicles shall be repaired during any calendar year. Vehicle repair work shall be performed on no more than one (1) vehicle at one (1) time.

(g) Within any residentially zoned district, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, or utility trailer in any portion of the side yard unless screened from the street or the surface area is improved with gravel, concrete, asphalt or paving bricks.

(h) No person shall leave, place or park any abandoned vehicle or inoperable vehicle upon any public street, alleyway, parking lot or other city property.

(i) Within any residentially zoned district, no person shall park or permit to be parked any vehicle within a front yard area except in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

Sec. 24-66. Parking on Private Property.

No person may park a vehicle in any private driveway, on private property or on private parking areas without the express or implied consent of the owner or person in lawful possession of such premises. In addition to the enforcement provisions of this Article IV, the owner of the private driveway, private property or private parking area may have such unauthorized parked vehicles removed so long as such towing or transport complies with Article XVI of this chapter.

Sec. 24-67. Handicapped parking; stopping, standing or parking prohibited in places reserved for disabled on private property.

(a) Except as provided in subsection (c) hereof, no person shall stop, stand or park a motor vehicle within any such specially-designated and marked parking space provided in accordance with Article 14 of Title 28, Arizona Revised Statutes (A.R.S. §28-881 et seq.) unless the motor vehicle is transporting a person eligible for the distinguishing insignia placard or number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard.

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

(b) If a law enforcement officer or a parking enforcement specialist employed by the city finds a motor vehicle in violation of this section, the person may issue a complaint to the operator or other person in charge of the motor vehicle or leave a notice of violation with the vehicle.

(c) Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person. No complaint shall be issued to the driver for such momentary parking.

(d) This section does not apply:

(1) to zones where stopping, standing or parking is prohibited to all vehicles.

(2) if there is an ordinance that prohibits parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

(e) Each such parking space for physically disabled persons shall be prominently outlined with paint and posted with a permanent sign located not less than three (3) feet nor more than six (6) feet above the grade and of a color and design approved by the State Department of Transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking."

(f) In this section, the term "physically disabled person" shall have the meaning assigned to it in Arizona Revised Statutes §28-881.

Sec. 24-68. Civil Code Violations.

Violation of any provision of this Article IV is hereby declared to be a civil code infraction which shall be adjudicated and enforced by the city court under Chapter 13, Article II of this code.

Secs. 24-69 —24-79. Reserved.

SECTION 6. That Glendale City Code Chapter 24, Article V is hereby amended by adding a new Section 24-82 to read as follows:

Sec. 24-82. Civil Code Violations.

Violation of any provision of this Article V is hereby declared to be a civil code infraction which shall be adjudicated and enforced by the City Court under Chapter 13, Article II of this code.

Secs. 24-83 — 24-89. Reserved.

SECTION 7. That Glendale City Code, Chapter 24, Article IX, Sec. 24-120(a)(5) is hereby amended to read as follows:

Sec. 24-120. Removal or impoundment of certain vehicles.

(a) Members of the police department are hereby authorized to remove or have removed a vehicle from a street, alley or roadway to a place of safety or to a facility designated by city removal procedure policy or maintained by the police department, otherwise maintained by the city under the circumstances hereinafter enumerated:

. . .

(5) When any vehicle is parked in violation of section 24-~~82~~**62**.

. . .

SECTION 8. That Glendale City Code, Chapter 24, Article XIV, Sec. 24-191 is hereby amended to read as follows:

Sec. 24-191. Parking commercial motor vehicles.

No person shall park or stand a vehicle with a rated chassis capacity in excess of one (1) ton or a commercial vehicle on ~~unpaved~~ **ANY** right-of-way along any street or on ~~a residential~~ **ANY** street, except when expeditiously loading, unloading, delivering or making a service call at a residence, or unless otherwise permitted by this code.

SECTION 9. That Glendale City Code, Chapter 25, Sec. 25-22 is hereby amended to read as follows:

Sec. 25-22. Vehicles.

(a) No person shall park or permit to be parked any vehicle for the purpose of sale upon any **PUBLIC STREET OR PRIVATE** property **INCLUDING** ~~or~~ vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA**, ~~article 5, zoning district regulations. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than fifty dollars ($50.00).~~**EXCEPT AS FOLLOWS:**

(1) The display of one (1) vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved parking surface on the property and is not being sold in connection with an automobile sales business.

(2) No more than three (3) vehicles may be displayed for sale at the same residence within a ~~twelve (12) month period~~ **CALENDAR YEAR** and only one (1) vehicle shall be displayed for sale at one (1) time.

(b) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA**, ~~article 5, zoning district regulations. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than fifty dollars ($50.00)~~.

(c) Vehicle covers placed on any vehicle that is visible from any public street or sidewalk must be properly maintained and made exclusively for covering vehicles. A proper cover does not include bed linen, paper, cardboard, plastic sheeting, tarps or any other item or material not manufactured specifically as a vehicle cover. The use of a vehicle cover on any abandoned or inoperable vehicle as defined in ~~section 25-1~~ **THIS SUBSECTION** is limited to a vehicle that is stored in a carport.

(d) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk ~~for a period of fifteen (15) days or more~~ is prohibited except where the storage, repair or restoration is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance, article 5, zoning district regulations~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA**.

(e) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles as described in ~~section 35-22(e)~~ **THIS SECTION**.

(f) ~~Within any residential zoned district any vehicle undergoing repair must be titled to the owner or occupant of the property and not more than three (3) such fifteen (15) day repairs shall be permitted in any twelve (12) month period.~~ **WITHIN ANY RESIDENTIALLY ZONED DISTRICT, ANY VEHICLE UNDERGOING REPAIR MUST BE TITLED TO THE OWNER OR OCCUPANT OF THE PROPERTY. NO MORE THAN THREE (3) VEHICLES SHALL BE REPAIRED DURING ANY CALENDAR YEAR. VEHICLE REPAIR WORK SHALL BE PERFORMED ON NO MORE THAN ONE (1) VEHICLE AT ONE (1) TIME.**

(g) Within any residential**LY** zoned district, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, or utility trailer in any portion of the side yard unless screened from the street or the surface area is improved with gravel, concrete, asphalt or paving bricks.

(h) No person shall leave, place or park any abandoned vehicle or inoperable vehicle upon any public street, alleyway, parking lot or other city property.

(i) WITHIN ANY RESIDENTIALLY ZONED DISTRICT, NO PERSON SHALL PARK OR PERMIT TO BE PARKED ANY VEHICLE WITHIN A FRONT YARD AREA EXCEPT IN ACCORDANCE WITH THE ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA.

(j) A VIOLATION OF ANY PARAGRAPH IN THIS SECTION SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS ($100.00).

SECTION 10. That Glendale City Code Chapter 26, Article I, Sec. 26-2 is hereby deleted in its entirety and a new Sec. 26-2 shall read as follows:

Sec. 26-2. Parking on private property.

No person may park a vehicle in any private driveway, on private property or on private parking areas without the express or implied consent of the owner or person in lawful possession of such premises. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00).

SECTION 11. That Glendale City Code Chapter 26, Article I, Sec. 26-3 is hereby amended to read as follows:

Sec. 26-3. ~~Disabled~~ **HANDICAPPED** parking; stopping, standing or parking prohibited in places reserved for disabled; violation.

(a) Except as provided in subsection (c) hereof, no person shall stop, stand or park a motor vehicle within any such specially designated and marked parking space provided in accordance with Article 14~~.1~~ of Title 28, ~~of the~~ Arizona Revised Statutes (A.R.S. §28-881 et seq.) unless the motor vehicle is transporting a person eligible for the distinguishing insignia placard or number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard.

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

(b) If a law enforcement officer or a parking enforcement specialist employed by the city finds a motor vehicle in violation of this section, the person may issue a complaint to the operator or other person in charge of the motor vehicle or leave a notice of violation with the vehicle.

(c) Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person. No complaint shall be issued to the driver for such momentary parking.

(d) This section does not apply:

(1) To zones where stopping, standing or parking is prohibited to all vehicles.

(2) If there is an ordinance that prohibits parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

(e) Each such parking space for physically disabled persons shall be prominently outlined with paint and posted with a permanent sign located not less than three (3) feet nor more than six (6) feet above the grade and of a color and design approved by the State Department of Transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking."

(f) In this section, the term "physically disabled person" shall have the meaning assigned to it in Arizona Revised Statutes ~~section~~ §28-881.

(g) ~~Violations of this section occurring on the streets or highways shall be a civil traffic violation and violations of this section occurring on private property shall be unlawful and constitute a misdemeanor.~~ **A VIOLATION OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS ($100.00).**

SECTION 12. That Glendale City Code Chapter 27, Article III, Sec. 27-45 is hereby amended by deleting subsections (d) and (e) which read:

Sec. 27-45. Vehicles, bicycles, skateboards, etc.

. . .

~~(d) No person shall park any vehicle in a city park except within designated parking areas.~~

~~(e) No person shall park a vehicle overnight in a city park.~~

~~(f)~~**(d)** No person shall perform any maintenance of or repairs to any vehicle in a city park, except for emergency repairs required to remove such vehicle from the park.

SECTION 13. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 23rd day of January, 2007.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

CITY OF GLENDALE

Council Communication

Business-Voting Agenda

01/23/2007
Item No. 20

TO: Honorable Mayor and City Council

FROM: Ed Beasley, City Manager
PRESENTED BY: Steven Conrad, Chief of Police
Dan Gunn, Code Compliance Director

SUBJECT: **PARKING ORDINANCE AMENDMENTS**

Purpose

This is a request for City Council to amend certain provisions of the Glendale City Code contained in Chapters 24, 25, 26, and 27 concerning parking enforcement to more clearly distinguish civil parking offenses from criminal parking offenses. The proposed ordinance updates procedures in alignment with revised state statues.

Background

A work group comprised of representatives from City Court, the City Attorney's Office, and the City Code Compliance Office met to research, review, and identify proposed amendments to the city's parking ordinance.

Previous Council/Staff Actions

On December 14, 2004, Council adopted revisions to the parking ordinance.

Recommendation

Waive reading beyond the title and adopt an ordinance amending Chapters 24, 25, 26, and 27 of the Glendale City Code concerning parking enforcement.

Ed Beasley
City Manager

Attachment Memorandum

DATE:	01/23/2007
TO:	Ed Beasley, City Manager
FROM:	Elizabeth Finn, Presiding City Judge Steven Conrad, Police Chief Dan Gunn, Code Compliance Director
SUBJECT:	Parking Ordinance Amendments

ATTACHMENT(S):

1. Ordinance

ORDINANCE NO. _____ NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE CHAPTER 24 (MOTOR VEHICLES AND TRAFFIC), CHAPTER 25 (NUISANCES), CHAPTER 26 (OFFENSES—MISCELLANEOUS), AND CHAPTER 27 (PARKS AND RECREATION); PROVIDING PENALTIES FOR VIOLATION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code, Chapter 24, Article I, Sec. 24-3(o) is hereby amended to read as follows:

Sec. 24-3. Specific definitions.

. . .

(o) Residential street. For the purposes of this chapter, any street other than a freeway, major arterial, or arterial street is considered to be a residential street. ~~This includes local and collector (one-half mile or mid-section) streets. Map 24-1 entitled, "City of Glendale, Major Street System" is hereby incorporated by reference, depicting the freeways, major arterial and arterial streets in the city for purposes of this definition.~~

. . .

SECTION 2. That Glendale City Code, Chapter 24, Article IV, Sec. 24-53 is hereby amended by deleting subsection (d) that read:

Sec. 24-53. Parking upon public property.

. . .

~~(d) Any violations of subsections (a) or (b) of this section occurring on the streets or highways shall be a civil traffic violation. Any other violation of this section shall be unlawful and shall constitute a misdemeanor.~~

SECTION 3. That Glendale City Code, Chapter 24, Article IV, Sec. 24-58(a) is hereby amended to read as follows:

Sec. 24-58. Fire lanes.

(a) ~~It shall be unlawful to~~ **NO PERSON SHALL** park any vehicle in a space or area set aside and identified as a fire lane by the fire department.

. . .

SECTION 4. That Glendale City Code, Chapter 24, Article IV, Secs. 24-61(a) and 24-62 are hereby amended to read as follows:

Sec. 24-61. Parking of mobile homes or travel trailers.

(a) ~~It shall be unlawful,~~ **NO PERSON SHALL** ~~within the city limits, for any person to~~ park any mobile home or travel trailer on any street, alley or highway, or other public place, or on any tract of land owned by any person, occupied or unoccupied, ~~within the city,~~ except as provided by ordinance.

. . .

Sec. 24-62. Stopping, standing or parking prohibited in specified places.

No person ~~may~~ **SHALL** stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic-control device, in any of the following places:

. . .

SECTION 5. That Glendale City Code, Chapter 24, Article IV is hereby amended by adding Secs. 24-64 through 24-68 to read as follows:

Sec. 24-64. Parking in City Parks.

(a) No person shall park any vehicle in a city park except within designated parking areas.

(b) No person shall park a vehicle overnight in a city park.

Sec. 24-65. Sale, Storage and Repair of Vehicles.

(a) No person shall park or permit to be parked any vehicle for the purpose of sale upon any public street or private property including vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona. Except as follows:

(1) The display of one (1) vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved parking surface on the property and is not being sold in connection with an automobile sales business.

(2) No more than three (3) vehicles may be displayed for sale at the same residence within a calendar year and only one (1) vehicle shall be displayed for sale at one (1) time.

(b) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

(c) Vehicle covers placed on any vehicle that is visible from any public street or sidewalk must be properly maintained and made exclusively for covering vehicles. A proper cover does not include bed linen, paper, cardboard, plastic sheeting, tarps or any other item or material not manufactured specifically as a vehicle cover. The use of a vehicle cover on any abandoned or inoperable vehicle as defined in this subsection is limited to a vehicle that is stored in a carport.

(d) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk is prohibited except where the storage, repair or restoration is customary and incidental to the principal use of the property and in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

(e) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles as described in this section.

(f) Within any residentially zoned district, any vehicle undergoing repair must be titled to the owner or occupant of the property. No more than three (3) vehicles shall be repaired during any calendar year. Vehicle repair work shall be performed on no more than one (1) vehicle at one (1) time.

(g) Within any residentially zoned district, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, or utility trailer in any portion of the side yard unless screened from the street or the surface area is improved with gravel, concrete, asphalt or paving bricks.

(h) No person shall leave, place or park any abandoned vehicle or inoperable vehicle upon any public street, alleyway, parking lot or other city property.

(i) Within any residentially zoned district, no person shall park or permit to be parked any vehicle within a front yard area except in accordance with the Zoning Ordinance of the City of Glendale, Arizona.

Sec. 24-66. Parking on Private Property.

No person may park a vehicle in any private driveway, on private property or on private parking areas without the express or implied consent of the owner or person in lawful possession of such premises. In addition to the enforcement provisions of this Article IV, the owner of the private driveway, private property or private parking area may have such unauthorized parked vehicles removed so long as such towing or transport complies with Article XVI of this chapter.

Sec. 24-67. Handicapped parking; stopping, standing or parking prohibited in places reserved for disabled on private property.

(a) Except as provided in subsection (c) hereof, no person shall stop, stand or park a motor vehicle within any such specially-designated and marked parking space provided in accordance with Article 14 of Title 28, Arizona Revised Statutes (A.R.S. §28-881 et seq.) unless the motor vehicle is transporting a person eligible for the distinguishing insignia placard or number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard.

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

(b) If a law enforcement officer or a parking enforcement specialist employed by the city finds a motor vehicle in violation of this section, the person may issue a complaint to the operator or other person in charge of the motor vehicle or leave a notice of violation with the vehicle.

(c) Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person. No complaint shall be issued to the driver for such momentary parking.

(d) This section does not apply:

(1) to zones where stopping, standing or parking is prohibited to all vehicles.

(2) if there is an ordinance that prohibits parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

(e) Each such parking space for physically disabled persons shall be prominently outlined with paint and posted with a permanent sign located not less than three (3) feet nor more than six (6) feet above the grade and of a color and design approved by the State Department of Transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking."

(f) In this section, the term "physically disabled person" shall have the meaning assigned to it in Arizona Revised Statutes §28-881.

Sec. 24-68. Civil Code Violations.

Violation of any provision of this Article IV is hereby declared to be a civil code infraction which shall be adjudicated and enforced by the city court under Chapter 13, Article II of this code.

Secs. 24-69 —24-79. Reserved.

SECTION 6. That Glendale City Code Chapter 24, Article V is hereby amended by adding a new Section 24-82 to read as follows:

Sec. 24-82. Civil Code Violations.

Violation of any provision of this Article V is hereby declared to be a civil code infraction which shall be adjudicated and enforced by the City Court under Chapter 13, Article II of this code.

Secs. 24-83 — 24-89. Reserved.

SECTION 7. That Glendale City Code, Chapter 24, Article IX, Sec. 24-120(a)(5) is hereby amended to read as follows:

Sec. 24-120. Removal or impoundment of certain vehicles.

(a) Members of the police department are hereby authorized to remove or have removed a vehicle from a street, alley or roadway to a place of safety or to a facility designated by city removal procedure policy or maintained by the police department, otherwise maintained by the city under the circumstances hereinafter enumerated:

. . .

(5) When any vehicle is parked in violation of section 24-~~82~~62.

. . .

SECTION 8. That Glendale City Code, Chapter 24, Article XIV, Sec. 24-191 is hereby amended to read as follows:

Sec. 24-191. Parking commercial motor vehicles.

No person shall park or stand a vehicle with a rated chassis capacity in excess of one (1) ton or a commercial vehicle on ~~unpaved~~ ANY right-of-way along any street or on ~~a residential~~ ANY street, except when expeditiously loading, unloading, delivering or making a service call at a residence, or unless otherwise permitted by this code.

SECTION 9. That Glendale City Code, Chapter 25, Sec. 25-22 is hereby amended to read as follows:

Sec. 25-22. Vehicles.

(a) No person shall park or permit to be parked any vehicle for the purpose of sale upon any **PUBLIC STREET OR PRIVATE** property **INCLUDING** ~~or~~ vacant property except where the sale of a vehicle is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA,** ~~article 5, zoning district regulations. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than fifty dollars ($50.00).~~**EXCEPT AS FOLLOWS:**

(1) The display of one (1) vehicle for sale is permitted at a residence when the vehicle is titled to the owner or occupant of the property, is parked on an improved parking surface on the property and is not being sold in connection with an automobile sales business.

(2) No more than three (3) vehicles may be displayed for sale at the same residence within a ~~twelve (12) month period~~ **CALENDAR YEAR** and only one (1) vehicle shall be displayed for sale at one (1) time.

(b) No person shall park or permit to be parked any vehicle, including but not limited to semi-tractors, semi-tractor trailers, or limousines on any property or vacant property except where the parking of such vehicles is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA,** ~~article 5, zoning district regulations. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than fifty dollars ($50.00).~~

(c) Vehicle covers placed on any vehicle that is visible from any public street or sidewalk must be properly maintained and made exclusively for covering vehicles. A proper cover does not include bed linen, paper, cardboard, plastic sheeting, tarps or any other item or material not manufactured specifically as a vehicle cover. The use of a vehicle cover on any abandoned or inoperable vehicle as defined in ~~section 25-1~~ **THIS SUBSECTION** is limited to a vehicle that is stored in a carport.

(d) The unsheltered storage of any abandoned or inoperable vehicle, including any vehicle being repaired or restored, that is visible from any public street or sidewalk ~~for a period of fifteen (15) days or more~~ is prohibited except where the storage, repair or restoration is customary and incidental to the principal use of the property and in accordance with the ~~Glendale zoning ordinance, article 5, zoning district regulations~~ **ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA.**

(e) An abandoned or inoperable vehicle, including any vehicle being repaired or restored, may be stored in a carport if the vehicle is covered with a properly maintained vehicle cover made exclusively for covering vehicles as described in ~~section 35-22(e)~~ **THIS SECTION**.

(f) ~~Within any residential zoned district any vehicle undergoing repair must be titled to the owner or occupant of the property and not more than three (3) such fifteen (15) day repairs shall be permitted in any twelve (12) month period.~~ **WITHIN ANY RESIDENTIALLY ZONED DISTRICT, ANY VEHICLE UNDERGOING REPAIR MUST BE TITLED TO THE OWNER OR OCCUPANT OF THE PROPERTY. NO MORE THAN THREE (3) VEHICLES SHALL BE REPAIRED DURING ANY CALENDAR YEAR. VEHICLE REPAIR WORK SHALL BE PERFORMED ON NO MORE THAN ONE (1) VEHICLE AT ONE (1) TIME.**

(g) Within any residentialLY zoned district, no person shall park or store any vehicle such as but not limited to watercraft, camper shell, truck camper, or utility trailer in any portion of the side yard unless screened from the street or the surface area is improved with gravel, concrete, asphalt or paving bricks.

(h) No person shall leave, place or park any abandoned vehicle or inoperable vehicle upon any public street, alleyway, parking lot or other city property.

(i) WITHIN ANY RESIDENTIALLY ZONED DISTRICT, NO PERSON SHALL PARK OR PERMIT TO BE PARKED ANY VEHICLE WITHIN A FRONT YARD AREA EXCEPT IN ACCORDANCE WITH THE ZONING ORDINANCE OF THE CITY OF GLENDALE, ARIZONA.

(j) A VIOLATION OF ANY PARAGRAPH IN THIS SECTION SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS ($100.00).

SECTION 10. That Glendale City Code Chapter 26, Article I, Sec. 26-2 is hereby deleted in its entirety and a new Sec. 26-2 shall read as follows:

Sec. 26-2. Parking on private property.

No person may park a vehicle in any private driveway, on private property or on private parking areas without the express or implied consent of the owner or person in lawful possession of such premises. A violation of this paragraph shall constitute a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00).

SECTION 11. That Glendale City Code Chapter 26, Article I, Sec. 26-3 is hereby amended to read as follows:

Sec. 26-3. ~~Disabled~~ **HANDICAPPED** parking; stopping, standing or parking prohibited in places reserved for disabled; violation.

(a) Except as provided in subsection (c) hereof, no person shall stop, stand or park a motor vehicle within any such specially designated and marked parking space provided in accordance with Article 14~~.1~~ of Title 28, ~~of the~~ Arizona Revised Statutes (A.R.S. §28-881 et seq.) unless the motor vehicle is transporting a person eligible for the distinguishing insignia placard or number plates bearing the international wheelchair symbol, and either:

(1) The motor vehicle displays the distinguishing insignia placard.

(2) The motor vehicle displays number plates bearing the international wheelchair symbol.

(b) If a law enforcement officer or a parking enforcement specialist employed by the city finds a motor vehicle in violation of this section, the person may issue a complaint to the operator or other person in charge of the motor vehicle or leave a notice of violation with the vehicle.

(c) Any person who is chauffeuring a physically disabled person shall be allowed, without a distinguishing insignia placard or number plates bearing the international wheelchair symbol, to park momentarily in any such parking space for the purpose of loading or unloading such disabled person. No complaint shall be issued to the driver for such momentary parking.

(d) This section does not apply:

(1) To zones where stopping, standing or parking is prohibited to all vehicles.

(2) If there is an ordinance that prohibits parking during heavy traffic periods such as rush hours or where parking clearly would present a traffic hazard for the general public.

(e) Each such parking space for physically disabled persons shall be prominently outlined with paint and posted with a permanent sign located not less than three (3) feet nor more than six (6) feet above the grade and of a color and design approved by the State Department of Transportation bearing the internationally accepted wheelchair symbol and the caption "reserved parking."

(f) In this section, the term "physically disabled person" shall have the meaning assigned to it in Arizona Revised Statutes ~~section~~ §28-881.

(g) ~~Violations of this section occurring on the streets or highways shall be a civil traffic violation and violations of this section occurring on private property shall be unlawful and constitute a misdemeanor.~~ **A VIOLATION OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS ($100.00).**

SECTION 12. That Glendale City Code Chapter 27, Article III, Sec. 27-45 is hereby amended by deleting subsections (d) and (e) which read:

Sec. 27-45. Vehicles, bicycles, skateboards, etc.

. . .

~~(d) No person shall park any vehicle in a city park except within designated parking areas.~~

~~(e) No person shall park a vehicle overnight in a city park.~~

~~(f)~~**(d)** No person shall perform any maintenance of or repairs to any vehicle in a city park, except for emergency repairs required to remove such vehicle from the park.

SECTION 13. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2007.

_____
MAYOR

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
City Manager

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