



NOTICE OF REGULAR MEETING OF THE TOWN OF GUADALUPE COUNCIL

SEPTEMBER 27, 2018

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Town of Guadalupe Council and to the general public that the Town of Guadalupe Council will hold meeting, open to the public, on Thursday, September 27, 2018, at 6:00 P.M., at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Guadalupe, Arizona, in the Council Chambers.

Valerie Molina
Mayor

Anita Cota
Vice Mayor

Gloria Cota
Councilmember

Elvira Osuna
Councilmember

Joe Sanchez
Councilmember

Faustino Valenzuela
Councilmember

Ricardo Vital
Councilmember

Online agendas and
results available at
www.guadalupeaz.org

Town Council Chambers
9241 S. Avenida del Yaqui
Guadalupe, AZ 85283
Phone: (480) 730-3080
Fax: (480)-505-5368

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. INVOCATION/PLEDGE OF ALLEGIANCE

D. APPROVAL OF MINUTES:

1. Approval of the minutes of the Town Council Regular Meeting held on September 13, 2018.

E. CALL TO THE PUBLIC. An opportunity is provided to the public to address the Council on items that are not on the agenda or included on the consent agenda. A total of 3 minutes will be provided for the Call to the Audience agenda item, unless the Council requests an exception to this limit. Please note that those wishing to comment on agenda items posted for action will be provided the opportunity at the time the item is heard.

F. MAYOR and COUNCIL PRESENTATIONS:

Domestic Violence Awareness Month Proclamation

G. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. **CENSUS 2020 PRESENTATION:** Ms. Vianey Celestino, Partnership Specialist, will provide an overview of the planning and preparation efforts underway for the 2020 Census.
2. **REVIEW of MODEL CITY TAX 2012-2014 AMENDMENTS TO THE TOWN OF GUADALUPE TAX CODE:** Staff will present background information, analysis, and impacts of the Model City Tax Code 2012-2014 Amendments for Council consideration and discussion to amend and include in the Town of Guadalupe Tax Code. Council may direct staff to schedule an ordinance for adoption to incorporate the 2012-2014 amendments to the Town of Guadalupe Tax Code for the October 11, 2018 Town Council Regular meeting.
3. **REVIEW of 2018 AMENDMENTS TO THE TOWN OF GUADALUPE TAX CODE:** Staff will present background information, analysis, and impacts of 2018 Amendments for Council consideration and discussion to amend and include in the Town of Guadalupe Tax Code. Council may direct staff to schedule an ordinance for adoption to incorporate the 2018 amendments to the Town of Guadalupe Tax Code for the October 11, 2018 Town Council Regular meeting.



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4. **COUNCIL MEETING SCHEDULE:** Staff will present the Town Council Regular Meeting schedule for October, November, and December 2018, and seek Council direction on whether to reschedule, cancel, or add meetings during that timeframe.

H. TOWN MANAGER'S REPORT

I. COUNCILMEMBERS' COMMENTS

J. ADJOURNMENT



Minutes

Town Council Regular Meeting

September 13, 2018

Minutes of the Guadalupe Town Council Regular Meeting held on Thursday, September 13, 2018, at 6:00 P.M., at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Guadalupe, Arizona, in the Council Chambers.

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A. CALL TO ORDER

Mayor Molina called the meeting to order at 6:00 P.M.

B. ROLL CALL

Councilmembers Present: Mayor Valerie Molina, Vice Mayor Anita Cota, Councilmember Gloria Cota, Councilmember Elvira Osuna, Councilmember Joe Sánchez, and Councilmember Ricardo Vital

Councilmember Absent: Councilmember Faustino Valenzuela

Staff Present: Jeff Kulaga – Town Manager / Clerk, Wayne Clement – Fire Chief, Gerardo Moreno – Public Works Director, Nancy Holguin, Community Development Coordinator, Jennifer Drury – Assistant to the Town Manager, Veronica Matuz – Senior Center Director, Senior Center Director, Catalina Alvarez – CAP Director, Kay Savard – Deputy Town Clerk, and Dave Ledyard – Town Attorney

C. INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Molina called for a moment of silence due to the recent passing of United States Senator, John McCain. Mayor Molina then led the Pledge of Allegiance.

D. APPROVAL OF MINUTES:

Motion by Vice Mayor Cota to approve agenda item D1; second by Councilmember Osuna. Motion passed unanimously 6-0.

1. Councilmembers approved the August 9, 2018 Town Council Regular Meeting minutes.

Motion by Vice Mayor Cota to approve agenda item D2; second by Councilmember Osuna. Motion passed unanimously 6-0.

2. Councilmembers approved the August 23, 2018 Town Council Regular Meeting minutes.

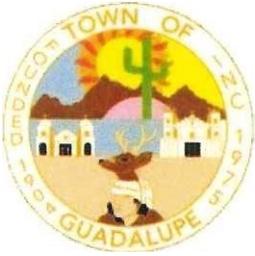
E. CALL TO THE PUBLIC: No one spoke.

F. MAYOR and COUNCIL PRESENTATIONS: None.

G. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. RESOLUTION NO. R2018.20: Councilmembers adopted **RESOLUTION NO. R2018.20** approving the August 28, 2018 Primary Election canvass.

Jeff Kulaga, Town Manager / Clerk, stated that Resolution No. R2018.20 is the canvass to approve the Primary Election results. Candidates Valerie A. Molina was elected to the Office of Mayor, and Candidates Councilmember Sánchez, Councilmember Cota, and Mary Bravo were elected to the office of Councilmember.



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Motion by Councilmember Vital to approve agenda item G1; second by Councilmember Sánchez. Motion passed unanimously 6-0.

Mr. Kulaga then presented the newly elected Mayor and Councilmembers with a Certificate of Election and announced that the swearing in ceremony for newly elected officials will be held on Thursday, November 8, 2018. Mr. Kulaga added that there will be no need to hold a General Election for the Town of Guadalupe; however, the Maricopa County Elections Department will be using the Mercado Multi-purpose Room for the General Election, for the election of state and federal offices.

2. AMERICAN LEGION POST 124, SPECIAL EVENT LIQUOR LICENSE REQUEST: Councilmembers recommended approval of a Special Event Liquor License for the American Legion Post 124 Guadalupe Veterans, for an event scheduled for Saturday, October 20, 2018, from 7:00 p.m. until 12:00 a.m., located at El Mercado de Guadalupe, 9201 South Avenida del Yaqui, Guadalupe, Arizona.

Jeff Kulaga, Town Manager / Clerk, stated that the Legion Post 124 is seeking a special event liquor license for an event scheduled on Saturday, October 20, 2018. The application submitted is complete. The requested action of Council is to recommend approval or denial to the Arizona Department of Liquor Licenses and Control.

Vice Mayor Cota announced that she will be abstaining from voting on agenda item G2.

Motion by Councilmember Vital to approve agenda item G2; second by Councilmember Sánchez. Motion passed unanimously 5-0-1, with Vice Mayor Cota abstaining.

3. MARICOPA COUNTY SHERIFF'S OFFICE REPORT: Ron Gomez, Maricopa County Sheriff's Office, Community Liaison, Office of Special Programs, provided a slide presentation regarding Tips and Leads Unit data; how calls for service are prioritized in the tier system; calls for service response time data over the past eighteen months; and, MCSO protocols on interactions and notifications to community members.

Mr. Gomez outlined the differences between the Silent Witness tip hotline and the Tips and Leads Unit (TIP) hotline; and reported that 16 tips had been reported between September, 2017 and August 2018.

In response to how the TIP hotline is being promoted, Mr. Gomez stated that MCSO is developing magnets and posters, which will be made available to the public. Mr. Kulaga added that TIP hotline information is available on-line and fliers are available in the Library, the Community Action Program office, and Town Hall. Mr. Gomez added that MCSO could attend public events to promote the TIP hotline.

Mr. Gomez then discussed how calls for service are prioritized; and, circumstances that generate incident reports versus non-incident report activity. Call volume is not comparable from city to city.

In response to a question regarding how MCSO shifts are coordinated, Mr. Gomez stated that personnel shifts overlap.

Mayor Molina requested that MCSO officials remain for the duration of the meeting to answer any questions meeting attendees may have.



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4. RESIDENTIAL REFUSE SERVICES POLICY: As a follow up to the August 9, 2018, Regular Council Meeting, Jeff Kulaga, Town Manager / Clerk, provided a slide presentation to review community survey results, related to recycle and trash services provided by the Waste Management. The purpose of the survey was to gather community input on whether or not residents wished to change current residential refuse service from one trash and one recycle service per week to two trash services per week, eliminating curbside recycling.

Mr. Kulaga reviewed January 2018 – August 2018 recycling contamination (73%) and diversion (18.3%) rates for the Town. Staff received 96 responses to the survey. Mr. Kulaga then reviewed survey responses and comments and noted that some communities have recycling inspectors that regulate residential recycling materials; and, that the market for recycling materials is declining. Mr. Kulaga concluded by outlining four options for Council consideration, including associated costs, timelines, and trash/recycle service levels.

Mayor Molina called upon Madison Gonzales to speak.

Madison Gonzales urged Councilmembers to continue with curbside recycling because it has a positive impact on the community; and, prevents climate change, and greenhouse gasses.

Maia Gonzales urged Councilmembers to continue with curbside recycling because it improves the community.

Rebecca Jimenez noted that the City of Tempe educates their residents on recycling, which is what is needed in Guadalupe. The current recycling program is four years old and will improve with time. Recycling reduces material in landfills, reduces greenhouse gasses, and saves water. Ms. Jimenez urged Councilmembers to continue with the recycling program.

Councilmembers discussed the possibility of extending the community survey through the Spooktacular event; and, inviting a representative from Waste Management to attend the event and provide educational recycling materials to community members.

Mr. Kulaga recapped the discussion as follows: 1) extend the community survey through the Spooktacular event; and, 2) improve and increase recycling education. Mr. Kulaga then asked Councilmembers if there are any additional questions they would like to add to the survey.

Councilmembers discussed the possibility of Waste Management removing recycling containers from residences that do not wish to recycle. Mr. Kulaga stated that he would follow up to determine if there are costs associated with that course of action. Discussion continued regarding the concept of a recycling inspector to monitor residential recycling containers. Mr. Kulaga stated that from his experience in other jurisdictions, having a recycling inspector has been met with mixed results from the community.

Councilmembers requested that a question be added asking residents if they would be willing to pay for an extra trash can; and, include a list of items, asking community members to identify which items are, and are not, recyclable.

Councilmembers suggested asking Senior Center and Boys and Girls Club members to provide feedback on ways to improve recycling education; and, the possibility of the Boys and Girls Club members developing a survey for youth.

Motion by Vice Mayor Cota to continue agenda item G4 to a future Council Meeting; second by Councilmember Cota. Motion passed unanimously 6-0.



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5. **CLAIMS:** Councilmembers approved the check register for August, 2018, totaling \$722,255.67.

Mayor Molina noted that the check register under consideration is for August, 2018, and not July, as reflected on the agenda.

Motion by Councilmember Vital to approve agenda item G5; second by Councilmember Osuna. Motion passed unanimously 6-0.

H. TOWN MANAGER’S REPORT

Jeff Kulaga, Town Manager /Clerk, provided the following updates:

- Wednesday, September 26, 2018 – public meeting. The City of Tempe is considering reconfiguring the intersection of Priest Drive and Grove Parkway into a roundabout.
- Thanked Public Works staff for rehabilitating a suite in the Mercado, in preparation for a new tenant.
- The Area Agency on Aging has donated a gently used vehicle for staff to deliver meals to residents.
- Thanked Fire Department staff for securing a \$450,000 Staffing for Adequate Fire and Emergency Response (SAFER) Grant; and, an \$18,000 Fire House Subs grant.

I. COUNCILMEMBERS’ COMMENTS

- Councilmember Osuna
Thanked staff members for attending the meeting.
Thanked the youth for addressing the Council regarding the recycling program.
- Councilmember Cota
Thanked the public speakers for addressing the Council regarding the recycling program.
- Vice Mayor Cota
Thanked the staff members for attending the meeting and for their work.
Reported graffiti northbound on Avenida del Yaqui.
Saturday, October 6, 2018 – Stand Down American Legion Post 124 public event, 8:30 a.m. – 1:00 p.m.
- Councilmember Sánchez
Thanked the youth for addressing the Council regarding the recycling program.
Reported sidewalks that are buckling.
- Councilmember Vital
Saturday, September 15, 2018 – Pascua Yaqui Tribal Recognition Day, noon – 9:00 p.m..
Thursday, October 25, 2018 – Spooktacular event; would like to see a recycling booth at this event.
Saturday, October 27, 2018 – United Way Giving Back event.
Thanked the youth for addressing the Council regarding the recycling program.
Thanked staff for their work and for attending the meeting.
Congratulated the newly elected Mayor and Councilmembers.
- Mayor Molina
Thanked staff for attending the meeting.
Thanked the Maricopa County Sheriff’s Office for their presentation.
Thursday, October 18, 2018 – Hollywood will be filming at the Lady of Guadalupe Church.



J. ADJOURNMENT

Motion by Vice Mayor Cota to adjourn; second by Councilmember Sánchez. Motion passed unanimously 6-0.

The meeting was adjourned at 7:09 p.m.

Valerie Molina
Mayor

Valerie Molina, Mayor

Anita Cota
Vice Mayor

ATTEST:

Jeff Kulaga, Town Manager / Town Clerk

Gloria Cota
Councilmember

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Town Council Meeting of the Town Council of Guadalupe, Arizona held on the 13th day of September, 2018. I further certify the meeting was duly called and held and that a quorum was present.

Elvira Osuna
Councilmember

Jeff Kulaga, Town Manager / Town Clerk

Joe Sanchez
Councilmember

Faustino Valenzuela
Councilmember

Ricardo Vital
Councilmember

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September 21, 2018

To: The Honorable Mayor and Town Council

From: Jeff Kulaga, Town Manager / Clerk

RE: September 27, 2018 Town Council Regular Meeting Information Report

The purpose of this report is to provide brief information regarding each of the meeting's agenda items.

Agenda Items:

G1. Census 2020 Presentation: Ms. Vianey Celestino, Partnership Specialist, will provide an overview of the planning and preparation efforts underway for the 2020 Census. There is no material for this agenda item.

G2. Review of Model City Tax Code 2012-2014 Amendments of the Town of Guadalupe Tax Code: Staff will provide information, analysis, and impacts of the Model City Tax Code 2012-2014 Amendments for Council consideration and discussion, to amend and include in the Town of Guadalupe Tax Code. Should the Council direct staff to proceed, the Town of Guadalupe Tax Code would conform to the 2012-2014 amendments of the Model City Tax Code, Sections 1 through 16. The Town of Guadalupe is one of the cities and towns that have not adopted these amendments as approved by the Municipal Tax Code Commission.

The summary of changes to the Model City Tax Code are attached. Overall, Sections 1 through 16 have immaterial impacts on the Town of Guadalupe, its residents, and businesses.

In addition, proper adoption of these amendments include adoption by Council of an Ordinance and Resolution, as attached. The Town of Guadalupe Tax Code and the proposed 2012-2014 amendments are also attached. **(Pages 1-44)**

G3. Review of 2018 Amendments to the Town of Guadalupe Tax Code: Staff will provide information, analysis, and impacts of the 2018 amendments for consideration and discussion by Council to amend and include in the Town of Guadalupe Tax Code. Should the Council direct staff to proceed, the Town of Guadalupe Tax Code would be amended relating to the privilege license tax by:

- Deselecting Local Option #B, removing the exemption for transactions with governmental agencies; and,
- Deselecting Model Option #15, hereby, the Town Use Tax is established at a tax rate of four percent (4.0%); and ,
- Adopting Local Option #JJ, exempting the Town from the Town Use Tax.

The impacts of the these amendments would allow the Town of Guadalupe to collect taxes from government agencies; and, establishing a Use Tax would level the playing field for local businesses and allow the Town of Guadalupe to collect Use Tax.

In addition, proper adoption of this 2018 amendment includes adoption by Council of an Ordinance and Resolution, attached. The proposed 2018 amendments to the Town of Guadalupe Tax Code are also attached. **(Pages 45-72)**

- G4. Council Meeting Schedule, October through December 2018:** Staff is seeking guidance on whether or not to reschedule or cancel certain Council meeting dates based on the following:

October 25 Council Meeting – conflicts with the Spooktacular event.

December 27 Council Meeting – holiday week; Town Hall will be closed on December 24 & 25.

Staff is also proposing that the Council schedule a Work Study Session to review the Town Code of Ordinances comprehensive rewrite. The purpose of this meeting is for staff to provide the Council with an overview of the codifications and revisions that have been made and are proposed in this rewrite of the Code of Ordinances, prior to forwarding the Code to the codifier. If scheduled, staff recommends that the meeting be held in the Town Hall Museum Room. Scheduling a Work Study Session during the week of October 22 or October 29 would be optimum. **(Pages 73-75)**

SUMMARY OF CHANGES TO MODEL CITY TAX CODE

The attached Ordinance and Resolution incorporate into the local tax code all of the Model City Tax Code changes approved by the Municipal Tax Code Commission from 2012 through 2014, as described below by Resolution Section number.

Section 1

Section 100 adds language to the existing definitions of "Business" and "Prosthetic". This change excludes the sale of electricity generated by consumer equipment from the definition of "Business". Adding this exclusion means persons that make such sales (e.g. residential solar energy sales) are not deemed to be in the business of providing Utilities, and thus are not required to have a Privilege Tax License to make such sales. The additional language that adds Orthodontics to the definition of "Prosthetic" is a change intended to conform the Code to State statute. These changes are effective retroactively from and after January 1, 2007 for "Business," and October 1, 2007 for "Prosthetic."

Section 2

Section 120 is repealed, eliminating the definition of "Food for Home Consumption." The elements of this definition are incorporated in new Section 462, creating a separate "Food for Home Consumption" tax classification apart from the Retail classification. This section is effective from and after July 1, 2013.

Section 3

Section 200 is amended to add conforming language under the determination of gross income that is related to nuclear fuel sales as found in State statute. This section is effective from and after July 1, 2013.

Section 4

This section repeals and replaces all of Article III – Licensing and Recordkeeping. This is a critical step in TPT Simplification that has the effect of making licensing as uniform as possible across all cities and towns. Note that this section completely replaces the entirety of Article III in every city and town's tax code. This change also eliminates all Regulations numbered in the 300's, as well as eliminating all Green Sheet items related to tax licensing. This section also eliminates the use of the tax license as a means to regulate business for any purpose other than tax collection. From now on, all licensing and enforcement of a regulatory nature such as zoning, use permits, special events, inspections, etc., must be accomplished by a separate business license. This section is effective from and after January 1, 2015.

Section 5

Section 425 is amended to add an exemption from tax on Job Printing for sales of postage and freight in conformity with State statute. This element is effective retroactively from and after September 21, 2006.

Section 6

Section 445 is amended to adopt the final version of a new exemption for Real Property Leases between Affiliated Entities. This section is effective retroactively from and after July 1, 2013.

Section 7

Section 450 is amended to conform to the new State exemption and city preemption that makes the leasing of certified ignition interlock devices required under DUI laws exempt from tax under Tangible Personal Property Rental. This section is effective retroactively from and after September 1, 2004.

Section 8

Section 460 is amended in conformity with a new clarifying State exemption and matching city preemption that makes the retail sale of gift cards and other cash equivalents exempt from the tax under the Retail classification. This section is effective retroactively from and after October 1, 2007.

SUMMARY OF CHANGES TO MODEL CITY TAX CODE

Section 9

Section 462, Retail Sales: Food for Home Consumption is added to the standard Model Code language. This section incorporates all of the definitions and Regulations related to grocery sales that were previously included only in those communities that selected Model Option #2. With this change and standardization, Model Option #2 is eliminated from the Code. Cities and towns are now free to set a distinct Retail tax rate for grocery sales, which can be higher or lower than the regular Retail tax rate, or zero, as the community sees fit. This section is effective from and after July 1, 2013.

Section 10

Section 465, Retail Sales: Exemptions has undergone significant changes, largely in name of conformity with State statute. A major goal of TPT Simplification was making conforming changes to the Retail classification of the MCTC that aligned with State statute wherever possible, with the intention of preparing for passage of the Marketplace Fairness Act. On the State tax side, the only change enacted was elimination of an exemption for in-store sales to non-residents that are shipped out of State (excluding vehicles). On the City side, this movement resulted in the elimination of Model Option #2, related to food for home consumption creating a separate classification; eliminating Local Option #AA, allowing tax exempt employee drinks and meals; and adding charter schools to the list that qualify for a food sale exemption. Also, wholly new conforming exemptions were adopted, including one for the sale of “renewable energy credits”; sale of periodicals to encourage tourism; sale of paper machine clothing to a paper manufacturer; sales of overhead materials used in performing government contracts; and the sale of fuels and sale of equipment to qualified environmental technology manufacturers. All of these changes are effective July 1, 2013, with the exception of the sale of “renewable energy credits” which is effective retroactively from and after January 1, 2007.

Section 11

Changes to this section include adding in a specific exemption from the Utilities classification for sales of excess energy produced by a consumer’s photovoltaic system to a utility distributor, along with language that removes the sale of RECs from the Utilities classification. This provides the exemption under the Utilities classification to clarify that when the meter spins backward, the taxable measure is the net charge to the consumer, and that REC sales are not part of the gross receipts under Utilities. This section shall be effective from and after January 1, 2007.

Section 12

Section 485 is added to the standard code language, creating a new classification that imposes tax on wastewater removal services. This section was formerly a Green Page in several cities. This conversion to standard code language is part of the ongoing effort to eliminate the Green Pages by either eliminating or adopting exception items. If a city chooses to impose tax on this activity, the tax rate should be tied to the rate imposed on the Utilities classification. This section shall be effective from and after July 1, 2013.

Section 13

Section 570 is amended to grant the Tax Collector greater latitude in allowing extensions to taxpayers that are making a good faith effort to produce additional information during the audit protest process. Previously the code technically allowed only one 45-day extension to taxpayers protesting audit results, so actual practice resulted in many “unofficial” extensions. This change allows the Tax Collector to grant additional extension at their discretion. This section is deemed effective from and after July 1, 2008.

Section 14

This section repeals Regulation 120.1 related to the definition of Food for Home Consumption, which has been incorporated in the text of new Section 462 noted above. This section shall be effective from and after July 1, 2013.

SUMMARY OF CHANGES TO MODEL CITY TAX CODE**Section 15**

This section amends Regulation 270.1, adding the provision of wastewater removal services to the list of activities that are considered proprietary and therefore taxable when engaged in by a city or town. This section shall be effective from and after July 1, 2013.

Section 16

This section amends Regulation 460.1, adding the distinction from Retail for activities that fall under the two new classifications: Food for Home Consumption in Section 462, and Wastewater Removal Services in Section 485. This means that an exchange of tangible personal property that occurs under the activity described in Sections 462 or 485, is specifically NOT considered a Retail transaction. This section shall be effective from and after July 1, 2013.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF GUADALUPE, ARIZONA, RELATING TO THE TRANSACTION PRIVILEGE TAX; ADOPTING "THE 2012-2014 AMENDMENTS TO THE TAX CODE OF THE TOWN OF GUADALUPE" BY REFERENCE; PROVIDING FOR SEVERABILITY AND ESTABLISHING EFFECTIVE DATES;.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

Section 1: That certain document known as "The 2012-2014 Amendments to the Tax Code of the Town of Guadalupe", three copies of which are on file in the office of the town clerk of the Town of Guadalupe, Arizona, which document was made a public record by Resolution No. _____ of the Town of Guadalupe, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3: The provisions of this ordinance conforms this local code to the Model City Tax Code, which is controlling. The provisions of each section are effective as stated in each section and are as provided by the Municipal Tax Code Commission upon approval of the stated change to the Model City Tax Code. Provisions subject to a retroactive effective date at the time of approval by the Municipal Tax Code Commission favor taxpayers by reducing an imposition of the tax or increasing an allowable deduction, exemption, or exclusion. Provisions that increase the imposition of the tax or decrease the application of a deduction, exemption, or exclusion had a prospective effective date at the time of approval by the Municipal Tax Code Commission. Provisions creating a new Option state the first effective date the new Option is available for selection. Provisions eliminating an existing Option state the last effective date of the eliminated Option.

PASSED AND ADOPTED by the Mayor and Council of the Town of Guadalupe, Arizona, this ____ day of _____, 2018.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE 2012-2014 AMENDMENTS TO THE TAX CODE OF THE TOWN OF GUADALUPE".

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

THAT certain document entitled "THE 2012-2014 AMENDMENTS TO THE TAX CODE OF THE TOWN OF GUADALUPE", three copies of which are on file in the office of the town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the town clerk.

PASSED AND ADOPTED BY THE Mayor and Council of the Town of Guadalupe, Arizona, this ____ day of _____, 2018.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

**2012-2014 AMENDMENTS TO THE
TAX CODE OF THE TOWN OF GUADALUPE**

Section I. Model City Tax Code Section 9-100 is amended as follows, with an effective date of January 1, 2007 for the change to “Business”; October 1, 2007 for the change to “Prosthetic.”

Sec. 9-100. General definitions.

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

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

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

"Business" ~~means~~ **INCLUDES** all activities or acts, personal or corporate, engaged in ~~and~~ **OR** caused to be engaged in with the object of gain, benefit, or advantage, either direct**LY** or indirect**LY**, but **DOES** not **INCLUDE EITHER:** casual activities or sales; **OR THE TRANSFER OF ELECTRICITY FROM A SOLAR PHOTOVOLTAIC GENERATION SYSTEM TO AN ELECTRIC UTILITY DISTRIBUTION SYSTEM.**

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

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

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

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

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

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

"Construction Contractor" means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for

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remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

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

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

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

"Equivalent Excise Tax" means either:

- (1) a Privilege or Use Tax levied by another Arizona municipality upon the transaction in question, and paid either to such Arizona municipality directly or to the vendor; or
- (2) an excise tax levied by a political subdivision of a state other than Arizona upon the transaction in question, and paid either to such jurisdiction directly or to the vendor; or
- (3) an excise tax levied by a Native American Government organized under the laws of the federal government upon the transaction in question, and paid either to such jurisdiction directly or to the vendor.

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

"Food" means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. Under no circumstances shall "food" include an edible product, beverage, or ingredient infused, mixed, or in any way combined with medical marijuana or an active ingredient of medical marijuana.

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

"Jet Fuel" means jet fuel as defined in A.R.S. Section 42-5351.

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

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

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

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

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

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

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

"Medical marijuana" means "marijuana" used for a "medical use" as those terms are defined in A.R.S. Section 36-2801.

"Mining and Metallurgical Supplies" means all tangible personal property acquired by persons engaged in activities defined in Section 9-432 for such use. This definition shall not include:

- (1) janitorial equipment and supplies.
- (2) office equipment, office furniture, and office supplies.
- (3) motor vehicles licensed for use upon the highways of the State.

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

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

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

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

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

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

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

- (1) the order is placed from without the State of Arizona; and
- (2) the property is delivered to the buyer at a location outside the State; and

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- (3) the property is purchased for use outside the State.

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

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

"Prosthetic" means any of the following tangible personal property if such items are prescribed or recommended by a licensed podiatrist, chiropractor, dentist, physician or surgeon, naturopath, optometrist, osteopathic physician or surgeon, psychologist, hearing aid dispenser, physician assistant, nurse practitioner or veterinarian:

- (1) any man-made device for support or replacement of a part of the body, or to increase acuity of one of the senses. Such items include: prescription eyeglasses; contact lenses; hearing aids; artificial limbs or teeth; neck, back, arm, leg, or similar braces.
- (2) insulin, insulin syringes, and glucose test strips sold with or without a prescription.
- (3) hospital beds, crutches, wheelchairs, similar home health aids, or corrective shoes.
- (4) drugs or medicine, including oxygen.
- (5) equipment used to generate, monitor, or provide health support systems, such as respiratory equipment, oxygen concentrator, dialysis machine.
- (6) durable medical equipment which has a federal health care financing administration common procedure code, is designated reimbursable by Medicare, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

(7) ORTHODONTIC DEVICES DISPENSED BY A DENTAL PROFESSIONAL WHO IS LICENSED UNDER TITLE 32, CHAPTER 11 TO A PATIENT AS PART OF THE PRACTICE OF DENTISTRY.

~~(7)~~(8) Under no circumstances shall "prosthetic" include medical marijuana regardless of whether it is sold or dispensed pursuant to a prescription, recommendation, or written certification by any authorized person.

"Qualifying Community Health Center"

- (1) means an entity that is recognized as nonprofit under 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
 - (a) the sole provider of primary care in the community.

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(b) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

(2) includes clinics that are being constructed as qualifying community health centers.

"Qualifying Health Care Organization" means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves or invests at least eighty percent (80%) of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

"Qualifying Hospital" means any of the following:

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

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

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

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

- (1) the vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and

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- (2) the item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen percent (15%) of its actual use.

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

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

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

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

"Restaurant" means any business activity where articles of food, drink, or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".

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

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

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

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

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar

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energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

"Speculative Builder" means either:

- (1) an owner-builder who sells or contracts to sell, at any time, improved real property (as provided in Section 9-416) consisting of:
 - (A) custom, model, or inventory homes, regardless of the stage of completion of such homes; or
 - (B) improved residential or commercial lots without a structure; or
- (2) an owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
 - (A) prior to completion; or
 - (B) before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

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

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

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

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

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

"Taxpayer Problem Resolution Officer" means the individual designated by the Town to perform the duties identified in Sections 9-515 and 9-516. In cities with a population of 50,000 or more, the Taxpayer Problem Resolution Officer shall be an employee of the Town. In cities with a population of less than 50,000, the Taxpayer Problem Resolution Officer need not be an employee of the Town. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the Town, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

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

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

"Utility Service" means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.

Section II. Model City Tax Code Section 9-120 and Model Option #2 is repealed, with an effective date of July 1, 2013.

~~Sec. 9-120. (Reserved)~~

Section III. Model City Tax Code Section 9-200 is amended as follows, with an effective date of July 1, 2013.

Sec. 9-200. Determination of gross income: in general.

- (a) Gross income includes:
- (1) the value proceeding or accruing from the sale of property, the providing of service, or both.
 - (2) the total amount of the sale, lease, license for use, or rental price at the time of such sale, rental, lease, or license.
 - (3) all receipts, cash, credits, barter, exchange, reduction of or forgiveness of indebtedness, and property of every kind or nature derived from a sale, lease, license for use, rental, or other taxable activity.
 - (4) all other receipts whether payment is advanced prior to, contemporaneous with, or deferred in whole or in part subsequent to the activity or transaction.
- (b) Barter, exchange, trade-outs, or similar transactions are includable in gross income at the fair market value of the service rendered or property transferred, whichever is higher, as they represent consideration given for consideration received.
- (c) No deduction or exclusion is allowed from gross income on account of the cost of the property sold, the time value of money, expense of any kind or nature, losses, materials used, labor or service performed, interest paid, or credits granted.

(D) FOR THE PURPOSES OF THIS CHAPTER THE TOTAL AMOUNT OF GROSS INCOME, GROSS RECEIPTS OR GROSS PROCEEDS OF SALES FOR NUCLEAR FUEL SHALL BE DEEMED TO BE THE VALUE OF THE PURCHASE PRICE OF URANIUM OXIDE USED IN PRODUCING THE FUEL. THE TAX IMPOSED BY THIS CHAPTER MAY BE IMPOSED ONLY ONCE FOR ANY ONE QUANTITY OR BATCH OF NUCLEAR FUEL REGARDLESS OF THE

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NUMBER OF TRANSACTIONS OR FINANCING ARRANGEMENTS WHICH MAY OCCUR
WITH RESPECT TO THAT NUCLEAR FUEL.

**Section IV. Model City Tax Code Article III is REPEALED AND REPLACED IN ITS
ENTIRETY with the following sections 9-300 through 9-380, effective January 1, 2015.**

Article III - Licensing and Recordkeeping

Sec. 9-300. Licensing requirements.

- (a) The following persons shall make application to the Tax Collector for a Transaction Privilege and Use Tax License and no person shall engage or continue in business or engage in such activities until he shall have such a license:
- (1) Every person engaging or continuing in business activities within the city or town upon which a Transaction Privilege Tax is imposed by this Chapter.
 - (2) (Reserved)
 - (3) (Reserved)
- (b) For the purpose of determining whether a Transaction Privilege and Use Tax License is required, a person shall be deemed to be "engaging or continuing in business" within the city or town if:
- (1) engaging in any activity as a principal or broker, the gross receipts of which may be subject to Transaction Privilege Tax under Article IV of this Chapter, or
 - (2) maintaining within the city or town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the city or town directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the city or town under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily, or
 - (3) soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the city or town from customers, consumers, or users located within the city or town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this city or town.
 - (4) (Reserved)
 - (5) (Reserved)
- (c) A person engaging in more than one activity subject to Transaction Privilege Tax at any one business location is not required to obtain a separate license for each activity, provided that, at the time such

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person makes application for a license, he shall list on such application each category of activity in which he is engaged.

- (d) The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.
- (e) Limitation. The issuance of a Transaction Privilege and Use Tax License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.
- (f) Casual activity. For the purposes of this Chapter, individuals engaging in a “casual activity or sale” are not subject to the license requirements imposed under this Article provided that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three separate occasions during any calendar year.

Sec. 9-310. Licensing: special requirements.

- (a) Partnerships. Application for a Transaction Privilege and Use Tax License for a partnership engaging or continuing in business shall provide, as a minimum, the names and addresses of all general partners. Licenses issued to persons engaging in business as partners, limited or general, shall be in the name of the partnership.
- (b) Limited Liability Companies. Application for a Transaction Privilege and Use Tax License for a Limited Liability Company (LLC) engaging or continuing in business shall provide, as a minimum, the names and addresses of all members and the manager. Licenses issued to persons engaging in business as Limited Liability Companies, shall be in the name of the LLC.
- (c) Corporations. Application for a Transaction Privilege and Use Tax License for a corporation engaging or continuing in business shall provide, as a minimum, the names and addresses of both the Chief Executive Officer and Chief Financial Officer of the corporation. Licenses issued to persons engaging in business as corporations shall be in the name of the corporation.
- (d) Multiple Locations or Multiple Business Names. A person engaging or continuing in one or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.
- (e) Real Property Rental, Leasing, and Licensing for Use. In all cases the Transaction Privilege and Use Tax License shall be issued only to the owner of the real property regardless of the owner engaging a property manager or other broker to oversee the owner’s business activity including filing tax returns on behalf of the owner. Each rental property that can be independently sold or transferred is deemed to be a separate business establishment. Each platted parcel of real property subject to the tax imposed by this Chapter is deemed to be a separate business establishment and requires a separate license, regardless of the number of rental units located on that platted parcel. If one structure is located on multiple parcels in a manner such that ownership of an individual parcel cannot be sold or transferred without requiring alteration to divide the structure, one license shall be required for all affected parcels.

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Sec. 9-320. License fees; annual renewal; renewal fees.

- (a) The Transaction Privilege and Use Tax License shall be valid upon receipt of a non-refundable license fee of two dollars (\$2.00), except for a license to engage in the business activity of residential or commercial real property rental, leasing, and licensing for use as separately identified in this Section. The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of zero dollars (\$0.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such annual renewal fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January.
- (b) The Transaction Privilege and Use Tax License to engage in the business activity of residential real property rental, leasing, and licensing for use shall be valid only upon receipt of a non-refundable license fee of two dollars (\$2.00). The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of zero dollars (\$0.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January.
- (c) The Transaction Privilege and Use Tax License to engage in the business activity of commercial real property rental, leasing, and licensing for use shall be valid only upon receipt of a non-refundable license fee of two dollars (\$2.00). The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying an annual license renewal fee of zero dollars (\$0.00) for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January.

Sec. 9-330. Licensing: duration; transferability; display; penalties; penalty waiver; relicensing; fees collectible as if taxes.

- (a) The Transaction Privilege and Use Tax License shall be valid only for the calendar year in which it is issued unless renewed each year by filing the appropriate application for license renewal and paying the applicable license renewal fee for each license, subject to the limitations in A.R.S. Section 42-5005. Such fee shall be due and payable on January 1 of each year and shall be considered delinquent if not paid and received on or before the last business day of January. Application and payment of the annual fee must be received in the Tax Collector's office to be deemed paid and received.
- (b) The Transaction Privilege and Use Tax License shall be nontransferable between owners or locations, and shall be on display to the public in the licensee's place of business.

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- (c) Any person required to be licensed under this Chapter who fails to obtain a license on or before conducting any business activity requiring such license shall be subject to the license fees due for each year in business plus a penalty in the amount of fifty percent (50%) of the applicable fee for each period of time for which such fee would have been imposed, from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this Chapter and must be paid prior to the issuance of any license. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 9-540.
- (d) Any licensee who fails to renew his license on or before the due date shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this Chapter against persons required to be licensed and operating without a license. The non-licensed status may be removed by payment of the annual license fee for each year or portion of a year he operated without a license, plus a license fee penalty of 50% of the license fee due for each year. License fee penalties may be waived by the Tax Collector subject to the same terms as the waiver of tax penalties as provided for in Section 9-540.
- (e) Any licensee who permits his license to expire through cancellation as provided in Section 9-340, by his request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued, and who thereafter applies for a license, shall be granted a new license as a new applicant and shall pay the current license fee imposed under Section 9-320.
- (f) Any licensee who needs a copy of his Transaction Privilege and Use Tax License which is still in effect shall be charged the current license fee for each reissuance of a license.
- (g) Any person conducting a business activity subject to licensing without obtaining a Transaction Privilege and Use Tax License shall be liable to the Town for all applicable fees and penalties and shall be subject to the provisions of Sections 9-580 and 9-590, to the same extent as if such fees and penalties were taxes and penalties under such Sections.

Sec. 9-340. Licensing: cancellation; revocation.

- (a) Cancellation. The Tax Collector may cancel the Transaction Privilege and Use Tax License of any licensee as "inactive" if the taxpayer, required to report monthly, has neither filed any return nor remitted any taxes imposed by this Chapter for a period of six (6) consecutive months; or, if required to report quarterly, has neither filed any return nor remitted any taxes imposed by this Chapter for two (2) consecutive quarters; or, if required to report annually, has neither filed any return nor remitted any taxes imposed by this Chapter when such annual report and tax are due to be filed with and remitted to the Tax Collector.
- (b) Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid under this Chapter, or if such licensee fails to comply with any other provisions of this Chapter, the Tax Collector may revoke the Transaction Privilege and Use Tax License of said licensee.

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- (c) Notice and Hearing. The Tax Collector shall deliver notice to such licensee of cancellation or revocation of the Transaction Privilege and Use Tax License. If the licensee requests a hearing within twenty (20) days of receipt of such notice, he shall be granted a hearing before the Tax Collector.
- (d) After cancellation or revocation of a taxpayer's license, the taxpayer shall not be issued a new license until all reports have been filed; all fees, taxes, interest, and penalties due have been paid; and he is in compliance with all provisions of this Chapter.

Sec. 9-350. Operating without a license.

It shall be unlawful for any person who is required by this Chapter to obtain a Transaction Privilege and Use Tax License to engage in or continue in business without a license. The Tax Collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this Chapter.

Sec. 9-360. Recordkeeping requirements.

- (a) It shall be the duty of every person subject to the tax imposed by this Chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this Chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by this Article; or when records are maintained within an electronic data processing (EDP) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.
- (b) The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:
 - (1) only for future reporting periods, and
 - (2) only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the taxing jurisdiction to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

Sec. 9-362. Recordkeeping: income.

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this Chapter must show:

- (a) The gross income of the taxpayer attributable to any activity occurring in whole or in part in the Town.
- (b) The gross income taxable under this Chapter, divided into categories as stated in the official Town tax return.

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- (c) The gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.
- (d) The gross income claimed to be exempt, and with respect to each activity or transaction so claimed:
 - (1) If the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:
 - (A) The Town Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent Town, if applicable, and state tax numbers of the Town and state where the customer resides), and
 - (B) The name, business address, and business activity of the customer, and
 - (C) Evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.
 - (2) If the transaction is claimed to be exempt for any other reason:
 - (A) The name, business address, and business activity of the customer, and
 - (B) Evidence which would establish the applicability of the exemption to a reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by Regulation.
- (e) With respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.
- (f) With respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.
- (g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.

Sec. 9-364. Recordkeeping: expenditures.

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this Chapter are:

- (a) The total price of all goods acquired for use or storage in the Town.

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- (b) The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the Town.
- (c) Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.
- (d) The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.
- (e) As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:
 - (1) All construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.
 - (2) Disbursement of collected gratuities and related payroll information required of restaurants.
 - (3) (Reserved)
 - (A) (Reserved)
 - (B) (Reserved)
 - (4) The validity of any claims of proof of exemption.
 - (5) A claimed alternative prior value for reconstruction.
 - (6) (Reserved)
 - (7) (Reserved)
 - (8) Payments of tax to the Arizona Department of Transportation and computations therefor, when a motor-vehicle transporter claims such the exemption.
 - (9) (Reserved)
- (f) Any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.
- (g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.

Sec. 9-366. Recordkeeping: out-of-Town and out-of-State sales.

- (a) Out-of-Town Sales. Any person engaging or continuing in a business who claims out-of-Town sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-Town branches or locations.
- (b) Out-of-State sales. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:
 - (1) documentation of location of the buyer at the time of order placement; and

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

Sec. 9-370. Recordkeeping: claim of exclusion, exemption, deduction, or credit; documentation; liability.

- (a) All deductions, exclusions, exemptions and credits provided in this Chapter are conditional upon adequate proof and documentation of such as may be required under A.R.S. Section 42-5022 or by this Chapter or Regulation.
- (b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this Chapter, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor.

Sec. 9-372. Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a Privilege License number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for disallowance of any claimed deduction on returns filed for such transactions.

Sec. 9-380. Inadequate or unsuitable records.

In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this Chapter, it is the responsibility of the taxpayer either:

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

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This change also REPEALS AND ELIMINATES the following Regulations, effective January 1, 2015:

~~Regulation 9-300.1. Who must apply for a license.~~

~~Regulation 9-300.2. (Reserved)~~

~~Regulation 9-310.1. (Reserved)~~

~~Regulation 9-310.2. (Reserved)~~

~~Regulation 9-310.3. (Reserved)~~

~~Regulation 9-350.1. Recordkeeping: income.~~

~~Regulation 9-350.2. Recordkeeping: expenditures.~~

~~Regulation 9-350.3. Recordkeeping: out-of-Town and out-of-State sales.~~

~~Regulation 9-360.1. Proof of exemption: sale for resale; sale, rental, lease or license of rental equipment.~~

~~Regulation 9-360.2. Proof of exemption: exemption certificate.~~

Section V. Model City Tax Code Section 9-425 is amended as follows with an effective date of September 21, 2006.

Sec. 9-425. Job printing.

- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.
- (b) The tax imposed by this Section shall not apply to:
 - (1) job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer.
 - (2) out-of-Town sales.
 - (3) out-of-State sales.
 - (4) (Reserved)
 - (5) sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
 - (6) (Reserved)
 - (7) SALES OF POSTAGE AND FREIGHT EXCEPT THAT THE AMOUNT DEDUCTED SHALL NOT EXCEED THE ACTUAL POSTAGE AND FREIGHT EXPENSE THAT IS PAID TO THE UNITED STATES POSTAL SERVICE OR A COMMERCIAL DELIVERY

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SERVICE AND THAT IS SEPARATELY ITEMIZED BY THE TAXPAYER ON THE
CUSTOMER'S INVOICE AND IN THE TAXPAYER'S RECORDS.

Section VI. Model City Tax Code Section 9-445 is amended as follows, with an effective date of July 1, 2013.

Sec. 9-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to three percent (3%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the Town for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the Town for a consideration including any improvements, rights, or interest in such property; provided further that:
- (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
 - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
 - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 9-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
- (c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.
- (e) Exempt from the tax imposed by this Section is gross income derived from the rental, leasing, or licensing for use of real property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (f) (Reserved)
- (g) (Reserved)
- (h) (Reserved)
- (i) (Reserved)

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- (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 9-444 of this code.
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) Notwithstanding the provisions of Section 9-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.
- (o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.
- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.
- (s) ~~The gross proceeds of sales or gross income derived from a commercial lease in which a reciprocal insurer or a corporation leases real property to an affiliated corporation is exempt. For the purposes of this paragraph:~~
 - ~~(1) "Affiliated corporation" means a corporation that meets one of the following conditions:~~
 - ~~(A) The corporation owns or controls at least eighty per cent of the lessor.~~
 - ~~(B) The corporation is at least eighty per cent owned or controlled by the lessor.~~

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- ~~(C) The corporation is at least eighty per cent owned or controlled by a corporation that also owns or controls at least eighty per cent of the lessor.~~
- ~~(D) The corporation is at least eighty per cent owned or controlled by a corporation that is at least eighty per cent owned or controlled by a reciprocal insurer.~~
- ~~(2) For the purposes of subsection (1), ownership and control are determined by reference to the voting shares of a corporation.~~
- ~~(3) "Reciprocal insurer" has the same meaning as prescribed in A.R.S. Section 20-762.~~
- (S) THE GROSS PROCEEDS OF A COMMERCIAL LEASE OF REAL PROPERTY BETWEEN AFFILIATED COMPANIES, BUSINESSES, PERSONS OR RECIPROCAL INSURERS ARE EXEMPT. FOR THE PURPOSES OF THIS PARAGRAPH:
- (1) "AFFILIATED COMPANIES, BUSINESSES, PERSONS OR RECIPROCAL INSURERS" MEANS THE LESSOR HOLDS A CONTROLLING INTEREST IN THE LESSEE, THE LESSEE HOLDS A CONTROLLING INTEREST IN THE LESSOR, AN AFFILIATED ENTITY HOLDS A CONTROLLING INTEREST IN BOTH THE LESSOR AND THE LESSEE OR AN UNRELATED PERSON HOLDS A CONTROLLING INTEREST IN BOTH THE LESSOR AND LESSEE.
- (2) "CONTROLLING INTEREST" MEANS DIRECT OR INDIRECT OWNERSHIP OF AT LEAST EIGHTY PER CENT OF THE VOTING SHARES OF A CORPORATION OR OF THE INTERESTS IN A COMPANY, BUSINESS OR PERSON OTHER THAN A CORPORATION.
- (3) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

Section VII. Model City Tax Code Section 9-450 is amended as follows, with an effective date of September 1, 2004.

Sec. 9-450. Rental, leasing, and licensing for use of tangible personal property.

- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the Town as provided by Regulation.
- (b) Special provisions relating to long-term motor vehicle leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred, or otherwise assigned to a lease financing institution; provided further that the city or town where such motor vehicle dealership is located levies a Privilege Tax or an equivalent excise tax upon the transaction.

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- (c) Gross income derived from the following transactions shall be exempt from Privilege Taxes imposed by this Section:
- (1) rental, leasing, or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property.
 - (2) rental, leasing, or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction.
 - (3) rental, leasing, or licensing for use of film, tape, or slides to a theater or other person taxed under Section ___-410, or to a radio station, television station, or subscription television system.
 - (4) rental, leasing, or licensing for use of the following:
 - (A) prosthetics.
 - (B) income-producing capital equipment.
 - (C) mining and metallurgical supplies.

These exemptions include the rental, leasing, or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented, or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies.
 - (5) rental, leasing, or licensing for use of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property so rented, leased, or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.
 - (6) separately billed charges for delivery, installation, repair, and/or maintenance as provided by Regulation.
 - (7) charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services.
 - (8) (Reserved)
 - (9) rental, leasing, or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by Regulation, if such rental, leasing, or licensing had been a sale.
 - (10) rental, leasing and licensing for use of an alternative fuel vehicle if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

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

(12) LEASING OR RENTING CERTIFIED IGNITION INTERLOCK DEVICES INSTALLED PURSUANT TO THE REQUIREMENTS PRESCRIBED BY A.R.S. SECTION 28-1461. FOR THE PURPOSES OF THIS PARAGRAPH, "CERTIFIED IGNITION INTERLOCK DEVICE" HAS THE SAME MEANING PRESCRIBED IN A.R.S. SECTION 28-1301.

Section VIII. Model City Tax Code Section 9-460 is amended as follows, with an effective date of October 1, 2007.

Sec. 9-460. Retail sales: measure of tax; burden of proof; exclusions.

- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.
- (b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.
- (c) Exclusions. For the purposes of this Chapter, sales of tangible personal property shall not include:
 - (1) sales of stocks, bonds, options, or other similar materials.
 - (2) sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
 - (3) sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.
 - (4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this Section.
 - (5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(6) SALES OF CASH EQUIVALENTS. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE REDEMPTION OF ANY CASH EQUIVALENT BY THE HOLDER AS A MEANS OF PAYMENT FOR GOODS OR SERVICES THAT ARE TAXABLE UNDER THIS ARTICLE IS SUBJECT TO THE TAX. "CASH EQUIVALENTS" MEANS ITEMS OR INTANGIBLES, WHETHER OR NOT NEGOTIABLE, THAT ARE SOLD TO ONE OR MORE PERSONS, THROUGH WHICH

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A VALUE DENOMINATED IN MONEY IS PURCHASED IN ADVANCE AND MAY BE REDEEMED IN FULL OR IN PART FOR TANGIBLE PERSONAL PROPERTY, INTANGIBLES OR SERVICES. CASH EQUIVALENTS INCLUDE GIFT CARDS, STORED VALUE CARDS, GIFT CERTIFICATES, VOUCHERS, TRAVELER'S CHECKS, MONEY ORDERS OR OTHER INSTRUMENTS, ORDERS OR ELECTRONIC MECHANISMS, SUCH AS AN ELECTRONIC CODE, PERSONAL IDENTIFICATION NUMBER OR DIGITAL PAYMENT MECHANISM, OR ANY OTHER PREPAID INTANGIBLE RIGHT TO ACQUIRE TANGIBLE PERSONAL PROPERTY, INTANGIBLES OR SERVICES IN THE FUTURE, WHETHER FROM THE SELLER OF THE CASH EQUIVALENT OR FROM ANOTHER PERSON. CASH EQUIVALENTS DO NOT INCLUDE EITHER OF THE FOLLOWING:

- (A) ITEMS OR INTANGIBLES THAT ARE SOLD TO ONE OR MORE PERSONS, THROUGH WHICH A VALUE IS NOT DENOMINATED IN MONEY.
- (B) PREPAID CALLING CARDS OR PREPAID AUTHORIZATION NUMBERS FOR TELECOMMUNICATIONS SERVICES MADE TAXABLE BY SUBSECTION (g) OF THIS SECTION.

- (d) (Reserved)
- (e) When this Town and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.
- (f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this Town or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.
- (g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this Section.

Section IX. Model City Tax Code Section 9-462 is added as follows, with an effective date of July 1, 2013.

SEC. 9-462. RETAIL SALES: FOOD FOR HOME CONSUMPTION.

- (a) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO FOUR PERCENT (4%) OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF SELLING FOOD FOR HOME CONSUMPTION AT RETAIL.
- (b) FOR THE PURPOSES OF THIS SECTION ONLY, THE FOLLOWING DEFINITIONS SHALL BE APPLICABLE:

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- (1) "ELIGIBLE GROCERY BUSINESS" MEANS AN ESTABLISHMENT WHOSE SALES OF FOOD ARE SUCH THAT IT IS ELIGIBLE TO PARTICIPATE IN THE FOOD STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP ACT OF 1977 (P.L. 95-113; 91 STAT. 958.7 U.S.C. SECTION 2011 ET SEQ.), ACCORDING TO REGULATIONS IN EFFECT ON JANUARY 1, 1979. AN ESTABLISHMENT IS DEEMED ELIGIBLE TO PARTICIPATE IN THE FOOD STAMP PROGRAM IF IT IS AUTHORIZED TO PARTICIPATE IN THE PROGRAM BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE FIELD OFFICE ON THE EFFECTIVE DATE OF THIS SECTION, OR IF, PRIOR TO A REPORTING PERIOD FOR WHICH THE RETURN IS FILED, SUCH RETAILER PROVES TO THE SATISFACTION OF THE TAX COLLECTOR THAT THE ESTABLISHMENT, BASED ON THE NATURE OF THE RETAILER'S FOOD SALES, COULD BE ELIGIBLE TO PARTICIPATE IN THE FOOD STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP ACT OF 1977 ACCORDING TO REGULATIONS IN EFFECT ON JANUARY 1, 1979.
- (2) "FACILITIES FOR THE CONSUMPTION OF FOOD" MEANS TABLES, CHAIRS, BENCHES, BOOTHS, STOOLS, COUNTERS, AND SIMILAR CONVENIENCES, TRAYS, GLASSES, DISHES, OR OTHER TABLEWARE AND PARKING AREAS FOR THE CONVENIENCE OF IN-CAR CONSUMPTION OF FOOD IN OR ON THE PREMISES ON WHICH THE RETAILER CONDUCTS BUSINESS.
- (3) "FOOD FOR CONSUMPTION ON THE PREMISES" MEANS ANY OF THE FOLLOWING:
- (A) "HOT PREPARED FOOD" AS DEFINED BELOW.
- (B) HOT OR COLD SANDWICHES.
- (C) FOOD SERVED BY AN ATTENDANT TO BE EATEN AT TABLES, CHAIRS, BENCHES, BOOTHS, STOOLS, COUNTERS, AND SIMILAR CONVENIENCES AND WITHIN PARKING AREAS FOR THE CONVENIENCE OF IN-CAR CONSUMPTION OF FOOD.
- (D) FOOD SERVED WITH TRAYS, GLASSES, DISHES, OR OTHER TABLEWARE.
- (E) BEVERAGES SOLD IN CUPS, GLASSES, OR OPEN CONTAINERS.
- (F) FOOD SOLD BY CATERERS.
- (G) FOOD SOLD WITHIN THE PREMISES OF THEATRES, MOVIES, OPERAS, SHOWS OF ANY TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT PARKS, FAIRS, RACES, CONTESTS, GAMES, ATHLETIC EVENTS, RODEOS, BILLIARD AND POOL PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING, WRESTLING AND OTHER MATCHES, AND ANY BUSINESS WHICH

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CHARGES ADMISSION, ENTRANCE, OR COVER FEES FOR EXHIBITION,
AMUSEMENT, ENTERTAINMENT, OR INSTRUCTION.

- (H) ANY ITEMS CONTAINED IN SUBSECTIONS (B)(3)(A) THROUGH (G)
ABOVE EVEN THOUGH THEY ARE SOLD ON A "TAKE-OUT" OR "TO GO"
BASIS, AND WHETHER OR NOT THE ITEM IS PACKAGED, WRAPPED, OR
IS ACTUALLY TAKEN FROM THE PREMISES.
- (4) "HOT PREPARED FOOD" MEANS THOSE PRODUCTS, ITEMS, OR INGREDIENTS
OF FOOD WHICH ARE PREPARED AND INTENDED FOR CONSUMPTION IN A
HEATED CONDITION. "HOT PREPARED FOOD" INCLUDES A COMBINATION OF
HOT AND COLD FOOD ITEMS OR INGREDIENTS IF A SINGLE PRICE HAS BEEN
ESTABLISHED.
- (5) "PREMISES" MEANS THE TOTAL SPACE AND FACILITIES IN OR ON WHICH A
VENDOR CONDUCTS BUSINESS AND WHICH ARE OWNED OR CONTROLLED, IN
WHOLE OR IN PART, BY A VENDOR OR WHICH ARE MADE AVAILABLE FOR
THE USE OF CUSTOMERS OF THE VENDOR OR GROUP OF VENDORS,
INCLUDING ANY BUILDING OR PART OF A BUILDING, PARKING LOT, OR
GROUNDS.
- (6) "FOOD FOR HOME CONSUMPTION" MEANS ALL FOOD, EXCEPT FOOD FOR
CONSUMPTION ON THE PREMISES, IF SOLD BY ANY OF THE FOLLOWING:
- (A) AN ELIGIBLE GROCERY BUSINESS.
- (B) A PERSON WHO CONDUCTS A BUSINESS WHOSE PRIMARY BUSINESS IS
NOT THE SALE OF FOOD BUT WHO SELLS FOOD WHICH IS DISPLAYED,
PACKAGED, AND SOLD IN A SIMILAR MANNER AS AN ELIGIBLE
GROCERY BUSINESS.
- (C) A PERSON WHO SELLS FOOD AND DOES NOT PROVIDE OR MAKE
AVAILABLE ANY FACILITIES FOR THE CONSUMPTION OF FOOD ON THE
PREMISES.
- (D) A PERSON WHO CONDUCTS A DELICATESSEN BUSINESS EITHER FROM
A COUNTER WHICH IS SEPARATE FROM THE PLACE AND CASH
REGISTER WHERE TAXABLE SALES ARE MADE OR FROM A COUNTER
WHICH HAS TWO CASH REGISTERS AND WHICH ARE USED TO RECORD
TAXABLE AND TAX EXEMPT SALES, OR A RETAILER WHO CONDUCTS
A DELICATESSEN BUSINESS WHO USES A CASH REGISTER WHICH HAS
AT LEAST TWO TAX COMPUTING KEYS WHICH ARE USED TO RECORD
TAXABLE AND TAX EXEMPT SALES.
- (E) VENDING MACHINES AND OTHER TYPES OF AUTOMATIC RETAILERS.
- (F) A PERSON'S SALES OF FOOD, DRINK AND CONDIMENT FOR
CONSUMPTION WITHIN THE PREMISES OF ANY PRISON, JAIL OR OTHER
INSTITUTION UNDER THE JURISDICTION OF THE STATE DEPARTMENT

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OF CORRECTIONS, THE DEPARTMENT OF PUBLIC SAFETY, THE
DEPARTMENT OF JUVENILE CORRECTIONS OR A COUNTY SHERIFF.

(c) INCOME DERIVED FROM THE FOLLOWING SOURCES IS EXEMPT FROM THE TAX
IMPOSED BY THIS SECTION:

- (1) SALES OF FOOD FOR HOME CONSUMPTION TO A PERSON REGULARLY
ENGAGED IN THE BUSINESS OF SELLING SUCH PROPERTY.
- (2) OUT-OF-TOWN SALES OR OUT-OF-STATE SALES.
- (3) CHARGES FOR DELIVERY OR OTHER "DIRECT CUSTOMER SERVICES" AS
PRESCRIBED BY REGULATION.
- (4) FOOD PURCHASED WITH FOOD STAMPS PROVIDED THROUGH THE FOOD
STAMP PROGRAM ESTABLISHED BY THE FOOD STAMP ACT OF 1977 (P.L. 95-
113; 91 STAT. 958.7 U.S.C. SECTION 2011 ET SEQ.) OR PURCHASED WITH FOOD
INSTRUMENTS ISSUED UNDER SECTION 17 OF THE CHILD NUTRITION ACT (P.L.
95-627; 92 STAT. 3603; AND P.L. 99-669; SECTION 4302; 42 UNITED STATES CODE
SECTION 1786) BUT ONLY TO THE EXTENT THAT FOOD STAMPS OR FOOD
INSTRUMENTS WERE ACTUALLY USED TO PURCHASE SUCH FOOD.
- (5) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR BY A.R.S.
SECTIONS 3-561, 3-562 AND 3-563.
- (6) SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES TO A PUBLIC
EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15,
ARIZONA REVISED STATUTES, INCLUDING A REGULARLY ORGANIZED
PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM
FOR GRADE TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION
FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. SECTION 15-802, TO THE EXTENT
SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR
CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY
DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION,
"ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS,
PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE
CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF
THE FOOD.
- (7) SALES OF FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES TO A
NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED AS AN
EXEMPT ORGANIZATION UNDER 26 U.S.C. SECTION 501(C)(3) AND REGULARLY
SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT
NO COST. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS
PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING
STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER
ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.

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- (d) REPORTING. SUCH PERSONS WHO SELL FOOD FOR HOME CONSUMPTION SHALL, IN CONJUNCTION WITH THE RETURN REQUIRED PURSUANT TO SECTION 9-520, REPORT TO THE TAX COLLECTOR IN A MANNER PRESCRIBED BY THE TAX COLLECTOR ALL SALES OF FOOD FOR HOME CONSUMPTION EXEMPTED FROM TAXES IMPOSED BY THIS CHAPTER.
- (e) RECORDKEEPING.
- (1) RETAILERS SHALL MAINTAIN ACCURATE, VERIFIABLE, AND COMPLETE RECORDS OF ALL PURCHASES AND SALES OF TANGIBLE PERSONAL PROPERTY IN ORDER TO VERIFY EXEMPTIONS FROM TAXES IMPOSED BY THIS CHAPTER. A RETAILER MAY USE ANY METHOD OF REPORTING THAT PROPERLY REFLECTS ALL PURCHASES AND SALES OF FOOD FOR HOME CONSUMPTION, AS WELL AS ALL PURCHASES AND SALES OF ITEMS SUBJECT TO TAXES IMPOSED BY THIS CHAPTER, PROVIDED THAT SUCH RECORDS ARE MAINTAINED IN ACCORDANCE WITH ARTICLE III, AND REGULATIONS OF THE TAX COLLECTOR.
- (2) ANY PERSON WHO FAILS TO MAINTAIN RECORDS AS PROVIDED HEREIN SHALL BE DEEMED TO HAVE HAD NO SALES OF FOOD FOR HOME CONSUMPTION, AND IF UPON REQUEST BY THE TAX COLLECTOR, A PERSON CANNOT DEMONSTRATE TO THE TAX COLLECTOR THAT SUCH RECORDS AND REPORTS DO PROPERLY REFLECT ALL SALES OF FOOD FOR HOME CONSUMPTION, THE TAX COLLECTOR MAY RECOMPUTE THE AMOUNT OF TAX TO BE PAID AS PROVIDED IN SECTIONS 9-370 AND 9-545(B).

Section X. Model City Tax Code Section 9-465 is amended as follows. All changes are effective July 1, 2013, except new subsection (mm), which is effective January 1, 2007.

Sec. 9-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 9-460:

- (a) sales of tangible personal property to a person regularly engaged in the business of selling such property.
- (b) out-of-Town sales or out-of-State sales.
- (c) charges for delivery, installation, or other direct customer services as prescribed by Regulation.
- (d) charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer.
- (e) sales of warranty, maintenance, and service contracts, when separately charged and separately maintained in the books and records of the taxpayer.
- (f) sales of prosthetics.

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- (g) sales of income-producing capital equipment.
- (h) sales of rental equipment and rental supplies.
- (i) sales of mining and metallurgical supplies.
- (j) sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-5739, or sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
- (k) sales of tangible personal property to a construction contractor who holds a valid Privilege Tax License for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity.
- (l) sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this State.
- (m) sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines, or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient nor component part of a product.
- (n) (Reserved)
 - (1) (Reserved)
 - (2) (Reserved)
- (o) sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses, or similar establishments of articles consumed as food, drink, or condiment, whether simple, mixed, or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 9-455 or the equivalent excise tax upon such income.
- (p) sales of tangible personal property to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this State by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.
- (q) ~~food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786) but only to the extent that food stamps or food instruments were actually used to purchase such food.~~ (RESERVED)

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- (r) (Reserved)
 - (1) (Reserved)
 - (2) (Reserved)
 - (3) (Reserved)
 - (4) (Reserved)
- (s) sales of groundwater measuring devices required by A.R.S. Section 45-604.
- (t) (Reserved)
- (u) sales of aircraft acquired for use outside the State, as prescribed by Regulation.
- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) ~~(Reserved)~~ SALES OF FOOD AND DRINK TO A PERSON WHO IS ENGAGED IN BUSINESS THAT IS CLASSIFIED UNDER THE RESTAURANT CLASSIFICATION AND THAT PROVIDES SUCH FOOD AND DRINK WITHOUT MONETARY CHARGE TO ITS EMPLOYEES FOR THEIR OWN CONSUMPTION ON THE PREMISES DURING SUCH EMPLOYEES' HOURS OF EMPLOYMENT.
- (y) (Reserved)
- (z) (Reserved)
- (aa) the sale of tangible personal property used in remediation contracting as defined in Section 9-100 and Regulation 9-100.5.
- (bb) sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
 - (1) printed or photographic materials.
 - (2) electronic or digital media materials.
- (cc) sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. Section 42-5061(A)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (dd) in computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under Section 9-470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

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- (ee) for the purposes of this Section, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 9-470 is considered to be a sale for resale in the regular course of business.
- (ff) sales of alternative fuel as defined in A.R.S. Section 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-480.
- (gg) sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. SECTION 15-802; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (hh) sales of personal hygiene items to a person engaged in the business of and subject to tax under Section 9-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.
- (ii) for the purposes of this Section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
- (jj) sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (kk) sales of motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.
- (ll) sales of solar energy devices, for taxable periods beginning from and after July 1, 2008. The retailer shall register with the department of revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and Town, as applicable, for examination.
- (MM) SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK

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- KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.
- (NN) SALES OF MAGAZINES OR OTHER PERIODICALS OR OTHER PUBLICATIONS BY THIS STATE TO ENCOURAGE TOURIST TRAVEL.
- (OO) SALES OF PAPER MACHINE CLOTHING, SUCH AS FORMING FABRICS AND DRYER FELTS, SOLD TO A PAPER MANUFACTURER AND DIRECTLY USED OR CONSUMED IN PAPER MANUFACTURING.
- (PP) SALES OF OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.
- (QQ) SALES OF COAL, PETROLEUM, COKE, NATURAL GAS, VIRGIN FUEL OIL AND ELECTRICITY SOLD TO A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR AS DEFINED IN A.R.S. SECTION 41-1514.02 AND DIRECTLY USED OR CONSUMED IN THE GENERATION OR PROVISION OF ON-SITE POWER OR ENERGY SOLELY FOR ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING OR ENVIRONMENTAL PROTECTION. THIS PARAGRAPH SHALL APPLY FOR TWENTY FULL CONSECUTIVE CALENDAR OR FISCAL YEARS FROM THE DATE THE FIRST PAPER MANUFACTURING MACHINE IS PLACED IN SERVICE. IN THE CASE OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR WHO DOES NOT MANUFACTURE PAPER, THE TIME PERIOD SHALL BEGIN WITH THE DATE THE FIRST MANUFACTURING, PROCESSING OR PRODUCTION EQUIPMENT IS PLACED IN SERVICE.
- (RR) SALES OR GROSS INCOME DERIVED FROM SALES OF MACHINERY, EQUIPMENT, MATERIALS AND OTHER TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING FACILITY AS DESCRIBED IN A.R.S. SECTION 41-1514.02. THIS SUBSECTION APPLIES FOR TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.

Section XI. Model City Tax Code Section 9-480 is amended as follows, with an effective date of January 1, 2007.

Sec. 9-480. Utility services.

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- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:
- (1) consumers or ratepayers who reside within the Town.
 - (2) (Reserved)
- (b) Exclusion of certain sales of natural gas to a public utility. Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of tangible personal property subject to Sections 9-460 and 9-465, and not considered gross income taxable under this Section.
- (c) Resale utility services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility provider or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this Section, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.
- (d) (Reserved)
- (e) The tax imposed by this Section shall not apply to sales of utility services to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (f) The tax imposed by this Section shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
- (g) The tax imposed by this Section shall not apply to:
- (1) revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.
 - (2) revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.
- (h) The tax imposed by this Section shall not apply to sales of alternative fuel as defined in A.R.S. Section 1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. Section 49-426 or Section 49-480.

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- (I) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO SALES OR OTHER TRANSFERS OF RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.
- (J) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO TRANSFERS OF ELECTRICITY BY ANY RETAIL ELECTRIC CUSTOMER OWNING A SOLAR PHOTOVOLTAIC ENERGY GENERATING SYSTEM TO AN ELECTRIC DISTRIBUTION SYSTEM, IF THE ELECTRICITY TRANSFERRED IS GENERATED BY THE CUSTOMER'S SYSTEM.
- (K) (RESERVED)

Section XII. Model City Tax Code Section 9-485 is amended as follows, with an effective date of July 1, 2013.

Sec. 9-485. ~~(Reserved)~~ WASTEWATER REMOVAL SERVICES

- (a) THE TAX RATE SHALL BE AN AMOUNT EQUAL TO ZERO PERCENT (0%) OF THE GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON ENGAGING OR CONTINUING IN THE BUSINESS OF PROVIDING WASTEWATER REMOVAL SERVICES BY MEANS OF SEWER LINES OR SIMILAR PIPELINES TO:
- (1) CONSUMERS OR RATEPAYERS WHO RESIDE WITHIN THE TOWN.
 - (2) CONSUMERS OR RATEPAYERS OF THIS TOWN, WHETHER WITHIN THE TOWN OR WITHOUT, TO THE EXTENT THAT THIS TOWN PROVIDES SUCH PERSONS WASTEWATER REMOVAL SERVICES, EXCLUDING CONSUMERS OR RATEPAYERS WHO ARE RESIDENTS OF ANOTHER CITY OR TOWN WHICH LEVIES AN EQUIVALENT EXCISE TAX UPON THIS TOWN FOR PROVIDING SUCH WASTEWATER REMOVAL SERVICES TO SUCH PERSONS.
- (b) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO GROSS INCOME RELATING TO THE PROVIDING OF WASTEWATER REMOVAL SERVICES FROM A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION.

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Section XIII. Model City Tax Code Section 9-570 is amended as follows to conform the related Appendix IV language with prior changes made to Section 9-570 of the Model language, with an effective date of July 1, 2008.

Sec. 9-570. Administrative review; petition for hearing or for redetermination; finality of order. (State Administration and Audits)

- (a) Closing agreements between the Tax Collector and a taxpayer have no force of law unless made in accordance with the provisions of A.R.S. Section 42-1113.
- (b) Administrative review.
 - (1) Petitions of appeal shall be made to, and hearings shall be conducted by, the Arizona Department of Revenue, in accordance with the provisions of A.R.S. Section 42-1251, as modified by Section 9-571.
 - (2) (Reserved)
 - (3) (Reserved)
 - (4) (Reserved)
 - (5) Hearings shall be held by the Arizona Department of Revenue in accordance with the provisions of A.R.S. Section 42-1251. The Department's decision may be appealed to the State Board of Tax Appeals, in accordance with the provisions of A.R.S. Section 42-1253.
 - (6) (Reserved)
 - (7) (Reserved)
 - (8) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) Taxpayers shall be subject to the state taxpayer bill of rights (A.R.S. § 42-2051 et. seq.).

Sec. 9-570. Administrative review; petition for hearing or for redetermination; finality of order. (Local Audits)

For the purposes of this section, "Municipal Tax Hearing Office" means the administrative offices of the Municipal Tax Hearing Officer.

- (a) Informal Conference. A taxpayer shall have the right to discuss any proposed assessment with the auditor prior to the issuance of any assessment, but any such informal conference is not required for the taxpayer to file a petition for administrative review.
- (b) Administrative Review.
 - (1) Filing a Petition. Other than in the case of a jeopardy assessment, a taxpayer may contest the applicability or amount of tax, penalty, or interest imposed upon or paid by him pursuant to

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this Chapter by filing a petition for a hearing or for redetermination with the Tax Collector as set forth below:

- (A) within forty-five (45) days of receipt by the taxpayer of notice of a determination by the Tax Collector that a tax, penalty, or interest amount is due, or that a request for refund or credit has been denied; or
 - (B) by voluntary payment of any contested amount when accompanied by a timely filed return and a petition requesting a refund of the protested portion of said payment; or
 - (C) by petition accompanying a timely filed return contesting an amount reported but not paid; or
 - (D) by petition requesting review of denial of waiver of penalty as provided in subsection 9-540(g).
- (2) Extension to file a petition. In all cases, the taxpayer may request ~~only one (1) AN~~ extension from the Tax Collector. Such request must be in writing, state the reasons for the requested delay ~~and time of delay requested~~, and must be filed with the Tax Collector within the period allowed above for originally filing a petition. The Tax Collector shall allow ~~such~~ A FORTY-FIVE (45) DAY extension to file a petition, when such written request has been properly and timely made by the taxpayer, ~~but such extension shall not exceed forty five (45) days beyond the time provided for originally filing a petition.~~ THE TAX COLLECTOR MAY GRANT AN ADDITIONAL EXTENSION AND MAY DETERMINE THE CORRESPONDING TIME OF ANY SUCH EXTENSION AT HIS SOLE DISCRETION.
- (3) Requirements for petition.
- (A) The petition shall be in writing and shall set forth the reasons why any correction, abatement, or refund should be granted, and the amount of reduction or refund requested. The petition may be amended at any time prior to the time the taxpayer rests his case at the hearing or such time as the Hearing Officer allows for submitting of amendments in cases of redeterminations without hearings. The Hearing Officer may require that amendments be in writing, and in that case, he shall provide a reasonable period of time to file the amendment. The Hearing Officer shall provide a reasonable period of time for the Tax Collector to review and respond to the petition and to any written amendments.
 - (B) The taxpayer, as part of the petition, may request a hearing which shall be granted by the Hearing Officer. If no request for hearing is made the petition shall be considered to be submitted for decision by the Hearing Officer on the matters contained in the petition and in any reply made by the Tax Collector.
 - (C) The provisions of this Section are exclusive, and no petition seeking any correction, abatement, or refund shall be considered unless the petition is timely and properly filed under the Section.
- (4) Transmittal to Hearing Officer. The city/town shall designate a Hearing Officer, who may be other than an employee of the (city/town). The Tax Collector, if designated to receive

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petitions, shall forward any petition to the Municipal Tax Hearing Officer within twenty (20) days after receipt, accompanied by documentation as to timeliness. In cases where the Hearing Officer determines that the petition is not timely or not in proper form, he shall notify both the taxpayer and the Tax Collector; and in cases of petitions not in proper form only, the Hearing Officer shall provide the taxpayer with an extension up to forty-five (45) days to correct the petition.

- (5) Hearings shall be conducted by a Hearing Officer and shall be continuous until the Hearing Officer closes the record. The taxpayer may be heard in person or by his authorized representative at such hearing. Hearings shall be conducted informally as to the order of proceeding and presentation of evidence. The Hearing Officer shall admit evidence over hearsay objections where the offered evidence has substantial probative value and reliability. Further, copies of records and documents prepared in the ordinary course of business may be admitted, without objection as to foundation, but subject to argument as to weight, admissibility, and authenticity. Summary accounting records may be admitted subject to satisfactory proof of the reliability of the summaries. In all cases, the decision of the Hearing Officer shall be made solely upon substantial and reliable evidence. All expenses incurred in the hearing shall be paid by the party incurring the same.
 - (6) Redeterminations upon a "petition for redetermination" shall follow the same conditions, except that no oral hearing shall be held.
 - (7) Hearing Ruling. In either case, the Hearing Officer shall issue his ruling not later than forty-five (45) days after the close of the record by the Hearing Officer.
 - (8) Notice of Refund or Adjusted Assessment. Within sixty (60) days of the issuance of the Hearing Officer's decision, the Tax Collector shall issue to the taxpayer either a notice of refund or an adjusted assessment recalculated to conform to the Hearing Officer's decision.
- (c) Stipulations that future tax is also protested. A taxpayer may enter into a stipulation with the Tax Collector that future taxes of similar nature are also at issue in any protest or appeal. However, unless such stipulation is made, it is presumed that the protest or appeal deals solely and exclusively with the tax specifically protested and no other. When a taxpayer enters into such a stipulation with the Tax Collector that future taxes of similar nature will be included in any redetermination, hearing, or court case, it is the burden of that taxpayer to identify, segregate, and keep record of such income or protested taxable amount in his books and records in the same manner as the taxpayer is required to segregate exempt income.
- (d) When an assessment is final.
- (1) If a request for administrative review and petition for hearing or redetermination of an assessment made by the Tax Collector is not filed within the period required by subsection (b) above, such person shall be deemed to have waived and abandoned the right to question the amount determined to be due and any tax, interest, or penalty determined to be due shall be final as provided in subsections 9-545(a) and 9-555(f).
 - (2) The decision made by the Hearing Officer upon administrative review by hearing or redetermination shall become final thirty (30) days after the taxpayer receives the notice of

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refund or adjusted assessment required by subsection (b)(8) above, unless the taxpayer appeals the order or decision in the manner provided in Section 9-575.

- (e) The provisions of the state taxpayer bill of rights (A.R.S. Section 42-2051 et. seq.) shall not apply.

Section XIV. Model City Tax Code Regulation 9-120.1 is repealed, with an effective date of July 1, 2013.

~~Reg. 9-120.1. (Reserved)~~

Section XV. Model City Tax Code Regulation 9-270.1 is amended as follows, with an effective date of July 1, 2013.

Reg. 9-270.1. Proprietary activities of municipalities are not considered activities of a governmental entity.

The following activities, when performed by a municipality, are considered to be activities of a person engaged in business for the purposes of this Chapter, and not excludable by reason of Section 9-270:

- (a) rental, leasing, or licensing for use of real property to other than another department or agency of the municipality.
- (b) producing, providing, or furnishing electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or ratepayers.
- (c) sale of tangible personal property to the public, when similar tangible personal property is available for sale by other persons, as, for example, at police or surplus auctions.
- (d) ~~(Reserved)~~ PROVIDING WASTEWATER REMOVAL SERVICES TO CONSUMERS OR RATEPAYERS BY MEANS OF SEWER LINES OR SIMILAR PIPELINES.

Section XVI. Model City Tax Code Regulation 9-460.1 is amended as follows, with an effective date of July 1, 2013.

Reg. 9-460.1. Distinction between retail sales and certain other transfers of tangible personal property.

- (a) Charges for transfer of tangible personal property included in the gross income of the business activity of persons engaged in the following business activities shall be deemed only as gross income from such business activity and not sales at retail taxed by Section 9-460:
 - (1) tangible personal property incorporated into real property as part of reconstruction or construction contracting, per Sections 9-415 through 9-418.
 - (2) (Reserved)

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- (3) job printing, per Section 9-425.
- (4) mining, timbering, and other extraction, but not sales of sand, gravel, or rock extracted from the ground, per Section 9-430.
- (5) publication of newspapers, magazines, and other periodicals, per Section 9-435.
- (6) rental, leasing, and licensing of real or tangible personal property, per Sections 9-445 or 9-450.

(7) restaurants and bars, per Section 9-455.

~~(7)~~(8) FOOD FOR HOME CONSUMPTION, PER SECTION 9-462.

~~(8)~~(9) telecommunications services, per Section 9-470.

~~(9)~~(10) utility services, per Section 9-480.

~~(10)~~(11) ~~(Reserved)~~WASTEWATER REMOVAL SERVICES, PER SECTION 9-485.

- (b) Distinction between construction contracting, retail, and certain direct customer service activities.
 - (1) When an item is attached or installed on real property, it is a construction contracting activity and any subsequent repair, removal, or replacement of that item is construction contracting.
 - (2) Items attached or installed on tangible personal property are retail sales.
 - (3) Transactions where no tangible personal property is attached or installed are considered direct customer service activities (for example: carpet cleaning, lawn mowing, landscape maintenance).
 - (4) Demolition, earth moving, and wrecking activities are considered construction contracting.
- (c) The sale of sand, rock, and gravel extracted from the ground shall be deemed a sale of tangible personal property and not mining or metallurgical activity.
- (d) Sale of consumable goods incorporated into or applied to real property is considered a retail sale and not construction contracting. Examples of consumable goods are lubricants, faucet washers, and air conditioning coolant, but not paint.
- (e) Installation or removal of tangible personal property which has independent functional utility is considered a retail activity.
 - (1) "Tangible personal property which has independent functional utility" must be able to substantially perform its function(s) without attachment to real property. "Attachment to real property" must include more than connection to water, power, gas, communication, or other service.
 - (2) Examples of tangible personal property which has independent functional utility include artwork, furnishings, "plug-in" kitchen equipment, or similar items installed by bolts or similar fastenings.

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- (3) Examples of tangible personal property which does not have independent functional utility include wall-to-wall carpeting, flooring, wallpaper, kitchen cabinets, or "built-in" dishwashers or ranges.
- (4) The installation of window coverings (drapes, mini-blinds, etc.) is always a retail activity.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF GUADALUPE, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; AMENDING THE TOWN TAX CODE BY DESELECTING LOCAL OPTION #B, DESELECTING MODEL OPTION #15 AND ADOPTING LOCAL OPTION #JJ; PROVIDING FOR SEVERABILITY AND DESIGNATING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

Section 1: Local Option #B of the Model City Tax Code is hereby withdrawn, removing the exemption for transactions with governmental agencies.

Section 2: Model Option #15 of the Model City Tax Code is hereby withdrawn and the Town Use Tax is established at a tax rate of four percent (4.0%).

Section 3: Local Option #JJ of the Model City Tax Code is hereby selected, exempting the Town from the Town Use Tax.

Section 4: That certain document known as "The 2018 Tax Amendment to the Tax Code of the Town of Guadalupe", three copies of which are on file in the office of the town clerk of the Town of Guadalupe, Arizona, which document was made a public record by Resolution No. _____ of the Town of Guadalupe, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 5: If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the tax code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 6: The Town Clerk is hereby directed to publish this Ordinance upon adoption as required by A.R.S. 9-812 and A.R.S. 9-813.

Section 6: The provisions of this ordinance shall become effective on January 1, 2019.

PASSED AND ADOPTED by the Mayor and Council of the Town of Guadalupe, Arizona, this _____ day of _____, 2018.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "THE 2018 AMENDMENT TO THE TAX CODE OF THE TOWN OF GUADALUPE".

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF GUADALUPE, ARIZONA:

THAT certain document entitled "THE 2018 AMENDMENT TO THE TAX CODE OF THE TOWN OF GUADALUPE", three copies of which are on file in the office of the town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the town clerk.

PASSED AND ADOPTED BY THE Mayor and Council of the Town of Guadalupe, Arizona, this _____ day of _____, 2018.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

The 2018 Amendment to the Tax Code of the Town of Guadalupe

Section I. Model City Tax Code Section 9-270 is amended as follows, with an effective date of January 1, 2019**Sec. 9-270. Exclusion of gross income of persons deemed not engaged in business.**

- (a) For the purposes of this Section, the following definitions shall apply:
- (1) "Federally Exempt Organization" means an organization which has received a determination of exemption, or qualifies for such exemption, under 26 U.S.C. Section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "non-licensed business", or "public educational entity".
 - (2) "Governmental Entity" means the Federal Government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing; provided further that persons contracting with such a governmental entity to operate any part of a governmentally adopted and controlled program to provide urban mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
 - (3) "Non-Licensed Business" means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this Chapter.
 - (4) "Proprietary Club" means any club which has qualified or would otherwise qualify as an exempt club under the provisions of 26 U.S.C. Section 501(c)(7), (8), and (9), notwithstanding the fact that some or all of the members may own a proprietary interest in the property and assets of the club.
 - (5) "Public Educational Entity" means any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.
- (b) Transactions which, if conducted by any other person, would produce gross income subject to tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a public educational entity; governmental entity, except "proprietary activities" of municipalities as provided by Regulation; or non-licensed business.
- (c) Transactions which, if conducted by any other person, would produce gross income subject to the tax under this Chapter shall not be subject to the imposition of such tax if conducted entirely by a federally exempt organization or proprietary club with the following exceptions:
- (1) Transactions involving proprietary clubs and organizations exempt under 26 U.S.C. Section 501(c)(7), (8), and (9), where the gross revenue of the activity received from persons other than members and bona fide guests of members is in an amount in excess of fifteen percent (15%) of total gross revenue, as prescribed by Regulation. In the event this fifteen percent (15%) limit is exceeded, the entire gross income of such entity shall be subject to the applicable tax.
 - (2) Gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512, including all statutory definitions and determinations, the rules and regulations of the Commissioner of Internal Revenue, and his administrative interpretations and guidelines.

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- (3) (Reserved).
- (d) Except as may be provided elsewhere in this Chapter, transactions where customers are exempt organizations, proprietary clubs, public educational entities, governmental entities, or non-licensed businesses shall be deemed taxable transactions for the purpose of the imposition of taxes under this Chapter, notwithstanding that property so acquired may in fact be resold or leased by the acquiring person to others. In the case of sales, rentals, leases, or licenses to proprietary clubs or exempt organizations, the vendor may be relieved from the responsibility for reporting and paying tax on such income only by obtaining from its vendee a verified statement that includes:
- (1) a statement that when the property so acquired is resold, rented, leased, or licensed, that the otherwise exempt vendee chooses, or is required, to pay Town Privilege Tax or an equivalent excise tax on its gross income from such transactions and does in fact file returns on same; and
 - (2) the Privilege License number of the otherwise exempt vendee; and
 - (3) such other information as the Tax Collector may require.
- (e) Franchisees or concessionaires operating businesses for or on behalf of any exempt organization, governmental entity, public educational entity, proprietary club, or non-licensed business shall not be considered to be such an exempt organization, club, entity, or non-licensed business, but shall be deemed to be a taxpayer subject to the provisions of this Chapter, except as provided in the definition of governmental entity, regarding urban mass transit.
- (f) ~~(Reserved)~~IN ANY CASE, IF A FEDERALLY EXEMPT ORGANIZATION, PROPRIETARY CLUB, OR NON-LICENSED BUSINESS RENTS, LEASES, LICENSES, OR PURCHASES ANY TANGIBLE PERSONAL PROPERTY FOR ITS OWN STORAGE OR USE, AND NO TOWN PRIVILEGE OR USE TAX OR EQUIVALENT EXCISE TAX HAS BEEN PAID ON SUCH TRANSACTION, SAID ORGANIZATION, CLUB, OR BUSINESS SHALL BE LIABLE FOR THE USE TAX UPON SUCH ACQUISITIONS OR USE OF SUCH PROPERTY.

Section II. Model City Tax Code Section 9-280 is amended as follows, with an effective date of January 1, 2019

Sec. 9-280. (RESERVED) Exclusion of transactions with specified governmental agencies.

~~Notwithstanding provisions contained elsewhere in this Chapter, "gross income" derived from transactions that would be deemed taxable, if conducted with or for other customers or consumers, shall be deemed exempt from the taxes imposed by this Chapter when the customer or consumer is:~~

- ~~(1) the Federal Government.~~
- ~~(2) the State of Arizona, its departments and agencies, including the State universities maintained by the State Board of Regents; but not including State chartered or State insured banks, savings and loan institutions, and credit unions.~~
- ~~(3) any county of this State, its departments and agencies, including, but not limited to, public school districts.~~
- ~~(4) any other incorporated city or town in this State.~~
- ~~(5) this Town.~~

The 2018 Amendment to the Tax Code of the Town of Guadalupe

Section III. Model City Tax Code Section 9-300 is amended as follows, with an effective date of January 1, 2019

Sec. 9-300. Licensing requirements.

- (a) The following persons shall make application to the Tax Collector for a Transaction Privilege and Use Tax License and no person shall engage or continue in business or engage in such activities until he shall have such a license:
- (1) Every person engaging or continuing in business activities within the city or town upon which a Transaction Privilege Tax is imposed by this Chapter.
 - (2) ~~(Reserved)~~ EVERY PERSON ENGAGING OR CONTINUING IN BUSINESS WITHIN THE CITY OR TOWN AND STORING OR USING TANGIBLE PERSONAL PROPERTY IN THIS MUNICIPALITY UPON WHICH A USE TAX IS IMPOSED BY THIS CHAPTER.
 - (3) (Reserved)
- (b) For the purpose of determining whether a Transaction Privilege and Use Tax License is required, a person shall be deemed to be "engaging or continuing in business" within the city or town if:
- (1) engaging in any activity as a principal or broker, the gross receipts of which may be subject to Transaction Privilege Tax under Article IV of this Chapter, or
 - (2) maintaining within the city or town directly, or if a corporation by a subsidiary, an office, distribution house, sales house, warehouse or other place of business; maintaining within the city or town directly, or if a corporation by a subsidiary, any real or tangible personal property; or having any agent or other representative operating within the city or town under the authority of such person, or if a corporation by a subsidiary, irrespective of whether such place of business, property, or agent or other representative is located here permanently or temporarily, or
 - (3) soliciting sales, orders, contracts, leases, and other similar forms of business relationships, within the city or town from customers, consumers, or users located within the city or town, by means of salesmen, solicitors, agents, representatives, brokers, and other similar agents or by means of catalogs or other advertising, whether such orders are received or accepted within or without this city or town.
 - (4) ~~(Reserved)~~ A PERSON SHALL ALSO BE DEEMED TO BE "ENGAGING OR CONTINUING IN BUSINESS" IF ENGAGING IN ANY ACTIVITY SUBJECT TO USE TAX UNDER ARTICLE VI OF THIS CHAPTER FOR BUSINESS PURPOSES. INDIVIDUALS WHO ACQUIRE ITEMS SUBJECT TO USE TAX FOR THEIR OWN PERSONAL USE OR THEIR FAMILY'S PERSONAL USE ARE NOT REQUIRED TO OBTAIN A LICENSE.
 - (5) (Reserved)
- (c) A person engaging in more than one activity subject to Transaction Privilege Tax at any one business location is not required to obtain a separate license for each activity, provided that, at the

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time such person makes application for a license, he shall list on such application each category of activity in which he is engaged.

- (d) The licensee shall inform the Tax Collector of any changes in his business activities, location, or mailing address within thirty (30) days.
- (e) Limitation. The issuance of a Transaction Privilege and Use Tax License by the Tax Collector shall in no way be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.
- (f) Casual activity. For the purposes of this Chapter, individuals engaging in a “casual activity or sale” are not subject to the license requirements imposed under this Article provided that they are only engaged in private sales activities, such as the sale of a personal automobile or garage sale, on no more than three separate occasions during any calendar year.

Section IV. Model City Tax Code Section 9-415 is amended as follows, with an effective date of January 1, 2019

Sec. 9-415. Construction contracting: construction contractors.

- (a) The tax rate shall be at an amount equal to four percent (4%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the Town.
 - (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)
 - (3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 9-427.
 - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) Deductions and exemptions.
 - (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).
 - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

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(A) Section 9-465, subsections (g) and (p)

(B) ~~(Reserved)~~ SECTION 9-660, SUBSECTIONS (G) AND (P)

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

- (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g) that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
- (A) to be incorporated into real property.
 - (B) to become so affixed to real property that it becomes part of the real property.
 - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.

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- (9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the Town:
- (A) The certificate of qualification of the lake facility development issued by the Town pursuant to A.R.S. § 9-499.08, subsection D.
 - (B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
 - (C) Any other information considered to be necessary.
- (10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
- (A) the attributable amount shall not exceed the value of the development fees actually imposed.
 - (B) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
 - (C) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the Town, as applicable, for examination.
- (c) Subcontractor means a construction contractor performing work for either:
- (1) a construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his Town Privilege License number.
 - (2) an owner-builder who has provided the subcontractor with a written declaration that:

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- (A) the owner-builder is improving the property for sale; and
 - (B) the owner-builder is liable for the tax for such construction contracting activity; and
 - (C) the owner-builder has provided the contractor his Town Privilege License number.
- (3) a person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his Town Privilege License number.

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

Section V. Model City Tax Code Section 9-416 is amended as follows, with an effective date of January 1, 2019

Sec. 9-416. Construction contracting: speculative builders.

- (a) The tax shall be equal to four percent (4%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the Town.
 - (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 - (2) "Improved Real Property" means any real property:
 - (A) upon which a structure has been constructed; or
 - (B) where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (C) which has been reconstructed as provided by Regulation; or
 - (D) where water, power, and streets have been constructed to the property line.
- (b) "Sale of Improved Real Property" includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
- (c) "Partially Improved Residential Real Property," as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.
- (d) Exclusions.

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- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.
 - (2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.
 - (3) (Reserved)
 - (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
 - (A) The speculative builder purchasing the partially improved residential real property has a valid Town privilege license for construction contracting as a speculative builder; and
 - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the Town at the time of sale of the partially improved residential real property; and
 - (C) The seller also:
 - (i) maintains proper records of such transactions in a manner similar to the requirements provided in this chapter relating to sales for resale; and
 - (ii) retains a copy of the written declaration provided by the buyer for the transaction; and
 - (iii) is properly licensed with the Town as a speculative builder and provides the Town with the written declaration attached to the Town privilege tax return where he claims the exclusion.
 - (5) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (e) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions, relating to exemptions, deductions and tax credits:
- (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 9-465, subsections (g) and (p)
 - (ii) ~~(Reserved)~~ SECTION 9-465, SUBSECTIONS (G) AND (P)

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- (iii) shall be exempt or deductible, respectively, from the tax imposed by this Section.
- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (f) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this section.
- (g) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (h) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
 - (1) the attributable amount shall not exceed the value of the development fees actually imposed.
 - (2) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
 - (3) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (i) Deductions.
 - (1) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
 - (2) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the

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ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

- (A) to be incorporated into real property.
 - (B) to become so affixed to real property that it becomes part of the real property.
 - (C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (3) For taxable periods beginning from and after July 1, 2008 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the Town, as applicable, for examination.
- (j) Tax credits.
- (A) The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:
- (k) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (l) A tax credit equal to the amount of privilege taxes paid to this Town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (m) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

Section VI. Model City Tax Code Section 9-417 is amended as follows, with an effective date of January 1, 2019

Sec. 9-417. Construction contracting: owner-builders who are not speculative builders.

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to four percent (4%) of:

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- (1) the gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 9-415(c)(2); and
 - (2) the purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.
- (b) For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (c) The tax liability of this Section is subject to the following provisions, relating to exemptions, deductions and tax credits:
- (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 9-465, subsections (g) and (p)
 - (ii) ~~(Reserved)~~ SECTION 9-465, SUBSECTIONS (G) AND (P)
 shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
 - (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of cleanrooms that are deducted from the tax base of the retail classification pursuant to Section 9-465, subsection (g) shall be exempt from the tax imposed under this Section.
 - (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
 - (E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the

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taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:

- (i) the attributable amount shall not exceed the value of the development fees actually imposed.
- (ii) the attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
- (iii) "development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).
- (B) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 9-110, that is deducted from the retail classification pursuant to Section 9-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be exempt from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
 - (i) to be incorporated into real property.
 - (ii) to become so affixed to real property that it becomes part of the real property.
 - (iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

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

(3) Tax credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

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

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

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

(d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 9-540, will be based on reportable date.

(e) (Reserved)

Section VII. Model City Tax Code Section 9-600 is amended as follows, with an effective date of January 1, 2019

Sec. 9-600. ~~(Reserved)~~ USE TAX: DEFINITIONS.

FOR THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING DEFINITIONS SHALL APPLY, IN ADDITION TO THE DEFINITIONS PROVIDED IN ARTICLE I:

"ACQUIRE (FOR STORAGE OR USE)" MEANS PURCHASE, RENT, LEASE, OR LICENSE FOR STORAGE OR USE.

"RETAILER" ALSO MEANS ANY PERSON SELLING, RENTING, LICENSING FOR USE, OR LEASING TANGIBLE PERSONAL PROPERTY UNDER CIRCUMSTANCES WHICH WOULD

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RENDER SUCH TRANSACTIONS SUBJECT TO THE TAXES IMPOSED IN ARTICLE IV, IF SUCH TRANSACTIONS HAD OCCURRED WITHIN THIS TOWN.

"STORAGE (WITHIN THE TOWN)" MEANS THE KEEPING OR RETAINING OF TANGIBLE PERSONAL PROPERTY AT A PLACE WITHIN THE TOWN FOR ANY PURPOSE, EXCEPT FOR THOSE ITEMS ACQUIRED SPECIFICALLY AND SOLELY FOR THE PURPOSE OF SALE, RENTAL, LEASE, OR LICENSE FOR USE IN THE REGULAR COURSE OF BUSINESS OR FOR THE PURPOSE OF SUBSEQUENT USE SOLELY OUTSIDE THE TOWN.

"USE (OF TANGIBLE PERSONAL PROPERTY)" MEANS CONSUMPTION OR EXERCISE OF ANY OTHER RIGHT OR POWER OVER TANGIBLE PERSONAL PROPERTY INCIDENT TO THE OWNERSHIP THEREOF EXCEPT THE HOLDING FOR THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH PROPERTY IN THE REGULAR COURSE OF BUSINESS.

Section VIII. Model City Tax Code Section 9-610 is amended as follows, with an effective date of January 1, 2019

Sec. 9-610. (~~Reserved~~)USE TAX: IMPOSITION OF TAX; PRESUMPTION.

- (a) THERE IS HEREBY LEVIED AND IMPOSED, SUBJECT TO ALL OTHER PROVISIONS OF THIS CHAPTER, AN EXCISE TAX ON THE STORAGE OR USE IN THE TOWN OF TANGIBLE PERSONAL PROPERTY, FOR THE PURPOSE OF RAISING REVENUE TO BE USED IN DEFRAYING THE NECESSARY EXPENSES OF THE TOWN, SUCH TAXES TO BE COLLECTED BY THE TAX COLLECTOR.
- (b) THE TAX RATE SHALL BE AT AN AMOUNT EQUAL TO FOUR PERCENT (4%) OF THE:
- (1) COST OF TANGIBLE PERSONAL PROPERTY ACQUIRED FROM A RETAILER, UPON EVERY PERSON STORING OR USING SUCH PROPERTY IN THIS TOWN.
 - (2) GROSS INCOME FROM THE BUSINESS ACTIVITY UPON EVERY PERSON MEETING THE REQUIREMENTS OF SUBSECTION 9-620(B) OR (C) WHO IS ENGAGED OR CONTINUING IN THE BUSINESS ACTIVITY OF SALES, RENTALS, LEASES, OR LICENSES OF TANGIBLE PERSONAL PROPERTY TO PERSONS WITHIN THE TOWN FOR STORAGE OR USE WITHIN THE TOWN, TO THE EXTENT THAT TAX HAS BEEN COLLECTED UPON SUCH TRANSACTION.
 - (3) COST OF THE TANGIBLE PERSONAL PROPERTY PROVIDED UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.
 - (4) COST OF COMPLIMENTARY ITEMS PROVIDED TO PATRONS WITHOUT ITEMIZED CHARGE BY A RESTAURANT, HOTEL, OR OTHER BUSINESS.
 - (5) COST OF FOOD CONSUMED BY THE OWNER OR BY EMPLOYEES OR AGENTS OF THE OWNER OF A RESTAURANT OR BAR SUBJECT TO THE PROVISIONS OF SECTION 9-455 OF THIS CHAPTER.

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- (c) IT SHALL BE PRESUMED THAT ALL TANGIBLE PERSONAL PROPERTY ACQUIRED BY ANY PERSON WHO AT THE TIME OF SUCH ACQUISITION RESIDES IN THE TOWN IS ACQUIRED FOR STORAGE OR USE IN THIS TOWN, UNTIL THE CONTRARY IS ESTABLISHED BY THE TAXPAYER.
- (d) EXCLUSIONS. FOR THE PURPOSES OF THIS ARTICLE, THE ACQUISITION OF THE FOLLOWING SHALL NOT BE DEEMED TO BE THE PURCHASE, RENTAL, LEASE, OR LICENSE OF TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE WITHIN THE TOWN:
- (1) STOCKS, BONDS, OPTIONS, OR OTHER SIMILAR MATERIALS.
 - (2) LOTTERY TICKETS OR SHARES SOLD PURSUANT TO ARTICLE I, CHAPTER 5, TITLE 5, ARIZONA REVISED STATUTES.
 - (3) PLATINUM, BULLION, OR MONETIZED BULLION, EXCEPT MINTED OR MANUFACTURED COINS TRANSFERRED OR ACQUIRED PRIMARILY FOR THEIR NUMISMATIC VALUE AS PRESCRIBED BY REGULATION.
- (e) (RESERVED)
- (f) (RESERVED)

Section IX. Model City Tax Code Section 9-620 is amended as follows, with an effective date of January 1, 2019

Sec. 9-620. ~~(Reserved)~~USE TAX: LIABILITY FOR TAX.

THE FOLLOWING PERSONS SHALL BE DEEMED LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE; AND SUCH LIABILITY SHALL NOT BE EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS TOWN, EXCEPT THAT A RECEIPT FROM A RETAILER SEPARATELY CHARGING THE TAX IMPOSED BY THIS CHAPTER IS SUFFICIENT TO RELIEVE THE PERSON ACQUIRING SUCH PROPERTY FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS:

- (a) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER, WHETHER OR NOT SUCH RETAILER IS LOCATED IN THIS TOWN, WHEN SUCH PERSON STORES OR USES SAID PROPERTY WITHIN THE TOWN.
- (b) ANY RETAILER NOT LOCATED WITHIN THE TOWN, SELLING, RENTING, LEASING, OR LICENSING TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE OF SUCH PROPERTY WITHIN THE TOWN, MAY OBTAIN A LICENSE FROM THE TAX COLLECTOR AND COLLECT THE USE TAX ON SUCH TRANSACTIONS. SUCH RETAILER SHALL BE LIABLE FOR THE USE TAX TO THE EXTENT SUCH USE TAX IS COLLECTED FROM HIS CUSTOMERS.
- (c) EVERY AGENT WITHIN THE TOWN OF ANY RETAILER NOT MAINTAINING AN OFFICE OR PLACE OF BUSINESS IN THIS TOWN, WHEN SUCH PERSON SELLS, RENTS,

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LEASES, OR LICENSES TANGIBLE PERSONAL PROPERTY FOR STORAGE OR USE IN THIS TOWN SHALL, AT THE TIME OF SUCH TRANSACTION, COLLECT AND BE LIABLE FOR THE TAX IMPOSED BY THIS ARTICLE UPON THE STORAGE OR USE OF THE PROPERTY SO TRANSFERRED, UNLESS SUCH RETAILER OR AGENT IS LIABLE FOR AN EQUIVALENT EXCISE TAX UPON THE TRANSACTION.

- (d) ANY PERSON WHO ACQUIRES TANGIBLE PERSONAL PROPERTY FROM A RETAILER LOCATED IN THE TOWN AND SUCH PERSON CLAIMS TO BE EXEMPT FROM THE TOWN PRIVILEGE OR USE TAX AT THE TIME OF THE TRANSACTION, AND UPON WHICH NO TOWN PRIVILEGE TAX WAS CHARGED OR PAID, WHEN SUCH CLAIM IS NOT SUSTAINABLE.
- (e) EVERY PERSON STORING OR USING TANGIBLE PERSONAL PROPERTY UNDER THE CONDITIONS OF A WARRANTY, MAINTENANCE, OR SERVICE CONTRACT.

Section X. Model City Tax Code Section 9-630 is amended as follows, with an effective date of January 1, 2019

Sec. 9-630. ~~(Reserved)~~ USE TAX: RECORDKEEPING REQUIREMENTS.

ALL DEDUCTIONS, EXCLUSIONS, EXEMPTIONS, AND CREDITS PROVIDED IN THIS ARTICLE ARE CONDITIONAL UPON ADEQUATE PROOF OF DOCUMENTATION AS REQUIRED BY ARTICLE III OR ELSEWHERE IN THIS CHAPTER.

Section XI. Model City Tax Code Section 9-640 is amended as follows, with an effective date of January 1, 2019

Sec. 9-640. ~~(Reserved)~~ USE TAX: CREDIT FOR EQUIVALENT EXCISE TAXES PAID ANOTHER JURISDICTION.

IN THE EVENT THAT AN EQUIVALENT EXCISE TAX HAS BEEN LEVIED AND PAID UPON TANGIBLE PERSONAL PROPERTY WHICH IS ACQUIRED TO BE STORED OR USED WITHIN THIS TOWN, FULL CREDIT FOR ANY AND ALL SUCH TAXES SO PAID SHALL BE ALLOWED BY THE TAX COLLECTOR BUT ONLY TO THE EXTENT USE TAX IS IMPOSED UPON THAT TRANSACTION BY THIS ARTICLE.

Section XII. Model City Tax Code Section 9-650 is amended as follows, with an effective date of January 1, 2019

Sec. 9-650. ~~(Reserved)~~ USE TAX: EXCLUSION WHEN ACQUISITION SUBJECT TO USE TAX IS TAXED OR TAXABLE ELSEWHERE IN THIS CHAPTER; LIMITATION.

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THE TAX LEVIED BY THIS ARTICLE DOES NOT APPLY TO THE STORAGE OR USE IN THIS TOWN OF TANGIBLE PERSONAL PROPERTY ACQUIRED IN THIS TOWN, THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE OF WHICH WERE INCLUDED IN THE MEASURE OF THE TAX IMPOSED BY ARTICLE IV OF THIS CHAPTER; PROVIDED, HOWEVER, THAT ANY PERSON WHO HAS ACQUIRED TANGIBLE PERSONAL PROPERTY FROM A VENDOR IN THIS TOWN WITHOUT PAYING THE TOWN PRIVILEGE TAX BECAUSE OF A REPRESENTATION TO THE VENDOR THAT THE PROPERTY WAS NOT SUBJECT TO SUCH TAX, WHEN SUCH CLAIM IS NOT SUSTAINABLE, MAY NOT CLAIM THE EXCLUSION FROM SUCH USE TAX PROVIDED BY THIS SECTION.

Section XIII. Model City Tax Code Section 9-660 is amended as follows, with an effective date of January 1, 2019

Sec. 9-660. ~~(Reserved)~~ USE TAX: EXEMPTIONS.

THE STORAGE OR USE IN THIS TOWN OF THE FOLLOWING TANGIBLE PERSONAL PROPERTY IS EXEMPT FROM THE USE TAX IMPOSED BY THIS ARTICLE:

- (a) TANGIBLE PERSONAL PROPERTY BROUGHT INTO THE TOWN BY AN INDIVIDUAL WHO WAS NOT A RESIDENT OF THE TOWN AT THE TIME THE PROPERTY WAS ACQUIRED FOR HIS OWN USE, IF THE FIRST ACTUAL USE OF SUCH PROPERTY WAS OUTSIDE THE TOWN, UNLESS SUCH PROPERTY IS USED IN CONDUCTING A BUSINESS IN THIS TOWN.
- (b) TANGIBLE PERSONAL PROPERTY, THE VALUE OF WHICH DOES NOT EXCEED THE AMOUNT OF ONE THOUSAND DOLLARS (\$1,000) PER ITEM, ACQUIRED BY AN INDIVIDUAL OUTSIDE THE LIMITS OF THE TOWN FOR HIS PERSONAL USE AND ENJOYMENT.
- (c) CHARGES FOR DELIVERY, INSTALLATION, OR OTHER CUSTOMER SERVICES, AS PRESCRIBED BY REGULATION.
- (d) CHARGES FOR REPAIR SERVICES, AS PRESCRIBED BY REGULATION.
- (e) SEPARATELY ITEMIZED CHARGES FOR WARRANTY, MAINTENANCE, AND SERVICE CONTRACTS.
- (f) PROSTHETICS.
- (g) INCOME-PRODUCING CAPITAL EQUIPMENT.
- (h) RENTAL EQUIPMENT AND RENTAL SUPPLIES.
- (i) MINING AND METALLURGICAL SUPPLIES.
- (j) MOTOR VEHICLE FUEL AND USE FUEL WHICH ARE USED UPON THE HIGHWAYS OF THIS STATE AND UPON WHICH A TAX HAS BEEN IMPOSED UNDER THE PROVISIONS OF ARTICLE I OR II, CHAPTER 16, TITLE 28, ARIZONA REVISED STATUTES.

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- (k) TANGIBLE PERSONAL PROPERTY PURCHASED BY A CONSTRUCTION CONTRACTOR, BUT NOT AN OWNER-BUILDER, WHEN SUCH PERSON HOLDS A VALID PRIVILEGE LICENSE FOR ENGAGING OR CONTINUING IN THE BUSINESS OF CONSTRUCTION CONTRACTING, AND WHERE THE PROPERTY ACQUIRED IS INCORPORATED INTO ANY STRUCTURE OR IMPROVEMENT TO REAL PROPERTY IN FULFILLMENT OF A CONSTRUCTION CONTRACT.
- (l) SALES OF MOTOR VEHICLES TO NONRESIDENTS OF THIS STATE FOR USE OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE MOTOR VEHICLE TO A DESTINATION OUTSIDE THIS STATE.
- (m) TANGIBLE PERSONAL PROPERTY WHICH DIRECTLY ENTERS INTO AND BECOMES AN INGREDIENT OR COMPONENT PART OF A PRODUCT SOLD IN THE REGULAR COURSE OF THE BUSINESS OF JOB PRINTING, MANUFACTURING, OR PUBLICATION OF NEWSPAPERS, MAGAZINES OR OTHER PERIODICALS. TANGIBLE PERSONAL PROPERTY WHICH IS CONSUMED OR USED UP IN A MANUFACTURING, JOB PRINTING, PUBLISHING, OR PRODUCTION PROCESS IS NOT AN INGREDIENT NOR COMPONENT PART OF A PRODUCT.
- (n) RENTAL, LEASING, OR LICENSING FOR USE OF FILM, TAPE, OR SLIDES BY A THEATER OR OTHER PERSON TAXED UNDER SECTION 9-410, OR BY A RADIO STATION, TELEVISION STATION, OR SUBSCRIPTION TELEVISION SYSTEM.
- (o) FOOD SERVED TO PATRONS FOR A CONSIDERATION BY ANY PERSON ENGAGED IN A BUSINESS PROPERLY LICENSED AND TAXED UNDER SECTION 9-455, BUT NOT FOOD CONSUMED BY OWNERS, AGENTS, OR EMPLOYEES OF SUCH BUSINESS.
- (p) TANGIBLE PERSONAL PROPERTY ACQUIRED BY A QUALIFYING HOSPITAL, QUALIFYING COMMUNITY HEALTH CENTER OR A QUALIFYING HEALTH CARE ORGANIZATION, EXCEPT WHEN THE PROPERTY IS IN FACT USED IN ACTIVITIES RESULTING IN GROSS INCOME FROM UNRELATED BUSINESS INCOME AS THAT TERM IS DEFINED IN 26 U.S.C. SECTION 512.
- (q) (RESERVED)
- (r) THE FOLLOWING TANGIBLE PERSONAL PROPERTY PURCHASED BY PERSONS ENGAGING OR CONTINUING IN THE BUSINESS OF FARMING, RANCHING, OR FEEDING LIVESTOCK, POULTRY OR RATITES:
 - (1) SEED, FERTILIZER, FUNGICIDES, SEED TREATING CHEMICALS, AND OTHER SIMILAR CHEMICALS.
 - (2) FEED FOR LIVESTOCK, POULTRY OR RATITES, INCLUDING SALT, VITAMINS, AND OTHER ADDITIVES TO SUCH FEED.
 - (3) LIVESTOCK, POULTRY OR RATITES PURCHASED OR RAISED FOR SLAUGHTER, BUT NOT INCLUDING LIVESTOCK PURCHASED OR RAISED FOR PRODUCTION OR USE, SUCH AS MILCH COWS, BREEDING BULLS, LAYING HENS, RIDING OR WORK HORSES.

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(4) NEAT ANIMALS, HORSES, ASSES, SHEEP, SWINE, OR GOATS ACQUIRED FOR THE PURPOSE OF BECOMING BREEDING OR PRODUCTION STOCK, INCLUDING THE ACQUISITION OF BREEDINGS OR OWNERSHIP SHARES IN SUCH ANIMALS.

THIS EXEMPTION SHALL NOT BE CONSTRUED TO INCLUDE MACHINERY, EQUIPMENT, FUELS, LUBRICANTS, PHARMACEUTICALS, REPAIR AND REPLACEMENT PARTS, OR OTHER ITEMS USED OR CONSUMED IN THE RUNNING, MAINTENANCE, OR REPAIR OF MACHINERY, EQUIPMENT, BUILDINGS, OR STRUCTURES USED OR CONSUMED IN THE BUSINESS OF FARMING, RANCHING, OR FEEDING OF LIVESTOCK, POULTRY OR RATITES.

- (s) GROUNDWATER MEASURING DEVICES REQUIRED BY A.R.S. SECTION 45-604.
- (t) (RESERVED)
- (u) AIRCRAFT ACQUIRED FOR USE OUTSIDE THE STATE, AS PRESCRIBED BY REGULATION.
- (v) SALES OF FOOD PRODUCTS BY PRODUCERS AS PROVIDED FOR BY A.R.S. SECTION 3-561, 3-562 AND 3-563.
- (w) (RESERVED)
- (x) FOOD AND DRINK PROVIDED BY A PERSON WHO IS ENGAGED IN BUSINESS THAT IS CLASSIFIED UNDER THE RESTAURANT CLASSIFICATION WITHOUT MONETARY CHARGE TO ITS EMPLOYEES FOR THEIR OWN CONSUMPTION ON THE PREMISES DURING SUCH EMPLOYEES' HOURS OF EMPLOYMENT.
- (y) (RESERVED)
- (z) TANGIBLE PERSONAL PROPERTY USED OR STORED BY THIS TOWN.
- (aa) TANGIBLE PERSONAL PROPERTY USED IN REMEDIATION CONTRACTING AS DEFINED IN SECTION 9-100 AND REGULATION 9-100.5.
- (bb) MATERIALS THAT ARE PURCHASED BY OR FOR PUBLICLY FUNDED LIBRARIES INCLUDING SCHOOL DISTRICT LIBRARIES, CHARTER SCHOOL LIBRARIES, COMMUNITY COLLEGE LIBRARIES, STATE UNIVERSITY LIBRARIES OR FEDERAL, STATE, COUNTY OR MUNICIPAL LIBRARIES FOR USE BY THE PUBLIC AS FOLLOWS:
 - (1) PRINTED OR PHOTOGRAPHIC MATERIALS.
 - (2) ELECTRONIC OR DIGITAL MEDIA MATERIALS.
- (cc) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES USED FOR SERVING FOOD AND BEVERAGES BY A COMMERCIAL AIRLINE, AS DEFINED IN A.R.S. SECTION 42-5061(A)(49), THAT SERVES THE FOOD AND BEVERAGES TO ITS PASSENGERS, WITHOUT ADDITIONAL CHARGE, FOR CONSUMPTION IN FLIGHT. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR

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- OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (dd) WIRELESS TELECOMMUNICATION EQUIPMENT THAT IS HELD FOR SALE OR TRANSFER TO A CUSTOMER AS AN INDUCEMENT TO ENTER INTO OR CONTINUE A CONTRACT FOR TELECOMMUNICATION SERVICES THAT ARE TAXABLE UNDER SECTION 9-470.
- (ee) (RESERVED)
- (ff) ALTERNATIVE FUEL AS DEFINED IN A.R.S. SECTION 1-215, BY A USED OIL FUEL BURNER WHO HAS RECEIVED A DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT TO BURN USED OIL OR USED OIL FUEL UNDER A.R.S. SECTION 49-426 OR SECTION 49-480.
- (gg) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A PUBLIC EDUCATIONAL ENTITY, PURSUANT TO ANY OF THE PROVISIONS OF TITLE 15, ARIZONA REVISED STATUTES, INCLUDING A REGULARLY ORGANIZED PRIVATE OR PAROCHIAL SCHOOL THAT OFFERS AN EDUCATIONAL PROGRAM FOR GRADE TWELVE OR UNDER WHICH MAY BE ATTENDED IN SUBSTITUTION FOR A PUBLIC SCHOOL PURSUANT TO A.R.S. 15-802; TO THE EXTENT SUCH ITEMS ARE TO BE PREPARED OR SERVED TO INDIVIDUALS FOR CONSUMPTION ON THE PREMISES OF A PUBLIC EDUCATIONAL ENTITY DURING SCHOOL HOURS. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (hh) PERSONAL HYGIENE ITEMS PURCHASED BY A PERSON ENGAGED IN THE BUSINESS OF AND SUBJECT TO TAX UNDER SECTION 9-444 OF THIS CODE IF THE TANGIBLE PERSONAL PROPERTY IS FURNISHED WITHOUT ADDITIONAL CHARGE TO AND INTENDED TO BE CONSUMED BY THE PERSON DURING HIS OCCUPANCY.
- (ii) (II) THE DIVERSION OF GAS FROM A PIPELINE BY A PERSON ENGAGED IN THE BUSINESS OF OPERATING A NATURAL OR ARTIFICIAL GAS PIPELINE, FOR THE SOLE PURPOSE OF FUELING COMPRESSOR EQUIPMENT TO PRESSURIZE THE PIPELINE, IS NOT A SALE OF THE GAS TO THE OPERATOR OF THE PIPELINE.
- (jj) FOOD, BEVERAGES, CONDIMENTS AND ACCESSORIES PURCHASED BY OR FOR A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED AS AN EXEMPT ORGANIZATION UNDER 26 U.S.C SECTION 501(C)(3) AND REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A CONTINUING BASIS AT NO COST. FOR THE PURPOSES OF THIS SUBSECTION, "ACCESSORIES" MEANS PAPER PLATES, PLASTIC EATING UTENSILS, NAPKINS, PAPER CUPS, DRINKING STRAWS, PAPER SACKS OR OTHER DISPOSABLE CONTAINERS, OR OTHER ITEMS WHICH FACILITATE THE CONSUMPTION OF THE FOOD.
- (kk) SALES OF MOTOR VEHICLES THAT USE ALTERNATIVE FUEL IF SUCH VEHICLE WAS MANUFACTURED AS A DIESEL FUEL VEHICLE AND CONVERTED TO OPERATE ON

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- ALTERNATIVE FUEL AND SALES OF EQUIPMENT THAT IS INSTALLED IN A CONVENTIONAL DIESEL FUEL MOTOR VEHICLE TO CONVERT THE VEHICLE TO OPERATE ON AN ALTERNATIVE FUEL, AS DEFINED IN A.R.S. SECTION 1-215.
- (ll) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.
- (mm) RENEWABLE ENERGY CREDITS OR ANY OTHER UNIT CREATED TO TRACK ENERGY DERIVED FROM RENEWABLE ENERGY RESOURCES. FOR THE PURPOSES OF THIS PARAGRAPH, "RENEWABLE ENERGY CREDIT" MEANS A UNIT CREATED ADMINISTRATIVELY BY THE CORPORATION COMMISSION OR GOVERNING BODY OF A PUBLIC POWER UTILITY TO TRACK KILOWATT HOURS OF ELECTRICITY DERIVED FROM A RENEWABLE ENERGY RESOURCE OR THE KILOWATT HOUR EQUIVALENT OF CONVENTIONAL ENERGY RESOURCES DISPLACED BY DISTRIBUTED RENEWABLE ENERGY RESOURCES.
- (nn) MAGAZINES OR OTHER PERIODICALS OR OTHER PUBLICATIONS BY THIS STATE TO ENCOURAGE TOURIST TRAVEL.
- (oo) PAPER MACHINE CLOTHING, SUCH AS FORMING FABRICS AND DRYER FELTS, SOLD TO A PAPER MANUFACTURER AND DIRECTLY USED OR CONSUMED IN PAPER MANUFACTURING.
- (pp) OVERHEAD MATERIALS OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS USED IN PERFORMING A CONTRACT BETWEEN THE UNITED STATES GOVERNMENT AND A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, INCLUDING PROPERTY USED IN PERFORMING A SUBCONTRACT WITH A GOVERNMENT CONTRACTOR WHO IS A MANUFACTURER, MODIFIER, ASSEMBLER OR REPAIRER, TO WHICH TITLE PASSES TO THE GOVERNMENT UNDER THE TERMS OF THE CONTRACT OR SUBCONTRACT.
- (qq) COAL, PETROLEUM, COKE, NATURAL GAS, VIRGIN FUEL OIL AND ELECTRICITY SOLD TO A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR AS DEFINED IN A.R.S. SECTION 41-1514.02 AND DIRECTLY USED OR CONSUMED IN THE GENERATION OR PROVISION OF ON-SITE POWER OR ENERGY SOLELY FOR ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING OR ENVIRONMENTAL PROTECTION. THIS PARAGRAPH SHALL APPLY FOR TWENTY FULL CONSECUTIVE CALENDAR OR FISCAL YEARS FROM THE DATE THE FIRST PAPER MANUFACTURING MACHINE IS PLACED IN SERVICE. IN THE CASE OF AN ENVIRONMENTAL TECHNOLOGY MANUFACTURER, PRODUCER OR PROCESSOR WHO DOES NOT MANUFACTURE PAPER, THE TIME PERIOD SHALL BEGIN WITH THE DATE THE FIRST MANUFACTURING, PROCESSING OR PRODUCTION EQUIPMENT IS PLACED IN SERVICE.
- (rr) MACHINERY, EQUIPMENT, MATERIALS AND OTHER TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND PREDOMINANTLY TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING

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FACILITY AS DESCRIBED IN A.R.S. SECTION 41-1514.02. THIS SUBSECTION APPLIES FOR TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.

(ss) (RESERVED)

Section XIV. Model City Tax Code Regulation 9-115.1 is amended as follows, with an effective date of January 1, 2019

Reg.9-115.1. Computer hardware, software, and data services.

(a) Definitions.

- (1) "Computer Hardware" (also called "computer equipment" or "peripherals") is the components and accessories which constitute the physical computer assembly, including but not limited to: central processing unit, keyboard, console, monitor, memory unit, disk drive, tape drive or reader, terminal, printer, plotter, modem, document sorter, optical reader and/or digitizer, network.
- (2) "Computer Software" (also called "computer program") is tangible personal property, and includes:
 - (A) "Operating Program (Software)" (also called "executive program (software)"), which is the programming system or technical language upon which or by means of which the basic operating procedures of the computer are recorded. The operating program serves as an interface with user applied programs and allows the user to access the computer's processing capabilities.
 - (B) "Applied Program (Software)", which is the programming system or technical language (including the tape, disk, cards, or other medium upon which such language or program is recorded) designed either for application in a specialized use, or upon which or by means of which a plan for the solution of a particular problem is based. Typically, applied programs can be transferred from one computer to another via storage media. Examples of applied programs include: payroll processing, general ledger, sales data, spreadsheet, word processing, and data management programs.
- (3) "Storage Medium" is any hard disk, compact disk, floppy disk, diskette, diskpack, magnetic tape, cards, or other medium used for storage of information in a form readable by a computer, but not including the memory of the computer itself.
- (4) A "Terminal Arrangement" (also called "'on-line' arrangement") is any agreement allowing access to a remote central processing unit through telecommunications via hardware.
- (5) A "Computer Services Agreement" (also called "data services agreement") is an agreement allowing access to a computer through a third-party operator.

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- (b) For the purposes of this Chapter, transfer of title and possession of the following are deemed sales of tangible personal property and any other transfer of title, possession, or right to use for a consideration of the following is deemed rental, leasing, or licensing of tangible personal property:
- (1) Computer hardware or storage media. Rental, leasing, or licensing for use of computer hardware or storage media includes the lessee's use of such hardware or storage media on the lessor's premises.
 - (2) Computer software which is not custom computer programming. Such prewritten ("canned") programs may be transferred to a customer in the form of punched cards, magnetic tape, or other storage medium, or by listing the program instructions on coding sheets. Transfer is deemed to have occurred whether title to the storage medium upon which the program is recorded, coded, or punched passes to the customer or the program is recorded, coded, or punched on storage medium furnished by the customer. Gross income from the transfer of such prewritten programs includes:
 - (A) the entire amount charged to the customer for the sale, rental, lease, or license for use of the storage medium or coding sheets on which or into which the prewritten program has been recorded, coded, or punched.
 - (B) the entire amount charged for the temporary transfer or possession of a prewritten program to be directly used or to be recorded, coded, or punched by the customer on the customer's premises.
 - (C) license fees, royalty fees, or program design fees; any fee present or future, whether for a period of minimum use or of use for extended periods, relating to the use of a prewritten program.
 - (D) the entire amount charged for transfer of a prewritten ("canned") program by remote telecommunications from the transferor's place of business to or through the customer's computer.
 - (E) any charge for the purchase of a maintenance contract which entitles the customer to receive storage media on which prewritten program improvements or error corrections have been recorded or to receive telephone or on-site consultation services, provided that:
 - (i) if such maintenance contract is not optional with the customer, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
 - (ii) if such maintenance contract is optional with the customer but the customer does not have the option to purchase the consultation services separately from the storage media containing the improvements or error corrections, then the charges for the maintenance contract, including the consultation services, are deemed gross income from the transfer of the prewritten program.
 - (iii) if such maintenance contract is optional with the customer and the customer may purchase the consultation services separately from the

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storage media containing the improvements or error corrections, then only the charges for such improvements or error corrections are deemed gross income from the transfer of a prewritten program and charges for consultation are deemed to be charges for professional services.

- (c) Producing the following by means of computer hardware is deemed to be the activity of job printing for the purposes of this Chapter:
- (1) statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer; except as provided in subsection (e) below.
 - (2) additional copies of records, reports, manuals, tabulations, etc. "Additional Copies" are any copies in excess to those produced simultaneously with the production of the original and on the same printer, whether such copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.
- (d) Charges for the use of communications channel in conjunction with a terminal arrangement or data services agreement are deemed gross income from the activity of providing telecommunication services.
- (e) The following transactions are deemed direct customer services, provided that charges for such services are separately stated and maintained as provided by Regulation 9-100.2(e):
- (1) "Custom (Computer) Programming", which is any computer software which is written or prepared for a single customer, including those services represented by separately stated charges for the modification of existing prewritten programs.
 - (A) Custom computer programming is deemed a professional service regardless of the form in which the programming is transferred.
 - (B) Custom programming includes such programming performed in connection with the sale, rental, lease, or license for use of computer hardware, provided that the charges for such are separately stated from the charges for the hardware.
 - (C) Custom computer programming includes a program prepared to the special order of a customer who will use the program to produce copies of the program for sale, rental, lease, or license. The subsequent sale, rental, lease, or license of such a program is deemed the sale, rental, lease, or license of a prewritten program.
 - (2) Training services related to computer hardware or software, provided further that:
 - (A) the provider of such training services is deemed the ultimate consumer of all tangible personal property used in training others or provided to such trainees without separately itemized charge for the materials provided.
 - (B) training deemed a direct customer service does not include:
 - (i) training materials, books, manuals, etc. furnished to customers for a charge separate from the charge for training services.

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- (ii) training provided to customers without separate charge as part of the sale, rental, lease, or license of computer hardware or software, or as part of a terminal arrangement or data services agreement.
- (3) The use of computer time through the use of a terminal arrangement or a data service agreement, but not charges for computer hardware located at the customer's place of business (for example, the terminal, a printer attached to the terminal, a modem used to communicate with the remote central processing unit over a telephone line).
- (4) Compiling and producing, as part of a terminal arrangement or computer services agreement, original copies of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or other information for the same person who supplied the raw data used to create such reports.
- (f) ~~(Reserved)~~THE PURCHASE, RENTAL, LEASE, OR LICENSE FOR USE OF COMPUTER HARDWARE, STORAGE MEDIA, OR COMPUTER SOFTWARE WHICH IS NOT DEEMED CUSTOM PROGRAMMING IS DEEMED THE USE OR STORAGE OF TANGIBLE PERSONAL PROPERTY FOR THE PURPOSE OF THIS CHAPTER, AND THE AMOUNT WHICH MAY BE SUBJECT TO USE TAX SHALL BE DETERMINED IN THE SAME MANNER AS THE DETERMINATION OF THE GROSS INCOME FROM THE SALE, RENTAL, LEASE, OR LICENSE FOR USE OF SUCH.

