

**GUIDE TO PREPARING AND ADOPTING  
LOCAL LAWS**

Prepared by

**League of Arizona Cities and Towns**

1820 West Washington Street

Phoenix, Arizona 85007

(602) 258-5786

[www.azleague.org](http://www.azleague.org)

**September 2019**

# TABLE OF CONTENTS

	<u>PAGE</u>
<b>INTRODUCTION</b> .....	1
<b>ORDINANCES AND RESOLUTIONS</b>	
DEFINITION AND USE OF ORDINANCES.....	2
PREPARATION AND ADOPTION OF ORDINANCES.....	2
ADOPTION BY REFERENCE.....	6
DEFINITION AND USE OF RESOLUTIONS .....	7
PREPARATION AND ADOPTION OF RESOLUTIONS .....	7
CONCLUSION.....	7
<b>PUBLICATION AND NOTICE REQUIREMENTS</b>	
TYPES OF PUBLIC NOTICES REQUIRING PUBLICATION .....	8
PLACE OF PUBLICATION .....	8
FREQUENCY OF PUBLICATION.....	9
FORM OF PUBLICATION .....	10
WEBSITE POSTINGS .....	10
SPECIFIC PUBLICATION REQUIREMENTS.....	11
CONCLUSION.....	29
<b>EXHIBIT ONE</b>	
SAMPLE ORDINANCE .....	XXX
<b>EXHIBIT TWO</b>	
ORDINANCE SAMPLE DISPLAYING USE OF LEGISLATIVE STYLE .....	XXXXII

**EXHIBIT THREE**

MODEL FORM FOR CERTIFICATION OF COUNCIL MINUTES .....XXXV

**EXHIBIT FOUR**

SAMPLE CERTIFICATE OF POSTING FOR A PENAL ORDINANCE .....XXXVI

**EXHIBIT FIVE**

ADOPTION BY REFERENCE..... XXXVII

**EXHIBIT SIX**

SAMPLE PUBLIC NOTICE; TAX CODE AMENDMENTS ..... XL

## INTRODUCTION

State law and local charters provide cities and towns with the authority to adopt ordinances and resolutions. These are local laws and regulations that govern how the city or town operates. They also may declare certain actions criminal or civil offenses. The first half of this report will define and discuss ordinances and resolutions, what they are used for and how they are prepared and adopted.

Some actions require publication in a local newspaper or other types of notice. The second half of this report describes the frequency, location and type of publication necessary for municipal ordinances, bids, contracts and other such matters as specified in state law as well as other notice requirements. (Charter cities may have provisions concerning publication or notice requirements which supersede general law requirements.) In this internet age, there are also website posting requirements that now apply to cities and towns. We have included these in the publication as well.

We hope cities and towns will refer to this publication when creating local laws and informing the public of their activities. As always, please give us a call if you have any questions or comments about this publication.

## **ORDINANCES AND RESOLUTIONS**

### **DEFINITION AND USE OF ORDINANCES**

An ordinance is a local law of a city or town. It is formally defined as a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform and permanent rules of conduct relating to the corporate affairs of the municipality.

Ordinances are general or special depending upon their subject matter. General ordinances impose certain restrictions upon the community and upon the administration of the municipal government. General ordinances amend, repeal or add to the city/town code. An example of a general ordinance is a dog leash law. This general ordinance would affect everyone in the community.

Special ordinances are specific to a property, person or corporation and are not usually placed in the city/town code. An example of a special ordinance is the annexation or rezoning of a particular piece of property. In this case, the ordinance affects only the specific piece of property, not the entire community.

Ordinances may be legislative or administrative although the difference between the two may be difficult to discern in some cases. Administrative ordinances are exempt from some of the requirements usually applied to ordinances such as the 30-day delay in the effective date and being subject to a referendum. Administrative ordinances may carry out previously adopted legislative policy or may be one time events rather than permanent enactments. An example of an administrative ordinance is an ordinance issuing previously approved bonds.

Ordinances are required in the following examples:

- Any regulation involving persons or property which imposes a penalty, fine, forfeiture or other punishment for its violation.
- Any action of the city or town council when the charter or state law expressly requires an ordinance.
- Any action of the city or town council when amending, repealing or adding to another ordinance.

### **PREPARATION AND ADOPTION OF ORDINANCES**

Ordinances are generally prepared by the city or town attorney. If an ordinance is prepared in another municipal office, it should be reviewed by the attorney before presentation to the council. When there are issues of municipal administration involved, an ordinance should also be referred for review to the person who will be in charge of its administration. Some city and town codes require such review.

## Structure of Ordinances (See Exhibit One)

- Ordinances are assigned a number by the clerk in numerical sequence. Some cities include the year the ordinance is passed in the number. For example, the first ordinance passed in 2019 would be numbered 2019-1.
- An ordinance should relate to only one subject, and this subject should be clearly expressed in the ordinance title.
- The title should include a very general statement of the contents of the ordinance phrased in sufficiently broad terms to include all of the necessary components of the ordinance.
- An ordinance to amend or repeal another ordinance or section of your code should contain the number and subject of the ordinance or section amended or repealed. For example: An ordinance amending section\_\_\_\_\_, \_\_\_\_\_ city code, relating to \_\_\_\_\_-\_\_\_\_\_.
- Sometimes it is useful to include “whereas” clauses at the beginning of an ordinance to recite any required or helpful findings, or any procedural steps taken prior to adoption.
- Each ordinance should have an ordaining or enacting clause. For example: Be it ordained by the common council of the City/Town of\_\_\_\_\_.
- The body of the ordinance should be divided into sections which set forth precisely what parts of the code are being amended, repealed or where additions are to be made. Sections should be numbered, titled and arranged in logical sequence.
- Although it is not required, we recommend that the body of the ordinance be drafted in legislative style (see Exhibit Two). It should include the original and amended text; indicate new language by printing it in capital letters; and indicate language deleted, if any, by printing it with a line drawn through the center of the letters (strike-throughs). Some newspapers will not print strike-throughs, so if this is a problem with the newspaper you use and you want to adopt legislative style, we recommend that you clearly indicate deleted language in some way. (Printing it in italics or separating it from the rest of the text with brackets are two options to explore with your newspaper). This recommendation will help both the council and the public easily recognize new language as well as what will be deleted from existing law. In addition, state law requires that ordinances attached to referendum petitions be prepared in legislative style.<sup>1</sup>
- The ordinance should contain a repealer clause stating that other ordinances, or sections of ordinances, that are in conflict with the present ordinance are repealed. Specific references to repealed sections will facilitate codification of your ordinances.
- If the ordinance contains a penalty or civil sanction clause, it must state the penalty or civil sanction to be imposed for violation of the ordinance. The council should have the city or

---

<sup>1</sup>A.R.S. § 19-112 (B).

town attorney check to ensure that the penalty clause or civil sanction is in accordance with state law.

- An ordinance often contains a savings or severability clause which expresses the council's intent that an ordinance remain enforceable though some parts of it may be declared invalid. For example:

“If any section, subsection, sentence, clause, phrase or portion of this ordinance 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.”

There may be times when the council does not want any part of the ordinance to go into effect if one part is determined to be invalid. In those cases, a non-severability clause should be included.

- An ordinance may contain an emergency clause. The standard clause reads as follows:

“Whereas, it is necessary for the preservation of the peace, health and safety of the City/Town of \_\_\_\_\_, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.”

- An ordinance may contain a specific effective date. For example, sales tax ordinances usually have an effective date at the beginning of a month and may not go into effect until a month or more later than the automatic effective date of 30 days. If a delayed effective date is desired, that date should be included in a separate section.
- Each ordinance should have a statement of passage. For example: “Passed and adopted by the Mayor and City/Town Council of the City/Town of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.”

### **Presentation of Ordinance at Council Meeting**

For an ordinance to be considered at a council meeting, discussion and possible action on the ordinance must be included on the council agenda. The agenda must include the subject of the ordinance not just a reference to the number of the ordinance.

Some city and town codes require multiple readings of ordinances at separate meetings, except for those with emergency clauses. Others only require a single reading and allow for passage of the ordinance at the same meeting in which it is introduced. Check your city/town code or charter for proper procedure; there are no state laws requiring a specific procedure.

If it is allowed by your city or town code, reading of the ordinance is often dispensed with if the council has printed copies of the ordinance. Once again, whether an actual reading of an ordinance

is required, and how many times an ordinance must be read, is determined by the city or town code.

### **Final Steps in Ordinance Adoption**

- All ordinances must be signed by the mayor, or in the absence or disability of the mayor, by the vice mayor or acting mayor. If possible, this should be done on the same day as the council meeting at which the ordinance was passed. If the signature is obtained on another day, then it should be dated to assist in determining the effective date of the ordinance.
- The clerk must attest to the signatures affixed on each ordinance.
- An ordinance which contains a penalty, fine, forfeiture or other punishment, in addition to requirements in A.R.S. § 9-812, must be published after its enactment by posting in three or more public places within the city or town, and shall be in force from and after the date of posting. Posting may be established by the affidavit of the person who posted the ordinance filed with the clerk.<sup>2</sup> Posting may also be required in certain circumstances by your city or town code or by the specific provisions of state law relating to the subject matter of the ordinance.
- The clerk must certify the minutes of a council meeting at which any ordinance, resolution or franchise is passed.<sup>3</sup> We recommend that all council meeting minutes be certified (see Exhibit Three).
- Ordinances must be published by the clerk in accordance with state law requirements.<sup>4</sup>
- The clerk should file each ordinance in an ordinance book and enter upon the ordinance the publication date and where published. If the ordinance must be posted, evidence of posting should be included on or attached to the ordinance.

### **Effective Date of Ordinances**

- To be enacted, proposed ordinances require a majority vote of the council at a council meeting, approval by the mayor and, except for emergency ordinances, certification by the clerk of the minutes of the council meeting at which the ordinance is passed. Ordinances generally go into effect 30 days after their passage and approval by the mayor.<sup>5</sup> Certification of the minutes must also take place during this 30-day period.
- When an emergency ordinance is passed, it will become immediately operative only when it states, in a separate section of the ordinance, the reason for the emergency. Passage of an emergency ordinance requires an affirmative vote of three-fourths of all the members

---

<sup>2</sup> A.R.S. § 9-813.

<sup>3</sup> A.R.S. § 19-142 (B).

<sup>4</sup> A.R.S. § 9-812.

<sup>5</sup> A.R.S. § 19-142 (B).

elected to the city or town council, taken by ayes and nays, and also approved by the mayor.<sup>6</sup>

- If an ordinance contains a penalty clause or imposes a civil sanction, the ordinance does not become effective until it has also been posted in three public places. Posting may be established by the affidavit of the person who posted the ordinance which is then filed with the clerk.<sup>7</sup> This can be accomplished by printing the date and time of posting and the name of the person who posted the ordinance at the bottom of each posted ordinance, and then filing it with the clerk's office (some clerks have created stamps for this purpose). Another option is to create a certificate of posting for such ordinances (see Exhibit Four).
- If a person or organization wishes to file a referendum petition against an ordinance or resolution, and a full and correct copy of the ordinance or resolution cannot be provided at the time the person or organization requests an official number, the 30-day period for calculation of when the ordinance or resolution is effective and the deadline for submission of referendum petitions, if any, begins on the day the ordinance or resolution is available to the public.<sup>8</sup>

## **ADOPTION BY REFERENCE**

- A city or town may enact the provisions of a code or a public record without setting forth such provisions when enacting by reference. The adopting ordinance must still be published in full, and at least three copies of the code or public record must be filed in the office of the clerk and kept available for public use and inspection.<sup>9</sup> One of these copies may be electronic and posted online.<sup>10</sup>
- This authority may be used for lengthy ordinances to cut down on publication costs. Enactment of flood control or subdivision regulations may be accomplished by first declaring the regulations a public record by resolution and then passing the adopting ordinance. Some cities combine the declaration of a public record and the adoption of the public record in a single ordinance. If regulations are to be adopted by reference they should be titled a code, subdivision code, or floodplain management code to clearly reflect the use of the adoption by reference statute (see Exhibit Five). The document to be adopted should not be called an ordinance.
- A code or public record enacted by reference may be amended in the same manner. However, a penalty clause contained in a code or public record adopted by reference must be set forth in full in the adopting ordinance.<sup>11</sup>

---

<sup>6</sup> A.R.S. § 19-142(B).

<sup>7</sup> A.R.S. § 9-813.

<sup>8</sup> A.R.S. § 19-142 (C).

<sup>9</sup> A.R.S. § 9-802.

<sup>10</sup> A.R.S. § 9-801.

<sup>11</sup> A.R.S. §§ 9-802, 9-803.

## **DEFINITION AND USE OF RESOLUTIONS**

A resolution constitutes a proposal submitted in writing. The effect of the proposal is to “resolve that . . .” Usually a resolution ranks above a motion and below an ordinance. Resolutions are generally more temporary and are used for council action on administrative or executive matters, or for statements of general council policy. If the resolution “is in substance and effect an ordinance or permanent regulation, the name given to it is immaterial” and may be a legislative act regardless if it is called a resolution.<sup>12</sup> There are some administrative matters which state law requires to be in the form of an ordinance rather than a resolution. A good policy is to check with your city or town attorney for a final determination on whether an ordinance or resolution is appropriate for a particular action.

## **PREPARATION AND ADOPTION OF RESOLUTIONS**

In preparing and adopting resolutions, the following points should be kept in mind:

- Resolutions are assigned a number by the clerk in numerical sequence. As stated in the section on ordinances, sometimes the year of adoption is reflected in the number.
- The use of a title for a resolution is optional.
- A resolution may be introduced and passed at the same meeting.
- A resolution is signed by the mayor and attested by the clerk. If the mayor is unable to sign, the vice mayor or an acting mayor may sign.
- A resolution may not have to be published. The clerk should check with the attorney to determine if it needs to be published.
- It is recommended that the clerk keep a “Resolutions Book” in which each resolution can be indexed as to number and title.

## **CONCLUSION**

Following the proper procedures for preparation and adoption of ordinances and resolutions is important. This report should not take the place of consultation with your city and town attorney on both the contents and the procedures to be followed for ordinances and resolutions.

---

<sup>12</sup> §15:2 Resolutions and ordinances distinguished, 5 McQuillin Mun. Corp. § 15:2 (3d ed.).

## **PUBLICATION AND NOTICE REQUIREMENTS**

This section of this publication includes information concerning the publication and notice requirements of official municipal actions:

- Types of public notices requiring publication
- Place of publication
- Frequency of publication
- Form of publication
- Website postings

### **TYPES OF PUBLIC NOTICES REQUIRING PUBLICATION**

State law requires all municipal laws and ordinances to be published. Other municipal documents requiring publication are:

- Notices of election
- Invitations for bids
- Notices of letting contracts
- Other notices of a “public character”<sup>13</sup>

The precise meaning of notices considered to be of a “public character” is somewhat unclear. The court has, however, defined a similar term, “public purpose.” “Public purpose” is defined as the “promotion of public health, safety, morals, general welfare, security, prosperity and contentment.” In addition, other states have listed specific documents they consider to be of a “public character.” These documents include ordinances and resolutions pertaining to appropriations, special assessments, property rights of citizens, franchises, public improvements, and tax delinquent lists. State law will more than likely require documents falling under the above definitions to be published. There are a wide variety of specific publication requirements in state laws which are discussed later in this report.

### **PLACE OF PUBLICATION**

If the place of publication for a notice is not specified, state law requires that a notice must be published in a newspaper that is printed and published within the corporate limits of the municipality. In the event that a newspaper is not printed and published within the municipality,

---

<sup>13</sup> A.R.S. § 9-812.

then publication must take place in a newspaper printed and published in the same county as the municipality, with general circulation within the municipality.<sup>14</sup>

Due to definitional restrictions, selecting the right newspaper requires asking a few questions. When a notice is required to be published in a “newspaper,” it means in a “paid” newspaper with a bona fide list of paying subscribers and holding a second-class U.S. postal permit. A “freely-distributed” newspaper, one without paying subscribers or a second-class permit, is not defined as a “newspaper” under state law and; therefore, would not fulfill your publication requirements.<sup>15</sup> “Printed and published” within the corporate limits of a city or town, or within the county in which you are located, means just that: both printed and published. You should consult with your attorney regarding the proper place of publication if there is any question of the eligibility of a newspaper.

State law also provides that all bids for public printing by a newspaper be accompanied by an affidavit of the publisher that the newspaper complies with the provisions of A.R.S. § 39-201. In addition, contracts for publishing any notice or matter, the cost of which is paid from public funds, can only be awarded at public bidding when the publisher has filed the required affidavit and the newspaper is published within the state.

Publication statutes evolved over the years with varying language. A perusal of the state statutes will yield: “publish,” “publish in a newspaper of general circulation,” “printed and published,” “publish in the official newspaper of the city or town,” “publish in the area affected,” “published in a daily newspaper,” “published and circulated within,” etc... These can all mean the same thing, and could direct you to place the same notice in the same newspaper. However, some publication requirements may force, or allow, you to select a different medium for public notice than just your local newspaper. (For example, a “newspaper of general circulation” may not have to be “printed and published within the city or town.”)

## **FREQUENCY OF PUBLICATION**

If the number of times the notice is to be published is not specified, A.R.S. § 39-204 requires that publication be made in a newspaper the following number of times:

1. If the newspaper is a weekly, publication must occur once each week for two consecutive weeks.
2. If the newspaper is a daily, then publication is to be made on four consecutive days.

When notice is provided by law to be given for a specified number of days or weeks, if by publication in a daily paper, it must be published four days of the seven in the week and if by publication in a weekly paper, it must be published one day in each week. One insertion each week in a weekly paper, or four insertions each week in a daily paper, constitutes seven days’ notice.<sup>16</sup> A.R.S. §§ 39-203 and 39-204 cited above are the “general publication statutes.” A good number of state statutes also make reference to publishing “as per A.R.S. § 39-204.”

---

<sup>14</sup> A.R.S. § 39-204.

<sup>15</sup> A.R.S. § 39-201.

<sup>16</sup> A.R.S. § 39-203.

## FORM OF PUBLICATION

When publishing a notification, state law requires that the newspaper in which the notice is published must have “general circulation” in the English language.<sup>17</sup> “General circulation” is a term which the courts have broadly interpreted. Whether a newspaper has the larger circulation or not, has news racks or not, is locally owned or not--all may not be factors in determining the correct newspaper for proper public notice. The newspaper down the road with, perhaps, only 100 of its 5,000 subscribers located within your community may also be a “newspaper of general circulation” for your area--just like your local newspaper.

Arizona law requires proof that the notice has been published. This proof must consist of:

1. An affidavit secured from the publisher or the publisher’s agent which contains a copy of the item published, the name of the newspaper, a date of publication, the place (municipality) of publication, and a certification that the copy of the publication is a true copy.
2. This affidavit being filed with the person who “caused” the publication. In general, the affidavit is filed with the city/town clerk.<sup>18</sup>

## WEBSITE POSTINGS

There are a growing number of statutes requiring posting on the city/town website. The website postings are often in addition to newspaper publication requirement.

Each city and town with a population in excess of 2,500 must maintain basic information about their local government on their website which will be linked to a website established by the State Department of Administration.<sup>19</sup> The information includes:

1. The name of the local government's governing board with official contact information for the mayor and each council member, including a phone number for direct contact by constituents.
2. The name and contact information for the administrative head of the local government.
3. Information on how the mayor and council and administrative head of the city or town are selected; including dates of the next election, duration of terms, and names and contact information of appointing authorities, as applicable.
4. Information on taxes or fees controlled by the local government and proposed changes in the taxes or fees.
5. Information on special elections, posted at least 90 days in advance of the election date.

---

<sup>17</sup> A.R.S. § 39-204.

<sup>18</sup> A.R.S. § 39-205.

<sup>19</sup> A.R.S. § 41-725.

6. A link to the official internet website required by A.R.S. § 41-725 to include comprehensive financial information.
7. The total value of all outstanding debt obligations, including the actuarial value of unfunded pension liabilities and the equivalent amount on a per capita basis for the population within the city or town's jurisdiction.

Under the open meeting law, a public body of a city or town with a website must post notices of their meetings on the website, and those with a population of more than 2,500 persons also must post meeting minutes on the city or town website. A technological problem or failure that either prevents the posting of public notices on a city or town website or that temporarily or permanently prevents the usage of all or part of the website does not preclude the holding of the meeting for which the notice was posted if all other public notice requirements are met.

For those cities and towns with populations of more than 2,500, there is an additional requirement for reporting on the outcome of meetings. Within three working days after a meeting, except for subcommittees and advisory committees, a city or town must post on its website, if applicable, either a statement describing the legal actions taken by the public body of the city or town during the meeting or any recording of the meeting. Within two working days following approval of the minutes, it must post approved minutes of city or town council meetings on its website. Within 10 working days after a subcommittee or advisory committee meeting, it must post on its website either a statement describing legal action, if any or a recording of the meeting. Any posting of the results of meetings must remain on the applicable website for at least one year after the date of the posting.

Open meeting law materials prepared and approved by the state attorney general must be "conspicuously" posted on the website of cities and towns. Cities and towns must also post a statement on their website, or on the League's website, stating where all public notices of their meetings will be posted both as to physical and electronic locations.<sup>20</sup>

There are also requirements for posting the tentative budget and related budgetary information on the website and advance notice of any new proposed tax or fee or rate increases for existing taxes or fees.<sup>21</sup> In addition, each city and town with a population in excess of 2,500 must establish and maintain a comprehensive reporting of all revenues and expenditures on their website, or as an alternative, their comprehensive annual financial report if the city or town has earned a certificate of achievement for excellence in reporting from the Government Finance Officers Association. Details appear under the specific headings in the following section of the publication.

## **SPECIFIC PUBLICATION AND NOTICE REQUIREMENTS**

Arizona's cities and towns are required to give notice by publication in a variety of ways; covering a broad range of municipal actions. Publication requirements vary widely. What follows is a list of the most common notices which must be published or posted on the city/town website followed by a selection of some of the more unique publication requirements. (Please, remember that no

---

<sup>20</sup> A.R.S. § 38-431.02.

<sup>21</sup> A.R.S. § 9-499.15.

mention of the frequency of publication means that you should follow the provisions of the general publication statute, A.R.S. § 39-204.)

## **General; Ordinances**

Elections, Bids, Contracts and Ordinances.<sup>22</sup> All notices of election, invitation for bids, notices of letting contracts, laws and ordinances and all notices of public character issued by authority of a city/town council must be published in a newspaper as provided by A.R.S. § 39-204. When laws or ordinances are enacted on behalf of a private person, that person must pay the expense of publication.

## **Elections**

Test of Automatic Tabulating Equipment.<sup>23</sup> Public notice of the time and place of the test of automatic tabulating equipment must be given at least 48 hours prior to the test by publication once in one or more daily or weekly newspapers published in the city or town using such equipment if a newspaper is published therein, otherwise, in a newspaper of general circulation.

Financial Statements.<sup>24</sup> At least 10 days before a biennial election, a city or town must publish a financial statement in a newspaper published in the city or town, or if there is none, then post in three or more public places in the city or town.

Campaign Finance Information.<sup>25</sup> A city or town shall provide the option for electronic filing and shall make all statements and reports publicly available on the internet. This may be accomplished through a fillable pdf report that can be emailed to the clerk or by opting into the Secretary of State's electronic filing system (when ready to accept local jurisdictions).

Special Election Notification.<sup>26</sup> Any special election called by a city or town with a population of more than 2,500 persons must be posted on the city/town website at least 90 days in advance of the election.

Bond Authorization Elections.<sup>27</sup> Cities or towns holding bond authorization elections are required to set a deadline to submit arguments for or against the authorization of one or more of the bond propositions at a public meeting. This deadline must be posted in a newspaper of general circulation in the city or town.

Ballot Measure Arguments. Arguments supporting or opposing municipal ballot measures must be filed with the clerk at least 90 days before the election. The clerk must prominently post on its website the dates on which the ballot measure filings are due and the date of the election.<sup>28</sup>

---

<sup>22</sup> A.R.S. § 9-812.

<sup>23</sup> A.R.S. § 16-449; Secretary of State Procedures Manual.

<sup>24</sup> A.R.S. § 9-246.

<sup>25</sup> A.R.S. § 16-928(C).

<sup>26</sup> A.R.S. § 18-302(5).

<sup>27</sup> A.R.S. § 35-454 (A)(2).

<sup>28</sup> A.R.S. §§ 19-124, 19-141.

Referendum and Initiative Petition.<sup>29</sup> Filing officers must post publicity pamphlets online as soon as is practicable. Pamphlets must be distributed to every household containing a registered voter in the city or town before any early ballot is received by a voter; if the pamphlet is not mailed before early voting begins, a notice must be included with the early ballots stating when pamphlets will be mailed and where and when the pamphlets may be accessed or viewed. Additionally, ballot measure filing deadlines and election dates must be posted online.

Notice of Write-in and Withdrawn Candidates.<sup>30</sup> If a candidate withdraws from the election, notice of the withdrawal must be posted at all early voting locations. For early voters, the city or town must include in early ballot instructions a website address at which prompt updates to information regarding write-in and withdrawn candidates is available.

Early Voting and Election Day Notifications. State law requires the posting of numerous notices at early voting locations and polling places. Refer to the Secretary of State's Procedures Manual for detailed instructions on these posting requirements.

## **Budget; Finance**

Annual Budget; Hearing.<sup>31</sup> The tentative budget or a summary thereof, along with notice of a hearing on the budget and tax levy, must be published once a week for at least two consecutive weeks following the tentative adoption of the estimates in the official newspaper of the city or town, if there is one, and if not, in a newspaper of general circulation therein. Publication must include the library addresses and website where a complete copy of the tentative budget can be viewed. The summary must include total estimated revenues and expenses by fund type, truth in taxation calculations and primary and secondary property tax levies. The summary must also include by fund the estimated number of full-time employees and the total estimated personnel compensation, which shall separately include the employee salaries and employee related expenses for retirement costs and health care costs. A complete copy of the tentative budget must be available at the city or town library and at the city or town administrative offices and be posted on the city/town website no later than 7 business days after the estimates are initially presented to the council. A complete copy of the approved budget must be available at the city or town library and at the city or town administrative offices and be posted on the city/town website no later than 7 business days after adoption by the council. Beginning in fiscal year 2011-2012, the tentative budget and the adopted budget must be retained and accessible in a prominent location on the city or town's website for at least five years.

Alternative Expenditure Limitation and Permanent Base Adjustment Hearings.<sup>32</sup> Prior to the vote, notice of such hearings must be published once a week for at least two consecutive weeks in a newspaper of general circulation in the city or town. Following the vote by the council, notice must be published (as per A.R.S. § 39-204) in a newspaper of general circulation within the city or town containing: a record of the vote; the amount of the expenditures exceeding the amount allowed pursuant to the State Constitution, if approved; a statement of the purpose or purposes for

---

<sup>29</sup> A.R.S. § 19-141.

<sup>30</sup> A.R.S. § 16-343.

<sup>31</sup> A.R.S. §§ 42-17102, 42-17103.

<sup>32</sup> A.R.S. §§ 41-563.01.

which the excess expenditures will be expended and the source of revenues to be used to finance the excess expenditures, if approved.

Model City Tax Code; Amendments.<sup>33</sup> Prior to any amendment or modification of the Model City Tax Code and prior to amending a previously issued notice interpreting any provisions of the Code or procedures to be followed under the Code, a city or town is required to hold a public hearing. Notice must be given at least 15 days before the hearing by publication in a newspaper of general circulation in the city or town. (See Exhibit Six for a sample notice.) An amendment which would require a change to the model city tax code must first be approved by the Municipal Tax Code Commission. Any change in a city or town's sales tax rate is not subject to review by the Commission, but the city or town must notify the Department of Revenue and the Commission within 10 days after passage of the ordinance enacting the rate change.

Website Reporting of Revenues and Expenditures.<sup>34</sup> Each city and town with a population in excess of 2,500 must establish and maintain on their website a comprehensive reporting of all revenues and expenditures over \$5,000. Data must be updated every three months and remain online for three fiscal years. The details of what must be included in the database are specified in A.R.S. § 41-725. As an alternative, the law allows a city or town which has earned a certificate of achievement for excellence in financial reporting from the Governmental Finance Officers Association for its comprehensive annual financial report to satisfy the requirement by posting the comprehensive annual financial report. Cities and towns without a website can post the information on the League's website and on the Department of Administration's website. A.R.S. § 18-302 expands what is required to be included in the comprehensive web portal of local governments, maintained by the Arizona Department of Administration, to include the total taxes per capita of the local government and the total value of all outstanding debt obligations on a per capita basis.

Municipal Bonds (Public Utility Purposes):<sup>35</sup> A city or town must publish a notice in a local newspaper not less than 15 nor more than 30 days prior to the election, stating the intention of the city or town to issue municipal bonds for the financing of a utility. If there is no local newspaper, the city or town resolution must be posted in five conspicuous places in the city or town not less than 15 days nor more than 30 days prior to the date of the election.

Primary Property Tax:<sup>36</sup> To establish a primary property tax, a city or town must present the proposed levy to the voters at an election on the third Tuesday in May. The city or town must provide written notice of the proposed tax and the authority to impose the tax on the home page of the municipality's website at least 60 days before the council approves or disapproves referral of the tax to the ballot. Technological issues that either prevent the posting of the notice on the municipality's website does not preclude the council from approving or disapproving the tax at the meeting provided on the notice of intent.

---

<sup>33</sup> A.R.S. §§ 42-6054, 42-6056.

<sup>34</sup> A.R.S. § 41-725.

<sup>35</sup> A.R.S. § 9-524.

<sup>36</sup> A.R.S. §§ 9-499.15; 42-17056.

Proposed New or Increased Municipal Taxes and Fees.<sup>37</sup> A municipality that proposed to levy or assess a tax or fee shall:

1. If the imposition of the proposed tax or fee is a new charge, provide written notice of the proposed charge, the schedule of the proposed new charge and the written report or data that supports the new charge on the home page of the municipality's website at least sixty days before the date the proposed new tax or fee is approved or disapproved by the council.
2. If the municipality proposes to increase the rate of an existing tax or fee on a business, provide written notice of the proposed increase, the schedule of the proposed increased tax or fee and the written report or data that supports the proposed increased tax or fee on the home page of the municipality's website at least 60 days before the date the proposed new rate is approved or disapproved by the council.
3. Prepare a notice of intent to establish or increase taxes, assessments or fees including assessments pursuant to § 48-572, subsection B, paragraph 1. The notice of intent shall include the date, time and place of the council meeting in which the proposed new or increased tax or fee will be considered and a statement that a schedule of the proposed new or increased tax or fee that includes the amount of the tax or fee and a written report or data that supports the new or increased tax or fee is available on the municipality's website. The notice of intent shall be posted on the municipality's website at least 15 days before the date the proposed new or increased tax or fee will be approved or disapproved by the governing body of the municipality. If the municipality uses social media or other electronic communication tools, the notice of intent shall be distributed through the municipality's social media accounts or other electronic communication tools.

All departments, boards or other subdivisions of a municipality that are authorized to establish or modify taxes or fees shall follow the notice requirements prescribed in A.R.S. § 9-499.15(B) before the date of the council's consideration of the new or increased tax or fee.

Technological issues that either prevent the posting of the notice on the municipality's website or distribution of the notice through social media or other electronic communication tools does not preclude the governing body of the municipality from approving or disapproving the new or increased tax or fee at the meeting provided on the notice of intent.

Municipal Fees.<sup>38</sup> Information about the following fees must be posted on the municipality's website and distributed through social media or other electronic communications (if used by the city or town):

1. Any fee adopted pursuant to § 9-463.05.
2. Water and wastewater rates or rate components.
3. Fees for registration-based classes, programs or activities provided by the municipality.
4. Court fees established pursuant to state law.

---

<sup>37</sup> A.R.S. § 9-499.15.

<sup>38</sup> A.R.S. § 9-499.15 (F), (G).

5. Fees or charges established pursuant to federal law for public housing or other federally funded programs.
6. Other fees whose amounts are set by state or federal law.

Truth in Taxation.<sup>39</sup> If the city or town's proposed primary property tax levy, excluding amounts that are attributable to new construction, is greater than the amount levied by the city or town in the preceding tax year:

1. The governing body shall publish a notice that meets the following requirements:
  - (a) The notice shall be published twice in a newspaper of general circulation in the city or town. The first publication shall be at least 14 but not more than 20 days before the date of the hearing. The second publication shall be at least 7 but not more than 10 days before the date of the hearing.
  - (b) The notice shall be published in a location other than the classified or legal advertising section of the newspaper in which it is published.
  - (c) The notice shall be at least one-fourth page in size and shall be surrounded by a solid black border at least one-eighth inch in width.
  - (d) The notice shall be in the following form, with the "truth in taxation hearing notice of tax increase" headline in at least 18-point type:

Truth in Taxation Hearing  
Notice of Tax Increase

In compliance with section 42-17107, Arizona Revised Statutes, (name of city or town) is notifying its property taxpayers of (name of city or town)'s intention to raise its primary property taxes over last year's level. (name of city or town) is proposing an increase in primary property taxes of \$\_\_\_\_\_ or \_\_\_\_%.

For example, the proposed tax increase will cause (name of county, city or town)'s primary property taxes on a \$100,000 home to be \$\_\_\_\_\_ (total proposed taxes including the tax increase). Without the proposed tax increase, the total taxes that would be owed on a \$100,000 home would have been \$\_\_\_\_\_.

This proposed increase is exclusive of increased primary property taxes received from new construction. The increase is also exclusive of any changes that may occur from property tax levies for voter approved bonded indebtedness or budget and tax overrides.

All interested citizens are invited to attend the public hearing on the tax increase that is scheduled to be held (date and time) at (location).

2. In lieu of publishing the truth in taxation notice, the governing body may mail the truth in taxation notice to all registered voters in the city or town at least 10 but not more than 20 days before the date of the hearing on the budget.

---

<sup>39</sup> A.R.S. § 42-17107.

3. In addition to publishing the truth in taxation notice or mailing the notice, the governing body shall issue a press release containing the truth in taxation notice.

New or Proposed Increase in Taxes or Fees.<sup>40</sup> Any new tax or fee or any increase in a tax or fee on business cannot be levied without first providing written notice on the city/town website at least 60 days before the new or increased tax or fee is scheduled for consideration by the council. This notice requirement does not apply to development fees. See paragraph on model city tax code for requirements on increases in sales tax rates.

Financial Reporting.<sup>41</sup> Annual audit reports must be published on official city/town websites within 7 business days of filing with the Auditor General and must be maintained for a minimum of 5 years. If the forms are not filed on time, the city/town is required to post a form prescribed by the Auditor General stating the financial statements as pending, listing the reasons for the delay, as well as estimated date of completion.

Intention to Redeem Bonds.<sup>42</sup> When any bonds issued by a city or town mature, the city or town treasurer must give notice of intention to redeem and the amount of such bonds for 4 weeks in a newspaper published in the county in which the city or town is located.

Public Sale of Bonds.<sup>43</sup> If bonds are to be sold by public sale, a copy of the order issued by the governing body directing the sale of the bonds and the date and hour of the sale must be published prior to the sale at least once a week for two successive weeks in cities having a population of 15,000 or more, according to the most recent federal census, and once a week for 4 successive weeks in all other cities and towns. Publication must be in one or more designated daily or weekly newspapers, together with a notice that sealed proposals will be received for purchase of the bonds on the date and hour named in the order.

Bond Informational Pamphlet.<sup>44</sup> In preparing for a bond election, the council must set a deadline for the submission of arguments for and against the authorization of the bond propositions at a public meeting and publish the deadline in a newspaper of general circulation in the jurisdiction of the political subdivision. Not less than 35 days before the bond election, the city or town must mail a copy of an informational pamphlet to every household within the city or town that contains a registered voter.

## **Zoning; Annexation**

Citizen Review Process.<sup>45</sup> A city or town must adopt by ordinance a citizen review process that applies to all rezoning and specific plan applications that require a public hearing. This includes any zoning ordinance that changes any property from one zone to another, that imposes any regulation not previously imposed or that removes or modifies any such regulation previously imposed. The citizen review process must include at least the following requirements:

---

<sup>40</sup> A.R.S. § 9-499.15.

<sup>41</sup> A.R.S. § 9-481.

<sup>42</sup> A.R.S. § 35-459.

<sup>43</sup> A.R.S. § 35-457.

<sup>44</sup> A.R.S. § 35-454.

<sup>45</sup> A.R.S. § 9-462.03.

1. Adjacent landowners and other potentially affected citizens will be notified of the application.
2. The municipality will inform adjacent landowners and other potentially affected citizens of the substance of the proposed rezoning.
3. Adjacent landowners and other potentially affected citizens will be provided an opportunity to express any issues or concerns that they may have with the proposed rezoning before the public hearing.

Zoning Hearings.<sup>46</sup> At least 15 days before a public hearing, notice of a hearing of the planning commission or a hearing officer on any proposed zoning ordinance must be given by publishing at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, it shall be posted on the affected property in such a manner as to be legible from the public right-of-way and in at least 10 public places in the municipality. A posted notice must be printed so that the following are visible from a distance of 100 feet: the word "zoning," the present zoning district classification, the proposed zoning district classification and the date and time of the hearing. If the property is within a high noise or accident potential zone of a military airport, the notice must include that fact.

In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing must be transmitted to the planning agency of the affected governmental unit. In proceedings involving rezoning of land that is located in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461, copies of the notice of public hearing must be sent by first class mail to the military airport.

Special notice procedures apply when a proposed rezoning is not initiated by the property owner. Notice by first class mail must be sent to each real property owner, as shown on the last assessment of the property, of the area to be rezoned and all property owners, as shown on the last assessment of the property, within 300 hundred feet of the property to be rezoned.

Additional notice is required prior to the enactment of any of the following changes to city and town zoning ordinances:

1. A 10 percent or more increase or decrease in the number of square feet or units that may be developed.
2. A 10 percent or more increase or reduction in the allowable height of buildings.
3. An increase or reduction in the allowable number of stories of buildings.
4. A 10 percent or more increase or decrease in setback or open space requirements.
5. An increase or a reduction in permitted uses.

---

<sup>46</sup> A.R.S. § 9-462.04.

The notice can be given in one of three ways:

1. Send a notice of the proposed changes in your utility bills or other mass mailings which are periodically issued.
2. Publish a display ad on the proposed change in a newspaper of general circulation in the city or town prior to the public hearing on any such change. The display ad must cover not less than one-eighth of a full page.
3. Send notice by first class mail to all property owners whose property is directly affected by the proposed change.

When this additional notice is triggered, notice by first class mail must also be sent to persons who register their names and addresses with the city or town as being interested in receiving such notice. A fee not to exceed five dollars per year for providing this service can be imposed and the city or town can adopt procedures to implement this notice requirement.

(The failure of any person or entity to receive notice will not constitute grounds for any court to invalidate the actions of a municipality for which the notice was given.)

If there is an objection, request for public hearing or other protest, the city or town council must also hold a public hearing to consider the recommendations of the planning commission and provide notice of the hearing as required of the planning commission above. A hearing requirement is also triggered if the military airport files objections.

Hearing on Structures or Sites of Historical Significance.<sup>47</sup> A public hearing and notice to owners is required prior to the designation of structures or sites of special historical significance.

Notice and Hearing on General Plan.<sup>48</sup> The council is required to adopt written procedures to “provide effective, early and continuous public participation in the development and major amendment of general plans from all geographic, ethnic, and economic areas of the municipality.” The procedures are to provide for broad dissemination of proposals and alternatives; the opportunity for written comments, public hearings after effective notice, open discussions, communications programs and information services and consideration of public comments. The city or town must consult with, advise and provide an opportunity for official comment by public officials and agencies, the county, school districts, associations of governments, public land management agencies, the military airport if the municipality has territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other organizations, property owners, and citizens.

At least 60 days before the general plan or an element or major amendment of a general plan is noticed for hearing before the planning commission, the planning agency shall transmit the proposal to the planning commission, if any, and the governing body and shall submit a copy for review and further comment to:

---

<sup>47</sup> A.R.S. § 9-462.01 (A) (10).

<sup>48</sup> A.R.S. § 9-461.06.

1. The planning agency of the county in which the municipality is located.
2. Each county or municipality that is contiguous to the corporate limits of the municipality or its area of extraterritorial jurisdiction.
3. The regional planning agency within which the municipality is located.
4. The Arizona Commerce Authority or any other state agency that is subsequently designated as the general planning agency for this state.
5. The Department of Water Resources for review and comment on the water resources element, if a water resources element is required.
6. If the general plan or an element or amendment of the general plan is applicable to territory in the vicinity of a military airport or ancillary military facility as defined in A.R.S. § 28-8461, the military airport.
7. If the general plan or an element or major amendment of the general plan is applicable to property in the high noise or accident potential zone of a military airport or ancillary military facility as defined in A.R.S. § 28-8461, the attorney general. For this particular notice requirement, "major amendment" means a substantial alteration of the municipality's land use mixture or balance as established in the municipality's existing general plan land use element.
8. Any person or entity that requests in writing to receive a review copy of the proposal.

Before adopting or readopting a general plan or any amendment to the plan, the planning commission must publish, at least 15 and not more than 30 calendar days before the hearing, notice of the time and place of a hearing (two hearings at different locations if municipal population is over 25,000) at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, notice must be posted in at least 10 public places in the municipality. Before adopting or readopting the general plan or any amendment to the plan, or any amendment to it, the city or town council must hold at least one public hearing and give notice of the hearing as required of the planning commission above. If required to have an election on the general plan, the city or town must include a general description of the plan and its elements in a publicity pamphlet prior to election. Public copies of the plan must be provided in at least two locations that are easily accessible to the public which may include posting on the website.

Hearing on Specific Plan Adoption.<sup>49</sup> Before adopting a specific plan or regulation (as opposed to a general), the planning commission must publish, at least 15 and not more than 30 calendar days before their respective hearings, notice of the time and place of a public hearing at least once in a newspaper of general circulation published or circulated in the municipality, or if there is none, notice must be posted in at least 10 public places in the municipality. If the municipality does not have a planning commission, the procedural steps must be taken by the council.

---

<sup>49</sup> A.R.S. § 9-461.09 (A),(C).

Hearing on Appeals to Board of Adjustment.<sup>50</sup> If a matter is appealed to the board of adjustment, notice must be published of the time and place the appeal will be heard. At least 15 days before the hearing, notice must be given by publishing at least once in a newspaper of general circulation in the municipality and by posting the notice in conspicuous places close to the property affected.

Hearing on Transfer of Development Rights.<sup>51</sup> Any proposed transfer of development rights from the sending property or to the receiving property is subject to the notice and hearing requirements of A.R.S. §9-462.04 (see procedures for zoning hearings above) and shall be subject to the approval and consent of the property owners of both the sending and receiving property.

Hearing on Zoning Reversion.<sup>52</sup> The legislative body may approve a change of zone conditioned upon a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, the legislative body, after notification by certified mail to the owner and applicant who requested the rezoning, shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

Military Airport High Noise or Accident Potential Zone Special Notice.<sup>53</sup> On or after July 1, 2001, or on or after December 31 of the year in which the property becomes territory in a high noise or accident potential zone, a political subdivision that has property in a high noise or accident potential zone shall notify any owner of property in the high noise and accident potential zone of any additions or changes under A.R.S. § 28-8481 to the general plan, comprehensive plan, or zoning regulations applicable to property in the high noise or accident potential zone. The political subdivision shall provide a notice of such additions or changes by publication as provided in A.R.S. § 9-462.04 (A), (see zoning hearings above). This includes a statement that the property is located in a high noise or accident potential zone, at least 30 days before final approval of the addition to or change in the general plan, permitted land uses or zoning regulation; and within 30 days following the final approval of such an addition or change.

Annexation Hearing.<sup>54</sup> Notice of the hearing to discuss annexation of property by a city or town shall be given at least 6 days before the hearing. The notice must be published at least once in a newspaper of general circulation that is published or circulated in the city or town and the territory proposed to be annexed, at least 15 days before the end of the 30-day waiting period. Notice must also be given by posting in at least three conspicuous public places in the territory proposed to be annexed. In addition, notice by first class mail must be sent to the chairman of the board of supervisors of the county affected and to all owners of real and personal property included in the proposed annexation.

---

<sup>50</sup> A.R.S. § 9-462.06 (F).

<sup>51</sup> A.R.S. § 9-462.01 (A)(12).

<sup>52</sup> A.R.S. § 9-462.01 (E).

<sup>53</sup> A.R.S. § 28-8481.

<sup>54</sup> A.R.S. § 9-471.

## Regulatory Review

During its 2011 session, the Legislature passed a comprehensive bill imposing a regulatory bill of rights on cities and towns. This new law requires a variety of steps before the imposition of regulations on private persons or businesses, when issuing licenses or doing inspections. The following only highlights those portions that involve notice or publication.

Inspections.<sup>55</sup> When performing inspections necessary for the issuance of a license or to determine compliance with licensure requirements, notice must be given to the regulated person or entity of their right to have:

1. Copies of any original documents taken from the premises by the inspector;
2. A split or duplicate of any samples taken during the inspection if the split or duplicate can be provided without jeopardizing the analysis or the sample; and
3. Copies of any analysis performed on samples taken during the inspection.

On initiation or two working days prior to an inspection, written or electronic notice must be provided of the following:

1. The rights described above;
2. The name and telephone number of a city/town contact person available to answer questions regarding the inspection; and
3. Due process rights relating to an appeal of a final decision based on the inspection including the name and telephone number of a person to contact as well as contact information of an appropriate city, town or state ombudsman.

While the results of the inspection or any action following the inspection are still pending, the city or town must provide the regulated person or entity with an update in writing or electronically once every month.

These requirements do not apply to swimming pool or food inspections nor to criminal investigations or where the inspector has reasonable suspicion to believe that the regulated person has engaged in criminal activity.

Licensing.<sup>56</sup> For any new ordinance or code requiring a license, a city or town must post on their website a time frame specified during which a license will either be granted or denied. If a city or town does not have their own website, this time frame may be posted on the website of an association of local governments.<sup>57</sup> Beginning in January 2013, this requirement will apply to licenses issued pursuant to existing codes or ordinances. Written or electronic notice of administrative completeness must be issued within the specified time frame or the application for

---

<sup>55</sup> A.R.S. § 9-833.

<sup>56</sup> A.R.S. § 9-835.

<sup>57</sup> A.R.S. § 9-835.

the license is deemed administratively complete. Following the time frame for a substantive review, barring any agreements with the proposed licensee or other mitigating factors, a notice must be issued granting or denying the license.

Notice to applicants for licenses is required at the time of application. The notice must include:

1. A list of all steps required to obtain the license;
2. The applicable licensing time frames;
3. The name and telephone number of a city/town contact person who can answer questions and provide assistance during the application process;
4. The website address or related information to allow the person to use electronic communication with the city or town; and
5. Notice that an applicant can receive a clarification from the city or town of its interpretation or application of a statute, ordinance, code or policy statement pursuant to A.R.S. § 9-839.<sup>58</sup>

There is an exception to these licensing requirements. If a license can be issued within 7 working days after receipt of the initial application, the requirements do not apply. In addition, permits that expire within 21 working days after issuance are exempt.

Directory of Documents.<sup>59</sup> Each city and town must publish or prominently place on the city/town website each year a directory summarizing the subject matter of all currently applicable ordinances, codes and substantive policy statements.

### **Property Rentals or Sales; Exchanges**

Residential Rental Property Inspection Program.<sup>60</sup> Before adoption of a citywide residential rental property inspection program, the city or town must hold a public hearing, notice of which must be published in a local newspaper of general circulation and posted on the city or town's website not less than two weeks before the hearing. Adoption of the ordinance must take place at a regularly scheduled council meeting at least 30 days after the hearing and be adopted by three-fourths of the entire council. Individual notice to owners of residential rental property currently registered with the county assessor is also required. This notice is to be by first class mail and mailed at least 20 days before the hearing.

Real or Personal Property Sales.<sup>61</sup> Before municipal property may be sold, there must be public advertising for bids in a newspaper published as provided by A.R.S. § 39-204 and notice must be posted in three or more places in the city or town.

---

<sup>58</sup> A.R.S. § 9-836.

<sup>59</sup> A.R.S. § 9-837.

<sup>60</sup> A.R.S. § 9-1304.

<sup>61</sup> A.R.S. § 9-402.

Intent to Exchange or Sell Real Property.<sup>62</sup> A notice of intent by a city or town to exchange a parcel of real property for any other real property within the city or town, or to sell a parcel of real property to another political subdivision, must be published per the provisions of A.R.S. § 39-204, before the exchange or sale is made.

## **Franchises; Licenses**

Public Utilities Franchise Election.<sup>63</sup> When it is proposed by a city or town council to grant a public utility franchise, the action must be approved by the voters of the city or town at an election, either special or general, held after notice of the proposed franchise has been given by publishing it in full, at the franchisee's expense (per A.R.S. § 9-812), for at least 30 consecutive days in some newspaper of general circulation published in the city or town. (See A.R.S. § 39-203 for determination of how many times the franchise must be published.)

Hearing on Cable TV License.<sup>64</sup> Notice of the time and place of a hearing to consider granting a cable TV license must be published in a newspaper of general circulation in the proposed service area once a week for two consecutive weeks. The first publication must be not less than 14 days before the hearing date. If there is no such newspaper in the proposed service area, then notice must be posted in the city or town hall for not less than 14 days before the hearing date.

## **Utilities**

Water or Sewer Rates; Increases.<sup>65</sup> To raise water/sewer rates, cities and towns are required to first prepare a written report or supply data (including cash flow projections that indicate all anticipated revenues and expenses) supporting the increase and make the information available either on the municipality's website or on the website of an association of cities and towns if the municipality does not have a website at least 30 days before the required public hearing. Next, the council must adopt a notice of intention at a regular council meeting and in that notice set a date for a public hearing on the proposed increase. A copy of the notice of intention showing the date, time and place of such hearing must be published one time in a newspaper of general circulation in the municipality not less than 20 days prior to the hearing. Any adopted increase does not become effective until 30 days after adoption.

Municipal Utility Bond Election.<sup>66</sup> The order and call of an election on the question of the issuance of utility bonds must be published in full at least once, not less than 15 nor more than 30 days before the election, in a newspaper published in the county and of general circulation in the municipality. If there is no such newspaper, the order and call must be printed in full and posted in five conspicuous places in the municipality not less than 15 nor more than 30 days prior to the date of the election. If the bonds are to be tax secured bonds, the order and call of the election shall adhere to Title 35, Ch. 3 art. 3 and shall be posted and published as required by that article instead of A.R.S. § 9-524 (B).

---

<sup>62</sup> A.R.S. § 9-407.

<sup>63</sup> A.R.S. § 9-502 (C).

<sup>64</sup> A.R.S. § 9-507.

<sup>65</sup> A.R.S. § 9-511.01.

<sup>66</sup> A.R.S. § 9-524 (B),(C).

Municipal Utility Bond Bids.<sup>67</sup> The council may call for bids on utility bonds by publication in a newspaper of general circulation in the county once a week for two consecutive weeks in cities having a population of 15,000 or more, once a week for four consecutive weeks in all other municipalities. The council may also sell these bonds through an online or accelerated bidding process in which case the notice provisions do not apply.

### **Public Works Construction**

Capital Improvement Plan.<sup>68</sup> A city or town must annually post on its website a capital improvement plan containing all public works projects scheduled to be constructed. For a city or town without a website, the information is to be posted on the League's website.

Notice to Utilities.<sup>69</sup> A city or town in the design phase of a public works project must provide notice and an opportunity to comment to all utilities which the city or town believes may be impacted by the project including relocation of utility facilities and minimizing the costs of relocation where it is unavoidable. For this notice requirement, utility is broadly defined to include those providing electricity, natural gas, telephone, cable television, water or telegraph. A utility may also request that the city or town annually provide a copy of the city or town's capital improvement plan and provide notice of any new projects not included in the plan or changes that advance the start date of any projects already in the plan. The utility shall designate the utility representative to receive the plan and any notice of changes that would add new projects or advance the start date of any projects already in the plan.

Notice to Receive Bids.<sup>70</sup> After the acceptance and approval of working drawings and specifications for public works construction that is to be completed by private contractors, the city or town must publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice is to be published by advertising in a newspaper of general circulation in the county in which the city or town is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least 6 but no more than 10 days apart if it is a daily newspaper. The notice shall state:

1. The nature of the work required, the type, purpose and location of the proposed building and where the plans, specifications and full information about the proposed work may be obtained.
2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment.
3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for 10 percent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications

---

<sup>67</sup> A.R.S. § 9-529 (D).

<sup>68</sup> A.R.S. § 9-461.14.

<sup>69</sup> A.R.S. § 9-461.14.

<sup>70</sup> A.R.S. § 34-201 (A).

Employment of Architect by Competition.<sup>71</sup> If an architect is to be selected by competition, the political subdivision must publish an advertisement of the competition not less than 30 days prior to the date set for closing the competition, stating the project title and description; the design and construction budget; the competitive process and criteria to be used to select the winning offeror; the amount of the stipend to be paid to the unsuccessful offerors; the offerors' response date; the person to contact to obtain additional information regarding the competition and any other requirements established by the agent as appropriate.

Procurement of Professional Services and Construction-Manager at Risk, Design-Build and Job-Order-Contracting Construction Services.<sup>72</sup> Publish notice of a request for qualifications for such procurement by advertising in a newspaper of general circulation in the county in which the city or town is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least 6 but no more than 10 days apart if it is a daily newspaper. The information to be included in a request for qualifications is specified in A.R.S. §§ 34-603 and 34-604.

### **Development Fees; Moratorium on Development**

Imposition of Development Fees.<sup>73</sup> There are numerous notice and public hearing requirements under the law authorizing the imposition of development fees. The following highlights those requirements, but a city or town contemplating the adoption or amendment of a development fee should review the League's model ordinance on the subject which was prepared following the substantive changes made to the law during the 2011 legislative session as well as the League's development fee flowchart.<sup>74</sup>

A municipality must give at least 30 days advance notice of intention to assess a development fee and post, on its website or the League's website, if the city or town does not have its own website a written report of the land use assumptions and infrastructure improvement plan. The city or town must also conduct a public hearing at least 30 days prior to the scheduled date of adoption of the fee. Also, before assessing the fee, the city or town must adopt or amend the land use assumptions and infrastructure improvements plan which are subject to a public hearing at least 30 days before adoption or amendment of the plan. Notice of the hearing on the plan must be given at least 60 days before the hearing. The proposed plan must be posted on the city or town's website, or the League's website, if the city or town does not have a website. This posting must include the land use assumptions, time period of the projections, a description of the necessary public services included in the infrastructure plan, and a map of the service area to which the land use assumptions apply.

Within 60 days after completion of the updated land use assumptions and infrastructure improvements plan, the city or town must schedule and provide notice of a public hearing to discuss and review the update and to determine whether to amend the assumptions and plan.

---

<sup>71</sup> A.R.S. § 34-103.

<sup>72</sup> A.R.S. § 34-603.

<sup>73</sup> A.R.S. § 9-463.05.

<sup>74</sup> League model ordinance on development fees and Development Fee Flowchart are found in the Budget and Finance Manual.

Once the Land Use Assumption and Infrastructure Improvement Plans are adopted, the city or town must provide public notice of a hearing concerning the Fee Report. The notice must be at least 30 days before the hearing. The updated Land Use Assumption and Infrastructure Improvements Plan must also be available 30 days before the hearing on the city or town's website, or on the League's website. The city or town must approve or disapprove the proposed fee report at least 30 days after the hearing, but no longer than 60 days after the hearing. Development fee schedules in the adopted Fee Report go into effect 75 days after adoption.

Notice must be published on the city or town's website if no changes are determined to be necessary to the plans or development fees after the process is initiated. Amendments to an infrastructure improvements plan may be adopted without a public hearing if the changes will not increase the level of service or cause a development fee increase of more than 5%. Notice is required of such an amendment, however, at least 30 days before adoption. The notice must be posted on the city/town website, or the League's website if the city or town does not have a website.

In lieu of creating an advisory committee on the plans and development fees, a city or town may conduct a biennial certified audit of the land use assumptions, infrastructure improvements plan, and development fees and post the findings of the audit on the city or town's website and conduct a public hearing on the audit within 60 days of the release of the audit.

An annual report must be prepared on the collection and use of development fees for each service area. That report must be posted on the city or town's website. Failure to file and post the report means that development fees may not be collected until the report is filed and posted. A municipality must give at least 60 days advance notice of intention to assess a new or modified development fee and conduct a public hearing at least 30 days prior to the scheduled date of adoption of the new or modified fee. Also before assessing the fee, the city or town shall adopt or amend an infrastructure improvements plan which shall be subject to a public hearing at least 30 days before adoption of the plan. Notice of the hearing on the plan must be given at least 60 days before the hearing. Amendments to the plan may be adopted under certain circumstances without a public hearing, but notice of the amendments must be given at least 14 days before their effective date. Annual adjustments to the fee based on a nationally recognized index may be implemented but at least 30 days advance notice must be given of the adjustment.

Moratorium on Development.<sup>75</sup> Prior to adoption of a moratorium on construction or land development, a city or town must first provide notice to the public published once in a newspaper of general circulation in the city or town at least 30 days before a final public hearing to be held to consider the adoption of the moratorium; make written findings justifying the need for the moratorium and hold a public hearing on the adoption of the moratorium and the findings that support the moratorium. A moratorium shall not remain in effect for more than 120 days, but such a moratorium may be extended for additional periods of time of up to 120 days if the city or town adopting the moratorium holds a public hearing on the proposed extension and adopts written findings. A city or town considering an extension of a moratorium shall provide notice to the general public published once in a newspaper of general circulation in the city or town at least 30 days before a final hearing is held to consider an extension of a moratorium.

## **Miscellaneous**

---

<sup>75</sup> A.R.S. § 9-463.06.

Wildland-Urban Interface Code.<sup>76</sup> In development and adoption of a wildland-urban interface code, a city or town must follow written public procedures to provide “effective, early and continuous public participation” through broad dissemination and publicity of the proposed code and any revisions to the code, the opportunity for submission and consideration of written public comments, open discussions, communications programs and information services, as well as consultation with federal agencies and state and local officials.

Solar Construction Permits.<sup>77</sup> Before adoption of a fee for service, or an additional or separate charge for solar construction permits, a city or town shall hold a public hearing with at least 15 days published notice. In addition, the method by which a city or town arrives at a permit or plan fee must be published and made available to the public.

Home Detention Program for DUI Offenders.<sup>78</sup> By majority vote of the full membership of the city or town council after a public hearing and a finding of necessity, a city or town may establish a home detention program for persons who are sentenced to jail for certain DUI offenses.

Military Electronics Range.<sup>79</sup> Prior to rezoning property, issuing a building or other development permit including one for a public or private utility, or subdividing property within any portion of a military electronics range, a city or town must notice the office of the installation commander by sending a copy of the application and the relevant documentation to describe the proposed land use change.

Vacating of Cemetery.<sup>80</sup> Notice of intention on the part of the city or town to abandon a cemetery must be given by publication in the official newspaper of the city or town for at least four consecutive weeks, and no movement of remains by the city can take place for six months from the time of the first publication.

Hearing on Industrial Gas Pipeline Application.<sup>81</sup> Notice of a public hearing must be published in a newspaper of general circulation in the city or town where an industrial gas pipeline application has been made once a week for two consecutive weeks. First publication shall not be less than 14 days before the date of hearing. If there is no such newspaper, notice must be posted in the city or town hall for at least 14 days before the day of the hearing.

Charter Government.<sup>82</sup> When a charter government is contemplated, the charter proposed must be published in its entirety in one or more newspapers of general circulation published in the city for at least 21 days if in a daily paper, or in three consecutive issues if in a weekly paper, the first publication to be within 20 days after completion of the proposed charter. The provisions of A.R.S. § 39-203 define what this number of publications means. It provides that when notice is provided by law to be given for a specified number of days or weeks, if by publication in a daily paper, it

---

<sup>76</sup> A.R.S. § 9-806.

<sup>77</sup> A.R.S. § 9-468.

<sup>78</sup> A.R.S. § 9-499.07.

<sup>79</sup> A.R.S. § 9-500.28.

<sup>80</sup> A.R.S. § 9-451.

<sup>81</sup> A.R.S. § 9-553.

<sup>82</sup> A.R.S. § 9-282.

shall be published four days of the seven in the week, and if by publication in a weekly paper, it shall be published one day in each week. One insertion each week in papers published weekly, and four insertions each week in papers published daily, shall constitute seven day's notice.

Revitalization District.<sup>83</sup> There are several notice requirements for the formation of revitalization districts. They include a notice, the provisions of which are specified by statute A.R.S. § 48-6803, to be mailed to each owner of real property in the proposed boundaries of the district and any other person claiming an interest in the formation of the district and also publication of a copy of the notice and council resolution at least once in the official newspaper or a newspaper circulated in the county in which the city or town is located. A revitalization district board must publish a notice of the filing of the tentative budget. Elections held by the district are to be called by posting notices in at least three public places within the boundaries of the districts not less than 20 days before the election and by publishing in a newspaper of general circulation in the city where the district is located once a week for two consecutive weeks before the election. The specifics of the notice are detailed in A.R.S. § 48-6818.

Unclaimed Property.<sup>84</sup> If any unclaimed property is available for release and the owner is known, the agency shall make a reasonable attempt to notify the owner. If the owner of found property that has a value of more than one hundred fifty dollars is not known, the agency holding the property is to publish or post a notice containing a description of the property before the final disposal of the property.

### **Improvement Districts (Selected Statutes)**

There are a number of statutes containing publication requirements for municipal improvement districts. Listed here are only some of the more unusual requirements in noticing the actions of improvement districts by newspaper publication.

Filing of Property Assessment.<sup>85</sup> When the street superintendent has computed the total expense of the improvement to be assessed and the amount to be assessed on each piece or parcel of land, the street superintendent must file it with the city or town clerk, and it is the duty of the clerk to notice such filing by publication for at least five days in a daily newspaper published and circulated in the city or town; or, if there is no daily newspaper, by two successive insertions in a weekly paper so published and circulated. The notice must state the date of the first publication of the notice and require all persons interested to file with the clerk their objections to the confirmation of the assessment within 15 days thereafter. The notice must also state that the council will hear all objections filed at the first meeting of the council after the expiration of the time for filing and that all persons interested have a right to be present at this council meeting and heard on any proposed increase in the amount assessed against any lot, piece or parcel of land.

Bids for Improvement Bonds.<sup>86</sup> Improvement bonds issued for the opening, widening or closing of public ways may be sold to the highest bidder, after the bonds are advertised for bids by publication at least three times in a daily newspaper published and circulated in the municipality;

---

<sup>83</sup> A.R.S. §§ 48-6803, 48-6817, 48-6818.

<sup>84</sup> A.R.S. § 12-944.

<sup>85</sup> A.R.S. § 48-521.

<sup>86</sup> A.R.S. § 48-543.

or, if there is no daily newspaper, then once in a weekly or semi-weekly newspaper so published and circulated.

Assessment Installment Due.<sup>87</sup> The superintendent of streets, 30 days before any installment of principal or interest on any assessment becomes due, must give notice by mail to interested parties and by publication in a newspaper published and circulated in the municipality, such notice to be printed in not smaller than 18-point type and published at least twice in a daily, weekly or semi-weekly newspaper published and circulated in the municipality. The council may publish a more detailed notice than that prescribed to be published by the superintendent of streets, and the heading of any notice so published must be 18-point type or larger.

Improvement Districts for Underground Utility and Cable TV Facilities.<sup>88</sup> After the governing body passes a resolution or notice declaring its intention to order an improvement district for underground utility facilities, the governing body shall hold a hearing at least 30 days after the completion of the posting and publication of the notice of intention pursuant to A.R.S. § 48-506. This requires posting in at least three places in the proposed district and publication of the notice pursuant to A.R.S. § 39-204. The format of the notices is specified. The notice must be headed "Notices of public work" in letters not less than one inch in height, shall state the fact and date of passage of the resolution, shall briefly describe the improvement proposed and shall refer to the resolution for further particulars.

Bids for Street Improvement Bonds.<sup>89</sup> The municipality issuing street improvement bonds to be sold at public sale must call for bids on the bonds by publication in a newspaper of general circulation in the county once a week for two successive weeks in cities having a population of 15,000 or more and once a week for four successive weeks in all other municipalities.

Resolution of Intention to Refund Bonds.<sup>90</sup> If the modified assessment results in an increase in the assessment to any parcel or lot, notice must be given to the owners of the affected parcels or lots at least 10 days before a hearing if required, as provided in A.R.S. § 48-594.

## CONCLUSION

Public notice is a formal manner of keeping the general public informed of the actions taken, or about to be taken, by local government. Just as the actions of government have become increasingly complex, so have, in many cases, the notification requirements accompanying such actions. It is important to remember that similar actions may have quite different publication requirements.

This report has given you the basics on notice requirements which apply to cities and towns. Still, a situation could arise as to which newspaper you should use, or how many times is "proper public notice." You should consult your attorney if you are unsure about the notice requirements addressing a particular action.

---

<sup>87</sup> A.R.S. § 48-600.

<sup>88</sup> A.R.S. § 48-620.

<sup>89</sup> A.R.S. § 48-688.

<sup>90</sup> A.R.S. § 48-653.



**EXHIBIT ONE**

**SAMPLE ORDINANCE**

ORDINANCE NO. \_\_\_\_

An Ordinance of the City/Town Council of the City/Town of \_\_\_\_\_, Arizona adopting an amendment to the city code, new Article 2-3, to provide a procedure for municipal elections as authorized in A.R.S. § 9-821.01; providing for penalties; providing for repeal of conflicting ordinances; providing for severability and declaring an emergency.

Be it ordained by the City/Town Council of the City/Town of \_\_\_\_\_, as follows:

**Section 1:** The City/Town Code of the City/Town of \_\_\_\_\_ is amended by the addition of a new Article 2-3 as follows:

**Article 2-3 COUNCIL ELECTION**

- 2-3-1 Primary Election
- 2-3-2 Non-Partisan Ballot
- 2-3-3 General Election Nomination
- 2-3-4 Election to Office

**Section 2-3-1 PRIMARY ELECTION**

- A. ANY CANDIDATE WHO SHALL RECEIVE AT THE PRIMARY ELECTION A MAJORITY OF ALL THE VOTES CAST SHALL BE DECLARED TO BE ELECTED TO THE OFFICE FOR WHICH HE IS A CANDIDATE EFFECTIVE AS OF THE DATE OF THE GENERAL ELECTION, AND NO FURTHER ELECTION SHALL BE HELD AS TO SAID CANDIDATE. IF MORE CANDIDATES RECEIVE A MAJORITY THAN THERE ARE OFFICES TO BE FILLED, THOSE CANDIDATES EQUAL IN NUMBER TO THE OFFICES TO BE FILLED WITH THE HIGHEST NUMBER OF VOTES SHALL BE DECLARED ELECTED.
- B. A CERTIFICATE OF ELECTION MAY NOT BE ISSUED TO A WRITE-IN CANDIDATE WHO DID NOT RECEIVE AT LEAST AS MANY VOTES AS THE SAME NUMBER OF SIGNATURES REQUIRED ON THE NOMINATION PETITION FOR THE OFFICE SOUGHT.

**Section 2-3-2 NON-PARTISAN BALLOT**

NOTHING ON THE BALLOT IN ANY ELECTION SHALL BE INDICATIVE OF THE SUPPORT OF THE CANDIDATE.

**Section 2-3-3 GENERAL ELECTION NOMINATION**

- A. IF AT ANY PRIMARY ELECTION HELD AS ABOVE PROVIDED THERE BE ANY OFFICE FOR WHICH NO CANDIDATE IS ELECTED, THEN AS TO SUCH OFFICE,

THE PRIMARY ELECTION SHALL BE FOR THE NOMINATION OF CANDIDATES FOR SUCH OFFICE, AND THE GENERAL MUNICIPAL ELECTION SHALL BE HELD TO VOTE FOR CANDIDATES TO FILL SUCH OFFICE. CANDIDATES TO BE PLACED ON THE BALLOT AT THE GENERAL MUNICIPAL ELECTION SHALL BE THOSE NOT ELECTED AT THE PRIMARY ELECTION AND SHALL BE EQUAL IN NUMBER TO TWICE THE NUMBER TO BE ELECTED TO ANY GIVEN OFFICE OR LESS THAN THAT NUMBER IF THERE BE LESS THAN THAT NUMBER NAMED ON THE PRIMARY ELECTION BALLOT.

- B. A WRITE-IN CANDIDATE MAY NOT ADVANCE TO THE GENERAL ELECTION IF THE WRITE-IN CANDIDATE DID NOT RECEIVE THE NUMBER OF VOTES EQUIVALENT TO AT LEAST THE SAME NUMBER OF SIGNATURES REQUIRED BY LAW FOR THE NOMINATING PETITION FOR THE OFFICE SOUGHT.
  
- C. PERSONS WHO RECEIVE THE HIGHEST NUMBER OF VOTES FOR THE RESPECTIVE OFFICES AT THE PRIMARY ELECTION SHALL BE THE ONLY CANDIDATES AT THE GENERAL ELECTION, PROVIDED THAT IF THERE BE ANY PERSON WHO, UNDER THE PROVISIONS OF THIS ARTICLE, WOULD HAVE BEEN ENTITLED TO BECOME A CANDIDATE FOR ANY OFFICE EXCEPT FOR THE FACT THAT SOME OTHER CANDIDATE RECEIVED AN EQUAL NUMBER OF VOTES THEREFOR, THEN ALL SUCH PERSONS RECEIVING AN EQUAL NUMBER OF VOTES SHALL LIKEWISE BECOME CANDIDATES FOR SUCH OFFICE.

#### **Section 2-3-4 ELECTION TO OFFICE**

THE CANDIDATES EQUAL IN NUMBER TO THE PERSONS TO BE ELECTED WHO RECEIVE THE HIGHEST NUMBER OF VOTES SHALL BE DECLARED ELECTED. A WRITE-IN CANDIDATE SHALL NOT BE DECLARED ELECTED IF THE WRITE-IN CANDIDATE FAILED TO RECEIVE A NUMBER OF VOTES EQUIVALENT TO AT LEAST THE SAME NUMBER OF SIGNATURES REQUIRED ON A NOMINATION PETITION FOR THE OFFICE SOUGHT.

**Section 2:** Any person found guilty of violating any provision of this ordinance shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

**Section 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of \_\_\_\_\_ day of\_\_\_\_, 20\_\_\_\_.

**Section 4:** If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 5:** Whereas, it is necessary for the preservation of the peace, health and safety of the City/Town of \_\_\_\_\_, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

Passed and adopted by the City/Town Council of the City/Town of \_\_\_\_\_, Arizona this day of \_\_, 20\_\_.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City/Town Clerk

Approved As To Form:

\_\_\_\_\_  
City/Town Attorney

**EXHIBIT TWO**

**ORDINANCE SAMPLE DISPLAYING USE OF LEGISLATIVE STYLE**

(New language is in capital letters, deleted language has been struck through.)

ORDINANCE NO. \_\_\_\_\_

An Ordinance of the City/Town Council of the City/Town of \_\_\_\_\_, Arizona amending Section 8A-445 of the city/town tax code relating to the rental, leasing, and licensing of real property; imposing a penalty for violation; repealing conflicting ordinances; including severability and providing for application to existing contracts.

Be it ordained by the City/Town Council of the City/Town of \_\_\_\_\_, as follows:

**Section 1:** Section 8A-445 of the city tax code is amended to read:

**Sec. 8A-445. Rental, leasing, and licensing for use of real property.**

- (a) The tax rate shall be at an amount equal to ~~two percent (2%)~~ **TWO AND ONE-HALF PERCENT (2.5%)** of the gross income from the business activity upon every person engaging or continuing in the business of leasing, ~~licensing for use,~~ or renting real property located within the City for a consideration, to the tenant in actual possession, **OR THE LICENSING FOR USE OF REAL PROPERTY LOCATED WITHIN THE CITY FOR A CONSIDERATION** including any improvements, rights, or interest in such property; provided further that:
  - (1) Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
  - (2) Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
  - (3) However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 8A-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 primary health care facilities 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 any non-profit primary health care facility, 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)
- (j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 8A-444 of this code.
- (k) (Reserved)
- (l) (RESERVED)
- (m) (RESERVED)
- (n) NOTWITHSTANDING THE PROVISIONS OF SECTION 8A-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.

**Section 2:** Any person found guilty of violating any provision of this ordinance shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

**Section 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**Section 4:** If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 5:** The increase in taxation imposed pursuant to Section 1 of this ordinance shall not apply to contracts entered into prior to the effective date of this ordinance.

Passed and adopted by the City/Town Council of the City/Town of \_\_\_\_\_, Arizona this \_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Mayor

Attest:

---

City/Town Clerk

Approved As To Form:

---

City/Town Attorney

**EXHIBIT THREE**

**MODEL FORM FOR CERTIFICATION OF COUNCIL MINUTES**

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular/special meeting of the City/Town Council of \_\_\_\_\_, Arizona held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_. I further certify the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_ day of \_\_\_\_\_, 20

AFFIX  
CITY/TOWN SEAL

\_\_\_\_\_  
City/Town Clerk

**EXHIBIT FOUR**

**SAMPLE CERTIFICATE OF POSTING FOR A PENAL ORDINANCE**

**Certificate of Posting**

I, \_\_\_\_\_ the duly appointed or acting Clerk of the City/Town of \_\_\_\_\_, Arizona, or my representative, hereby certify that Ordinance No. \_\_\_ was posted in accordance with A.R.S. § 9-813 on the following dates and times, and at the following places:

DATE	TIME	PLACE
1.		
2.		
3.		

Signed:

\_\_\_\_\_  
City/Town Clerk/Representative

**EXHIBIT FIVE**

**ADOPTION BY REFERENCE**

**Resolution Declaring Document a Public Record\*\***

RESOLUTION NO. \_\_

A Resolution of the City/Town Council of the City/Town of \_\_\_\_\_, Arizona Declaring as a Public Record that Certain Document Filed with the City/Town Clerk and Entitled "The City/Town Tax Code of the City/Town of \_\_\_\_\_, Arizona," and declaring an emergency.

BE IT RESOLVED by the Mayor and Council of the City/Town of \_\_\_\_\_, Arizona:

That certain document entitled "The City/Town Tax Code of the City/Town of \_\_\_\_\_, Arizona," three copies of which are on file in the office of the City/Town clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the city clerk.

WHEREAS, it is necessary for the preservation of the peace, health and safety of the City/Town of \_\_\_\_\_, Arizona, an emergency is declared to exist, and this resolution shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City/Town Council of the City/Town of \_\_\_\_\_, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City/Town Clerk

Approved As To Form:

\_\_\_\_\_  
City/Town Attorney

\*\* Some cities combine the language of the resolution declaring the document a public record in the adopting ordinance.

**(SEE NEXT PAGE FOR ADOPTING ORDINANCE)**

**EXHIBIT FIVE (continued)**  
**Ordinance Adopting a Public Record**

ORDINANCE NO. \_\_

An Ordinance of the City/Town Council of the City/Town of \_\_\_\_\_, Arizona, relating to the Privilege License Tax; Adopting “The City/Town Tax Code of the City/Town of \_\_\_\_\_, Arizona” by reference and fixing the effective date thereof; repealing \_\_\_\_\_ of the City/Town Code; preserving rights and duties that have already matured and proceedings that have already begun thereunder and providing penalties for the violation thereof.

Be it ordained by the City/Town Council of the City/Town of \_\_\_\_\_, Arizona as follows:

**Section 1:** That certain document known as The City/Town Tax Code of the City/Town of \_\_\_\_\_, Arizona, three copies of which are on file in the office of the City/Town clerk of the City/Town of \_\_\_\_\_, Arizona, which document was made a public record by Resolution No. \_\_ of the City/Town of \_\_\_\_\_, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, the provisions thereof to become effective on the \_\_ day of \_\_, 20\_\_.

**Section 2:** Any person found guilty of violating any provision of this code shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

**Section 3:** \_\_\_\_\_ of the City/Town Code and all ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of the \_\_ day of \_\_, 20\_\_.

**Section 4:** The repeal of \_\_\_\_\_ of the City/Town Code, effective as of the \_\_ day of \_\_, 20\_\_, does not affect the rights and duties that matured or penalties that were incurred and proceedings that were begun before the effective date of the repeal.

**Section 5:** If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the 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.

Passed and Adopted by the City/Town Council of the City/Town of \_\_\_\_\_ Arizona, this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City/Town Clerk

Approved As To Form:

\_\_\_\_\_  
City/Town Attorney

**EXHIBIT SIX**

**SAMPLE PUBLIC NOTICE; TAX CODE AMENDMENTS**

The (City/Town) Council of \_\_\_\_\_, Arizona will hold a public hearing on a proposed change to the (City/Town) Tax Code pursuant to A.R.S. § 42-6054. The proposed change will \_\_\_\_\_.

The hearing will be held at \_\_ a.m./p.m. on \_\_\_\_\_ at the Council chambers \_\_\_\_\_.  
(address)

Additional information can be obtained at \_\_\_\_\_ or by calling \_\_\_\_\_.