

CITY CODE

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "South Tucson City Code" and may be so cited.

(Code 1976, Ch. I, Art. I)

Sec. 1-2. Rules of construction and definitions.

The rules and the definitions set forth in this section shall be observed in the construction of this Code and the ordinances of the city unless such construction would be inconsistent with either the manifest intent of the common council or the context of this Code.

City. "City" means the City of South Tucson, Pima County, Arizona.

Code. "Code" means the South Tucson City Code, as designated in section 1-1.

Common council or council. "Common council" or "council" means the common council of the city.

Computation of time. The time in which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a holiday, and then it is also excluded. In cases in which notice of a decision by the city must be given to a petitioner and in which the petitioner must file a notice of appeal of such decision within a time certain of less than ten (10) days, such time shall be computed starting with the day after the day during which the notice of decision is received by the petitioner by personal service or registered or certified mail.

County. "County" means Pima County, Arizona.

Day. "Day" means the period of time between any midnight and the midnight following.

Daytime. "Daytime" means the period of time between sunrise and sunset.

State law reference—Similar provisions, A.R.S. § 1-215(6).

Delegation of authority. Whenever a provision appears in this Code requiring an officer of the city to do some act it is to be construed to authorize such officer to designate, delegate and authorize subordinates to perform the required act.

Departments, boards, officers, etc. Any reference to a department, board, commission, office, officer, or employee is a reference to a department, board, commission, office, officer, or employee of the city.

In the city, within the city. "In the city" or "within the city" means all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

State law references—Extraterritorial jurisdiction, A.R.S. §§ 9-240(B)(21), 9-276(A)(18), 9-402; application of municipal ordinances to municipally owned, leased, etc., property, A.R.S. § 9-401.

Joint authority. Words purporting to give a joint authority to three (3) or more city officers or other persons are to be construed as giving such authority to a majority of such officers.

Keeper or proprietor. "Keeper" or "proprietor" includes any person, firm, association, corporation, club, and co-partnership, whether acting personally or through a servant, agent, or employee.

May. "May" is to be construed as being permissive.

May not. "May not" states a prohibition.

Month. "Month" means a calendar month.

State law reference—Similar provisions, A.R.S. § 1-215(19).

Must. "Must" is to be construed as being mandatory.

Nighttime. "Nighttime" means the period of time between sunset and sunrise.

State law reference—Similar provisions, A.R.S. § 1-215(21).

Number. Words used in the singular include the plural. Words in the plural include the singular.

State law reference—Similar provisions, A.R.S. § 1-214.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath. In such cases the words "swear" and "sworn" are equivalent to the words "affirm" and "affirmed."

State law reference—Similar provisions, A.R.S. § 1-215(22).

Occupant. "Occupant" includes a tenant.

Or, and. "Or" may be read "and" and "and" may be read "or," if the sense requires it.

Owner. "Owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of the building or land.

Person. "Person" includes the state, the county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. "Person" also includes a trustee, receiver, an assignee, or similar representative.

Public place. "Public place" includes any park, cemetery, schoolyard, sidewalk, or open space adjacent thereto.

Personal property. "Personal property" is anything other than real property.

State law reference—Similar provisions, A.R.S. § 1-215(25).

Preceding; following. "Preceding" and "following" mean next before and next after, respectively.

Property. "Property" includes real and personal property.

State law reference—Similar provisions, A.R.S. § 1-215(28).

Shall. "Shall" is to be construed as being mandatory.

Shall have been. "Shall have been" includes past and future cases.

Sidewalk. "Sidewalk" means any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians.

Signature or subscription. "Signature" or "subscription" includes a mark, when a person cannot write, with the person's name written near it and witnessed by a person who writes such person's own name as witness.

State law reference—Similar provisions, A.R.S. § 1-215(31).

State. "State" means the State of Arizona.

Street. "Street" includes any public way, road, highway, street, avenue, boulevard, parkway, alley, land, viaduct, bridge and the approaches thereto within the city.

Technical and nontechnical words. All words and phrases are to be construed and understood according to the common and approved usage of

the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law are to be construed and understood according to such peculiar and appropriate meaning.

State law reference—Similar provisions, A.R.S. § 1-213.

Tenant or occupant. "Tenant" or "occupant" includes any person who occupies the whole or a part of a building or land whether alone or with others.

Tense. The present tense includes the past and future tenses, and the future includes the present.

State law reference—Similar provisions, A.R.S. § 1-214.

Week. "Week" means seven (7) consecutive days.

Writing or written. "Writing" or "written" includes printing and any other mode of representing words and letters.

Year. "Year" means a calendar year. (Code 1976, Ch. I, Art. II, Ch. I, Art. III, §§ 1.101—1.133)

Sec. 1-3. Catchlines of sections, effect of history notes, and references in Code.

(a) The catchlines of the sections of this Code, printed in boldface type, are intended as mere catchwords to indicate the contents of the sections and are not to be deemed or taken to be titles of such sections, nor as any part of such sections, nor unless expressly so provided, are they to be so deemed when any of such sections, including the catchlines, are amended or reenacted.

State law reference—Similar provisions, A.R.S. § 1-212.

(b) The history or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles, or sections are to the chapters, articles, and sections of this Code unless otherwise specified. (Code 1976, Ch. I, Art. III, §§ 1.134—1.136, Ch. I, Art. V)

Sec. 1-4. Effect of repeal of ordinance.

(a) The repeal of an ordinance does not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed ordinance. (Code 1976, Ch. I, Art. VII)

State law reference—Similar provisions, A.R.S. § 1-252.

Sec. 1-5. General penalty; continuing violations.

(a) In this section "violation of this Code" means:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
- (3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Code shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), imprisonment or confinement at hard labor for a term not exceeding six (6) months, or any combination thereof. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.

(e) Violations of this Code that are continuous with respect to time may be abated by injunctive

or other equitable relief. The imposition of a penalty does not prevent equitable relief.

(Code 1976, Ch. I, Art. VIII; Ord. No. 85-12, § 1, 12-9-85)

Cross reference—Magistrate's court, Ch. 12.

State law reference—Penalties for ordinance violations, A.R.S. §§ 9-240(B)(28), 9-499.01.

Sec. 1-6. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and words of this Code are severable. If any word, clause, sentence, paragraph or section of this Code is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted without the incorporation in this Code of any such unconstitutional word, clause, sentence, paragraph or section.

(Code 1976, Ch. I, Art. VI)

Sec. 1-7. Certain ordinances not affected by Code.

(a) The adoption of this Code does not repeal or in any way affect or modify:

- (1) Any special ordinance or ordinance regarding franchises, annexations, dedications.
- (2) Any ordinance making an appropriation.
- (3) Any ordinance affecting any bond issue or by which any bond issue may have been authorized.
- (4) Any ordinance authorizing, ratifying, confirming, approving or accepting any contract or contract.
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
- (6) Any ordinance relating to special assessments.
- (7) Any ordinance setting a tax rate that is not codified in this Code.
- (8) Any ordinance dedicating or accepting any plat or subdivision in the city.

- (9) Any ordinance prescribing the number, classification, duties, benefits or compensation of any city officers or employees, not inconsistent with this Code.
- (10) Any ordinance rezoning property.
- (11) Any ordinance which is temporary although general in effect.
- (12) Any ordinance which is special although permanent in effect.
- (13) Any ordinance the purpose of which has been accomplished.

(b) All ordinances referred to in subsection (a) are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

Sec. 1-8. Provisions as continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as ordinance provisions previously adopted by the city relating to the same subject matter, is to be construed as restatements and continuations thereof and not as new enactments.

Sec. 1-9. Effect of repeal on prior offenses and punishments.

(a) No fine, forfeiture or penalty incurred under ordinances existing prior to the time this Code takes effect is affected by the repeal of existing ordinances, but the recovery of such fines and forfeitures and the enforcement of such penalties shall be governed by this Code and all other applicable law.

(b) When an offense is committed prior to the time this Code becomes effective, the offender shall be punished under the law in effect when the offense was committed.

Sec. 1-10. Supplementation of Code—Generally.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive

permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code,

but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-11. Same—Exclusion of special or temporary ordinances.

Ordinances adopted that are not of a general or permanent nature shall not be prepared for insertion in this Code.