



MEMORANDUM Management Services Department – Council Memo No. MS 12-006

DATE: SEPTEMBER 8, 2011

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
DENNIS STRACHOTA, MANAGEMENT SERVICES DIRECTOR *Dis by DL*
DAWN LANG, ASSISTANT DIRECTOR FOR FINANCE *TAL*

FROM: LEE GRAFSTROM, TAX AUDIT SUPERVISOR *LG*

SUBJECT: REQUEST FOR INTRODUCTION AND TENTATIVE ADOPTION OF ORDINANCE NO. 4309

RECOMMENDATION: Staff recommends introduction and tentative approval of Ordinance No. 4309 of the City Council of the City of Chandler, Arizona, amending Sections 62-100, 62-415, 62-416, 62-417, 62-445 and 62-660 of Chapter 62, Code of the City of Chandler, and establishing effective dates thereof, relating to conforming changes to the Chandler Tax Code.

BACKGROUND: Arizona allows incorporated cities and towns to have a separate tax base for their transaction privilege and use taxes, more commonly referred to as the City’s sales and use tax. Arizona’s Model City Tax Code (“MCTC”) is the document that standardizes the taxes a municipality can choose to levy, however the State does preempt cities and towns from taxing certain activities and transactions.

The MCTC was created in response to concerns about differences in local transaction privilege tax codes and the resulting compliance difficulties. The MCTC provides uniformity while at the same time retaining the right of each municipality to choose the activities that are taxed and the exemptions that are granted, thereby leaving the determination of the local sales tax base up to the individual city or town council. Municipalities also determine their own tax rates for the various taxable activities. Whereas some city charters require a vote of the people to establish the tax rates for the city, Chandler’s transaction privilege and use tax rates are set by a simple majority vote of the Mayor and Council for all classifications except Real Property Rental.

Each city can choose which activities are taxable under the MCTC; however, if they choose to tax a particular activity, then it must be done in accordance with the MCTC. The code itself consists of standard language, often referred to as “model” language, along with two groups of options, Local Options and Model Options. The options provide alternative language for a particular code section that any city or town can choose to incorporate in place of model

language. Generally, Local Options add or substitute language in a given section, while Model Options remove model language from a section. These options are the principle means by which each city can fine-tune their tax code to match their unique economic environment.

The final piece of the MCTC is a collection of city-based exceptions that are commonly referred to as “green page” items. A green page item replaces the standard model or option code language with alternative language that applies only to that specific city. Although common when the MCTC was first created, there has been considerable pressure by taxpayer advocates and the Legislature to eliminate these differences whenever possible, and to discourage the creation of new exceptions.

All changes to the MCTC require the prior approval of the Municipal Tax Code Commission (“Commission”), and all municipalities that have adopted the code must adopt all changes approved by the Commission. The Commission is comprised of nine mayors or city council members appointed by the Governor, Senate President, and Speaker of the House, along with the Director of the Department of Revenue, as an ex-officio member.

Following each legislative session, Arizona cities and towns acting collectively through the Unified Audit Committee (“UAC”), review new laws to determine those areas of the MCTC that require adjustment to maintain or achieve conformity with State law. The UAC meets with taxpayer advocates and business representatives to draft tax code changes, which are then forwarded to the Commission for approval. Any changes to the MCTC that are approved by the Commission must be adopted by the City Council, unless the change is a Local Option or Model Option, which the Council may choose to select or reject as they see fit.

DISCUSSION: In addition to several miscellaneous technical corrections throughout, there are four substantive tax code changes in this action: 1) new definitions related to medical marijuana; 2) extension of solar energy device sunset dates in the Contracting categories; 3) new exemption for leases between affiliated corporations; and 4) new exemption from Use tax for schools.

62-100 – Medical Marijuana

Section I of the ordinance adds language to the existing definitions of "Food" and "Prosthetic", and creates a new definition for the phrase "Medical marijuana". These changes were made for the purpose of specifically excluding medical marijuana and edible products infused with medical marijuana from those definitions, and thus excluding sales of medical marijuana from the related exemptions available under the Retail classification.

Sales of drugs or medicine based on the prescription or recommendation of a doctor are defined in the tax code as “prosthetics” and are exempt from tax under the Retail classification. With the passage of Proposition 203 and the recognition of “medical marijuana,” it was deemed necessary to make these definition changes to clarify that medical marijuana would not qualify for exemption as a “prosthetic”, and that such sales remain taxable. This section of the ordinance has an effective date of June 1, 2011.

62-415, 416, & 417 – Solar Energy Devices in Construction Contracting

Sections II through IV of the ordinance bring the MCTC into compliance with a legislative change that extended the sunset date under Contracting in the State tax statutes for installed solar energy devices from 2011 to 2017. The three affected sections of the MCTC have the same language and these changes align the sunset date in the MCTC with the State statute. A technical correction adding reference to the Arizona Revised Statutes is also being added to the exemption for development fees in each section. These sections are effective from and after July 29, 2010.

62-445 – Leases Between Affiliated Corporations

Section V of the ordinance adds new subsection 445(s) to incorporate a legislative preemption that prohibits cities from taxing commercial rentals between two corporations when either the landlord or lessor corporation owns at least 80% of the voting stock of the other corporation. Also allows exemption if a third corporation owns 80% of both the landlord and the lessor corporations, and treats a “reciprocal insurer” as if it were a “corporation” for purposes of the exemption. This section shall be effective from and after July 29, 2010.

62-660 – Exempting Schools from Use Tax

Section VI of the ordinance incorporates a legislative preemption against imposing Use tax on district or charter schools from 2009 that was overlooked in previous MCTC amendments. This section shall be effective from and after September 30, 2009

FINANCIAL IMPLICATIONS: The potential financial impact related to the medical marijuana code change is dependent on several factors, including whether or not the medical marijuana dispensary program continues, and finding a vendor that can acquire a suitable location within the City.

Assuming all other challenges are overcome, we can calculate the potential tax revenue based on the likely number of patients (estimated at 300), the volume of medical marijuana allowed under the law (2.5 ounces every two weeks), and the predicted price per ounce expected at a dispensary (believed to be \$300-\$400). Using those figures, the City could expect between \$87,750 and \$117,000 in new revenues per year from sales of medical marijuana alone. There would also likely be additional revenues from sales of related paraphernalia at a dispensary as well.

Extension of the solar energy device exemption and the Use tax exemption for schools are not expected to have any impact on revenues, as neither of these items had been producing any revenue previously. Impacts related to the new exemption for commercial leases between related corporations are deemed minimal because the number of qualifying entities is relatively limited.

PROPOSED MOTION: Move to introduce and tentatively approve Ordinance No. 4309 of the City Council of the City of Chandler, Arizona, amending Sections 62-100, 62-415, 62-416, 62-417, 62-445, and 62-660 of Chapter 62, Code of the City of Chandler, and establishing the effective dates thereof, relating to conforming changes to the Chandler Tax Code.

cc: Pat McDermott, Assistant City Manager

ORDINANCE NO. 4309

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING SECTIONS 62-100, 62-415, 62-416, 62-417, 62-445, AND 62-660 OF CHAPTER 62, CODE OF THE CITY OF CHANDLER, AND ESTABLISHING THE EFFECTIVE DATES THEREOF, RELATING TO CONFORMING CHANGES TO THE CHANDLER TAX CODE.

BE IT ORDAINED by the City Council of the City of Chandler, Arizona, that the Code of the City of Chandler is hereby amended as follows:

SECTION I. That Section 62-100 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-100. General definitions.

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

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

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

“Business” means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, but not casual activities or sales.

“Business Day” means any day of the week when the ~~tax collector's~~Tax Collector's office is open for the public to conduct the ~~tax collector's~~Tax Collector's business.

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

“Combined Taxes” means the sum of all applicable Arizona Transaction Privilege and Use Taxes; all applicable transportation taxes imposed upon gross income by this County as

authorized by Article III, Chapter 6, Title 42, Arizona Revised Statutes; and all applicable taxes imposed by this Chapter.

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

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

“Construction Contracting” refers to the activity of a construction contractor.

“Construction Contractor” means a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement to real property, or to do any part thereof. "Construction contractor" includes subcontractors, specialty contractors, prime contractors, and any person receiving consideration for the general supervision and/or coordination of such a construction project except for remediation contracting. This definition shall govern without regard to whether or not the construction contractor is acting in fulfillment of a contract.

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

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

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

“Equivalent Excise Tax” means either:

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

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

“Food” means any items intended for human consumption as defined by rules and regulations adopted by the Department of Revenue, State of Arizona, pursuant to A.R.S. Section 42-5106. Under no circumstances shall "food" include alcoholic beverages or tobacco, or food items purchased for use in conversion to any form of alcohol by distillation, fermentation, brewing, or other process. UNDER NO CIRCUMSTANCES SHALL “FOOD” INCLUDE ANY EDIBLE PRODUCT, BEVERAGE, OR INGREDIENT INFUSED, MIXED, OR IN ANY WAY COMBINED WITH MEDICAL MARIJUANA OR AN ACTIVE INGREDIENT OF MEDICAL MARIJUANA.

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

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

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

“Lessee” includes the equivalent person in a rental or licensing agreement for all purposes of this ~~chapter~~Chapter.

“Lessor” includes the equivalent person in a rental or licensing agreement for all purposes of this ~~chapter~~Chapter.

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

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

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

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

“MEDICAL MARIJUANA” MEANS “MARIJUANA” USED FOR A “MEDICAL USE” AS THOSE TERMS ARE DEFINED IN A.R.S. SECTION 36-2801.

“Mining and Metallurgical Supplies” means all tangible personal property acquired by persons engaged in activities defined in Section 62-432 for such use. This definition shall not include:

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

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

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

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

“Out-of-City Sale” means the sale of tangible personal property and job printing if all of the following occur:

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

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

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

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

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

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

separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

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

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

(7) UNDER NO CIRCUMSTANCES SHALL “PROSTHETIC” INCLUDE MEDICAL MARIJUANA REGARDLESS OF WHETHER IT IS SOLD OR DISPENSED PURSUANT TO A PRESCRIPTION, RECOMMENDATION, OR WRITTEN CERTIFICATION BY ANY AUTHORIZED PERSON.

“Qualifying Community Health Center”

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

- (A) The sole provider of primary care in the community.
- (B) A non-hospital affiliated clinic that is located in a federally designated medically underserved area in this State.

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

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

medical related education and charitable services are included in the eighty ~~(80)~~-percent (80%) requirement.

“Qualifying Hospital” means any of the following:

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

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

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

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

- (1) The vendee is regularly engaged in the business of renting, leasing, or licensing such property for a consideration; and
- (2) The item so claimed as "rental equipment" is not used by the person claiming the exemption for any purpose other than rental, lease, or license for compensation, to an extent greater than fifteen ~~(15)~~-percent (15%) of its actual use.

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

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

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

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

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

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

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

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

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

“Solar Energy Device” means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a

solar energy device, such as a Trombe wall, and not merely as a part of a normal structure, such as a window.

“Speculative Builder” means either:

- (1) An owner-builder who sells or contracts to sell, at any time, improved real property (as provided in Section 62-416) consisting of:
 - (A) Custom, model, or inventory homes, regardless of the stage of completion of such homes; or
 - (B) Improved residential or commercial lots without a structure; or
- (2) An owner-builder who sells or contracts to sell improved real property, other than improved real property specified in subsection (1) above:
 - (A) Prior to completion; or
 - (B) Before the expiration of twenty-four (24) months after the improvements of the real property sold are substantially complete.

“Substantially Complete” means the construction contracting or reconstruction contracting:

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

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

“Tax Collector” means the Management Services Director or his designee or agent for all purposes under this ~~chapter~~Chapter.

“Taxpayer” means any person liable for any tax under this ~~chapter~~Chapter.

“Taxpayer Problem Resolution Officer” means the individual designated by the City to perform the duties identified in Sections 62-515 and 62-516. In cities with a population of fifty thousand (50,000) or more, the Taxpayer Problem Resolution Officer shall be an employee of the City. In cities with a population of less than fifty thousand (50,000), the Taxpayer Problem Resolution Officer need not be an employee of the City. Regardless of whether the Taxpayer Problem Resolution Officer is or is not an employee of the City, the Taxpayer Problem Resolution Officer shall have substantive knowledge of taxation. The identity of and telephone number for the Taxpayer Problem Resolution Officer can be obtained from the Tax Collector.

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

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

“Utility Service” means the producing, providing, or furnishing of electricity, electric lights, current, power, gas (natural or artificial), or water to consumers or rate-payers.

SECTION II. That Section 62-415 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-415. Construction contracting: construction contractors.

- (a) The tax rate shall be at an amount equal to one and one-half ~~(1.5)~~ percent (1.5%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.
- (1) However, gross income from construction contracting shall not include charges related to groundwater measuring devices required by A.R.S. Section 45-604.
 - (2) (Reserved)
 - (3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 62-427.
 - (4) For taxable periods beginning from and after July 1, 2008, the portion of gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this paragraph, “direct costs” means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (b) Deductions and exemptions.
- (1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.
 - (2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five ~~(35)~~ percent (35%).
 - (3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (A) Section 62-465, subsections (g) and (p)
 - (B) Section 62-660, subsections (g) and (p)~~(B)~~ shall be exempt or deductible, respectively, from the tax imposed by this Section.
 - (4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 62-110, that is deducted from

the retail classification pursuant to Section 62-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be ~~deducted~~ EXEMPT from the tax imposed by this Section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

- (A) To be incorporated into real property.
 - (B) To become so affixed to real property that it becomes part of the real property.
 - (C) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 62-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (7) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this State for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (8) The gross proceeds of sales or gross income received from a ~~post~~-post-construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.
- (9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. § 9-499.08 if the

contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

- (A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. § 9-499.08, subsection D.
 - (B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.
 - (C) Any other information considered to be necessary.
- (10) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
- (A) The attributable amount shall not exceed the value of the development fees actually imposed.
 - (B) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
 - (C) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.
- (11) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2011~~2017, the gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.
- (c) "Subcontractor" means a construction contractor performing work for either:
- (1) A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City Privilege License number.
 - (2) An owner-builder who has provided the subcontractor with a written declaration that:

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

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

SECTION III. That Section 62-416 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-416. Construction contracting: speculative builders.

- (a) The tax shall be equal to one and one-half ~~(1.5)~~ percent (1.5%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.
 - (1) The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 - (2) “Improved Real Property” means any real property:
 - (A) Upon which a structure has been constructed; or
 - (B) Where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (C) Which has been reconstructed as provided by Regulation; or
 - (D) Where water, power, and streets have been constructed to the property line.
 - (3) “Sale of Improved Real Property” includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
 - (4) “Partially Improved Residential Real Property” as used in this Section, means any improved real property, as defined in subsection (a)(2) above, being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

(b) Exclusions.

- (1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.
- (2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Section.
- (3) (Reserved)
- (4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:
 - (A) The speculative builder purchasing the partially improved residential real property has a valid City privilege license for construction contracting as a speculative builder; and
 - (B) At the time of the transaction, the purchaser provides the seller with a properly completed written declaration that the purchaser assumes the liability for and will pay all privilege taxes which would otherwise be due the City at the time of sale of the partially improved residential real property; and
 - (C) The seller also:
 - (i) Maintains proper records of such transactions in a manner similar to the requirements provided in this Chapter relating to sales for resale; and
 - (ii) Retains a copy of the written declaration provided by the buyer for the transaction; and
 - (iii) Is properly licensed with the City as a speculative builder and provides the City with the written declaration attached to the City privilege tax return where he claims the exclusion.
- (5) For taxable periods beginning from and after July 1, 2008, the portion of gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this paragraph, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions relating to exemptions, deductions and tax credits:

(1) Exemptions.

- (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
- (i) Section 62-465, subsections (g) and (p)
 - (ii) Section 62-660, subsections (g) and (p)
- shall be exempt or deductible, respectively, from the tax imposed by this Section.
- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 62-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
- (i) The attributable amount shall not exceed the value of the development fees actually imposed.
 - (ii) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

- (iii) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five ~~(35)~~ percent (35%).
- (B) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 62-110, that is deducted from the retail classification pursuant to Section 62-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be ~~deducted~~ EXEMPT from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
- (i) To be incorporated into real property.
- (ii) To become so affixed to real property that it becomes part of the real property.
- (iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2011~~2017, the gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

(3) Tax Credits.

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

- (A) A tax credit equal to the amount of city privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.
- (B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

SECTION IV. That Section 62-417 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-417. Construction contracting: owner-builders who are not speculative builders.

- (a) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to one and one-half ~~(1.5)~~ percent (1.5%) of:
 - (1) The gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 62-415(c)(2); and
 - (2) The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.
- (b) For taxable periods beginning from and after July 1, 2008, the portion of gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.
- (c) The tax liability of this Section is subject to the following provisions relating to exemptions, deductions and tax credits.
 - (1) Exemptions.
 - (A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
 - (i) Section 62-465, subsections (g) and (p)
 - (ii) Section 62-660, subsections (g) and (p)

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

- (B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this Section.
- (C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 62-465, subsection (g) shall be exempt from the tax imposed under this Section.
- (D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this Section.
- (E) Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the Model City Tax Code or by a contractor providing services to the taxpayer shall be exempt from the tax imposed under this section. For the purposes of this paragraph:
 - (i) The attributable amount shall not exceed the value of the development fees actually imposed.
 - (ii) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
 - (iii) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to A.R.S. Section 9-463.05, A.R.S. Section 11-1102 or A.R.S. Title 48 regardless of the jurisdiction to which the fees are paid.

(2) Deductions.

- (A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five ~~(35)~~ percent (35%).
- (B) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Section 62-110, that is deducted from the retail classification pursuant to Section 62-465(g), that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be ~~deducted~~ EXEMPT from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:
- (i) To be incorporated into real property.
 - (ii) To become so affixed to real property that it becomes part of the real property.
 - (iii) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.
- (C) For taxable periods beginning from and after July 1, 2008 and ending before January 1, ~~2011~~2017, the gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the Department of Revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the Department of Revenue and the City, as applicable, for examination.

(3) Tax Credits.

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

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

- (B) A tax credit equal to the amount of privilege taxes paid to this City, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.
- (C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.
- (d) The limitation period for the assessment of taxes imposed by this Section is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties, as provided in Section 62-540, will be based on reportable date.
- (e) (Reserved)

SECTION V. That Section 62-445 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-445. Rental, leasing, and licensing for use of real property.

- (a) The tax rate shall be at an amount equal to one and one-half ~~(1.5)~~ percent (1.5%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee 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 62-470.
- (b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.
- (c) Charges by a qualifying hospital, qualifying community health center or a qualifying health care organization to patients of such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.

- (e) (Reserved)
- (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 62-444 of this Code.
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) Notwithstanding the provisions of Section 62-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.
- (o) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other state or a political subdivision of this State or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this Section.
- (p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.
- (q) Charges to patients receiving "personal care" or "directed care", by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.
- (r) Income received from the rental of any "low-income unit" as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the "gross rent" defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit.

(s) THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A COMMERCIAL LEASE IN WHICH A RECIPROCAL INSURER OR A CORPORATION LEASES REAL PROPERTY TO AN AFFILIATED CORPORATION. FOR THE PURPOSES OF THIS PARAGRAPH:

(1) "AFFILIATED CORPORATION" MEANS A CORPORATION THAT MEETS ONE OF THE FOLLOWING CONDITIONS:

(A) THE CORPORATION OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(B) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY THE LESSOR.

(C) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT ALSO OWNS OR CONTROLS AT LEAST EIGHTY PER CENT OF THE LESSOR.

(D) THE CORPORATION IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A CORPORATION THAT IS AT LEAST EIGHTY PER CENT OWNED OR CONTROLLED BY A RECIPROCAL INSURER.

(2) FOR THE PURPOSES OF SUBSECTION (1), OWNERSHIP AND CONTROL ARE DETERMINED BY REFERENCE TO THE VOTING SHARES OF A CORPORATION.

(3) "RECIPROCAL INSURER" HAS THE SAME MEANING AS PRESCRIBED IN A.R.S. SECTION 20-762.

SECTION VI. That Section 62-660 of Chapter 62, Code of the City of Chandler is hereby amended as follows:

Sec. 62-660. Use tax: exemptions.

The storage or use in this City of the following tangible personal property is exempt from the Use Tax imposed by this ~~article~~Article:

- (a) Tangible personal property brought into the City by an individual who was not a resident of the City at the time the property was acquired for his own use, if the first actual use of such property was outside the City, unless such property is used in conducting a business in this City.
- (b) Tangible personal property, the value of which does not exceed the amount of one thousand dollars (\$1,000.~~00~~) per item, acquired by an individual outside the limits of the City for his personal use and enjoyment.
- (c) Charges for delivery, installation, or other customer services, as prescribed by ~~regulation~~Regulation.

- (d) Charges for repair services, as prescribed by ~~regulation~~Regulation.
- (e) Separately itemized charges for warranty, maintenance, and service contracts.
- (f) Prosthetics.
- (g) Income-producing capital equipment.
- (h) Rental equipment and rental supplies.
- (i) Mining and metallurgical supplies.
- (j) Motor vehicle fuel and use fuel which are used upon the highways of this State and upon which a tax has been imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes.
- (k) Tangible personal property purchased by a construction contractor, but not an owner-builder, when such person holds a valid ~~privilege~~Privilege license~~License~~ for engaging or continuing in the business of construction contracting, and where the property acquired is incorporated into any structure or improvement to real property in fulfillment of a construction contract.
- (l) Sales of motor vehicles to nonresidents of this State for use outside this State if the vendor ships or delivers the motor vehicle to a destination outside this ~~state~~State.
- (m) Tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing, or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing, or production process is not an ingredient Nor component part of a product.
- (n) Rental, leasing, or licensing for use of film, tape, or slides by a theater or other person taxed under Section 62-410, or by a radio station, television station, or subscription television system.
- (o) Food served to patrons for a consideration by any person engaged in a business properly licensed and taxed under Section 62-455, but not food consumed by owners, agents, or employees of such business.
- (p) Tangible personal property acquired by a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property is in fact used in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.
- (q) Food purchased with food stamps provided through the food stamp program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302; 42 United States Code Section 1786).
- (r) The following tangible personal property purchased by persons engaging or continuing in the business of farming, ranching, or feeding livestock, poultry or ratites.
 - (1) Seed, fertilizer, fungicides, seed treating chemicals, and other similar chemicals.

- (2) Feed for livestock, poultry or ratites, including salt, vitamins, and other additives to such feed.
- (3) Livestock, poultry or ratites purchased or raised for slaughter, but not including livestock purchased or raised for production or use, such as milk cows, breeding bulls, laying hens, riding or work horses.
- (4) (Reserved)

This exemption shall not be construed to include machinery, equipment, fuels, lubricants, pharmaceuticals, repair and replacement parts, or other items used or consumed in the running, maintenance, or repair of machinery, equipment, buildings, or structures used or consumed in the business of farming, ranching, or feeding of livestock, poultry or ratites.

- (s) Groundwater measuring devices required by A.R.S. Section 45-604.
- (t) (Reserved)
- (u) Aircraft acquired for use outside the state, as prescribed by ~~regulation~~ Regulation.
- (v) Sales of food products by producers as provided for by A.R.S. ~~§§~~ SECTIONS 3-561, 3-562 and 3-563.
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) Tangible personal property used or stored by this City.
- (aa) Tangible personal property used in remediation contracting as defined in Section 62-100 and Regulation 62-100.5.
- (bb) Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:
 - (1) Printed or photographic materials.
 - (2) Electronic or digital media materials.
- (cc) Food, beverages, condiments and accessories used for serving food and beverages ~~to~~ BY a commercial airline, as defined in A.R.S. Section 42-5061(A)(49), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (dd) Wireless telecommunication equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Section 62-470.
- (ee) (Reserved).

- (ff) Alternative fuel as defined in A.R.S. ~~§~~SECTION 1-215, by a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. ~~§~~SECTION 49-426 or ~~§~~SECTION 49-480.
- (gg) Food, beverages, condiments and accessories purchased by or for a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes; to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (hh) Personal hygiene items purchased by a person engaged in the business of and subject to tax under ~~section~~Section 62-444 of this code if the tangible personal property is furnished without additional charge to and intended to be consumed by the person during his occupancy.
- (ii) The diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
- (jj) Food, beverages, condiments and accessories purchased by or for a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.
- (kk) Motor vehicles that use alternative fuel if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. Section 1-215.

~~(kk)~~(II) THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.

SECTION VII. The provisions of Section I of this ordinance shall be effective from and after June 1, 2011. The provisions of Section II through V of this ordinance shall be effective from and after July 29, 2010. The provisions of Section VI of this ordinance shall be effective from and after September 30, 2009.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 8th day of September, 2011.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the Mayor and Council of the City of Chandler, Arizona, this 22nd day of September, 2011.

ATTEST:

CITY CLERK

MAYOR

Approved As To Form:

CITY ATTORNEY

SKM

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4309 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 22nd day of September, 2011, and that a quorum was present thereat.

CITY CLERK

Published: