

CHAPTER 3 ADMINISTRATION¹

ARTICLE 3-1 OFFICERS IN GENERAL

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3-1-4	Vacancies; Holding More Than One Office
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Section 3-1-1 Officers²

There are hereby created the offices of city manager, city clerk, director of finance, chief of police, city engineer, city attorney and city magistrate. The city manager and the city attorney shall be appointed by and serve at the pleasure of the council. The city magistrate shall be appointed by council and shall serve a term of two years. The city clerk, director of finance, chief of police and city engineer shall be appointed by the council, and report to the city manager, and be accountable to the city manager.

Section 3-1-2 Additional Officers

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute.

Section 3-1-3 Bond

The council may require each officer of the city to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve as determined by resolution. The city shall pay the costs of such bond.

Section 3-1-4 Vacancies; Holding More Than One Office

Any vacancy that shall occur in any city office shall be filled by appointment by the council, provided that one person may hold more than one office and that at the discretion of the council, the functions of a city official may be validly performed and discharged by a deputy or another city official, or an otherwise qualified individual not holding office but employed at the pleasure of the council.

Section 3-1-5 Additional Powers and Duties

¹ As of 07/02/09

² Amended Section 3-1-1

Ordinance No. 06-07

Adopted 06/20/2006

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the council through ordinance, resolution or order.

ARTICLE 3-2 OFFICERS

3-2-1	City Manager
3-2-2	City Clerk
3-2-3	Police Chief
3-2-4	City Engineer
3-2-5	City Attorney
3-2-6	Director of Finance
3-2-7	City Magistrate

Section 3-2-1 City Manager

- A. **Office Created.** The office of the city manager is hereby created and established. The city manager shall be appointed by the council on the basis of his administrative and executive ability and qualifications and shall hold office for and at the pleasure of the council, subject to any agreements on employment entered into between the city and the city manager.
- B. **Eligibility.** No member of the council shall be eligible for appointment as city manager until one year has elapsed after such council member shall have ceased to be a member of the council.
- C. **Bond.** The city manager shall furnish a corporate surety bond to be approved by the council in such sum as may be determined by the council, and shall be conditioned upon the faithful performance of the duties imposed upon the manager as herein prescribed. Any premium for such bond shall be a proper charge against the city.
- D. **Acting City Manager.**
1. In the event of the absence or disability of the city manager, the powers and duties of that office shall devolve upon the assistant city manager or such person as the city manager shall designate.
 2. In the event of a vacancy in the office of city manager such as that created by termination, resignation or death, the council may assign the powers and duties of the office of city manager to another person until such time that the manager shall be replaced. If such circumstances occur, the council shall be obligated to seek a permanent replacement for the city manager.
- E. **Compensation.** The city manager shall receive such compensation as the council shall from time to time determine, and said compensation shall be a proper charge against such funds of the city as the council shall designate. The city manager shall be reimbursed for all sums necessarily incurred or paid in the performance of duties, or incurred when traveling on business pertaining to the city as approved by the council; reimbursement shall be made only when a verified itemized claim, setting forth the sums

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- expended for which reimbursement is requested, has been presented and approved by the council.
- F. **Removal Procedure.** The city manager may be removed from office for cause by the affirmative vote of four (4) members of the council at a regular or special council meeting. The City Manager may also be removed, without statement of cause, at the pleasure of the council upon the affirmative vote of five (5) members of the council at a regular or special council meeting.
- G. **Resignation of the City Manager.** The city manager shall provide the council with thirty days written notice of his intention to resign his position. The city manager shall assist the council in the recruitment and selection of a replacement, if requested by the council. In the event of resignation due to health reasons, the period of written notice shall be determined in conference between the city manager and the council.
- H. **Powers and Duties.** The city manager shall be the administrative head of the government of the city under the direction and control of the council. The city manager shall be responsible for the administration of all affairs of the city which are under his control. In addition to the city manager's general powers as administrative head, it shall be his duty and he shall have the following additional powers and duties:
1. See that all laws and ordinances of the city, and that all franchises, contracts, permits and privileges granted by the council are faithfully observed and to report any failure in that regard to the council, which shall give such instruction and direction as it may desire for remedial, corrective or terminating action by the manager.
 2. To appoint, remove, promote and demote any and all officers and employees of the city, except the city magistrate, city clerk, chief of police, city engineer, city attorney and members of the boards, commissions and committees, all of whom shall be appointed by the council. As to these officials, the city manager may recommend appointment and removal. All department heads shall be appointed subject to ratification by the council. All such actions of the city manager shall be subject to all applicable personnel ordinances, rules and regulations and statutes of the State of Arizona and shall be based on merit and upon the qualifications and disqualifications of such an employee without regard to any political belief or affiliation.
 3. To coordinate the administrative functions and operation of the various departments, boards, divisions and services of the city government, and on its behalf to carry out policies, rules, regulations and ordinances adopted by it, relating to the administration of the affairs of such departments, boards, divisions or services. Such powers and duties to be subject to the following provisions:
 - a. That the organizational structure under which municipal services are performed shall be specified in an organization chart approved by the council.

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- b. That prior to any creation, combination, consolidation or deletion of any positions of employment, written job descriptions or amendments thereto shall have been approved by the council.
4. To prepare and submit to the council a proposed annual budget for the next fiscal year and a financial plan for the subsequent fiscal year.
5. Prepare and submit to the council at the end of each fiscal year a complete report on the finances and administrative activities of the city during the preceding year.
6. Keep the council fully advised as to the needs of the city in such form and at such times as requested by the council.
7. To see that no indebtedness is incurred or expenditure made in violation of the Arizona Constitution, the State budget law and Arizona Revised Statutes Section 42-17106(A) in particular.
8. Recommend to the council a standard schedule of pay for each appointive office and position in the city service. Authorize the payment of overtime pay for such employees as may work in excess of a normal work period. Such rates of pay and periods of work shall be in conformance with wages and salaries enacted by the council.
9. Recommend to the council for adoption, such measures and ordinances as he deems necessary.
10. Attend all meetings of the council unless excused there from and take part in the discussion of all matters coming before the council. He shall be entitled to notice of all regular and special meetings of the council. He shall present definite recommendations relative to each item on the agenda for approval, rejection or modification by the council.
11. Oversee the purchase of all materials, supplies and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of city services. Receive sealed bids for purchases or contracts and present them to the council for approval, and advise the council on the advantages or disadvantages of contract and bid proposals. The city manager may issue such rules governing purchasing procedures within the administrative organization provided that they are consistent with the provisions of the code and state law.
12. In case of accident, disaster or other circumstances creating a public emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency; but he shall file promptly with the council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.
13. Investigate the affairs of the city and any department or division thereof. Investigate all complaints in relation to matters concerning the administration of

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the city government and in regard to service maintained by the public utilities in the city.

14. To exercise general oversight over all public buildings, public parks and other public property which are under the control and jurisdiction of the council.
15. To perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution of the council.

I. **Internal Relations**

1. **Council-Manager Relations.** The council and its members shall deal with the administrative services of the city only through the city manager or his designee, except for the purpose of inquiry, and neither the council nor any member thereof, shall give orders or instructions to any employee or officer other than the city manager. The city manager shall take his orders and instructions from the council, only when promulgated at a duly convened meeting of the council, and no individual councilman shall give any orders or instructions to the city manager except for purpose of inquiry.
2. **Attendance at Commission Meetings.** The city manager may attend any and all meetings of all commissions, boards or committees created by the council, upon his own volition or upon direction of the council. At such meetings which the city manager attends, he shall be heard by such commissions, boards or committees as to all matters upon which he wishes to address the members thereof, and he shall inform said members as to the status of any matter being considered by the council, and he shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the council.

- J. **Agreements on Employment.** Nothing in this article shall be construed as a limitation on the power or authority of the council to enter into any supplemental agreement with the city manager delineating additional terms and conditions of employment not inconsistent with any provisions of this article or of State Statutes.

Section 3-2-2 City Clerk

- A. **Bond.** Before entering upon the duties of the office, the city clerk shall execute a bond in such amount as is provided by statute, conditioned upon the faithful performance of his duties. Any premium for such bond shall be a proper charge against the city.
- B. **Records.** The city clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the city or that the council directs. The clerk shall number, plainly label and file separately in a suitable cabinet and/or a digitized format all resolutions, ordinances, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.

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- C. **Public Inspection of Records.** The clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute.
- D. **Minutes.** The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy.
- E. **Ordinances, Resolutions, Budgets and Notices.** The clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.
- F. **Election Official.** The clerk shall be the city election official and perform those duties required by state statute.
- G. **Licenses.** The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.
- H. **Seal.** The clerk shall be the custodian of the city seal and shall affix its impression on documents whenever this is required.
- I. **Additional Duties.** In addition to the duties herein provided, the clerk shall perform such other duties and functions as may be conferred upon the clerk by the council and as may be required by statute or ordinance.

Section 3-2-3 Police Chief

The chief of police shall perform duties as may be required of him by law, the city manager and as the council may deem necessary.

Section 3-2-4 City Engineer

The engineer shall have charge of the city streets, sewers and waterworks and shall perform such duties as may be required of him by law and such other duties as the council may deem necessary.

Section 3-2-5 City Attorney

The city attorney shall act as the legal counselor and advisor of the council and other officials and, as such, shall give his opinion in writing when requested. He shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. He shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the council. He shall return, within ten days, all ordinances and resolutions submitted to him for consideration by the council, with his approval or disapproval as to form noted thereon, together with his reasons therefor. He shall prosecute and defend all suits, actions or causes where the city is a party, and shall report to the council, when required, the condition of any suit or action to which the city is a party.

Section 3-2-6 Director of Finance

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The office of director of finance is created and established. The director of finance shall be appointed by the City Manager. The director of finance shall be the chief accounting officer of the city and shall be the head of the finance department of the city and shall have the power and is required to do the following:

- (a) Administration of Financial Affairs. He shall have charge of the administration of financial affairs of the city under the direction of the city manager;
- (b) Budget. He shall compile the budget expense and income estimates for the city manager;
- (c) Accounting System. He shall maintain a general accounting system for the city government and of each of the offices, departments and agencies;
- (d) Disbursements. He shall supervise and be responsible for the disbursements of all monies and have control of all expenditures, audits and approve before payment of all bills, invoices, payrolls, demands or other charges against the city government and with the advice of the city attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges to ensure that budget appropriations are not exceeded;
- (e) Other Functions. He shall perform such other functions and have such other responsibilities as the city manager may from time to time specify or such other functions and responsibilities as may be prescribed from time to time, by action of the city council; and
- (f) Duties as Treasurer. The director of finance shall hold the office of treasurer and receive and safely keep all monies that come to the city and pay out the same and when authorized by the council or the city's ordinances and resolutions.

Section 3-2-7 City Magistrate

The city magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

ARTICLE 3-3 PERSONNEL SYSTEM

- 3-3-1 Creation and Scope
- 3-3-2 Conditions of Employment
- 3-3-3 Rules and Regulations
- 3-3-4 Political Contributions

Section 3-3-1 Creation and Scope

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The council shall adopt a merit system for the employees of the city, the provisions of which shall apply to all employees of the city except elected officials, officers of the city appointed by the council, department heads, persons engaged under contract to supply expert, professional or technical services, temporary employees and volunteer personnel who receive no regular compensation from the city.

Section 3-3-2 Conditions of Employment

The appointment, promotion and tenure of every employee shall be based upon the merit and fitness and the satisfactory performance of the duties and responsibilities assigned. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, sex, political affiliation or handicapped status.

Section 3-3-3 Rules and Regulations

The council may adopt by resolution rules and regulations to give effect to this article, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration.

Section 3-3-4 Political Contributions

No officer, official or employee of the city shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

ARTICLE 3-4 PURCHASING³

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³ Amended Article 3-4

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Section 3-4-1 Scope of Article

This Article shall govern the purchase of any goods or services for or on behalf of the City.

Section 3-4-2 Council Approval; When Required

No purchases shall be made by or on behalf of the City without first obtaining Council approval in the following instances:

- A. Where prior approval is required by this Code;
- B. Where the purchase of the item is not provided in the budget as adopted;
- C. Where the funds for the purchase are not provided in the budget as adopted;
- D. For the expenditure of funds in an amount in excess of \$25,000.

Section 3-4-3 Purchasing Director; Duties

- A. The finance director shall serve as the purchasing director and shall have responsibility of all purchases of goods and services made by or on behalf of the City. The purchasing director may delegate these administrative functions to other staff as considered necessary by preparing a written memorandum.
- B. The purchasing director shall approve or deny all purchase requests and shall report to the Council on any purchase requiring Council approval.
- C. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the City, shall be made by the purchasing director, or any officer, employee or agent of the City, except in the manner set forth in this Article, and unless said purchase is in accordance with the adopted City budget.

Section 3-4-4 In General

- A. Purchases under \$5,000. Whenever any contemplated purchase or contract for services is for the sum of less than \$5,000, the purchasing director may order the item as needed without further formality; however the local preference provisions set forth in Section 3-4-12 below should be considered.
- B. Purchases from \$5,000 to \$10,000. Whenever any contemplated purchase or contract for services is for the sum of at least \$5,000 and less than \$10,000, the purchasing director shall obtain at least three verbal quotes. Upon review of the quotes, he shall award the purchase or contract to the lowest responsive bidder, subject to the provisions of Section 3-4-12.
- C. Purchases from \$10,000 to \$25,000. Whenever any contemplated purchase or contract for services is for the sum of at least \$10,000 but not more than \$25,000, the purchasing

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director shall obtain at least three written quotes on vendor letterhead, if possible. He may solicit quotes or advertise for quotes using the procedure provided in this Article. Upon review of the quotes, he shall award the purchase or contract to the lowest responsive bidder.

- D. Purchases in Excess of \$25,000. No purchase or contract in an amount in excess of \$25,000 shall be awarded without prior Council approval. Unless otherwise exempted under this Article, all such purchases shall be made in accordance with Section 3-4-6. The purchasing director shall present the bids obtained to the Council and shall report to them on the need for the goods or service and the advantages or disadvantages of the contract and bid proposals.
- E. Cumulative Annual Purchases in Excess of \$25,000. No purchase or contract, in any amount, shall be awarded to any vendor who, as a result of said award, will have exceeded \$25,000 in annual sales to the City without prior Council approval.

Section 3-4-5 Exclusive Service

In the event that there is only one firm or company or individual capable of providing a particular service or commodity and such services or commodities cannot be secured from other persons or companies, the requirement of this Article concerning bidding procedures shall not be applicable. The purchasing director shall make a determination of exclusive service following extensive research and shall maintain documentation of such determination.

Section 3-4-6 Bidding Procedure

Except as provided in Sections 3-4-5, 3-4-11, and 3-4-14, the purchasing director shall follow the procedure set forth in this section for all purchases and contracts subject to the bidding process:

- A. A notice or solicitation for bids shall state the date, time and place of opening, and the place and time period within which bids shall be submitted.
- B. The notice shall state with particularity the goods or services required and shall state the place where specifications may be examined.
- C. Bids shall be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bid not received within the time period allowed shall be rejected.
- D. All bids shall be opened in public at the time and place specified, and a tabulation of all bids received shall be posted in City Hall for public inspection.
- E. The purchasing director or the Council shall have the right to reject any and all bids and parts of bids and to re-advertise or re-solicit for bids.

Section 3-4-7 Lowest Responsive Bidder

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Unless the Council or the purchasing director, as appropriate, shall exercise the right of rejection, all goods and services in an amount in excess of \$25,000 shall be awarded to the lowest responsive bidder. In determining the lowest responsive bidder, the Council or the purchasing director may consider:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required in a timely manner.
- B. The quality of performance in previous contracts with the City together with previous and existing compliance with the ordinances of the City.
- C. The financial resources and ability of the bidder.
- D. The quality, availability and adaptability of the goods or service.
- E. Qualities and/or characteristics that the City deems highly desirable which is (i) not offered by another lower bidder and (ii) will result in advantages not previously realized and, therefore, not called out in the bid specification form.

Section 3-4-8 Performance Bond

The purchasing director shall have the authority to require a performance bond, in cash or other form of security approved by the purchasing director, for such amount as the purchasing director may deem sufficient to secure the execution of the contract for the best interest of the City.

Section 3-4-9 Emergency Purchases

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the Mayor shall be empowered to authorize the purchasing director to purchase or secure services without complying with the procedures of this Article. A full report of the circumstances of such emergency and the goods obtained shall be made to the Council at its next regular meeting.

Section 3-4-10 Forms

The purchasing director shall prescribe and maintain such forms as may be necessary for the proper administration of this Article, including but not limited to the following:

- A. Bid Specification Form. The bid specification form shall state the specifications for the goods or service required and shall be available for inspection by prospective bidders as of the first publication of the notice of bid.
- B. Notice to Bidders. The notice to bidders shall set forth the goods or services sought, the day, time and place when bids will be opened, the dates and times within which bids will be received, when specifications may be reviewed and where available and such other information as may be required to secure the most advantageous bids.

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Section 3-4-11 Professional and Technical Services

- A. The provisions of Section 3-4-6 of this Article, unless required by law or contract, shall not apply to the procurement of professional or technical services, but the purchasing director shall determine the scope of the services required and may, at his option, require the submission of proposals prior to engaging such services. For the purposes of this Article, "professional or technical services" means those services requiring specialized knowledge, education, skill or expertise and where the qualifications of the person(s) rendering the services are of primary importance. Professional and technical services shall include, but not be limited to, services provided by architects, attorneys, accountants, construction and project managers, dentists, design professionals, engineers, geologists, physicians, nurses, psychologists, teachers, veterinarians and health care providers, which provide a combination of professional and paraprofessional services or any other professions and services defined as professional services by state law.
- B. No person or firm practicing in a professional or technical field for which a license is required by state law shall be engaged by the City unless possessing a current license in good standing.
- C. Upon engagement the City shall enter into a written agreement or memorandum of understanding for the performance of the services for which engaged, setting forth the scope of services and the unit or total price therefore.
- D. Professional and technical services shall be procured in accordance with federal or state law whenever applicable.

Section 3-4-12 Local Preference

In awarding contracts for supplies, equipment and contractual services of an estimated value in the amount of less than \$10,000, the contract shall be awarded to bidders who have both a verifiable place of business located within the municipal limits of the City and a business license from the City for a period of not less than six months prior to date of award of contract in preference to a competing bidder whenever the bid of the competing bidder, with equal quality and suitability considered, is less than five percent lower. This preference shall not be used where state law or any applicable federal statute or regulation forbids the granting of such preference, or requires another method for competitive bidding. This Section shall not apply to contracts for professional services pursuant to this Article, nor to purchases made pursuant to Section 3-4-14 of this Article.

Section 3-4-13 Purchase Orders

- A. In General. The purchasing director shall provide forms of purchase order which shall be used for the purchase of all goods and services for or on behalf of the City.
- B. Open Purchase Orders. Open purchase orders may be provided by the purchasing director for the routine purchase of regularly supplied items costing not more than \$100 per unit. An open purchase order shall be limited to a single source and shall not be

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valid for more than \$5,000 in the aggregate. All open purchase orders shall expire at the end of the fiscal year of issuance and the expiration date shall be plainly stated on the face thereof.

Section 3-4-14 Cooperative Purchasing

This Article shall not apply to purchases made by, through or with Agencies of the United States Government, the State of Arizona or its political subdivisions. The City may make purchases or award contracts for services without a formal bidding process whenever other governmental units have completed a formal bidding process, or updated the underlying contract, for the same item or service within twelve months of the proposed award date and if, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price for such items or services.

Section 3-4-15 Promotion of Maximum Practicable Competition

- A. Maximum Competition Encouraged. All specifications for bids or proposals shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs. Specifications shall not be unduly restrictive
1. To the extent practicable and unless otherwise permitted by this Section, all specifications shall describe the City's requirements in a manner that does not unnecessarily exclude a specific material, service or construction item.
 2. To the extent practicable, the City shall use accepted commercial specifications and shall procure standard commercial materials and, absent significant justification, avoid proprietary specifications.
- B. Brand Name or Approved Alternate. Proprietary or brand name specifications shall not be used unless the purchasing director determines, in writing, that such specifications are required by demonstrable technological justification, that it is not practicable or advantageous to use a less restrictive specification, that the use of such a specification is in the best interests of the City, and if the solicitation provides for the submission of equivalent products.
1. A brand name or approved alternate specification shall designate as many different brands as are practicable as "approved alternate" references.
 2. A brand name or approved alternate specification shall include a description of the particular design, functional or performance characteristics that are required, unless the purchasing director determines, in writing, that the essential characteristics of the brand names designated in the specifications are commonly known.
 3. A solicitation that uses a brand name or approved alternate specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.

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C. Qualified Products List.

1. A qualified products list may be prepared and utilized, if the purchasing director determines, in writing, that testing or examinations of the material or construction items prior to the issuance of the solicitation is desirable or necessary in order to best satisfy the City's requirements.
2. As many potential suppliers as practicable shall be solicited to submit products for testing and examination, to determine acceptability for inclusion on a qualified products list.
3. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose.
4. The qualified products list shall not be modified after the solicitation is issued.

Section 3-4-16 Construction Projects

- A. Provided the cost of the project exceeds the statutorily established amount, the procurement of both horizontal and vertical construction projects shall be governed by state law. The purchasing director shall consult the Arizona Revised Statutes when procuring goods and services related to construction.
- B. When the cost of a construction project falls below the statutorily established amount, the project shall be procured pursuant to the provisions of this code.
- C. Alternative delivery methods, such as design bid build, construction manager at risk, design build, and job order contracting, may be utilized for applicable purchases. These purchases must be in compliance with Arizona Revised Statutes.

ARTICLE 3-5 EMERGENCY POWERS AND AUTHORITY

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Section 3-5-1 Definitions

In this article, unless the context requires otherwise:

- A. "Emergency Functions" means warning and communications services, relocation of persons from stricken areas, radiological defense, temporary restoration of utilities, plant protection, transportation, welfare, engineering, search, rescue, health, law enforcement, fire fighting and other activities necessary or incidental thereto.

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- B. "Emergency Services" means the preplanning necessary to carry out emergency functions, other than functions for which military force of federal agencies are primarily responsible, to prevent or minimize the loss of lives or property caused by disasters of every kind.
- C. "Local Emergency" means the existence of conditions of disaster or of extreme peril to the safety of persons or property within the territorial limits of the City of Maricopa, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the city as determined by the council and which require the combined efforts of other political subdivisions.
- D. "State of Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the State caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the State and the political subdivision.
- E. "State of War Emergency" means the condition which exists immediately whenever this nation is attacked or upon receipt by the State of Arizona of a warning from the federal government indicating that such an attack is imminent.
- F. "Private Sector" means all industry, commerce, business or banking; all services other than those provided by the government; and all persons other than those in governmental agencies at any level.

Section 3-5-2 Powers

- A. The council, pursuant to the provisions of Arizona Revised Statutes Section 26-307, has the power to make, amend and rescind orders, rules and regulations necessary for emergency functions and regulations, but such shall not be inconsistent with orders, rules and regulations promulgated by the governor of this State. Such orders, rules or regulations shall be effective when a copy is filed in the office of the clerk. Existing resolutions, rules and regulations in conflict with Arizona Revised Statutes Sections 26-301, et. seq. and hereafter amended, are suspended during the time of emergency and to the extent that they may conflict.
- B. Pursuant to Arizona Revised Statutes Section 26-307(C) as amended, a state of war emergency, the council may waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when the council determines and declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency.
- C. In the absence of specific authority in State emergency plans and programs, the council will take emergency measures as deemed necessary to carry out the provisions of Arizona Revised Statutes Section 26-301 et. seq., and as hereafter amended.

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D. This article constitutes authority, pursuant to the provisions of Arizona Revised Statutes Section 26-311, for the mayor to declare an emergency and, during such emergency, to govern by proclamation and to impose all necessary regulations to preserve the peace and order of the city including, but not limited, to:

1. Imposition of curfews in all or portions of the city.
2. Ordering the closing of any business.
3. Closing to public any public building, street or other public place.
4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the County of Pinal for assistance.

In periods of local emergency, including an emergency declared by the mayor pursuant to Arizona Revised Statutes Section 26-311(A), the city has full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements therefor.

Section 3-5-3 Duties of the Manager

A. The manager, subject to the direction and control of the council, shall be responsible for the organization, administration and operation of the City of Maricopa Emergency Services. In accordance with the provision of Arizona Revised Statutes Section 26-312, the manager may, on behalf of the city, accept for purposes of emergency services an offer of the federal government or an agency thereof, or an offer of any person, firm or corporation of services, equipment, supplies, material or funds, whether by gift, grant or loan.

B. There is hereby granted to the manager the authority:

1. During non-emergency periods to:
 - a. Coordinate city emergency service plans, procedures, programs and other emergency services activities with federal agencies, the State of Arizona, adjoining county agencies, political subdivisions and municipalities of the State and with the private sector.
 - b. Ensure compliance with the provisions of Arizona Revised Statutes Section 26-301, et. seq.
 - c. Ensure conformance with State emergency plans and procedures.
 - d. Achieve adequate operational readiness, adequacy of training programs and proper utilization of emergency equipment and supplies.
 - e. Make such studies and surveys of the private sector as may be necessary to ascertain the capabilities of the city for emergency services, and to plan for the most efficient use thereof.

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- f. Recommend to the mayor, for delegation to the various departments and agencies of the city, appropriate emergency services responsibilities, and to coordinate the emergency activities of all such departments and agencies.
2. During declared emergencies to:
 - a. Coordinate the emergency activities of all city departments and agencies.
 - b. Coordinate the emergency activities of the city with federal agencies, the State of Arizona, adjoining county agencies, political subdivisions and municipalities of the State and with the private sector to achieve the most effective use of personnel, equipment, services, facilities and other existing available resources.
 - c. Utilize the services, resources and facilities of existing departments and agencies of the city, and when necessary to create new agencies or call upon the private sector to perform emergency tasks and functions unavailable in departments and agencies of the city.

Section 3-5-4 Enforcement

The law enforcement authorities of the city shall enforce all orders, rules and regulations issued pursuant to this article.

Section 3-5-5 Immunity

The city, its officers, agents, employees, volunteers duly enrolled or registered with the city emergency services and unregistered persons placed into service during a state of war emergency are immune from liability as provided in Arizona Revised Statutes Section 26-314.

Section 3-5-6 Conditions of Enactment

The emergency plan, as adopted by the council, will be the immediate basis for the conduct and coordination of emergency operations in the city under the following disaster conditions:

- A. Upon declaration of a state of war by the President of the United States;
- B. When the governor of the State of Arizona has proclaimed a state of emergency in an area including this city; or
- C. Upon the order of the mayor or his authorized representative, provided that the existence or threatened existence of a local emergency has been duly proclaimed in accordance with the provisions of the emergency services of this city.

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ARTICLE 3-6 MEET AND CONFER CODE⁴

3-6-1	Purpose
3-6-2	Conflicts
3-6-3	Employee Rights
3-6-4	Definitions
3-6-5	Employee Groups
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3-6-10	Prohibited Activity
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3-6-1 Purpose

The purpose of this Meet and Confer Code is to establish an orderly process to allow regular non-probationary employees and their representatives, who have been certified as the exclusive representative of a particular employee group, to meet and confer with the City Manager, or his/her designee, relating to wages, hours, benefits and other conditions of employment.

3-6-2 Conflicts

- A. In the event of conflict with other City Code Ordinance provisions, the provisions of this Code shall govern.
- B. The city's rules and regulations, administrative directives, departmental rules and regulations, and work place practices shall govern employee relations unless there is a specific conflict with a memorandum of understanding approved by the City Council pursuant to this Code. Where a specific conflict exists, the memorandum of understanding shall govern.
- C. A memorandum of understanding cannot contradict this Code.

3-6-3 Employee rights

Eligible City employees have the right to be represented by an employee organization certified as an exclusive representative under the provisions of this Code in the meet and confer process contained herein regarding wages, hours, benefits and other conditions of employment, and to have a member of the employee organization present during the disciplinary process. The disciplinary process does not apply to an interview of an employee during the normal course of work, counseling, instruction, informal verbal admonishment or other routine or unplanned contact with a supervisor.

⁴ Added Article 3-6

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3-6-4 Definitions⁵

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fiscal year means the budget term adopted by the City.

Business days means Monday through Friday excluding holidays as designated by the City Manager.

Confidential Employee means any employee designated by the City Manager who has access to information regarding relations between the city and its recognized employee organizations including but not limited to information affecting negotiations with the organizations or resolution of complaints or grievances relating to City Employment relations issues or who is in a confidential relationship with city management. Employee organization representatives are exempt from this classification.

Day means calendar day except as otherwise stated.

Employee shall mean benefitted full-time and benefitted part-time employees; but shall exclude contracted, temporary, seasonal, or new probationary employees, employees on leaves of absence where the duration of time off is in excess of six (6) months with the exception of employees on military leave.

Employee organization means an organization designated by the City Council as authorized to represent employees in the meet and confer process as described in this Code and other codes of the city for the purpose of meeting and conferring relating to wages, hours, benefits and other conditions of employment.

Management employee shall mean any city employee who is engaged primarily in executive, management, supervisory functions, and/or is charged with the responsibility of developing, administering or effectuating management policies. Fire personnel below the rank of Battalion Chief and Police officers below the rank of Lieutenant are exempt from this designation. The determination of management status shall be made by the City Manager.

Professional employee shall mean any city employee who is engaged in functions, either administrative or technical in an exempt position. Fire personnel below the rank of Battalion Chief and Police officers below the rank of Lieutenant are exempt from this designation. The determination of professional status shall be made by the City Manager.

Non-supervisory employees shall mean any city employee who does not have authority to hire, discharge, promote, transfer, suspend, layoff, or discipline other employees or to effectively recommend such action, or who is not in a confidential relationship with city management. Determination of non-supervisory and confidential status shall be made by the City Manager.

Petition shall mean a form for signatures established by the City Manager.

⁵ Revised Section 3-6-4

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3-6-5 Employee groups⁶

- A. The maximum number of labor organizations to be designated for employee representation shall be limited to a total of five. Employee groups can include only regular, non-probationary employees. They shall include:
1. Fire fighters, all sworn personnel below the rank of Battalion Chief.
 2. Police officers, all sworn personnel below the rank of Sergeant.
 3. All clerical, administrative, and technical non-supervisory, non-confidential employees.
 4. All labor and trades non-supervisory, non-confidential employees (including lead persons).
 5. Police Sergeants.
- B. The following personnel are ineligible for representation under the meet and confer process:
1. All sworn Fire personnel above the rank of Captain.
 2. All sworn Police personnel above the rank of Sergeant.
 3. All other city employees who are supervisory (except lead persons), management, professional, or confidential employees.

The Human Resources Director shall submit a list to the City Manager of those employees who are supervisory, management, professional, and confidential. A final determination shall be made by the City Manager.

3-6-6 Election process.

- A. Each employee organization seeking recognition as the authorized representative of an appropriate group shall file upon demand with the City Manager the following:
1. The name and address of the organization.
 2. A copy of its charter, constitution and by-laws, if such documents exist.
 3. The names, titles, addresses and telephone numbers of its duly elected officers.
 4. A statement that membership in such organization is not denied because of race, creed, color, sex, disability, national origin, ancestry, religion, age or genetic testing.

⁶ Revised Section 3-6-5

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5. A Petition requesting designation as the authorized representative of an appropriate group supported by the signatures of not less than thirty per cent (30%) of the eligible employees in that group.
- B. Each Petition submitted to the City Manager shall contain the name of the employee group, the name of the employee organization, signature, printed name, employee number, date of signature, and employee position of each person signing the petition. No signature on a petition shall bear a date greater than ninety (90) days in advance of submittal. If an eligible employee signs more than one petition, then the latest dated signature shall be considered valid.
- C. Petitions for recognition shall be filed during the time period from November 1 to November 30. The City Manager shall, within thirty (30) days from receiving the petition, verify the signatures of eligible employees within the designated group and shall then promptly set an election. No election should be directed in any appropriate group or any subdivision within which, in the preceding twelve (12) month period, a valid election shall have been held or under the conditions stated in Section 3-6-6(F).
- D. The City Manager shall, within thirty (30) days from receiving the Petition, verify that thirty percent (30%) of eligible employees within the designated group have signed the Petition and shall then promptly post conspicuous notice of receipt of such Petition. Once a Petition has been filed with the City Manager calling for a representation election, other organizations may seek to be placed on the ballot. To do so, the organization must file a Petition containing the valid dated signatures of not less than thirty percent (30%) of the employees in the employee group. This Petition must be filed no later than ten (10) days after the City Manager has posted the written notice. The City Manager shall conduct a secret ballot election among the employees in the employee group within thirty (30) days of the posting of the written notice.
- E. Each employee eligible to vote shall be provided the opportunity to choose the employee organization he/she wishes to represent him/her from among those on the ballot, or to choose "none." An organization shall not be listed on the ballot unless the City Manager has found a showing of interest as required under Section 3-6-6(A).
- F. To be certified as an authorized representative, an employee organization must receive a majority of the votes cast. In an election involving three or more choices, where none of the choices receive a majority of the votes cast, a run-off election shall be conducted between the two choices receiving the largest number of votes.
- G. Where a majority of the votes in an employee group cast votes in favor of representation by an organization, the City Manager shall certify the organization as the exclusive representative for all employees in that employee group.
- H. After an employee organization has been the exclusive representative of an employee group for at least one year (12 months), any member of the employee group can initiate an election to decertify the exclusive representation by submitting a petition containing not less than thirty percent (30%) of eligible employees in the employee group. If the City Manager verifies the Petition is valid and in compliance with this Code the election shall be conducted in the same manner as a representation election. Petitions for decertification shall be filed during the time period from September 1 to October 1 of the year immediately preceding the expiration of said memorandum of understanding.

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- I. Election disputes shall be resolved by a third party, designated by the Mayor and City Council, whose decision shall be final and binding on the parties.
- J. The City Manager may refer the administration of any election to the Chairperson of the Merit Board or the City Clerk.

3-6-7 Right of employees and employee organizations

- A. Employees have the right to participate on behalf of or engage in activities on behalf of an employee organization and have the right to refrain from such activity. Employees shall be free from any interference, restraint, or coercion by any employee, supervisor, or manager for or against employee organizations. Violations will necessitate disciplinary action.
- B. There can be only one official and exclusive employee organization for each employee group for purposes of meeting and conferring. An exclusive employee organization must equally and fairly represent all employees as designated by 3-6-5 and shall provide to them the same voting rights and eligibility to hold office in the employee organization.
- C. Employee organizations shall have no rights beyond the specific terms of this Code and a resulting Meet and Confer agreement.
- D. Employee organizations shall have the right to bi-weekly dues deductions, if approved by the members of the organization and as allowed by law. Dues deductions from payroll must be authorized by each individual employee on the appropriate form provided by the Human Resources Department.

3-6-8 Meeting and Conferring

- A. This meet and confer process covers wages, hours, benefits and other conditions of employment, which include: salary or wage rates or other forms of direct monetary compensation and direct cost subjects; paid time off and procedures therefore; leaves of absence; insurance benefits; total hours of work required of an employee on each workday or workweek, including overtime, compensatory time, rest and meal periods and call-in/call-back; health and safety; training; personnel records review; discussions with personnel by group representatives; distribution of information; meet and confer procedures; city-wide uniform procedure for employee grievances; uniform process for employee discipline; rights of the employee organizations and the City; items of concern to the employee organization and the City Manager.

The following items shall not be included in the meet and confer process: personnel performance evaluations, discipline of employees or hiring, discharging, promotions, demotions, transfers or suspensions. Non-negotiable items include any fact of the hiring, promotion or transfer of employees, the types of discipline or the grounds for demotion, discharge, suspension or discipline.

It is the right of the City to determine the purpose of each of its departments, agencies, boards and commissions, and to set standards of service to be offered to the public and exercise control and discretion over its organization and operations. It is also the right of the City to direct its employees, take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons, determine whether goods or

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services shall be made, purchased or contracted for, and determine the methods, means, and personnel by which the employer's operations are to be conducted. The City has the right to take all necessary actions to maintain uninterrupted service to the community. The Mayor and City Council may, at their option and sole discretion, direct the city manager to consult with the city's employees, or their authorized representatives, about the direct consequences that decisions on these matters may have on wages, hours, and working conditions. The enumeration of the above rights is illustrative only and is not to be construed as being all-inclusive.

- B. The City and the employee organization shall have the duty through appropriate officials or representatives to meet and confer in good faith with respect to wages, hours, benefits and other conditions of employment. It is the intent that all meeting and conferring occur only between the parties' respective representatives.
- C. Once all areas of a proposed memorandum of understanding, including areas still in dispute, have been submitted to the Mayor and City Council, the Mayor, City Council, City Manager, or employee organization may request representatives from both management and the employee organization to provide information and clarification.
- D. Meet and confer shall consist of the following process:
 - 1. Employee organizations may submit proposals regarding wages, hours, benefits and other conditions of employment to the City Manager no later than January 5 prior to each fiscal year. Previously agreed upon multi-year memorandum of understanding shall not require a new submittal.
 - 2. All proposals submitted to the city manager must be in writing and in a form that can be incorporated into a memorandum of understanding. Unless otherwise provided in this Code and as allowed by law, during the meet and confer process, proposals shall remain confidential except that they shall be available to the City Manager, the employee organization representatives, or those designated by the employee group, and others as designated by the City Manager.
 - 3. Upon receiving a proposal from an employee organization, the City Manager shall submit a written response to the proposal no later than February 5.
 - 4. Within ten (10) business days from the receipt of the City Manager's response, representatives of the employee organization and the City Manager or designated representative shall begin "meeting and conferring" at mutually agreed upon times and places for the purpose of entering into a written memorandum of understanding relating to the proposals. Meetings shall be at least (2) hours in duration, unless mutually agreed otherwise. Meetings shall continue weekly, unless mutually agreed otherwise, until an agreement is reached, or impasse is declared by either party. Meeting ground rules shall be mutually agreed on by the City Manager and employee group representative, and shall be adhered to while meeting and conferring.
 - 5. The City Manager or designee, and the representative of the employee organization, shall initial all areas of agreement. Those areas not in agreement may be withdrawn by either party or shall be outlined as areas in dispute.

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- (a) Both parties shall advise the City Council by no later than March 1 that areas of dispute still exists.
 - (b) Either party, or both parties, may request that the City Council refer the matter to formal mediation.
 - (c) Upon receiving a request for formal mediation from either or both parties, the City Council may request that a mediator be assigned forthwith to the case. All costs associated with use of a mediator will be split equally between the city and the employee organization.
6. On or before April 15, all areas of agreement, areas in dispute and still under consideration, shall be submitted to the Mayor and City Council for their consideration.
7. The Mayor and City Council may accept, reject or modify the recommended areas of agreement within the proposed memorandum of understanding and may take whatever action they feel appropriate with regard to any areas in dispute consistent with the City Code. Final action by the Mayor and City Council shall constitute the memorandum of understanding for a fiscal year or other designated period.
8. If there is a claim of breach of a memorandum of understanding and the employee organization's existing memorandum of understanding does not provide a process for resolution of the breach, the breach process in Section 3-6(D)(9) shall apply.
9. In the event that there is a claim of breach of a memorandum of understanding that the employee organization and the City have been unable to informally resolve, the following process shall be followed:
 - (a) If either party claims that the memorandum of understanding has been breached, the parties shall:
 - (i) Within forty-five (45) days of the alleged breach, the party alleging the breach shall give written notice to the party who has allegedly breached the memorandum of understanding. The notice shall specify the provision(s) breached and the facts and evidence demonstrating or supporting the breach and the proposed remedy.
 - (ii) A written response to the alleged breach shall be submitted to the party alleging the breach within ten (10) days of the written notice.
 - (iii) Within fourteen (14) days of the written notice, the parties shall meet and attempt to resolve the matter; and
 - (iv) A written agreement, which is intended to resolve the matter shall be signed by the parties and submitted to the City Manager.
 - (v) In the event that an agreement is not reached and the possibilities of settlement through direct discussions between the parties is remote, either the City Manager or his designated persons or the

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representative of the employee organization may initiate a request to the City Council to refer the matter to mediation. Upon receiving a request for formal mediation from either or both parties, the City Council may request that a mediator be assigned forthwith to the case. The mediator shall be selected by mutual agreement of the parties. All costs associated with use of a mediator will be split equally between the City and the employee organization.

3-6-9 City and management rights

The City and the City Manager's rights are not subjugated or diminished in any way by any expressed or implied duty or obligation to meet and confer or bargain. Retained management rights are not subject to the grievance procedure contained in any memorandum of understanding, nor are they subject to any other appeal or complaint process.

- A. The City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer, and manage its municipal services and work force performing those services. The authority of the City shall not be modified or limited by inference or implication.
- B. The exclusive rights of the City shall include, but not be limited to, the right to determine the organization of city government, and the purpose and mission of its constituent agencies, to set standards of service to be offered to the public, and through its management officials to exercise control and discretion over its organization and operations, to establish rules and practices governing the conduct of employees, to direct and supervise its employees and their work, to take disciplinary action, to relieve its employees from duty because of lack of work or for other legitimate reasons, to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule, and assign work and overtime, to hire, transfer and reassign employees and to otherwise act in the interests of efficient service to the community. The City reserves the right to establish and revise work schedules and work locations; to establish, revise and implement standards for hiring and promoting employees; to determine the need for additional positions and the qualifications of new employees, and to determine the qualifications for and/or the qualifications of employees considered for transfer and/or promotion; to evaluate and judge the skill, ability and efficiency and general work performance of employees; to adopt and to manage its budget, provide for the funding of certain levels of service, to add, delete, modify, or suspend certain programs, functions, divisions, and departments as the City Council in the exercise of its legislative authority to create and manage the City's budget, determine to be necessary and appropriate.
- C. The City retains all rights not specifically limited by a memorandum of understanding approved in accordance with the provisions of this Code.

3-6-10 Prohibited activity

- A. An employee, employee organizations or their representative(s) shall not:

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1. Discriminate against an employee with regard to employee organization membership because of race, color, religion, creed, age, disability, sex, national origin or genetic testing;
 2. Discriminate against an employee because he/she has chosen not to form, join or assist an employee organization;
 3. Use city time, property or equipment for employee organization business, except as specified in a memorandum of understanding.
 4. Obstruct, restrain or coerce any employee, elected or appointed City official in the exercise of any right provided by the provisions of this Code.
 5. Obstruct, restrain, threaten or coerce any elected or appointed official, representative of the employer or City employee, for the purposes of gaining a concession;
 6. Disclose or discuss any matters concerning the meet and confer proposal with City elected officials or the news media from the date negotiations commence until the date and time set for hearing before the City Council on the mutually agreed upon proposed memorandum of understanding or until the date and time set for a hearing before the City Council on the areas of dispute.
 7. Refuse to meet and confer in good faith with the employer;
 8. Refuse or fail to comply with any provision of this Code;
 9. Coerce the employer in the selection of its agents for bargaining or resolving grievances;
 10. Under no circumstances shall a City employee, official, and employee organization or any other individual or employee organization engage in, instigate, promote, cause, sponsor, condone, permit, encourage, or take part in any strike, slowdown, sympathy strike, withholding of services, work stoppage, curtailment of work, reduction of work or interference of any kind with the operations of the City. Strike shall mean concerted action of employees and/or others resulting in the failure of employees to report for work when directed to do so, the concerted absence of employees from their positions, the concerted stoppage of work and./or concerted slowdown of work, or the concerted effort to refrain from the full, faithful, and proper performance of the duties of employment with the City. In the event of a violation of this subsection, an employee organization shall immediately instruct the involved employees that their conduct is in violation of this section and/or any applicable memorandum of understanding; that the employees may be disciplined up to and including termination, and instruct all such persons to cease the prohibited conduct and take all reasonable means to end the breach.
- B. City management and its representatives shall not:
1. Discriminate against an employee with regard to employee organization membership because of race, color, religion, creed, age, disability, sex, national origin or genetic testing;

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2. Discriminate against an employee with regard to terms and conditions of employment because of the employee's membership in an employee organization;
3. Obstruct, restrain or coerce any employee in the exercise of any right provided under this Code;
4. Dominate or obstruct the formation, existence or administration of any employee organization;
5. Discriminate in regard to hiring, or any term or condition of employment in order to encourage or discourage membership in an employee organization;
6. Discharge or otherwise discriminate against an employee because he/she has signed or filed a Petition, grievance or complaint or because an employee is forming, joining or choosing to be represented by a labor organization;
7. Obstruct, restrain or coerce any employee, elected or appointed City official, representative of the employee organization, for the purpose of gaining a concession.
8. Disclose or discuss any matters concerning the meet and confer proposal with City elected officials or the news media from the date negotiations commence until the date and time set for hearing before the City Council on the mutually agreed upon proposed memorandum of understanding or until the date and time set for a hearing before the City Council on the areas of dispute.
9. Refuse to meet and confer in good faith with the exclusive representative;
10. Refuse or fail to comply with any provisions of this Code;
11. Coerce the employee organization in the selection of its agent for meeting and conferring or adjustment of grievances.

3-6-11 Solicitations and distributions

- A. Specific provisions regarding use of working hours for the solicitation of members, dues and other internal employee organization business shall be conducted only during non-working hours and shall not interfere with the work process unless otherwise agreed to in the memorandum of understanding.
- B. Specific provisions regarding the use of working areas or use of city equipment and information systems, for the solicitation of members, dues and distribution of other employee organization business shall be included in the memorandum of understanding.