

CHAPTER 9 OFFENSES

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Section 9-1-1 Dangerous Constructions

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

Section 9-1-2 Excavations to be Covered

- A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the town without providing a sufficient light at night and a temporary fence or suitable obstruction around such excavation to protect the public during the day.
- B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection.

Section 9-1-3 Explosives²

- A. DEFINITIONS: The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - 1. "Consumer Firework" means those fireworks defined by Arizona Revised Statutes Section 36-1601.
 - 2. "Display Firework" means those fireworks defined by Arizona Revised Statutes Section 36-1601.
 - 3. "Fireworks" means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing

¹Amended by Ordinance 272-03 and Ordinance 282-04

²Amended by Ordinance 489-10; 578-15

a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by Arizona Revised Statute Section 36-1601.

4. "Novelty Items" means federally deregulated novelty items that are known as glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.
5. "Permissible Consumer Fireworks" means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the Town of Queen Creek even where the use of those items has been prohibited.
6. "Supervised Public Display" means a monitored performance of display fireworks open to the public and authorized by permit by the Chief of the Fire Department, Town Fire Marshal, or designee.
7. "Public Facilities" means any building or real property, other than public right of way, which is owned, leased or otherwise operated by a governmental entity.

B. Fireworks Prohibited; Exceptions¹.

1. The use, discharge or ignition of fireworks within the Town Of Queen Creek corporate boundaries is prohibited except as provided for in this section:
 - a) The use, discharge or ignition of permissible consumer fireworks is limited to June 24 through July 6 and December 24 through January 3 each year on private property with the owner's permission
 - b) The use discharge or ignition of fireworks is prohibited on all public property including in all public parks, public retention areas, public rights-of-way and public facilities.
2. Nothing in this section or chapter shall be construed to prohibit the use, discharge or ignition of novelty items as defined herein or the occurrence of a supervised public display of fireworks.
3. Permits may be granted by the Chief of the Fire Department, Town Fire Marshal or designee for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Chief of the Fire Department, the Fire Marshal or his designee have authority to impose conditions on any permits issued, including, but not limited to, those requirements contained in Arizona Revised Statutes, Title 36, the Fire Code adopted by the Town and any other applicable law. Permit conditions may include obligations by permittee for insurance, bonds and indemnity along with other measures.

¹Amended by Ordinance 548-14

4. Failure to comply with any permit requirements and conditions issued by the Chief of the Fire Department, the Fire Marshal or his designee is a violation of this Section.

C. Sale of Fireworks¹.

1. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.
2. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
3. The sale of permissible consumer fireworks shall be allowed from May 20 through July 6 and December 10 through January 3 each year.

D. Posting of signs by persons engaged in the sale of fireworks; civil penalty¹.

1. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - a) The use of fireworks except novelty items as defined by Town Code, including permissible consumer fireworks is limited to June 24 through July 6 and December 24 through January 3 each year on private property with the owner's permission.
 - b) Permissible consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
2. Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.
3. The Chief of the Fire Department, the Fire Marshal or his designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the Town's website and filed with the Clerk's Office.
4. Signs shall be posted that are eight and one-half inches by eleven inches in size, that are on cardstock paper in landscape orientation with letters not less than four (4) inches in height and contains the following language on a contrasting background: "Fireworks - No Smoking".

E. Authority to enforce violations of this section; means of enforcement.

1. In addition to the enforcement officers specified in section 9-4 herein, the Chief of the Fire Department or designee and Fire Marshal or designee may issue civil citations to enforce violations of this Section 9-1-3.

¹Amended by Ordinance 548-14

2. A person violating a provision of this Section 9-1-3 is subject to a civil penalty of \$1,000.00.
3. Any person authorized to issue a civil citation or a complaint for violation of this section may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid a civil penalty.

F. Liability for emergency responses related to use of fireworks; definitions.

1. A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this Article is prima facie evidence of liability under this section.
2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to Subsection 1 above. The charge constitutes a debt of that person and may be collected by entities proportionately by the public agencies, for-profit or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall not exceed \$15,000.00 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.
3. For the purposes of this section:
 - a) "Expenses of an Emergency Response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.
 - b) "Reasonable Costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

G. Explosives.

It is unlawful for any person, other than a law enforcement officer in the performance of his duty, within the limits of the Town to blast, use powder or other explosives without a permit issued by the Chief of the Fire Department, Town Fire Marshal, or designee.

Section 9-1-4 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds, church grounds or property of other persons.

"Litter" includes any rubbish, refuse, waste material, offal, paper, glass, cans, bottles, organic or inorganic trash, debris, filthy or odoriferous objects, dead animals or any foreign substance of whatever kind or description, including junked or abandoned vehicles, whether or not any of these items are of value.

Section 9-1-5 Curfew Hours for Minor¹

A. Definitions. In this section, unless the context otherwise requires:

1. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action
2. "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or a person at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.
3. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.
4. "Minor" means any person less than eighteen years of age.
5. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.

B. Offenses.

1. It is unlawful for any minor under the age of sixteen years to be in, about or upon any place in the town away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about or upon any place in the town away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.
3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate paragraphs 1 or 2 of this subsection.
4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of paragraphs 1 or 2 of this subsection.

C. Defenses/Exceptions.

It is a defense to prosecution under subsection B, including paragraph 3 of subsection B, of this section that the minor was:

1. Accompanied by the minor's parent or guardian.
2. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.
3. With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the

¹Ordinance 72-95

most direct route.

4. Involved in an emergency.
5. With prior permission of the parent or guardian, was engaged in reasonable, legitimate and specific business and/or activity. Examples include, but are not limited to, a juvenile, with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.
6. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
7. Married and sixteen years of age or over, or in the military.
8. On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

D. Enforcement.

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in subsection C of this section is probably present.
 2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of paragraphs 1 or 2 of subsection B of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.
- E. Each violation of the provisions of subsection B of this Section shall constitute a separate offense.
- F. A person convicted of a violation of any provision of this section shall be guilty of a class 1 misdemeanor. This offense is designated an incorrigible offense for minors under the jurisdiction of the juvenile court.

Section 9-1-6 Noise¹

- A. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the chief of police to operate any such vehicle so equipped.
- C. It is unlawful for any person:
1. To operate a motor vehicle, that is not at all times equipped with a muffler upon the exhaust system. This muffler must be in good working order and in constant operation so as to prevent excessive or unusual noise. It is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.
 2. To operate a truck or other motor vehicle in such a manner as to cause the engine to emit additional noise from its exhaust or muffler system through deceleration or through a practice commonly known as jake braking.
- D. It is unlawful for any person, establishment, corporation or institution to allow or cause excessive, loud, or unusual noise to emit from real or personal property that they own or control, regardless of the instrument, device, or source of the noise, between the hours of 10:00 p.m. and 6:00 a.m. It shall be prima facie evidence that a noise is loud, excessive or unusual if it can be heard by a person, who has normal hearing ability, for a distance of two hundred feet or more from its source.
- E. Exemptions from noise level regulations:
1. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, authorized emergency vehicles engaged in an emergency activity and emergency pressure-relief valves.
 2. A vehicle operated by a gas, electric, communications, or water utility company, or governmental entity while being operated for official business.
 3. When the sound amplification system is being operated to request assistance of an emergency nature or to warn of a hazardous situation.

¹Amended by Ordinance 272-03; Ordinance 330-06 & 611-16

4. Noises from the normal operation of railroad trains.
5. A vehicle used for advertising in a parade or in a political or other special event as authorized by the town.
6. Church chimes or bells.
7. Crowd noises resulting from activities such as those planned for school, government, or community groups or duly authorized by such groups.
8. Organized sporting events.
9. Noises created by any aircraft operated in conformity with or pursuant to federal law, federal air regulations, or air traffic control instructions issued pursuant to or within duly adopted federal air regulations, together with any noise created by aircraft operating under or pursuant to declaration of any emergency under federal air regulations.
10. Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition.
11. Landscape maintenance equipment when it is functioning in accordance with the manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition between the hours of 6:00 a.m. and 10:00 p.m.

F. Unnecessary Noise

1. Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
2. The factors which will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:
 - (a.) The volume of the noise;
 - (b.) The intensity of the noise;
 - (c.) Whether the nature of the noise is usual or unusual;
 - (d.) Whether the nature of the noise is natural or unnatural;
 - (e.) The volume and intensity of the background noise, if any;
 - (f.) The proximity of the noise to residential sleeping facilities;
 - (g.) The nature and zoning of the area within which the noise emanates;
 - (h.) The time of the day or night the noise occurs;

- (i.) The duration of the noise;
- (j.) Whether the noise is recurrent, intermittent or constant;
- (k.) Whether the noise is produced by a commercial or noncommercial activity;
- (l.) Whether it is an impulse noise.

G. Animal noise

It is unlawful to keep or harbor any animal which by frequent, habitual or continued barking, yelping or howling, crowing or the making of any noise disturbs the peace of the neighborhood. No summons or complaint shall be issued nor shall a conviction be made for violation of this subsection unless there are at least two complaining witnesses from separate households who shall have signed such complaint. One of the two witnesses may be a Town Code Enforcement Officer or a law enforcement officer.

Section 9-1-7 Noise Regulations During Construction¹

- A. During the times hereinafter set forth, no construction activities of any kind, including but not limited to the making of an excavation, clearing of surface land and equipment or supplies, or the operation of mechanically powered tools anywhere in the town limits, shall be permitted, when such activities result in the generation of mechanically or electrically created noise that can be heard by a person with normal hearing within an occupied residential building, the windows of which are closed, if such building is located within five hundred feet of the construction site.
- B. Start/stop time periods of construction. Abovementioned construction activities are prohibited during the following time periods, unless a permit is obtained as described in subsection C of this section:
 - 1. Prior to 5:00 am and after 7:00 pm Monday through Friday from May 15 through September 15.
 - 2. Prior to 6:00 am and after 7:00 pm Monday through Friday during the remainder of the year.
 - 3. Prior to 7:00 am and after 5:00 pm on Saturdays throughout the year.
 - 4. At all times on Sundays and Legal Holidays as defined by the town.
- C. Permit. Construction work may be conducted at different times than otherwise permitted herein if, upon written application, a permit is obtained from the community development department, building safety division. A permit may be obtained for a single project, or for multiple projects under construction, by the same applicant, within 600 feet, approximately two blocks, of each other. In granting such permit, the building official shall consider whether construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of the different population levels or different neighborhood activities; whether obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; whether the kind of work to be performed emits noises at such a

¹Amended by Ordinance 272-03; Ordinance 282-04

low level as to not cause significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site; whether the neighborhood of the proposed work site is primarily residential in character wherein sleep would be disturbed; whether great economic hardship would occur if the work were spread over a longer time; whether the work will abate or prevent hazard to life or property; whether the proposed early morning or night work is in the general public interest. The building official shall prescribe such conditions, working times, types of construction equipment to be used and permissible noise emissions as the official deems appropriate in the public interest. No permit shall be required to perform emergency work necessary to restore property to a safe condition following a public calamity, work required to protect the health, safety or welfare of persons or property or work by private or public utilities when restoring utility service.

- D. Revocation of permits; appeal. The building official may revoke any permit granted hereunder upon complaints based upon substantial evidence that the construction work causes significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site. Any person aggrieved by the granting of a permit or the refusal to grant a permit by the building official, or authorized representative, may appeal the decision to the community development director. Appeals to the community development director's decisions may be made to the town manager, with final appeal to the town council at a future meeting date.
- E. Stop orders. Whenever any work on a construction project is in violation of the provisions of this section, the building official may order the construction project stopped by notice in writing served on any persons responsible for the project, and any such persons shall forthwith stop work on the project until a permit is obtained.
- F. The following activities shall be excluded from such prohibition:
 - 1. Noise generated by work being performed by a resident of a building or structure may continue until 10:00 pm but may not begin earlier than the times set forth in subsection B of this section.
 - 2. Noise resulting from emergencies, including but not limited to, repair of roofs, windows, doors, electrical, plumbing and mechanical (HVAC) shall be permitted whenever necessary. An emergency shall be defined as any situation where work must be performed in order to prevent serious injury to persons or property.
 - 3. Noise generated by sod delivery equipment, and vehicles.
 - 4. Loading/unloading construction material, such as lumber, tile, and similar materials.
 - 5. Termite pre-treatment.

Section 9-1-8 Obstruction of View

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

Section 9-1-9 Offensive Business

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the town.

Section 9-1-10 Offensive Premises

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort.

Section 9-1-11 Prostitution

It is unlawful for any person to practice prostitution, to patronize a prostitute or to solicit any person to visit or patronize a prostitute or place of prostitution.

Section 9-1-12 Searchlights

It is unlawful for any person to operate within the town any incandescent or arc-type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

Section 9-1-13 Signs and Banners

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole or utility pole within the town without first obtaining authorization from the town and the owner of the pole.

Section 9-1-14 Spitting

It is unlawful for any person to spit upon any of the public sidewalks or crosswalks in the town or upon any public path, by-way or highway, or in or on any public ground or park in the town, or upon the floor or interior of any public building in the town.

Section 9-1-15 Water - Flow Upon Streets Prohibited

- A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town.
- B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

Section 9-1-16 Weapons

- A. It is unlawful for any person within the limits of the town to fire or discharge any firearm, B-B gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun or instrument except:
1. As allowed pursuant to the provisions of Title 13, Chapter 4 of the Arizona Revised Statutes.
 2. By a law enforcement officer in necessary performance of his duty.
 3. On a properly supervised range that is any of the following:
 - (A.) Operated by a club affiliated with the National Rifle Association Of America, the Amateur Trap Shooting Association, the National Skeet Association or any other nationally recognized shooting organization, or by any public or private school.
 - (b.) Approved by any agency of the federal government, this state or a county or city within which the range is located.
 - (c.) Operated with adult supervision for shooting air or carbon dioxide gas operated guns, or for shooting in underground ranges on private or public property.
 4. By special permit of the Town's chief of police.
 5. To lawfully take wildlife during an open season, pursuant to rules established by Arizona Game and Fish Department. Hunting areas approved by the Arizona Game and Fish Department may be closed when deemed unsafe by the director of the department. However, a person shall not discharge a firearm within one-fourth mile of an occupied structure without the consent of the owner or occupant of the structure. For purposes of this paragraph only:
 - (a.) "occupied structure" means any building in which, at the time of the firearm's discharge, a reasonable person from the location where a firearm is discharged would expect a person to be present.
 - (b.) "open season" means the time during which wildlife may be lawfully taken (see A.R.S. 17.101(a)(15)).
 - (c.) "wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustations and fish, including their eggs or spawn, as further qualified by A.R.S. 17-101(b).
 6. To control nuisance wildlife by permit from the Arizona Game and Fish Commission or the United States Fish and Wildlife Service [and the taking of such animals or birds is properly supervised by The Arizona Game and Fish Department or the United States Fish and Wildlife Service or a person designated by the receptive agency to assure the safety of surrounding property owners].

7. As required by an animal control officer in the performance of duties pursuant to A.R.S. §9-499.04.

8. Using blanks.

9. More than one mile from any occupied structure. For the purpose of this paragraph only:

“Occupied structure” means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.

10. In self-defense or defense of another person against an animal attack if a reasonable person would believe that deadly physical force against the animal is immediately necessary and reasonable under the circumstances to protect oneself or the other person.

B. Any person, other than a peace officer on duty carrying a weapon, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event.

C. It is unlawful for any person to sell or give to a minor under the age of eighteen years, without written consent of the minor's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged.

ARTICLE 9-2 GRAFFITI¹

- 9-2-1 Definitions
- 9-2-2 Prohibition
- 9-2-3 Penalty
- 9-2-4 Removal of Graffiti by the Town

Section 9-2-1 Definitions

In this article, unless the context otherwise requires:

A. The term “graffiti” includes any inscription, word, figure or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any surface, regardless of the nature of the material of that structural component, to the extent that the same was not authorized in advance by the owner thereof or, despite advanced authorization, is otherwise deemed by the council to be filth and debris and vandalism.

B. The term “graffiti instruments” includes any tool, instrument, article, substance, solution or other compound designed or commonly used to make graffiti under circumstances evidencing intent to place graffiti upon such property.

¹Ordinance 51-94; Ordinance 425-08

Section 9-2-2 Prohibition

- A. No person shall make graffiti of any type on any building, public or private, or any other property real or personal, owned by any person, corporation, association, partnership or any public agency or instrumentality without the expressed written permission of the owner, manager, tenant or other person responsible for said property.
- B. No person shall possess graffiti instruments in such a manner as to give rise to an inference of intent to make graffiti; and, no person shall possess a spray paint can in any public place including any building, park, facility or alley or on any private property where that person has no right to be unless possession is authorized or required as a part of a legitimate business or activity.

Section 9-2-3 Removal of Graffiti by the Town¹

The town having determined that graffiti constitutes both vandalism and filth and debris does hereby compel the owner, lessee or occupant of buildings, grounds or lots to remove graffiti on the basis that its presence constitutes a hazard to public health and safety. The removal of the graffiti shall be accomplished according to the following provisions.

- A. Upon determining that graffiti has been applied to any building or structure whether public or private within the town limits, the town shall cause a written notice to be sent to the owner, occupant or lessee. The written notice shall set forth the condition observed and shall give seven (7) days for compliance by removal of the graffiti from the building or structure.
- B. Notice shall be by either personal service or certified or registered mail and if the building or premises is not occupied by the owner then notice shall be provided to the owner as indicated on the Maricopa County or Pinal County tax rolls, as appropriate.
- C. If after seven (7) days from actual notice the owner or occupant or lessee has failed to remove the graffiti, the town may cause the graffiti to be removed and assess the costs of removal against the owner of the real property upon which the building or structure is located.
- D. Notice of intent to go upon private property and to remove or abate the graffiti shall be given in the same manner as notice set forth in subsection A of this section. The notice of intent to go upon private property and remove graffiti shall also include the town's estimate as to the cost for the removal or abatement of the graffiti and that the actual amount of the cost shall be certified by the town and recorded in the office of the county recorder as a lien against the real property. Any owner, occupant or lessee who receives written notice to remove or abate graffiti or written notice that the town intends to enter upon private property to remove or abate the graffiti may appeal to the town council for a hearing on either the notice or the amount of the assessment. The appeal must be in writing and acts as a stay of all proceedings until such time as the council schedules a time, place and date certain for the hearing.
- E. A prior assessment or lien for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same lot or track of land may be enforced in the same action.

- F. The lien upon real property authorized herein shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages, liens and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of the article shall be made upon judgment of foreclosure and order of sale. The town reserves the right to bring an action to enforce the lien in superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by legal action shall not affect its validity.
- G. The recorded assessment and lien shall be prima facie evidence of the truth of all of the matters recited therein and of the regularity of all proceedings prior to the recording thereof.

ARTICLE 9-3 STORAGE AND DISPLAY OF TOBACCO PRODUCTS¹

- 9-3-1 Definitions
- 9-3-2 Violations

Section 9-3-1 Definitions

For the purposes of this Article, the following words and terms shall have the meaning ascribed thereto:

- A. "Person" means the state, the county, a political subdivision of the state, other governmental entities, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. Person also includes a trustee, receiver, an assignee or similar representative.
- B. "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

Section 9-3-2 VIOLATIONS

- A. No person who owns, conducts, operates or manages a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall store or display, or cause to be stored or displayed, such tobacco products in an area or manner that is accessible to the public without employee assistance.
- B. A person is exempt from the requirements of this section if both:
 1. The business where tobacco products are sold prohibits entry of individuals under the age of eighteen at all times; and
 2. Photographic identification is required from any individual who appears to be twenty-six years of age or younger prior to entering the business where tobacco products are sold.

¹Ordinance 132-98

Section 9-4 Penalties

- 9-4-1 Enforcement Officers
- 9-4-2 Civil Offenses
- 9-4-3 Procedures
- 9-4-4 Criminal Penalties
- 9-4-5 State Law Penalties

Section 9-4-1 Enforcement Officers

Except as otherwise specifically provided in Chapter 9, any code enforcement officer, peace officer, or the town attorney or town prosecutor, may issue civil citations or complaints to enforce violations of this chapter.

Section 9-4-2 Civil Offenses

Except as otherwise specifically provided in this chapter, any person who fails to comply with requirements of Sections 9-1-1, 9-1-2, 9-1-7, 9-1-8, 9-1-9, 9-1-10, 9-1-12, 9-1-13, 9-1-15 or Article 9-3 of this chapter, or violates any of its provisions is guilty of a civil offense. Except as otherwise specifically provided, civil offenses shall be punished by imposition of a civil penalty in the amount of \$250.00 for the first offense; \$500.00 for a second offense in a 12-month period, and \$2,000.00 for a third offense in said 12-month period. For purposes of calculating the 12-month period, such period shall begin on the date of the first offense.

Section 9-4-3 Procedures

Civil matters shall be tried before the civil hearing officer in accordance with the provisions of Chapter 5, Section 7 of this code. When appropriate, civil matters may also be tried before a justice of the peace or a county hearing officer.

Section 9-4-4 Criminal Penalties

Except as otherwise specifically provided herein, any person who violates a provision of this chapter for which a civil penalty is not prescribed upon first conviction shall be considered guilty of a petty offense and upon subsequent convictions shall be guilty of a class 1 misdemeanor.

Section 9-4-5 State Law Penalties

Nothing in this chapter 9 regarding civil penalties shall be interpreted or applied to prevent a law enforcement officer from imposing criminal penalties as provided by state law.

ARTICLE 9-5 AGGRESSIVE SOLICITATION¹

- 9-5-1 Definitions
- 9-5-2 Prohibited Acts
- 9-5-3 Penalty

Section 9-5-1 Definitions

In this article, unless the context requires otherwise:

A. "Aggressive manner" means and includes either individually or as a group:

1. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or

¹Ordinance 574-15

2. Approaching or following the person being solicited, if the conduct is:

a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm to oneself or another, or damage to or loss of property, or the commission of a criminal act upon the person or property in the person's possession; or

b. Intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or

c. Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response to such solicitation; or

d. Intentionally, knowingly, or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the town, shall not constitute obstruction of pedestrian or vehicular traffic; or

e. Intentionally or recklessly using obscene or abusive language or gestures:

(1) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person or property in the person's possession; or

(2) Intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.

B. "Automated teller machine" means a device, linked to a financial institution's account records, which is able to carry out transactions including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

C. "Automated teller machine facility" means the area comprised of one or more automated teller machines and any adjacent space which is made available to banking customers after regular banking hours. It shall be presumed that any automobile parking space within twenty-five (25) feet of an automated teller machine is part of the automated teller machine facility to provide access to bank customers.

D. "Bank" means a bank, credit union, or other similar financial institution.

E. "Public area" means an area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and

the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

F. "Public transportation vehicle" means any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.

G. "Solicit" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

Section 9-5-2 Prohibited Acts

It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

A. In an aggressive manner in a public area; or

B. In any public transportation vehicle or from any persons within fifteen (15) feet of any transit stop, bus stop, taxi stand, train station platform or the inside of the train station, except that the operator of a public transportation vehicle may request or accept payment of a fare; or

C. Within fifteen (15) feet of any entrance or exit of any bank or automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or

D. Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance.

Section 9-5-3 Penalty

A violation of this Section 9-5 shall be a class 1 misdemeanor.