

## Chapter 23

### MORALS AND CONDUCT\*

#### Article I. Offenses Against Public Peace

##### Division 1. In General

- Sec. 23-1. Assault and battery—Defined.
- Sec. 23-2. Assault and battery—Prohibited; permissible violence; degree of force permitted.
- Sec. 23-3. Disturbing the peace.
- Sec. 23-4. Disturbing assemblies.
- Sec. 23-5. Disturbing religious worship.
- Sec. 23-6. Drunk and disorderly.
- Sec. 23-7. Aggressive solicitation in public areas; soliciting near banks, automated teller machines, on public transportation vehicles, at bus stops, or between sunset and sunrise.
- Sec. 23-8. Loitering.
- Sec. 23-9. Obstructing streets, sidewalks, or other public grounds, or free use of property by injurious, indecent or offensive acts.
- Sec. 23-10. Picketing; loud or unusual conduct or noise.
- Sec. 23-10.1. Impeding access to health care facilities.

##### Division 2. Nuisances and Noise

- Sec. 23-11. Nuisances.
- Sec. 23-12. Creation of unreasonably loud and disturbing noises prohibited.
- Sec. 23-13. Noises detrimental to life and health or public peace and welfare prohibited.
- Sec. 23-14. Enumeration of loud, disturbing and unnecessary noises; enumeration not exclusive.
- Sec. 23-15. Exemptions.
- Sec. 23-16. Reserved.
- Sec. 23-17. Hospitals, quiet required.
- Sec. 23-17.1. Mining, posting of notices.

#### Article II. Offenses Against Public Safety

##### Division 1. Interfering with Police Functions

- Sec. 23-18. Police—Obstructing, resisting or opposing.
- Sec. 23-18.01. Reserved.
- Sec. 23-19. Police—Sounding police or similar whistles.
- Sec. 23-20. Police—Impersonating.

---

\***Cross reference**—Theft of cable television service, § 5-78; alcoholic beverages, ch. 6; minors, ch. 22; offenses against public peace, public safety and property in parks and mountain preserves, § 24-31 et seq.; cruising, § 36-57.01.

PHOENIX CITY CODE

- Sec. 23-21. Wearing badges or insignia of officials.
- Sec. 23-21.1. Police line regulation.

Division 2. Prisoners

- Sec. 23-22. Escaping from jail; fraudulent payment of bail.
- Sec. 23-23. Aiding to escape.
- Sec. 23-24. Releasing before completion of sentence.

Division 3. Obstructing Streets, Sidewalks, and Other Public Places

- Sec. 23-25. Building material on streets and sidewalks.
- Sec. 23-26. Excavations in the streets; lighting at night.
- Sec. 23-27. Tampering with barricades and lanterns.
- Sec. 23-28. Throwing nails, broken glass, and other objects on streets, sidewalks, or other public places.
- Sec. 23-29. Sweeping sidewalks.
- Sec. 23-30. Camping.
- Sec. 23-31. Barbed or brush fences; temporary construction security fences. \*1
- Sec. 23-32. Encroachment of trees, shrubs or bushes prohibited; penalty.
- Sec. 23-33. Escape of water prohibited.
- Sec. 23-34. Reserved.
- Sec. 23-35. Railroads—Stopping trains at intersections.
- Sec. 23-36. Railroads—Trains not to block streets.
- Sec. 23-37. Railroads—Use of steam locomotives.

Division 4. Burglary Tools, Weapons and Firearms

- Sec. 23-38. Burglary tools.
- Sec. 23-39. Brass knuckles, blackjacks, slung shots, and billys.
- Sec. 23-40. Concealed weapons.
- Sec. 23-41. "Firearm" defined.
- Sec. 23-42. Discharging firearms, BB guns and sling shots prohibited; exceptions.
- Sec. 23-43. Unlawful to make, possess or dispose of a fire bomb; penalties; exceptions.
- Sec. 23-44. Reserved.

Division 5. Consumer Fireworks

- Sec. 23-44.1. Definitions.
- Sec. 23-44.2. Fireworks prohibited; exceptions; penalty.
- Sec. 23-44.3. Sale of fireworks.
- Sec. 23-44.4. Posting of signs by persons engaged in the sale of fireworks; penalty.
- Sec. 23-44.5. Authority to enforce violations of this article; means of enforcement.
- Sec. 23-44.6. Penalty.

MORALS AND CONDUCT

**Article III. Offenses Against Public Health**

- Secs. 23-45—23-47.1. Reserved.
- Sec. 23-47.2. Reserved.
- Sec. 23-47.3. Dumping forbidden as misdemeanor.
- Sec. 23-48. Prohibited public activities.
- Sec. 23-48.01. Prohibited use of public right-of-way.
- Sec. 23-49. Smoking on buses prohibited.
- Sec. 23-50. Burial of the dead.
- Sec. 23-51. Use of glue, solvents and vapors restricted; sale and place of keeping of glue restricted; recording of sales required; certain acts prohibited; penalty.
- Sec. 23-51.1. Vapor releasing substances containing toxic substances; definition; sale of such substances; certain acts prohibited; penalty.
- Sec. 23-51.2. Sale of products containing ephedrine or pseudoephedrine.
- Sec. 23-51.3. Reporting sales of ephedrine or pseudoephedrine products.

**Article IV. Offenses Involving Morals**

Division 1. Prostitution and Fornication

- Sec. 23-52. Prostitution, soliciting an act of prostitution and related offenses.
- Sec. 23-53. Prostitutes—Solicitation.
- Sec. 23-54. Findings; definitions; live sex act businesses prohibited.
- Sec. 23-55. Impoundment of vehicles used for purposes of prostitution.
- Sec. 23-56. Impoundment of vehicles used for purposes of prostitution; procedures.
- Sec. 23-56.01. Early release of vehicle.
- Sec. 23-56.02. Administrative charges.
- Sec. 23-57. Use of taxicabs for immoral purposes.

Division 2. Disorderly Houses

- Sec. 23-58. Disorderly houses—Keeping of.
- Sec. 23-59. Disorderly houses—Inmates.
- Sec. 23-60. Disorderly houses—Loitering in.
- Sec. 23-61. Disorderly houses—Owners.

Division 3. Miscellaneous Sex Offenses

- Sec. 23-62. Molesting children.
- Sec. 23-63. Reserved.
- Sec. 23-64. Reserved.

Division 4. Indecent Conduct

- Sec. 23-65. Public sexual activity.
- Sec. 23-66. Solicitation of public exposure; exemption.

PHOENIX CITY CODE

- Sec. 23-67. Obscene live public performance.
- Sec. 23-68. Persons performing, or serving spirituous liquors or food—Indecent exposure.
- Sec. 23-69. Persons performing, or serving spirituous liquors or food—Indecent exposure—Liability of owners and operators of establishments.
- Sec. 23-70. Reserved.
- Sec. 23-70.1. Public display of explicit sexual material offensive to others.
- Sec. 23-70.2. Permitting minors to enter premises wherein there is displayed explicit sexual material which is offensive to others.

Division 5. Obscenity

- Sec. 23-71. Vulgar language and obscene songs.
- Sec. 23-72. Obscene literature.
- Sec. 23-72.1. Reserved.

Division 6. Reserved

- Secs. 23-73—23-76. Reserved.

Division 7. Frauds and Gambling

- Sec. 23-77. Frauds and lotteries.
- Sec. 23-78. Gambling—Prohibited.
- Sec. 23-79. Gambling—Slot machines and other devices.
- Sec. 23-80. Gambling—Paraphernalia.
- Sec. 23-81. Gambling—Confiscation of money.
- Sec. 23-82. Games of chance—Minors forbidden to play.
- Sec. 23-82.1. Wagering on results of sporting events.

**Article V. Offenses Against Property**

- Sec. 23-83. Defacing public property.
- Sec. 23-84. Destruction of private property.
- Sec. 23-85. Trespassing on Phoenix Convention Center Department property.
- Sec. 23-85.01. Criminal trespass.

**Article VI. Miscellaneous**

- Sec. 23-86. Bootblacks—Permit required; fee.
- Sec. 23-87. Bootblacks—Authority of Chief of Police; revocation of permit.
- Sec. 23-88. Reserved.
- Sec. 23-89. Railroads—Unused tickets.
- Sec. 23-90. Receiving property from minors.
- Sec. 23-91. Tattooing of minors.
- Sec. 23-92. Pawnshop hours of operation.

MORALS AND CONDUCT

Secs. 23-93—23-99. Reserved.

**Article VII. Shielding and Filtering Outdoor Lighting**

Sec. 23-100. Outdoor lighting.

**Article VIII. Reserved**

**Article IX. Smoking Pollution Control Ordinance**

- Sec. 23-101. Title.
- Sec. 23-102. Purpose of article.
- Sec. 23-103. Definitions.
- Sec. 23-104. Regulation of smoking in City-owned public places.
- Sec. 23-105. Regulation of smoking in enclosed public places.
- Sec. 23-106. Regulation of smoking in places of employment.
- Sec. 23-107. Retaliation.
- Sec. 23-108. Smoking—Optional areas.
- Sec. 23-109. Posting.
- Sec. 23-110. Reserved.

**Article X. Alcoholic Beverages—Warning Signs**

- Sec. 23-111. Signs—Dangers of consuming alcoholic beverages during pregnancy.
- Secs. 23-112—23-119. Reserved.

**Article XI. Pedicabs**

- Sec. 23-120. Definitions.
- Sec. 23-121. Fares.
- Sec. 23-122. Pedicab lighting and reflectors.
- Sec. 23-123. Pedicab brakes.
- Sec. 23-124. Pedicab mirrors.
- Sec. 23-125. Pedicab trailer; limitation on number.
- Sec. 23-126. Pedicab width.
- Sec. 23-127. Pedicab condition.
- Sec. 23-128. Pedicab operation.
- Sec. 23-129. Driver license requirement; possession; display; exception.
- Sec. 23-130. Pedicab insurance.
- Sec. 23-131. Change of information.
- Sec. 23-132. Pedicab tag requirement; unlawful acts.
- Sec. 23-133. Pedicab tag application; inspection; denial; appeal.
- Sec. 23-134. Pedicab inspection; duplicate tag; fees.
- Sec. 23-135. Pedicab inspection tags; revocation.
- Sec. 23-136. Civil violations.
- Sec. 23-137. Criminal violations.
- Secs. 23-138, 23-139. Reserved.

PHOENIX CITY CODE

**Article XII. Door-To-Door Soliciting**

- Sec. 23-140. Definitions.
- Sec. 23-141. Hours of operation.
- Sec. 23-142. Identification document required; display.
- Sec. 23-143. Conduct.
- Sec. 23-144. Penalties.

## ARTICLE I. OFFENSES AGAINST PUBLIC PEACE\*

### DIVISION 1. IN GENERAL

#### Sec. 23-1. Assault and battery—Defined.

(a) Any [An] assault is an unlawful attempt coupled with a present ability to commit a violent injury upon the person of another.

(b) A battery is any willful and unlawful force of violence upon the person of another.

(c) An assault or battery or both may be committed by the use of any part of the body of the person committing the offense, as of the hand, foot, head, or by the use of any inanimate object, capable of inflicting the slightest injury, or by the use of any animate object, as by throwing or violently pushing one person against another, or driving a horse or other animal, automobile, bicycle or motor-bicycle against a person.

(d) Any means used by the person assaulting, as by spitting in the face or otherwise, which is capable of inflicting any injury, comes within the definition of an assault or a battery as the case may be.

(Code 1962, § 27-1)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**State law reference**—Assault, A.R.S. § 13-1203.

#### Sec. 23-2. Assault and battery—Prohibited; permissible violence; degree of force permitted.

(a) Any person who commits an assault or battery, or both upon the person of another is guilty of misdemeanor.

**\*Cross reference**—Recovery of costs at events requiring second response by police, § 2-45.1.

(b) Violence used to the person does not amount to assault or battery in the following cases:

- (1) In the exercise of the right of moderate restraint or correction given by law to the parent over the child, the guardian over the ward, the teacher over the scholar.
- (2) For the preservation of order in a meeting for religious, political or other lawful purposes.
- (3) The preservation of the peace, or to prevent the commission of an offense.
- (4) In preventing or interrupting an intrusion upon the lawful possession of property.
- (5) In making a lawful arrest and detaining the party arrested when authorized by law, or in obedience to the lawful order of a magistrate or court, and in overcoming resistance to such lawful order.
- (6) In self defense, or in defense of another against unlawful violence offered to the person or property.
- (7) In all cases where violence is permitted to effect a lawful purpose, only that degree of force must be used which is necessary to effect such purpose.

(Code 1962, § 27-2)

**State law references**—Assault, A.R.S. § 13-1203; justification, A.R.S. § 13-401 et seq.

#### Sec. 23-3. Disturbing the peace.

Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood, family or person by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, chal-

lenging to fight or fighting, or who applies any violent or abusive or obscene epithets to another is guilty of a misdemeanor.

(Code 1962, § 27-25)

**Cross reference**—Nuisances and noise, § 23-11 et seq.

**State law references**—Disorderly conduct, A.R.S. § 13-2904; authority to punish noise, A.R.S. §§ 9-499.01, 9-240(B)(13).

#### Sec. 23-4. Disturbing assemblies.

Every person who, without authority of law, willfully disturbs or breaks up, or attempts to break up, any assembly or meeting not unlawful in its character is guilty of a misdemeanor. (Code 1962, § 27-23)

**State law references**—Disorderly conduct, A.R.S. § 13-2904; authority to punish noise, A.R.S. §§ 9-499.01, 9-240(B)(13).

#### Sec. 23-5. Disturbing religious worship.

Every person who willfully disturbs or disquiets any assemblage of people met for religious worship, by profane discourse or indecent behavior, or by any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor.

(Code 1962, § 27-24)

**State law references**—Disorderly conduct, A.R.S. § 13-2904; authority to punish noise, A.R.S. §§ 9-499.01, 9-240(B)(13).

#### Sec. 23-6. Drunk and disorderly.

Any person who appears in any public place, street, alley or sidewalk in the City in a drunken or disorderly condition, or lies or sleeps in any public place, or on any street, alley or sidewalk

in a drunken or disorderly condition, shall be guilty of a misdemeanor.

(Code 1962, § 27-26)

**Cross reference**—Alcoholic beverages, ch. 6.

**State law references**—Disorderly conduct, A.R.S. § 13-2904; authority to punish noise, A.R.S. §§ 9-499.01, 9-240(B)(13).

#### Sec. 23-7. Aggressive solicitation in public areas; soliciting near banks, automated teller machines, on public transportation vehicles, at bus stops, or between sunset and sunrise.

A. *Definitions.* As used in this Section:

1. *Aggressive manner* means:
  - a. Intentionally, knowingly or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or
  - b. Approaching or following the person being solicited in a manner that is intended 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 is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
  - c. Continuing to solicit the person from within ten feet after the person has clearly communicated a request that the solicitation stop; or
  - d. Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited or requiring the person 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 protest shall not constitute obstructing passage; or

- e. Intentionally, knowingly or recklessly using obscene or abusive language or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
2. *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.
3. *Bank* means a bank, credit union or other similar financial institution.
4. *Public transportation vehicle* means any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.
5. *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.
6. *Solicit* means to request an immediate donation or exchange 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

by spoken, written, or printed word, or by any other means of communication. Soliciting does not include requesting or accepting payment of the fare on a public transportation vehicle by the operator of the vehicle.

B. *Prohibited acts.* It shall be unlawful for any person to solicit any money or other thing of value, or to solicit the sale of goods or services:

1. In an aggressive manner in a public area.
2. Within fifteen feet of any entrance or exit of any bank or within fifteen feet of any automated teller machine.
3. In any public transportation vehicle or from persons waiting within ten feet of a sign designating a bus stop.
4. In a vocal manner in a public area between sunset and sunrise. However, this prohibition shall not include the act of passively standing or sitting nor performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

C. *Penalty.* A violation of this Section is a Class 1 misdemeanor. In addition to any other penalties authorized by law, the court may order a person sentenced under this Section to perform community service work. (Ord. No. G-3954, §§ 1, 2, passed 9-4-1996, eff. 10-4-1996; Ord. No. G-4529, § 1, passed 7-2-2003, eff. 8-1-2003)

*Cross references*—Prohibited conduct in airport terminals, § 4-128; soliciting from occupant of vehicle, § 36-131.01.

**Sec. 23-8. Loitering.**

(a) It shall be unlawful for any person to loaf, loiter or congregate upon any of the sidewalks in the City so as to obstruct the use of the sidewalks to pedestrians.

(b) It shall be unlawful for any person who is not properly authorized to be within any City park, playground or recreational area during the hours of closure for such premises as established by the Parks and Recreation Board.

(c) It shall be unlawful for any person to linger, loiter or otherwise use for business or social purposes any public room in any place of public accommodation after such person has been notified by the owner or manager thereof, or his agent, to leave the premises and not return.

(Code 1962, §§ 27-40, 27-41, 27-42; Ord. No. G-1027, § 1)

**Cross references**—Sleeping, lying or sitting on right-of-way, § 23-48.01; parks and recreation, ch. 24.

**State law references**—Loitering, A.R.S. § 13-2905; authority to prohibit obstructions to places of public passage, A.R.S. §§ 9-499.01, 9-240(B)(15), 9-276(A)(2).

**Sec. 23-9. Obstructing streets, sidewalks, or other public grounds, or free use of property by injurious, indecent or offensive acts.**

It shall be unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the City by committing any act of, or doing anything which is injurious to the health, or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by

anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks, or other public grounds in the City.

(Code 1962, § 27-49)

**Cross references**—Obstructing streets, sidewalks and other public places, § 23-25 et seq.; streets and sidewalks, ch. 31; street and sidewalk vending, § 31-22 et seq.

**State law references**—Obstructing highway or public thoroughfare, A.R.S. § 13-2906; authority to prohibit obstructions to places of public passage, A.R.S. §§ 9-499.01, 9-240(B)(15), 9-276(A)(2).

**Sec. 23-10. Picketing; loud or unusual conduct or noise.**

It shall be unlawful for any person, in or upon any public street, alley, or public place within the City to make any loud or unusual noise, or to speak in a loud or unusual tone, or to cry out or proclaim for the purpose of inducing or influencing, or attempting to induce or influence, any person to refrain from purchasing or using any goods, wares, merchandise or other articles, or for the purpose of inducing or influencing, or attempting to induce or influence, any person to refrain from doing or performing any service or labor in any works, factory, place of business or employment, or for the purpose of intimidating, threatening or coercing any person who is performing, seeking or obtaining service or labor or employment in any works, factory, place of business or employment.

(Code 1962, § 27-50)

**Cross reference**—Parades and processions, § 36-77 et seq.

**State law reference**—Residential picketing, A.R.S. § 13-2909.

**Sec. 23-10.1. Impeding access to health care facilities.**

A. It is unlawful for any person, in the course of demonstration activity within the access area of a health care facility, to fail to

withdraw upon a clearly communicated request to do so to a distance of at least eight feet away from any person who has made the request.

**B. For purposes of this section:**

1. *Access area* means any portion of a public street or other public place or any place open to the public within one hundred feet of an exterior wall or entryway of a health care facility.
2. *Demonstration activity* includes but is not limited to protesting, picketing, distributing literature, attempting to impede access, or engaging in oral protest, education or counseling activities.



3. *Health care facility* means any hospital, clinic, office, building or other place used to provide medical, psychological, nursing or other health care services, including family planning counseling and pregnancy-related services.

C. For purposes of this section, distance shall be measured from that part of the closest demonstrator's body that is nearest to the closest part of the requesting person's body. The term "body" includes any natural or artificial extension of a person's body including but not limited to an outstretched arm or a hand-held sign.

(Ord. No. G-3705, § 1)

**State law references**—Obstructing highway or public thoroughfare, A.R.S. § 13-2906; authority to prohibit obstructions to places of public passage, A.R.S. §§ 9-499.01, 9-240(B)(15), 9-276(A)(2).

## DIVISION 2. NUISANCES AND NOISE\*

### Sec. 23-11. Nuisances.

(A) Anything which is obnoxious to health, or is indecent, or is offensive to the senses, or is an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property by any considerable number of persons, or unlawfully obstructs any public

**\*Cross references**—Animals, ch. 8; barking or howling dogs, § 8-2; building regulations, ch. 9; fire prevention, ch. 15; disturbing the peace, § 23-3; solid waste, ch. 27; removal of debris, weeds and other unhealthy or unsafe conditions on streets and sidewalks, § 31-10; hazardous excavations or embankments, § 32A-7; unnecessary vehicle noise, § 36-69; blowing horns or signaling devices, § 36-72; loudspeakers or amplifiers in or on vehicles, § 36-73; trucks causing excessive noise, § 36-88.09; inoperable or unregistered vehicles, § 36-161 et seq.; neighborhood preservation, ch. 39.

**State law references**—Authority to define and prevent nuisances and noise, A.R.S. §§ 9-499.01, 9-240(B)(13), 9-276(A)(2), (A)(16); criminal nuisances, A.R.S. § 13-2908; public nuisances, A.R.S. § 13-2917.

street, alley, sidewalk or highway is hereby declared a nuisance and may be abated by order of the City Court. Every person who commits or maintains a nuisance shall be guilty of a misdemeanor.

(B) Any building, structure or utility determined to be unsafe and an imminent danger to the health, safety or welfare of the citizens of the City of Phoenix by the Superintendent of the Housing Services Division, or any building, structure or lot which is in such a condition as to constitute an imminent danger of fire, as determined by the Fire Marshal, shall constitute a public nuisance, subject to summary abatement, through either repair, cleaning up and removal of offending material, or the prevention of access through boarding up or other appropriate means.

(C) Should any of the conditions as set forth in section (B) hereof be found to exist by the designated official, such official is hereby authorized to summarily abate the nuisance in one of the manners set forth above and the cost of such abatement shall be certified to the City Treasurer who shall collect the sum due, together with interest thereon at the rate established by law, from the owner of the subject property or the person, or persons, entitled to immediate possession thereof.

(Code 1962, § 27-47; Ord. No. G-1496, § 1)

### Sec. 23-12. Creation of unreasonably loud and disturbing noises prohibited.

Subject to the provisions of this article the creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the City is hereby prohibited.

(Code 1962, § 26-1)

**Sec. 23-13. Noises detrimental to life and health or public peace and welfare prohibited.**

Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is hereby prohibited.

(Code 1962, § 26-2)

**Sec. 23-14. Enumeration of loud, disturbing and unnecessary noises; enumeration not exclusive.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this article, but this enumeration shall not be deemed to be exclusive, namely:

- (a) *Blowing horns or signaling devices.* The sounding or blowing of any horn or signal device on any automobile, truck, bus, motorcycle or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.
- (b) *Radios, phonographs, etc.* The playing of any radio, phonograph or any other musical instrument in such a manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- (c) *Yelling, shouting, etc., on streets.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or of persons in the vicinity.
- (d) *Pets.* The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.
- (e) *Use of vehicles.* The use of any automobile, truck, bus, motorcycle or other vehicle so out of repair, so loaded or in such manner as to make loud and unnecessary grating, grinding, rattling or other noise.
- (f) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, as a warning of fire or danger or upon request of proper City authorities.
- (g) *Exhaust discharge.* To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom; provided, however, that the flying of controlled model airplanes, sailing of model boats or racing of model automobiles, having internal combustion engines not to exceed thirty-five hundredths cubic inch piston displacement, when used in the pursuit of a recreation hobby and at such locations as are under the jurisdic-

tion or control of Parks, Playground and Recreational Board of the City and only at such times as may be designated by the Parks Department shall not be deemed to be within the provisions of this subsection.

(h) *Building construction.* Construction including erection, excavation, demolition, alteration or repair of any building within 500 feet of any inhabited structure, other than between the hours of 6:00 a.m. and 7:00 p.m. from May 1 to and including September 30 and between the hours of 7:00 a.m. and 7:00 p.m. beginning October 1 to and including April 30 on non-holiday weekdays. Except that the Planning and Development Director may grant a permit to conduct such operations outside listed hours, on weekends, or on holidays: \*1

- (1) In case of urgent necessity in the interest of public health, safety and welfare. The permit may be granted for a period not to exceed 30 days, while the emergency continues. +1
- (2) If the Planning and Development Director should determine that the public health, safety and welfare will not be impaired by the construction within the hours specified herein, and if the Director shall further determine that loss or inconvenience would not result to any party in interest, he may grant permission for such work to be done at times other than specified herein, upon application being made at the time the permit for the work is awarded or during the progress of the work. The permit may be granted for a period

exceeding 30 days at the discretion of the Director. +1

- (i) *Excavation of streets, permit from Street Transportation Department Director.* The excavation of streets and highways in any residential district or section, other than [within] the hours specified in Section 23-14(h), except in the case of urgent necessity in the interest of public health, safety and welfare then only with a permit from the Street Transportation Department Director, which permit may be granted for a period not to exceed thirty days, while the emergency continues. If the Street Transportation Department Director should determine that the public health, safety and welfare will not be impaired by the excavation of streets and highways within the hours specified in Section 23-14(h), and if he shall further determine that loss or inconvenience should not result to any party in interest, he may grant permission for such work to be done other than specified in Section 23-14(h), upon application being made at the time the permit for work is awarded or during the progress of work.
- (j) *Noises near schools, hospitals, churches, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof; provided, that signs must be displayed in such streets indicating that the same is a school, institution of learning, church, court or hospital.
- (k) *Loading and unloading operations.* The creation of loud and excessive noise in

connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

- (l) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of display of merchandise.

- (m) *Loudspeakers or amplifiers on vehicles.* The use of mechanical loudspeakers or amplifiers on automobiles, trucks, buses or other moving or standing vehicles for advertising or other purposes.

(Code 1962, § 26-3; Ord. No. G-3119, §§ 1, 2; Ord. No. G-5487, § 4, adopted 3-3-2010, eff. 4-2-2010; Ord. No. G-5590, § 1, adopted 2-23-2011, eff. 3-25-2011; new style in use as of 8-1-2011)

Date of Addition/Revision/Deletion - Section 23-14

+1 Addition on 6-22-2011 by Ordinance No. G-5634, eff. 7-22-2011

\*1 Revision on 6-22-2011 by Ordinance No. G-5634, eff. 7-22-2011

**Sec. 23-15. Exemptions.**

None of the terms or prohibitions of Sections 23-12 through 23-17 shall apply to or be enforced against:

- (a) Any vehicle of the City while engaged upon necessary public business.
- (b) Excavations or repairs of bridges, streets or highways by or on behalf of the City or the State, at night, when the public welfare and convenience renders it impossible to perform such work during the day.
- (c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in

character, and which amplifiers or loudspeakers are not used in connection with any moving vehicle.

- (d) The use of a hand-operated device producing not in excess of seventy decibels of sound, "C" scale, measured a distance of fifty feet from the instrument emanating sound from bicycles, pushcarts, or other vehicles, or from vehicles in connection with the sale or display of merchandise; provided, that such devices or musical systems:

- (1) Shall be operated only while the bicycle, pushcart or vehicle is in motion;
- (2) Shall play only pleasing melodies; and
- (3) Shall not be played between the hours of 1:00 p.m. and 3:00 p.m., and between the hours of 9:00 p.m. and 10:00 a.m.

(Code 1962, § 26-4; Ord. No. G-3581, § 1)

**Sec. 23-16. Reserved.**

**Editor's note**—Section 23-16 was repealed; see Ord. No. G-3581, § 2.

**Sec. 23-17. Hospitals, quiet required.**

The Traffic Engineer is hereby empowered to cause suitable street signs or markings to be placed on or along streets near or upon which any hospital is situated warning the public of the proximity of any such hospital and indicating the general direction in which the hospital is situated. Any person who shall make or cause



to be made any unnecessary noise calculated to disturb the quiet of any inmate of any such hospital at any place between any such sign and such hospital or at any place situated within the general area indicated by such signs or markings to be in the vicinity of any such hospital, shall be guilty of a misdemeanor.

(Code 1962, § 26-6)

**Cross reference**—Vehicles and traffic, ch. 36.

**Sec. 23-17.1. Mining, posting of notices.**

A. Any person who engages in rock quarrying, sand and gravel extraction, other mining or mineral extraction, and related processing and storage activities, and any person who engages in the recontouring of sites previously used for such purposes, shall post and maintain signs notifying the public of the existence of such activities.

B. Signs required to be posted pursuant to this section shall comply with the following standards:

1. Signs shall be posted at intervals no greater than every three hundred feet around the perimeter of sites used for the activities listed in subsection A of this section;
2. The notice on signs shall be printed so that the following words are visible from a distance of one hundred feet: "Mining Activity Occurring Beyond This Point."

(Ord. No. G-3291, § 1)

**ARTICLE II. OFFENSES AGAINST PUBLIC SAFETY**

**DIVISION 1. INTERFERING WITH POLICE FUNCTIONS\***

**Sec. 23-18. Police—Obstructing, resisting or opposing.**

Any person who shall knowingly or willfully obstruct, resist or oppose any policeman or other officer of the City authorized to make arrests, in serving or attempting to serve any lawful process or order of the City magistrate or of any court of the City, or in the performance of any official duty, or who shall assault or beat any such officer or person duly authorized, when serving or executing, or attempting to serve or execute, or because of having served or executed, or attempted to serve or execute, any order or process of official duty, or when engaged in the performance of any official duty, shall be guilty of a misdemeanor.

(Code 1962, § 27-51)

**Case law reference**—As to when an off-duty patrolman is a "public officer," see *State v. Kurtz*, 78 Ariz. 215, 278 p. 2d 406 (1954).

**Sec. 23-18.01. Reserved.**

**Editor's note**—Ord. No. G-4388, § 4, passed Oct. 3, 2001, effective Dec. 1, 2001, repealed § 23-18.01, which pertained to police dogs—mistreating, killing or interfering therewith. See the Code Comparative Table.

**Sec. 23-19. Police—Sounding police or similar whistles.**

It shall be unlawful for any person to use or sound in any public place within the City a

**\*Cross references**—Police Department, § 2-119 et seq.; false and misleading reports to police, § 2-122.

**State law references**—Resisting arrest, A.R.S. § 13-2508; obstruction of public administration, A.R.S. § 13-2401 et seq.

police whistle or any device similar to whistles such as are carried and used by the Police of the City.

(Code 1962, § 27-52)

**Sec. 23-20. Police—Impersonating.**

It shall be unlawful for any person, by wearing or carrying clothing or insignia resembling the uniforms or any parts thereof worn by the police officers of the City, or by doing any act, to impersonate a policeman, marshal, constable, or officer in any manner.

(Code 1962, § 27-53)

**State law reference**—Impersonating public servant, A.R.S. § 13-2406.

**Sec. 23-21. Wearing badges or insignia of officials.**

It shall be unlawful for any person to wear a firemen's or policeman's badge or insignia, or the badge or insignia of any public officer or inspector of the City when not properly authorized to wear such badge or insignia.

(Code 1962, § 27-79)

**Cross reference**—Administration, ch. 2.

**State law reference**—Impersonating public servant, A.R.S. § 13-2406.

**Sec. 23-21.1. Police line regulation.**

When fires, accidents, wrecks, explosions, crime scenes, parades, demonstrations, or other occasions cause or may cause persons to collect on the public sidewalks, streets, alleys, highways, or parks, the Director of the Police Department or his designee may establish such area or zone as he considers necessary for the purpose of affording a clearing for: (1) the operation of firemen or police officers; (2) the passage of a parade; (3) the movement of traffic; (4) the exclusion of the public from the vicinity of a riot, disorderly gathering, accident, wreck, explosion, crime scene, or other emergency; (5) the protection of persons and prop-

erty. Every person present at the scene of such an occasion, shall comply with any necessary order or instruction of any police officer. No person shall enter such area or zone, unless duly authorized by the person in command on such an occasion. However, any person who has an entry pass issued in his name by the Phoenix Police Department shall be permitted within the lines established by the Phoenix Police Department. When such person is entering or within the lines, the pass shall be prominently displayed all the while. Any person within the lines pursuant to such pass is still subject to the necessary orders and instructions of any police officer at the scene. Any entry pass issued hereunder shall be valid for only the specified time and occasion for which it was issued. Failure to comply with any provision herein is unlawful. The provisions herein shall be subject to any other provision of law concerning the authority of the Director of the Fire Department at the scene of a fire or within a fire lane thereat.

(Ord. No. G-2321, § 1; Ord. No. G-2391, § 1; Ord. No. G-5444, § 3, adopted 10-21-2009, eff. 11-20-2009)

**Cross references**—Fire Department, § 2-141 et seq.; streets and sidewalks, ch. 31; parades and processions, § 36-77 et seq.

**Case law reference**—For a similar ordinance which was upheld by the U.S. Court of Appeals, D.C. Circuit, see *Washington Mobilization Committee v. Cullinane*, 184 U.S. App. D.C. 215, 566 F.2d 107 (1977).

## DIVISION 2. PRISONERS\*

**Sec. 23-22. Escaping from jail; fraudulent payment of bail.**

(a) Any person escaping, attempting to escape, or violating a jailer's instruction to return when released for a temporary period of time, from the City jail, shall be guilty of a misdemeanor.

(b) Any person who knowingly attempts to escape or escapes confinement in the City jail by tendering a false bank draft or check in payment of a bail ordered or fine imposed by a City magistrate of the City shall be guilty of a misdemeanor.

(c) Any person who knowingly aids in the escape or to escape confinement in the City jail by tendering a false bank draft or check in payment of a bail ordered or fine imposed by a City magistrate of the City shall be guilty of a misdemeanor.

(d) "False bank draft or check" means any negotiable instrument payable to the City or any of its departments or agencies, not honored or paid upon presentation to the bank upon which such bank draft or check was drawn, and shall include a check or bank draft upon which payment has been stopped by the maker.

(e) Any person ordered by the court to serve his sentence on a part-time basis, who willfully fails to report as ordered, or who willfully fails to return after having been released for employment pursuant to the court's order, shall be guilty of a misdemeanor.  
(Code 1962, § 27-27; Ord. No. G-1194, § 1)

\***Cross reference**—Police Department, § 2-119 et seq.

**State law reference**—Escapes and related offenses, A.R.S. § 13-2501 et seq.

**Sec. 23-23. Aiding to escape.**

Any person assisting or attempting to assist any prisoner confined in the City jail by sentence or order of the City Court of any other legally constituted tribunal to escape, or rescuing or attempting to rescue any person lawfully in the custody of any peace officer is guilty of a misdemeanor.

(Code 1962, § 27-54)

**Sec. 23-24. Releasing before completion of sentence.**

It shall be unlawful for the Chief of Police or any officer having in custody any person duly sentenced and committed by the City magistrate to the City jail, to release such person at any time previous to the completion of the full term of his sentence, unless required or authorized by competent, legal or medical authority to do so.

(Code 1962, § 27-55)

DIVISION 3. OBSTRUCTING STREETS,  
SIDEWALKS, AND OTHER PUBLIC  
PLACES†**Sec. 23-25. Building material on streets and sidewalks.**

It shall be unlawful for any person engaged in the construction of any building, or other public or private improvement, to leave any rock, brick, mortar, lumber or any building

†**Cross references**—Obstructing streets, sidewalks or other public grounds by injurious, indecent or offensive acts, § 23-9; streets and sidewalks, ch. 31.

**State law references**—Authority to prohibit obstructions to places of public passage, A.R.S. §§ 9-499.01, 9-240(B)(15), 9-276(A)(2); obstructing highways or public thoroughfare, A.R.S. § 13-2906.

material of any kind whatsoever on any street, alley or sidewalk for more than three days after the completion of such improvement.

(Code 1962, § 27-7)

**Cross references**—Building regulations, ch. 9; solid waste, ch. 27; placing or leaving building material on street or sidewalk, § 31-9.

**Sec. 23-26. Excavations in the streets; lighting at night.**

Any person who shall make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the City without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation during the day shall be guilty of a misdemeanor.

(Code 1962, § 27-28)

**Cross references**—Restoration of streets by cable television licensees, § 5-45; restoration of streets by industrial gas pipeline licensees, § 5A-27; telecommunications facilities in right-of-way, § 5B-11 et seq.; building regulations, ch. 9; sewers, ch. 28; digging ditches across streets, § 31-7; water, ch. 37.

**Sec. 23-27. Tampering with barricades and lanterns.**

It shall be unlawful for any person to remove, extinguish or destroy any lantern that has been placed upon any public street or sidewalk for the purpose of warning pedestrians or persons traveling in vehicles at night that such street or sidewalk has been closed to public use, and it shall be unlawful for any person to remove, destroy or otherwise interfere with any construction placed upon any public street or sidewalk in the City for the purpose of preventing accidents or warning pedestrians or persons traveling in vehicles that the street or sidewalk has been closed to travel.

(Code 1962, § 27-72)

**Sec. 23-28. Throwing nails, broken glass, and other objects on streets, sidewalks, or other public places.**

It shall be unlawful for any person, either willfully and maliciously or carelessly and negligently to drop, throw, place or scatter upon any street, alley, sidewalk or public place in the City any nails, tacks, broken glass, glass bottles, or any instrument or thing whatsoever of such nature as to be capable of injuring the feet of horses or the tires of vehicles.

(Code 1962, § 27-74)

**Cross reference**—Streets and sidewalks, ch. 31.

**Sec. 23-29. Sweeping sidewalks.**

(a) It shall be unlawful for any person to sweep the dust, dirt, cumulations, refuse or deposits from any building onto any public sidewalk in the City, but the same at the time of sweeping, shall be gathered up and deposited into some suitable receptacle approved by the Health Officer.

(b) It shall be unlawful for any person to sweep the dust, dirt, accumulations, refuse or deposits on any public sidewalks into any street or gutter within the City.

(Code 1962, § 27-71)

**State law reference**—Littering, A.R.S. § 13-1603.

**Sec. 23-30. Camping.**

A. It shall be unlawful for any person to camp in any park or preserve, or in any building, facility, or parking lot or structure, or on any property adjacent thereto, that is owned, possessed and controlled by the City, except as permitted in paragraph C below.

B. For the purposes of this section the term "camp" means to use real property of the City for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for

the purpose of sleeping, or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area for living accommodation purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

C. The Director of the Parks and Recreation Department may, in accordance with the Parks and Recreation Department's established procedures, issue special use permits or reservations to authorize youth organizations to camp or park vehicles overnight in a park or preserve. Nothing in this section shall be interpreted to prohibit camping or overnight parking sponsored by the City of Phoenix.

(Ord. No. G-3552, § 1; Ord. No. G-4660, §§ 1, 2, adopted 12-8-2004, eff. 1-7-2005)

**Cross reference**—Parks and recreation, ch. 24.

**Sec. 23-31. Barbed or brush fences; temporary construction security fences. \*1**

A. It shall be unlawful for any person to build, construct or erect within the City any fence of barbed wire, brush or branches of trees. Any such fence shall be removed within 20 days after notice by the Chief of Police has been given to the owners or occupants of lots on which such fences are built, and if not so removed the Chief of Police shall remove the same at the cost of the owner of such lots, and expenses thereof shall be charged as taxes and become a lien against the property, and collected as taxes are collected. Any person building, constructing or erecting any such fence or

refusing to remove from any premises owned, occupied or controlled by him any such fence shall be guilty of a misdemeanor. \*1

B. Notwithstanding the provisions of subsection A of this section, fencing may be topped with not more than four strands of barbed wire strung on extension barbed-arms; provided, that the lowest strand shall be a minimum of six feet two inches from the surface of the ground, and such extension barbed-arm shall not be at an angle greater than forty-five degrees from the vertical projection of the post. In no event shall any barbed wire be placed closer than six feet two inches from the ground, and in no event shall the extension barbed-arm extend beyond the property line of the property on which the fence is situated.

C. Nothing in subsections A and B shall affect the application of the pertinent provisions of the Zoning Ordinance and the Building Code of the City.

D. Notwithstanding the provisions of the Phoenix Zoning Ordinance and of subsection A of this section, for a period of one year beginning January 10, 2001, temporary construction security fences may be installed within the area of the property approved for grading or construction for which a valid building permit is still active. Said fence may be up to eight feet in height and may be topped with strands of barbed wire as described in subsection B. Such fences shall be removed prior to completion of construction or expiration of the building permit, whichever occurs earlier.

E. This Section shall not apply to barbed wire fence used to contain cattle that complies with the Arizona Department of Transportation standard for barbed wire fence provided that

barbed wire fencing cannot be used on any parcel of land under 10 acres in size.

(Code 1962, § 27-3; Ord. No. G-4323, § 1, passed 1-10-2001, eff. 1-10-2001; Ord. No. G-5434, § 1, adopted 10-7-2009, eff. 11-6-2009; new style in use as of 8-1-2011)

Date of Addition/Revision/Deletion - Section 23-31

\*1 Revision on 7-3-2012 by Ordinance No. G-5721, eff. 8-2-2012

**Cross reference**—Zoning, ch. 41.

**Sec. 23-32. Encroachment of trees, shrubs or bushes prohibited; penalty.**

(a) It shall be unlawful for any person to permit trees, shrubs or bushes growing upon their property to encroach and interfere with a traffic control device, the passage of persons or vehicles, or the flow of drainage water over or on any public right-of-way or easement.

(b) In the event of any violation of this section, in addition to the penalty set forth in Section 1-5, Code of the City of Phoenix, the City, at the direction of the Director of Streets and Traffic, is authorized to take the following actions:

- (1) Where the interference is with a traffic control device, the passage of people or the flow of drainage water, the City is authorized, after giving the owner of the real property seven days' notice, to go upon said property to take any action reasonably necessary to effect full compliance with the provisions of this section, and a fee totaling twice the cost thereof shall be charged against the owner of said real property and shall be a lien against the property from which such obstruction is removed.
- (2) Where the interference affects the safe operation or passage of motor vehicles,

the City is authorized, after giving the owner of the real property twenty-four hours' notice, to go upon said real property and to take any action reasonably necessary to effect full compliance with the revisions [provisions] of this section, and a fee totaling twice the cost thereof shall be charged against the owner of said real property and shall be a lien against the property from which such obstruction is removed.

(c) The lien created by this section shall run with the land and the City, in its sole option, may record the lien with the County Recorder.

(d) Service of notice. Notice shall be served on the owner, lessee or person occupying such property by the City's authorized representative by personal service in a manner provided in Rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the owner, lessee or person occupying such property at his last known address or, if unknown, the address to which the tax bill for the property was last mailed. Such mailed notice shall be certified or registered mail. If the owner does not reside on such property, a duplicate notice shall also be sent to him at his last known address or, if unknown, the address to which the tax bill for the property was last mailed. For service of notice under this section the lessee and the occupant of the property shall each be deemed to be the agent of the owner.

(e) An owner, lessee or occupant (hereinafter referred to as appellant) who objects to the notice or to the amount of the charge may obtain a review by filing his objections in writing with the City Auditor Department within the time specified in the notice or no later than thirty days following the day upon which the first billing was mailed to him. The written objection shall include the following:

- (1) Statement of the amount under protest;
- (2) Statement of the reason why the notice or billing was incorrect and should be adjusted; and
- (3) Request for a hearing if one is desired.

If a hearing is not requested, a decision will be made on the protest based on the written evidence submitted.

(f) The protest shall be assigned to and considered by a hearing officer permanently assigned to such position within the office of the City Auditor, or a person ("hearing officer") designated by the City Auditor. Such hearing officer or designee shall in no event be an employee of the Streets and Traffic Department.

(g) The hearing officer shall provide to the Streets and Traffic Department a copy of the appellant's protest and shall request from the Streets and Traffic Department a response to the issues raised. The Streets and Traffic Department shall submit to the hearing officer, and to the appellant, a written response to the hearing officer's request within thirty days of receipt of such request.

(h) Upon receiving a written request for an extension of time at any time prior to a deadline in this section, the hearing officer shall be empowered to grant extensions of time.

(i) A hearing, if requested, shall be scheduled as soon as practicable after the response in subsection (g) is submitted. The conduct of the hearing will be in accordance with rules and procedures established by the City Auditor. Hearings shall be conducted informally and the rules of evidence shall not apply, except that the decision of the hearing officer shall be made solely upon substantial and reliable evidence. The appellant shall have the opportunity to appear with witnesses and counsel to present

information on behalf of the appellant. All expenses incurred in the hearing, including counsel fees, witness fees, mileage, reproduction of documents, and other similar costs, shall be borne by the party who incurred them.

(j) After the hearing on the matter, the hearing officer shall, within thirty calendar days, make a written determination on the evidence presented. The determination shall consist of findings of fact and the disposition of the dispute.

(k) The hearing officer shall be empowered to make a final decision as to the validity of the appellant's objection. If the hearing officer determines the appellant's objection to be valid, the officer shall be empowered to make an appropriate adjustment to the appellant's bill or notice. The determination of the hearing officer shall be final and conclusive between the City and the appellant as to the objection submitted for determination. If the hearing officer determines that an amount is due from the appellant to the City, the amount shall be immediately due and payable upon issuance of the written determination provided in subparagraph (j).

(Ord. No. G-756, § 1; Ord. No. G-1868, § 4; Ord. No. G-3076, § 1)

**Cross reference**—Trees and vegetation, ch. 34.

### **Sec. 23-33. Escape of water prohibited.**

It shall be unlawful for any person to willfully or negligently permit or cause the escape or flow of water from any source in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, to create a condition which constitutes a threat to the public health and safety, or to cause damage to the public streets or alleys of the City of Phoenix. Each violation of this section, and each day on which a viola-

tion occurs, shall be considered a separate offense.

(Code 1962, § 27-80; Ord. No. G-1068, § 2)

**Cross reference**—Discharging water into streets or sidewalks, § 31-8.

**Sec. 23-34. Reserved.**

**Editor’s note**—Section 23-34 was repealed; see Ord. No. G-1068, § 1.

**Sec. 23-35. Railroads—Stopping trains at intersections.**

It shall be unlawful for any person having the management or direction of the movement of any train, engine, car, handcar or of any rolling stock to "spot" or stand any railroad car in or across any street intersection in the City where there is a railroad grade crossing.

(Code 1962, § 27-62)

**Cross reference**—Vehicles and traffic, ch. 36.

**Sec. 23-36. Railroads—Trains not to block streets.**

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching.

(Code 1962, § 27-63)

**Cross reference**—Vehicles and traffic, ch. 36.

**Sec. 23-37. Railroads—Use of steam locomotives.**

All persons are prohibited from running or operating through or upon the streets or alleys of the City any steam locomotive or cars propelled by steam for the conveyance of passengers or freight, or for any other purpose

whatsoever. Nor shall any person lay any track upon any of the streets or alleys of the City to be used for such purpose. This section shall in no way affect the rights of the various railroad companies to use certain streets and alleys of the City under franchise or permits lawfully granted or issued therefor.

(Code 1962, § 27-64)

**DIVISION 4. BURGLARY TOOLS, WEAPONS AND FIREARMS\***

**Sec. 23-38. Burglary tools.**

(a) Every person having in his possession any pick lock, crow, key, bit, or other instrument or tool, with the intent feloniously to break or enter into any building, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument above named, so that the same will fit or open the lock of a building, without being requested so to do by some person having the right to open such lock, or who shall make, alter or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony is guilty of a misdemeanor.

(b) The possession of the above-named tools or instruments, without the possessor being able to give a satisfactory account of his possession of such tools or instruments shall be

---

\***Cross reference**—Fee for criminal background check before transfer of firearm, § 2-121.01; disposition of unclaimed and forfeited firearms in possession of Police Department, § 2-306.01; firearms and explosives at municipal airport, § 4-13; possession of firearms by minors, § 22-8; discharge of firearms in parks, § 24-24; possession of firearms in parks, § 24-25.

**State Law reference**—Weapons, A.R.S. § 13-3101 et seq.; local regulation of firearms, A.R.S. § 13-3108.



prima facie evidence of possession for an unlawful purpose.

(Code 1962, § 27-8)

**State law reference**—Possession of burglary tools, A.R.S. § 13-1505.

**Sec. 23-39. Brass knuckles, blackjacks, slung shots, and billys.**

It shall be unlawful for any person to sell, give away or to have in his possession for the purpose of sale or giving away, or to display for sale or giving away any brass knuckles or other knuckles of metal, slung shot, billy or black-jack.

(Code 1962, § 27-6)

**Sec. 23-40. Concealed weapons.**

(a) It shall be unlawful for any person, except a policeman or peace officer in actual service and discharging his duty, to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckles, or other knuckles of metal, Bowie knife, or any kind of knife or weapon, except a pocket knife not manufactured and used for the purpose of offense and defense.

(b) Every person who, in the presence of any other person and not in necessary self defense, draws or exhibits any deadly weapon in a rude, angry or threatening manner, or who in any manner unlawfully uses the same, is guilty of a misdemeanor.

(Code 1962, § 27-14)

**State law reference**—Misconduct involving weapons, A.R.S. § 13-3102.

**Sec. 23-41. "Firearm" defined.**

For the purpose of the following sections, the term "firearm" is defined as any device that

expels a projectile or projectiles by means of expanding gases.

(Code 1962, § 27-18)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 23-42. Discharging firearms, BB guns and sling shots prohibited; exceptions.**

It shall be a misdemeanor for any person to negligently or purposely discharge any firearm, BB gun or sling shot within the City, except:

- (a) In necessary self defense.



- (b) A law enforcement officer in necessary performance of his duty.
- (c) For the purpose of target shooting or practice on a range operated by qualified personnel. Qualified personnel shall consist of either a certified firearms safety instructor, rifle or pistol marksmanship instructor certified by the National Rifle Association, or person designated by a rifle or pistol club, public or private school or military agency.
- (d) For the purpose of target shooting on private premises with air, spring or CO<sub>2</sub> operated BB, pellet guns or slingshots, providing:
  - (1) The target area is enclosed in such manner and with materials that will stop the projectiles.
  - (2) Such target shooting is supervised by an adult at all times.
  - (3) Any safety precautions recommended by the Chief of Police are complied with.
- (e) In an area recommended as a hunting area by the Arizona Game and Fish Commission and approved by the Chief of Police. Such area must be posted as required by the Chief of Police and may be closed at any time by the Chief of Police or the Director of the Game Department.
- (f) Where a permit is issued by the Chief of Police.
- (g) In defense of property from damage by animals or birds, providing property owner obtains permit from Arizona Game Department or United States Fish and Wildlife Service, and the taking of such animals or birds is properly supervised by the Game Department or the Fish

and Wildlife Service or a person designated by either of those agencies to assure the safety of surrounding property owners.

(Code 1962, § 27-17)

**State law reference**—Discharge of firearms, A.R.S. § 13-3107.

**Sec. 23-43. Unlawful to make, possess or dispose of a fire bomb; penalties; exceptions.**

(a) *Definitions.*

*Disposes of:* To give, give away, loan, offer, offer for sale, sell, transfer, hurl, throw, or cause to be hurled or thrown.

*Fire bomb:* A breakable container containing a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb for the purposes of this section.

(b) *Offenses.* A person is guilty of a misdemeanor who:

- (1) Possesses any of the component parts of a fire bomb with intent to willfully and maliciously use such material, substance or device to set fire to or burn any buildings or property.
- (2) Possesses, manufactures or disposes of a fire bomb.

(c) *Exceptions.* The provisions of subsections (a) and (b) of this section shall not prohibit:

- (1) The authorized use or possession of any material, substance or device described in such subsections by a member of the armed forces of the United States or National Guard of the State of Arizona,

or by firemen, police officers or peace officers authorized by the properly constituted authorities and acting in the course of their official duties;

- (2) The use or possession of any material, substance or device described therein when used solely for scientific research or educational purposes, or for any lawful burning;
- (3) The manufacture or disposal of a fire bomb for the parties or purposes described in this subsection.

(Ord. No. G-855, § 1; Ord. No. G-857, § 1; Ord. No. G-2345, § 1)

**State law reference**—Misconduct involving explosives, A.R.S. § 13-3103.

**Sec. 23-44. Reserved.**

**DIVISION 5. CONSUMER FIREWORKS**

**Sec. 23-44.1. Definitions.**

(A) The following words, terms and phrases, when used in this division, 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 § 36-1601.
- (2) Display firework means those fireworks defined by Arizona Revised Statutes § 36-1601.
- (3) Fireworks means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing 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 Statutes § 36-1601.

- (4) Novelty items means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statutes § 36-1601.
- (5) Permissible consumer fireworks means those fireworks as defined by Arizona Revised Statutes § 36-1601 that may be sold within the City 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 Fire Marshal or designee.

(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**Sec. 23-44.2. Fireworks prohibited; exceptions; penalty.**

(A) The use, discharge or ignition of consumer and permissible consumer fireworks within the City is prohibited.

(B) Nothing in this division shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence, with a permit, of a supervised public display of fireworks.

(C) Permits may be granted by the 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 Fire Marshal has authority to impose conditions on any permits granted.

(D) Failure to comply with any permit requirements issued by the Fire Marshal is a class 1 misdemeanor.  
(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**Sec. 23-44.3. Sale of fireworks.**

(A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age

(B) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with the State law.  
(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**Sec. 23-44.4. Posting of signs by persons engaged in the sale of fireworks; penalty.**

(A) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:

- (1) The use of fireworks, including permissible consumer fireworks, is prohibited within City limits. This prohibition does not apply to novelty items as defined by City Code.
- (2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.

(B) Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.

(C) The Fire Marshal or 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 City's website and filed with the Clerk's office.

(D) Failure to comply with subparts A and B of this section is a Class 1 misdemeanor.  
(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**Sec. 23-44.5. Authority to enforce violations of this article; means of enforcement.**

(A) A City Police Officer, Fire Marshal or designee, or the City Prosecutor may issue criminal complaints to enforce this division.  
(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**Sec. 23-44.6. Penalty.**

The penalty for violating any prohibition or requirement imposed by this division is a class 1 misdemeanor.  
(Ord. No. G-5568, § 1, adopted 11-17-2010, eff. 11-17-2010)

**ARTICLE III. OFFENSES AGAINST PUBLIC HEALTH\***

**Secs. 23-45—23-47.1. Reserved.**

**Editor's note**—Sections 23-44—23-47.1 were repealed; see Ord. No. G-3331, § 1.

**Sec. 23-47.2. Reserved.**

**Sec. 23-47.3. Dumping forbidden as misdemeanor.**

It shall be a misdemeanor for any person, as defined in Section 23-47.3, to place, or employ or procure another person to place, any cut-

**\*Cross references**—Animals, ch. 8; public swimming pools, § 24-1 et seq.; solid waste, ch. 27; sewers, ch. 28; water, ch. 37.

tings, clippings, rubbish, trash, filth, dirt, or debris upon any private or public property not owned or under the control of said person without the written consent of the person responsible for such private or public property. The placement of such rubbish in places approved by the City for collection and hauling and clearly identified as such is excluded from this section. In addition to the penalty prescribed for a misdemeanor, the person placing, or causing the placing of such material shall be responsible for all costs which may be assessed pursuant to this ordinance for such removal. The written consent to place material must be carried by the person doing such placing and shall be displayed to any person so requesting. Failure to carry and to display to any person so requesting is a misdemeanor. All other ordinances of the City remain in full force and effect and the City may prosecute under one or more of such other sections notwithstanding prosecution under this section.

(Ord. No. G-2040, § 1)

**Editor's note**—"Person" is not defined in this section. "Person" was defined by an accompanying ordinance which was not enacted.

**Cross references**—Solid waste, ch. 27; illegal dumping, § 27-7.

**State law reference**—Littering, A.R.S. § 13-1603.

### **Sec. 23-48. Prohibited public activities.**

It shall be unlawful for any person to urinate or defecate upon any of the public sidewalks or crosswalks in the City or upon any public path, by-way or highway, or upon the floor or interior of any bus or other public conveyance, or in or on any public place or park which is easily visible or readily accessible from a public thoroughfare or public conveyance, except where suitable facilities are provided therefor.

(Ord. No. G-2239, § 2)

#### **Sec. 23-48.01. Prohibited use of public right-of-way.**

It shall be unlawful for any person to use a public street, highway, alley, lane, parkway,

sidewalk or other right-of-way, whether such right-of-way has been dedicated to the public in fee or by easement, for lying, sleeping or

otherwise remaining in a sitting position thereon, except in the case of a physical emergency or the administration of medical assistance.

(Ord. No. G-2238, § 1)

**Cross reference**—Loitering, § 23-8.

**State law references**—Authority to prohibit obstructions to places of public passage, A.R.S. §§ 9-499.01, 9-240(B)(15), 9-276(A)(2); obstructing highway or public thoroughfare, A.R.S. § 13-2906.

### **Sec. 23-49. Smoking on buses prohibited.**

No person shall smoke on any bus within the City limits.

(Code 1962, § 27-68)

**Cross reference**—Smoking regulations, § 23-101 et seq.

### **Sec. 23-50. Burial of the dead.**

It is hereby declared to be a nuisance and it shall be unlawful for any person to bury the body of a human being within the corporate limits of the City except in a cemetery organized and conducted in conformity with the laws of the State.

(Code 1962, § 27-9)

**State law references**—Authority to regulate burial of the dead, A.R.S. § 9-499.01, 9-240(B)(11)(b); cemeteries, A.R.S. § 32-2194 et seq.

### **Sec. 23-51. Use of glue, solvents and vapors restricted; sale and place of keeping of glue restricted; recording of sales required; certain acts prohibited; penalty.**

(a) As used in this section the phrase "glue containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any glue, cement, or other adhesive containing one or more of the following chemical compounds: acetone, an acetate, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride,

isopropyl alcohol, methyl alcohol, methyl ethyl, ketone, pentachlorophenol, petroleum ether, or toluene.

(b) No person shall breathe, inhale or drink (i) any glue containing a solvent having the property of releasing toxic vapors or fumes, or (ii) any other solvent, aerosol, vapor or gas for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis or irrational behavior, or in any manner changing, distorting, or disturbing the auditory visual or mental processes. This subsection shall not apply to anaesthetic substances administered for a valid medical or dental purpose.

(c) No person shall knowingly sell or offer for sale, deliver or give to any person under eighteen years of age, any glue containing a solvent having the property of releasing toxic vapors or fumes which will induce an intoxicated condition as defined herein.

(d) A person making a sale or transfer of possession of a glue containing a solvent having the property of releasing toxic vapors or fumes shall require adequate identification and shall record the name, address, sex and age of the person to whom the sale or transfer is made; records required by this subsection shall be kept in a permanent register available for inspection by the Chief of Police for a period of at least one year; provided, that this subsection shall not apply to a sale or transfer made to a person intending to use such glue for manufacturing or industrial purposes.

(e) No person, except a person who is, at the time of such sale, actually employed by or engaged in operating any bona fide commercial establishment at a fixed location, shall sell to any other person any glue containing a solvent having the property of releasing toxic vapors or

fumes, and all sales of such product not made in or from such an establishment are hereby prohibited.

(f) All glues containing solvent having the property of releasing toxic vapors or fumes being held for sale by a bona fide commercial establishment at a fixed location shall be kept in such a place as to be unavailable to any customer without the assistance of an employee or owner of said establishment.

(g) Nothing contained in this section shall be applicable to the transfer of a tube or other container of glue from a parent to his child, or from a guardian to his ward.

(h) No person shall be found in any public place under the influence of (i) any glue containing a solvent having the property of releasing toxic vapors or fumes, or (ii) any other solvent, aerosol, vapor or gas, in such a condition that he is unable to exercise care for his own safety or the safety of others, nor shall any person, by reason of his being under the influence of any aforementioned substance interfere with, obstruct or prevent the free use of any street, sidewalk or other public way.

(i) Any person who willfully violates any of the provisions of this section shall be guilty of a misdemeanor.

(Ord. No. G-830, § 1; Ord. No. G-993, §§ 1—3)

**Cross references**—Businesses, ch. 10; minors, ch. 22.

**State law reference**—Possession and sale of toxic vapor releasing substance, A.R.S. § 13-3403.

**Sec. 23-51.1. Vapor releasing substances containing toxic substances; definition; sale of such substances; certain acts prohibited; penalty.**

(a) Paints, varnishes and like coating substances releasing vapors or fumes containing benzene, toluene, volatile ketones, isophorone,

acetone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, MIBK, MIAK, MEK, and diacetone alcohol shall be considered toxic substances.

(b) No person shall knowingly sell or offer for sale, deliver or provide, or give to any person under eighteen years of age, nor shall any person under eighteen years of age purchase or accept, any vapor releasing substances that contain a toxic substance as defined in subsection (a) of this section. No sale or transfer of possession of any vapor releasing substances that contain a toxic substance as defined in subsection (a) of this section shall be made except by a person who is at the time of sale actively employed by or engaged in operating a bona fide commercial establishment at a fixed location.

(c) Nothing contained in this section shall be applicable to the transfer of any vapor releasing substances containing toxic substances as defined in subsection (a) of this section from a parent to a child, from a guardian to his ward, from an employer to employee, from a teacher to a student or in any other similar relationship when such transfer is for a lawful and bona fide purpose.

(d) Every bona fide commercial establishment selling vapor releasing substances as defined in subsection (b) of this section shall conspicuously display a sign of not less than eleven inches by fourteen inches in size which states: "Warning: Deliberate Inhalation of Spray Paint Vapors Can Be Dangerous." Such printed warning shall be easily legible.

(e) This section is limited to such coating substances as are dispensed by the use of aerosol spray devices.



(f) Anyone who willfully violates any of the provisions of this section shall be guilty of a misdemeanor.

(Ord. No. G-1291, § 1; Ord. No. G-3703, § 1)

**State law reference**—Possession and sale of toxic vapor releasing substance, A.R.S. § 13-3403.

**Sec. 23-51.2. Sale of products containing ephedrine or pseudoephedrine.**

A. The operator of a retail commercial establishment shall keep all products containing ephedrine or pseudoephedrine behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the establishment.

B. For purposes of this article, a product containing ephedrine or pseudoephedrine includes any compound, mixture or preparation that contains any detectable quantity of ephedrine or pseudoephedrine or its salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine or pseudoephedrine as an active ingredient shall constitute prima facie evidence that it is a product containing ephedrine or pseudoephedrine.

C. A violation of this section is a Class 1 misdemeanor.

D. Any product containing ephedrine or pseudoephedrine found to be displayed in a retail commercial establishment in violation of subsection A constitutes a nuisance and is subject to forfeiture to the City. Any products forfeited under this section shall be destroyed.

E. Products subject to forfeiture under this section may be seized by a peace officer on process issued pursuant to Title 13, Arizona Revised Statutes, including a search warrant, or upon probable cause to believe that the property is subject to forfeiture. Before removing any products subject to seizure from the retail

commercial establishment, the peace officer shall give the operator of the establishment a reasonable opportunity to immediately remove the products from the area of the establishment accessible to the public, unless the establishment has been afforded this opportunity to avoid a seizure on a previous occasion.

F. At the time of seizing any products under this section, the peace officer shall deliver a notice of intent to forfeit the seized products. The notice shall include the date and location of the seizure, an inventory of the items seized, a description of how a post-seizure hearing may be requested, the time limit for requesting a hearing, and a warning that failure to timely request a hearing will result in the forfeiture and destruction of the seized property. The notice required under this subsection shall be served on the operator or manager of the retail commercial establishment present at the time of the seizure, or if the peace officer cannot identify an operator or manager after reasonable efforts, to any employee or worker present.

G. A party receiving a notice of intent to forfeit under this section may request a post seizure hearing to determine the validity of the forfeiture within fifteen days of receiving the notice. The court shall conduct the hearing within forty-eight hours of the court's receipt of the request, excluding weekends and City holidays. Failure to timely request or to attend a scheduled hearing constitutes a waiver of the right to challenge the validity of the forfeiture. At the hearing, the City shall have the burden of establishing by a preponderance of the evidence that the seized products are subject to forfeiture. The hearing shall be informal and open to the public. The court may admit any reliable relevant evidence to determine if the seized products are subject to forfeiture. If after the hearing, the court finds the seized products are not subject to forfeiture, it shall order the

immediate return of all seized items, except that, upon request of the prosecutor, a reasonably representative sample of the seized products may be retained as evidence for a criminal prosecution under this section. If the court finds the seized products are subject to forfeiture, it shall order them forfeited to the City. (Ord. No. G-4738, § 1, adopted 9-7-2005, eff. 12-6-2005)

**Sec. 23-51.3. Reporting sales of ephedrine or pseudoephedrine products.**

A. A person making a retail sale of a product containing ephedrine or pseudoephedrine shall require acceptable photo identification from the purchaser and shall record the purchaser's name, date of birth, address, and quantity of ephedrine or pseudoephedrine product purchased. For purpose of this subsection, acceptable photo identification means any of the following:

1. Current drivers license or picture identification card issued by this or any other state;
2. A current passport;
3. A current tribal identification card; or
4. A current military identification card.

B. By the tenth day of each month, the seller of products containing ephedrine or pseudoephedrine shall report to the Chief of Police the information required to be obtained by subsection A for the sales occurring the previous month. The report shall be in writing or electronically sent in a manner specified by the Chief of Police.

C. A violation of this section is a class 1 misdemeanor. (Ord. No. G-4737, § 1, adopted 9-7-2005, eff. 12-6-2005)

**ARTICLE IV. OFFENSES INVOLVING MORALS\***

**DIVISION 1. PROSTITUTION AND FORNICATION†**

**Sec. 23-52. Prostitution, soliciting an act of prostitution and related offenses.**

A. A person is guilty of a misdemeanor who:

1. Offers to, agrees to, or commits an act of prostitution;
2. Solicits or hires another person to commit an act of prostitution;
3. Is in a public place, a place open to public view or in a motor vehicle on a public roadway and manifests an intent to commit or solicit an act of prostitution. Among the circumstances that may be considered in determining whether such an intent is manifested are: that the person repeatedly beckons to, stops or attempts to stop or engage passersby in conversation or repeatedly, stops or attempts to stop, motor vehicle operators by hailing, waving of arms or any other bodily gesture; that the person inquires whether a potential patron, procurer or prostitute is a police officer or searches for articles that would identify a police officer; or that the person requests the touching or exposure of genitals or female breast;
4. Aids or abets the commission of any of the acts prohibited by this Section.

\*Cross references—Escorts and escort bureaus, § 10-87 et seq.; sexually oriented businesses, § 10-131 et seq.

†State law references—Authority to suppress and prohibit prostitution and unlawful sexual intercourse and disorderly houses, A.R.S. §§ 9-499.01, 9-240(B)(17); prostitution, A.R.S. § 13-3201 et seq.

B. *Definitions.*

1. *Prostitution* is the act of performing sexual activity for hire by a male or female person.
2. *Sexual activity* means vaginal or anal intercourse, fellatio, cunnilingus, anilingus, masturbation, sodomy or bestiality.

C. *Penalty.* \*1

1. A person convicted of a violation of subsection (A)(1) of this section is guilty of a Class 1 misdemeanor, punishable: \*1
  - a. Upon a first conviction, by imprisonment for a term of not less than 15 consecutive days and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. \*1
  - b. Upon a second conviction, by imprisonment for a term of not less than 30 consecutive days and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. \*1
  - c. Upon a third conviction, by imprisonment for a term of not less than 60 consecutive days, completion of an appropriate Court ordered education or treatment program and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. \*1
  - d. Upon a fourth or subsequent conviction, by imprisonment for a term of not less than 180 consecutive days, completion of an appro-

priate Court ordered education or treatment program unless previously ordered to complete an education or treatment program pursuant to this section and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. \*1

2. A person convicted of a violation of subsection (A)(2) of this section is guilty of a Class 1 misdemeanor, punishable: +1
  - a. Upon a first conviction, by imprisonment for a term of not less than 15 consecutive days, completion of an appropriate Court ordered education or treatment program and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. +1
  - b. Upon a second conviction, by imprisonment for a term of not less than 30 consecutive days, completion of an appropriate Court ordered education or treatment program and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. +1
  - c. Upon a third conviction, by imprisonment for a term of not less than 60 consecutive days, completion of an appropriate Court ordered education or treatment program and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. +1

- d. Upon a fourth or subsequent conviction, by imprisonment for a term of not less than 180 consecutive days, completion of an appropriate Court ordered education or treatment program unless previously ordered to complete an education or treatment program pursuant to this section and, in the discretion of the Court, a fine not to exceed the maximum amount allowable under a Class 1 misdemeanor. +1
3. A person who is ordered to complete an appropriate Court ordered education or treatment program under subsection (C)(2) of this section shall pay the cost of the program. +1
  4. The Court ordered education or treatment program shall report to the Court whether the person has attended the program and has successfully completed the program. +1
  5. Notwithstanding subsections (C)(1) and (C)(2) of this section, a person convicted of violating subsection (A)(1) or (A)(2) of this section with a person under the age of 18 years is punishable by imprisonment for a term of not less than 180 consecutive days, and in the discretion of the court, a fine not to exceed \$2,500.00. Notwithstanding subsection (C)(6) of this section, if a person sentenced under this subsection (C)(5) has not previously been convicted of a violation of subsection (A)(1) or (A)(2) of this section with a person under 18, the Court may suspend 90 days of the minimum sentence upon successful completion of an appropriate Court ordered education or treatment program. This subsection (C)(5) does not apply to subsection (C)(1)(d) or (C)(2)(d) of this section. \*1
  6. In no case shall a person convicted of a violation of subsection A of this section be eligible for suspension or commutation of a sentence or work furlough or release on any basis until the minimum mandatory term of imprisonment imposed by the Court has been served. If a person convicted of a violation of subsection A of this section is placed on probation, such probation shall include a condition that the minimum mandatory consecutive term of imprisonment be served and that the person is not eligible for commutation of a sentence or work furlough or release on any basis or termination of probation until after the minimum mandatory consecutive term of imprisonment has been served. In all cases in which a person is convicted of a violation of subsection A of this section, the Court, in the order of commitment, shall set forth a specific release date and shall prohibit any double time allowance in conformance with the sentencing requirements of this section. \*1
  7. Notwithstanding any provision of law to the contrary, the Court may suspend the requirement that the minimum term of imprisonment imposed under this subsection be served on consecutive days, if the Court finds that imprisonment for the prescribed term of consecutive days would endanger the health of the prisoner. Nothing in this subsection (C)(7) shall be deemed to authorize the Court to impose less than the minimum term of imprisonment prescribed by subsections (C)(1) and (C)(2) of this section. \*1

8. For purposes of this section, a previous violation of any State law or City or town ordinance that prohibits prostitution and that has the same or substantially similar elements as this section shall be deemed to be a previous violation of this section. \*1

(Ord. No. G-1521, § 1; Ord. No. G-1813, § 1; Ord. No. G-1868, § 6; Ord. No. G-2287, §§ 1, 2; Ord. No. G-3270, § 7; Ord. No. G-3659, § 1; Ord. No. G-3949, § 1, passed 7-3-1996, eff. 7-3-1996; Ord. No. G-4659, § 1, adopted 12-18-2004, eff. 1-1-2005; Ord. No. G-4826, § 1, adopted 9-20-2006, eff. 9-20-2006; Ord. No. G-4943, § 1, adopted 7-2-2007, eff. 8-1-2007; new style in use as of 8-1-2011)

**State law reference**—Prostitution prohibited, A.R.S. § 13-3214; penalty for ordinance violations, A.R.S. §§ 9-499.01, 9-240(B)(28).

Date of Addition/Revision/Deletion - Section 23-52

+1 Addition on 1-21-2015 by Ordinance No. G-5978, eff. 1-21-2015

\*1 Revision on 1-21-2015 by Ordinance No. G-5978, eff. 1-21-2015

engage in, or the opportunity to view, live sex acts is declared to be a disorderly house and a public nuisance per se which should be prohibited; and

2. The operation of a live sex act business contributes to the spread of sexually transmitted diseases; and
3. The operation of a live sex act business is inimical to the health, safety, general welfare and morals of the inhabitants of the City of Phoenix.
4. Evidence in support of these findings may be found in the Sex Clubs, Factual Record, and the Sexually Oriented Businesses, Factual Record, Supplement.

### **Sec. 23-53. Prostitutes—Solicitation.**

Any prostitute, or other person soliciting for a prostitute or for a place of prostitution, or any male person who is an habitue of a place of prostitution or who shall solicit persons to visit or patronize a prostitute or place of prostitution or make such solicitation upon the streets or in any public place in the City shall be guilty of a misdemeanor.

(Code 1962, § 27-56)

### **Sec. 23-54. Findings; definitions; live sex act businesses prohibited.**

A. The City Council makes the following findings:

1. The operation of a business for purposes of providing the opportunity to



B. In this section, unless the context otherwise requires:

1. *Consideration* means the payment of money or the exchange of any item of value for:
  - a. The right to enter the business premises, or any portion thereof; or
  - b. The right to remain on the business premises, or any portion thereof; or
  - c. The right to purchase any item permitting the right to enter, or remain on, the business premises, or any portion thereof; or
  - d. The right to a membership permitting the right to enter, or remain on, the business premises, or any portion thereof.
2. *Live sex act* means any act whereby one or more persons engage in a live performance or live conduct which contains oral sexual contact or sexual intercourse.
3. *Live sex act business* means any business in which one or more persons may view, or may participate in, a live sex act for a consideration.
4. *Operate and maintain* means to organize, design, perpetuate or control. Operate and maintain includes providing financial support by paying utilities, rent, maintenance costs or advertising costs, supervising activities or work schedules, and directing or furthering the aims of the enterprise.
5. *Oral sexual contact* means oral contact with the penis, vulva or anus.
6. *Sexual intercourse* means penetration into the penis, vulva or anus by any part

of the body or by any object or manual masturbatory contact with the penis or vulva.

C. It shall be unlawful for any person to operate and maintain a live sex act business.

D. Operation of a live sex act business is a public nuisance per se which may be abated by order of the Phoenix Municipal Court.

E. The City Attorney, in the name of the City of Phoenix, may apply to the Municipal Court for an order permitting the City to abate violations of this section.

F. After notice to the operator of a live sex act business, the judge shall conduct a hearing and take evidence as to whether a live sex act business is being operated in violation of this section.

G. If, at the conclusion of the hearing, the judge determines that a live sex act business is being operated in the City of Phoenix in violation of this section, an order shall be entered authorizing the City to abate the violation by closing the business. A copy of the order shall be delivered to the operator of the business and mailed to the owner of the property upon which the business is located.

H. Nothing in this section shall be construed to apply to the non-obscene presentation, showing, or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education, or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the

promotion or exploitation of sex for the purpose of advancing the economic welfare of a commercial or business enterprise.

(Ord. No. G-4145, § 1, passed 12-9-1998, eff. 1-8-1999; Ord. No. G-4150, § 1, passed 12-16-1998, eff. 1-15-1999; Ord. No. G-4411, § 1, passed 2-6-2002, eff. 3-8-2002)

**Cross references**—Topless bars, § 6-15; sexually oriented businesses, § 10-131 et seq.; sexually oriented businesses featuring nudity or live performances, § 10-148; indecent conduct, § 23-65 et seq.

**Sec. 23-55 Impoundment of vehicles used for purposes of prostitution.**

A. A motor vehicle used to transport a person for the purpose of soliciting or engaging in an act of prostitution constitutes a nuisance and is subject to impoundment for a period of thirty days.

B. A Peace Officer may cause the removal and either immobilization or impoundment of a vehicle if the Peace Officer determines that the motor vehicle was used to transport a person for the purpose of soliciting or engaging in an act of prostitution.

C. This Section shall apply if a person is arrested for a violation of Section 23-52(A)(1) or (A)(2) or Section 13-3214, Arizona Revised Statutes, and was transported to the scene of the violation in a motor vehicle.

D. Except as provided in Section 23-56, the registered owner or lessee of a vehicle impounded under this Section is responsible for the towing and storage charges of the impoundment in amounts as set forth in the applicable current tow service contract between the City and the tow contractor providing the tow service and any administrative charges established pursuant to Section 23-56.02.

(Ord. No. G-4942, § 1, adopted 7-2-2007, eff. 8-1-2007; Ord. No. G-5002, § 1, adopted 10-17-2006, eff. 11-16-2007)

**Sec. 23-56. Impoundment of vehicles used for purposes of prostitution; procedures.**

A. The owner of a vehicle that is removed and either immobilized or impounded pursuant to Section 23-55, the spouse of the owner identified on the Department of Transportation Motor Vehicle Division record with an interest in the vehicle, the operator of the vehicle, and any person who establishes a possessory interest in the vehicle shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to this Section.

B. If a Peace Officer removes and either immobilizes or impounds a vehicle pursuant to Section 23-55, the Police Department will provide the owner, the spouse of the owner identified on the Department of Transportation Motor Vehicle Division record, the operator of the vehicle, and any person who establishes a possessory interest in the vehicle with the opportunity for an immobilization or poststorage hearing to determine the validity of the immobilization or storage of the vehicle. The Police Department shall serve the operator of the vehicle at the time of immobilization or impoundment with the notice of immobilization or storage. Within two business days after immobilization or impoundment, excluding weekends and holidays, the Police Department shall send a notice of immobilization or storage by first class mail to each owner identified on the Department of Transportation Motor Vehicle Division record and to any person known to the Police Department to have a possessory interest in the vehicle. Service of notice of immobilization or storage is complete on mailing.

C. The notice of immobilization or storage shall include all of the following information:

1. A statement that the vehicle was immobilized or impounded.



2. The name, address and telephone number of the Police Department that will provide the immobilization or poststorage hearing.
3. The location of the place of storage and a description of the vehicle, including, if available, the manufacturer, model, and license plate number.
4. A statement that in order to receive an immobilization or poststorage hearing the owner or the spouse of the owner identified in the Department of Transportation Motor Vehicle Division record, the operator of the vehicle, or any person with a possessory interest in the vehicle, within ten business days after the date on the notice, shall request an immobilization or poststorage hearing by contacting the Police Department and requesting a hearing.

D. The immobilization or poststorage hearing shall be conducted by the Police Department within two business days, excluding weekends and holidays, after receipt of the request. At the hearing, the City shall have the burden of establishing by a preponderance of the evidence that the vehicle is subject to impoundment under Section 23-55. The hearing shall be informal and the formal rules of evidence shall not apply. The Poststorage Hearing Officer may admit any reliable relevant evidence. A hearing provided under this Section shall not determine the sufficiency of the grounds for the probable cause underlying the arrest that was a predicate to the impoundment. The results of a hearing under this Section shall not be admissible in any criminal proceeding.

E. Failure of the owner, the spouse of the owner, the operator of the vehicle, or any person who establishes a possessory interest in the vehicle to request an immobilization or

poststorage hearing within ten days after the date on the notice prescribed in Subsection C of this Section or to attend a scheduled hearing satisfies the immobilization or poststorage hearing requirement.

F. The City is responsible for the costs incurred for immobilization, towing and storage if it is determined in the immobilization or poststorage hearing that grounds for the immobilization or impoundment and storage are not established.

G. A vehicle shall not be released at the conclusion of the thirty day impoundment unless all of the following are presented to the Police Department:

1. The owner's, owner's spouse's, or possessory interest holder's current valid driver license issued by the State of the person's state of domicile.
2. Proof of current vehicle registration.
3. Proof that the vehicle is in compliance with the financial responsibility requirements of A.R.S. Title 28, Chapter 9, Article 4.
4. If the person is required by the Department of Transportation Motor Vehicle Division to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The impounding agency, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require

compensation for providing access to the vehicle or for the installation of the certified ignition interlock device.

5. Payment of an administrative fee for costs relating to the removal, immobilization, impoundment, storage or release of the vehicle pursuant to Section 23-56.02.

(No. G-5002, §§ 2, 3, adopted 10-17-2006, eff. 11-16-2007)

**Editor's note**—Ord. No. G-5002, § 2, adopted Oct. 17, 2007, effective Nov. 16, 2007, repealed § 23-56 in its entirety. Subsequently, said ordinance enacted a new § 23-56 to read as herein set out. Formerly said section pertained to Impoundment of vehicles used for purposes of prostitution—Procedures and derived from Ord. No. G-4942, § 2, adopted 7-2-2007, eff. 8-1-2007.

**Sec. 23-56.01 Early release of vehicle.**

A. The Police Department shall release a vehicle to the owner, owner's spouse, or owner's agent before the end of the thirty day immobilization or impoundment period under any of the following circumstances:

1. If the vehicle is a stolen vehicle.
2. If the vehicle was subject to bailment and was driven by an employee of a business establishment, including a parking service or repair garage.
3. All of the following apply:
  - (A) The owner, owner's spouse, or owner's agent was not present at the time of impoundment and was not the person arrested pursuant to Section 23-52(A)(1) or (A)(2) or Section 13-3214, Arizona Revised Statutes [Statutes].
  - (B) The owner or the owner's agent is in the business of renting motor vehicles without drivers.

(C) The vehicle is registered pursuant to Section 28-2166, Arizona Revised Statutes.

(D) There was a rental agreement in effect at the time of the immobilization or impoundment.

B. A vehicle shall not be released pursuant to Subsection A of this Section except pursuant to an immobilization or poststorage hearing under this Section or if all of the following are presented to the Police Department:

1. The owner's or owner's spouse's current valid driver license issued by this State of the owner's or owner's spouse's state of domicile.
2. Proof of current vehicle registration or a valid salvage or dismantle certificate of title.
3. Proof that the vehicle is in compliance with the financial responsibility requirements of Title 28, Chapter 9, Article 4, Arizona Revised Statutes.
4. If the person is required by the Department of Transportation Motor Vehicle Division to install a certified ignition interlock device on the vehicle, proof of installation of a functioning certified ignition interlock device in the vehicle. The Police Department, storage yard, facility, person or agency having physical possession of the vehicle shall allow access during normal business hours to the impounded vehicle for the purpose of installing a certified ignition interlock device. The Police Department, storage yard, facility, person or agency having physical possession of the vehicle shall not charge any fee or require compensation for providing ac-

cess to the vehicle or for the installation of the certified ignition interlock device.

C. The owner or the owner's spouse if the vehicle is released to the owner's spouse is responsible for paying all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to Section 23-56.02 unless the vehicle is stolen and the theft was reported to the appropriate law enforcement agency or if the vehicle was subject to bailment.

D. The Police Department shall release a vehicle to a person, other than the owner, identified on the Department of Transportation Motor Vehicle Division record as having an interest in the vehicle before the end of the thirty day immobilization or impoundment period if all of the following conditions are met:

1. The person is either of the following:
  - (A) In the business of renting motor vehicles without drivers and the vehicle is registered pursuant to Section 28-2166, Arizona Revised Statutes.
  - (B) The person is a motor vehicle dealer, bank, credit union or acceptance corporation or any other licensed financial institution legally operating in this State or is another person who is not the owner and who holds a security interest in the vehicle.
2. The person pays all immobilization, towing and storage charges related to the immobilization or impoundment of the vehicle and any administrative charges established pursuant to Section 23-56.02 unless the vehicle is stolen and

the theft was reported to the appropriate law enforcement agency or if the vehicle was subject to bailment.

3. The person presents foreclosure documents or an affidavit of repossession of the vehicle.
4. The person requesting release of the vehicle was not present at the time of the removal and immobilization or impoundment.

E. The storage charges relating to the impoundment of a vehicle pursuant to this Section shall be subject to a contractual agreement between the City and a towing firm for storage services pursuant to Section 28-1108, Arizona Revised Statutes, but shall not exceed fifteen dollars for each day of storage, including any time the vehicle remains in storage after the end of the thirty day impoundment period.

F. For the purposes of this Section, "*certified ignition interlock device*" has the same meaning prescribed in Section 28-1301, Arizona Revised Statutes.

(No. G-5002, § 3, adopted 10-17-2006, eff. 11-16-2007)

#### **Sec. 23-56.02 Administrative charges.**

A. The Police Department shall establish procedures consistent with Sections 23-55 through 23-56.01 for an immobilization or poststorage hearing, for the release of property and immobilized or impounded vehicles and for imposition of a charge for administrative costs relating to the removal, immobilization, impoundment, storage or release of a vehicle that reflects actual costs, but not to exceed one hundred fifty dollars.

B. The Police Department shall collect any administrative charges at the time of the release of the vehicle unless the vehicle is stolen and

the theft was reported to the appropriate law enforcement agency or if the vehicle was subject to bailment.

C. The administrative charges established pursuant to this Section are in addition to any other immobilization, impoundment or storage charges.

(No. G-5002, § 2, 3, adopted 10-17-2006, eff. 11-16-2007)

**Sec. 23-57. Use of taxicabs for immoral purposes.**

It shall be unlawful for any person having charge or control of any taxicab to knowingly use or permit the same to be used for any immoral purpose, or to solicit or offer to procure any person for an act of prostitution in such taxicab, or to knowingly convey in such taxicab any person to any house of prostitution or assignation.

(Code 1962, § 27-76)

**Cross reference**—Taxicabs and limousines, § 36-201 et seq.

**DIVISION 2. DISORDERLY HOUSES**

**Sec. 23-58. Disorderly houses—Keeping of.**

Every person who keeps any disorderly house, or any house or place of general or public resort by which the peace, comfort or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn, hotel, rooming or lodging house in a disorderly manner, shall be guilty of a misdemeanor.

(Code 1962, § 27-19)

**Sec. 23-59. Disorderly houses—Inmates.**

Any person who is an inmate of any disorderly place or place of ill fame, for the purpose of prostitution, fornication or adultery, shall be guilty of a misdemeanor.

(Code 1962, § 27-20)

**Sec. 23-60. Disorderly houses—Loitering in.**

Any person frequenting, loitering in or continuing in any place of ill fame, bawdy house or place of prostitution shall be guilty of a misdemeanor.

(Code 1962, § 27-21)

**Sec. 23-61. Disorderly houses—Owners.**

(a) It shall be unlawful for the owner, his agent or employee, or any person having charge or control of any house, building, apartment, room or premises to rent or lease any such house, building, apartment, room or premises to any person to be used as a place of prostitution or to knowingly permit any such house, building, apartment, room or premises to be used for prostitution or for immoral purposes or practices, and any such owner, agent, employee or person violating any of the provisions of this section shall be guilty of a misdemeanor.

(b) The owner or person having charge or control of any house, building, apartment, room or premises shall be and is hereby authorized to summarily remove and eject from such house, building, apartment, room or premises, any tenant, subtenant, lessee or sublessee or any person who shall commit any act of prostitution, or any immoral act or practice or who shall knowingly suffer or permit to be commit-

ted any act of prostitution or any immoral act or practice in or about such house, building, apartment, room or premises.  
(Code 1962, § 27-22; Ord. No. G-2286, § 1)

### DIVISION 3. MISCELLANEOUS SEX OFFENSES

#### Sec. 23-62. Molesting children.

It shall be unlawful for any person in the City of the age of eighteen years and upwards to take, or attempt to take, any immoral, improper or indecent liberties with any child of either sex, under the age of fifteen years, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires, either of such person or of such child, or of both such person and such child, or to commit, or attempt to commit, any lewd or lascivious act upon or with the body, or any part or member thereof, of such child, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires, either of such person or of such child, or of both such person and such child, or to take any such child or to entice, allure or persuade any such child, to any place whatever for the purpose either of taking any such immoral, improper or indecent liberties with such child, with such intent, or of committing any such lewd, or lascivious act upon or with the body, or any part or member thereof, of such child with such intent.

(Code 1962, § 27-46)

**Cross reference**—Minors, ch. 22.

**State law reference**—Sexual conduct with a minor, A.R.S. § 13-1405.

#### Sec. 23-63. Reserved.

**Editor's note**—Section 23-63 was repealed; see Ord. No. G-1521, § 1.

#### Sec. 23-64. Reserved.

**Editor's note**—Section 23-64 was repealed; see Ord. No. G-1520, § 1.

### DIVISION 4. INDECENT CONDUCT\*

#### Sec. 23-65. Public sexual activity.

(a) Any person who solicits, aids, offers or agrees to commit or does commit any sexual activity in any public place or in any place open to public view is guilty of a misdemeanor.

(b) Sexual activity includes but is not limited to vaginal or anal intercourse, fellatio, cunnilingus, anilingus, masturbation, sodomy, bestiality or the fondling or touching of one person's clothed or unclothed genital area by another.

(Code 1962, § 27-37; Ord. No. G-1301, § 1; Ord. No. G-1520, § 2; Ord. No. G-1680, § 1; Ord. No. G-1791, § 1)

**State law reference**—Public sexual indecency, A.R.S. § 13-1403.

#### Sec. 23-66. Solicitation of public exposure; exemption.

A. It is a misdemeanor for a person to solicit another person to expose, in a public place, their genitals or anus or her areola or nipple of her breast.

B. Subsection (A) of this section shall not apply where there is a third person present and the defendant is reckless about whether such third person, as a reasonable person, would be offended or alarmed by the solicited act.

(Code 1962, § 27-39; Ord. No. G-1520, § 3; Ord. No. G-1791, § 2; Ord. No. G-2011, § 2)

**State law reference**—Indecent exposure, A.R.S. § 13-1402.

**\*Cross references**—Topless bars, § 6-15; sexually oriented businesses featuring nudity or live performances, § 10-148; live sex act businesses, § 23-54.

**Sec. 23-67. Obscene live public performance.**

A. Any person who willfully and knowingly performs or engages in an obscene live public performance, or who directs, manages, conducts, finances or presents an obscene live public performance is guilty of a misdemeanor.

B. Definitions.

- (1) *Live public performance* means any live dance, show, play or presentation before another person or persons in a place open to the public.
- (2) A live public performance is obscene within the meaning of this ordinance when:
  - (a) The average person, applying contemporary State standards, would find that the performance, taken as a whole, appeals to the prurient interest; and
  - (b) The performance depicts in a patently offensive way sexual activity as defined herein; and
  - (c) The performance, taken as a whole, lacks serious literary, artistic, political or scientific value.
- (3) *Sexual activity* means:
  - (a) Patently offensive presentations or depictions of ultimate sexual acts, normal or perverted, actual or simulated; or
  - (b) Patently offensive presentation or depictions of nudity, masturbation, excretory functions, or sado-masochistic abuse.
- (4) *Ultimate sexual acts* means anilingus, sexual intercourse, vaginal or anal, fellatio, cunnilingus, bestiality or sodomy. A sexual act is simulated when it

depicts explicit sexual activity which gives the appearance of consummation of ultimate sexual acts.

- (5) *Nudity* means the showing of the human male or female genitals, pubic area, anus, or the areola or nipple of the female breast, with less than a fully opaque covering.

C. This ordinance does not apply where spirituous liquor as defined by A.R.S. § 4-101 is sold, served or dispensed and where a State liquor license is required by law.

(Code 1962, § 27-38; Ord. No. G-1519, § 1)

**State law reference**—Public presentation of obscenity, A.R.S. § 13-3502.

**Sec. 23-68. Persons performing, or serving spirituous liquors or food—Indecent exposure.**

(a) Any female entertaining or performing any dance or in any play, exhibition, show or other entertainment, or any female serving food or spirituous liquors as defined by A.R.S. § 4-101, as amended, in a restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or in a private, fraternal, social, golf or country club, as defined by A.R.S. § 4-101, as amended, or in any public place, who appears clothed, costumed, unclothed or uncostumed in such a manner that the areola (the more darkly pigmented portion of the breast encircling the nipple) is not covered by a brassiere consisting of a fully opaque fabric material, is guilty of a misdemeanor.

(b) Any person entertaining or performing any dance or in any play, exhibition, show or other entertainment, or any person serving food or spirituous liquors as defined by A.R.S. § 4-101, as amended, in a restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or in a private, fraternal, social, golf or country club, as defined by A.R.S. § 4-101, as amended, or in

any public place, who appears clothed, costumed, unclothed or uncostumed in such a manner that the lower part of his or her torso, consisting of the private parts or anal cleft or cleavage of the buttocks, is not covered by a fully opaque fabric material or is so thinly covered as to appear uncovered, is guilty of a misdemeanor.

(Ord. No. G-812, § 1)

**State law reference**—Indecent exposure, A.R.S. § 13-1402.

**Sec. 23-69. Persons performing, or serving spirituous liquors or food—Indecent exposure—Liability of owners and operators of establishments.**

(a) A person who knowingly conducts, maintains, owns, manages, operates or furnishes any restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or any place serving food or spirituous liquors, as defined by A.R.S. § 4-101, as amended, or a private, fraternal, social, golf or country club, as defined by A.R.S. § 4-101, as amended, or any public place, where a female appears clothed, costumed, unclothed or uncostumed in such a manner that the areola (the more darkly pigmented portion of the breast encircling the nipple) is not covered by a brassiere consisting of a fully opaque fabric material, is guilty of a misdemeanor.

(b) A person who knowingly conducts, maintains, owns, manages, operates or furnishes any restaurant, nightclub, bar, cabaret, tavern, tap room, theater, or any place serving food or spirituous liquors, as defined by A.R.S. § 4-101, as amended, or a private, fraternal, social, golf or country club, as defined by A.R.S. § 4-101, as amended, or any public place, where any person appears clothed, costumed, unclothed, or uncostumed in such a manner that

the lower part of his or her torso, consisting of the private parts or anal cleft or cleavage of the buttocks, is not covered by a fully opaque fabric material or is so thinly covered as to appear uncovered, is guilty of a misdemeanor. (Ord. No. G-812, § 1)

**Sec. 23-70. Reserved.**

**Editor's note**—Section 23-70 was repealed; see Ord. No. G-1869, § 1.

**Sec. 23-70.1. Public display of explicit sexual material offensive to others.**

(a) It is unlawful for any person knowingly to place explicit sexual material which is offensive to others upon public display, or knowingly to fail to take prompt action to remove such a display from property in his possession or under his control after learning of its existence.

(b) For purposes of this section:

(1) *Explicit sexual material* means any pictorial or three-dimensional material depicting human sexual intercourse, masturbation, bestiality, human genitals, oral intercourse, anal intercourse, direct physical stimulation of unclothed genitals, flagellation, or torture in the context of a sexual relationship, which is offensive to others.

(2) *Public display* means the placing of explicit sexual material which is offensive to others in such a manner or location so as to be easily visible from a public thoroughfare or from property of others.

(Ord. No. G-1069, § 1)

**State law reference**—Obscenity, A.R.S. § 13-3501 et seq.

**Sec. 23-70.2. Permitting minors to enter premises wherein there is displayed explicit sexual material which is offensive to others.**

(a) It is unlawful for any person to knowingly permit a minor to enter business premises wherein there is displayed explicit sexual materials offensive to others.

(b) For purposes of this section:

(1) A *minor* means a person under the age of eighteen years.

(2) *Business premises* means any place where an occupation, trade, profession or commercial activity is engaged in for gain or profit. Drive-in and motion picture theaters are excepted from this definition of "business premises" as such business premises are subject to the provisions of A.R.S. tit. 13, ch. 35 (A.R.S. § 13-3501 et seq.).

(3) *Explicit sexual material which is offensive to others* means any material as defined in section 23-70.01(b)(1).

(4) *Public display* means placing of explicit sexual material which is offensive to others in such a location or manner upon such premises as to be easily visible by any minor while such minor is upon such premises.

(Ord. No. G-1069, § 1)

**Cross reference**—Minors, ch. 22.

**State law reference**—Obscenity, A.R.S. § 13-3501 et seq.

**DIVISION 5. OBSCENITY\***

**Sec. 23-71. Vulgar language and obscene songs.**

(a) Any person who, in the presence or hearing of any woman or child, in any place within the City, shall use vulgar or obscene

**\*State law reference**—Obscenity, A.R.S. § 13-3501 et seq.

language, or who shall use vile or abusive epithets of or to any other person in the presence of any woman or child shall be guilty of a misdemeanor.

(b) Any person who willfully or lewdly sings any lewd or obscene song, ballad or other words, in any public place or in any place where there are persons present to be annoyed thereby, shall be guilty of a misdemeanor.

(Code 1962, §§ 27-39, 27-78)

**Sec. 23-72. Obscene literature.**

It shall be unlawful for any person to expose, sell, give away or offer to sell or give away, or to have in his possession for such purposes, any indecent, lewd, obscene book, picture, paper or thing.

(Code 1962, § 27-48)

**Sec. 23-72.1. Reserved.**

**Editor's note**—Section 23-72.1 was repealed; see Ord. No. G-1874, § 1.

**DIVISION 6. RESERVED†**

**Secs. 23-73—23-76. Reserved.**

**DIVISION 7. FRAUDS AND GAMBLING‡**

**Sec. 23-77. Frauds and lotteries.**

Every person who by the so-called game of "three card monte" or any game, device, sleight of hand, pretensions to fortunetelling, or any other means whatsoever, by use of cards or other implements or instruments or by betting on sides or hands of any play or game, fraud-

**†Editor's note**—Division 6, which pertained to comic books, was repealed.

**‡Cross reference**—Amusements, ch. 7.

**State law references**—Authority to suppress gambling, A.R.S. §§ 9-499.01, 9-240(B)(17); gambling, A.R.S. § 13-3301 et seq.



ulently obtains from another person money or property of any description, and every person who keeps, maintains, employs or carries on any lottery, or lottery scheme or device or raffle, shall be guilty of a misdemeanor. (Code 1962, § 27-31)

**Sec. 23-78. Gambling—Prohibited.**

(a) Every person who shall deal, carry on or open or cause to be opened, or operate, or who shall conduct, either as owner, manager, agent, dealer, clerk or employee, whether for hire or not, any game of faro, monte, roulette, lasquet, rouge-et-noir, rondo, vingt-et-un, twenty-one, poker, stud-poker, draw-poker, bluff, fantan, thaw, seven and one-half, chuck-a-luck, black-jack, panginki, craps, or any similar game whatsoever or any banking or percentage game, played with device intended to be used for gambling purposes, is guilty of a misdemeanor.

(b) Every person having the management or control, either temporary or permanent, of any house, building or resort, who shall permit any of the games enumerated in this section, or any games similar thereto, to be played in such house, building or resort, shall be guilty of a misdemeanor. (Code 1962, § 27-32)

**Sec. 23-79. Gambling—Slot machines and other devices.**

Every person, who has in his possession or under his control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept in any room, space, inclosure, or building owned, leased or occupied by him, or under his management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of the action of which money or any other valuable thing is staked or hazarded, and which is operated, or played, by placing or

depositing therein any coins, checks, slugs, balls, or other articles or devices, or in any other manner and by means whereof, or as a result of the operation of which any merchandise, money, representative or articles of value, checks, or tokens, redeemable in, or exchangeable for merchandise, money or any other thing of value, is won or lost, or taken from or obtained from such machine, when the result of the action or operation of such machine, contrivance, appliance, or mechanical device is dependent upon hazard or chance, and every person who operates or plays any such machine, is guilty of a misdemeanor. (Code 1962, § 27-33)

**State law reference**—Possession of gambling devices, A.R.S. § 13-3306.

**Sec. 23-80. Gambling—Paraphernalia.**

(a) Every person who has in his possession or under his control any gambling paraphernalia, article, thing or device or who has in his possession or under his control any paraphernalia, article, thing or device intended to be used for gambling purposes is guilty of a misdemeanor.

(b) It shall be the duty of the Chief of Police and all persons acting under him to seize any gambling paraphernalia, article, machine, device, contrivance, appliance or apparatus of every kind and description and take the same before the City magistrate. If, in the judgment of the magistrate any of the articles enumerated above are gambling articles or were at the time of their seizure used or intended to be used in gambling, he may order such articles to be destroyed, or the magistrate may order such articles to be held as evidence in the trial of any case and after the final hearing and disposition of the case, whether such case results in a conviction or acquittal, order such articles destroyed.

(Code 1962, § 27-34)

**State law reference**—Possession of gambling devices, A.R.S. § 13-3306.

**Sec. 23-81. Gambling—Confiscation of money.**

All money or stakes being used in the conduct of any gambling game, when seized by police officers shall be brought before the City magistrate and if the magistrate upon hearing the evidence, should find the same to have been used in conducting a gambling game, such money or stakes shall be forfeited to the City by the magistrate ordering such money or stakes deposited in the City treasury.

(Code 1962, § 27-35)

**Sec. 23-82. Games of chance—Minors forbidden to play.**

It shall be unlawful for any person owning, controlling or in charge of any game of chance, or any gambling devices or appliances to suffer or permit any minors to play at or patronize the same.

(Code 1962, § 27-36)

**Cross reference**—Minors, ch. 22.

**Sec. 23-82.1. Wagering on results of sporting events.**

(a) That except for on-track pari-mutuel wagering, no person may for gain, hire, reward or profit, engage in the business of accepting, recording or registering any bet, purported bet, wager or purported wager on the result of any sporting event, contest or game, nor may a person for gain, hire, reward or profit engage in the business of selling wagering pools with respect to the result of any sporting event, contest or game.

(b) That any person violating this section is guilty of a misdemeanor punishable by a fine of up to three hundred dollars or incarceration in the City jail for up to ninety days, or both.

(Ord. No. G-1092, § 1)

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

**ARTICLE V. OFFENSES AGAINST PROPERTY\***

**Sec. 23-83. Defacing public property.**

It shall be unlawful for any person to deface any public property, including any urinal or water closet, by writing or drawing thereon, or by painting or pasting thereon, or attaching thereto any handbill or advertisement or other drawing or to scratch, mar, disfigure or defile such property or the floor or walls thereof.

(Code 1962, § 27-15)

**State law reference**—Criminal damage to property, A.R.S. § 13-1602.

**Sec. 23-84. Destruction of private property.**

It shall be unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another, or to break or sever from any premises owned or occupied by another, any gate, fence, railing, tree, brush, or vine, or any property whatsoever or to deface, mutilate or injure the same.

(Code 1962, § 27-16)

**State law reference**—Criminal damage to property, A.R.S. § 13-1602.

**Sec. 23-85. Trespassing on Phoenix Convention Center Department property.**

It shall be unlawful for any person to enter or remain unlawfully on Phoenix Convention Cen-

**\*Cross references**—Vandalism in parks, § 24-37 et seq.; graffiti prevention, prohibition and removal, § 39-10.

ter Department property of the City after a reasonable request to leave by any person having lawful control over such property, or reasonable notice prohibiting or restricting entry.

(Code 1962, § 27-75; Ord. No. G-1761, § 1; Ord. No. G-4872, § 14, adopted 3-7-2007, eff. 4-6-2007)

**Cross reference**—Civic Plaza, ch. 10A.

**State law reference**—Criminal trespass, A.R.S. § 13-1501 et seq.

### **Sec. 23-85.01. Criminal trespass.**

#### *A. Definitions.*

1. *Enter or remain unlawfully* means an act of a person who enters or remains on premises when such person's purpose for so entering or remaining is not licensed, authorized or otherwise privileged.
2. *Entry* means the intrusion of any part of any instrument or any part of a person's body inside the external boundaries of a structure or unit of real property.
3. *Fenced commercial yard* means a unit of real property surrounded completely by either fences, walls, buildings, or similar barriers or any combination thereof, and used primarily for business operations or where livestock, produce or other commercial items are located.
4. *Fenced residential yard* means a unit of real property immediately surrounding or adjacent to a residential structure and enclosed by a fence, wall, building or similar barrier, or any combination thereof.
5. *Nonresidential structure* means any structure other than a residential structure.
6. *Residential structure* means any structure, movable or immovable, permanent

or temporary, adapted for both human residence and lodging whether occupied or not.

7. *Structure* means any building, object, vehicle, railroad car or place with sides and a floor, separately securable from any other structure attached to it and used for lodging, business, transportation, recreation or storage.

B. The following acts shall constitute criminal trespass and any person who commits any of these acts shall be guilty of a misdemeanor.

1. Entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.
2. Entering or remaining unlawfully in the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.
3. Entering or remaining unlawfully on any nonresidential structure or fenced commercial yard.
4. Entering or remaining unlawfully in a residential structure or fenced residential yard.
5. Entering any residential yard, and without lawful authority, looking into the residential structure thereon with the intent to infringe on the inhabitant's right of privacy.

(Ord. No. G-1776, § 1; Ord. No. G-1868, § 7)

**State law reference**—Criminal trespass, A.R.S. § 13-1501 et seq.

## **ARTICLE VI. MISCELLANEOUS**

### **Sec. 23-86. Bootblacks—Permit required; fee.**

It shall be unlawful for any person to engage in the business of shining shoes upon the streets

of the City without first having secured a permit from the Chief of Police. No charge or fee shall be assessed for the issuance of the permit provided in this section.

(Code 1962, § 27-4)

**Cross reference**—Businesses, ch. 10.

**Sec. 23-87. Bootblacks—Authority of Chief of Police; revocation of permit.**

The Chief of Police, relative to bootblacks, shall have the power and duty to establish rules and regulations for the conduct of the business carried on by each specific permittee under the preceding section. The violation of such rules and regulations by any such permittee shall be grounds for the revocation of his permit.

(Code 1962, § 27-5)

**Sec. 23-88. Reserved.**

**Editor's note**—Section 23-88 was repealed by Ord. No. G-1338.

**Sec. 23-89. Railroads—Unused tickets.**

It shall be unlawful for any person except such person as may be a regularly authorized agent of a railroad company maintaining offices within the City to engage in the business of buying or selling the unused portions of nontransferable tickets, the use of which is restricted to the original purchaser by the railroad company issuing them, or to act as vender or broker of partially used nontransferable railroad tickets, or to solicit personally or by advertisement or in any other manner to aid in the sale or purchase of partially used nontransferable railroad tickets, or the unused portion of nontransferable tickets within the limits of the City.

(Code 1962, § 27-61)

**Sec. 23-90. Receiving property from minors.**

Every person who purchases or receives in pledge or by way of mortgage, from any person

under the age of eighteen years, any junk, metal, mechanical tools or implements, is guilty of a misdemeanor.

(Code 1962, § 27-65)

**Cross references**—Licensing of secondhand dealers and scrap metal dealers, ch. 19; minors, ch. 22.

**Sec. 23-91. Tattooing of minors.**

It shall be unlawful for any person to tattoo another person within the City where the recipient of such tattooing is under the age of eighteen years. The burden of knowing the age of the recipient of a tattoo shall be upon the person engaging in such tattooing.

(Code 1962, § 27-73)

**Cross reference**—Minors, ch. 22.

**Sec. 23-92. Pawnshop hours of operation.**

It shall be unlawful for any person to operate a business for which a pawnbroker license is required under State law between the hours of 12:00 a.m. and 6:00 a.m.

(Ord. No. G-3948, § 1, passed 7-3-1996, eff. 8-2-1996)

**Cross references**—Businesses, ch. 10; pawnbroker transaction fee, § 10-150 et seq.; licensing of secondhand dealers, ch. 19.

**Secs. 23-93—23-99. Reserved.****ARTICLE VII. SHIELDING AND FILTERING OUTDOOR LIGHTING\*****Sec. 23-100. Outdoor lighting.**

**A. Purpose.** The purpose of this section is to create standards for outdoor lighting so that its use does not interfere with reasonable use and enjoyment of adjacent property, while also minimizing atmospheric light scattering.

**B. Definitions.**

*Outdoor light fixtures:* Shall include artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for outdoor illumination. Such devices shall include, but are not limited to, search, spot, or flood lights for:

- (1) Building and structures.
- (2) Recreational areas.
- (3) Parking lot lighting.
- (4) Landscape lighting.
- (5) Security lighting.

*Fully shielded:* Shall mean that those fixtures so designated shall be shielded in such a manner that light rays emitted from the

\***Cross references**—Building regulations, ch. 9; zoning, ch. 41.

fixture, either directly from the source of illumination or indirectly from the fixture, are projected below a horizontal plane running through the lowest point of the fixture where light is emitted.

*Filtration:* Those outdoor light fixtures which have glass, acrylic, or translucent enclosures (quartz glass does not meet this requirement).

**C. Requirements for shielding or filtration.** When used for outdoor lighting, shielding or filtration shall be required for the lamp types as set forth in the following table, unless the lighting contains an automatic shutoff device and is not used from 11:00 p.m. until sunrise:

<i>Fixture Lamp Type</i>	<i>Shielded</i>	<i>Filtered</i>
High pressure sodium	Fully	None
Metal halide	Fully	Yes
Fluorescent	Fully	Yes
Quartz	Fully	None
Incandescent greater than 150 watts	Fully	None
Low pressure sodium	None	None

For the purposes of this article, quartz lamps shall not be considered an incandescent light source.

**D. Other restrictions.**

- 1) The installation of mercury vapor fixtures for use as outdoor lighting after January 1, 1985, is prohibited.
- 2) Other outdoor light regulations are contained in the Zoning Ordinance, appendix A, of this Code.

**Cross reference**—Pursuant to Ord. No. G-3377, § 1, the Zoning Ordinance, as amended, formerly app. A of the Code, was repealed and the "Zoning Ordinance of the City of Phoenix" was adopted by reference as set forth in ch. 41. The Zoning Ordinance is published as a separate volume. A copy of the Zoning Ordinance is on file in the office of the City Clerk.

- 3) A recreation facility, public or private, may use outdoor lighting from 11:00 p.m. until sunrise, to conclude an event or activity begun before 10:00 p.m.

E. *Exemptions.*

- 1) Fossil fuel light: Produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
  - 2) Unless otherwise regulated, these provisions shall not apply to outdoor lighting fixtures installed prior to January 1, 1985.
- (Ord. No. G-2699, § 1; Ord. No. G-3172, § 1)

**ARTICLE VIII. RESERVED\***

**ARTICLE IX. SMOKING POLLUTION CONTROL ORDINANCE†**

**Sec. 23-101. Title.**

This article shall be known as "The Smoking Pollution Control Ordinance."  
(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1)

**Sec. 23-102. Purpose of article.**

Because smoking of tobacco or any other weed or plant is a danger to health and is a cause of annoyance and discomfort to those who are present in smoky confined spaces, the purpose of this article is to regulate smoking in enclosed public places and in places of employment.  
(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1)

**\*Editor's note**—Article VIII, which pertained to the Citizens Advisory Commission on Drug Abuse Control, was repealed by Ord. No. G-1096, § 1.

**†Cross references**—Businesses, ch. 10; smoking on buses, § 23-49; smoking in parks and mountain preserve areas, § 24-42.

**State law reference**—Smoking in certain places, A.R.S. § 36-601.01.

**Sec. 23-103. Definitions.**

*Bar* shall mean an area devoted primarily to alcoholic beverage service to which food service is only incidental.

*Designated smoking area* means any area within an enclosed public place where smoking is specifically permitted, provided, however, that, except as specifically provided in section 23-108, any designated smoking area shall not exceed in area and size the non-smoking area and shall be so situated as to allow non-smoking individuals reasonable opportunity to conduct normal activity in a smoke-free environment.

*Employee* means any person who is employed by any employer for direct or indirect monetary wages or profit.

*Employer* means any person or entity employing the services of an individual person.

*Enclosed public place* means any area closed in by a roof and walls with openings for ingress and egress which is available to and customarily used by the public. Enclosed public places governed by this article shall include, but not be limited to public areas including elevators, waiting rooms, reception areas, lobbies, restrooms, retail stores, retail service establishments, grocery stores, drugstores, shopping malls, theaters, auditoriums, public and private schools, offices of health care professionals, pharmacies, indoor sports facilities, public transportation vehicles and terminals, airports, taxicabs or other means of public limit [sic], transit, community centers, child care centers, hotel and motel public areas, financial institutions, all indoor facilities and any public places already regulated by A.R.S. § 36-601.01 and restaurants. A private residence is not a "public place."

*Food court* means an area within an enclosed public place devoted primarily to the serving and consumption of food.

*Place of employment* means an enclosed area under the control of a private or public employer intended for occupancy by employees during the course of employment, including, but not limited to, work areas, offices, employee lounges, conference and meeting rooms, employee cafeterias and lunchrooms, classrooms, auditoriums, hallways, stairways, waiting areas and restrooms. A private residence is not a "place of employment."

*To smoke or smoking* means burning or carrying any lighted cigarette, tobacco or any other weed or plant or placing any burning tobacco, weed or plant in an ashtray or other receptacle and allowing smoke to diffuse into the air.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

#### **Sec. 23-104. Regulation of smoking in City-owned public places.**

All enclosed public places occupied by the City of Phoenix shall be subject to this article. (Ord. No. G-2865, § 1; Ord. No. G-2883, § 1)

**Cross reference**—Administration, ch. 2.

#### **Sec. 23-105. Regulation of smoking in enclosed public places.**

A. No person shall smoke in any enclosed public place except in designated smoking areas. Except as otherwise provided in subsection B of this section, smoking shall be prohibited in all taxicabs, public restrooms in public areas and customer service areas of grocery stores, convenience markets, financial institutions, drugstores and pharmacies, and in public areas of shopping malls and airports. A viola-

tion of this section is a petty offense punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars. In no case shall a person convicted of a violation of this section be eligible for suspension or commutation of sentence on any basis except on the condition that the offender pays a fine of twenty-five dollars.

B. Smoking may be permitted in those airport facilities serving the air traveler provided that any designated smoking area shall be confined to enclosed areas with separate air ventilation systems vented directly to outside to prevent secondary smoke from accessing non-smoking areas of the facility.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

#### **Sec. 23-106. Regulation of smoking in places of employment.**

A. Within ninety days of the adoption of this article, each employer in each place of employment within the City shall adopt, implement, and maintain a written smoking policy containing at a minimum the following provisions and requirements:

1. Prohibition of smoking in employer conference and meeting rooms, classrooms, auditoriums, restrooms, waiting areas, medical facilities, hallways, stairways and elevators.
2. Provision and maintenance of separate non-smoking facilities, rooms or areas of not less than one-half of the total seating capacity and total floorspace in cafeteria, lunchrooms, and employee lounges located on the premises.
3. Any employee may object to his or her employer about smoke in his or her immediate work area, in employee facilities including but not limited to

restrooms, cafeteria, and health facilities, or in areas in the work place where he or she must traverse in the course of work or to use employee facilities including but not limited to restrooms, cafeterias, and health facilities. Using already available means of ventilation or partition of office space, the employer must use its best efforts to reasonably accommodate the preferences of non-smoking and smoking employees. However, in doing so, no employer is required to make any expenditures or structural changes to the place of employment.

4. (a) If no accommodation reasonably satisfactory to all complaining employees can be reached in any given work area, the preferences of complaining employees shall prevail and the employer shall prohibit smoking in that work area. Where the employer prohibits smoking in a work area, it shall clearly mark that area with appropriate no smoking signs and upon request, provide signs to employee(s) for use in designating their areas.
- (b) The employer shall announce its smoking policy within ninety days of adoption of this article to all its employees working in work places in the City and shall post its written policy conspicuously in all work places under the employer's jurisdiction, and make it available upon request.
- (c) Notwithstanding the provisions of section, every employer shall have the right to designate any place of employment, or portion thereof, as a non-smoking area. If an em-

ployer fails to implement and maintain a written smoking policy, smoking shall be prohibited on the entire premises.

B. The Fire Marshal, or any designee thereof, is authorized to investigate any complaints of violation of subsection A. Upon a determination of reasonable cause that a violation exists, the Fire Marshal, or any designee therefor, may issue a notice of violation stating with reasonable particularity the nature of the violation, to an employer or its agent. Within fifteen days of service of said notice, the employer shall in writing either submit an acceptable compliance plan to the Fire Marshal, or request a hearing on the violation. If a hearing is requested, a hearing officer appointed by the Water and Environmental Resources Manager shall designate a time and place for the hearing.

C. At the hearing it shall be the burden of the Fire Marshal, or the designee thereof, to prove by a preponderance of the evidence that a violation has occurred. Formal rules of evidence shall not apply and the hearing officer may admit whatever evidence he or she deems probative.

D. If the hearing officer determines that a violation has occurred he/she shall issue an order designating the continued noncompliance with this section to be a nuisance and imposing a one hundred dollar assessment against the violator. Any person affected by the nuisance may for a period of one year after the hearing officer's order bring a civil action in the Municipal Court to abate the nuisance.

E. Service of any notice to an employer required by this section shall be complete upon mailing, to the employer or by personal delivery to the employer or any agent thereof.



F. Failure to respond timely to a notice of violation as described in subsection B shall result in a default being entered against the violator. Upon entering a default the hearing officer shall enter an order as if a determination that a violation has occurred had been made.

G. No person shall smoke in any place of employment except in designated smoking areas. A violation of this subsection is a petty offense punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars. In no case shall a person convicted of a violation of this section be eligible for suspension or commutation of sentence on any basis except on the condition that the offender pays minimum/mandatory a fine of twenty-five dollars.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

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

### **Sec. 23-107. Retaliation.**

A. No employee shall be terminated or subject to disciplinary action as a result of his or her complaint to employer or the City about smoking in the work place. Violation of this subsection is subject to a civil penalty of two thousand five hundred dollars.

B. Any person claiming to be aggrieved by an alleged violation of this section, must file a written complaint with the Phoenix Equal Opportunity Department within sixty days from the most recent or latest incident of the unlawful practice.

C. The victim of any unlawful termination or discipline as described in this section may, within thirty days of entry of the judgment of a violation of this section, apply to the employer on whose behalf the termination or discipline was imposed for reinstatement in his or her former position and/or payments of any wages

and benefits that would have accrued, except for the termination or discipline. The employer shall reinstate the victim in his or her former position and pay the employee the accrued wages and benefits within ten days of such application. Failure to comply with this subsection is a Class 1 misdemeanor and each and every day of noncompliance may be charged as a separate offense.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

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

### **Sec. 23-108. Smoking—Optional areas.**

Notwithstanding any other provisions of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

- (a) Private residences.
- (b) Bars, pool halls and bowling alleys.
- (c) Hotel and motel rooms rented to guests.
- (d) Retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia.
- (e) On-stage smoking as part of a stage production, ballet or similar exhibition.
- (f) Hotel and motel and all other public and private conference/meeting rooms while these places are being used exclusively for private functions.
- (g) A private residence which may serve as an office work place.
- (h) Private clubs and recreation facilities.
- (i) Public areas of restaurants or food courts that conspicuously post a notice at each entrance that the restaurant or food court does not provide non-smoking areas in accordance with this article. The color of such signs, when not of the

international type, shall be distinct and contrasting to the background and easily read. Letters shall have a minimum height of five-eighths inch.

- (j) Public areas of hotels and motels that conspicuously post a notice at each entrance that the hotel or motel does not provide non-smoking areas in accordance with this article.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

**Sec. 23-109. Posting.**

A. Any person or employer who owns, manages, operates or otherwise controls the use of any premises subject to this article has the responsibility:

- (1) To establish and maintain required "no smoking" areas;
- (2) To properly post and maintain signs required by this article;
- (3) To properly post signs necessary to give effect to any policy adopted implemented or maintained pursuant to section 23-106.

B. "Smoking" or "No Smoking" signs, whichever are appropriate, or the international "No Smoking" symbol (consisting of a picture of a burning cigarette inside a red circle with a red bar across it) shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person in control in every place where smoking is controlled by this article. The color of such signs, when not of the international type, shall be distinct and contrasting to the background and easily read. Letters shall have a minimum height of three-fourths inch, except as noted in section 23-108.

C. Any owner, manager, operator or employer of any establishment controlled by this article shall, upon either observing or being advised of a violation of section 23-105, have the obligation to inform the violator of the appropriate requirements of this law and then request immediate compliance.

D. A violation of this section is a petty offense, punishable by a fine not to exceed three hundred dollars. Each day a violation shall continue shall constitute a separate offense.

(Ord. No. G-2865, § 1; Ord. No. G-2883, § 1; Ord. No. G-3535, § 1)

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

**Sec. 23-110. Reserved.**

**ARTICLE X. ALCOHOLIC BEVERAGES—WARNING SIGNS\***

**Sec. 23-111. Signs—Dangers of consuming alcoholic beverages during pregnancy.**

A. Any person or entity who owns, operates, manages, leases or rents a premises offering for sale or dispensing for consideration to the public, alcoholic beverages including beer and wine shall cause a sign or notice to be posted or displayed on the premises as provided in this section. The sign or notice shall comply with the readability requirements specified herein and shall read substantially as follows:

**WARNING**

Drinking alcoholic beverages, including distilled spirits, beer, coolers, and wine, during pregnancy can cause birth defects.

\***Cross reference**—Alcoholic beverages, ch. 6.

In no event shall a sign as required herein be smaller than eight inches wide and eight inches long, nor shall any lettering thereon be less than one inch in height.

B. A sign or notice required by subsection A of this section shall be placed as follows:

1. Where the sale or dispensing of alcoholic beverages, including beer and wine, to the public is primarily intended for consumption off the premises, at least one sign shall be so placed as to assure that it is readable from all locations at which said sale or dispensing occurs.
2. Where the sale or dispensing of alcoholic beverages, including beer and wine, to the public is primarily provided through over-the-counter service, at least one sign shall be placed to assure that it is readable from all counter locations available to the public.
3. Where the sale or dispensing of alcoholic beverages, including beer and wine, to the public is primarily provided for consumption on the premises by the public at tables served by food or beverage service persons, at least one sign shall be placed to assure it is readable by the public entering the premises; provided, however, that notices may be placed or displayed at each of the tables in a manner which shall assure that the notices are readily visible and readable as materials provided to the public which list food and beverage prices.

C. In the event a substantial number of the public patronizing a premises offering for sale or dispensing for consideration, alcoholic beverages, including beer and wine, uses a language other than English as a primary language, any sign or notice required by subsection

A of this section shall be worded in both English and the primary language or languages involved.

(Ord. No. G-3418, § 1)

**State law reference**—Similar provisions, A.R.S. § 4-261.

**Secs. 23-112—23-119. Reserved.**

## ARTICLE XI. PEDICABS

**Sec. 23-120. Definitions.**

In this article, unless the context otherwise requires:

1. *Bicycle* means a device that is propelled by human power and on which a person may ride and that has either:
  - a. Two tandem wheels, either of which is more than sixteen inches in diameter.
  - b. Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.
2. *Daytime* means the period between sunrise and sunset.
3. *For hire* means to provide, or offer to provide, a service in exchange for any form of payment, whether monetary or otherwise, or gratuity.
4. *Knowingly* means, with respect to conduct or a circumstance described in this article, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.
5. *Motorized electric or gas powered bicycle or tricycle* means a bicycle or tricycle that is equipped with a helper motor.

- 6. *Nighttime* means the period between sunset and sunrise.
  - 7. *Operator* means the person who is in actual physical control of the pedicab.
  - 8. *Pedicab* means either a bicycle or a motorized electric or gas powered bicycle or tricycle that transports or is held out to the public as available to transport passengers for hire, including a bicycle or a motorized electric or gas powered bicycle or tricycle that pulls, or to which is attached, a trailer, sidecar, or similar device.
  - 9. *Person* means a corporation, firm, partnership, limited liability company, association, organization and any other group acting as a unit, as well as an individual.
- (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-121. Fares.**

A. It is unlawful for the operator of a pedicab to charge a passenger a fare that was not agreed upon with the passenger in advance.

B. It is unlawful for the operator of a pedicab to demand a fare from a passenger after agreeing to provide the service for a gratuity only.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-122. Pedicab lighting and reflectors.**

It is unlawful for any person to operate, or cause to be operated, a pedicab that is not:

- 1. Using a lamp on the front that emits a white light visible from a distance of at least one hundred feet to the front during daytime.

- 2. Using a lamp on the front that emits a white light visible from a distance of at least five hundred feet to the front during nighttime.
- 3. Using a red reflector on the rear of a type approved by the Arizona State Department of Transportation that is visible from all distances from fifty feet to three hundred feet to the rear when the reflector is directly in front of lawful upper beams of head lamps on a motor vehicle during nighttime.
- 4. Using one lamp that emits a red light visible from a distance of five hundred feet to the rear during nighttime.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-123. Pedicab brakes.**

It is unlawful for any person to operate, or cause to be operated, a pedicab that is not equipped with a braking system that is capable of skidding each wheel in contact with the ground on dry, level, clean pavement by the operator from his normal position of operation.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-124. Pedicab mirrors.**

It is unlawful for any person to operate, or cause to be operated, a pedicab that is not equipped with a mirror located in a manner to reflect to the operator a view of the road for a distance of at least two hundred feet to the rear.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-125. Pedicab trailer; limitation on number.**

It is unlawful to operate a pedicab with more than one attached trailer, sidecar or similar device.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-126. Pedicab width.**

It is unlawful to operate a pedicab that is wider than 54 inches at its widest point.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-127. Pedicab condition.**

A. It is unlawful for any person to operate, or cause to be operated, a pedicab that is not in good working order.

B. It is unlawful for any person to operate a pedicab that has:

1. Exposed rust.
2. Ripped upholstery or fabric.
3. Visible chips or scratches on any painted surface.
4. Exposed wood that is not painted and in good condition.
5. Dirt or debris on any surface accessible to patrons.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-128. Pedicab operation.**

A. It is unlawful for any person propelling a pedicab to ride other than on or astride a permanent and regular seat attached to the pedicab.

B. It is unlawful for any person propelling a pedicab to carry at any one time a number of persons in excess of the number of seats avail-

able, provided that a passenger under five years of age shall not be considered a person for purposes of this subsection.

C. It is unlawful for any person to operate a pedicab in a manner that results in damage to public property.

D. It is unlawful for any person operating a pedicab to fail to exercise due care to avoid colliding with a pedestrian on any roadway or sidewalk.

E. It is unlawful for any person to operate a pedicab equipped with a siren or whistle.

F. It is unlawful for any person operating a pedicab to knowingly permit a person riding on a bicycle, coaster, sled, toy vehicle or roller skates to attach the bicycle, coaster, sled, toy vehicle, roller skates or that person to the pedicab.

G. It is unlawful for any person to operate a pedicab while carrying a package, bundle or article if the package, bundle or article prevents the operator from keeping at least one hand on the handlebars.

H. It is unlawful for any person to knowingly operate a motorized electric or gas powered bicycle or tricycle on any street or adjoining sidewalk that has been closed by the Police Department to general motor vehicle traffic by barricade or similar barrier while the helper motor is in operation.

I. It is unlawful for any person to operate a pedicab on a street with a posted speed limit of 35 miles per hour or greater, except for the purpose of crossing that street.

J. It is unlawful for any person, while operating a pedicab, to stop on a street with a posted speed limit of 35 miles per hour or greater in order to pick up or drop off passengers.

K. It is unlawful for any person, while operating a pedicab, to obstruct the flow of pedestrian traffic by remaining stopped on a sidewalk, except for the time period necessary to pick up or drop off passengers.

L. It is unlawful to operate a pedicab that does not have a clearly visible manufacturer's serial or identification number. In the case of a pedicab that is not of unibody design, it is sufficient for purposes of this subsection that either the operator's portion or the passenger's portion of the pedicab contain the manufacturer's serial or identification number.

M. It is unlawful to knowingly remove, deface, alter or destroy the manufacturer's serial or identification number on a pedicab. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-129. Driver license requirement; possession; display; exception.**

A. It is unlawful for any person to knowingly operate a pedicab without having in that person's possession, and displaying to any law enforcement officer upon demand, a valid driver license issued by the State of Arizona or any other state, except as provided in Subsection B. A driver license that has been cancelled, revoked or suspended is not a valid driver license for purposes of this subsection.

B. If a person is unable to obtain a driver license from the state of Arizona due to a qualifying disability under Title II of the Americans with Disabilities Act, it is unlawful for that person to knowingly operate a pedicab without having in that person's possession and being able to display to any law enforcement officer of this state upon demand:

1. Proof of having successfully completed the written examination required by the

Arizona Department of Transportation Motor Vehicle Division to obtain any class of driver license.

2. A legible and current government-issued photo identification document in that person's immediate possession at all times when operating a pedicab. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-130. Pedicab insurance.**

A. The operator of a pedicab shall maintain at all times an owner's or operator's policy of liability insurance in the amount of at least one million dollars.

B. The insurance company issuing the policy shall be authorized to issue commercial liability policies in this State by the Arizona State Department of Insurance.

C. The policy shall designate by explicit description or by appropriate reference all pedicabs for which coverage is granted.

D. The policy shall insure the person named in the policy as the insured and any other person, as insured, using the pedicab with the express or implied permission of the named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the pedicab within the City or the State of Arizona.

E. On demand of any law enforcement officer of this state an operator shall display proof of insurance coverage as provided in this section. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-131. Change of information.**

Any change in the information required to be submitted pursuant to this article shall be sub-

mitted to the Police Department, on the form prescribed by the Police Department for this purpose, within ten calendar days of any change. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-132. Pedicab tag requirement; unlawful acts.**

A. It is unlawful to operate a pedicab that does not have affixed, in the manner and location prescribed by the Police Department, an inspection tag issued by the Police Department.

B. It is unlawful to knowingly remove, move, alter or deface an inspection tag issued pursuant to this article.

C. It is unlawful to transfer a pedicab tag from the pedicab for which it was issued to another pedicab.

D. It is unlawful to knowingly operate a pedicab with a tag that was not issued for that pedicab.

E. It is unlawful to knowingly operate a pedicab with a tag that is fictitious or fraudulent.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-133. Pedicab tag application; inspection; denial; appeal.**

A. A person shall apply for a pedicab inspection tag by making application with the Police Department on the form prescribed by the Police Department for that purpose. The application shall require, as applicable, the following information:

1. Full legal name and date and place of birth.
2. Current residence address, mailing address and telephone number.

3. Whether the pedicab is owned or leased.
4. Pedicab design, make, model and serial or identification number.
5. A digital photograph of the pedicab.
6. Proof that the pedicab meets the insurance requirements of this article.
7. Such other information as the Police Department may require in order to discover the truth of the matters above required to be set forth in the application.

B. An applicant for an inspection tag pursuant to this article shall either be the owner or lessee of a pedicab submitted for inspection and tagging pursuant to this article.

C. An applicant for a duplicate inspection tag pursuant to this article shall make application with the Police Department on the form prescribed by the Police Department for that purpose.

D. The inspection tag shall be issued in the name of the applicant.

E. The Police Department shall inspect the pedicab for compliance with this article. The inspection, or reinspection, shall occur no later than seven calendar days after application and shall be conducted at a location prescribed by the Police Department. The applicant, or the applicant's agent, is required to be present during the inspection or reinspection and to assist the inspector with inspection of the pedicab as necessary.

F. The application shall be granted, and a tag issued and affixed to the pedicab in the manner and location as prescribed by the Police Department, if the pedicab and the applicant are in compliance with all requirements of this article.

G. An inspection tag issued pursuant to this article shall be issued in the name of the applicant for the pedicab inspected only.

H. An inspection tag issued pursuant to this article shall expire on July 31 of each year and shall bear an expiration date and such other information as the Police Department shall require in order to monitor the issuance of the tag.

I. The application shall be denied if the pedicab is not in compliance with this article or if the application contains a material misstatement of fact or falsification, in which case the Police Department shall issue to the applicant by hand-delivery or certified mail to the mailing address of record a notice of denial stating the reasons for the denial. Service by certified mail shall be complete three calendar days after mailing or upon actual receipt, whichever is earlier.

J. An applicant for an inspection tag pursuant to this article that has received a notice of denial may reapply for an inspection tag for that pedicab once under the original application, provided that the date of reapplication is no less than five and no more than thirty calendar days from the date of original application. Any reapplication submitted that is not in compliance with this subsection will be treated as an original application.

K. An applicant for an inspection tag for a pedicab whose application has been denied twice may appeal the denial to the Director of the Police Department or his designee by filing a written request for hearing with the Phoenix Police Department, Office of Administration, Attn: Commander, 620 W. Washington Street, Phoenix, 85003 within ten calendar days of receipt of the notice of denial. The hearing before the Director of the Police Department or his designee shall be heard within thirty calen-

dar days of the filing of the appeal and may be continued upon request of the applicant for good cause shown.

L. An appeal heard by the Director of the Police Department or his designee pursuant to this section shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision shall be based upon substantial and reliable evidence. The decision of the Director of the Police Department or his designee shall be in writing and either hand-delivered or mailed by certified mail to the applicant to his mailing address of record within five calendar days after the conclusion of the hearing. Service by mail shall be complete three calendar days after mailing. If the decision is to sustain the appeal, the inspection tag shall be immediately issued.

M. An applicant aggrieved by a decision of the Director of the Police Department or his designee may request a hearing before the License Appeal Board by filing a request for hearing with the Director of the Police Department or his designee at Phoenix Police Department, Office of Administration, Attn: Commander, 620 W. Washington Street, Phoenix, 85003, within ten calendar days of receipt of the decision, excluding weekends and City holidays. The License Appeal Board shall hear the appeal de novo and shall follow the rules of procedure set forth in Section 19-14. The decision of the License Appeal Board shall be hand-delivered or mailed by certified mail to the applicant within five calendar days after the hearing. Service by mail shall be complete three calendar days after mailing. The decision of the License Appeal Board shall constitute final administrative action. The applicant has the right to seek judicial review of the decision by way of special action or other available remedy in the Superior Court.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008; Ord. No. G-5444, § 3, adopted 10-21-2009, eff. 11-20-2009)



**Sec. 23-134. Pedicab inspection; duplicate tag; fees.**

A. The fee for an original application is \$50.00.

B. There is no fee for a reinspection application, if filed within the time period required by this article.

C. The fee for a duplicate inspection tag is \$10.00.

(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-135. Pedicab inspection tags; revocation.**

A. An inspection tag issued pursuant to this article may be revoked upon any one or more of the following grounds:

1. The application for the inspection tag contained a material misstatement of fact or material misrepresentation.
2. The applicant was guilty of fraud or deceit in obtaining the inspection tag.
3. The pedicab is no longer in compliance with this article.
4. The inspection tag has been removed, moved, altered or defaced.
5. The inspection tag holder failed to update information submitted on the application as required by this article.
6. A fee required by this article has not been paid.

B. The Director of the Police Department or his designee shall revoke an inspection tag by mailing to the applicant by certified mail to the mailing address on the application, or more recently of record, a notice of revocation stating the reasons for the revocation.

C. The holder of the inspection tag may appeal the notice of revocation by filing a request for hearing with the Director of the Police Department or his designee at Phoenix Police Department, Office of Administration, Attn: Commander, 620 W. Washington Street, Phoenix, 85003 within ten calendar days, excluding weekends and City holidays. An appeal heard by the Director of the Police Department or his designee pursuant to this section shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision shall be based upon substantial and reliable evidence. The decision of the Director of the Police Department or his designee shall be in writing and either hand-delivered or mailed by certified mail to the applicant to his mailing address of record within five calendar days after the conclusion of the hearing. Service by mail shall be complete three calendar days after mailing.

D. The holder of an inspection tag aggrieved by a decision of the Director of the Police Department or his designee may request a hearing before the License Appeal Board by filing a request for hearing with the Director of the Police Department or his designee at Phoenix Police Department, Office of Administration, Attn: Commander, 620 W. Washington Street, Phoenix, 85003 within ten calendar days of receipt of the decision sustaining the revocation, excluding weekends and City holidays. The License Appeal Board shall hear the appeal de novo and shall follow the rules of procedure set forth in Section 19-14.

E. At the conclusion of a contested case, the inspection tag shall be immediately surrendered to the Police Department upon demand. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008; Ord. No. G-5444, § 3, adopted 10-21-2009, eff. 11-20-2009)

**Sec. 23-136. Civil violations.**

A. Any person who violates any provision of Section 23-121 or Section 23-132 is subject to a civil sanction of not less than two hundred fifty dollars nor more than two thousand five hundred dollars per violation. Any person who violates any provision of Sections 23-122 through 23-131 is subject to a civil sanction of not less than one hundred thirty dollars nor more than two thousand five hundred dollars per violation. The court shall not suspend any part or all of the imposition or execution of any sanction required by this subsection. The remedies of this subsection are cumulative with the criminal remedies of Section 23-137.

B. Civil actions to enforce this section may be adjudicated by a judge or Hearing Officer.

C. Any civil action to enforce a civil sanction imposed pursuant to this article shall be commenced and summons shall be issued in accordance with the procedures set forth in the Arizona Revised Statutes, City ordinance or as provided in the Local Rules of Practice and Procedure, City Court, City of Phoenix.

D. Any party may appeal the judgment of the City Court to the Superior Court. Appeals from civil proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure, Civil. Execution of any judgment shall be stayed pending appeal when the defendant posts an appeal bond in accordance with the order of the Trial Court, or when no bond is fixed and a notice of appeal has been filed.

E. A civil citation brought pursuant to this section shall be served within one year of the offense.  
(Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Sec. 23-137. Criminal violations.**

A person who violates any provision of this article wherein the doing of an act, or the

failure to do an act, is declared to be unlawful, or wherein the doing of any act is required or prohibited, is guilty of a class 1 misdemeanor. (Ord. No. G-5192, § 1, adopted 7-2-2008, eff. 8-1-2008)

**Secs. 23-138, 23-139. Reserved.****ARTICLE XII. DOOR-TO-DOOR SOLICITING****Sec. 23-140. Definitions.**

In this article, unless the context otherwise requires:

*Business* means any enterprise, regardless of legal form, that is organized or operated for profit or private gain. The fact that an enterprise is operating at a loss does not, by itself, mean that the enterprise is not organized or operated for profit or private gain.

*Commercial* means to sell or promote a product or service of any business.

*Government-issued identification* means a valid, unexpired identification document issued by a government in the United States, or any possession of the United States, to an individual that contains a photograph, date of birth and physical description.

*Physical contact* means direct or indirect contact between a person and any object, including contact that occurs through clothing or by means of any object.

*Premises* means a dwelling unit under the control of any resident.

*Solicit* means to engage in the activity of a solicitor.

*Solicitor* means any person who goes from door to door in a residential neighborhood,

without an invitation, seeking to speak with one or more occupants thereof for a commercial purpose.

(Ord. No. G-5593, § 5, adopted 3-2-2011, eff. 4-1-2011)

**Sec. 23-141. Hours of operation.**

A. From April 1 through September 30, inclusive, no person shall solicit between the hours of 9:00 p.m. and 9:00 a.m. of the following day.

B. From October 1 through the following March 31, inclusive, no person shall solicit between the hours of 7:00 p.m. and 9:00 a.m. of the following day.

(Ord. No. G-5593, § 5, adopted 3-2-2011, eff. 4-1-2011)

**Sec. 23-142. Identification document required; display.**

A. No person who is sixteen years of age or older shall solicit without possessing a government-issued identification document in the name of that person.

B. No person who is fifteen years of age or younger shall solicit without possessing a government-issued identification document in the name of that person or an identification document issued by any school to that person that bears a photograph of that person and the name of the school.

C. No person shall fail to promptly display for inspection to any person on the premises upon request the identification document required by this section.

(Ord. No. G-5593, § 5, adopted 3-2-2011, eff. 4-1-2011)

**Sec. 23-143. Conduct.**

A. No solicitor shall:

1. Fail to immediately leave the premises after observing a sign or notice prohibiting soliciting.

2. Open a door or gate that bears a sign or notice prohibiting soliciting.

3. Pass through an open door or gate that bears a sign or notice prohibiting soliciting.

B. No person, who goes from door to door in a residential neighborhood, without an invitation, seeking to speak with one or more of the occupants thereof, shall:

1. Fail to immediately leave the premises after receiving a request from any person on the premises to do so.

2. Fail to immediately leave the premises after observing a sign or notice prohibiting trespassing.

3. Open a door or gate that bears a sign or notice prohibiting trespassing.

4. Pass through an open door or gate that bears a sign or notice prohibiting trespassing.

5. Make physical contact with any window of a building or other structure on private property.

6. Falsely claim to have a business, regulatory or tax license issued by any local, state or federal government.

(Ord. No. G-5593, § 5, adopted 3-2-2011, eff. 4-1-2011)

**Sec. 23-144. Penalties.**

Any person who violates any of the provisions of this article is guilty of a class one misdemeanor.

(Ord. No. G-5593, § 5, adopted 3-2-2011, eff. 4-1-2011)

