

**Chapter 10**

**OFFENSES**

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**10-1 Miscellaneous Offenses**

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**Section 10-1-1 Dangerous Constructions**

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other structures over sidewalks, public grounds or places frequented by the public, without permission of the city.

**Section 10-1-2 Explosives**

It is unlawful for any person within the limits of the city to blast or use powder or other explosives without a permit from the building inspector or the city's fire service provider in writing. (Ord. 11-159 § 1)

**Section 10-1-3 Noise**

A. Loud and Unnecessary Noise. It is unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the city such as produces annoyance, inconvenience, discomfort or hurt to any person, or to the enjoyment of property or comfort of any person, or affects the health, safety or morale of the public. The following, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but any enumeration herein shall not be deemed to be exclusive:

1. The playing, or permitting to be played, of any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

2. The use of any vehicle, engine or motor of whatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

3. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

4. The playing, operation or use of any device known as a sound truck, loudspeaker or sound amplifier, radio or phonograph with loudspeaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the city to operate any such vehicle so equipped.

B. Vehicle Noise.

1. It is unlawful for any person to operate a motor vehicle which shall not at all times be

equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

2. It is unlawful for any person to operate a motor vehicle anywhere within the city in

such a manner as will cause it to exceed the noise limits listed below:

Any motor vehicle other than a motorcycle (under 6,000 pounds gross vehicle weight)	76 dbA
Motorcycles:	
Manufactured 1970 through 1972	92 dbA
Manufactured 1973 and 1974	88 dbA
Manufactured 1975 and after	80 dbA

The noise limits established by this subsection shall be based on measurement made fifty feet to the rear of the vehicle while the vehicle is in a stationary position and while the engine is being rapidly accelerated and decelerated through its maximum power level. Maximum power dwell is not required or recommended.

3. Any time a police officer has reasonable cause to believe that a vehicle is not equipped as required by law, or that its equipment is not in proper adjustment or repair, or the vehicle exceeds the noise limits as set out in this subsection, the officer will take appropriate action within the guidelines of A.R.S. § 28-981, 28-982 and 28-983, and any later amendments or revisions thereto.

C. Construction Noise.

1. It is unlawful for any person to operate equipment or perform any outside construction or repair work on buildings, structures or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist or any other construction type device in the city, except within the times specified below, or unless a permit has been obtained from the city manager or his authorized representative in accordance with paragraph (2) below.

From May 1 to September 30	5:00* a.m. to 7:00 p.m.; and
From October 1 to April 30	6:00* a.m. to 6:00 p.m.; and
* On Sundays and city holidays, construction shall not begin until at least 7:00 a.m.	

2. A permit for construction and repair work to be conducted at different times than those specified above may be issued by the city manager or his authorized representative, upon consideration of the following factors: whether construction noise in the vicinity of the proposed work site would be less objectionable at night than during the day because of population levels or activities in the area; if construction work on major arterials or streets used by school children during the day, would be less objectionable at night than during the daytime; if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site; if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed; if great economic hardship would occur if the work was spread over a longer time; if the work will abate or prevent hazard to life or property; if the proposed early morning or night work is in the general public interest. The city manager or his authorized representative in issuing a permit shall impose such conditions upon noise levels, work times, and types of construction equipment to be used as he deems required in the public interest.

3. A permit for construction work may be revoked by the city manager or his authorized representative upon complaints based upon substantial evidence that the construction activity causes significant disturbance in the vicinity of the work site. Any person aggrieved by the grant of a permit or refusal to grant a permit may appeal at the next regularly scheduled meeting of the city council.

4. Exemption: This subsection 10-1-3(C) shall not apply to the performance of emergency work necessary to protect health, safety, and welfare of persons or property, or to restore utility service or other phone service.

D. Landscape Maintenance.

1. It is unlawful for any person to engage in outside landscape maintenance activities, other than irrigation or the use of non-motorized equipment, except as provided in paragraph (D)(2) or except within the times specified below:

<b>Within 500 Feet of a Residential Dwelling</b>	
May 1 to September 30:	6:00* a.m. to 7:00 p.m.;
October 1 to April 30:	7:00 a.m. to 6:00 p.m.
<b>All Other Areas:</b>	
May 1 to September 30:	5:00* a.m. to 7:00 p.m.
October 1 to April 30:	6:00* a.m. to 6:00 p.m.
*On Sundays and city holidays, landscape maintenance activities, other than irrigation or the use of non-motorized equipment, shall not begin until at least 7:00 a.m.	

2. Landscape maintenance activities necessary to maintain resort golf courses, or property of the city, public schools, or churches are permissible during the following times:

May 1 to September 30: 5:00\* a.m. to 7:00 p.m.

October 1 to April 30: 6:00\* a.m. to 6:00 p.m.

\*On Sundays and city holidays, landscape maintenance activities, other than irrigation or the use of non-motorized equipment, shall not begin until at least 7:00 a.m.

3. It shall be unlawful for any person to operate or allow to be operated, a portable powered blower or parking lot sweeper in the city except as set forth in paragraph (D)(1).

4. Exemption: This subsection 10-1-4(D) shall not apply to performance of emergency work necessary to protect health, safety, and welfare of persons or property, or to restore utility service or other phone service.

E. Any act in violation of subsections (A), (B), (C), or (D) of this section is hereby declared to be a nuisance. (Ord. No. 00-57)

F. Upon complaint to the police department by any person disturbed or annoyed by noises in violation of this section, the police department shall investigate such complaint and, if found justified, shall issue notice of such complaint to the person causing or permitting the continuance of such noises, notifying him immediately to abate the nuisances. If the person so notified refuses or neglects to abate the same forthwith, complaint may be filed against the offending person.

**Section 10-1-4 Prostitution**

It is unlawful for any prostitute to solicit, or any person to solicit for a prostitute or a place of prostitution or to solicit persons to visit or patronize a prostitute or place of prostitution, or make such solicitation upon the streets or in any public place of the city.

**Section 10-1-5 Signs and Banners**

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

**Section 10-1-6 Trespass**

It is unlawful for any person to knowingly enter onto or remain in or on any public property designated and posted with no trespassing signs.

**Section 10-1-7 Skateboards; In-line Skates; Roller Skates**

A. No person shall operate skateboards, in-line skates, roller skates or any other self-

propelled vehicle or device, except wheelchairs, on public or private property when such activity is specifically prohibited by a posted sign.

B. Any posted sign which prohibits the activity described in subsection (A) of this section shall have lettering of at least one inch in size and be placed in a location where it is clearly visible to those entering upon the property.

C. No person shall operate skateboards, inline skates, roller skates or any other self-propelled vehicle or device:

1. At an excessive speed which endangers others;
2. By failing to yield the right-of-way to any pedestrian;
3. By failing to give an audible signal before overtaking and passing a pedestrian;
4. By entering or crossing a roadway without yielding the right-of-way to all traffic on such roadway, or
5. Otherwise in an unsafe manner reasonably expected to infringe upon the safety of such person or others.

D. No person shall operate skateboards, inline skates, roller skates or any other self-propelled vehicle or device so as to cause damage to the personal or real property of others.

### **Section 10-1-8 Motorized Skateboards**

A. "Motorized Skateboard" means a self-propelled device which has a motor, a deck on which a person may ride and at least two wheels in contact with the ground and which is not otherwise defined in Arizona Revised Statutes Title 28, as amended, as a "Motor Vehicle," "Motorcycle," "Motor-driven Cycle" or "Motorized Wheelchair."

B. No person shall operate a motorized skateboard:

1. On city property including, but not limited to, streets, bicycle paths, multi-use paths, sidewalks, and parks.

2. On any private property which is held open to the public including, but not limited to, schools, churches, apartment complexes and businesses, without written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.

C. The operator of a motorized skateboard, approaching a sidewalk, bicycle path, bicycle lane, or multi-use path, in order to cross such, shall yield the right-of-way to all other uses.

D. No child under the age of fourteen years shall operate a motorized skateboard.

E. No person shall operate a motorized skateboard without a headlamp emitting a beam and a red rear reflector anytime from sunset to sunrise, or any other time when there is not sufficient light to render clearly discernible persons or vehicles on the roadway.

1. A head lamp shall emit a white light and be visible from the front at a distance no less than 500 feet.

2. A rear red reflector shall be visible when illuminated by a vehicle head lamp from a distance of not less than 300 feet.

3. A rear read lamp visible from a distance of 500 feet to the rear may be used in addition to the rear red reflector.

F. No person shall operate a motorized skateboard unless it is equipped with a brake which enables the operator to make a braked wheel(s) skid on pavement.

G. Any operator of a motorized skateboard between the age of fourteen and eighteen years shall at all times wear a protective helmet on his or her head in an appropriate and safely secured manner. The helmet shall meet minimum standards of testing and safety inspected by the bicycle industry.

H. No person shall operate a motorized skateboard without wearing footwear. The footwear must have a sole and completely cover the feet and toes.

**Section 10-1-9 Curfew****A. Definitions.**

1. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action.

2. "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

3. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.

4. "Minor" means any person under eighteen years of age.

5. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.

**B. Offenses.**

1. It is unlawful for any minor under the age of sixteen years to be in, about, or upon any place in the city away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about, or upon any place in the city away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.

3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate subsection (B)(1) or subsection (B)(2) as listed above.

4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of subsection (B)(1) or (B)(2) as listed above.

**C. Defenses/Exceptions.**

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

1. Accompanied by the minor's parent or guardian.

2. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.

3. With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the most direct route.

4. Involved in an emergency.

5. With prior permission of the parent or guardian was engaged in reasonable, legitimate, and specific business and/or activity. Examples include, but are not limited to, a juvenile with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.

6. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of the First Amendment rights protected by the United States Constitution.

7. Married and 16 years of age or over, or in the military.

8. On the sidewalk abutting their residence or in the next door neighbor's property with the consent of the neighbor.

**D. Enforcement.**

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in

subsection (C) of this section is probably present.

2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of subsection (B)(1) or (B)(2) of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

E. Each violation of the provisions of subsection (B)(1), (B)(2), (B)(3) and (B)(4) of this section shall constitute a separate offense.

F. Any person convicted of a violation of any provision of this section shall be guilty of a Class 1 misdemeanor. This offense is designated as an incorrigible offense for minors under the jurisdiction of the juvenile court. (Ord. 95-31)

### **Section 10-1-10 Graffiti Prevention, Prohibition and Removal**

A. Purpose and Intent. The purpose and intent of this section is to provide a procedure for the prevention, prohibition and removal of graffiti from walls, structures or surfaces on property within the city in order to reduce blight and deterioration and to protect the public health and safety.

The city finds and determines that graffiti is obnoxious, contributes to neighborhood deterioration, provides a communication system for gangs and other vandals, damages property, and constitutes a public nuisance. The city also finds that graffiti must be abated

immediately to avoid the detrimental impact such graffiti has on the city and its residents, to disrupt the communication system for gangs and other vandals, and to prevent the further spread of graffiti.

B. Graffiti Prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

#### C. Prohibited Conduct.

1. Except as permitted in A.R.S. § 40-360.22, no person shall write, paint, draw, etch or otherwise apply any inscription, figure, or mark of any type on any building, structure, fixture or any other real or personal property within the city without the express permission of the owner or operator of the property.

2. No person shall possess an aerosol spray paint container, broad-tipped indelible marker or etching implement or solution with the intent to violate the provisions of subsection (C)(1) of this section.

3. No person shall possess an aerosol spray paint container, broad-tipped indelible marker or etching solution on any private property unless the owner, agent, manager, or other person having control of the property consented to the presence of the aerosol spray paint container, broad-tipped indelible marker or etching solution.

4. No person under the age of eighteen years shall possess an aerosol spray paint container, broad-tipped indelible marker, or etching solution on any public property unless accompanied by a parent, guardian, employer, teacher or other adult in any similar relationship and such possession is for a lawful purpose.

5. No person or firm shall sell, deliver or give or cause to be sold, delivered or given to any person under the age of eighteen years, and no person under the age of eighteen years may buy, any aerosol spray paint container, broad-tipped indelible marker or etching solu-

tion. Evidence that a person, his or her employee, or agent demanded and was shown acceptable evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this subsection. This subsection does not apply to the transfer of an aerosol spray paint container, broad-tipped indelible marker or etching solution from a parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for a lawful purpose.

6. In addition to the penalties provided by Article 1-8, a person convicted of a violation of subsection (C)(1), (C)(2), or (C)(3) of this section may be required by the court to complete community service involving participation in the removal of graffiti from the defendant's neighborhood. In addition to any sentence, fine or community service, the court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense, or to any person or entity including a political subdivision that has incurred expense to repair or abate such damage or loss to the victim's property, in an amount to be determined by the court. A person convicted of a violation of subsection (C)(5) of this section is guilty of a Class 1 misdemeanor punishable by a fine of not less than five hundred dollars. A violation of subsection (C)(4) of this section is a Class 1 misdemeanor and will be punished as provided for in A.R.S. Title 8 (A.R.S. § 8-101 et seq.). A judge shall not suspend any part or all of the imposition of any fine or jail term required by this section.

**D. Storage and Display of Aerosol Spray Paint Containers, Broad-Tipped Indelible Markers or Etching Solution.**

1. It shall be unlawful for any person who owns, conducts, operates or manages a business where aerosol spray paint containers, broad-tipped indelible markers or etching solution are sold, or any person who sells or offers for sale aerosol spray paint containers,

broad-tipped indelible markers or etching solution, to store or display, or cause to be stored or displayed, such aerosol spray paint containers, broad-tipped indelible markers or etching solution in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

2. Nothing herein shall preclude the storage or display of aerosol spray paint containers, broad-tipped indelible markers or etching solution in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

E. Abatement Procedures. Any violation of this article is considered a public nuisance and may be abated in accordance with Section 9-5-11.

F. Entry and Inspection Authorities. The city or its agent is expressly authorized to enter onto private property and abate graffiti in accordance with this section when the graffiti is visible from the street or other public or private property.

G. Penalties. A person who violates this section shall be subject to the penalties as provided in Article 1-8. (Ord. 06-107 § 1)

**Section 10-1-11 Sale of Products Containing Pseudo-Ephedrine**

**A. Definitions.**

In this section, unless the context otherwise requires:

1. "Pseudo-ephedrine product" means any product containing ephedrine or pseudo-ephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudo-ephedrine, norpseudo-ephedrine, or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudo-ephedrine, norpseudo-ephedrine, or phenylpropanolamine as an active ingredient shall constitute prima facie

evidence that the product is a pseudo-ephedrine product.

2. “Retail establishment” means any place of business that offers any pseudo-ephedrine product for sale at retail.

B. The operator of a retail establishment shall keep all products containing pseudo-ephedrine 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.

C. A person making a retail sale of a product containing pseudo-ephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser’s name, date of birth, quantity of pseudo-ephedrine product purchased, transaction date and the initials of the seller.

D. The information required to be obtained by subsection (C) of this section will be retained by the retail establishment for a period of ninety days, and will be considered a confidential document that will only be available to the operator of the retail establishment, and shall be available to the city of Litchfield Park police department officers, Arizona Department of Public Safety Officers, Maricopa County sheriff’s department officers, and other law enforcement officers.

E. The record of information required by subsection (C) of this section shall be kept confidential in such a manner as to prevent purchasers from viewing the log book information given by any previous purchaser of pseudo-ephedrine product.

F. A violation of this section is a Class 1 misdemeanor. (Ord. 06-110 § 1)

### **Section 10-1-12 Smoking in City Buildings and Vehicles Prohibited**

No smoking shall be permitted within a building used as city administrative offices, within twenty feet of city administrative

offices, or in vehicles owned or leased by the city. (Ord. 06-114 § 1)

### **Section 10-1-15 Fireworks**

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

1. “Consumer fireworks” means those fireworks defined by A.R.S. § 36-1601.

2. “Display fireworks” means those fireworks defined by A.R.S. § 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 A.R.S. § 36-1101.

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 A.R.S. § 36-1601.

5. “Permissible consumer fireworks” means those fireworks as defined by A.R.S. § 36-1601 that may be sold within Litchfield Park even where the use of those items is prohibited.

6. “Supervised public display” means a monitored performance of display fireworks open to the public and authorized by permit by the city’s fire service provider.

#### **B. Use of Fireworks.**

1. The use, discharge or ignition of fireworks, including permissible consumer fireworks, on any public property within the city is prohibited unless authorized by the city.

2. Permissible consumer fireworks may be used, discharged or ignited on private property only with the consent of the owner or other person in control of the private property.

The consenting owner, consenting person in control and the user of the fireworks shall be responsible for any injuries or damages caused by such use.

3. No person who is under sixteen years of age may use, discharge, or ignite permissible consumer fireworks without direct supervision of a person who is eighteen years of age or over.

4. Nothing in this section shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.

5. Permits may be granted by the city's fire service provider 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 city's fire service provider has authority to impose conditions on any permits granted.

C. Sale of Fireworks.

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

2. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

D. Posting of Signs by Persons Engaged in the Sale of Fireworks.

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

a. The use of fireworks, except novelty items as defined in this section, including permissible consumer fireworks is prohibited, unless such use is on private property with the consent of the owner or person in control of the property.

b. Permissible consumer fireworks authorized for sale under state law may not be sold to persons under the age of sixteen.

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

3. The city's fire service provider 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 Litchfield Park's website and filed with the clerk's office.

E. Liability for Emergency Responses Related to Use of Fireworks – Definitions.

1. A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.

2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (E)(3)(a) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

3. For the purposes of this section:

a. "Expenses of an emergency response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.

b. "Reasonable costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an

incident and the salaries of the persons who respond to the incident. (Ord. 11-170 § 1; Ord. 11-159 § 1)