

Chapter 10

OFFENSES♣

Art. 10-1. Offenses, §§ 10-1-1 – 10-1-24

ARTICLE 10-1. OFFENSES

Sec. 10-1-1. Abandoning property.

- (a) It is unlawful for anyone to abandon, leave, place or park in any public street or alley any debris, trash, object, machinery or personal property for a period in excess of thirty-six (36) hours, unless a permit is acquired from the chief of police or designee.
- (b) The city, acting through its agents, may remove or cause to be removed any such property and impound the property until redeemed or publicly sold. The owner of such property, if known, shall be liable for all costs of transporting and storage.
- (c) Once impounded, any such property may be redeemed upon payment of costs incurred plus penalty. Failure to redeem within a period of sixty (60) days from the date of impoundment shall result in ultimate public sale of the property by the city and the proceeds shall become city funds.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Cross reference—Placement of debris, § 9-4-10.

Sec. 10-1-2. Abandoned vehicles.

- (a) It is unlawful for any person to abandon any vehicle on public or private property.

♣ Cross reference—General penalty for violation of Code provisions, § 1-8-1.

♣ Editor's note—Ord. No. 2005-24, §§ 1 – 2, adopted Sept. 6, 2005, repealed and adopted, respectively, Chapter 10 in its entirety. Ord. No. 2005-24 deleted certain sections in their entirety because they are covered by the state criminal code and the remaining sections were renumbered; specifically, former Sections 10-1-6, Damage to property; 10-1-10, False or misleading reports to police; 10-1-12, Furnishing weapons and other articles to prisoners; 10-1-13, Littering; 10-1-17, Obstruction of streets; 10-1-19, Offensive business; 10-1-21, Prostitution; 10-1-23, Signs and banners; and 10-1-25, Trespassing. In addition, former Sec. 10-1-28, Weapons, was renumbered and renamed to Sec. 10-1-19, Firearms, and a major portion was deleted as it, too, is covered by the state criminal code. Previously, Ord. No. 2005-01, § 1, adopted Jan. 18, 2005, rescinded Sec. 10-1-30, Use of engine brakes prohibited, in its entirety and renumbered Sec. 10-1-31 to 10-1-30.

- (b) Evidence that a vehicle was left unattended on public property for a period of forty-eight (48) hours, or on private property other than the private property of the vehicle owner for a period of seventy-two (72) hours, shall be prima facie evidence of abandonment.
- (c) Members of the police department so authorized by the chief of police may remove or cause to be removed any abandoned vehicle.
- (d) Upon removal, the abandoned vehicle shall be inventoried by a police officer designated by the chief of police and certified to the Arizona Department of Transportation.
- (e) After the vehicle is inventoried it shall be disposed of pursuant to Title 28, Chapter 11, Articles 1, 2, and 3, Arizona Revised Statutes (A.R.S. §28-4801 et seq.).

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-3. Blowing horns.

It is unlawful anywhere within the city to sound any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-4. Unlawful open burning.

- A. It is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow or maintain any open outdoor fire.
- B. "Open outdoor fire," as used in this chapter, means any combustion of combustible material of any type, outdoors, in the open.
- C. Except as otherwise specifically restricted in subsections 10-1-4(I) and 10-1-4(J), the following fires are excepted from the provisions of this section.
 - (1) Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.

- (2) Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
 - (3) Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
- D. Permission for the setting of any fire given by a public officer in the performance of official duty under paragraphs 2 and 3, subsection C, shall be given in writing. The setting of any such fire shall be constructed in a manner and at such time as approved by the Show Low fire district chief or designee.
- E. The following fires may be exempt from the provisions of this section when permitted in writing by the fire chief or designee.
- (1) Fires set for the disposal of dangerous materials where there is no safe alternative method of disposal.
 - (a) Definitions: "Dangerous material" is any substance or combination of substances which is able or likely to inflict bodily harm or property loss unless neutralized, consumed or otherwise disposed of in a controlled and safe manner.
 - (2) Fires set for the disposal of dangerous materials shall be permitted only when there is no safe alternative method of disposal, and when the burning of such materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts which will endanger health or safety.
- F. Open burning of the following materials is forbidden: garbage resulting from the processing, storage, service or consumption of food; asphalt shingles; tar paper; plastic and rubber products (such as waste crankcase oil, transmission oil and oil filters); transformer oils; and hazardous material containers including those that contained inorganic pesticides, lead, cadmium, mercury, or arsenic compounds and any other material not permitted by state, local, and other applicable laws and regulations.
- G. The fire chief or his designee may issue open burning permits. Such permits shall contain conditions limiting the manner and the time of the setting of such fires, the type of materials that may be burned and shall contain a provision that all burning be extinguished at the discretion of the city during periods of excessive visibility impairment which could adversely affect public safety, or periods when smoke is blown into populated areas so as to create a public nuisance. The city or the Show Low fire district holds the right to suspend, revoke, or cancel any burning permit at any time.

- H. Compliance with unlawful burning ordinance and open burning permit.
- (1) Any person to whom an open burning permit is issued, must comply with the provisions of this section and the provisions of the burning permit. Any person in violation of this section or the burning permit issued to them shall be guilty of a civil violation punishable as set forth in Section 1-8-1(a) of this Code. Any person sustaining a third violation of this section or the burning permit issued to them shall be guilty of a class one misdemeanor and upon conviction therefore shall be punished as provided in Section 1-8-1(b) of this Code.
- I. *Emergency Fire Restrictions.* During “Red Flag Warning” conditions, as determined by the National Weather Service, and posted by the United States Forest Service, no open outdoor fires, campfires, charcoal fires or outdoor smoking are permitted on either public or private property within the city. Outdoor cooking on stoves or grills, which use only propane, butane or other gases, is not prohibited under this subsection. Smoking within enclosed buildings and inside vehicles is allowed. Smoking may also be allowed in or on porches, carports, garages, parking lots and other areas or properties which are cleared of all combustible materials so long as the smoking does not create a substantial risk of fire. Throwing or discarding lit cigarettes, cigars, or other smoking materials from a vehicle, or from ones’ possession out of doors is prohibited when emergency fire restrictions are in place. Violations of this subsection which do not create a substantial risk of fire shall be civil violations punishable as provided in Section 1-8-1(a) of this Code. Violations of this subsection which create a substantial risk of fire, or where any person refuses to comply with this subsection on order of a law enforcement officer, shall be class one misdemeanors punishable as provided in Section 1-8-1(b) of this Code.
- J. Whenever the mayor shall determine that an emergency exists due to the threat or danger of fire within the city, the mayor may, by proclamation, make such orders and regulations as are deemed appropriate, up to and including the prohibition of any and all types of fires and burning including smoking. The proclamation shall be posted in at least five (5) public places within twenty-four (24) hours after the mayor signs such proclamation. Any person violating the terms of the proclamation shall be guilty of a class one misdemeanor and upon conviction therefore shall be punished as provided in Section 1-8-1(b) of this Code.

(Ord. No. 355, §§ 1-2, 7-7-92; Ord. No 396, § 1, 5-22-96; Ord. No. 2004-14, §§ 11-12, 7-6-04; Ord. No. 2005-24, §§ 1-2, 9-6-05; Ord. No. 2006-09, §§ 1-3, 3-7-06; Ord. No. 2009-03, § 2, 2-3-09)

Editor's note—Ord. No. 355, §§ 1,2, adopted July 7, 1992 provided for the repeal of § 10-1-4, pertaining to the burning of trash, refuse or garbage, as it derived from Ord. No. 260, adopted Aug. 4, 1987, and the addition of a new § 10-1-4, pertaining to unlawful open burning.

Sec. 10-1-5. Reserved.

Editor's note—Section 1 of Ord. No. 400, adopted July 16, 1996, repealed § 10-1-5 in its entirety. Formerly, §10-1-5 pertained to dangerous constructions, buildings, rubble or trash and derived from the 1985 Code.

Sec. 10-1-6. Deposits of injurious material on thoroughfares.

It is unlawful for any person anywhere within the City to either willfully and maliciously or carelessly and negligently 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 persons or property.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Cross reference—Spilled refuse, § 9-3-3.

Sec. 10-1-7. Excavations to be covered.

- (a) It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the 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.
- (b) It is unlawful for any person to maintain a well, cellar, pit, or other excavation of more than two (2) feet in depth on any unenclosed lot, without substantial curbing, covering, or protection.

Sec. 10-1-8. Explosives.

It is unlawful for any person within the limits of the city to blast, or use powder, fireworks or other explosives without a permit signed by the chief of police, and the city manager, showing proof of state license and bond running to the city sufficient to cover all contingent liability.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-9. Fences, electric.

It is unlawful for any person to erect or maintain within the city any electric fence except dry-cell powered. Any other such fence is hereby declared a public nuisance and subject to abatement by order of the magistrate court.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-10. Obstructing Business Operations.

It is unlawful for any person, other than the owner, manager or his authorized representative, to interfere individually or collectively with free enjoyment of such property by the owners thereof; or interfere with the conduct of any lawful business by obstructing entrance to such business or by obstructing free passage of persons or merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-11. Curfew.

- (a) *Juveniles under sixteen (16) years; exceptions.* It shall be unlawful for any juvenile under the age of sixteen (16) years to be, remain or loiter in, about or upon any place in the city away from the dwelling house or usual place of abode of said juvenile, between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
- (b) *Juveniles sixteen (16) years of age or older; exceptions.* It shall be unlawful for any juvenile sixteen (16) years of age or older and under the age of eighteen (18) years to be, remain or loiter in, about or upon any place in the city away from the dwelling house or usual place of abode of said juvenile, between the hours of 12:00 midnight and 5:00 a.m. of the following day.
- (c) *Responsibility of parent or guardian.* It shall be unlawful for the parent, guardian or other adult person having the care, custody or supervision of a juvenile to permit such juvenile to be, remain or loiter in, about or upon any place in the city away from the dwelling house or usual place of abode of said juvenile in violation of subsections (a) or (b).
- (d) *Violations; exceptions.* The curfew set forth in subsections (a), (b) or (c) do not apply:
 - (1) To legally emancipated minors, whether the emancipation be through marriage, military service, or other legally sufficient grounds.
 - (2) If minors who are accompanied by their parent, guardian or other person having the legal care and custody of the minor.
 - (3) To minors who would otherwise be in violation of the terms of this section when:

- a. Their presence is reasonably required in the pursuit of a lawful occupation, business or profession in which the minor is then engaged; with the permission of a parent, guardian, or other person having the legal care and custody of the minor;
 - b. The minor is on an emergency errand, medical or otherwise; or
 - c. The minor is going to or from a place or function sponsored by or related to school, church, civic, or other nonprofit organization. These functions shall include, but are not necessarily limited to: classes, services, meetings, dances, dramatic or musical performances, sporting events, or other social events sponsored by school, religious, civic, or other non-profit organizations, with the permission of the parent, guardian or other person having the legal care and custody of the minor.
- (e) *Violations; knowledge by parent or guardian.* It shall not constitute a defense hereto that such parent, guardian or other adult person having the care, custody or supervision of such juvenile coming within the provisions of subsections (a) or (b), did not have actual knowledge of the presence of such juvenile in, or about or upon any place in the city away from the dwelling house or usual place of abode of said juvenile, if said parent, guardian or other person having the care, custody or supervision of such juvenile or juveniles, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of such juvenile or juveniles.
- (f) *Violations; separate offenses.* Each violation of the provisions of subsections (a), (b) and (c) above, shall constitute a separate offense.
- (g) *Violations; delivery of juvenile into custody of parent or guardian.* In addition to any other powers he may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of subsections (a) or (b) is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of such juvenile that such parent, guardian or other person come and take such juvenile into custody. Should there be a failure of the parent, guardian or other person to take custody of such juvenile, the officer may then be empowered to take such juvenile home. It shall be unlawful for any such parent, guardian or other person having the care, custody or supervision of said juvenile to fail or refuse to take such juvenile into custody after such demand is made upon him.
- (h) *Violations; penalties.* It shall be unlawful for any juvenile to violate the provisions of subsections (a) or (b); the proceedings shall be taken in accordance with and pursuant to the juvenile code as contained in the Arizona Revised Statutes §§ 8-201 et seq. Any parent or guardian of the juvenile who shall violate the

provisions of subsections (c) and (e) shall be guilty of a civil violation punishable as provided in Section 1-8-1(a) of this Code.

(Ord. No. 375, § 2, 4-19-94; Ord. No. 2004-14, § 13, 7-6-04; Ord. No. 2005-24, §§ 1-2, 9-6-05)

Editor's note—Section 1 of Ord. No. 375, adopted April 19, 1994 repealed § 10-1-15 in its entirety. Formerly, § 10-1-15 pertained to minors and derived from Ord. No. 353, adopted July 7, 1992.

Sec. 10-1-12. Noise.

- (a) It is a public nuisance and it is unlawful for any person, firm, or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store, or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box, or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumbers, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any considerable number of persons in the neighborhood, and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- (b) It is unlawful to play, operate, or use any device known as a sound truck, 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 written permission from the chief of police to operate any such vehicle so equipped.
- (c) It is unlawful for any person to operate a motor vehicle anywhere within the city, 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 shall be unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Cross reference—Loud noise prohibited re peddling, § 8-1-9.

State law reference—Power of city to pass emergency legislation, A.R.S. § 9-240(B)(13).

Sec. 10-1-13. Obstruction of view.

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

State law reference—Power of city to control streets, A.R.S. § 9-240(B)(3).

Sec. 10-1-14. Offensive premises.

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

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Cross reference—Unsanitary disposal of excrement prohibited, A.R.S. § 11-2-5.

State law reference—Power of city to abate and remove nuisances, A.R.S. § 9-240(B)(21).

Sec. 10-1-15. Searchlights.

It is unlawful for any person or persons to operate within the city any incandescent or arc type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half (1/2) mile unless written permission is obtained from the city manager. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

(Ord. No. 2005-24, §§ 1-2, 9-6-05)

Cross reference—Outdoor light control, § 15-1-71 et seq.

Sec. 10-1-16. Spitting.

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

Sec. 10-1-17. Volatile, flammable, or explosive substances.

It is unlawful for any person within the city to load or unload volatile, flammable or explosive solids, liquids or gases without attendance of the operator of the carrier vehicle. In any event, all state and local fire, zoning and building code regulations must be fully complied with in the loading or unloading of such solids, liquids, or gases.

(Ord. No. 291, 8-2-88; Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-18. Water, flow upon streets prohibited.

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

Sec. 10-1-19. Firearms.

- (a) Except as authorized by law, it is unlawful for any person within the limits of the city to fire or discharge any firearm except by special permit from the chief of police or designee. This section shall not apply to areas recommended as a hunting area by the Arizona Game and Fish Commission and approved by the chief of police pursuant to Arizona Revised Statutes §13-3107.
- (b) Any person other than a peace officer on duty carrying a firearm, upon entering any public establishment or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove the firearm and place it in the custody of the operator of the establishment or the sponsor of the event. Failure to comply with the request of the operator shall be a civil violation punishable as provided in Section 1-8-1(a).

(Ord. No. 199, § 1, 4-25-84; Ord. No. 2005-24, §§ 1-2, 9-6-05)

Sec. 10-1-20. Possession and consumption of spirituous liquors or malt beverages.

- (a) It is unlawful for any person to possess or consume spirituous liquors or malt beverages during any athletic event held at a Show Low city park.
- (b) For purposes of this section, "during an athletic event" shall mean during any time when a group is gathered for the purpose of conducting or viewing an athletic contest whether it be before, during, or after the actual athletic contest.

(Ord. No. 79, § 1, 6-21-78)

Sec. 10-1-21. 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. 2004-13, §1, 7-6-04; Ord. No. 2005-01, §1, 1-18-05)

Sec. 10-1-22. Public intoxication.

- (a) No person shall be in a public place under the influence of alcohol, toxic vapors, poison, narcotics, or other drug not therapeutically administered, when it appears that he or she is intoxicated and therefore may endanger himself or other persons or property.
 - (1) *Intoxicated* is when an individual does not have the normal use of mental or physical faculties by reason of the introduction of alcohol, toxic vapors, poison, narcotics, or other drug not therapeutically administered.
- (b) A violation of this section is a class one misdemeanor. In addition to any other penalty imposed, a person found guilty of this section shall be required to complete a court-ordered alcohol or other drug screening, education or treatment program.

(Ord. No. 2009-11, §1, 7-7-09)

Sec. 10-1-23. Consumption of alcohol by minor prohibited in public place, place open to public, or place not open to public.

- (A) Except as permitted by state law, it is unlawful for any minor to:
 - (1) Consume any spirituous liquor at any public place or any place open to the public; or
 - (2) Consume any spirituous liquor at any place not open to the public, unless the consumption of the spirituous liquor is exclusively as part of a religious service.
- (B) *Spirituos liquor* has the same meaning as defined in Title 4 of the Arizona Revised Statutes.
- (C) Any person who violates this section is guilty of a class one misdemeanor.

Sec. 10-1-24. Hosting, permitting, or allowing a party, gathering, or event where minors consuming alcohol beverages prohibited.

- (A) It is unlawful for any person to permit, allow, or host a party, gathering, or event at his or her place of residence or other private property, place, or premises under his or her control where any spirituous liquor is being consumed by any minor. All reasonable action must be taken by the owner to prevent the consumption of spirituous liquor by any minor at the party, gathering, or event. Reasonable steps are controlling access to spirituous liquor, controlling the quantity of spirituous liquor present, verifying the age of persons attending by inspecting driver's licenses or other government-issued identification cards to ensure minors do not consume any spirituous liquor while at the premises, and supervising the activities of minors.
- (B) This section shall not apply to any location or place regulated by the Arizona Department of Liquor Licenses and Control.
- (C) *Spirituos liquor* has the same meaning as defined in Title 4 of the Arizona Revised Statutes.
- (D) This section shall not apply to the consumption of spirituous liquor that is exclusively part of a religious service.
- (E) Violations; penalties.
 - (1) Any person in violation of this section shall be guilty of a class one misdemeanor and upon conviction therefore shall be punished as provided in Section 1-8-1(b) of this Code.
 - (2) The actual cost of the enforcement services used to address any violations of this section shall be deemed a debt owed to the City of Show Low by the person responsible for the event and if juveniles, their parents, or guardians are responsible. Any person owing such debt shall be liable in a civil action brought in the name of the City of Show Low for recovery of the same. This, however, does not waive the right for the City of Show Low to seek reimbursement for actual costs of enforcement services associated with the enforcement through other legal remedies or procedures.
 - (a) *Enforcement services* include the salaries and benefits of law enforcement personnel for the amount of time actually spent in responding to and remaining at the party, gathering, or event; the administrative costs attributable to the incident; the actual cost of any medical treatment to injured law enforcement personnel; the

cost of repairing any damaged equipment or property; and the cost of the use of any such equipment in responding to, remaining at, or leaving the scene of a party, gathering, or event.

(Ord. No. 2009-11, §1, 7-7-09; Ord. No. 2009-12, §1, 7-7-09)

Sec. 10-1-25. Graffiti

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Aerosol paint container.* Any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.

(2) *Broad-tipped markers.* Any type of marker or similar instrument with a flat or angled writing surface of one-fourth-inch or greater which contains ink or other pigmented liquid that is not water soluble.

(3) *Etching equipment.* Any tool, device, or substance that can be used to make permanent marks on the surface of any property.

(4) *Responsible party.* Property owner, tenant in possession, or other persons responsible for the property.

(5) *Graffiti.* Any unauthorized markings, such as initials, symbols, slogans, emblems, or drawings written, spray-painted, etched, or sketched on a sidewalk, wall, fence, building, sign or any other structure or surface for which prior written permission of the responsible party of the property has not been given.

(6) *Graffiti implement.* Any aerosol paint container, broad-tipped marker, etching equipment, brush, paint, epoxy; or other similar substance capable of being applied to the surface of any structure or property.

(B) *Graffiti prohibited.*

(1) No person may apply graffiti to any natural or manmade surface on any publicly owned property or any privately owned property without the prior written consent of the owner or responsible party. The application of graffiti is deemed to be an act of malicious or willful misconduct.

(2) No person may possess any graffiti implement on any public property or private property with the intent to violate or in violation of section 10-1-25 (B)(1) of this Code.

- (3) No minor may possess any graffiti implement on any public property, structure or facility, or any school property, structure or facility, or any private property without prior written permission of the lawful owner or responsible party for the property with the intent to violate or in violation of section 10-1-25 (B)(1) of this Code. The provisions of this section do not apply to minors possessing such implements for classes or organized extracurricular activities that require the use of such implements and whose use is limited to legitimate activities.

(C) *Graffiti as a nuisance; removal of graffiti by perpetrator.*

- (1) *Graffiti as a nuisance.* The existence of graffiti on public and private property in violation of this section is expressly declared to be a public nuisance.
- (2) *Removal of graffiti by perpetrator.* Any person applying graffiti on public or private property must remove or pay for the removal of the graffiti in a manner approved by the property owner within 24 hours of notification. Failure of any person to remove or pay for removal of graffiti constitutes an additional violation of this section. If graffiti is applied by a minor, the parents or legal guardians are also responsible for removal or payment for removal of graffiti.
- (3) *Removal of graffiti by city.* The city is authorized, but not required, to use public funds for graffiti abatement on public or private property. The city is not required to paint, remove, or repair an area more extensive than that covered by graffiti, unless the owner has made prior arrangements with the city and agreed to pay the costs for more extensive painting, removal, or repair. The city is entitled to recover from perpetrator all costs incurred in graffiti abatement, including attorney's fees and costs. Funds received will be placed in the City of Show Low Anti-Graffiti Trust Fund.

(D) *Abatement procedures; notices; administrative review.*

- (1) Permission for entry:
 - (a) *Permission from owner.* If the owner or responsible party signs a permission form, the city may enter the property to abate graffiti.
 - (b) *No permission from owner.* If the property owner or responsible party refuses to sign a permission form or cannot be located and the city, at its sole discretion, deems it appropriate to abate graffiti on the property, the city will issue a notice of graffiti abatement. This notice may be served in person, by certified mail, or by posting

on the subject property; or by publishing in a city newspaper in general circulation.

- (2) The notice of graffiti abatement will contain the following information:
 - (a) Identify the property and describe the nature of the graffiti.
 - (b) A statement declaring that the property is a public nuisance.
 - (c) A statement declaring that abatement may commence within three business days from the date of the notice.
- (3) Designation of enforcement authority and hearing officers:
 - (a) All officers and investigators of the city police department, the city planning and zoning director and his or her designee, and city code enforcement officers are authorized to issue notices of graffiti abatement for violations of this code within city jurisdiction.
 - (b) The city magistrate will act as the hearing officer in the event of administrative review and will be notified by the city attorney of a property owner's objection to graffiti abatement.
- (4) Administrative review:
 - (a) *Request for review.* An owner or responsible party may object to the notice of graffiti abatement by filing a written request for review with the city attorney no later than three business days after posting of the notice of graffiti abatement. The city attorney will file notice with the city magistrate of the need for an expedited review.
 - (b) *Review process.* Upon timely receipt of the request for review, the city attorney, will notify the enforcement authority to defer enforcement action until the review is final. The owner or responsible party must promptly supply the hearing officer with any additional information necessary to determine whether or not the property constitutes a nuisance. When the review is final, the hearing officer will notify the owner or responsible party and the enforcement authority of his findings within five business days. The owner or responsible party will be notified by certified mail.
 - (c) *Determinations of the hearing officer.* The determination by the hearing officer is final and not appealable. If the hearing officer determines that the property contains graffiti and is a public nuisance, the hearing officer will issue a written eradication order

stating that the city may enter upon the property within 24 hours and abate the graffiti.

(E) *Rewards and reimbursement for information.*

- (1) The city may offer a reward in an amount to be established by the City of Show Low chief of police for information leading to the identification and indictment of any person who violates section 10-1-25 (B)(1) of this Code. The violator must reimburse the city for any reward paid. If multiple persons contribute information, the reward will be divided in a manner the city deems appropriate.
- (2) Claims for reward must be submitted through the anonymous crime tip service used by the city.
- (3) No reward claim is allowed unless the city has investigated and verified the accuracy of the claim and determines the requirements of this section have been met.

(F) *Anti-graffiti trust fund.*

The city council hereby creates the City of Show Low Anti-Graffiti Trust Fund. The proportion of the penalties, litigation costs, and recoverable court costs assessed against and paid by violators of section 10-1-25(B)(1) of this Code that accrue to the city will be placed in the Anti-Graffiti Trust Fund. Additional funds received from property owners for more extensive removal, painting, or repair under section 10-1-25(D)(3) of this Code and any monetary donations received from persons wishing to contribute to this cause will also be placed in the Anti-Graffiti Trust Fund. The city manager will direct the expenditures of monies in this fund. Expenditures are limited to payment for the cost of graffiti removal, painting, or repair, rewards for information leading to the successful arrest and indictment of violators of section 10-1-25(B)(1) of this Code, the costs of administering this section, and such other public purposes that are involved with graffiti abatement.

(Ord. No. 2009-15, §1, 11-17-09)