Chapter 22

OFFENSES — MISCELLANEOUS

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ARTICLE I. IN GENERAL

Sec. 22-1. Prostitution; solicitation of prostitution.

(a) No person shall use or occupy any room in any hotel, roominghouse, dwelling house, tenement or other building whatever for the purpose of prostitution.

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

(1) Offers to, agrees to, attempts to commit, or commits an act of prostitution;

(2) Solicits or hires another person to commit an act of prostitution;

(3) Is in a public place or place open to public view and by word, sign or action manifests an intent to commit an act of prostitution; or

(4) Aids or abets the commission of any of the acts prohibited by this section.

(c) The following definitions shall apply to subsections (a) and (b):

(1) *Prostitution* means the act of performing sexual activity for hire by a male or female person.

(2) *Sexual activity* means vaginal or anal intercourse, oral-genital or oral-anal contact, masturbation, sodomy or bestiality.

(Code 1967, §§ 21-8, 21-9; Ord. No. 89.42, 7-27-89)

State law reference—Prostitution, A.R.S. § 13-3201 et seq.

Sec. 22-2. Enticing commission of lewd and lascivious act.

A person who entices by statements, suggestions, promises, threats, fraud, gestures or artifice another person, male or female, to engage in the commission of the infamous act against nature, fellatio, bestiality, buggery or any other lewd or lascivious act as defined by state law with the intent of arousing, appealing or gratifying the lust, passion or sexual desire of either himself or any such other person in such a place as can be viewed by the public, is guilty of a misdemeanor.

(Code 1967, § 21-17)

Sec. 22-3. Discharge of air rifles.

(a) Discharge of an air rifle is a misdemeanor except:

(1) As allowed pursuant to the provisions of Title 13, Chapter 4, Arizona Revised Statutes [A.R.S. § 13-401 et seq.];

(2) On a properly supervised range;

(3) In an area recommended as a hunting area by the state game and fish department, approved and posted as required by the chief of police, but any such area may be closed when deemed unsafe by the chief of police or the director of the game and fish department;

(4) For the control of nuisance wildlife by permit from the state game and fish department or the United States Fish and Wildlife Service;

(5) By special permit of the chief of police; or

(6) As required by an animal control officer in the performance of duties as specified in A.R.S. § 9-499.04.

(b) A "properly supervised range" for the purposes of this section means a range operated by a club affiliated with the National Rifle Association of America, the Amateur Trapshooting Association, the National Skeet Association, or any other nationally recognized shooting organization, any agency of the federal government, the state, the county or the city, or any public or private school, and, in the case of air or carbon dioxide gas operated guns or underground ranges on private or public property, such ranges may be operated with adult supervision.
(Code 1967, §§ 21-2, 21-3)

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

Sec. 22-4. Obstructing, interfering with use of public ways.

(a) 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 or doing anything which is injurious to the health, 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.

(b) No person shall obstruct or place any obstruction upon, across or along any street, alley or sidewalk in any manner.
Code 1967, §§ 21-15, 30-1)

Sec. 22-5. Giving false information to police.

No person shall wilfully give false information to any police officer in the exercise and performance of his duty when such false information would interfere with, delay or obstruct the police officer in the exercise and performance of his duty.
(Code 1967, § 21-20)

Sec. 22-6. Resisting, interfering with police.

No person shall wilfully interfere with, resist, delay, obstruct, molest or threaten to molest any police officer in the exercise of his duty.
(Code 1967, § 21-12)

State law references—Obstructing governmental operations, A.R.S. § 13-2402; resisting arrest, A.R.S. § 13-2508.

Sec. 22-7. Depositing excavated material.

(a) No person shall deposit excavated material on any parcel of land within the city without first having obtained written permission from the owner of the parcel. Such written permission shall be in the possession of any person depositing fill material. All excavated material containing garbage, debris, trash, refuse, construction material or other waste shall be deposited in accordance with chapter 28 of this code.

(b) Excavated material shall be of natural earth material free from garbage, debris, trash, refuse, construction materials and other waste. Earth material is any rock, natural soil or fill or any combination thereof.
(Code 1967, § 21-21)

Sec. 22-8. Curfew for juveniles; responsibility of parents or guardians.

(a) *Definition.* In this section unless the context otherwise requires:

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

(2) *Guardian* means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or 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 section (b)(1) or section (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 section (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 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 on the next door neighbor's property with the consent of the neighbor.

(d) *Enforcement.*

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

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

(e) Each violation of the provisions of sections (b)(1), (b)(2), (b)(3) and (b)(4) shall constitute a separate offense.

(f) A person convicted of a violation of any provision of this chapter shall be guilty of a class 1 misdemeanor punishable as set forth in § 1-7, Tempe City Code. This offense is designated an incorrigible offense for minors under the jurisdiction of the juvenile court.
(Code 1967, §§ 18-6.1—18-6.3, 18-7.1—18-7.3, 18-8.1; Ord. No. 93.43, 1-13-94; Ord. No. 95.17, 5-11-95)

Sec. 22-9. Disclosure of information to prospective buyers of single- or multiple-family residences, tenants and buyers of mobile homes, mobile home lots or mobile home parks.

(a) *Definitions.* For the purposes of this section, the following term, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

(1) *Buyer* means any person who purchases a newly constructed single- or multiple-family dwelling or any person who purchases a single- or multiple-family dwelling that has not been previously occupied since it was constructed. Any person who purchases a mobile home, a mobile home lot or, individually or in conjunction with others, purchases a mobile home park.

(2) *City* means the City of Tempe, a municipal corporation of the state, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(3) *Person* means any individual, corporation, partnership, company and any other form of multiple organization.

(4) *Seller* means any person who sells to a buyer a newly constructed single- or multiple-family dwelling or a single- or multiple-family dwelling that has not been previously occupied since it was constructed. Any person who sells to a buyer a mobile home, mobile home lot, mobile home park or mobile home subdivision, as defined in the Zoning and Development Code, Section 7-114.

(5) *Tenant* means any person who rents or leases, for a residence, a mobile home lot or a mobile home which is attached to a lot or is located in a mobile home park.

(6) *Landlord* means any person or corporation or partnership or other business entity who rents or leases a mobile home lot or a mobile home to any tenant for residential purposes.

(b) *Required information.* Every seller of a single or multiple-family residence located in the city that has not been previously occupied shall disclose information to any prospective buyer which shall specify the zoning classification of the property to be sold, the zoning classification of undeveloped land bordering the subdivision, that zoning classifications are subject to change, the school district the buyer's children will attend, which are also subject to change, the necessity for depressed lots, the nature of the water, sewer and garbage services provided by the city, the existence of neighborhood mailbox units, if the property is in the proximity of a proposed freeway, the nature of the residential development tax, the nonavailability of a product or service normally furnished by a public utility and other pertinent information which may be required by the city. In addition, if the residence is located in an overflight impacted area, as determined by the community development director, the statement shall disclose that the residence is in that area.

Every seller or landlord of a mobile home, mobile home lot or mobile home park located in the city shall disclose information to any prospective buyer or tenant which shall specify the zoning classification of the property to be sold or rented, the zoning classification of land bordering the property, that zoning classifications are subject to change, the nature, structure and standard of all utility services, if the property is in the proximity of a proposed freeway, and a statement of any present intention to change the use of the mobile home park within one year of tenant's moving into the park. If the residence is located in an overflight impacted area, as determined by the community development director, the statement shall disclose that the residence is in that area.

(c) *Form.* The required information shall be disclosed on a written form which shall be signed by all parties. The seller or landlord shall cause the form to be duly executed by the buyer, tenant, seller, landlord, broker, salesman and rental agent, if any, on or before the close of escrow

or upon signing of the lease or upon the tenant's moving into the mobile home or onto the mobile home lot, whichever occurs first.
(Code 1967, § 21-1.1; Ord. No. 744.2, 11-14-85; Ord. No. 97.20, 4-10-97; Ord. No. 2001.01, 7-26-01; Ord. No. 2004.42, 1-20-05; Ord. No. 2010.02, 2-4-10)

Sec. 22-10. Railroad speed limits.

(a) No person shall run upon any railroad, or any part thereof, any train, locomotive or engine in excess of the following designated speed limits within the following designated areas:

From the east city limits to the east intersection of Rural Road, any speed in excess of sixty (60) miles per hour; from the east intersection of Rural Road to the east intersection of College Avenue, any speed in excess of forty (40) miles per hour; from the east intersection of College Avenue to the south intersection of Thirteenth Street, any speed in excess of thirty (30) miles per hour from the south intersection of Thirteenth Street to the bridge across Salt River, any speed in excess of twenty (20) miles per hour.

(Code 1967, § 21-11)

Sec. 22-11. Unauthorized sale of motor vehicles on private property.

(a) It shall be unlawful for a person to park or place a motor vehicle, mobile home or trailer upon the real property of another for the purpose of sale or lease unless the real property owner has first obtained all required permits and licenses for the sale or lease of motor vehicles at that location, including, but not limited to, complying with all zoning requirements.

(b) The owner or person in lawful possession of any land, property or building may authorize the city to act as his agent for the purpose of complying with this section. Such application shall be made to the community development department and shall be accompanied by an application fee established by the city council (see Appendix A). The applicant shall authorize the city to post signs indicating that the sale or offer of sale of any new or used motor vehicle, mobile home or trailer is prohibited on the applicant's property together with information indicating any motor vehicle, mobile home or trailer in violation of this section may be towed away by the city.

(c) The police department shall either cite the violator or take charge of, remove and keep in custody any unoccupied motor vehicle, mobile home or trailer of any kind or description found violating any of the provisions of this section from and after posting of the signs specified in subsection (b) above. The police department may promulgate necessary and desirable rules and regulations to carry out the intent of this section.
(Ord. No. 86.09, 2-13-86; Ord. No. 97.20, 4-10-97; Ord. No. 2010.02, 2-4-10)

Sec. 22-12. Failure to provide information.

Any person who fails or refuses to provide evidence of his identity to a peace officer, when such officer has reasonable cause to believe the person has committed a violation of an ordinance of the city or any law of the state or United States, is guilty of misdemeanor.
(Ord. No. 86.48, 7-24-86)

Sec. 22-13. Urination, defecation in public place.

(a) It shall be unlawful for any person to urinate or defecate in, or upon any public or private property except in toilet facilities provided therefor.

(b) Any violation of this section shall be punishable as a petty offense, subject to a maximum penalty of three hundred dollars ($300) per violation.
(Ord. No. 92.39, 7-30-92)

Sec. 22-14. Possession of firearms, exceptions.

(a) For the purposes of this section:

1. "*Minor*" means a person who is under the age of eighteen (18) years.

2. "*Firearm*" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or expanding gases, except that it does not include an air rifle, air pistol, BB gun or a firearm in permanently inoperable condition.

3. "*Written consent*" means written approval or permission to possess a firearm, which is on a form prescribed by the police department, signed by the child's parent or legal guardian and notarized, and which specifically describes the firearm as follows:

   a. Type;
   b. Manufacturer;
   c. Caliber; and
   d. Serial number.

(b) It shall be unlawful for a minor to possess any firearm within the city without the written consent of the child's parent or legal guardian. The original written consent form shall be carried by the minor any time the minor is in possession of a firearm outside the minor's residence.

(c) Any firearm possessed by a minor in violation of this section shall be subject to forfeiture in the same manner as authorized by Title 13, Chapter 39, Arizona Revised Statutes.
(Ord. No. 93.06, 2-11-93)

State law reference—Minors prohibited from carrying firearms, exceptions; A.R.S. § 13-3111.

Sec. 22-15. Breastfeeding.

A mother may breastfeed her child in all places open to the public where the mother and child are otherwise allowed to be.
(Ord. No. 2005.95, 12-1-05)

Sec. 22-16. Sale of products containing pseudoephedrine.

(a) *Definitions.* In this section, unless the context otherwise requires:

(1) *Pseudoephedrine product* means any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product.

(2) *Retail establishment* means any place of business that offers any pseudoephedrine product for sale at retail.

(b) The operator of a retail establishment shall keep all products containing 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.

(c) A person making a retail sale of a product containing pseudoephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser's name, date of birth, quantity of pseudoephedrine product purchased, transaction date and the initials of the seller.

(d) The information required to be obtained by subsection (c) will be retained by the retail establishment for a period of ninety (90) 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 Tempe police department officers, Arizona Department of Public Safety officers, Maricopa County Sheriff's Department officers and other law enforcement officers.

(e) A violation of this section is a class 1 misdemeanor.
(Ord. No. 2006.14, 2-16-06)

Sec. 22-17. Sexual encounter centers.

(a) It is unlawful for any person to own, manage, operate or provide a sexual encounter center as defined in this section.

(b) *Sexual encounter center* means a non-medical business, which offers for any form of consideration:

(1) Activities between persons when one or more of the persons is in a "state of nudity" as defined in § 16A-113; or

(2) The matching and/or exchanging of persons for "specified sexual activities" as defined in § 16A-113.

(c) A violation of this section is a class 1 misdemeanor.

(Ord. No. 2007.07, 2-1-07)

Secs. 22-18—22-39. Reserved.

ARTICLE II. SMOKING POLLUTION CONTROL

DIVISION 1. REGULATION OF SMOKING

Sec. 22-40. Purpose.

Since the smoking of tobacco or any plant is a positive danger to the health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces, and in order to serve the public health, safety and welfare, the declared purpose of this article is to restrict the smoking of tobacco or any plant within enclosed places, in particular, public places and places of employment.
(Ord. No. 86.06, 1-30-86)

Sec. 22-41. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

(a) *Smoke or smoking,* as defined in this article, includes the:

(1) Carrying or placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in one's mouth for the purpose of inhaling and exhaling smoke or blowing smoke rings;

(2) Placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in an ashtray or other receptacle, and allowing smoke to diffuse in the air; or

(3) Carrying or placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in one's hands or any appendage or devices and allowing smoke to diffuse in the air.

(b) *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 of grocery stores, waiting rooms, public and private schools, doctors' office buildings, community centers, child care centers, public restrooms, all indoor facilities and any public places already regulated by A.R.S. § 36-601.01 and restaurants/cafeterias, bars, sports bars, bowling alleys and billiard halls. A private residence is not a "public place".

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

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

(e) *Employer* means any person or entity employing the services of an employee.

(f) *Place of employment* means any enclosed area under the control of a private or public employer. A private residence is not a "place of employment".

(g) *Designated smoking area* means any area outdoors which is outside of any enclosed public place and removed from building entrances and exits. Any designated smoking area must be so situated as to allow nonsmoking individuals to conduct normal activity in a smoke-free environment.

(h) *Employee work area* means any areas within a place of employment, which share a common ventilation, heating or air conditioning system.
(Ord. No. 86.06, 1-30-86; Ord. No. 88.16, 2-25-88; Ord. No. 88.18, 2-25-88; Ord. No. 88.28, § 1, 3-31-88; Proposition 200, 5-21-02)

Sec. 22-42. Prohibition and regulation of smoking in city-owned facilities.

(a) All enclosed public places, places of employment and employee work areas owned, leased or operated by the city shall be subject to this article.

(b) Smoking is prohibited in all vehicles and enclosed public places, places of employment and employee work areas owned, leased or operated by the city.
(Ord. No. 86.06, 1-30-86; Ord. No. 94.02, 2-10-94)

Sec. 22-43. Prohibition of smoking in enclosed public places.

(a) No person shall smoke in any enclosed public place or place of employment except outdoors in designated smoking areas.

(b) No owner, manager, operator, employer or other person in control of any place regulated by this article shall allow smoking in any enclosed public place or place of employment except outdoors in designated smoking areas.
(Ord. No. 86.06, 1-30-86; Proposition 200, 5-21-02; Ord. No. 2002.35, 8-8-02)

Sec. 22-44. Regulation of smoking in places of employment.

(a) Within ninety (90) days after the effective date of this article, each employer in each place of employment within the city shall adopt, implement and maintain a smoking policy containing at a minimum the following requirements:

(1) Prohibition of smoking in all employee work areas within the city.

(2) Prohibition of smoking in employer conference and meeting rooms, classrooms, auditoriums, restrooms, waiting areas, medical facilities, hallways, stairways and elevators.

(b) The employer shall announce its smoking policy within ninety (90) days after the effective date of this article to all its employees working in work areas within the city.

(c) The provisions of this section shall not apply to those areas listed in § 22-45.

(d) No employee shall be terminated or subject to disciplinary action solely as a result of his complaint about smoking or nonsmoking in the workplace.
(Ord. No. 86.06, 1-30-86; Ord. No. 88.17, 2-25-88; Ord. No. 88.19, 2-25-88; Ord. No. 88.20, 2-25-88; Ord. No. 88.28, § 2, 3-31-88; Ord. No. 88.36, 6-9-88; Ord. No. 94.02, 2-10-94; Proposition 200, 5-21-02)

Sec. 22-45. Where smoking is not regulated.

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

(1) Private residences;

(2) Hotel and motel rooms rented to guests, which are on a separately partitioned ventilation system;

(3) Retail stores that deal exclusively in the sale of tobacco products and smoking paraphernalia, as long as separately partitioned and on a separate ventilation system;

(4) On-stage smoking as part of a stage production, ballet or similar exhibition;

(5) Conference/meeting rooms and private meeting rooms while these places are being used exclusively for private functions, as long as separately partitioned and separately ventilated; and

(6) Private clubs and recreation facilities, which do not serve the public or charge the public for services.
(Ord, No. 86.06, 1-30-86; Proposition 200, 5-21-02)

Sec. 22-46. Posting requirements.

"No Smoking" signs, the international "No Smoking" symbol or "Designated Smoking Area" signs shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person in control of every place where smoking is regulated by this article.
(Ord. No. 86.06, 1-30-86; Ord. No. 22-46, 8-8-02; Ord. No. 2002.35, 8-8-02)

Sec. 22-47. Responsibility of owners, etc

In addition to any other requirements imposed by this article, an owner, manager, operator, employer or other person in control of any place regulated by this article shall:

(1) Properly identify all shared enclosed indoor airspace as non-smoking; and

(2) Protect entrances and exits from outdoor drifting environmental tobacco smoke.

(Ord. No. 86.06, 1-30-86; Proposition 200, 5-21-02; Ord. No. 2002.35, 8-8-02)

Sec. 22-48. Repealed.

(Ord. No. 88.21, 2-25-88; Proposition 200, 5-21-02)

Sec. 22-49. Repealed.

(Ord. No. 88.21, 2-25-88; Proposition 200, 5-21-02)

Sec. 22-50. Prohibited in Tempe Diablo Stadium.

Smoking is prohibited in Tempe Diablo Stadium.

(Ord. No. 94.02, 2-10-94; Proposition 200, 5-21-02)

DIVISION 2. REGULATION OF TOBACCO PRODUCTS

Sec. 22-51. Definitions.

For the purpose of this division, the following definitions shall apply:

(1) *Control device* means electronic or mechanical control which causes the contents of a vending machine to be distributed;

(2) *Distribution* means to give, sell, deliver, dispense, issue, offer to give, sell, deliver, dispense or issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue;

(3) *Minor* means any person under the age of eighteen (18) years;

(4) *Person* means any natural person, corporation, partnership, firm, organization or other legal entity;

(5) *Public place* means any area to which the public is invited or permitted;

(6) *Tobacco product* means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion; and

(7) *Vending machine* means any mechanical, electronic or other similar device which dispenses tobacco products.

(Ord. No. 93.41, 12-9-93; Ord. No. 99.15, 7-22-99)

Sec. 22-52. Regulation of tobacco products through vending machines.

No person shall permit the distribution of tobacco products through the operation of a vending machine in a public place.
(Ord. No. 93.41, 12-9-93; Ord. No. 99.15, 7-22-99; Proposition 200, 5-21-02)

Sec. 22-53. Storage and display of tobacco products.

No person who owns, conducts, operates or maintains a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall store or display, or cause to be stored or displayed, such tobacco products in an area or manner that is accessible to the public without employee assistance.
(Ord. No. 99.15, 7-22-99; Proposition 200, 5-21-02; Ord. No. 2002.35, 8-8-02)

Sec. 22-54. Civil fines and penalties imposed.

(a) The civil fine/penalty for violating the provisions of §§ 22-43(a), 22-46 or 22-47(1) shall not exceed fifty dollars ($50) for the first offense and seventy-five dollars ($75) for each successive offense.

(b) The civil fine/penalty for violating the provisions of §§ 22-42, 22-43(b), 22-44, 22-47(2), 22-52 or 22-53 is one hundred dollars ($100) for the first offense, five hundred dollars ($500) for the second and third offense, and a minimum fine of five hundred dollars ($500) or a maximum fine of two thousand five hundred dollars ($2,500) if more than three (3) violations occur in any consecutive twelve (12) month period.

(c) By enforcing this article, the city undertakes only to promote the general welfare and health of the community. It does not assume, nor does it impose on its officers and employees, an obligation for breach of which it is liable in money damages to any person claiming injury from such breach.
(Ord. No. 2002.35, 8-8-02)

Secs. 22-55—22-59. Reserved.

ARTICLE III. NEIGHBORHOOD ENHANCEMENT AND CLEANUP

Sec. 22-60. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 88.23, § 1, 4-14-88; Ord. No. 89.66, §§ 1, 2, 1-11-90; Ord. No. 97.48, 12-18-97; Ord. No. 99.35, 9-30-99; Ord. No. 99.44, 12-16-99)

Sec. 22-61. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 88.23, § 2, 4-14-88; Ord. No. 89.66, § 3, 1-11-90; Ord. No. 99.35, 9-30-99)

Sec. 22-62. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-63. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 97.20, 4-10-97; Ord. No. 99.35, 9-30-99)

Sec. 22-64. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-65. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-66. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-67. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 93.32, 9-9-93; Ord. No. 96.09, 6-20-96; Ord. No. 99.35, 9-30-99)

Sec. 22-68. Repealed
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-69. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Sec. 22-70. Repealed.
(Ord. No. 86.11, 2-27-86; Ord. No. 99.35, 9-30-99)

Secs. 22-71—22-74. Reserved.

ARTICLE IV. ALARM REGULATIONS

Sec. 22-75. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them in this section unless the context clearly requires otherwise:

(1) *Alarm* means any mechanical or electrical device, system or service which is used to detect unauthorized entry into buildings or onto premises, or warn or alert others of an emergency or fire or of the commission of an unlawful act within the buildings or on the premises, to which the city is expected to respond;

(2) *Alarm business* means any person who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm, or causes any of the above to be done with regard to any alarm, in or on any building, structure or facility;

(3) *Alarm user* means any person who leases, rents, purchases or uses any alarm whether or not the alarm is monitored by an alarm business or person other than the user;

(4) *Automatic dialing device* means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice methods or code signal an emergency message indicating a need for emergency response;

(5) *City* means the police and fire departments of the City of Tempe;

(6) *False alarm* means the giving, signalling or transmission to the city, by telephone, word or otherwise, that an emergency, unauthorized entry, unlawful act, fire or other emergency exists when such fire, entry, act or emergency does not in fact exist. False alarm does not include an alarm signal caused by extraordinary circumstances not reasonably subject to control by the alarm user or an alarm business;

(7) *Owner* means the owner of record of the premises where an alarm or alarm system is located or where a false alarm occurred as shown by the records in the office of the county assessor; and

(8) *Person* means any person, firm, association, organization, partnership, business trust, corporation or company, or governmental entity except the city or any of its offices or agencies.
(Ord. No. 91.27, 9-12-91)

Sec. 22-76. Permits for alarms required, confidentiality.

(a) Every alarm user shall obtain a permit from the city for an alarm within thirty (30) days after the alarm is used or becomes operational. Application for permit shall be on forms prescribed by the city requiring identification of the alarm user and the owner of the premises where the alarm is located, and such other information about the alarm as may be required. The application shall be accompanied by an initial permit fee in such sum as set by the city council. The permit shall expire one year after date of issue and each year thereafter. An alarm user shall renew the alarm permit annually, subject to a renewal fee as set by the city council. An alarm permit which is not renewed by the expiration date shall be subject to a delinquent renewal fee

established by the city council. The permit issued by the city shall be physically on the premises using the alarm and shall be available for inspection by the city. Permits are not transferable from one user to another user or from one address to another address.

(b) If the residential alarm user is over the age of sixty-five (65) and is the primary resident of the residence, a user's permit may be obtained from the alarm coordinator without the payment of either an initial permit fee or any subsequent renewal fees. This exemption shall not apply to fees due to failure to timely obtain or renew an alarm permit, or any service fee due to excessive false alarms.

(c) The alarm user or permittee must notify the alarm coordinator of the Tempe police department of the name, address and telephone number of the primary person and at least one alternate to be notified in case the alarm is activated, unless the alarm system is not audible and is monitored at a remote location. The alarm user or permittee is required to notify the city alarm coordinator of any change in the information contained in the application or permit, and if the alarm is no longer being used, within ten (10) days after the effective date of such change or cessation in use. Failure to make such notification shall constitute a violation of this article, punishable as provided herein.

(d) It is unlawful and a violation of this code for any alarm user or the owner of any premises where an alarm is located to operate or use an alarm, or allow operation or use of an alarm, without a permit as required herein. An alarm user who does not obtain a permit within thirty (30) days after the alarm is used or becomes operational shall be subject to a delinquent permit fee in addition to any other penalties under this code.

(e) Application and permit information acquired in compliance with this article shall be considered confidential as a privacy right of the applicant and permittee. Any violation of confidentiality, except as required by law, shall be deemed a violation of this article.
(Ord. No. 91.27, 9-12-91; Ord. No. 99.18, 7-22-99)

Cross reference—See Appendix A of this code for applicable service fees and charges.

Sec. 22-77. False alarms committed knowingly prohibited

It is unlawful for any person to knowingly report, turn in or make, or knowingly cause any of such acts resulting in, a false alarm.
(Ord. No. 91.27, 9-12-91; Ord. No. 93.24, 8-26-93)

Editor's Note—Ord. No. 93.24 renumbered subsections (a) and (b) of this section as Sec. 22-77.1(a), (b) and (c).

Sec. 22-77.1. Review of false alarms, service fee for excessive false alarms.

(a) When any false alarm occurs by an alarm in one permit year, upon request by the city, the alarm user or owner shall submit to the city a letter specifying what corrective action has been taken to prevent future false alarms.

(b) *Residential.* A third and any subsequent false alarm occurring by any permitted alarm user in one permit year is an excessive false alarm and shall subject the owner or user, individually or jointly, to an excessive false alarm service fee for the city's response to such excessive false alarm. A schedule of such service fees for responding to an excessive false alarm shall be adopted by council resolution.

(c) *Businesses.* A second and any subsequent false alarm occurring by any permitted alarm user in one permit year is an excessive false alarm and shall subject the owner or user, individually or jointly, to an excessive false alarm service fee for the city's response to such excessive false alarm. A schedule of such service fees for responding to an excessive false alarm shall be adopted by council resolution.

(d) Non-permitted alarm users who incur a false alarm shall be assigned an alarm permit by the alarm coordinator and charged the permit fee described in § 22-76(a). The non-permitted alarm user shall immediately provide the alarm coordinator with any and all necessary responsible party information as part of the assigned permit. Alarm users who fail to provide necessary responsible party information and incur a second and any subsequent false alarm will be assessed an excessive false alarm service fee for the city's response to each subsequent excessive false alarm. A schedule of such service fees for responding to an excessive false alarm shall be adopted by council resolution. Non-permitted alarm users who provide necessary responsible party information and incure a second and any subsequent false alarm will be assessed the same excessive false alarm service fee as permitted alarm users in subsection (b) of this section.

(e) The decision on whether a false alarm or excessive false alarm has occurred shall be made by the alarm coordinator of the city.
(Ord. No. 93.24, 8-26-93, Ord. No. 99.18, 7-22-99; Ord. No. 2000.10, 3-16-00; Ord. No. 2008.62, 11-6-08)

Cross reference—See Appendix A of this code on applicable fees and charges.

Sec. 22-77.2. Appeals of excessive alarm determinations and fees.

(a) Any party aggrieved by a decision of the alarm coordinator made pursuant to §§ 22-77.1 or 22-78(b) on excessive alarms and service fees may, within ten (10) days after receipt of notice of the decision, appeal to a hearing officer appointed by the city by filing a written appeal with the alarm coordinator.

(b) The request for an appeal shall set forth the specific objections to the decision of the alarm coordinator which forms the basis of the appeal.

(c) The hearing officer shall set a time and place for the hearing as soon as practicable.

(d) The hearing process shall be conducted in an informal manner. The hearing officer shall not be bound by the technical rules of evidence in the conduct of such hearings. All parties to the hearing shall have the right to present evidence in support of or in opposition to the decision of the alarm coordinator.

(e) The decision of the hearing officer shall be based upon the evidence presented and it shall:

(1) Affirm the decision of the alarm coordinator in which case an excessive alarm service fee imposed pursuant to this article shall be sustained; or

(2) Reverse or modify the decision of the alarm coordinator, in whole or in part, in which case no fee or a modified fee shall be imposed.

(f) When the decision of the alarm coordinator is affirmed in appeal, or a modified fee is imposed, the hearing officer may designate whether the owner or user is solely responsible for the payment of the fee.
(Ord. No. 93.24, 8-26-93)

Sec. 22-77.3. Service fees levied pursuant to this article, unlawful to operate system when delinquent.

Service fees levied pursuant to this article for excessive false alarms or excessive audible alarms are due and payable on the due date indicated on the service fee billing and are delinquent if not paid by the due date. Service fees not paid by the due date will be subject to interest and costs of collection and may result in revocation of the applicable alarm permit as provided in § 22-81 of this code. When a service fee becomes delinquent, operation of the alarm system shall be immediately discontinued. It is unlawful to operate an alarm system on any premises when a service fee for such system has become delinquent.
(Ord. No. 93.24, 8-26-93)

Sec. 22-78. Audible alarms, sound emission cutoff feature, deactivation within 20 minutes, service fee.

(a) From and after January 1, 1992, an alarm which emits an audible sound which can be heard outside an alarm user's building, structure or facility shall be equipped with an automatic sound emission cutoff feature which will stop the emission of sound within twenty (20) minutes after the alarm is activated. It is unlawful for an alarm business to sell, lease, install, replace or move an audible alarm which does not comply with this subsection.

(b) An audible alarm which is audible in excess of twenty (20) minutes shall subject the alarm owner or user, individually or jointly, to an excessive audible alarm service fee for the city's response to such an audible alarm. The excessive audible alarm service fee shall be established by resolution of the city council.

(c) This section shall not apply to an audible fire alarm which meets the requirements of or is otherwise approved by the city pursuant to the city's fire or building codes.
(Ord. No. 91.27, 9-12-91; Ord. No. 93.24, 8-26-93)

Cross reference--See Appendix A of this code for applicable service fees and charges.

Sec. 22-79. Automatic dialing device prohibited.

Unless authorized by the city, no person shall use or cause to be used any automatic dialing device or telephone attachment that directly or indirectly causes a public primary telephone trunk of the city to be utilized. Such an automatic dialing device programmed to select a public primary telephone trunk line of the city is unlawful and shall be disconnected.
(Ord. No. 91.27, 9-12-91)

Sec. 22-80. Businesses to provide user instructions, notice of permit requirement.

Any alarm business shall:

(1) Furnish the alarm user with instructions that provide information to enable the user to operate the alarm properly and to obtain service for the alarm at any time;

(2) Inform each alarm user of the requirements of this article and the need to obtain an alarm permit.

(Ord. No. 91.27, 9-12-91)

Sec. 22-81. Fine and penalties; revocation of permit.

(a) Any person violating §§ 22-76, 22-77, 22-78(a), 22-79 and 22-80 of this article is subject to punishment as provided in § 1-7 of the Tempe City Code.

(b) The permit issued pursuant to this article for an alarm system may be revoked for any violation of this article. An alarm permit which is revoked for delinquent service fees shall become effective without hearing or other proceedings ten (10) days following the date of the notice issued by the alarm coordinator notifying the permittee of such revocation. An alarm user whose alarm permit has been revoked may have it reinstated by paying all overdue assessments, submitting a corrective report detailing the corrective action taken with proof of inspection for malfunctions attached and paying a reinstatement fee established by resolution of the city council. For any revocation other than for delinquent service fees, the alarm permit revocation proceedings shall be conducted by a hearing officer appointed by the city.

(c) Repealed in Ord. No. 93.24.

(Ord. No. 91.27, 9-12-91; Ord. No. 93.24, 8-26-93; Ord. No. 99.18, 7-22-99)

Sec. 22-82. Administration and enforcement.

This article shall be enforced by the city's alarm coordinator who shall be the police chief or his designee.
(Ord. No. 91.27, 9-12-91)

Secs. 22-83—22-90. Reserved.

ARTICLE V. FAIR HOUSING

Sec. 22-91. Declaration of policy.

(a) It is hereby declared that the civil rights of the people of the city shall be free from discrimination, and no person(s) shall be denied or be excluded from participation in the sale, leasing, rental, or other disposition of housing or related facilities (including land) because of race, color, religion, sex, national origin, familial status (includes children under the age of eighteen (18) living with parents or legal custodians; pregnant women and people securing custody of children under eighteen (18)) or handicap. This policy also prohibits discrimination by banks, loan associations, insurance companies and associations, whose business consists of providing financial assistance to persons for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling. The only exemptions to this requirement shall be:

(1) A dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner occupies one such living quarters as his/her residence.

(2) Religious organizations and private clubs may limit sales, rental, or occupancy of noncommercial units to their members, unless membership is limited by race, color, sex, national origin, familial status or handicap.

(b) Additionally, no otherwise qualified person(s) in the city shall, on the basis of age or handicap, be excluded from participation, or be subjected to discrimination under any program or activity receiving federal financial assistance.
(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95)

Sec. 22-92. Definitions.

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

Discriminate or discrimination means to exclude individuals from an opportunity or participation in any activity because of race, color, sex, religion, national origin, familial status, age or handicap; and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

Housing means any building, structure or facility which is occupied as, or designed, or intended for occupancy as a residence, home or sleeping place; and any vacant land which is available for sale or lease for the construction of any building, structure or facility.

Owner means to include any manager, agent, representative, or other person having the authority to sell, rent or lease housing.

Real estate broker or real estate salesperson means a person licensed or not, who, for a fee or other considerations, receives or collects the same, lists, sells, purchases, rents or leases any housing, or negotiates such activities, and who also may be responsible for arranging a loan or securing a mortgage; or an individual acting in the behalf of any other person in these matters.
(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95)

Sec. 22-93. Prohibited actions.

It shall be unlawful for any person, including but not limited to owners, lessees, agents, real estate brokers, real estate salespersons, trustees, mortgagees, financial institutions, title companies, and insurance companies:

(1) To discriminate against any person in the sale, lease, rental or any other condition involving housing; further to discriminate in the extension of loans, credit, insurance, or any other services related to the financing or transfer of interest of any dwelling.

(2) To refuse to sell or rent after the making of a bona fide offer, because of race, color, religion, sex, national origin, familial status or handicap.

(3) To discriminate in the terms, conditions, or privileges of sale or rental of a dwelling.

(4) To print, publish, or advertise sale or rental of a dwelling which indicates preference, limitations, or discrimination, based on race, color, religion, sex, national origin, familial status or handicap.

(5) To represent to any person that a house is not available for inspection, sale, or rental, when such a house is, in fact, available because of race, color, religion, sex, national origin, familial status or handicap.

(6) To induce, or attempt to induce, for profit, any person to sell or rent a house by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap.

(7) To aid, abet, incite, or coerce, the doing of any of the acts prohibited under this chapter.

(Ord. No. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95)

Sec. 22-94. Administration; enforcement.

(a) The fair housing officer or his authorized agent is designated as administrator and enforcing officer of this chapter.

(b) All complaints alleging violations of § 22-93 of this code shall be in writing and filed with the fair housing officer within one hundred eighty (180) days from the date of violation.

(c) Violations of § 22-93 are not subject to the penalties in § 1-7 of this code.

(Ord. 87.10, 4-23-87; Ord. No. 95.12, 3-30-95)

Secs. 22-95—22-99. Reserved.

ARTICLE VI. GRAFFITI VANDALISM

Sec. 22-100. Purpose and intent.

The purpose of this article is to provide a program for abatement of graffiti from public and private property to reduce blight and deterioration within the city, protect public safety and to expedite removal of graffiti from structures on both public and private property.
(Ord. No. 97.66, 12-11-97)

Sec. 22-101. Definitions.

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

Aerosol paint container means any aerosol container which is adapted or made for the purpose of spraying paint.

Broad tip marker means any marker or similar implement which has a writing surface which is one-half (1/2) of an inch or greater and containing anything other than a solution which can be removed with water after the solution dries.

Graffiti means a drawing or inscribing a message, slogan, sign or symbol or mark of any type that is made on any public or private building, structure or surface, and that is made without permission of the owner.

Graffiti implement means an aerosol paint container, broad tip marker, paint stick, graffiti stick or bleeder.

Paint stick, graffiti stick or bleeder means an implement containing paint, wax, epoxy or other similar substance.

Responsible party means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control such property.
(Ord. No. 97.66, 12-11-97)

Sec. 22-102. Possession of graffiti implements prohibited.

(a) No person shall knowingly possess any graffiti implement with the intent to use the implement for the purpose of committing criminal damage.

(b) Violation of this section is a class 1 misdemeanor.
(Ord. No. 97.66, 12-11-97)

Sec. 22-103. Limiting access to graffiti implements.

(a) No person other than a parent or legal guardian shall sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person under the age of eighteen (18) years.

(b) 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 section. Acceptable evidence of majority shall include, but is not limited to, driver's license, state-issued identification or military identification.

(c) This section does not apply to the transfer of graffiti implements from 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.

(d) Violation of this section is a class 1 misdemeanor.
(Ord. No. 97.66, 12-11-97)

Sec. 22-104. Storage and display of graffiti implements.

(a) No person who owns, conducts, operates or manages a business, where aerosol paint containers or broad tip markers are sold, nor any person who sells or offers for sale aerosol paint containers or broad tip markers, shall store or display, or cause to be stored or displayed, such aerosol spray paint containers and broad tip markers in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(b) Nothing herein shall preclude the storage or display of aerosol paint containers and broad tip markers in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

(c) Violation of this section is a civil offense, subject to a fine of not less than five hundred dollars ($500).
(Ord. No. 97.66, 12-11-97)

Sec. 22-105. Graffiti prohibition and removal.

(a) *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.

(b) *Notice of violation*. If it is determined by the city that graffiti exists on property in violation of this article, the city shall, in writing, notify the responsible party with a notice of violation. The notice may be served by certified mail, personal service, or by posting the subject property and publishing the notice in the official city newspaper.

(c) *Contents of notice of violation*. The notice of violation shall identify the property in violation, shall generally describe the location of the graffiti, and shall direct that the graffiti be abated within ten (10) days of receipt of the notice. The notice shall state that in the event the responsible party fails to abate the graffiti within the time period specified in the notice of violation, the city shall abate the graffiti and may bill the responsible party for the costs. The notice shall state that the responsible party may appeal the notice by filing a written notice of appeal with the city clerk within the same time period given to abate the graffiti. The effective date of the notice of violation shall be the date received if delivered in person or sent by certified mail, or the date of first publication, if the alternate method of service is used.

(d) *City's authority to abate*. If the responsible party fails to abate the graffiti as required by the notice of violation, the city may proceed to abate the graffiti and may bill the responsible party for the costs thereof. The city or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section. The police department shall assist in the enforcement of this ordinance.
(Ord. No. 97.66, 12-11-97)

Secs. 22-106—22-109. Reserved.

ARTICLE VII. RENTAL HOUSING CODE[1]

DIVISION 1. GENERALLY

Sec. 22-110. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-111. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-112. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2001.17, 7-26-01; Ord. No. 2002.06, 5-30-02)

Secs. 22-113—22-119. Reserved.

DIVISION 2. RENTAL HOUSING STANDARDS

Sec. 22-120. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-121. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-122. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-123. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-124. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-125. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-126. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-127. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Secs. 22-128—22-139. Reserved.

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[1]**Editor's Note—A**rticle VII, §§ 22-110 through 22-160 were repealed and incorporated into Ch. 21, Nuisances and property enhancement.

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 22-140. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-141. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-142. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-143. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-144. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-145. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-146. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-147. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-148. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-149. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-150. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-151. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-152. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-153. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-154. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-155. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-156. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-157. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-158. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-159. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Sec. 22-160. Repealed.
(Ord. No. 98.01, 1-8-98; Ord. No. 2002.06, 5-30-02)

Secs. 22-161—22-170. Reserved.

ARTICLE VIII. TRANSIT

DIVISION 1. GENERALLY

Sec. 22-171. Definitions.

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

Complaint for nonpayment of fare means a complaint whereby the passenger is charged with violating this article.

Fare means compensation paid for a light rail or bus boarding ticket from a vending machine or other source.

Fare inspector means a person authorized to enforce this section.

Guideway means an area where light rail vehicles will operate and includes the light rail track, overhead catenary system and the entire area extending seven (7) feet out from the track centerline, or within the prolonged curb lines adjoining the light rail tracks.

Identification means any government issued document that contains a photograph, date of birth and physical description, including but not limited to, height, weight, eye color, sex, origin and hair color of the person presenting the identification.

METRO means the light rail transit system operated by Valley Metro Rail, Inc.

Paid zone means the inside of a transit vehicle, light rail station platform or other areas as designated by appropriate signage or markings.

Passenger means any person lawfully occupying, riding or using any transit vehicle, boarding or alighting from such a vehicle, or waiting within a designated paid zone waiting area at a light rail station.

Proof of fare payment means a valid METRO pass or transit fare media valid for the time and day of use.

Transit vehicle means a light rail train, public bus or Valley Metro vehicle used to transport passengers.

Valley Metro means motor buses and facilities operated by Phoenix Public Transit Department, City of Tempe, City of Mesa or other local jurisdictions that operate bus transit service as part of Valley Metro, private contractors, and the Regional Public Transportation Authority.
(Ord. No. 2008.36, 8-14-08)

Sec. 22-172. Authority to order a passenger from transit vehicle or transit property.

A passenger who refuses to provide proof of fare payment or conform to any lawful regulation of this article may be removed from the vehicle by a fare inspector at any transit facility or usual stopping place.
(Ord. No. 2008.36, 8-14-08)

Sec. 22-173. Penalty.

Violations of this article shall be a civil offense and shall be enforced pursuant to the provisions of § 1-7 of this code.
(Ord. No. 2008.36, 8-14-08)

Secs. 22-174—22-179. Reserved.

DIVISION 2. FARE ENFORCEMENT

Sec. 22-180. Fare violations.

It shall be unlawful and a violation of this article for any person to:

(1) Occupy or ride in any transit vehicle that requires a fare without payment of the applicable fare;

(2) Fail to exhibit proof of fare payment upon request of a fare inspector when occupying or disembarking from a transit vehicle;

(3) Refuse to disembark a transit vehicle or transit facility upon demand of a fare inspector;

(4) Fail to provide his or her name, address and identification to a fare inspector when being served with a complaint for nonpayment of fare; or

(5) Fail to exhibit proof of fare payment upon request while waiting in a designated paid zone waiting area by a fare inspector.

(Ord. No. 2008.36, 8-14-08)

Sec. 22-181. Complaint for nonpayment of fare.

(a) A complaint shall be served on the defendant by a fare inspector pursuant to the provisions of § 1-8 of this code.

(b) If the defendant refuses to accept a complaint, the tender of the complaint by a fare inspector to the defendant shall constitute service thereof upon the defendant.
(Ord. No. 2008.36, 8-14-08)

Secs. 22-182—22-189. Reserved.

DIVISION 3. CONDUCT ON TRANSIT VEHICLES, FACILITIES AND PROPERTIES

Sec. 22-190. Transit parking and boarding.

(a) A driver shall not park a vehicle in the area designated for vehicle parking unless the person complies with posted parking regulations.

(b) If intending to pick up or drop off a transit passenger, a driver shall park in the area designated for vehicle parking or briefly stop his or her vehicle in areas designated for passenger loading or unloading, while remaining with the vehicle, and then remove the vehicle from the station without delay after the transit passenger is dropped off or picked up.

(c) No person shall stop or park a vehicle at a transit parking facility in such manner that the vehicle blocks access to a marked pedestrian walkway, designated traffic lane, parking space, fire lane, boarding zone or guideway.

(d) No person shall be permitted to remain at a transit station or stop for more than one hour.
(Ord. No. 2008.36, 8-14-08)

Sec. 22-191. Animals.

No person shall transport animals in a transit vehicle unless:

(1) The animal is a guide or service animal, including a service animal in training, that has been specially trained to assist persons with disabilities and is on a leash; or

(2) The animal is in a completely enclosed and secured cage or carrying case that is small enough to fit on the passenger's lap, and the animal does not otherwise endanger or disturb the comfort or health of other passengers.
(Ord. No. 2008.36, 8-14-08)

Sec. 22-192. Prohibited conduct on transit vehicle, property or facility.

It shall be unlawful and a violation of this article for any person to:

(1) Transport any item that blocks the aisle or the areas of the transit vehicle reserved for passengers in wheelchairs or who use mobility aids;

(2) Possess an open container of or consume an alcoholic beverage in a transit vehicle or on transit property;

(3) Carry onto or aboard a transit vehicle or transit property any flammable or explosive substance or hazardous materials;

(4) In any manner, hang onto or attach his or her body to any exterior part of a transit vehicle or touch a moving transit vehicle;

(5) Walk between coupled light-rail vehicles;

(6) Enter upon, occupy or remain upon the guideway except as necessary to board or alight a transit vehicle unless authorized by a valid permit;

(7) Throw an object at or from any transit vehicle or at any person or thing on or in any transit vehicle, or on transit property;

(8) Travel in any mode, including but not limited to, motor vehicle, pedestrian, bicycle, equestrian, roller skate, rollerblade, upon or across any guideway, or light rail station platform, except within a marked crosswalk at a signalized intersection;

(9) Place any object on any portion of the guideway;

(10) Interfere with the operation of a transit vehicle, transit facility or ticket vending machine;

(11) Interfere with the ingress or egress of any passenger on transit vehicle or transit property;

(12) Use tobacco products, or carry any lighted or smoldering substance, in any form, aboard a transit vehicle or within any space where posted signage prohibits smoking;

(13) Operate a sound-emitting device, unless the only sound produced by such item is emitted by a personal-listening attachment (earphone or headphone) audible only to the person carrying the device producing the sound, except a peace officer, firefighter, transit employee, or emergency response professional, in the course of employment;

(14) Light a flashlight, scope light, laser light or object that projects a flashing light or beams of light while inside a transit vehicle or towards a transit vehicle, except in an emergency;

(15) Place feet on or lie down on the seat of a transit vehicle or place any article on the seat which would leave grease, oil, paint, dirt or any other substance on the seat;

(16) Expectorate, defecate, urinate or litter in or upon a transit vehicle, transit property or transit facility;

(17) Light or detonate sparklers, firecrackers or other types of pyrotechnic devices in or upon a transit vehicle, transit property or transit facility;

(18) Injure, mutilate, deface, alter, change, displace, remove or destroy any sign, notice or advertisement on or in any transit vehicle or transit property;

(19) Disobey the instructions of any traffic signal, security notice, sign or marker unless otherwise directed by a fare inspector, peace officer or authorized transit representative;

(20) Recklessly damage, deface, mutilate or tamper with transit property so as to impair its function or value; or

(21) Post signs, notices or drawings or inscribe a message, slogan, sign, mark or symbol on transit property without written permission from the transit company.

(Ord. No. 2008.36, 8-14-08)

Sec. 22-193. Use restrictions.

(a) Any person adjudicated responsible of violating any provision of this article resulting in a fine is prohibited from riding a Metro transit vehicle until the sanction is fully paid.

(b) Any person adjudicated responsible for violating any provision of this article more than two (2) times is prohibited from riding a Metro transit vehicle for ninety (90) calendar days.

(c) Any person who poses a serious continuing risk to the public or transit property may be immediately removed from a Metro transit vehicle and the person will be prohibited from using Metro transit vehicles for a period not to exceed ninety (90) calendar days.

(d) Any person guilty of assaulting a fare inspector or employee acting in the scope of his employment will be prohibited from using a Metro transit vehicle for a minimum of one year.

(Ord. No. 2008.36, 8-14-08)

Secs. 22-194—22-199. Reserved.