

## OFFENSES

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#### **Article 10-1**      **FALSE REPORTS** <sup>157</sup>

##### Section 10-1-1      False Reports

It is unlawful for any person willfully to make to the office of the Chief of Police any false, fraudulent, misleading, or unfounded report or statement, or willfully misrepresent any fact for the purpose of interfering with the operation of the Police Department or with the intention of misleading any police officer.

#### **Article 10-2**      **CLEAN INDOOR AIR ACT** <sup>149</sup>

- 10-2-1      Definitions
- 10-2-2      Purpose
- 10-2-3      Regulation of Smoking in Enclosed Public Places
- 10-2-4      Exceptions
- 10-2-5      Posting
- 10-2-6      Tobacco Products Vending Machines <sup>208</sup>
- 10-2-7      Penalties and Enforcement

##### Section 10-2-1      Definitions

1. Bar means an area devoted primarily to alcoholic beverage service in which food service is only incidental.
2. Enclosed Public Place means any area closed in by a roof and walls with openings for ingress and egress which is customarily used by the public. Enclosed public places include, but are not limited to, elevators, waiting rooms, reception areas, lobbies, rest rooms, retail stores, retail service establishments, public and private schools, offices of health care professionals, pharmacies, indoor sports facilities, resort hotel public areas, financial institutions, any public places already regulated by A.R.S. Section 36-601.01, and restaurants.
3. Private clubs and recreational facilities mean those enclosed places to which access is limited by membership in an organized association.
4. Private function means an activity in which participation is limited by specific invitation.
5. To smoke or smoking means burning or carrying any lighted cigarette, tobacco or any other weed or plant or placing any burning tobacco, weed or plant in an ashtray or other receptacle and allowing smoke to diffuse into the air.

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### Section 10-2-2 Purpose

Because the smoking of tobacco and other plants is a health hazard to those exposed to the smoke and is a source of annoyance and discomfort to those present in confined areas where smoke is present, this Ordinance shall regulate smoking in enclosed public places.

### Section 10-2-3 Regulation of Smoking in Enclosed Public Places

- A. Smoking is prohibited in restrooms, public areas of stores, markets, shops, offices, clinics, hotels, resorts, restaurants and all other enclosed public places except in designated smoking areas.
- B. Provision for the maintenance of separate non-smoking areas of not less than 25% of the seating capacity or floor space, whichever is greater, in restaurants, cafeterias, lunchrooms and other eating establishments shall be provided.
- C. Hosts, hostesses, maitre d's, waiters, waitresses, owners or designated employees must advise guests upon making reservations or upon arrival that non-smoking areas are or are not provided and, if provided, ask whether or not the guests prefer non-smoking areas.
- D. The owner or operator of any restaurant, cafeteria, lunchroom or other establishment who believes that reservation of 25% of its seating capacity or floor space represents a non-smoking proportion so large that it creates a hardship may appeal to the Town Council for an exception and the Town Council shall have discretion to lower the 25% requirement.

### Section 10-2-4 Exceptions

The following areas shall not be subject to the smoking restrictions of this Article:

- A. Private residences.
- B. Bars and lounges.
- C. Resort and hotel rooms not specifically designated as non-smoking rooms, rented to guests.
- D. Resort and hotel public and private conference/meeting rooms, while these rooms are being used exclusively for private functions.
- E. Private clubs and recreation facilities.
- F. Private offices of owners/executives.

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### Section 10-2-5 Posting

- A. Any person who owns, manages, operates or otherwise controls the use of any premises subject to this Article has the responsibility:
  - (1) to set aside required "no smoking" areas;
  - (2) to properly post the required signs.
- B. "Smoking" or "No Smoking" signs, whichever are appropriate, or the international "No Smoking" symbol (consisting of a picture of a burning cigarette inside a red circle with a red bar across it) shall be clearly and conspicuously posted by the person in control in every place where smoking is controlled by this Article.
- C. Any owner, manager, or operator of any establishment, controlled by this Article shall, upon either observing or being advised of a violation of Section 10-2-3, have the obligation to inform the violator of the appropriate requirements of this law and then request immediate compliance.
- D. A violation of this Section is a petty offense, punishable by a fine not to exceed Three Hundred Dollars (\$300).

### Section 10-2-6 Tobacco Products Vending Machines <sup>208</sup>

- A. Except as provided in paragraph B of this Section, if a business has vending machines that disperse tobacco products, then the vending machines dispensing tobacco products must be located in areas accessible only to employees working on the premises.
- B. Vending machines that dispense tobacco products are allowed only in bars associated with those restaurants that are not part of a resort complex.
- C. The vending machines allowed by paragraph B of this Section must be within the immediate control of the bartender.
- D. It is the responsibility of the proprietor of the business to ensure compliance with this Section 10-2-6.

The purpose of this ordinance is to prevent minors purchasing tobacco products.

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### Section 10-2-7 Penalties and Enforcement

Except as noted in Section 10-2-5(D), any person found guilty of violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described.

### **Article 10-3**      **LOITERING; PROSTITUTION** <sup>126</sup>

- 10-3-1      Loitering Prohibited
- 10-3-2      Circumstances to Cause Alarm
- 10-3-3      Opportunity to Dispel Alarm
- 10-3-4      Requisites for Conviction
- 10-3-5      Prostitution, Assignment, Lewd or Indecent Acts

#### Section 10-3-1      Loitering Prohibited

It shall be unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

#### Section 10-3-2      Circumstances to Cause Alarm

Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or endeavors to conceal himself or any object.

#### Section 10-3-3      Opportunity to Dispel Alarm

Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this division, allow the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

#### Section 10-3-4      Requisites for Conviction

No person shall be convicted of an offense under this provision if the police officer did not comply with the preceding section, or if it appears at trial that the explanation given by the person, if believed by the police officer at the time, would have dispelled the alarm.

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### Section 10-3-5 Prostitution, Assignment, Lewd or Indecent Acts

It shall be unlawful for any person to aid, offer or agree to commit, or commit any act of prostitution, assignment, or lewd or indecent acts; or to behave or conduct himself in such a manner as to be injurious to the health or morals of others.

- A. Hiring of Premises. It shall be unlawful for any person to hire or use any apartment, room or tenement for the purpose of assignment, prostitution or any lewd or indecent act. No person shall let any apartment, room or tenement, knowing or under such circumstances that should cause a person of reasonable understanding to know that it is to be used for the purpose of assignment, prostitution or any lewd or indecent act.
- B. Securing Another for Purpose. It shall be unlawful for any person to offer to secure or secure another for the purpose of committing any act of prostitution, assignment, or for any other lewd or indecent act with any other person.
- C. Transportation of Persons. It shall be unlawful for any person to knowingly transport any person to any place where he may commit, or for the purpose of committing any act of prostitution, assignment or any lewd or indecent act.
- D. Receiving of Persons. It shall be unlawful for any person to knowingly receive, offer or agree to receive any person into any apartment, room, tenement or other building for the purpose of committing any act of prostitution, assignment or other lewd or indecent act, or to knowingly permit any person to remain there for such purposes.
- E. Directing Others. It shall be unlawful for any person to knowingly direct any other person to any place for the purpose of committing any act of prostitution, assignment, or any lewd or indecent act.
- F. Visiting. No person shall knowingly visit, attend, resort to, or be in any location where prostitution is being committed, conducted or performed, or where any acts offensive to public decency are being conducted, engaged in or permitted.
- G. Aiding or Abetting. It shall be unlawful for any person to in any manner aid, abet, or participate in the doing of the acts prohibited in the above sections.



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### Article 10-4 **OFFENSES AGAINST PROPERTY AND PRIVACY; GRAFFITI; TRESPASSING AND RESIDENTIAL SOLICITATION** <sup>157 378 457 560</sup>

- 10-4-1 Graffiti Prohibited <sup>378 457</sup> Repealed and Re-enacted
- 10-4-2 Reserved
- 10-4-3 Trespassing Prohibited
- 10-4-4 Residential Solicitation of Sales and Contributions <sup>42 144 560 578</sup>

#### Section 10-4-1 Graffiti Prohibited <sup>457</sup>

##### A. Purpose and Intent

1. The purpose of this chapter is to provide a program for abatement of graffiti from public and private property to reduce blight and deterioration within the Town, protect public safety, and to expedite removal of graffiti from structures on both public and private property. The Town Council finds and determines as follows:
2. Graffiti, on both public and private property, creates a condition within the Town which results in blight and deterioration of property values and of the comfortable enjoyment of life and property for adjacent and surrounding residents and owners, and contributes to the overall detriment of the Town.
3. Graffiti constitutes a public nuisance and a threat to public safety which must be abated to alleviate the detrimental impact of such graffiti on the Town, and to prevent the further spread of graffiti.
4. Certain categories of graffiti which incite violence are especially harmful and must be removed as quickly as possible to avoid or minimize harm to persons and the whole community.

##### B. Definitions

1. *Aerosol paint container* means any aerosol container which is adapted or made for the purpose of spraying paint.
2. *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.
3. *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.
4. *Graffiti implement* means an aerosol paint container, broad tip marker, paint stick, graffiti stick or bleeder.

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5. *Paint stick, graffiti stick, or bleeder* means an implement containing paint, wax, epoxy, or other similar substance.
6. *Responsible party* means an owner, occupant, lessor, lessee, manager, licensee, or other person having the right to control such property.

### C. Possession of Graffiti Implements Prohibited

1. No person shall knowingly possess any graffiti implement with the intent to use the implement for the purpose of committing criminal damage.
2. Violation of this section by an adult is a class 1 misdemeanor, punishable by a term of not less than forty-eight (48) hours in jail and not less than eighty (80) hours of community service. Violation of this section by a juvenile is a class 1 misdemeanor, punishable as provided for in Title 8, Arizona Revised Statutes.

### D. Graffiti Prohibition and Removal

1. 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.
2. Notice of Violation. If it is determined by the city that graffiti exists on property in violation of this Ordinance, the Town 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 Town newspaper.
3. 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 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 Town 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 Town 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.
4. Town's Authority to Abate. If the responsible party fails to abate the graffiti as required by the notice of violation, the Town may proceed to abate the graffiti, and may bill the responsible party for the costs thereof. The Town or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section. The Town Police Department shall assist in the enforcement of this ordinance.

### E. Penalties

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1. Any person found guilty of violating any provision of this ordinance shall be guilty of a class one misdemeanor punishable by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) and/or by imprisonment not to exceed six (6) months. Each day that a violation continues shall be a separate offense.
2. A Judge shall not suspend any part or all of the imposition of any jail time, community service, or fine required by this ordinance or other applicable code provision.
3. At the request of the affected property owner, a Judge shall order a person convicted under this section to restore the surface upon which the graffiti was applied.
4. If a person other than the person convicted of violating this section has abated the graffiti, then a Judge shall order reimbursement of the cost of said abatement as restitution.
5. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 10-4-2      Reserved

Section 10-4-3      Trespassing Prohibited

A person is guilty of the offense of trespassing and shall be punished as provided by Article 10-6 of the Town Code if such person willfully enters the privately owned real property of another without the express or implied permission of the owner or lawful occupant of such real property under any of the following circumstances:

- A. The person enters any house, garage, barn, shed, office, store, residence, greenhouse, tack room, or other building on the subject real property.
- B. The owner or lawful occupant of the subject real property had previously requested that the person charged under this section not enter the subject real property, and this request had in fact been communicated to the person charged.
- C. The owner or lawful occupant of the subject real property asked the person charged under this section to leave the subject real property, and this request had in fact been communicated to the person charged and thereafter the person charged failed to promptly leave the subject real property.

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- D. The person remains on the subject real property for ten minutes or longer.
- E. The person causes any damage or harm to the subject real property or fixtures or to any personal property thereon.
- F. The owner or lawful occupant of the subject real property has posted or caused to be posted a sign or signs which conspicuously state "no trespassing" or other words which clearly indicate that trespassing is contrary to the wishes of the owner or lawful occupant of the subject real property and the person charged under this section was aware or should have been aware of such a sign or signs.
- G. The person intentionally activates a burglar or fire alarm or electronic security system with the intent to harass the owner or lawful occupant of the subject real property or to harass the private company, firm, or person employed to monitor the system.

### Section 10-4-4 Residential Solicitation of Sales and Contributions <sup>42 90 144 560 578</sup>

- A. It shall be unlawful for any person, without first obtaining a permit pursuant to paragraph E, to go to the dwelling of another person with the intent to attempt to sell some product, thing or service to a person or persons at such dwelling, unless the person qualifies for one of the exemptions set forth in paragraph D.
- B. It shall be unlawful for any person, without first obtaining the permission of the dwelling resident, to throw, deposit or distribute any object, item or material onto the property of the dwelling resident for the purpose of selling some product, thing, or service to a person or persons at such dwelling, unless the person qualifies for the exemption set forth in paragraph D(2).
- C. For the purposes of this section, "dwelling" means any building, or portion, patio, entranceway, or front door area thereof, which is designed or used exclusively for residential purposes or purposes which are an accessory use or uses to residential use.
- D. The prohibitions of this section shall not apply to the following classes of persons:
  - 1. A person who has the permission of a resident of the subject dwelling to come to the subject dwelling.
  - 2. A person who personally and regularly delivers a newspaper to dwellings, where (a) such person is acting within the scope of, or in furtherance of, his newspaper delivery business, and (b) where the subject dwelling is within the delivery route or delivery area in which the person personally and regularly delivers such newspaper.
  - 3. Nonprofit organizations recognized as exempt from federal income tax under 26 U.S.C. 501(C)(3) unless the dwelling or lot upon which the dwelling is located

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displays a “no trespassing” sign or other sign indicating that solicitors, canvassers or peddlers are not welcome.

- E. Any person desiring to engage in the activity described in paragraph A shall first apply to the Police Chief for a commercial solicitation permit. The application for such permit shall be on a form supplied by the Police Chief and shall include the following information: (1) name, address, date of birth, and social security number of the applicant (2) name and address of the organization, business, or other entity that the applicant represents, (3) a brief description of the nature of the business that the organization, business, or other entity is engaged in, including the goods to be sold or the services offered, (4) the name, address, and social security number of a responsible corporate officer employed by the organization, business, or other entity, (5) proof of a valid tax license if engaged in the sale of goods, and (6) presentation of a valid driver license or identification card issued to the applicant. The Police Chief shall issue a commercial solicitation permit within three business days of the receipt of the completed application and fee. The solicitation permit shall be valid for a period of two weeks from the date of issuance, shall state on its face its expiration date, and shall be visibly displayed at all times by the permit holder while engaged in the activity which is the subject of the permit.
- F. No person shall go to the dwelling of another person with the intent to attempt to either (1) sell some product, thing or service to a person or persons at such dwelling, or (2) solicit or request a contribution or donation of any kind from a person or persons at such dwelling between the hour of 9:00 o'clock p.m., and the hour of 8:00 o'clock a.m. the next day.
- G. The permit application set forth in paragraph 10-4-4(E) shall be accompanied by a non-refundable fee prescribed in the Town of Paradise Valley Fee Schedule.
- H. No Person shall enter the private property of another without the express or implied permission of the owner or lawful occupant of such property if the property has posted a sign or signs which state “No Trespassing” or other words which indicate that trespassing, soliciting, canvassing, or peddling is contrary to the wishes of the owner or lawful occupant of the subject property.

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### **Article 10-5     POSSESSION OF FIREARMS; EXCEPTION** <sup>355</sup>

- 10-5-1    Definitions
- 10-5-2    Unlawful Possession
- 10-5-3    Forfeiture

#### Section 10-5-1     Definitions:

1. "Minor" means a person who is under the age of eighteen 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 minor'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

The police department shall not maintain a file or register of executed written consent forms.

#### Section 10-5-2     Unlawful Possession:

It shall be unlawful for a minor to possess any firearm within the Town without the written consent of the minor'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.

#### Section 10-5-3     Forfeiture:

Any firearm possessed by a minor in violation of this Article shall be subject to forfeiture in the same manner as authorized by Chapter 39 of Title 13, Arizona Revised Statutes.

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### Article 10-6 **POSSESSION OF DEADLY WEAPONS AND EXPLOSIVES** <sup>352</sup>

- 10-6-1 Definitions
- 10-6-2 Unlawful Possession <sup>506</sup>
- 10-6-3 Forfeiture

#### Section 10-6-1 Definitions:

- A. "Deadly weapon" means anything designed for lethal use. The term includes a firearm.
- B. "Explosive" means any dynamite, nitroglycerin, black powder or other similar explosive material including plastic explosives and ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.
- C. "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.

#### Article 10-6-2. Unlawful Possession

- A. No person, except those persons authorized to carry weapons pursuant to A.R.S § 13-3102(C) and security officers engaged in official Town business, shall carry any deadly weapon or explosives in the Town Hall, the Police Department building, or the Street Department facilities.
- B. Unlawful possession under this subsection is a Class One Misdemeanor.

#### Section 10-6-3 Forfeiture:

Any deadly weapon or explosive possessed in violation of this Article shall be subject to forfeiture in the same manner as authorized by Chapter 39 of Title 13, Arizona Revised Statutes.

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### **Article 10-7      CONTROL OF EXCESSIVE NOISE** <sup>44 607</sup>

- 10-7-1      Purpose of Article
- 10-7-2      Definitions <sup>522 607</sup>
- 10-7-3      Stationary or Fixed Noise Sources <sup>607</sup>
- 10-7-4      Motor Vehicles <sup>607</sup>
- 10-7-5      Reserved <sup>2016-10</sup>
- 10-7-6      Sound Level Measurement Criteria <sup>607</sup>
- 10-7-7      Exemptions

#### Section 10-7-1      Purpose of Article

- A.    The making, creating and maintaining of excessive, unnecessary, unnatural and unusual loud noises which are prolonged or unnatural in a specific time and place are considered a detriment to public health, safety, welfare and comfort, convenience and prosperity of the residents of the Town of Paradise Valley.
- B.    Noises of the type described in subsection A, supra, are found to be on the increase in extent and volume within the Town of Paradise Valley. Noises are measurable and their elimination or control is considered to be a matter of legislative determination and public policy in maintaining and preserving public health, safety, welfare, prosperity, comfort, convenience, peace and quiet of the Town of Paradise Valley and its residents.
- C.    It is the intent of the Town of Paradise Valley to periodically re-evaluate stated quantitative noise level limits and the other standards established by state and federal agencies as well as those contained in this noise control ordinance; the right to adjust such standards in accordance with future developments in the technology and state of the art is retained by the Town of Paradise Valley within its Town limits.

#### Section 10-7-2      Definitions <sup>522 607</sup>

In this Article, unless the contents otherwise require:

1. "A" Band level means the total sound level of all noise as measured with a sound level meter using the A-weighted scale. The unit of measurement is the dB (A).
2. "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far as measured on an A-weighted scale. For the purpose of this chapter, ambient noise level is the A-weighted level obtained when the noise level is averaged over a period of fifteen (15) minutes, without inclusion of the noise generated from the isolated identifiable alleged violation noise source, at the location and time of day near that at which a comparison is to be made.



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3. "ANSI" means the American National Standards Institute or its successor bodies. All acoustical terminology shall be that contained in ANSI Specifications for Sound Level Meters S1.4-1983, or its successor.
4. "Decibel" means a logarithmic unit of measurement which indicates the ratio between two quantities commonly referred to as electric or sound energy levels, or pressure levels. One decibel on the A-weighted scale is abbreviated "dB (A)."
5. "Essential services" means the erection, construction, alteration or maintenance by public utilities, municipal departments or commissions, or any governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electrical substations, telephone exchange buildings, gas regulator stations, connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commissions or any governmental agencies, or for the public health, safety or welfare.
6. "Fluctuating noise" means a noise whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.
7. "IEC" means International Electrotechnical Commission or its successor bodies.
8. "Impulse noise" means brief excursions of sound pressure which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is less than one second.
9. "Intermittent noise" means a noise whose sound pressure level equals the ambient environmental level two or more times during the period of observation. The periods of time during which the level of the noise remains at an essentially constant value different from that of the ambient noise level is on the order of one second or more.
10. "Legal holidays" means Christmas Day, New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, and Thanksgiving Day.
11. "Motor vehicle" means any passenger vehicle, truck, truck-trailer, trailer, cycle, or semi-trailer propelled or drawn by mechanical power.
12. "Person" means every natural person, firm, partnership, association or corporation which may own, operate or control those devices or facilities herein described.
13. "Repetitive impulse noise" means more than five impulses per hour.

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14. "SAE" means Society of Automotive Engineers or its successor bodies.
15. "Sound level" or "noise level" means, for airborne sound, a weighted sound pressure level, obtained by the use of metering characteristics and A-weighting as specified in the referenced standards. Whenever the A-weighted scale is employed, it must be indicated.
16. "Sound level meter" means an instrument including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of sound levels which satisfies the pertinent requirements in ANSI S1.4-1983, or its successor.
17. "Sound pressure level" of a sound, in decibels, means 20 times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference sound pressure having the value of  $2 \times 10^{-4}$  dynes per square centimeter.
18. "Steady noise" means a noise whose level remains essentially constant.
19. "Sunset and Sunrise" shall be as determined by the U.S. Naval Observatory Standards Sunset and Sunrise Table.

### Section 10-7-3      Stationary or Fixed Noise Sources <sup>607</sup>

**TABLE 1**  
Limiting noise levels for stationary sources

<u>TIME</u>	<u>MAXIMUM ALLOWABLE NOISE LEVEL dB (A)</u>
7:00 a.m. to 10:00 p.m.	56
10:00 p.m. to 7:00 a.m. and on all Sundays and specified legal holidays	45

Table 1 sets forth the noise level limits for stationary sources, and it is unlawful to project a sound or noise, except those caused by motor vehicles, from one property into another in excess of the stated limits.

1. All measurements of noise levels shall be made at the property line of the property on which said noise is generated or perceived, as appropriate, at an elevation of not less than four (4) feet above ground level.
2. Noise level limits specified in this section shall not apply to residential air conditioning equipment and swimming pool filtering equipment when functioning in accord with manufacturer's specifications and maintained in proper operating condition.

### Section 10-7-4      Motor Vehicles <sup>607</sup>

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TABLE 2

<u>TYPE OF VEHICLE</u>	<u>MAXIMUM ALLOWABLE NOISE LEVEL</u>
1. Any motor vehicle operated on any public street	79 dB (A) when posted speed limit is 35 mph or less or 82 dB (A) when posted speed limit is over 35 mph
2. Any recreation-type motor vehicle operated on any site not located on a public street or highway, whether or not registered for road use by the State of Arizona (includes recreational vehicles, sandbuggies, go-karts, trail bikes, mini-bikes, all-terrain vehicles, but excludes construction equipment)	82 dB (A)
A. No motor vehicle of a type described in Table 2 shall be operated at any time or under any conditions that shall exceed stated limits specified in Table 2. This table shall conform with the federal and state regulations whenever applicable.	
B. Every motor vehicle shall be equipped at all times with a muffler in good working condition to prevent excessive or unusual noise. No person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a Town street.	
C. Noise levels shall be measured at a distance of not less than fifty feet from the center line of vehicle travel and shall be measured in conformance with ANSI S1.4-1983, or its successor, and with SAE Standard J-184; the sound level meter used for such measurements must be set for fast response on the A-weighted scale.	

Section 10-7-5      Reserved <sup>2016-10</sup>

Section 10-7-6      Sound Level Measurement Criteria <sup>607</sup>

For the purpose of enforcement of the provisions of this Article, noise levels of alleged violations shall be measured on the A-weighted scale with a sound level meter satisfying at least the applicable requirements for Type 2 sound level meters as defined in ANSI S1.4-1983, or its successor. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels (motor vehicles), fast response speed may be used. Prior to measurement, the meter shall be verified, and adjusted to ` 0.3 decibel by means of an acoustical calibrator.

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Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. When measuring the sound level of alleged violations sporadic noise sources such as aircraft and emergency vehicles shall not be considered.

### Section 10-7-7      Exemptions <sup>693</sup>

- A. Under unusual circumstances not specified in this ordinance, at the discretion of the Town Manager, time and day restrictions may be waived, and a noise level may exceed the ranges specified in Tables 1 and 2, supra.
- B. The following noise sources, activities and uses shall be exempt from the noise regulations specified in this Article:
  - 1. Noises of safety signals, warning devices, and emergency pressure relief valves.
  - 2. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
  - 3. Noises resulting from work on essential services as defined in Section 10-7-2 (5), supra.

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### **Article 10-8**      **CURFEW HOURS FOR MINORS** <sup>399</sup>

- 10-8-1      Definitions
- 10-8-2      Offenses
- 10-8-3      Defenses/Exceptions
- 10-8-4      Enforcement

#### Section 10-8-1      Definitions

In this Section unless the context otherwise requires:

1. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action.
2. “Guardian” means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or 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.

#### Section 10-8-2      Offenses

1. It is unlawful for any minor under the age of sixteen years to be in, about, or upon any place in the town away from the property where the youth resides between the hours of 10:00 P.M. and 5:00 A.M. of the following day.
2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about, or upon any place in the town away from the property where the child resides between the hours of 12:00 A.M. and 5:00 A.M.
3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate Section 10-8-2-1 or Section 10-8-2-2 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 10-8-2-1 or 10-8-2-2 as listed above.

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### Section 10-8-3 Defenses/Exceptions

It is a defense to prosecution under Section 10-8-2, including 10-2-8-3, 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.

### Section 10-8-4 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 10-8-2-1 or 10-8-2-2 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

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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.

### **Article 10-9**      **GAMBLING** <sup>131</sup>

10-9-1	Definitions
10-9-2	Exclusions
10-9-3	Promotion of Gambling; Classification
10-9-4	Benefiting from Gambling; Classification
10-9-5	Accepting Bets; Wagers; Classification
10-9-6	Possession of a Gambling Device; Classification
10-9-7	Possession of Gambling Records; Classification
10-9-8	Presumption
10-9-9	Seizure; Exception; Definition
10-9-10	Forfeiture

#### Section 10-9-1      Definitions

In this Article, unless the context otherwise requires:

1. "Amusement gambling" means gambling involving a device, game or contest which is played for entertainment if all of the following apply:
  - (a) All players actively participate in the game or contest or with the device.
  - (b) The outcome is not in the control to any material degree of any person other than the player or players.
  - (c) The prizes are not offered as a lure to separate the player or players from their money.
  - (d) Either of the following:
    - (i) No benefit is given to the player or players other than an immediate and unrecorded right to replay which is not exchangeable for value.
    - (ii) The gambling is an athletic event and no person other than the player or players derives a profit or chance of a profit from the money paid to gamble by the player or players.

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2. "Gambling" means an act of risking or giving something of value for the opportunity to obtain a benefit from a game or contest of chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the law of contracts including contracts for the purchase or sale at a future date of securities or commodities, contracts of indemnity or guarantee, and life, health or accident insurance.
3. "Player" means a natural person who participates in gambling.
4. "Regulated gambling" means gambling to which all of the following apply:
  - (a) It is authorized and controlled in accordance with a statute or rule of this state or of the United States.
  - (b) All Federal, state or local taxes, fees and charges in lieu of taxes have been paid by the entity on any activity arising out of or in connection with the gambling.
  - (c) If conducted by an organization which is exempt from taxation of income under A.R.S. Section 43-1201, the organization's records are open to public inspection.
5. "Social gambling" means gambling which is not conducted as a business and involves players who compete on equal terms with each other in a gamble if all of the following apply:
  - (a) No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than his winnings from the gamble.
  - (b) No other person receives, or becomes entitled to receive, any benefit, directly or indirectly, from the gambling activity.
  - (c) None of the players are below the age of majority.

### Section 10-9-2      Exclusions

1. The following conduct is not unlawful under the provisions of this Article:
  - (a) Amusement gambling.
  - (b) Social gambling.
  - (c) Regulated gambling if the gambling is conducted in accordance with the statutes or rules governing the gambling.



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2. An organization which has qualified for an exemption from taxation of income under paragraphs 1, 2, 4, 5, 6, 7, or 11 of A.R.S. Section 43-1201, may conduct a raffle that is subject to the following restrictions:
  - (a) The organization shall maintain nonprofit status and no member, director, officer, employee or agent of the organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.
  - (b) The nonprofit organization shall have been in existence continuously in this state for a five year period immediately before conducting the raffle.
  - (c) No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the management, sales or operation of the raffle.
  
3. A state, county or local historical society designated by this state or any county, city or town to conduct a raffle may conduct the raffle subject to the following conditions:
  - (a) No member, director, officer, employee or agent of the historical society may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.
  - (b) The historical society must have been in existence continuously in this state for a five year period immediately before conducting the raffle.
  - (c) No person except a bona fide local member of the sponsoring historical society may participate directly or indirectly in the management, sales or operation of the raffle.

### Section 10-9-3      Promotion of Gambling; Classification

1. Except for amusement, regulated or social gambling, a person commits promotion of gambling if he knowingly does either of the following for a benefit:
  - (a) Conducts, organizes, manages, directs, supervises or finances gambling.
  - (b) Furnishes advice or assistance for the conduct, organization, management, direction, supervision or financing of gambling.
  
2. Promotion of gambling is a Class 1 Misdemeanor.

### Section 10-9-4      Benefiting from Gambling; Classification

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1. Except for amusement or regulated gambling, a person commits benefiting from gambling if he knowingly obtains any benefit from gambling.
2. Benefits obtained from gambling, whether from one or several persons or from one or several gambling activities or events, may be segregated in one or more complaints at the discretion of this state. In the case of written instruments, "value" means either the fair market value or the face amount of the instrument, whichever is greater. If a benefit has indeterminable value, its value shall be determined by the trier of fact and, in reaching its decision, all relevant evidence may be considered.
3. Benefiting from social gambling as a player is not unlawful under this section.
4. Benefiting from gambling is a Class 1 Misdemeanor.

### Section 10-9-5      Accepting Bets; Wagers; Classification

1. Subject to the exceptions in A.R.S. Section 5-112, no person may engage for a fee, property, salary or reward in the business of accepting, recording or registering any bet, purported bet, wager or purported wager or engage for a fee, property, salary or reward in the business of selling wagering pools or purported wagering pools with respect to the result or purported result of any race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever.
2. No person shall directly or indirectly knowingly accept for a fee, property, salary or reward anything of value from another to be transmitted or delivered for wagering or betting on the results of a race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever conducted within or without this state or anything of value as reimbursement for the prior making of such a wager or bet on behalf of another person.
3. Any person violating this section is guilty of a Class 1 Misdemeanor.

### Section 10-9-6      Possession of a Gambling Device; Classification

1. A person commits possession of a gambling device if he knowingly possesses any implement, machine, paraphernalia, equipment or other thing which the person knows or has reason to know is used or intended to be used in violation of this Article.
2. Possession of a gambling device is a Class 1 Misdemeanor.

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### Section 10-9-7 Possession of Gambling Records; Classification

1. A person commits possession of gambling records if he knowingly possesses any book, writing, paper, instrument, article, electronically produced data, computer software and programs, discs, tapes or other tangible or intangible method of recording information knowing or having reason to know that it arises out of, or was made in connection with, gambling in violation of this Article.
2. Possession of gambling records is a Class 1 Misdemeanor.

### Section 10-9-8 Presumption

In a prosecution under this Article in which it is necessary to prove the occurrence of any event that is the subject of gambling, a published report of its occurrence in a daily newspaper, a magazine, or any other periodically printed publication of general circulation is admissible into evidence, and, on admission, it is presumed that the event occurred. This presumption may be rebutted. Either party may use additional evidence to prove or disprove the occurrence of the event.

### Section 10-9-9 Seizure; Exception; Definition

1. In addition to any other remedies provided by law, any monies used or intended to be used in violation of this Article may be seized by any peace officer on probable cause that it is money used or intended to be used in violation of this Article.
2. In addition to any other remedy provided by law, gambling records may be seized by any peace officer on probable cause that they are gambling records.
3. In addition to any other remedy provided by law, a gambling device may be seized by any peace officer on probable cause that it is a gambling device being used or intended to be used in violation of this Article.
4. If a gambling device is an antique slot machine and is not used for gambling purposes or in violation of the laws of this state, possession of the antique slot machine is lawful and it shall not be confiscated or destroyed. If the gambling device is confiscated and the owner shows that the gambling device is an antique slot machine and it is not used for gambling purposes or in violation of the laws of this state, the court acquiring jurisdiction shall order the antique slot machine returned to the person from whom it was confiscated.
5. For purposes of this Section, "Antique slot machine" means a gambling device which was manufactured for use as a slot machine and is at least twenty-five years old.

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### Section 10-9-10 Forfeiture

1. In addition to any other remedies provided by law, on a first violation under this Article the following property shall be forfeited pursuant to A.R.S. Section 13-3306 and Chapter 39 of Title 13 A.R.S.:
  - (a) All benefits derived from a violation of this Article.
  - (b) All unlawful gambling devices.
2. In addition to any other remedies provided by law, on a second or subsequent violation under this Article the following property shall be forfeited pursuant to A.R.S. Section 13-3306 and Chapter 39 of Title 13 A.R.S.:
  - (a) All benefits derived from a violation of this Article.
  - (b) All unlawful gambling devices.
  - (c) All things of value used or intended to be used to facilitate a violation of this Article.
3. A person that obtains property through a violation of this Article is an involuntary trustee. An involuntary trustee and any other person, except a bona fide purchaser for value without notice of the unlawful conduct and who has not knowingly taken part in an illegal transaction, holds the property, its proceeds and its fruits in constructive trust for the benefit of persons entitled to remedies pursuant to A.R.S. Section 13-3306 and Chapter 39 of Title 13 A.R.S.

**Article 10-10 ESCORTS, ESCORT BUREAUS AND INTRODUCTORY SERVICES** 132

10-10-1	Definitions
10-10-2	Nonprofit Corporation, or Organization Exemption
10-10-3	Escort Bureau and Introductory Service, License Required
10-10-4	License and Permit Term, Non-transferability
10-10-5	Application for Escort Bureau or Introductory Service License; Contents; Required Fees
10-10-6	Escorts, Permit Required
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10-10-9	Information Update
10-10-10	Prohibited Activities
10-10-11	Renewal of Licenses
10-10-12	Fees
10-10-13	Revocation of License or Permit, Grounds and Procedure; Appeal
10-10-14	Applicability of Regulations to Existing Business

Section 10-10-1 Definitions. As used in this Article:

- A. Escort means any person who consorts with or escorts another person in any public or private place within the Town of Paradise Valley for financial consideration; except a person hired to care for the ill or disabled, and except a person otherwise known as a baby-sitter, nanny or nursemaid hired to care for minors.
- B. Escort bureau means any person who offers to furnish an escort for consideration.
- C. Introductory service means any person who, for financial consideration, offers to assist any person in meeting any other person for social or personal purposes not connected with or forming part of another lawful business or professional activity.
- D. Person means any individual, or any firm, partnership, corporation or association of any kind.
- E. Person financially interested includes, for a corporation, any person who is an officer or a director or any shareholder holding more than 5% of the shares thereof; and for a noncorporate business includes any person who shares in any financial gain attributable to the business as a proprietor or owner or on the basis of a percentage in excess of 5% of gross or 10% of net revenue.
- F. Consideration means money or money's worth.

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### Section 10-10-2 Nonprofit Corporation, or Organization Exemption

An organization which is qualified for exemption from taxation of income under A.R.S. Section 43-1201, paragraph 1, 2, 4, 5, 6, 7, 10 or 11 is exempt from this Article.

### Section 10-10-3 Escort Bureau and Introductory Service, License Required

It is unlawful for any person to act in the capacity of, or engage in the activity of an escort bureau or an introductory service without a valid license issued pursuant to the provisions of this Article. A separate license is required for each location or type of activity licensed pursuant to this article within the Town of Paradise Valley.

### Section 10-10-4 License and Permit Term, Non-transferability

The term of a license or permit issued pursuant to the provisions of this Article is one year. All licenses or permits issued pursuant to this Article are non-transferable.

### Section 10-10-5 Application for Escort Bureau or Introductory Service License; Contents; Required Fees

- A. An applicant for an escort bureau license or an introductory service license shall file an application with the Town Clerk accompanied by a nonrefundable application fee.
- B. Unless otherwise provided in this Article, the application shall contain the name and address of the activity and the following information about the applicant, any person financially interested in the activity to be licensed, any authorized local agents, and any managing employee of the activity to be licensed:
  1. The name, including any aliases, business trade names or styles;
  2. Current residence and business addresses and telephone numbers, as applicable;
  3. Each residence and business address for the five-year period immediately preceding the date of filing of the application and the inclusive dates of each such address;
  4. Arizona driver's license;
  5. Valid proof of age and that the applicant is at least eighteen (18) years of age;
  6. Height, weight, color of eyes and hair and date of birth;

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7. Two (2) current 2" x 2" photographs;
  8. The business, occupation or employment history for the three-year period immediately preceding the date of the filing of the application;
  9. Information as to whether such individual or business has ever been refused any similar license or permit or has had any similar license or permit issued to such individual or business in Paradise Valley or elsewhere revoked or suspended, and the reason or reasons therefor;
  10. All prior criminal convictions excepting minor traffic offenses;
  11. Fingerprints.
  12. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five (5) percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the names, residence addresses and dates of birth of each of the partners, including limited partners and profit interest holders. If the applicant is a limited partnership, the applicant shall furnish a copy of the certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this Ordinance, but only one application fee shall be charged;
  13. A description of any service to be provided;
  14. The names and residential addresses of all persons employed as escorts.
- C. The Town Clerk shall have a reasonable period of time in which to investigate the application and background of the applicant and process the application through various Town Departments.
- D. The Town Clerk shall grant the license upon the following circumstances:
1. The required fees have been paid;
  2. The application conforms in all respects to the provisions of this Article;

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3. The applicant has not made a material misrepresentation of fact in the application;
  4. That neither the applicant, if an individual; nor any person financially interested if a corporation; nor any of the partners, including partners, nor the holder of any profit interest, nor the manager or other person principally in charge of the operation of the existing or proposed escort bureau or introductory service, nor any individual employed or contracted with to be an escort or to provide escort services has been convicted of, pleaded nolo contendere to or guilty to any felony or to a misdemeanor involving moral turpitude within five years prior to the issuance of the license;
  5. The applicant has not had a license similar to the one issued pursuant to the provisions of this Article issued by another local authority, suspended or revoked for cause within the five-year period immediately preceding the date of the filing of the application.
  6. The escort bureau or introductory service complies with all applicable laws of the Town of Paradise Valley, Maricopa County and State of Arizona; and,
  7. The applicant, manager or other person principally in charge of the operation of the business is at least eighteen (18) years of age.
- E. The Town Clerk shall deny the license application if all of the requirements set forth in subsections E (1) through (7) of this subsection have not been met. In the event of denial, the applicant shall be notified by mail of the denial and the reasons therefor. The applicant may appeal such denial to the Town Council.

### Section 10-10-6 Escorts, Permit Required

It shall be unlawful for any person to act in the capacity of an escort within the Town of Paradise Valley without a valid permit issued pursuant to the provisions of this Article.

### Section 10-10-7 Escort Permit Identification Card

Each escort license holder shall be issued an identification card. This card must be carried on the person of any individual while such person is engaged in the activity of an escort within the Town of Paradise Valley. Such identification card shall be displayed upon request of any law enforcement official.



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### Section 10-10-8 Escort License

- A. An applicant for a license shall make application to the Town Clerk.
- B. Each applicant shall furnish all applicable information required by Section 10-10-5.
- C. The applicant must provide a 2" x 2" photograph and be fingerprinted by the Paradise Valley Police Department.
- D. The Town Clerk shall cause to be investigated the application and background of the applicant.
- E. The Town Clerk shall issue the license if he finds that all of the requirements of subsections of this Article have been met, and, in addition, if he finds that the following additional requirements have been met:
  - 1. The applicant has not had any license issued by the Town of Paradise Valley denied, suspended or revoked for cause relating to licensed activity by the Town of Paradise Valley within (5) years immediately preceding the date of the filing of the application;
  - 2. The applicant is at least eighteen (18) years of age;
  - 3. The applicant has not been convicted of, pleaded nolo contendere to or guilty to any felony or to a misdemeanor involving moral turpitude within five years prior to the issuance of a license.
- F. The Town Clerk shall deny the license application if the requirements of Section 10-10-5 and this Section have not been met. In the event of denial, the applicant shall be notified by mail of the denial and the reasons therefor. Denial may be appealed to the Town Council.

### Section 10-10-9 Information Update

Any changes in information required to be submitted by this Article must be given to the Town Clerk within ten (10) days of any such change.

### Section 10-10-10 Prohibited Activities

It is unlawful for a licensee to provide escort or introduction services as described in this Article to individuals under eighteen (18) years of age unless written authorization by a parent or legal guardian is issued on the escort when acting as such.

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### Section 10-10-11 Renewal of Licenses

Any license issued pursuant to the provisions of this Article, which has not been suspended or revoked, may be renewed for a period of not to exceed one year on written application to the Town Clerk made at least 45 days prior to the expiration date of the current valid license or permit. The renewal application shall be on a form provided by the Town Clerk and shall contain all of the information required by either Sections 10-4 or 10-8 as applicable.

### Section 10-10-12 Fees

- A. The fee for the application required in Section 10-10-5 shall be \$1,000. Upon approval a license fee of \$1,000.00 (one thousand dollars) shall be assessed and a renewal fee of \$1,000 (one thousand dollars) shall accompany each application for renewal.
- B. The fee for the application required in Section 10-10-8 shall be in the amount of \$1,000 (one thousand dollars). Upon approval a license fee of \$1,000.00 (one thousand dollars) shall be assessed. A renewal fee of \$1,000 (one thousand dollars) shall accompany each application for renewal.

### Section 10-10-13 Revocation of License or Permit, Grounds and Procedure; Appeal

- A. Any license issued pursuant to this Article shall be revoked upon any one or more of the following grounds:
  - 1. The licensee, any employee, agent, or any other person connected or associated with the license or manager, or any "person financially interested" as defined in Section 10-1 (E) has violated any provision of this Article in conducting an activity licensed under the provisions of this Article or has been convicted of a violation of the Town Code, State or Federal law in conducting such an activity under the provisions of this Article.
  - 2. The licensee, any employee, agent or any other person connected or associated with the license as a partner, director, officer, stockholder or manager, or any "person financially interested" as defined in Section 10-10-1 E, has made a material misrepresentation of fact in the application for any license required in this Article.
  - 3. The licensee has been convicted, subsequent to the issuance of any license, of a crime which is either a felony or a misdemeanor involving moral turpitude.
  - 4. The licensee has violated a provision of this Article in conducting a licensed activity pursuant to this Article.

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5. The licensee is a corporation and is not or is no longer qualified to transact business in the State of Arizona.
- B. To revoke a license, the Town Clerk or his Agent shall notify the licensee in writing by mail to the address as shown on the application or otherwise more recently of record, that said license or permit is revoked. The cause for such revocation must be set forth in the notice.
- C. Except as otherwise provided in this Article, the license shall terminate if the licensee fails to pay any license fee owed either when due or by the end of any renewal period.
- D. Appeals from the revocation or termination of a license or permit as provided for in this Article may be appealed to the Town Council.
- E. A revoked license shall be surrendered to the Town Clerk on demand at the expiration of the appeals process.

### Section 10-10-14 Applicability of Regulations to Existing Business

The provisions of this Article shall be applicable to all persons and activities described herein whether the herein described activities were established before or after the effective date of the ordinance enacting this Article into law. All such persons and businesses shall have sixty (60) days from said effective date hereof to comply with the provisions of this Article.

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### **ARTICLE 10-11 HELICOPTER AND AIRCRAFT LANDING RESTRICTIONS** <sup>498</sup>

- 10-11-1 Aircraft Prohibited; Exceptions
- 10-11-2 Penalty

#### Section 10-11-1 Aircraft Prohibited; Exceptions

##### Aircraft Prohibited

- A. Except as provided in this Section no person shall land any type of aircraft, including but not limited to, helicopters, hang gliders, hot air balloons, parachutes, paragliders or any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, within the Town of Paradise Valley limits.

##### Exceptions

- B. Helicopter takeoffs and landings for the purposes hereafter enumerated may be made with the authorization of the Chief of Police or his designee:
  - 1. A takeoff or landing to assist in investigating an accident or to remove persons or property from the scene of an accident or other medical emergency.
  - 2. A takeoff or landing directed by or approved by the Chief of Police or his designee for purposes related to public safety.
  - 3. Public safety agency helicopters.
- B. The provisions of article shall not apply to takeoffs or landings by any type of aircraft made necessary by an emergency.

#### Section 10-11-2 Penalty

Any person who shall violate any of the provisions of this Ordinance shall be guilty of a Class 1 Misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six months or by both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described. In the alternative to the criminal penalty, civil prosecution may proceed pursuant to this Article by citation for civil sanction(s). The procedure for civil actions shall be as outlined in §8-6-5 of this code.

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### **Article 10-12      RESTRICTIONS AND EXCEPTIONS TO UNMANNED AERIAL VEHICLE OPERATIONS** <sup>691 2016-06</sup>

- 10-12-1    Purpose
- 10-12-2    Definitions
- 10-12-3    Restrictions; Exceptions
- 10-12-4    Penalty

#### Section 10-12-1 Purpose; Harmony with Other Governmental Regulations

The Town Council hereby recognizes that unmanned aerial vehicles, also known as drones, can pose unique safety, nuisance, and privacy invasion risks; thus regulating the operation of unmanned aerial vehicles within the Town is needed to promote the public safety and welfare of the Town and its residents. These regulations are to be read in harmony with all other regulations regarding the use of unmanned aerial vehicles, specifically including any rules promulgated by the Federal Aviation Administration and the State of Arizona. Further, compliance with these regulations should not be interpreted as express, implied or tacit approval to operate an unmanned aerial vehicle in violation of any other governmental regulations or in a manner that jeopardizes the health, safety, or welfare of the general public. Nothing in this article shall be construed to authorize the operation of any UAV in Town airspace in violation of any Federal or State statute or rules promulgated thereunder. Operators of unmanned aerial vehicles should familiarize themselves with all applicable regulations relating to the use of an unmanned aerial vehicle, including the Federal Aviation Administration requirements regarding notification of an airport operator and control tower, where applicable, prior to operating an unmanned aerial vehicle within five miles of an airport.

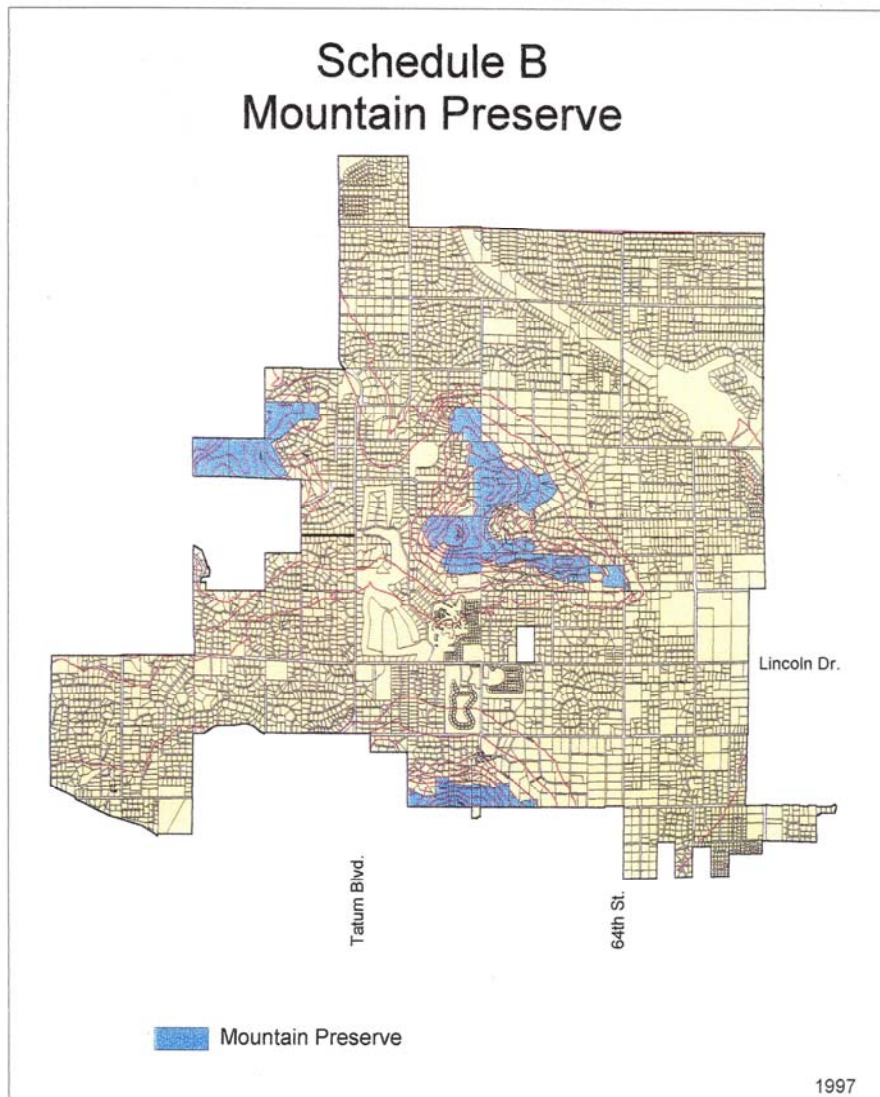
#### Section 10-12-2 Definitions

- A. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
1. “FAA” means the Federal Aviation Administration.
  2. “Law Enforcement Agency” means a lawfully established federal, state, or local public law enforcement agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.
  3. “PVPD” means the Town of Paradise Valley Police Department.
  4. “Unmanned Aerial Vehicle” or “UAV” (aka “Drone”) means an aircraft that may be flown without a pilot or operator in or touching the aircraft.

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### Section 10-12-3 Restrictions; Exceptions

- A. It is unlawful for a person to operate a UAV if the operation:
1. Is prohibited by a federal or state law or regulation that governs UAV use, including FAA regulations.
  2. Interferes with a law enforcement agency, firefighter or emergency services operation.
  3. Involves takeoff or landing in the Mummy Mountain Preserve, as such is designated on the following Schedule B Map of the Mummy Mountain Preserve or as the Mummy Mountain Preserve may be modified from time to time:



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- B. Exception. The use of a UAV is allowed within the Town by a law enforcement agency in response to an emergency situation or after obtaining a warrant based upon probable cause that criminal activity is occurring.

### Section 10-12-4 Penalties/Seizure of Evidence.

For a first violation of this ordinance (except those violations which are accompanied by intentional or reckless acts), the penalty shall be a civil violation with a fine not to exceed \$500. For a second violation or any violation accompanied by intentional or reckless acts, the charge or violation shall be as provided for in Article 1-9 of the Town Code, with a maximum penalty to include a criminal misdemeanor charge, which, upon conviction thereof shall be a fine not to exceed two thousand five hundred dollars (\$2,500.00) or imprisonment for a period not to exceed six months or both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described.

If the PVPD police chief or a Town code enforcement officer, or any of their duly authorized enforcement officers or designees, have a reasonable basis to believe that any UAV is or has been operating in violation of this section, said UAV may be seized by such duly authorized enforcement official, followed by an opportunity for an administrative hearing, with notice to the owner within seven calendar days of such seizure, for the purpose of reviewing the appropriateness of the seizure, and shall be held by the Town until such time that the owner of such UAV reimburses the Town for the actual costs incurred in connection with the seizure and storage of the UAV. If criminal charges involving the use, condition or operation of the UAV are pending, the UAV shall be held until disposition of the criminal charges. If it is determined at an administrative hearing, by a preponderance of the evidence, that the UAV was not being operated in violation of this article, such UAV shall be returned to its owner without charge.

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### **Article 10-13**      **UNRULY GATHERINGS** <sup>2018-05</sup>

#### Section 10-13-1      Purpose

The Town Council of Paradise Valley finds and determines that unruly gatherings held on private property may constitute a nuisance which is a threat to the peace, health, safety and welfare of the general public. Police officers have been required to make repeated responses to unruly parties, gatherings or events to abate the nuisance and to disperse uncooperative or unruly participants and to restore the public peace and welfare. Such repeat calls deplete the manpower and resources of the police department and can leave other areas of the Town with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike.

The purpose of this article is to deter behavior associated with unruly gatherings and allow the Town to obtain reimbursement for expenses related to responses to unruly gatherings which have been determined to be a threat to the peace, health, safety, or welfare of the general public.

#### 10-13-2      Definitions

In the Article, unless the context otherwise requires, the following terms or phrases are defined as follows:

1. “Increased Response” means the response of two or more uniformed officers to the scene of an Unruly Gathering in which eleven (11) or more persons are present and where it becomes necessary to restore the public peace, health, safety and/or general welfare.
2. “Juvenile” means a minor under the age of eighteen (18) years.
3. “Minor” means any person under the age of twenty-one (21) years.
4. “Owner” means any owner, as well as any agent of an owner such as a landlord, acting on behalf of the owner, who controls or otherwise regulates the occupancy or use of the property.
5. “Premises” means any property that is the site of an Unruly Gathering. For residential properties, Premises can mean the dwelling unit, units or other common areas where the unruly gathering occurs.
6. “Police Service Fee” means the fee to reimburse the cost of services provided by the Police Department in response to the Unruly Gathering. The Police Service Fee is more fully defined in §10-13-7(C).
7. “Responsible Person” means any person in attendance at an Unruly Gathering including any Owner, occupant, tenant, or tenant's guest or any sponsor, host or organizer of a social activity or special occasion constituting the Unruly



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Gathering, even if such person is not in attendance. If such a person is a Juvenile, the term "Responsible Person" includes, in addition to the Juvenile, the Juvenile's parents or guardians. Responsible Person does not include Owners or persons in charge of Premises where an Unruly Gathering takes place if the persons in attendance obtained use of the Premises through illegal entry or trespassing. A person need not be present at the time of the party, gathering or event to be deemed responsible.

8. "Special Security Assignment" means the police services provided during any call-in response to complaints or other information regarding unruly gatherings.
9. "Unruly Gathering" means a gathering of five (5) or more persons on any private property, including property used to conduct business, in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons and also includes one of the following: excessive noise, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.
10. "Unruly Gathering Notice (Notice)" means be a document identifying the Premises as the site of an Unruly Gathering in which a citation was issued and advising the Owner, occupants, guests or other persons entering the Premises that any future Unruly Gathering upon the Premises shall have additional consequences.

### Section 10-13-3 Unruly Gathering

- A. When any police officer responds to any Unruly Gathering and that police officer determines that there is a disturbance to the quiet enjoyment of public or private property, the police officer may issue a citation for Unruly Gathering. Said violation is a class 1 misdemeanor.
- B. A police officer may abate an Unruly Gathering by reasonable means including, but not limited to, citation or arrest of violators under applicable ordinances or state statutes, and dispersing any remaining gathered participants. Any participant not a tenant on a lease document who fails to disperse may be deemed a Responsible Person and cited for Unruly Gathering.
- C. The police officer or other police employees shall provide an Unruly Gathering Notice to the Responsible Person(s) and/or Owner in any of the following manners:
  1. By personal service of any Responsible Person(s) being cited at the Unruly Gathering; or,
  2. By posting of the Notice on the door of the Premises of the Unruly Gathering; or,

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3. By mailing the Notice to the Owner, at the address shown on the Maricopa County property tax assessment records. Such notification shall be made by certified mail; with the return receipt serving as evidence of service.
- D. Any Responsible Person(s) receiving a citation for an Unruly Gathering requiring Increased Response shall be assessed a Police Service Fee for Special Security Assignments relating to the Unruly Gathering as provided §10-13-7(C). In the event of more than one person is identified as a Responsible Person, any and all Responsible Persons shall be jointly and severally responsible for the entire Police Service Fee.
- E. Upon request, the Owner must provide the names of any and all occupants listed on the leasing documents at any location where the Police Department responds to an Unruly Gathering.
- F. On a first offense, an Owner who was present at the Unruly Gathering and who made contact with the responding officers at the scene may apply retroactively for a special event permit under Article 8-8 of the Town Code of Paradise Valley by the close of business on the next business day. A special event permit may or may not be granted by the Town Manager retroactively.

### Section 10-13-4 Subsequent Unruly Gathering

- A. Consistent Premises - If, after receiving an Unruly Gathering Notice as provided in §10-13-3(C), a second or subsequent police response or responses is/are necessary to the same Premises for an Unruly Gathering within ninety (90) days of the first response, such response(s) shall be deemed a second response and subject to the higher fines and the Police Service Fee as provided in §10-13-7(C). If, after written notice of the violation as provided in §10-13-3(C), a third response is necessary to the same Premises for an Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines and the Police Service Fee as provided in §10-13-7(C).
- B. Consistent Responsible Person - If, after receiving an Unruly Gathering Notice as provided in §10-13-3(C), a second or subsequent police response or responses is necessary to any Premises involving the same Responsible Person for an Unruly Gathering within ninety (90) days of the first response, such response shall be deemed a second response and subject to the higher fines and the Police Service Fee as provided in §10-13-7(C). If, after written notice of the violation as provided in §10-13-3(C), a third response is necessary to any Premises involving the Same Responsible Person for an Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines and the Police Service Fee as provided in §10-13-7(C).

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- C. Once a Premises is initially posted as a result of an Unruly Gathering and the conduct causing the gathering to be unruly has ceased, a resumption of unruly behavior on the Premises resulting in another police response shall constitute a new and separate, yet cumulative, Unruly Gathering for purposes of this section.

### Section 10-13-5 Posting of unruly gathering; removal of notice prohibited; right to contest posting

- A. Contents of Notice. The Premises at which the Unruly Gathering occurs shall be posted with a Notice stating:
1. That an Unruly Gathering has occurred at the Premises;
  2. The date of the Unruly Gathering;
  3. That any subsequent Unruly Gathering on the same Premises resulting in a citation, and subsequent conviction thereof, within a ninety (90) day period (or within one hundred and twenty days (120) of a second Unruly Gathering, as defined herein, with or without Increased Response, and within one hundred eighty days (180) of a third Unruly Gathering, as defined herein, with or without an Increased Response) shall result in the Responsible Person(s) liability for the penalties provided in this ordinance;
  4. The right to contest the posting, as provided in subsection (4)(d) of this section; and,
  5. Contact information at the police department.
- B. Posting Requirements. Premises shall be posted with an Unruly Gathering Notice as provided in this section each time an Unruly Gathering occurs. The Owner, occupant or tenant of the Premises, if present, shall be advised as to the location in which such Notice is posted in order to achieve both the security of the Notice and its prominent display. The Unruly Gathering Notice shall be posted in a place visible upon inspection by a police officer during the prescribed period. In the event that the Premises are already posted at the time of a subsequent posting, the ninety (90) day period from the date of the existing posting shall be extended an additional one hundred and twenty (120) days from the date of the subsequent posting.
- C. Removal of notice prohibited. The Owner of the posted Premises shall be responsible for ensuring that the Unruly Gathering Notice is not removed, defaced, or concealed. The removal, defacement, or concealment of a posted Notice is a civil infraction carrying a mandatory penalty of a minimum of two hundred fifty dollars (\$250.00) in addition to any other penalties which may be imposed under this section.

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### D. Right to contest posting.

1. An Owner, occupant, or tenant of the posted Premises may contest the posting of the Notice by filing a written petition for a civil hearing in the Town Municipal Court requesting that the court determine whether justification existed for posting of the notice under the provisions of this section. The petition must be filed within ten (10) days after the posting of the Notice or, if the Notice is given by mail, within fifteen (15) days after the postage date of the mailing of the Notice, and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the Town Attorney of the hearing date. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted Premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the Town has the burden of proving, by a preponderance of evidence, that the posting of the Notice was justified pursuant to the provisions of this section.
2. An Owner of a posted Premises, at any time after the posting or the mailing of the Notice, may petition the Town Municipal Court for an order directing the removal of the Notice on the grounds that the Owner has taken reasonable and necessary actions to prevent the occurrence of a subsequent Unruly Gathering at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the petition and shall notify both the petitioner and the Town Attorney of the hearing date. At the hearing, the petitioner has the burden of proving, by a preponderance of evidence, that the petitioner has taken reasonable and necessary actions to prevent the occurrence of a subsequent Unruly Gathering. This petition process is not available to an Owner who was present at the Unruly Gathering and engaged in conduct causing the gathering to be unruly.

### Section 10-13-6 Billing

The Chief of Police, or any person designated by the Chief of Police, shall cause appropriate billings for the Police Service Fee to be made to the Responsible Person(s). Billings shall include the name and address of the Responsible Person, the date, time and location of the Unruly Gathering for which a Police Service Fee is imposed, and shall identify the services provided, any loss or damage and such other information as may be relevant.

- A. The amount of such Police Service Fees charged shall be deemed a joint and several debt to the Town of any and all Responsible Persons, whether they received the benefit of such Special Security Assignment services or not. If the

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Responsible Person(s) for the Unruly Gathering is a Juvenile, then the parents or guardians of that Juvenile will also be jointly and severally liable for the costs incurred for police services. Any person owing money due for the Police Service Fee shall be liable in an action brought in the name of the Town for recovery of such amount, including reasonable attorney fees.

- B. If a Responsible Person is the person who owns the property where an Unruly Gathering takes place, the Owner will not be charged the Police Service Fee unless:
1. the Owner was present at or had knowledge of the Unruly Gathering and took no reasonable action to prevent the unruly gathering or unlawful gathering; or
  2. the Owner had been sent a notice from the Town that an Unruly Gathering had taken place on the Premises, and a subsequent unruly gathering occurs within the prescribed time of the mailing of such notice to the owner; or
  3. the Owner/landlord fails to provide the names of the occupants listed on the leasing documents where the Unruly Gathering occurs.

The Town reserves all rights and remedies at its disposal to collect the Police Service Fee.

### Section 10-13-7

#### Penalties

- A. For Responsible Person(s). If the Responsible Person is convicted of an Unruly Gathering, the penalty shall be a minimum mandatory fine of one thousand dollars (\$1000.00) or up to the maximum associated with a class one misdemeanor. Additionally, if the Responsible Person for an Unruly Gathering has previously been convicted for an Unruly Gathering, regardless of the location of the prior violation, the penalty shall be a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second conviction, and a minimum mandatory fine of two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation.
- B. For Premises. If the Owner of a Premises is convicted of an Unruly Gathering, the penalty for conviction of an Unruly Gathering shall be a minimum mandatory fine of one thousand dollars (\$1000.00) for a first violation, a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and minimum mandatory fine of two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation.
- C. Police Service Fee. The Police Service Fee shall be an amount equal to the actual costs (essentially a reimbursement) of the law enforcement response to an Unruly Gathering, including:

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1. the salaries, and associated benefits of the responding law enforcement officers corresponding to the amount of time actually spent in responding to and remaining at the Unruly Gathering; and,
2. the salaries, and associated benefits of any dispatcher or other police personnel involved with the response for the amount of time actually spent in responding to Unruly Gathering; and
3. any actual costs of any medical treatment to injured officers and/or the costs of repairing any damage to town equipment or property; and
4. the associated overhead costs including, but not limited to, vehicle and equipment used; with such overhead costs to be set annually within the first 60 days of the new fiscal year and available for inspection.

### Section 10-13-8      Enforcement

The Police Department is authorized to enforce the provisions of this section regardless of whether enforcement is initiated by a complaint from a member of the public or detection by the Police Department without any such complaint. Peace officers shall enforce the provisions of this section using their sound discretion and the consideration of the totality of the circumstances, including but not limited to the use of the Premises (e.g. residential, commercial, etc.).

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### **FOOTNOTES**

42 Ordinance #129 - 1/27/77  
43 Ordinance #146 - 9/29/78  
44 Ordinance #140 - 12/1/77  
45 Ordinance #157 - 9/13/79  
90 Ordinance #188 - 12/17/81  
126 Ordinance #238 - 1/23/86  
131 Ordinance #247 - 7/24/86  
144 Ordinance #260 - 2/12/87  
149 Ordinance #267 - 5/14/87  
152 Ordinance #270 - 7/23/87 (eff. 1/1/88)  
157 Ordinance #276 - 12/17/87  
178 Ordinance #302 - 9/28/89 (repealed former Article 10-6)  
196 Ordinance #342 - 4/9/92  
208 Ordinance #346 - 5/28/92  
352 Ordinance #352 - 2/9/93  
355 Ordinance #355 - 2/9/93  
378 Ordinance #378 - 9/22/94  
399 Ordinance #399 - 2/23/95  
457 Ordinance #457 - 2/12/98  
498 Ordinance # 498 – 3/09/00  
506 Ordinance #506 – 8/24/00  
522 Ordinance #522 – 2/14/02  
560 Ordinance #560 – 05/12/2005  
561 Ordinance #561 – 05/12/2005  
573 Ordinance #573 – 02/09/2006  
578 Ordinance #578 – 03/27/2006  
607 Ordinance #607 – 11/20/2008  
693 Ordinance #693 – 10/22/2015  
691 Ordinance #691 – 12/3/2015  
Ordinance 2016-06 – 09/22/2016  
Ordinance 2016-10 – 11/03/2016  
Ordinance 2018-05 – 03/08/2018