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## CHAPTER 5-1: CURFEW FOR MINORS

### SECTIONS:

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### 5-1-1: CURFEW HOURS FOR MINORS:

(Ord. 3208, eff. 6-14-94) (amd. Ord. 3639, eff. 7-10-97)

Definition. In this section unless the context otherwise requires:

- (A) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action.
- (B) "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- (C) "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.
- (D) "Minor" means any person under eighteen years of age.
- (E) "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.

### 5-1-2: OFFENSES:

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

- (C) It is unlawful for a parent, guardian, or other person having supervisory custody of the minor to knowingly permit, or by insufficient control, allow a minor to violate the provisions of Sections 5-1-2(A) or (B), except as expressly provided herein. It shall not constitute a defense hereto that such parent, guardian, or other person having supervisory custody of the minor did not have actual knowledge of the minor's violation of Sections 5-1-2(A) or (B), if such parent, guardian, or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.
- (D) It is unlawful for 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 Sections 5-1-2(A) or (B).

**5-1-3: DEFENSES/EXCEPTIONS:**

It is a defense to prosecution under Sections 5-1-2(A), (B) or (C) that the minor was:

- (A) Accompanied by the minor's parent or guardian or an adult having supervisory custody of the minor.
- (B) With prior permission of the parent or guardian or an adult having supervisory custody, in a motor vehicle involved in interstate travel.
- (C) With prior permission of the parent or guardian or an adult having supervisory custody, in an employment activity or going to or returning home from an employment activity without a detour or stop by the most direct route.
- (D) On an emergency errand.
- (E) Specifically directed to the location by the parent or guardian or an adult having supervisory custody, on reasonable, legitimate business or some other activity, or going to or returning home from such business or activity.
- (F) With prior permission of the parent or guardian or an adult having supervisory custody, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
- (G) Married and 16 years of age or over, on in the military.

- (H) On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

**5-1-4: ENFORCEMENT:**

- (A) 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 Section 5-1-3 of this section is probably present.
- (B) 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 Sections 5-1-2(A) or (B) is also hereby empowered to demand of the parent, guardian, or adult having supervisory custody that such parent, guardian, or other adult 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, an adult having supervisory custody 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.

**5-1-5: SEPARATE OFFENSES:**

Each violation of any provisions of Section 5-1-2 shall constitute a separate offense.

**5-1-6: PENALTIES:**

- (A) Any person who violates Sections 5-1-2(A), (B) or (D) is guilty of a Class 1 misdemeanor. This offense is designated as an incorrigible offense for minors under the jurisdiction of the Juvenile Court.
- (B) Any person who violates Section 5-1-2(C) shall be guilty of a petty offense.

## CHAPTER 5-2: DOGS, HYBRID DOGS AND HYBRID CATS

### SECTIONS:

- 5-2-1: DEFINITIONS:
- 5-2-2: LICENSE; FEES; TAGS; PENALTIES:
- 5-2-3: ANTIRABIES VACCINATION:
- 5-2-4: RABIES CONTROL:
- 5-2-5: MISCELLANEOUS PROVISIONS:
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- 5-2-7: HYBRID DOGS AND HYBRID CATS:
- 5-2-8: DANGEROUS ANIMALS:
- 5-2-9: AUTHORITY OF CITY COURT:
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### 5-2-1: DEFINITIONS:

Unless the context otherwise requires:

**AT LARGE:** Off the premises of the owner and not under the control of the owner.

**DESIGNATED AGENT:** Person(s) currently authorized by the owner of a dog to keep, possess, harbor, maintain or control said dog on the owner's behalf.

**ENFORCEMENT AGENT:** A person or persons designated by the city as responsible for the enforcement of this chapter and the regulations promulgated hereunder.

**HYBRID DOG OR HYBRID CAT:** A dog or cat which is the result of breeding between a wild species and a domestic species, or any dog or cat whose ancestry contains a dog or cat which is the result of such a breeding within six (6) generations, or any animal that is represented by its owner or was represented upon its sale as being a hybrid.

**IMPOUND:** The act of taking or receiving into custody by the enforcement agent any dog for the purpose of confinement in the pound in accordance with the provisions of this chapter.

**OWNER:** Any person owning, keeping, possessing, harboring or maintaining a dog, or any person acting for the owner or having charge of a dog.

**POUND:** Any establishment authorized by the city for the confinement, maintenance, safekeeping and control of dogs that come into the custody of the enforcement agent in the performance of his official duties.

VETERINARIAN: Any veterinarian licensed to practice in Arizona, or any veterinarian employed in Arizona by a governmental agency.

VETERINARY HOSPITAL: Any establishment operated by a veterinarian licensed to practice in the state of Arizona that provides clinical facilities and houses animals for medical treatment. (Ord. 704, 1-25-1965; amd. Ord. 2219, 9-25-1990; Ord. 3026, eff. 12-24-1992)

**5-2-2: LICENSE; FEES; TAGS; PENALTIES:**

- (A) A license fee of six dollars (\$6.00) per year shall be paid to the city for each dog between the ages of four (4) months and one year that is kept, harbored or maintained within the boundaries of the city. A license fee of six dollars (\$6.00) per year for spayed or neutered dogs, or a license fee of thirty dollars (\$30.00) per year for dogs which have not been spayed or neutered, shall be paid to the city for each dog one year of age or over that is kept, harbored or maintained within the boundaries of the city. Said fees shall be due on or before January 1 of each year. These fees shall be subject to proration of fees as set forth in subsection (B) of this section.
- (B) Any dog brought into the city during any calendar year by any person who intends to keep, harbor or maintain said dog within the boundaries of the city shall license said dog with the city within sixty (60) days thereafter. In such cases, the license fee for spayed or neutered dogs shall be six dollars (\$6.00) if paid on or before April 30, four dollars (\$4.00) if paid after April 30, but before August 31, and two dollars (\$2.00) if paid after August 31, but before December 31. The license fee for dogs which have not been spayed or neutered shall be thirty dollars (\$30.00) if paid on or before April 30, twenty dollars (\$20.00) if paid after April 30, but before August 31, and ten dollars (\$10.00) if paid after August 31, but before December 31. (Ord. 4294, 2-11-2003)
- (C) A late fee penalty of eight dollars (\$8.00) shall be added to the license fee in the event that application is made subsequent to the date on which the dog is to be licensed. (Ord. 1374, 10-8-1979)
- (D) Whenever the ownership of a dog has been changed, the new owner must secure a transfer of license.
- (E) Each dog licensed under the provisions of this chapter shall receive, at the time of licensing a durable metallic tag on which shall be inscribed the name of the city, the number of the license, and the date on which it expires. The tag shall be attached to the collar or harness which shall be worn by the dog at all times when off the premises of his owner except as provided in subsection (F) of this section. Whenever a dog tag is lost, a

duplicate tag shall be issued upon application by the owner and payment of a three dollar (\$3.00) fee. (Amended Ord. 3201, 5-24-1994, eff. 10-1-1994)

- (F) Dogs while being used for hunting, or dogs while being exhibited at American Kennel Club approved shows, or dogs engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events, need not wear a collar or harness with license attached, provided that they are properly licensed.
- (G) A guide dog belonging to a blind person who is a resident of the state, or any bona fide nonprofit organization which is in the business of breeding, raising, or training dogs to be used for guiding the blind, shall, upon application by the owner or organization, be licensed pursuant to this chapter without payment of a fee. (Ord. 1128, 1-12-1976)
- (H) The treasurer may authorize agents such as licensed veterinarians, humane societies, or similar organizations involved in animal treatment or control to issue dog licenses and tags pursuant to this chapter. Each authorized agent shall be allowed to retain two dollars (\$2.00) from each license fee collected under subsection (A) or (B) of this section for services rendered in issuance of each license. (Amended Ord. 3201, 5-24-1994, eff. 10-1-1994)
- (I) The enforcement agent shall apprehend and impound any dog found without a current valid license tag. (Ord. 1128, 1-12-1976)

**5-2-3: ANTIRABIES VACCINATION:**

- (A) Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address, and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used, and date revaccination is due. A copy of said certificate shall be transmitted to the enforcement agent.
- (B) A dog vaccinated in any area outside of Yavapai County prior to entry into the city of Prescott may be licensed in this city, provided that, at the time of licensing, the owner of such dog presents a vaccination certificate signed by a duly licensed veterinarian containing the information required herein.
- (C) The enforcement agent shall make provisions for low cost vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian. (Ord. 704, 1-25-1965)

#### **5-2-4: RABIES CONTROL:**

Whenever a dog bites any person, the incident shall be reported to the enforcement agent by any person having knowledge thereof. It shall be unlawful for any person to destroy or dispose of any dog which has bitten any person within a period of ten (10) days after such biting. Any dog that bites any person shall be impounded and quarantined by the enforcement agent or, at the request of and at the expense of the owner, placed in a veterinary hospital for a period of not less than ten (10) days to determine whether the dog has rabies. A dog properly licensed and vaccinated pursuant to this chapter, that bites any person, may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent. The owner of any dog that has bitten a person may voluntarily deliver the dog to the enforcement agent at the pound; otherwise, there shall be a charge of ten dollars (\$10.00) against the owner if the enforcement agent must pick up the dog. The owner shall pay the costs for maintaining the dog during the period of quarantine. Upon the failure of the owner to obtain the release of a dog quarantined hereunder by paying all charges and costs within three (3) days after expiration of said quarantine period, including compliance with the license and vaccination provisions herein, the enforcement agent may sell or otherwise dispose of such dog in a humane manner. (Ord. 1374, 10-8-1979; amd. Ord. 3239, eff. 8-25-1994)

#### **5-2-5: MISCELLANEOUS PROVISIONS:**

(A)

1. All dogs, hybrid dogs and hybrid cats shall be kept and maintained in such a manner so as not to disturb the peace, comfort or health of any person residing within the boundaries of the city. (Ord. 3026, eff. 12-24-92)
2. It shall be unlawful for any person to keep or maintain a dog or hybrid dog which is in the habit of barking, howling or otherwise disturbing the peace and quiet of any person within the boundaries of the city. For purposes of this section, a dog or hybrid dog shall be deemed to be in the habit of barking if it is proven that the animal barks, without justification, for five (5) or more continuous minutes on two (2) separate occasions within a thirty-six (36) hour period. (Ord. No. 3026, eff. 12-24-92)

(B) It shall be unlawful for a dog to be at large within the boundaries of the City. A dog is not deemed to be at large: (Ord. No. 3026, eff. 12-24-92)

1. If said dog is restrained by a leash, rope, or chain of not more than six feet (6') in length when off the premises of the owner; provided



that, (1) said dog is in the custody or control of the owner or his designated agent; or (2) the owner or his designated agent has restrained the dog as provided herein for a brief and reasonable time period to enter a public building, commercial establishment or some other structure or place prohibiting entry by dogs or other animals. Time periods exceeding fifteen (15) minutes shall be presumed neither reasonable nor brief; (Ord. 2219, 9-25-90)

2. While said dog is being used for lawful hunting purposes;
  3. While said dog is being exhibited at an American Kennel Club approved show;
  4. While said dog is engaged in races approved by the Arizona Racing Commission;
  5. While said dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer, provided that said dog is actually enrolled in or has graduated from a dog obedience training school.
- (C) With respect to subsection (A) and (B) of this Section, a person or persons who own, keep, possess, harbor, maintain, or control any dog or dogs that are in violation of subsections (A) and (B) shall be liable and responsible for a violation of the above stated sections whether or not they directly allowed a dog or dogs to create a disturbance or be at large in violation of subsections (A) or (B) of this Section.
- (D) Enforcement Agents may apprehend and impound in the pound any dog found at large contrary to the provisions herein. (Ord. 1510, 3-23-81)
- (E) Notwithstanding any of the other provisions of this chapter, all dogs, hybrid dogs and hybrid cats are subject to the provisions of Sections 5-3-2, 5-3-3, 5-3-4(A), 5-3-7, 5-3-8, 5-3-9, 5-3-10, 5-3-11, 5-3-12 and 5-3-14 of the City Code. (Ord. 3026, eff. 12-24-92)
- (F) Whenever this Chapter and Chapter 3 of this Title conflict with respect to hybrid dogs or hybrid cats, the more restrictive of the two shall apply. (Ord. 3026, eff. 12-24-92)
- (G) Any person or persons convicted of a violation of any provision of this section shall be guilty of a petty offense, and upon conviction shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00), in addition to any other sanctions to which the defendant may be subject. Any person or persons who own, keep, possess, harbor, maintain or control any dog, hybrid dog or hybrid cat that is in violation of this section

shall also be liable and responsible for that violation, whether or not they directly allowed the dog, hybrid dog or hybrid cat to be in violation thereof. (Ord. 3026, eff. 12-24-92)

**5-2-6: IMPOUNDMENT; NOTICE; COSTS; DISPOSAL:**

(amd. Ord. 3026, eff. 12-24-92)

- (A) Upon the impoundment of a licensed dog or hybrid dog, the Enforcement Agent shall make reasonable efforts to notify the owner. Any impounded licensed dog or hybrid dog may be reclaimed provided that the person reclaiming the dog or hybrid dog furnishes proof of right to do so and pays an impoundment fee of fifteen dollars (\$15.00), together with a per diem charge of five dollars (\$5.00) for each day that the dog or hybrid dog was impounded, in addition to any veterinary costs incurred by the city and other costs incurred by the city for maintaining the dog or hybrid dog during the period of impoundment. If the dog or hybrid dog is not reclaimed within five (5) days from the date of impoundment, the Enforcement Agent may sell or otherwise dispose of such dog or hybrid dog in a humane manner.
  
- (B) Any impounded unlicensed dog or hybrid dog may be reclaimed provided that the person reclaiming the dog or hybrid dog furnishes proof of right to do so, pays an impoundment fee of fifteen dollars (\$15.00), together with a per diem charge of five dollars (\$5.00) for each day that the dog or hybrid dog was impounded, in addition to any veterinary costs incurred by the city and other costs incurred by the city for maintaining the dog or hybrid dog during the period of impoundment, and complies with the licensing requirements of this chapter. If the dog or hybrid dog is not reclaimed within three (3) days from the date of impoundment, the Enforcement Agent may sell or otherwise dispose of such dog or hybrid dog in a humane manner.

**5-2-7: HYBRID DOGS AND HYBRID CATS:**

(Ord. 3026, eff. 12-24-92)

- (A) The licensing provisions of Section 5-2-2 of the City Code shall apply to hybrid dogs.
  
- (B) The provisions of City Code Section 5-2-5 shall apply to hybrid dogs.
  
- (C) Each hybrid dog licensed under the provisions of this chapter shall receive, at the time of licensing, a durable metallic tag on which shall be inscribed the name of the city, the number of the license, and the date on which it expires. The tag shall be attached to the collar or harness which shall be worn by the hybrid dog or hybrid cat at all times when off the premises of his owner. Whenever a tag is lost, a duplicate tag shall be

issued upon application by the owner and the payment of a five dollar (\$5.00) fee.

- (D) All hybrid dogs and hybrid cats will be confined either within a household, or if outside the house then in a secure fenced yard or kennel, enclosed by a fence not less than six (6) feet high and located no closer than ten (10) feet from the property line, and with such flooring and roofing to preclude the escape of the animal therefrom. All gates entering the yard and/or kennel in which the animal is enclosed shall be padlocked. All such enclosures will have signs, legible and readable from at least ten (10) feet away, clearly stating "Dangerous Dog", "Beware of Dog", or similar warning. Notwithstanding any other provision to the contrary in this Chapter or in Chapter 3 of this Title, all hybrid dogs and hybrid cats must be within a fully enclosed fenced area, of sufficient height that the hybrid dog or hybrid cat is unable to escape therefrom.
- (E) Whenever a hybrid dog or hybrid cat is not physically enclosed, within the owner's property, it shall be restrained by a leash of no longer than six (6) feet.
- (F) At the time of obtaining a license and subsequent renewals thereof, the owners of the hybrid dog must present proof of current vaccination utilizing a killed vaccine product.
- (G) No hybrid dog or hybrid cat will be allowed outside of the enclosure provided for in "C" above unless the animal is adequately restrained in such a manner that it is physically precluded from biting any other animal or people.

**5-2-8: DANGEROUS ANIMALS:**

(Ord. 3026, eff. 12-24-92)

- (A) Any dog or hybrid dog or hybrid cat which bites or otherwise physically attacks another animal or human being is hereby declared to be a dangerous animal, and as such is hereby declared to be a public nuisance.
- (B) The first time that a dog or hybrid dog or hybrid cat bites or otherwise physically attacks another animal or human being shall result in the following penalties being imposed by the court against the owner and/or person in possession or control of said dangerous animal:
  - 1. A civil sanction shall be levied, in accordance with Section 1-3-2 of the City Code. The mandatory minimum sanction shall not be less than twenty-five dollars (\$25.00).

2. A general liability insurance policy may be required, insuring the general public from any and all damages or personal injuries which may be sustained as a result of a bite or other attack by that hybrid dog or hybrid cat, in an amount of not less than one hundred thousand dollars (\$100,000.00). All such insurance must be written by insurance companies licensed and authorized to do business in the State of Arizona, as evidenced by a Certificate of Authority issued by the State Insurance Department.
  3. The dangerous animal may be required to comply with all of the requirements as set forth in Sections 5-2-7(C) and (D).
- (C) The second time that a dangerous animal bites or otherwise physically attacks another animal or human being shall result in the following penalties being imposed by the court against the owner and/or person in possession or control of said dangerous animal:
1. A civil sanction shall be levied, in accordance with Section 1-3-2 of the City Code. The mandatory minimum sanction shall not be less than one hundred fifty dollars (\$150.00).
  2. A general liability insurance policy shall be required for that animal (if not already required) in accordance with Section 5-2-8(B)(2).
  3. The dangerous animal shall be required to comply with all the requirements as set forth in Section 5-2-7(C) and (D).
- (D) The third time that a dangerous animal bites or otherwise physically attacks another animal or human being shall result in the immediate impoundment of said animal by an Animal Control Officer in accordance with Section 5-3-11(B)(1) and (2). Upon a finding by the Court that a dangerous animal has bitten or physically attacked another animal or human being a third time, the Court shall:
1. Levy a civil sanction, in accordance with Section 1-3-2 of the City Code. The mandatory minimum sanction shall not be less than two hundred fifty dollars (\$250.00).
  2. Order that the dangerous animal be humanely destroyed by the Animal Control Officer.
- (E) Exceptions: This section shall not apply to the following circumstances:
1. Where the person or animal was on private property without legal authority, or without the consent of the landowner, provided that

there is signage at the entry to the property indicating "beware of dog" or similar such signage.

2. Where the animal which bites or physically attacks is provoked by the animal or person attacked.
3. Where the person attacked picked up or handled an injured dog.
4. Where the person attacked was attempting to intervene in a fight between two animals.
5. Where the bite or attack was by a police dog in performance of that dog's duties.
6. Where the bite is by a puppy under the age of six (6) months in the course of play.

#### **5-2-9: AUTHORITY OF CITY COURT:**

Notwithstanding any provision to the contrary in this Chapter, the City Magistrate, pursuant to Arizona Revised Statutes § 11-1014, may order that a hybrid dog or hybrid cat which bites any person may be euthanised and submitted to an appropriate diagnostic laboratory to determine if the animal is rabid. Said order shall only be issued after notice to the owner, if any, and a hearing. Any application filed with the Court pursuant to this section shall be given an expedited hearing by the Court. (Ord. 3026, eff. 12-24-92)

#### **5-2-10: PENALTIES:**

(Ord. 3026, eff. 12-24-92)

- (A) Any person who interferes with the Enforcement Agent or an Animal Control Officer while in the performance of his or her duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code.
- (B) Any person who violates any provision of this Chapter (other than Section 5-2-5) shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code.
- (C) Any person who violates Section 5-2-7(A) or (B) shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code, provided, however, that the mandatory minimum fine shall not be less than two hundred fifty dollars (\$250.00).

- (D) Any criminal penalties provided for in this section shall be cumulative, and shall be in addition to any other sanctions to which the defendant may be subject.

## CHAPTER 5-3: ANIMALS AND FOWL

### SECTIONS:

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### 5-3-1: REGULATION OF ANIMALS:

(A)

1. Within the city limits, for each parcel of real property containing not less than one-half (1/2) acre of land, two (2) head of livestock may be maintained thereon, and one additional head of livestock may be maintained for each additional one-half (1/2) acre of land. (amd. Ord. 3050, eff. 2-25-1993)
2. That portion of a parcel on which the livestock is to be kept or maintained shall be separated from any human dwelling areas or habitats and enclosed as follows:
  - (a) The portion of the parcel upon which the livestock is kept or maintained must be entirely fenced or enclosed by an appropriate structure to contain said livestock; and (amd. Ord. 3050, eff. 2-25-1993)
  - (b) Any fenced areas or enclosures required pursuant to the foregoing subsection, and which are constructed after the effective date of this subsection, must be at least fifty feet (50') from any dwelling house on the parcel of real property upon which the livestock is located, shall be at least one

hundred feet (100') from any existing dwellings of adjacent property owners, and shall be at least fifty feet (50') from the property line upon which the fence or enclosure is constructed. (amd. Ord. 3050, eff. 2-25-1993)

- (c) The minimum size of the actual enclosure and/or structure in which the livestock are housed shall be no less than six hundred (600) square feet for one head of livestock. If additional livestock are sharing the same enclosure and/or structure, an additional three hundred (300) square feet per additional head of livestock is required. If there are separate enclosures and/or structures for additional livestock, each individual enclosure and/or structure must be at least six hundred (600) square feet per head of livestock. Enclosures include the living area for livestock, including, but not limited to, fenced areas, barns and other structures for the housing of livestock. (amd. Ord. 3050, eff. 6-1-1993)
- (d) Any fence or enclosure required herein must comply with all applicable zoning, building, engineering and other city requirements, codes and regulations. (amd. Ord. 3050, eff. 2-25-1993)

- 3. The owner or person in possession of livestock shall own or lease the land upon which the livestock are kept or maintained.
- 4. Livestock, as used in this chapter, includes but is not limited to, horses, ponies, mules, sheep, goats, cattle and other meat animals.
- 5. Animals, as used in this chapter, is inclusive of livestock, fowl, birds, rodents, domestic or wild animals owned by or under the control or dominion of a person or persons. (Ord. 687, 11-9-1964)
- 6. Parcel, as used in this chapter, is defined as set forth in section 11.2 of the Prescott land development code (lot or plot). (Ord. 4449, 1-11-2005)

(B) (Rep. by Ord. 3250, eff. 9-22-1994)

(C) (Rep. by Ord. 3250, eff. 9-22-1994)

(D) (Rep. by Ord. 3250, eff. 9-22-1994)

(E) No swine or roosters shall be kept or maintained within the city limits. Notwithstanding this subsection, pet pigs shall be allowed within the city



limits, provided that such pet pigs shall be limited to two (2) pet pigs per household, each pig not to exceed one hundred (100) pounds in weight.

- (F) Any mother animal covered by this Chapter and her offspring shall be declared one (1) head of livestock until her offspring is weaned.
- (G)A Il owners or livestock shall allow an inspection by an Animal Control Officer of the premises in which the livestock are kept or maintained by an Animal Control Officer, during reasonable hours, to investigate complaints received regarding alleged violations of City and State Code.

### **5-3-2: RUNNING AT LARGE PROHIBITED:**

Fowl, birds, rodents, rabbits, ferrets, pet pigs, livestock, hybrid dogs, or wild animals owned or controlled by humans shall be physically secured within the owner's property and shall not be at large, unless that animal is under the immediate physical control of a human by means of a leash or other physical restraint. In the event that any of the foregoing animals are on a leash on the owner's property, said leash must not be less than eight (8) feet in length (unless a short leash is required pursuant to City Code, Section 5-2-7). (amd. Ord. 3025, eff. 11-12-92)

### **5-3-3: NUISANCES:**

- (A) The keeping of any animals, including but not limited to, fowl, birds, rodents, rabbits, ferrets, pet pigs, livestock, domestic or wild animals whatsoever, which shall annoy or disturb the peace, comfort or health of the neighborhood, or any person within the boundaries of the City, shall constitute a nuisance, and shall be punishable as prescribed in Section 5-3-13.
- (B) Every person having, maintaining or keeping any animals, including but not limited to, fowl, birds, rodents, livestock, or domestic or wild animals shall at all times keep and maintain the premises upon which such animals are located, so covered, enclosed, protected, cleaned, drained and disinfected so that no offensive or noxious gases or odors may or shall emanate therefrom, the odor of which would be detectable from adjoining property, and any such premises which are not at all times kept and maintained so covered, enclosed, protected, cleaned, drained and disinfected, or which are allowed to become a breeding place for flies, mosquitoes or other insects, or to become offensive or noxious to the residents in the immediate neighborhood, family or person, are hereby declared to be unsanitary and a nuisance and subject to summary abatement and/or the penalties provided for in Section 5-3-13.

#### **5-3-4: SANITARY REGULATIONS:**

The premises upon which any animals, including but not limited to, fowl, birds, rodents, rabbits, ferrets, pet pigs, livestock, domestic or wild animals subject to this chapter are kept, shall be maintained in a sanitary condition and subject to inspection and regulation by the City, which shall have the right of entry upon private property at reasonable times for the purposes of inspection hereunder.

- (A) The sanitary regulations for the keeping of chickens, fowl, birds, rodents, rabbits, ferrets and pet pigs is more fully described as follows:
  - (1) Droppings must be removed from open pens or enclosures at least once weekly.
  - (2) Adequate fly-tight containers approved by the Yavapai County Health Department or by a Prescott Animal Control Officer for the storage of excreta must be provided unless the droppings are completely removed from the property upon which the pens or enclosures are located at least once weekly.
  - (3) Water and feed troughs must be provided. All water tanks or troughs must be water tight and must contain a sufficient amount of water at all times suitable from a health and sanitary aspect for consumption by animals.
  - (4) Feeding vegetable or meat waste or garbage shall be exclusively in containers or on an impervious platform.
  
- (B) The sanitary regulations for keeping of livestock and all other domestic and wild animals is more fully described as follows:
  - (1) Manure must be completely removed from stables, stable yards and other animal enclosures at least once weekly, and placed in adequate fly-tight containers, or removed to outside of the City limits or to a landfill within the City limits in which disposal of same is permitted.
  - (2) Fly-tight containers must be approved by the Yavapai County Health Officer or by a Prescott City Animal Control Officer for the storage of manure.
  - (3) No mound storage of animal droppings or manure will be permitted; this shall not preclude, however, retaining nominal amounts of animal droppings or manure to be used for fertilizer purposes on

that person's property, provided that said mounds do not create a nuisance pursuant to Section 5-3-3 of this code.

- (4) Drinking troughs or tanks must be provided with adequate overflow drainage to prevent saturation of the surrounding soil. Water and feed troughs must be provided. All water tanks or troughs must be water tight and must contain a sufficient amount of water at all times suitable from a health and sanitary aspect for consumption by animals.
- (5) Feeding shall require adequate containers or feed troughs of such size, kind and number to discourage scatter and eliminate unsanitary conditions as defined in Section 5-3-3(B).
- (6) Spillage and leftovers from animal feedings, including grains, hay and vegetable food must either be removed daily or otherwise disposed of in such a manner as to prevent fly and/or insect propagation or the creation of odors.
- (7) Intentional or knowingly allowing the breeding of livestock within the confines or limits of the City limits, unless said breeding is accomplished within the confines of a barn or other enclosure, closed to the public view, shall be prohibited.

**5-3-5: COMMERCIAL STABLES; PERMIT:**

DELETED BY ORDINANCE NO. 3250, EFF. 9-22-94

**5-3-6: USE OF CITY RIGHT-OF-WAY:**

- (A) No animal shall be allowed on City streets or other City rights-of-way unless under the immediate physical control of the owner thereof, or that owner's agent.
- (B) No livestock shall be entitled to travel upon any sidewalks for any purpose.
- (C) Notwithstanding the foregoing, any use of City streets or City rights-of-way by livestock or other animals shall be done in such a manner that it shall not create a dust nuisance, nor interfere with vehicular traffic or pedestrian traffic.
- (D) In the event that livestock is utilized on City streets by a commercial enterprise or other business, the person in control of such animals or livestock shall be responsible for removing from the City streets any manure generated by that animal.

### **5-3-7: REGISTRATION AND LICENSE EXEMPTIONS:**

DELETED BY ORDINANCE NO. 3250, EFF. 9-22-94

### **5-3-8: FAILURE TO RENDER AID:**

If any person accidentally or otherwise hits or injures an animal with an automobile or other vehicle or otherwise injures the same within the City limits, and leaves the scene of the accident without making a reasonable effort to contact the owner, or an Animal Control Officer or a police officer, or fails to give reasonable aid and assistance in the care of such animal, he shall be deemed guilty of a misdemeanor and punished as set forth in Section 5-3-13.

### **5-3-9: HARBORING LOST ANIMALS:**

It shall be unlawful for any person to harbor or keep within the city any lost or stray animal without making reasonable attempts to locate the owner thereof. If the owner of an animal which appears to be lost or strayed cannot be immediately found, it shall be the duty of the finder to notify the Yavapai County Humane Society at once and file a "Found Report" as soon as practicable, but in no event no more than seventy-two (72) hours.

### **5-3-10: KEEPING WILD ANIMALS:**

It shall be unlawful for any person having charge, care or control of any wild animal, as defined in Title 17, Arizona Revised Statutes, to keep, bring, maintain or exhibit such animal within the City unless the person has a wildlife hobby license issued by the State of Arizona Game and Fish Commission, and has filed a copy of said license with the City Animal Control Center.

### **5-3-11: IMPOUNDMENT; NOTICE; COST:**

- (A) An Animal Control Officer or Police Officer of the City is authorized to enter upon private property and impound all animals, including but not limited to, fowl, birds, rodents, rabbits, ferrets, pet pigs, hybrid dogs, domestic and wild animals and livestock, running at large.
- (B) An Animal Control Officer or Police Officer of the City is authorized to impound any and all animals, including but not limited to, fowl, birds, rodents, rabbits, ferrets, pet pigs, hybrid dogs, wild or domestic animals and livestock which appear to be mistreated or neglected when, in the opinion of an Animal Control officer, it may be detrimental to the health, safety or well being of the animal to remain with the owner or person in control thereof.

1. The Animal Control Officer shall, within twenty-four (24) hours of impoundment or on the next court day (whichever is later) file a civil complaint of impoundment and request forfeiture in City Court, specifying the basis for the impoundment. The complaint shall be served upon the owner or person in control of the animal as soon as possible thereafter. If the owner is not known or cannot be located, a copy of the complaint shall be posted in a conspicuous place at the location where the animal was impounded if the animal was impounded from private property. If the owner is not known or cannot be located, and the animal was found at large, posting of the complaint shall be made at the Yavapai County Courthouse. Within five (5) days of service of the complaint or posting thereof, the owner of an animal impounded pursuant to this section may file a petition in the City Court for an order to show cause why the animal should not be returned to the owner. At the hearing on the order to show cause, the City Magistrate, upon a finding by a preponderance of the evidence that there are reasonable grounds to believe either (1) that the neglect or cruelty to the animal will continue, or (2) that the owner willfully or through gross negligence caused or allowed to be caused pain, suffering or serious injury to the animal, shall order the animal forfeited to the Prescott Animal Control Center.
  2. If the owner fails to appear at the order to show cause hearing, or if no petition for an order to show cause is filed within five (5) days of service of the complaint, the City Magistrate shall order the animal forfeited to the Prescott Animal Control Center.
  3. In addition to any criminal penalties under section 5-3-13 of this chapter and Arizona Revised Statutes section 13-2910, the court may also order, upon a finding of neglect or cruelty, that any animal under the custody or control of the defendant be placed for adoption or humanely destroyed.
- (C) Any animal impounded pursuant to subsection (A) of this section may be reclaimed provided that the person reclaiming same furnishes proof of his right to do so and pays the appropriate impoundment charge, in addition to the cost to the city for transporting same to the pound, veterinary costs incurred by the city and the appropriate per diem charge. The impoundment fee for livestock shall be thirty dollars (\$30.00), and the per diem fee for livestock shall be ten dollars (\$10.00) per day. The impoundment fee for fowl, birds, rodents, and all other domestic or wild animals shall be fifteen dollars (\$15.00), and the per diem fee shall be five dollars (\$5.00) per day. If any unlicensed dog is not reclaimed within seventy two (72) hours from the date of impoundment, the enforcement agent may sell or otherwise dispose of same in a humane manner. If any

other animal is not reclaimed within five (5) days from the date of impoundment, the enforcement agent may sell or otherwise dispose of same in a humane manner. (Ord. 687, 11-9-1964)

**5-3-12: DISPOSAL OF ANIMALS:**

- (A) The animal control supervisor shall be entitled to place for adoption any animals coming into the custody and control of the city animal control center which has not been reclaimed pursuant to subsection 5-3-11(C) of this chapter, or which animal has been ordered adopted or forfeited to the city pursuant to subsection 5-3-11(B) of this chapter.
- (B) The animal control supervisor may refuse to allow any person to adopt an animal from the Prescott animal control center if the animal control supervisor has reason to believe that it would not be in the best interests of the animal, including, but not limited to, the following reasons:
  - 1. The adopter does not have proper facilities to contain or care for the animal; or
  - 2. The adopter wants the animal for the purpose of resale or laboratory experimentation; or
  - 3. The adopter has received three (3) or more citations for animal control violations within any twelve (12) month period; or
  - 4. The adopter has been convicted of cruelty, inhumane treatment or neglect to an animal by any duly authorized court or resides with any person so convicted. (Ord. 687, 11-9-1964)

**5-3-13: PENALTIES:**

Unless specifically designated otherwise, any person who violates any provision of this chapter shall be guilty of a petty offense, and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00), in addition to any other sanctions to which the defendant may be subject as set forth in section 5-3-11 of this chapter. Any person or persons who own, keep, possess, harbor, maintain or control any animals that are in violation of this chapter shall be liable and responsible for violation of this chapter whether or not they directly allowed that animal to be in violation thereof. (Ord. 687, 11-9-1964)

**5-3-14: LIABILITY FOR DAMAGE OR DESTRUCTION CAUSED BY ANIMALS:**

- (A) If any animal within the city shall damage or destroy any property other than the property of the person owning or having the control or custody of

such animal, the owner or person having custody or control of such animal shall be guilty of a petty offense, and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00).

- (B) Upon the conviction of any person pursuant to subsection (A) of this section, the court in its discretion shall order that restitution be made to the owner of said damaged or destroyed property and may enter such other orders as may be appropriate to ensure that such animal be kept from running at large. (Ord. 687, 11-9-1964)

**5-3-15: EXEMPTIONS AND EXCEPTIONS:**

- (A) An owner or person in possession of four (4) or more acres of land shall be exempt from the provisions of subsections 5-3-4(A)1, (A)2(c), (B)1, (B)2, (B)3, (B)5, (B)6 and (B)7 of this chapter.
- (B) Veterinary hospitals licensed pursuant to Arizona Revised Statutes section 32-2211 et seq., shall be exempt from the provisions of sections 5-3-1, 5-3-7 and 5-3-10 of this chapter. (Ord. 687, 11-9-1964)
- (C) A "miniature horse" (not to exceed 2 miniature horses per parcel), to be defined as a horse which when fully grown weighs no more than one hundred (100) pounds, shall be exempt from the provisions of subsections 5-3-1(A)1 and (A)2 of this chapter; provided, however, that in the event that the owner of the miniature horse elects to erect a fence or enclosure for said miniature horse, then the provisions of subsections 5-3-1(A)2(c) and (A)2(d) of this chapter shall apply.

(Ord. 4041, 10-10-2000)

## CHAPTER 5-4: UNNECESSARY NOISE PROHIBITED

### SECTIONS:

- 5-4-1: LOUD NOISE PROHIBITED:
- 5-4-2: SPECIFIC ACTS PROHIBITED:
- 5-4-3: EXCEPTIONS:
- 5-4-4: STATUTORY CONSTRUCTION:
- 5-4-5: TEMPORARY EXCEPTIONS:
- 5-4-6: VIOLATIONS AND PENALTIES:

#### **5-4-1: LOUD NOISE PROHIBITED:**

The creating, permitting or allowing of any unreasonably loud and disturbing noise within the city limits is hereby prohibited. An "unreasonably loud and disturbing noise" is hereby defined as noise of such character, intensity or duration as to be detrimental to the life or health or well-being of any individual, or as to disturb the public peace and quiet of a neighborhood, family or person. (Ord. 4053, 11-14-2000)

#### **5-4-2: SPECIFIC ACTS PROHIBITED:**

- (A) The playing of any radio, stereo, player, or other sound device, including, but not limited to, loudspeakers or other devices for reproduction or amplification of sound, from a public street, public property or public right of way, which can be heard seventy five feet (75') or more away.
- (B) Noise emanating from the operation of portable machinery for stone crushing or grinding, or rock crushing or grinding at a temporary construction site, which disturbs the public peace and quiet of a neighborhood, family or person, unless specifically allowed by action of the city council, and in that event under such terms, conditions and limitations as set forth in the council's approval.
- (C) The operation of a motor vehicle in such a manner as to cause the tire or tires to squeal or screech.
- (D) The use of outdoor loudspeakers for the purposes of outdoor communication.
- (E) Outdoor noise occurring during the course of construction at a temporary construction site which is generated by blasting, excavation, generators or heavy equipment (including, but not limited to, backhoes, tractors, concrete trucks, dump trucks, jackhammers and air compressors) shall only be allowed between the hours of six o'clock (6:00) A.M. through eight



o'clock (8:00) P.M. Monday through Saturday, unless expanded hours of operation are specifically allowed by action of the city council, after a public comment meeting, and in that event under such terms, conditions and limitations as set forth in the council's approval. (Ord. 4053, 11-14-2000)

**5-4-3: EXCEPTIONS:**

None of the terms or prohibitions as set forth in this chapter shall apply to or be enforced against:

- (A) Any governmental vehicle or activity while engaged in necessary public business.
- (B) Any private vehicle or activity while engaged in necessary public business at the request of a governmental entity, provided, however, that said private vehicle or activity shall not be exempt from the provisions of subsection 5-4-2(E) of this chapter.
- (C) Excavations or repairs of water or sewer lines or utilities by or on behalf of a governmental entity or utility company.
- (D) The provisions of subsection 5-4-2(A) of this chapter shall not apply to special events, concerts, parades, sporting events and similar activities which are taking place on public property with the permission or consent of that public entity.
- (E) The provisions of subsection 5-4-2(D) of this chapter shall not apply to:
  - 1. Presently established and existing businesses which have an outdoor loudspeaker system as of September 1, 2000;
  - 2. The use of intercoms for two-way communications, where the conversation cannot be heard beyond the property line upon which the intercom is located;
  - 3. Special events, concerts, parades, sporting events and similar activities which are taking place on public property with the permission or consent of that public entity.
- (F) The provisions of subsection 5-4-2(E) of this chapter shall not apply to refueling activities and maintenance and repair of vehicles and equipment at temporary construction sites.
- (G) Any property owner or lessee working on property owned or leased by him or her shall be exempt from the Sunday prohibition as set forth in

subsection 5-4-2(E) of this chapter; provided, however, that the remaining provisions of this chapter shall apply. (Ord. 4053, 11-14-2000)

**5-4-4: STATUTORY CONSTRUCTION:**

In determining whether a disturbance has occurred, the "reasonable person standard" shall be utilized. (Ord. 4053, 11-14-2000)

**5-4-5: TEMPORARY EXCEPTIONS:**

- (A) In the event that it is necessary to produce or emit objectionable noise for a temporary, limited period of time, the city council, after a public comment meeting, may permit an exception to the provisions of this chapter, and in that event under such terms, conditions and limitations as set forth in the council's approval.
- (B) In the event that it is necessary to produce or emit objectionable noise for a temporary, limited period of time, and the necessity of producing or emitting said noise is of an emergency nature affecting the health or safety of persons or property, city council approval pursuant to subsection (A) of this section shall not be required; provided, however, that if said noise is to continue for a period of more than twenty four (24) hours, then upon application to the city manager or his designee, the city manager or his designee may permit an exception to the provisions of this chapter, and in that event under such terms, conditions and limitations as set forth in the foregoing approval. (Ord. 4053, 11-14-2000)

**5-4-6: VIOLATIONS AND PENALTIES:**

- (A) The remedies herein are cumulative, and the city may proceed under one or more such remedies.
- (B) Any person who is convicted of a violation of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code.
- (C) Any owner, responsible party or other person having control over a structure or parcel of land who causes, permits, allows, facilitates or aids or abets any violations of any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code.
- (D) Any owner, responsible party or other person having control over a construction project or business who causes, permits, allows, facilitates or aids or abets any violations of any provision of this chapter, shall be guilty

of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code.

- (E) A violation of this chapter is hereby declared to be a public nuisance. In the event of a continuing violation of this chapter, the city attorney is hereby authorized to pursue a request for injunctive relief in a court of competent jurisdiction. In the event that an injunction is issued pursuant to this subsection, the court may also award reasonable attorney fees in favor of the city. (Ord. 4053, 11-14-2000)

## CHAPTER 5-5: ADMINISTRATIVE INSPECTION WARRANTS

### SECTIONS:

#### 5-5-1: REFUSAL TO COMPLY WITH ADMINISTRATIVE INSPECTION WARRANTS:

#### **5-5-1: REFUSAL TO COMPLY WITH ADMINISTRATIVE INSPECTION WARRANTS:**

(Ord. 3688, effective 12-12-97)

- (A) The refusal to comply with an administrative search warrant or administrative inspection warrant, issued by a Court of competent jurisdiction, is punishable as a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code. Each and every instance of refusal shall be deemed and considered a separate offense.
- (B) The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the City may institute any other remedies available.

## CHAPTER 5-6: INSTALLATION OF POLICE ALARM EQUIPMENT AND PROHIBITION OF TELEPHONE ALARM SYSTEMS

### SECTIONS:

- 5-6-1: POLICE ALARM SYSTEMS:
- 5-6-2: PERMISSIBLE ALARM SYSTEMS:
- 5-6-3: INSTALLATION AND MAINTENANCE OF EQUIPMENT:
- 5-6-4: INSTALLATION AND MAINTENANCE COSTS:
- 5-6-5: EXCEPTIONS:
- 5-6-6: TELEPHONE ALARM SYSTEMS PROHIBITED:
- 5-6-7: APPLICATION - REQUIREMENTS:
- 5-6-8: RESTRICTION - MONITORING PANELS, ANNUNCIATING OR RECEIVING EQUIPMENT:
- 5-6-9: INSTALLATION, MAINTENANCE COSTS AND SERVICE CHARGE:
- 5-6-10: SERVICE CHARGE PENALTY FOR FALSE ALARMS:
- 5-6-11: REMOVAL OF UNLAWFUL EQUIPMENT:
- 5-6-12: ADDITIONAL CONDITIONS:
- 5-6-13: CIVIL VIOLATION:

#### **5-6-1: POLICE ALARM SYSTEMS:**

The purpose of this Chapter is to establish standards and controls of the various types of intrusion, hold-up and other emergency alarm systems that require police response.

#### **5-6-2: PERMISSIBLE ALARM SYSTEMS:**

The only type of intrusion, hold-up and other emergency alarm systems that require police response, investigation and safeguarding of property shall be systems installed on property occupied by banks, loan institutions and such other establishments as are required by law to provide an alarm system for the institutions.

#### **5-6-3: INSTALLATION AND MAINTENANCE OF EQUIPMENT:**

The City shall make available to each approved institution sufficient space in the City of Prescott building (Police Department quarters) for the equipment, which shall terminate in the radio console, and the City shall have no obligation other than that set forth above to furnish space of any kind.

**5-6-4: INSTALLATION AND MAINTENANCE COSTS:**

All costs and recurring charges incurred in the installation, maintenance and monitoring of the systems permitted by this Section shall be borne by the institution. The cost of removing the present installations to another location in the City of Prescott building and having such installations terminate in the radio console of the Police Department shall be borne on a pro rata basis by the institutions involved.

**5-6-5: EXCEPTIONS:**

In as much as there are a few businesses at present maintaining this type of alarm system in the Police Department headquarters, and it would be a hardship on these businesses to cancel their equipment, those which presently have equipment, shall be allowed to retain the service, providing they are willing to bear the costs of the installation termination in the P.D. radio console. No other businesses will be permitted to enter the system, except with the permission of the Chief of Police.

**5-6-6: TELEPHONE ALARM SYSTEMS PROHIBITED:**

It shall be unlawful for any person to use or cause to be used any telephone device or telephone attachment that automatically selects a public primary telephone trunk line of the City of Prescott, and then reproduces any prerecorded message to report any burglary or other emergency.

**5-6-7: APPLICATION - REQUIREMENTS:**

Any person in the business of selling or leasing alarm systems who desires to have a private secondary telephone line terminate at one location in any City of Prescott building shall submit an application for such privilege in writing to the City Manager or his designated representative. Such application shall contain specific provisions relating to false alarms and testing procedures. Such application shall be approved if:

- (A) The termination of such telephone line will constitute no hinderance to regular City activities.
- (B) The person seeking the termination agrees that no messages will be telephoned on said line except by an agent of his with access to customer files; and
- (C) The person seeking the termination maintains adequate equipment and work force to repair, maintain or otherwise service alarms sold or leased by him.

**5-6-8: RESTRICTION - MONITORING PANELS, ANNUNCIATING OR RECEIVING EQUIPMENT:**

No person shall place any monitoring panels and annunciation or receiving equipment other than a private line telephone as provided in Section 5-6-7 hereof in any City of Prescott building. (Ord. 997; 9-25-72)

**5-6-9: INSTALLATION, MAINTENANCE COSTS AND SERVICE CHARGE:**

All costs and recurring charges incurred in the installation and maintenance of such private secondary telephone lines shall be from the person requesting the termination.

The same rate of service charge shall apply for each unit or the termination as it is applied to each unit installed by other businesses utilizing alarm systems as set forth in Section 10 of this Chapter.

**5-6-10: SERVICE CHARGE PENALTY FOR FALSE ALARMS:**

The charge by the City of Prescott to every user of this service shall be thirty-six dollars (\$36.00) per unit annually, prorated monthly (three dollars (\$3.00) per month). This charge will cover the first two (2) false alarms or false hold-up alarms to which the Police respond. For those establishments which have more than two (2) such false alarms per year to which the Police respond, this charge shall increase each succeeding year beginning January 1, in which there are more than two (2) such false alarms, in accordance with Table I below. The service charge shall remain unchanged annually for establishments having two (2) or less such false alarms.

TABLE I

No. of False Alarms	in Succeeding Year	Additional Charge Per Month
2	included in basic charge (\$3.00)	
3-7	\$1.50 each	
8-12	\$3.00 each	
13 and over	\$5.00 each	

A "false alarm" is defined as any malfunction of equipment or resulting from employee negligence. A false alarm caused by Acts of God, as substantiated by an insurance claim submitted by the affected establishment, shall not be considered as a false alarm and the establishment, shall not be considered as a

false alarm and the establishment will not be penalized by such occurrence. (Ord. 1008; 11-27-72)

**5-6-11: REMOVAL OF UNLAWFUL EQUIPMENT:**

In addition to any other remedy provided by law, the City Manager may, whenever he shall have knowledge of the use of any device or attachment not operated or maintained in accordance with the provisions of this Ordinance, order the removal of such device or attachment or such line termination to which such device or attachment is connected.

**5-6-12: ADDITIONAL CONDITIONS:**

The following additional conditions shall be complied with:

- (A) That the institutions and permittees shall always hold the City of Prescott harmless from and on account of any damages arising out of the activities of any client of the institution or permittee in the exercise of such permits and privileges including but not limited to damages to the City of Prescott, its agents, employees, and institutions and permittees while in or on the building in which the alarm cabinet is located, arising out of any defects in the alarm terminal or in the installation, monitoring or maintenance thereof;
- (B) That if the location of the police alarm room should be changed at any time, the institutions and permittees will move or remove their alarm systems or any part thereof without cost to the City; and
- (C) That the institutions and permittees shall comply with the other provisions of this Section. (Ord. 997, 9-25-72)

**5-6-13: CIVIL VIOLATION:**

Violation of any provision of this Chapter shall be a civil violation and shall be subject to the provisions of Section 1-3-2 for each day that the violation continues. (Ord. 2102, 8-8-89)



## CHAPTER 5-7: SEXUALLY ORIENTED BUSINESSES

### SECTIONS:

- 5-7-1: PURPOSE AND FINDINGS:
- 5-7-2: DEFINITIONS:
- 5-7-3: CLASSIFICATION:
- 5-7-4: LICENSE REQUIRED:
- 5-7-5: ISSUANCE OF LICENSE:
- 5-7-6: FEES:
- 5-7-7: INSPECTION:
- 5-7-8: EXPIRATION OF LICENSE:
- 5-7-9: SUSPENSION:
- 5-7-10: REVOCATION:
- 5-7-11: TRANSFER OF LICENSE:
- 5-7-12: LOCATION OF SEXUALLY ORIENTED BUSINESSES:
- 5-7-13: ADDITIONAL REGULATIONS FOR ADULT MOTELS:
- 5-7-14: REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS:
- 5-7-15: ADDITIONAL REGULATIONS FOR ESCORT AGENCIES:
- 5-7-16: ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS:
- 5-7-17: ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY:
- 5-7-18: PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS:
- 5-7-19: HOURS OF OPERATION:
- 5-7-20: EXEMPTIONS:
- 5-7-21: PENALTY:

### 5-7-1: PURPOSE AND FINDINGS:

- (A) Purpose: It is the purpose of this Chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

(B) Findings: Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc. , 475 U.S. 41 (1986), Young v. American Mini Theatres , 426 U.S. 50 (1976), and Barnes v. Glenn Theatre, Inc. , 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the Council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually oriented businesses defined in this Chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows.
4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States - 600 in

1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

8. As of November 1, 1997, there have been 5,278 reported cases of AIDS in the State, and 63 reported cases in Yavapai County, Arizona, 37 of which have died.
9. Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Yavapai County.
10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
12. The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
14. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
15. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
16. The findings noted in subsection (B)1 through (B)15 of this Section raise substantial governmental concerns.
17. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
19. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.
20. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
21. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Chapter is designed to prevent or who are likely to be witnesses to such activity.
23. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Chapter.
24. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

25. The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Chapter. (Ord. 3724, 2-24-1998)

**5-7-2: DEFINITIONS:**

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

**ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE:** A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", provided that the foregoing material, taken as a whole, appeals to the prurient interest, and lacks serious literary, artistic, political or scientific value; or
- (B) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".

A commercial establishment may have other business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as its principal business purpose is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", provided that the foregoing material, taken as a whole, appeals to the prurient interest, and lacks serious literary, artistic, political or scientific value.

**ADULT CABARET:** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (A) Persons who appear in a state of nudity or seminude; or
- (B) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (C) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT MOTEL: A hotel, motel or similar commercial establishment which:

- (A) Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- (B) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (C) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", and further provided that the foregoing material, taken as a whole, appeals to the prurient interest, and lacks serious literary, artistic, political or scientific value.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or seminude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", and further provided that the foregoing performances, taken as a whole, appeal to the prurient interest, and lack serious literary, artistic, political or scientific value.

EMPLOYEE: A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively

on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT: A person who, for monetary consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately perform a striptease for another person.

ESCORT AGENCY: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT: Means and includes any of the following:

- (A) The opening or commencement of any sexually oriented business as a new business;
- (B) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (C) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of any sexually oriented business.

LICENSEE: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

NUDE MODEL STUDIO: Any place where a person who appears seminude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Arizona or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (A) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
- (B) Where in order to participate in a modeling session an artist must arrange to participate in the session at least one day in advance of the session.

**NUDITY OR A STATE OF NUDITY:** The showing of the human male or female genitals, pubic area, vulva or anus, with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the uncovered male genitals with less than a fully opaque covering.

**PERSON:** An individual, proprietorship, partnership, corporation, association, or other legal entity.

**SEMINUDE OR IN A SEMINUDE CONDITION:** The showing of the female breast below a horizontal line across the top of the areola at its highest point, or a showing of the covered male genitals in a discernibly turgid state. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

**SEXUALLY ORIENTED BUSINESS:** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS:**

- (A) The human male genitals, or the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (B) Less than completely and opaquely covered human genitals, pubic region, or a female breast below a point immediately above the top of the areola.

**SPECIFIED CRIMINAL ACTIVITY:** Any of the following offenses:

- (A) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;



- (B) For which:
1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.
- (C) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES: Any of the following:

- (A) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- (C) Excretory functions as part of or in connection with any of the activities set forth in subsections (A) and (B) of this definition.

SUBSTANTIAL ENLARGEMENT (Of A Sexually Oriented Business): The increase in floor areas occupied by the business by more than twenty five percent (25%), as the floor areas exist on the date this Chapter takes effect.

TRANSFER OF OWNERSHIP OR CONTROL (Of A Sexually Oriented Business): Means and includes any of the following:

- (A) The sale, lease, or sublease of the business;
- (B) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (C) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by

bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. 3724, 2-24-1998)

**5-7-3: CLASSIFICATION:**

Sexually oriented businesses are classified as follows:

- (A) Adult arcades;
- (B) Adult bookstores, adult novelty stores, or adult video stores;
- (C) Adult cabarets;
- (D) Adult motels;
- (E) Adult motion picture theaters;
- (F) Adult theaters;
- (G) Escort agencies;
- (H) Nude model studios; and
- (I) Sexual encounter centers. (Ord. 3724, 2-24-1998)

**5-7-4: LICENSE REQUIRED:**

- (A) It is unlawful:
  - 1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Chapter.
  - 2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Chapter.
  - 3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Chapter.
- (B) An application for a license must be made on a form provided by the City.
- (C) All applicants must be qualified according to the provisions of this Chapter. Each applicant for a license pursuant to this Chapter shall submit a full set

of fingerprints to the City Police Department for the purpose of obtaining a state and Federal criminal records check pursuant to Arizona Revised Statutes section 41-1750 and PL 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation to determine whether the applicant meets the qualifications established in this Chapter.

- (D) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 5-7-5 of this Chapter and each applicant shall be considered a licensee if a license is granted.
- (E) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
  - 1. If the applicant is:
    - (a) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age or more.
    - (b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.
    - (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
  - 2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:
    - a) the sexually oriented business's fictitious name and b) submit the required registration documents.
  - 3. Whether the applicant, or a person residing with the applicant, has been convicted of a "specified criminal activity" as defined in this

Chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this Chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. Whether the applicant or a person residing with the applicant holds any other license under this Chapter or other similar sexually oriented business ordinances from another city or county and, if so, the names and locations of such other licensed businesses.
6. The single classification of license for which the applicant is filing.
7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
8. The applicant's mailing address and residential address.
9. A recent photograph of the applicant(s).
10. The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.
11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches ( $\pm 6''$ ).
12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any

existing sexually oriented businesses within five hundred feet (500') of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within five hundred feet (500') of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is legally in existence at the time an application is submitted.

13. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videocassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 5-7-14 of this Chapter.
- (F) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:
1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
  2. Age, date, and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Present business address and telephone number;
  6. Date, issuing state and number of driver's permit or other identification card information;
  7. Social security number; and
  8. Proof that the individual is at least eighteen (18) years of age.
- (G) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  3. A statement whether the applicant has been convicted of a "specified criminal activity" as defined in this Chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
- (H) The following information provided pursuant to this Chapter shall not be deemed to be a public record:
1. Criminal history information obtained pursuant to Arizona Revised Statutes section 41-1750 and/or PL 92-544.
  2. Information required and provided pursuant to subsections (E)8 and (E)10, and (F)4, (F)6 and (F)7 of this Section. (Ord. 3724, 2-24-1998)

**5-7-5: ISSUANCE OF LICENSE:**

- (A) Upon the filing of said application for a sexually oriented business employee license, the City shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  2. The applicant is under the age of eighteen (18) years;

3. The applicant has been convicted of a "specified criminal activity" as defined in this Chapter;
  4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulation, or prohibited by a particular provision of this Chapter; or
  5. The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 5-7-10 of this Chapter.
- (B) A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any "specified criminal activity" as defined in this Chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 5-7-6 of this Chapter.
- (C) Within thirty (30) days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. An applicant is under eighteen (18) years of age.
  2. An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  3. An applicant has failed to provide information reasonably necessary for issuance of the license, has failed to provide all information required by this Chapter, or has falsely answered a question or request for information on the application form.
  4. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

5. An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" defined in this Chapter.
  6. The premises to be used for the sexually oriented business has not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.
  7. The license fee required by this Chapter has not been paid.
  8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Chapter.
- (D) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 5-7-3 of this Chapter. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- (E) The Health Department, Fire Department, and the Building Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.
- (F) A sexually oriented business license shall issue for only one classification as found in Section 5-7-3 of this Chapter. (Ord. 3724, 2-24-1998)

**5-7-6: FEES:**

- (A) Every application for a sexually oriented business license or for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar (\$500.00) nonrefundable application and investigation fee.
- (B) In addition to the application and investigation fee required above, every sexually oriented business and every employee of a sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual nonrefundable license fee of five hundred dollars (\$500.00) within thirty (30) days of license issuance or renewal.
- (C) All license applications and fees shall be submitted to the Police Chief of the City. (Ord. 3724, 2-24-1998)



**5-7-7: INSPECTION:**

- (A) An applicant or licensee shall permit representatives of the Police Department, County Health Department, Fire Department, Community Development Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- (B) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business. (Ord. 3724, 2-24-1998)

**5-7-8: EXPIRATION OF LICENSE:**

- (A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 5-7-4 of this Chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- (B) When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final. (Ord. 3724, 2-24-1998)

**5-7-9: SUSPENSION:**

- (A) The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:
  - 1. Violated or is not in compliance with any section of this Chapter;
  - 2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter. (Ord. 3724, 2-24-1998)

**5-7-10: REVOCATION:**

- (A) The City shall revoke a license if a cause of suspension in Section 5-7-9 of this Chapter occurs and the license has been suspended within the preceding twelve (12) months.
- (B) The city shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;
  2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  3. A licensee has knowingly allowed prostitution on the premises;
  4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
  6. A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.
- (C) When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. (Ord. 3724, 2-24-1998)
- (D) When the decision to deny, suspend or revoke a license or permit becomes final, the applicant or licensee shall have the right to seek judicial review of the decision by way of special action or other available procedure in the superior court. The city shall consent to an expedited hearing to be held no later than twenty (20) days after the filing of the action, and to an expedited disposition. The decision to suspend, revoke or refuse to renew a license or permit shall be stayed until a decision on the merits by the superior court, provided that the applicant or licensee files the action within thirty (30) calendar days after final administrative action by the city. (Ord. 3895, 7-27-1999)

**5-7-11: TRANSFER OF LICENSE:**

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. 3724, 2-24-1998)

## **5-7-12: LOCATION OF SEXUALLY ORIENTED BUSINESSES:**

- (A) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than industrial, as defined and described in the Prescott land development code. (Ord. 4449, 1-11-2005)
- (B) A person commits an offense if the person operates or causes to be operated a sexually oriented business within five hundred feet (500') of:
1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  2. A public or private educational facility including, but not limited to, child daycare facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, charter schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; (Ord. 3724, 2-24-1998)
  3. A boundary of a residential district as defined in the Prescott land development code; (Ord. 4449, 1-11-2005)
  4. A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities, or which has been designated as open space or similar space for use by the general public; (Ord. 3724, 2-24-1998)
  5. The property line of a lot devoted to a residential use as defined in the Prescott land development code; (Ord. 4449, 1-11-2005)
  6. An entertainment business which is oriented primarily towards children or family entertainment; or
  7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state, other than the licensed premises in which the sexually oriented business is located.

- (C) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within five hundred feet (500') of another sexually oriented business; or within one thousand feet (1,000') of two (2) other sexually oriented businesses.
- (D) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (E) For the purpose of subsection (B) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the property line containing a building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in said subsection (B). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- (F) For purposes of subsection (C) of this Section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest property line in which each business is located.
- (G) Any sexually oriented business lawfully operating on February 10, 1998, that is in violation of subsections (A) through (F) of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within five hundred feet (500') of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is/are nonconforming.
- (H) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (B) of this Section within five hundred feet (500') of the sexually oriented business. This provision applies only to the renewal of a valid

license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (Ord. 3724, 2-24-1998)

**5-7-13: ADDITIONAL REGULATIONS FOR ADULT MOTELS:**

- (A) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an "adult motel" as that term is defined in this Chapter.
- (B) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.
- (C) For purposes of subsection (B) of this Section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. 3724, 2-24-1998)

**5-7-14: REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS:**

- (A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
  - 1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches

(±6"). The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.
4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the licensee to ensure that the view area specified in subsection (A)5 of this Section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (A)1 of this Section.
7. No viewing room may be occupied by more than one person at any time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
  11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
  12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
  13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
  14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight inches (48") of the floor.
- (B) A person having a duty under subsection (A)1 through (A)14 of this Section commits a misdemeanor if he knowingly fails to fulfill that duty. (Ord. 3724, 2-24-1998)

**5-7-15: ADDITIONAL REGULATIONS FOR ESCORT AGENCIES:**

- (A) An escort agency shall not employ any person under the age of eighteen (18) years.
- (B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (Ord. 3724, 2-24-1998)

**5-7-16: ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS:**

- (A) A nude model studio shall not employ any person under the age of eighteen (18) years.
- (B) A person under the age of eighteen (18) years commits an offense if the person appears seminude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.
- (C) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a

nude model studio premises which can be viewed from the public right of way.

- (D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. 3724, 2-24-1998)

**5-7-17: ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY:**

- (A) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
- (B) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a nude or seminude condition unless the person is an employee who, while nude or seminude, shall be at least ten feet (10') from any patron or customer and on a stage at least two feet (2') from the floor.
- (C) It shall be a misdemeanor for an employee, while nude or seminude in a sexually oriented business, to solicit or accept any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is nude or seminude in a sexually oriented business.
- (D) It shall be a misdemeanor for an employee, while nude or seminude, to touch a customer or the clothing of a customer.
- (E) It shall be a misdemeanor for a customer of a sexually oriented business to touch an employee, while that employee is nude or seminude.
- (F) It shall be a misdemeanor for an employee to allow a customer of a sexually oriented business to touch that employee, while that employee is nude or seminude. (Ord. 3724, 2-24-1998)

**5-7-18: PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS:**

A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

(Ord. 3724, 2-24-1998)



**5-7-19: HOURS OF OPERATION:**

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and twelve o'clock (12:00) noon on Sundays. (Ord. 3724, 2-24-1998)

**5-7-20: EXEMPTIONS:**

- (A) Exempt from the provisions of this Chapter are massage therapists who have satisfied one of the following requirements:
1. Have successfully completed the curriculum or curricula totaling a minimum of five hundred (500) hours of one or more approved massage/bodywork schools, such institutions being approved by the Arizona State Board for Private Postsecondary Education or Arizona Department of Education, or its equivalent in other states; or
  2. Hold a current license from any other state whose licensure requirements meet or exceed those defined within this Section; or
  3. Have received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board of Therapeutic Massage and Bodywork or other massage therapist agency approved by the National Commission for Certifying Agencies; or
  4. Are members in good standing of a national professional massage association that establishes standards based upon educational qualifications.
- (B) It is a defense to prosecution under subsection 5-7-17(A) of this Chapter that a person appearing in a state of nudity did so in a properly licensed adult cabaret, as a part of that person's performance; provided, however, that compliance with subsections 5-7-17(B) through (F) of this Chapter, as well as the remainder of this Chapter, shall still be required. (Ord. 3724, 2-24-1998)

**5-7-21: PENALTY:**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. (Ord. 3724, 2-24-1998)

## CHAPTER 5-8: LIQUOR VIOLATIONS

### SECTIONS:

5-8-1: CONSUMING SPIRITUOUS LIQUOR IN A PUBLIC PLACE:

5-8-2: PENALTY:

### 5-8-1: CONSUMING SPIRITUOUS LIQUOR IN A PUBLIC PLACE:

- (A) It is unlawful and a misdemeanor for any person to consume spirituous liquor in a public place, thoroughfare or gathering.
1. This paragraph shall not apply to the sale of spirituous liquors on the premises of and by an on-sale retail liquor licensee.
  2. This paragraph shall not apply to a person consuming a spirituous liquor on private property with permission of the owner or lessor. (Ord. 1311, 1-22-79)
  3.
    - a. This paragraph shall not apply to a person consuming a malt beverage within the confines of the following designated public recreation areas: Ken Lindley Field complex, (except for the ramada, picnic area and playground area), Roughrider Park/William J. Vallely Ball Fields 1 and 2, Willow Creek Park, (except for the ramada and picnic area), Heritage Park (except for the ramada and picnic area), Goldwater Lake Park, Watson Lake Park, or any other areas designated by the Recreation Services Director or his designee, with the approval of the City Manager. (Ord. 1311, 1-22-79; amd. Ord. 1458, 7-14-80; amd. Ord. 3062, eff. 3-25-93) (amd. Ord. 3409, eff. 10-26-95) (amd. Ord. 3556, eff. 12-12-96)
    - b. This paragraph shall not apply to a person consuming a malt beverage within the confines of the following designated public recreation areas: Granite Creek Park/A.C. Williams Park, the ramada or picnic area of Heritage Park, the ramada or picnic area of Willow Creek Park, the ramada or picnic area of Ken Lindley Field complex, Acker Memorial Park; and Flinn Memorial Park, provided, however, that a permit for said consumption has first been issued by the Recreation Services Director, or his designee, who is hereby

empowered to adopt rules and regulations relating to the issuance thereof. Said permit must be carried on the person of the permittee while consuming malt beverages within the foregoing areas. (Ord. 3062, eff. 3-25-93) (amd. Ord. 3409, eff. 10-26-95) (amd. Ord. 3556, eff. 12-12-96)

- (B) For purposes of this Section, spirituous liquor includes alcohol, brandy, whiskey, vodka, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent (0.5%) of alcohol by volume.
- (C) For the purposes of this Section, premises shall mean the area from which a liquor licensee is authorized to sell, dispense or serve spirituous liquors under the provisions of the liquor license. (Ord. 1311, 1-22-79)

**5-8-2: PENALTY:**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code. (Ord. 2102, 8-8-89)

## CHAPTER 5-9: OUTDOOR CAMPING

### SECTIONS:

- 5-9-1: DEFINITIONS:
- 5-9-2: CAMPING ON MUNICIPAL PROPERTY:
- 5-9-3: CAMPING ON PRIVATE PROPERTY:
- 5-9-4: PENALTY
- 5-9-5: SEVERANCE CLAUSE:

#### **5-9-1: DEFINITIONS:**

"Camping" or "camp" shall mean the use of an area outdoors for living accommodation purposes, and shall include, but not be limited to, erecting a tent or other type of shelter, or laying down bedding material, or both, for the purpose of, or in such a way as will permit it to be used for living accommodation purposes or for sleeping purposes; or parking a trailer, camper or other vehicle for the foregoing purposes. (Ord. 3778, 7-14-1998)

#### **5-9-2: CAMPING ON MUNICIPAL PROPERTY:**

No person shall camp on property owned, leased or licensed by the City, unless that property is specifically posted with signage allowing camping, or is otherwise a specifically designated camping area. (Ord. 3778, 7-14-1998)

#### **5-9-3: CAMPING ON PRIVATE PROPERTY:**

No person shall camp on private property, unless that person has in his or her possession written permission from the property owner or lawful tenant of that property. (Ord. 3778, 7-14-1998)

#### **5-9-4: PENALTY**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. (Ord. 3778, 7-14-1998)

#### **5-9-5: SEVERANCE CLAUSE:**

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof. (Ord. 3778, 7-14-1998)

## CHAPTER 5-10: AGGRESSIVE SOLICITATION

### SECTIONS:

- 5-10-1: DEFINITIONS:
- 5-10-2: PROHIBITED ACTS:
- 5-10-3: PENALTY:
- 5-10-4: SEVERANCE CLAUSE:

### 5-10-1: DEFINITIONS:

For the purposes of this Chapter the following terms shall mean:

AGGRESSIVE MANNER: Means and includes:

- (A) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or
- (B) Following the person being solicited, if the conduct is: 1) intended to or is likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or 2) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
- (C) Continuing to solicit within five feet (5') of the person being solicited after the person has made a negative response, if continuing the solicitation is: 1) intended to or is likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or 2) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
- (D) Intentionally or recklessly blocking the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the City, shall not constitute obstruction of pedestrian or vehicular traffic; or
- (E) Intentionally or recklessly using obscene or abusive language or gestures: 1) intended to or likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or 2) is intended to or is reasonably likely to

intimidate the person being solicited into responding affirmatively to the solicitation; or

- (F) Approaching the person being solicited in a manner that: 1) is intended to or is likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or 2) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

**AUTOMATED TELLER MACHINE FACILITY:** The area comprised of one or more automatic or automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

**PUBLIC AREA:** An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

**SOLICIT:** To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication. (Ord. 3779, 7-14-1998)

**5-10-2: PROHIBITED ACTS:**

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (A) In an aggressive manner in a public area; or
- (B) At any bus stop; or
- (C) Within fifteen feet (15') of any entrance or exit of any bank, financial institution, automated teller machine facility, or other business, without the consent of the owner or other person legally in possession of such facility; or
- (D) On private property, without the express permission and consent of the owner or other person legally in possession of such property; or
- (E) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of a vehicle. (Ord. 3779, 7-14-

**5-10-3: PENALTY:**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. (Ord. 3779, 7-14-1998)

**5-10-4: SEVERANCE CLAUSE:**

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof. (Ord. 3779, 7-14-1998)

## CHAPTER 5-11: SOLICITATIONS PROHIBITED IN CERTAIN AREAS

### SECTIONS:

- 5-11-1: DEFINITION:
- 5-11-2: PROHIBITED ACTS:
- 5-11-3: PENALTY:
- 5-11-4: SEVERANCE CLAUSE:

#### **5-11-1: DEFINITION:**

For the purposes of this Chapter, "solicit" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication. (Ord. 3777, 7-14-1998)

#### **5-11-2: PROHIBITED ACTS:**

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services, within any public right of way within the following boundaries:

The "Downtown Prescott" area, which is bordered for the purposes of this Chapter by Granite Creek Park on the north, Carleton Street on the south, Pleasant Street on the east, and Grove Avenue on the west. (Ord. 3777, 7-14-1998)

#### **5-11-3: PENALTY:**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. (Ord. 3777, 7-14-1998)

#### **5-11-4: SEVERANCE CLAUSE:**

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof. (Ord. 3777, 7-14-1998)



## CHAPTER 5-12: WATER ACTIVITIES

### SECTIONS:

5-12-1: APPLICABILITY OF CHAPTER:

5-12-2: PROHIBITED ACTIVITIES:

5-12-3: EXCEPTIONS:

5-12-4: PENALTY:

### 5-12-1: APPLICABILITY OF CHAPTER:

This chapter shall apply annually, during the period July 1 through July 10 of each year. (Ord. 3873, 5-11-1999)

### 5-12-2: PROHIBITED ACTIVITIES:

The following activities are hereby declared unlawful:

- (A) To knowingly or intentionally cause water balloons or other devices which have water or other liquids contained therein to be thrown, tossed or otherwise projected onto, from or across any public property or public right of way.
- (B) The use of any motorized electric or gas powered device to spray or otherwise disperse water or other liquids contained therein onto, from or across any public property or public right of way. (Ord. 3873, 5-11-1999)
- (C) Throwing or otherwise knowingly or intentionally causing water or other liquids to be sprayed, thrown or otherwise dispersed onto, from or across the following public property or public rights of way: the Courthouse Plaza, any street abutting the Courthouse Plaza, Gurley Street from Marina Street to Granite Street, any street intersection abutting the Courthouse Plaza, and the intersection of Gurley Street and Granite Street. (Ord. 3973, 3-28-2000)
- (D) Throwing or otherwise knowingly or intentionally causing water or other liquids to be sprayed, thrown or otherwise dispersed onto, from or across any public property or public rights of way. (Ord. 3873, 5-11-1999)

### 5-12-3: EXCEPTIONS:

That notwithstanding anything to the contrary contained in this chapter, the following shall not constitute a violation of this chapter: (Ord. 3873, 5-11-1999)

- (A) (Rep. by Ord. 3954, 1-25-2000)

- (B) Activities of governmental employees, when such activities are required in the course of their employment.
- (C) Activities of nongovernmental employees who have been requested to and are assisting governmental employees pursuant to subsection (B) of this section. (Ord. 3873, 5-11-1999)

**5-12-4: PENALTY:**

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 3873, 5-11-1999)

## CHAPTER 5-13: REGULATION OF THE SALE OF PRODUCTS CONTAINING PSEUDOEPHEDRINE

### SECTIONS:

5-13-1: DEFINITIONS:

5-13-2: DUTIES OF RETAIL ESTABLISHMENTS:

5-13-3: PENALTY:

### 5-13-1: DEFINITIONS:

In this Chapter, unless the context otherwise requires:

- A. "Pseudoephedrine product" means any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product.
- B. "Retail establishment" means any place of business that offers any pseudoephedrine product for sale at retail

### 5-13-2: DUTIES OF RETAIL ESTABLISHMENTS:

- A. The operator of a retail establishment shall keep all products containing pseudoephedrine behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the establishment.
- B. A person making a retail sale of a product containing pseudoephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser's name, date of birth, quantity of pseudoephedrine product purchased, transaction date and the initials of the seller.
- C. The information required to be obtained by subsection B of this section will be retained by the retail establishment for a period of ninety (90) days, and will be considered a confidential document that will only be available to the operator of the retail establishment, to the City of Prescott Police Department officers, Arizona Department of Public Safety officers, Yavapai County Sheriff's Department officers, and other law enforcement officers.

**5-13-3: PENALTY:**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code.”

(Ord. 4518, 01-19-2006)

## CHAPTER 5-14 FIREWORKS

### SECTIONS:

- 5-14-1: DEFINITIONS:
- 5-14-2: FIREWORKS PROHIBITED; EXCEPTIONS:
- 5-14-3: SALE OF FIREWORKS:
- 5-14-4: POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY:
- 5-14-5: PENALTY:
- 5-14-6: SEVERANCE CLAUSE:

### 5-14-1: 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) *Consumer fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
  - (2) *Display fireworks* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
  - (3) *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by Arizona Revised Statute Section 36-1601.
  - (4) *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.
  - (5) *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the City of Prescott even where the use of those items has been prohibited.
  - (6) *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Chief or his designee.

**5-14-2: FIREWORKS PROHIBITED; EXCEPTIONS:**

- (A) The use, discharge or ignition of fireworks within the City of Prescott is prohibited.
- (B) Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- (C) The Fire Chief or his designee may grant permits for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection by the Prescott Fire Department, and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked by the Fire Chief or his designee, during time periods of High Fire Danger warnings. The Fire Chief or designee has authority to impose reasonable conditions on any permits granted.

**5-14-3: SALE OF FIREWORKS:**

- (A) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen years of age.
- (B) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.

**5-14-4: POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY:**

- (A) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
  - (1) The use of fireworks, except novelty items as defined by City Code, including permissible consumer fireworks within the City of Prescott is prohibited.
  - (2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
- (B) Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.
- (C) The Fire Chief or his designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The

required sign regulations and model sign shall be posted on the City's website and filed with the Clerk's office.

- (D) Failure to comply with subsections A and B of this section is a civil violation punishable as provided in Section 1-3-2 of this Code.

**5-14-5: PENALTY:**

Except as otherwise provided herein, any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code.

**5-14-6: SEVERANCE CLAUSE:**

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part

(Ord. 4769-1120, 11-9-2010, eff. 12-9-2010)