

**ORDINANCE NO. 2025-05**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AMENDING CHAPTER 17 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 17-1 PERTAINING TO PUBLIC NUISANCES; PURPOSE AND SCOPE; BY AMENDING SECTION 17-2 PERTAINING TO PUBLIC NUISANCES; DEFINITIONS; BY AMENDING SECTION 17-3 PERTAINING TO PUBLIC NUISANCES; PROHIBITION; BY AMENDING SECTION 17-4 PERTAINING TO PUBLIC NUISANCES; ENFORCEMENT; BY AMENDING SECTION 17-51 PERTAINING TO NUISANCE; ENFORCEMENT; VIOLATION AND PENALTIES; BY AMENDING SECTION 17-52 PERTAINING TO NUISANCE; JURISDICTION OF COURT; BY AMENDING SECTION 17-53 PERTAINING TO NUISANCE; CIVIL PENALTIES, LIEN ENFORCEMENT; BY AMENDING 17-55 PERTAINING TO EMERGENCY HAZARD ABATEMENT; BY AMENDING SECTION 17-56 PERTAINING TO RESERVED; BY AMENDING SECTION 17-57 PERTAINING TO NOTICE OF VIOLATION; RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, AND DILAPIDATED STRUCTURES; BY AMENDING SECTION 17-58 PERTAINING TO APPEALS OF NOTICES OF VIOLATION; RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, AND DILAPIDATED STRUCTURES; BY AMENDING SECTION 17-59 PERTAINING TO ORDER OF ABATEMENT; BY AMENDING SECTION 17-60 PERTAINING TO ORDER OF ASSESSMENT; BY AMENDING SECTION 17-61 PERTAINING TO NUISANCE; ABATEMENTS; ASSESSMENTS; LIEN ENFORCEMENT; BY AMENDING SECTION 17-62 PERTAINING TO COLLECTION OF ASSESSMENTS; BY AMENDING SECTION 17-63 PERTAINING TO PUBLIC SERVICES REVOLVING ACCOUNT; BY AMENDING SECTION 17-64 PERTAINING TO NUISANCE; TRANSFER OF PROPERTY AFTER NOTICE; BY AMENDING SECTION 17-65 PERTAINING TO SHOPPING CARTS; DEFINITIONS; BY AMENDING SECTION 17-66 PERTAINING TO SHOPPING CARTS; RESTRICTIVE DEVICES REQUIRED; VIOLATIONS; PENALTIES; BY AMENDING SECTION 17-67 PERTAINING TO SHOPPING CARTS; ACTIVITIES; PROHIBITIONS; NOTICES; APPLICABILITY; CONSENT; PRESUMPTION; VIOLATIONS; BY AMENDING SECTION 17-68 PERTAINING TO SHOPPING CARTS; FINDING; IMPOUNDMENT OF SHOPPING CARTS BY LOCAL AGENCIES; CONDITIONS; EMERGENCIES; COSTS; FINES; DISPOSAL OF UNCLAIMED CARTS; APPLICABILITY; BY AMENDING SECTION 17-69 PERTAINING TO

SHOPPING CARTS; RETRIEVAL; RECORDS; SIGN; BY AMENDING SECTION 17-70 PERTAINING TO SHOPPING CARTS; VIOLATION; CLASSIFICATION; APPLICABILITY; BY AMENDING SECTION 17-71 PERTAINING TO MARIJUANA; BY AMENDING SECTION 17-72 PERTAINING TO SMOKING IN ENCLOSED PUBLIC PLACES; DEFINITIONS; BY AMENDING SECTION 17-73 PERTAINING TO SMOKING IN PLACES OF EMPLOYMENT; BY AMENDING SECTION 17-74 PERTAINING TO SMOKING; RESTAURANTS; BARS; EXEMPTIONS; BY AMENDING SECTION 17-75 PERTAINING TO SMOKING; NON-RETALIATION, VIOLATIONS, PENALTIES; AND PROVIDING FOR SEVERABILITY, FOR CLERICAL CORRECTIONS, AND FOR AN EFFECTIVE DATE.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Peoria as follows:

**SECTION 1.** Chapter 17 of the Peoria City Code is hereby amended as shown in Exhibit A.

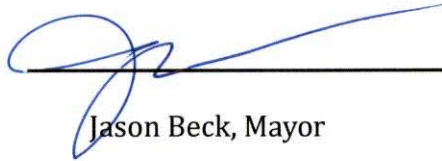
**SECTION 2.** Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3.** Clerical Corrections. The City Clerk is hereby authorized to correct typographical, clerical, and grammatical errors, if any, related to this Ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the City Code. Any such changes shall be in writing and approved by the City Attorney.

**SECTION 4.** Effective Date. This Ordinance shall become effective in the manner provided by law.

**EXHIBITS ON FILE AT THE PEORIA CITY CLERK'S OFFICE – 8401 W. Monroe Ave.  
Peoria, Arizona**

**PASSED AND ADOPTED** by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 4 day of March, 2025.

  
\_\_\_\_\_  
Jason Beck, Mayor

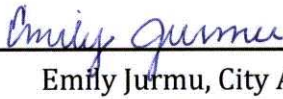
03/04/2025  
\_\_\_\_\_  
Date Signed

ATTEST:

  
\_\_\_\_\_  
Agnes Goodwine, City Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Emily Jurmu, City Attorney

Published in: Peoria Times

Publication Date: March 13+20, 2025

Effective Date: April 4, 2025

## Exhibit A

### Amendments to the Peoria City Code, Chapter 17

#### HOW TO READ THIS DOCUMENT

Applicable sections of the City Code are denoted by **highlighted bold text** for ease of readability during the drafting process.

Unless otherwise stated, provisions or regulations being deleted are shown in red strikethrough text or a line through the graphic, like this: ~~Provisions that are being deleted are shown with a red strikethroughs text~~. Graphics containing red strikethrough are intended to remove the graphic in its entirety as well as any text that is embedded in the graphic.

Provisions or regulations that are being added are shown in double-underlined blue text, like this: Provisions that are being added are shown in double-underlined blue text. Graphics containing a double blue box are intended to add the graphic in its entirety as well as any text that is embedded in the graphic.

Only those changes noted through the above methods for the specific sections and subsections of the City Code identified shall be made. When regulations, graphics or other text is omitted, or is shown unchanged in adjoining sections or subsections of the code, it shall remain unchanged.

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#### **Section 1. Amend Chapter 17 - Nuisances, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Chapter 17  
NUISANCES

Cross reference(s)—Animals, Ch. 16; adoption of ~~Uniform—International Property Maintenance~~ Code ~~for Abatement of Dangerous Buildings~~, § 18-4; music festivals, Ch. 8; solid waste, Ch. 22.

State law reference(s)—Authority to define, prevent and abate nuisances, A.R.S. §§ 9-240(B)(21), 9-276(A)(16), 9-499.01; nuisances prohibited, A.R.S. § 13-2917; nuisances generally, A.R.S. § 36-601 et seq.

#### **Section 2. Amend Chapter 17 - Nuisances, Section 17-1 Public Nuisances; purpose and scope, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-1. Public Nuisances; purpose and scope.

(a) The purpose of this Chapter is to define ~~and~~, prohibit, and abate public nuisances.

(b) This Chapter shall apply to all land within the City of Peoria without regard to the use or occupancy or the date of acquisition, alteration, or improvement of such land.

(Ord. No. 00-20, 5/16/00, enacted (SUPP 2000-2); Ord. No. 2017-30, § 1, 6-13-17)

**Section 3. Amend Chapter 17 - Nuisances, Section 17-2 Public Nuisances; definitions, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-2. Public Nuisances; definitions.

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

(a) "~~Abandoned or inoperable~~ Inoperable vehicle" means any vehicle that is:

(1) Partially or wholly dismantled, discarded, wrecked, on blocks or similar devices, stripped, or scrapped; or

~~(2) A vehicle with a deflated tires or tires or missing any wheel or tire; or~~

~~(3)(2)~~ Any motor vehicle which is inoperable due to mechanical failure or mechanical disassembly. Any motor vehicle missing a windshield, hood, fenders, doors, bumpers, engine, transmission, interior seats, or operating controls is deemed to be inoperable; or

~~(43)~~ Any motor vehicle that is not displaying capable of being driven legally on the motor vehicle public highways in its current state. There is a rebuttable presumption that vehicles with deflated tires, any wheel missing, or when required, failing to properly display a valid license plates-plate and/or tags-tag indicating current and proper registration in this state or some other jurisdiction are inoperable.

(b) "Bar" means an area devoted primarily to the serving of alcoholic beverages, to which food service is only incidental or which is the holder of a license issued under A.R.S. § 4-206.01 by the Arizona Department of Liquor Control.

(c) "Blight" or "Blighted" ~~means-mean, without regard to the condition of other properties in the neighborhood, any unsightly-conditions, dilapidated, or dangerous condition including without limitation:~~ accumulation of debris; fences, buildings, or structures (whether main or accessory) displaying any damage including without limitation holes, breaks, rot, crumbling, cracking, peeling rusting, or any other evidence or physical decay, neglect, excessive use or lack of maintenance; vegetation that is dead, obstructing any

public right-of-way, or displays uncontrolled growth, lack of maintenance, or damage; items or furniture, that are stored, constructed, or maintained in public view, that are not designed by the manufacture for outdoor use, or are characterized by holes, breaks, rot, crumbling, cracking, peeling ~~or rusting, landscaping that is dead, characterized by uncontrolled growth, lack of maintenance or damage; building, structures, whether main or accessory characterized by holes, breaks, rot, crumbling, cracking, peeling,~~ rusting or any other evidence ~~or of~~ physical decay, neglect, excessive use, accumulation of dirt or debris, or lack of maintenance; any other similar ~~conditions~~ condition of disrepair ~~and or~~ deterioration ~~regardless of the condition of other properties in the neighborhood.~~

(d) "Consume", "Consuming", and "Consumption" mean the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

~~(e)~~ (e) "Decorations" means items, displays, or objects used to embellish, ornament, or enhance any physical features on private property or structures thereon in celebration of a holiday, season, or occasion.

(f) "Designated smoking area" means any area within an enclosed public place where smoking is specifically permitted. Any area in which smoking is permitted shall be located, to the fullest extent possible, in such a manner as to confine smoke to that area.

(~~f~~g) "Disturbed surface area" means any portion of the earth's surface, or materials placed thereon, that has been physically moved, uncovered, destabilized, or otherwise changed from its undisturbed natural condition, thereby increasing the potential for emission of fugitive dust.

(~~g~~h) "Dust suppressants" means water, hygroscopic materials, solution of water and chemical surfactant, foam, or non-toxic chemical/organic stabilizers not prohibited for use by any applicable law, rule, or regulation, as a treatment material to reduce fugitive dust emissions.

(~~h~~i) "Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit. For purposes of this Chapter, the designation "independent contractor" shall not prevent a person from being deemed an "employee."

(~~i~~j) "Employer" means any person employing the services of at least one person.

(~~j~~k) "Enclosed public place" means any area enclosed by a roof and walls with one or more openings for ingress and egress, which is available to and customarily used by the public. Enclosed public places governed by this Chapter shall include, but shall not be limited to, public areas such as elevators, waiting rooms, reception areas, lobbies, restrooms, restaurants, retail stores, retail service establishments, grocery stores, convenience markets, drugstores, shopping malls, theaters, auditoriums, public and private stores, offices of health care professionals, pharmacies, indoor sports facilities and their lobbies, public transportation vehicles and terminals, airport service lines, airport waiting lounges, taxicabs or other means of public transit, community centers, ~~child care~~ childcare centers, public or common areas of hotels and motels, financial institutions, all indoor facilities and any public

places already regulated by A.R.S. § 36-601.01. A private residence is not an enclosed public place.

~~(k-l)~~ "Fence, screen wall, and/or retaining wall" includes without limitation free-standing, self-supporting structures constructed of durable wood, chain link with privacy slats, metal, masonry, composites, or other standard fencing materials designed to provide privacy, security, screening, or bank retention between grade separations.

~~(l-m)~~ "Firebreak" means an area of land that has had plants and trees removed to stop the spread of a fire. Cleared area should be 10 feet from the property line adjacent to a vacant lot, or 15 feet from the property line for parcels with a structure.

~~(m-n)~~ "Garbage" means an accumulation of spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking, or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition.

~~(n-o)~~ "Grass" includes ~~Barnyard~~ barnyard grass, ~~Bermuda~~ bermuda grass, ~~Bluegrass,~~ Bluegrass, ~~Brome~~ bluegrass, brome grasses, ~~Crab~~ crab grass, ~~Foxtail,~~ Johnson ~~foxtail,~~ johnson grass, ~~Ragweed,~~ Rye ~~ragweed,~~ rye grass, wild oats, or hybrids thereof.

~~(o-p)~~ "Hazard" means a condition that may cause personal physical harm, or may be detrimental to public health.

~~(p-q)~~ "Junk" includes items that in their present state are of little or no apparent economic value that are not confined within an industrial area in compliance with the Peoria Zoning Code Ordinance in Chapter 21 of this Code, such as an accumulation of the following materials: discarded or scrapped furniture; glass, metal, paper, or machinery parts; inoperable machinery or appliances; building material wastes; litter; discarded or empty containers; automobile parts or mechanical parts. Junk shall also include all types of solid waste described in Chapter 22 of this Code.

~~(q-r)~~ "Land" means all land in the City of Peoria, whether improved or unimproved ~~or on which buildings or other structures are located.~~

~~(r-s)~~ "Legal driveway" means a short private road from a street to the principal structure's garage or carport. For principal structures without a garage or carport a single location shall be so designated ~~connected to principal structure.~~

~~(s-t)~~ "Marijuana"

~~(1.)~~ Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

~~(2.)~~ Includes cannabis as defined in Ariz. Rev. Stat. § 13-3401.

~~(3.)~~ Includes marijuana concentrate.

~~(4.)~~ Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, or sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana used to prepare topical or oral administrations, food, drink, or other products.

~~(t-u)~~ "Marijuana Concentrate"

~~(1.)~~ Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture, or preparation of that resin or tetrahydrocannabinol.

~~(2.)~~ Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

~~(u-v)~~ "Marijuana ~~Products-products~~" means products that are composed of marijuana concentrate and other ingredients and that are intended for consumption or introduction into the body, including edible products, ointments, tinctures, and vapor solutions.

~~(v-w)~~ "Occupant" means ~~the~~ any person occupying or having custody of a structure or premises as a lessee or otherwise.

~~(w-x)~~ "Open ~~Space-space~~" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

~~(x-y)~~ "Owner/operator" means any person who owns, leases, operates, controls, maintains, or supervises a premises or a fugitive dust source subject to the requirements of this Chapter.

~~(y-z)~~ "Person" means a human being, enterprise, corporation, association, partnership, firm, or society.

~~(z-aa)~~ "Place of employment" means any area under the control of a private or public employer, which is intended for occupancy by employees during the course of employment, including, but not limited to, work areas, offices, employee lounges, conference and meeting rooms, employee cafeterias and lunchrooms, classrooms, auditoriums, hallways, stairways, waiting areas and restrooms. A private residence is not a place of employment.

~~(aa-bb)~~ "Plant growth" means vegetation, whether living or dead, such as grass, weeds, vines, bushes, cactus, or trees.

~~(bb-cc)~~ "Premises" means all real property, parcels, land, any dwelling, house, building, businesses, dwellings, houses, buildings, or other ~~structure, designed or used either wholly or in part for residential, commercial or agricultural purposes~~ structures, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, or vestibules belonging or appurtenant to such dwelling, house, building, or other structures.

~~(ee-dd)~~ "Private clubs and private recreation facilities" ~~means—mean~~ an establishment which:

(1) ~~Charge—Charges~~ a membership fee that must be paid in advance of arrival to the establishment and ~~are is~~ not open to invitees of members or the general public, or

(2) Membership is limited to those persons who have served in the armed forces of the United States or this state.

For purposes of this definition, a charge which is paid at the door upon entry to the establishment is specifically designated not to be a membership fee.

~~(dd-ee)~~ "Public ~~Place—place~~", as defined in the Smoke-Free Arizona Act, ~~Section A.R.S. § 36-601.01~~, means any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel, and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a ~~child care—childcare~~, adult day care, or health care facility.

~~(ee)—(ff)~~ "Right-of-way" means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, pedestrian, walkway, bikeway, or drainage purposes.

~~(gg)~~ "Stored" means parking, leaving, locating, keeping, maintaining, depositing, remaining, or being physically present on public or private property.

~~(ff-hh)~~ "Street ~~or~~" and "highway" ~~means—mean~~ the ~~entire—full~~ width ~~between the boundary lines of every—the~~ right-of-way publicly owned or maintained when any part thereof is open to the use of the public ~~for~~. A street or highway includes the purpose land between the right-of-vehicular traffic—way lines and may comprise pavement, shoulders, curbs, gutters, sidewalks, parking areas, and landscaping.

~~(gg-ii)~~ "Structure" means any constructed or erected material or combination of materials the use of which requires location on the ground or attachment to something located on the ground, including inter-alia buildings, stadiums, radio towers, sheds, storage bins, and fences.

~~(hh-ij)~~ "To smoke" or "smoking" ~~means—mean~~ burning, using, or carrying any lighted cigarette, tobacco, marijuana, or other weed or plant or placing any burning tobacco, marijuana, weed, or plant in an ashtray or other receptacle and allowing smoke to diffuse into the air.

(~~ii~~-kk) "Vacant lot" means a tract, lot, or parcel of improved or unimproved land, residential, industrial, institutional, governmental, or commercial for which there is no approved or permitted building or structures of a temporary or permanent nature.

(~~jj~~-ll) "Vehicle" means every device by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power or used exclusively upon stationary rails or tracts.

(~~kk~~) "~~Weeds~~"-mm) "Weed[s]" means for any residential lot of one acre or less, any uncultivated ~~shrubs~~-shrub or uncultivated vegetation higher than ~~12~~-6 inches, lawn grass higher than 6 inches, and any vegetation that is dead. For lots greater than one acre in size, "~~Weeds~~"-Weed[s]" means any uncultivated ~~shrubs~~-shrub or uncultivated vegetation that is permitted to grow in such a manner as to cover the area designated as a firebreak zone by the City between adjacent properties and the subject property, and those types of plant growth defined as noxious weeds in A.R.S. § 3-201 regardless of whether any person including without limitation a ~~particular~~-property owner, lessee, or ~~occupant~~-other person in control of any premises who is the subject of enforcement action under this Chapter regards the growth as desirable.

(~~h~~-nn) "Wildflower" means a flower that grows in natural places without being planted by people.

(Ord No. 00-20, 5/16/00, enacted (SUPP 2000-2); Ord. No. 03-181, 12/2/03, amended (SUPP 2003-4); Ord. No. 04-18, 03/16/04, amended (SUPP 2004-1); Ord. No. 04-212, 12/14/04, amended (SUPP 2004-4); Ord. No. 2017-30, § 2, 6-13-17; Ord. No. 2020-14, § 1, 11-10-20)

**Section 4. Amend Chapter 17 - Nuisances, Section 17-3 Public Nuisances; prohibition, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-3. Public nuisances; prohibition.

The following acts, omissions, conditions, and things in or upon any land or structure in the City constitute public nuisances, the existence of which are hereby prohibited and declared to be unlawful:

(a) It shall be unlawful for any person to cause or allow any abandoned or inoperable vehicle to be stored ~~or on~~, placed on, or allowed to remain on, any ~~property~~-premises except in complete conformance with the terms of this Subsection.

(1) All ~~abandoned or~~-inoperable vehicles or ~~vehicles~~, in residential areas, vehicles being restored or repaired for longer than 48 consecutive hours within a fourteen (14) consecutive day period, starting the first day the vehicle is located unscreened, shall be stored safely within a ~~lawful~~, lawfully permitted enclosed building or structure having a perimeter composed of rigid walls and a roof or screened by a lawful six (6) foot fence.

(2) All inoperable vehicles on the premises of a business enterprise operated in a lawful place and manner shall be stored in accordance with the provisions of the Peoria City Code where the storage of the vehicle is necessary to the operation of the business enterprise.

(3) A waiver or reasonable accommodation may be issued upon review by the Neighborhood Service Manager for active military or disabled individuals.

(b) It shall be unlawful to park or store any vehicle within the front, side, or rear yard of a single or multi-family residence unless such parking or storage is on an improved, dustproof parking surface such as concrete, asphalt, "chip seal", or crushed rock or aggregate that is a minimum of three inches thick. All crushed rock or aggregate shall be contained by a permanent border and must be treated with a dust palliative in such a manner as to prevent the release of fugitive dust. The property owner ~~and/~~ lessee, or legal occupant other person in control of ~~the property any premises~~ shall be under a continuous duty to maintain the parking surface in a manner to meet the minimum requirements of this ~~subsection and to treat crushed rock or aggregate not less than two (2) times a year with a dust palliative.~~ Subsection.

(c) Parking within the front yard of a single ~~family~~ residence ~~use~~ shall be fully upon a legal driveway or a dustproof surface contiguous to a legal driveway. Parking within the side or rear yard of a single ~~family~~ residence shall have continuous access to a legal driveway meeting the dustproof requirements of this ~~subsection~~ Subsection.

(d) Any existing single or multi-family residence having unimproved parking shall by October 1, 2009, improve all existing parking areas with a dustproof-parking surface such as concrete asphalt, "chip seal", or crushed rock or aggregate that is a minimum of three inches thick. All crushed rock or aggregate shall be contained by a permanent border and must be treated with a dust palliative in such a manner as to prevent the release of fugitive dust. The ~~property~~ owner, lessee, and/or legal occupant other person in control of ~~the property any premises~~ shall be under a continuous duty to maintain the parking surface in a manner to meet the minimum requirements of this ~~subsection and to treat crushed rock or aggregate not less than two (2) times a year with a dust palliative.~~ Subsection.

(e) It shall be unlawful to erect or to attach to any fence any glass, nails, metal objects, or other materials in such a manner that is likely to injure any person who comes in contact with such object, or to erect or maintain any barbed wire or razor wire except that no more than three strands of barbed wire or one coil of razor wire not less than six feet and two inches above the ground are permitted at the top of an otherwise lawful fence enclosing a municipal, institutional, or commercial use. Barbed wire fencing is not prohibited on premises larger than one acre used for agricultural or livestock purposes. Barbed wire or razor wire shall not extend beyond the premises permitted to be enclosed.

(f) It shall be unlawful for an owner ~~or occupant,~~ lessee, or other person in control of any premises to fail to properly repair, replace, maintain, or remove any fence, screen wall, or retaining wall visible from the adjacent right-of-way that is dilapidated, collapsed, or ~~otherwise~~ constitutes a hazard.

(g) No person shall place, store, or maintain any rubbish, trash, filth, debris, or abandoned construction materials upon any private or public property not owned or operated by said person ~~unless it is a solid waste disposal or other facility~~ except as authorized by law.

(h) No person shall deposit, store, or maintain any accumulation of garbage, junk, or ~~an accumulation of~~ discarded ~~scrapped~~ items ~~and/or materials to include but not limited to, automobile parts, second hand items, household fixtures, abandoned equipment, appliances, indoor furniture, boxes, crates, packing cases, mattresses, bedding, lumber, scrap iron, tin and other metals unless stored safely within a lawful, enclosed building, structure, upon any private or screened by a lawful fence within a trash receptacle~~ public property in such a manner as to ~~not~~ be visible from public view, except as authorized for collection under ~~chapter~~ Chapter 22 of this code Code.

(i) No person shall deposit in, sweep upon, or permit to drain into any public or private ~~open~~ right-of-way within the City any garbage, junk, obstruction, or similar matter or any hazardous material that impedes passage or is detrimental to public health.

(j) It is the responsibility of the owner, lessee, or other person in control of any land premises abutting a sidewalk, alley, or street ~~responsibility~~ to maintain the premises, including the right-of-way, up to the curb line of the street, and fifty (50) percent of the any alley on which such land abuts, in a clean condition in such a manner as to be in full compliance with this Chapter and free from ~~all of~~ the following:

- (1) Litter, garbage, junk, debris, and rubble.
- (2) Insect and rodent infestation.
- (3) Overgrown vegetation, dead trees, brush, and weeds.
- (4) ~~Other~~ Any other conditions that present a health, fire, or safety hazard.

(k) No owner, lessee, or ~~occupant~~ other person in control of ~~land~~ any premises within the City shall allow plant growth that is dead, dormant, or so dry as to be readily flammable or combustible on such ~~land that it may constitute a fire hazard.~~ premises.

(l) No owner, lessee, or ~~occupant~~ other person in control of ~~a parcel of land~~ any premises shall allow thereon weeds or grass either to attain a height in excess of six inches or to create a danger to public health ~~through the breeding or harborage of harmful insects or other pests, or safety.~~ For lots in excess of one acre a firebreak may be used between the adjacent properties and the subject property. Wildflowers are exempt from this Subsection, except when plant growth becomes dead, dormant, or so dry as to be readily flammable or combustible on such land that it may constitute a fire hazard.

(m) Except for weed abatement operations described in Subsection ~~(l-n)~~ of this Section, no ~~owner or operator responsible for weed abatement on vacant lots~~ person shall remove vegetation from any vacant lot by blading, disking, plowing under, or any other means without doing all of the following:

(1) Applying a minimum standard three-inch dust suppressant~~(s)~~ stabilizing the total surface area subject to disturbance immediately before or during the ~~abatement~~vegetation removal.

(2) Preventing ~~or and~~ eliminating ~~the all~~ tracking of dust onto paved surfaces and access points adjoining paved surfaces.

(3) Applying a minimum standard three-inch dust suppressant~~(s)~~ stabilizing the entire disturbed surface area immediately after the ~~weed~~vegetation removal by compacting the ground or applying gravel or dust suppressant.

(n) The following are exempt from Subsection (m) of this Section:

(1) Weed abatement operations on any vacant lot with less than 0.50 acre (21,780 square feet) of disturbed surface area.

(2) Weed abatement operations that received an approved Earth Moving permit under Maricopa County Rule 200, Section 305 (adopted 11/15/93 and as amended).

(3) Weed abatement operations performed on any vacant lot or property premises under the order of a governing agency for the control of a potential fire hazard or otherwise ~~unhealthy~~hazardous condition provided that mowing, cutting, or ~~another other~~ similar process is used to maintain weed stubble at least three inches above the soil surface.

(o) No person shall ~~offer to sell or~~ plant any mulberry tree (morus alba) or olive tree (olea europea) in the City unless it is one of the non-pollinating varieties of such trees. ~~The City shall maintain a current list of non-pollinating varieties, which shall be available for public review and shall be based on industry standard for non-pollinating varieties, applicable horticultural and specific research data, review and evaluation by qualified experts, and other appropriate information.~~

(p) It shall be unlawful for any owner, lessee, or other person having legal occupancy in control of ~~a residence or business any premises~~ to ~~allow fail to maintain~~ any swimming pool or body of water ~~to stagnate and thereby become in such a manner that it becomes unsafe for its intended use~~ through eutrophication ~~or~~ pollution, or other means. For purposes of this Subsection, "pollution" means a condition that exists in water and is characterized by bacterial growth, algae, insect infestation, the remains of litter, debris, garbage, or other ~~foreign~~ matter that, because of its nature or location, constitutes ~~an unhealthy or unsafe condition~~ a hazard.

(q) No owner ~~or occupant~~, lessee, other person in control of ~~a building, structure or land any premises~~ within the City shall permit or fail to promptly eradicate graffiti, as defined in section 13-68 of this ~~code~~ Code, on any building, structure, wall, sidewalk, fence, sign, or other surface upon the premises that is visible from any street or other public or private property.

(r) ~~No~~ It is unlawful for any owner or occupant, lessee, or other person in control of a any vacant or abandoned building or structure premises within the City shall to fail to completely secure the any vacant building or structure against unauthorized entry.

(s) It is unlawful for any person to cause or permit the handling, transporting, or disposition of any substance or ~~materials~~ material that ~~are~~ is likely to be scattered by the air or wind, or is susceptible to being airborne or wind-borne, or operate or maintain or cause to be operated or maintained, any ~~premise~~ premises, open area, right-of-way, storage pile of materials, vehicle or construction, alteration, demolition or wrecking operation, or any other enterprise that involves any material or substance likely to be scattered by the wind or air or susceptible to being wind-borne or airborne that would be classified as air pollution, causes a hazard, or unreasonably interferes with the comfortable enjoyment of life or adjacent property. In addition ~~that to~~ a dust control permit that may be required, the City may require additional reasonable precautions to prevent dust emissions prohibited under this ~~section~~ Section which may include but are not limited to the following:

(1) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, grading of roads, driveways, and parking lots, or the clearing of land.

(2) Application and maintenance of asphalt, road oil, water or suitable chemicals on dirt roads, driveways ~~and~~, parking lots, material stockpiles, and other surfaces that ~~can be~~ are a potential source of airborne dust.

(3) Installation of hoods, fans, and dust collectors to enclose and vent the handling of dusty materials or the use of water, sprays, or other acceptable measures to suppress the dust emission during handling. Adequate containment methods ~~shall be employed~~ during sand blasting or other similar operations.

(t) ~~“Decorations shall mean” means items, displays, or objects used to embellish, ornament, or enhance any physical features on private property or buildings structures thereon in celebration of a holiday, season, or occasion. Decorates shall meet the following requirements:~~

~~(1) Holiday and Seasonal Decorations.—~~Temporary, non-commercial decorations ~~or displays~~ associated with the celebration of a particular civic, patriotic, or religious holiday or season. ~~Shall~~ may be displayed for a maximum of sixty (60) days total during the relevant season; and must be maintained in good condition (e.g. not torn, soiled, or faded). ~~Such~~ It shall be unlawful to display such decorations ~~shall not be displayed for more than sixty (60) days total during the relevant season, or in such a manner as to constitute a hazard to pedestrian or vehicular traffic.~~

(u) All ~~property~~ premises shall be maintained free from any conditions that contribute to blight, ~~including but not limited to uses or activities customarily conducted or maintained out of public view, such as clothes lines, animal boarding facilities or other similar conditions.~~ All dirt front yards visible from a private roadway or public right-of-way ~~shall~~ must be ~~landscaped~~ fully covered with rock or ~~grass~~ other landscaping material within

sixty ~~(60)~~ days following issuance of a final utility clearance by the City and must be maintained continuously in such condition.

(v) It shall be unlawful for any owner, lessee, or ~~occupant~~ other person in control of any real property premises to conduct, permit, or allow any sale of new or used merchandise on their property a premises, including but not limited to pop-ups, product vending, yard sales, craft sales, garage sales, or similar sales ~~in violation of this section. For purposes of this section, "garage," "yard," "craft", or similar sale of new or used personal property located on the property prior to the sale.~~ Sales identified in this Subsection shall not be a violation if they meet the following are:

(1) Held for a period of less than sixty (60) consecutive hours. It shall be presumed that the sale started at the time set forth on any advertisement ~~located~~ identifying the proposed sale.

(2) Held on a premises fewer than five (5) times in a calendar ~~or consecutive~~ year. ~~For purposes of measurement, a consecutive year begins on the earliest date on any advertisement located identifying the proposed date and runs for a period of 365 days following that date.~~ This ~~four-time~~ limitation shall apply to ~~the location a~~ premises regardless of ~~a who is holding the sale or any change in owners ownership or occupants occupancy~~ during the ~~one-year~~ period.

(Ord. No. 00-20, 5/16/00, enacted (SUPP 2000-2); Ord. No. 04-212, 12/14/04, amended (SUPP 2004-4); Ord. No. 07-41, 12/18/07, amended (SUPP 2007-4); Ord. No. 2013-17, 9/17/13, amended (SUPP 2013-3); Ord. No. 2014-38, 10/21/14, amended (SUPP 2014-4); Ord. No. 2017-30, § 3, 6-13-17; Ord. No. 2019-14, § 3, 6-4-19)

**Section 5. Amend Chapter 17 - Nuisances, Section 17-4 Public Nuisances; enforcement, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-4. Public Nuisances; enforcement.

(a) Unless expressly stated otherwise, ~~violations of this chapter~~ Chapter may be enforced ~~alternatively~~ by administrative, civil, or criminal ~~penalties. However, no procedures. No person served with a notice charging adjudicated for a civil violation may be or subjected to any administrative sanction shall be~~ subject to a criminal charge arising out of the same ~~dated~~ offense. However, prior administrative or civil determinations or judgments of responsibility for the same offense may be used in any way authorized by law including without limitation to prove identity, authority, intent, knowledge, or control, or to enhance penalties imposed upon for a subsequent criminal conviction for an offense.

(b) Civil Enforcement of civil violations of this ~~chapter~~ Chapter shall ~~be enforced~~ proceed as provided in Section 17-51 and Chapter ~~15-5~~ of this ~~code~~ Code.

(c) ~~Criminal~~ Enforcement of criminal violations of this ~~chapter~~ Chapter shall be enforced proceed as provided in Section 17-51 and pursuant to state statute and rule.

(d) ~~In addition to other Administrative~~ enforcement actions that may be taken pursuant to this Code, the City Manager or designee may issue an order of abatement pursuant to Section of this Chapter shall proceed as provided in Sections 17-57 through 17-59 of this code. Chapter.

~~(e)~~ (e) Abatement of violations of this Chapter shall proceed as provided in Sections 17-53 through 17-59 of this Chapter or any other applicable legal process.

(f) Violations of this Chapter are in addition to any other violation enumerated within the City Code or ~~the City Code and~~ other applicable law. This Chapter in no way limits the penalties, actions, or abatement procedures which may be taken by available to the City for enforcement of any law including without limitation enforcement of any violation of this Chapter which is also a violation of any other Code provision or State statute.

(g) The Municipal Court of the City of Peoria shall have jurisdiction over all civil and criminal proceedings to enforce the provisions of this Chapter.

(h) The Municipal Court of the City ~~or statutes of the State~~ of Peoria shall have jurisdiction to issue orders permitting or instructing the City to enter upon any premises and abate any condition that constitutes a violation of this Chapter.

(i) The Municipal Court shall retain jurisdiction over any matter alleging a violation of this Chapter until the violation is abated in full, including any appeals filed in accordance with this Chapter.

(Ord. No. 00-20, 5/16/00, enacted (SUPP 2000-2); Ord. No. 04-212, 12/14/04, amended (SUPP 2004-4); Ord. No. 2017-30, § 4, 6-13-17)

**Section 6. Amend Chapter 17 - Nuisances, Section 17-51 Nuisance; enforcement; violation and penalties, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-51. Nuisance; civil and criminal enforcement; violation and penalties.

(a) For purposes of this ~~chapter, the~~ Chapter, there shall be a rebuttable presumption that the following persons or entities have lawful control over any premises, or its contiguous sidewalks, streets, or alleys:

(1) The owner of record as recorded in the Maricopa or Yavapai County Recorder's Office ~~records of~~.

(2) Any person residing on or occupying the ~~property on which a violation of this chapter exists may be presumed to be~~ premises with the knowledge of the owner of record.

~~(3) Any person listed as a person having lawful Control over any building, structure or parcel of land, customer or responsible party on any bill for utility services provided to the premises.~~

~~(4) If more than one person shall be recorded as the owner of the property, said persons may be or entity is presumed to have lawful control pursuant to this Section, all such persons and entities shall be presumed to be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land. There shall be a rebuttable presumption that any person residing on the property is doing so with the consent of the recorded owner and such persons shall be jointly liable with any owner responsible for any violation of this Chapter. Code.~~

~~(a)-b~~ The remedies herein are cumulative, and the City may proceed under one or more such remedies.

~~(b)-c~~ Any ~~owner person~~ or ~~responsible party entity~~, who causes, permits, facilitates, ~~or aids,~~ or abets any violation of any provision of this Chapter or who fails to perform any act or duty required by ~~the Chapter may be subject to a civil sanction in accordance with a schedule adopted by the Municipal Court. All surcharges imposed by this code shall be in addition to the civil sanction~~ this Chapter may be charged as a principal in any manner described in this Chapter.

~~(e)-d~~ Any owner, ~~responsible party lessee~~, or other person having in control over a structure of any premises, or parcel of land-its contiguous sidewalks, streets, or alleys, who causes, permits, facilitates, ~~or aids,~~ or abets any violation of any provision of ~~the this~~ Chapter or who fails to perform any act or duty required by ~~the this~~ Chapter is guilty of a Class 1 misdemeanor.

~~(d)-e~~ Each day any violation of any provision of this Chapter ~~or the failure to perform any act or duty required by this Chapter~~ exists shall constitute a separate violation or offense:

~~(e) In addition to any other sanction or penalty authorized under subsections (b) and (c) of this section, the Court may issue an order permitting the City to abate the condition giving rise to the the sanctions for each violation. The reasonable costs of any such abatement, plus ten percent administrative fee, which or offense shall not exceed one thousand dollars shall be the responsibility of the person found responsible or guilty of the violation and may be collected as provided in Section 17-53. run consecutively.~~

(f) It is an affirmative defense for an owner of record that any violation of this Chapter was caused by an act or acts of a lessee or tenant who was a lawful resident of the property premises having a right to be on the property premises on the date of violation ~~alleged in the complaint~~ and that the owner has no legal authority to compel the lessee or tenant to correct the violation so long as prior to being charged, the owner of record had no knowledge of the violation or reported the violation to the City.

(g) If any owner, lessee, or ~~responsible party~~ other person in control of any premises is adjudged guilty or responsible for a violation of this Chapter ~~or,~~ Chapter 18, and/or Chapter

9 of this ~~code~~-Code which caused or contributed to ~~the necessity of~~ an order to vacate a dwelling or dwelling unit being issued pursuant to Chapter 18 or Chapter 9 of this Code, the court shall impose a fine or penalty, exclusive of surcharges, no less than the greater of two hundred dollars or the actual amount paid by any governmental agency to ~~re-establish a household for~~ rehome any individuals or families residing in the dwelling or dwelling units ordered to be vacated.

(Code 1977, § 10-4-1; Ord. No. 90-09, 3/13/90; Ord. No. 92-39, 10/6/92; Ord. No. 98-20, 4/7/98, amended (e); Ord. No. 00-14, 3/7/00, Amended to add (b),(c),(e) and (h) (SUPP 2000-1); Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Enacted (SUPP 2004-4); Ord. No. 2010-03, 01/19/2010, Amended (SUPP 2001-1); Ord. No. 2017-30, § 5, 6-13-17)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Section 7. Amend Chapter 17 - Nuisances, Section 17-52 Nuisance; jurisdiction of court, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-52. ~~Nuisance; jurisdiction of court.~~ Reserved.

~~(a) Jurisdiction of all proceedings to enforce the provisions of this Chapter may be in the Municipal Court of the City of Peoria.~~

~~(b) The Municipal Court of the City of Peoria shall have jurisdiction to issue orders permitting the City to abate conditions that constitute a violation of this Chapter. The Municipal Court may retain jurisdiction over any matter to abate conditions that constitute a violation of this Chapter until the violation is abated in full.~~

(Ord No. 92-39, 10/6/92, Enacted; Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Enacted (SUPP 2004-4); Ord. No. 2017-30, § 6, 6-13-17)

~~State law reference(s)—Criminal Littering, A.R.S. § 13-1603.~~

**Section 8. Amend Chapter 17 - Nuisances, Section 17-53 Nuisance; civil penalties, lien enforcement, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-53. Nuisance; ~~civil penalties, lien enforcement.~~ Court Ordered Abatement.

(a) ~~If a property owner or responsible party has been previously assessed civil or criminal penalties~~ In addition to any sanction or penalty authorized under this Chapter ~~and~~

~~fails to comply with such assessment within thirty days, the City may correct or abate the condition as described in the determination by, if any person having lawful control over a premises, or its contiguous sidewalks, streets, or alleys is found guilty or responsible for a violation of this Code and any violations of this Code exist on the premises as of the time of sentencing, the Municipal Court or Hearing Officer. The City shall pay the cost and expense of such abatement from any appropriation made available for that purpose and shall certify a statement of account to the Finance Department who shall collect the amount due, together with interest at the rate established by law.~~

~~(b) Upon commencement of action on the property or after mailing the statement of account to the owner shall order the guilty or responsible party, the City shall assess the property for the cost of work performed, including actual to fully abate such conditions within thirty (30) days. If such conditions are not fully abated after thirty (30) days, the Municipal Court may order that the City enter upon the premises and fully abate all such conditions. All costs of any additional inspection and other incidental connected costs, and for associated legal costs for abatement or injunction and shall record such assessment with the County Recorder and pursue any or all means for recovery of cost if the assessment is not paid. If the assessment is paid, the City shall remove the assessment.~~

~~(c) In the event it is necessary to enforce the assessment by sale, the sale shall incurred to the City shall be made from a judgment of foreclosure and order of sale. The City shall have the right to enforce the assessment in the Superior Court of Maricopa or Yavapai County based on location of the property at assessed according to Section 17-60 of this Chapter or assessed as restitution upon a guilty party. The Municipal Court shall retain jurisdiction over any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior such matter until all conditions that constitute a violation of this Chapter are abated in full and all assessments or liens for the purposes provided for in the City Code shall not be a bar to a subsequent assessments or liens and have been paid in full. Notwithstanding any number of liens or assessments on the same parcel may be enforced in the same action.~~

~~(d) The assessment shall constitute a first lien and is prior and superior to all other liens, obligations, mortgages, or other encumbrances, except liens for general taxes.~~

~~(e) Any liens or assessments filed with the County Recorder pursuant to previous provisions of this Chapter shall remain in effect under the same terms and conditions that existed at the time of recording.~~

~~(f) Upon Ten (10) calendar days' notice provision of this Code or other policy, the City may dispose of any property or material removed from real property as the result of an abatement, in any reasonable manner, including but not limited to destruction.~~

(Code 1977, § 10-4-3; Ord. No. 90-09, 3/13/90; Ord. No. 92-39, 10/6/92, Amended; Ord. No. 98-20, 4/7/98, Amended adding (c); Ord. No. 00-14, 3/7/99, Amended (c) and (d) (SUPP 2000-1); Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Enacted (SUPP 2004-4); Ord. No. 2017-30, § 7, 6-13-17)

**Section 9. Amend Chapter 17 - Nuisances, Section 17-55 Emergency Hazard Abatement, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-55. ~~Emergency~~ Imminent Hazard Abatement.

(a) Notwithstanding ~~the provisions~~ any provision of this ~~chapter, the city may proceed to abate nuisances under this Section which constitute~~ Code, if a violation of this Code presents an imminent ~~threat~~ hazard to life or the public health, safety or welfare.

~~(b) The city manager or his designee in accordance with the provisions of the Uniform Fire Code and the Uniform Building Codes as adopted by the city may direct that the hazard be abated or may enter upon the property in accordance with the provisions, the City Manager may order the immediate abatement of the uniform codes adopted by the city hazard by issuing an Order of Immediate Abatement.~~

~~(c) b~~ The ~~city~~ City may ~~act~~ use reasonable methods to ~~correct or abate the emergency without notice to~~ notify the owner, the owner's authorized agent (if applicable), the owner's statutory agent (if applicable), any occupant or lessee (if applicable), or any person responsible for the premises of the Order of Immediate Abatement. Upon notice, the hazard must be abated immediately.

(c) If the hazard is not then immediately abated, or if the City is unable to promptly notify a responsible party as described in ~~accordance~~ Subsection (b), or if the City Manager or their designee determines that due to the nature of the hazard, such notice is not reasonable or would tend to increase the likelihood or severity of harm from the hazard, the City Manager or their designee may order the City, including without limitation, its agents, employees, and contractors, to enter upon the premises and cause the imminent hazard to be abated without notice. Any abatement pursuant to this Section shall be promptly undertaken and shall be limited to the minimum amount of work reasonably necessary to fully remove the hazard.

(d) If a hazard is abated without notice pursuant to this Section, then as soon as reasonably practicable after the abatement date, the City shall post the Order of Immediate Abatement on the premises in a location reasonably visible, and shall mail the Order of Immediate Abatement to the last known address of the owner, the address to which the tax bill for the property was last mailed, the address for the utility account on file with the ~~Uniform Building~~ City, the premises address, and any other address reasonably calculated to notify the owner of the abatement.

(e) The City may assess any person in lawful control of the premises for the cost of a City abatement conducted under this Section according to the provisions of Section 17-60 of this Chapter or by any other means authorized by law. Notwithstanding any provision of this Code or ~~Uniform Fire Code as adopted by the city,~~ other policy, the City may dispose of any property or material removed as the result of an abatement, in any reasonable manner, including but not limited to destruction.

(f) The date the City has completed or verified the full abatement of all violations listed in the Order of Immediate Abatement is the abatement date.

(Ord No. 92-39, 10/6/92, Enacted)

**Section 10. Amend Chapter 17 - Nuisances, Section 17-56 Reserved, only as follows, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-56. ~~Reserved~~ Interference with order prohibited.

(a) Any person who interferes in any way, including without limitation active or passive interference, with the execution of or refuses to abide by a lawful order issued pursuant to this Chapter is guilty of a class one (1) misdemeanor.

(Code 1977, § 10-4-10; Ord. No. 90-09, 3/13/90; Ord. No. 92-39, 10/6/92, renumbered as Sec. 17-56; Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2))

**Section 11. Amend Chapter 17 - Nuisances, Section 17-57 Notice of violation; rubbish, trash, weeds, filth, debris, and dilapidated structures, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-57. ~~Notice of violation; rubbish, trash, weeds, filth, debris, and dilapidated structures~~ Hazard Abatement.

~~Upon reasonable belief — (a) If the City finds that a violation of any provision in this chapter Code has occurred and rubbish, trash, weeds, or other accumulation of filth, debris, or is ongoing on a premises or dilapidated structures, including but not limited to accumulation of stagnant waters in swimming pools, spas and hot tubs constitute a hazard to public health and safety from buildings, grounds, lots, its~~ contiguous sidewalks, streets, and ~~or~~ alleys, ~~the city shall:~~

~~(a) Provide written notice that shall be served upon the owner, occupant or lessee by United States mail, and such violation constitutes a hazard to life or in person at their last known address the public health, welfare, or at the address on file in the Maricopa County Treasurer's Office to which the most recent tax bill was mailed. If the owner does not reside upon the property, a copy of the notice shall be mailed to the owner by first class United~~

~~States Mail to the owner's last known address, or may be served by any other means reasonably calculated to provide the owner with notice~~ safety the City Manager or designee may issue an Order of Abatement ordering that the hazard be abated.

\_\_\_\_\_ (b) The ~~notice~~ City shall ~~provide that~~ use reasonable efforts to promptly serve the Order of Abatement either by personal service or by certified mail upon the owner, the owner's authorized agent (if applicable), the owner's statutory agent (if applicable) or any occupant or lessee ~~shall have~~ (if applicable).

(c) If an Order of Abatement is served by certified mail, it shall be mailed to the last known address of the owner, the owner's authorized agent (if applicable), the owner's statutory agent (if applicable), the address to which the tax bill for the property was last mailed, and to the premises address.

(d) The Order of Abatement shall state that all violations of this Code described in the order must be abated by a compliance date of not less than thirty (30) days to remove any rubbish, trash, weeds, filth, debris, litter or dilapidated structures from the date of issuance, shall include the legal description of the property, the estimated cost of such abatement to the City should the City proceed to abate the nuisance, any right to appeal as described in this Chapter, and state that if the City abates the nuisance, the City may dispose of any property or material removed as the result of the abatement, in any reasonable manner, including but not limited to accumulation of stagnant waters in swimming pools, spas and hot tubs upon the property or adjacent sidewalks, streets and alleys and the estimated cost to the City for the removal- destruction.

~~(e) The notice shall provide that the owner, occupant or lessee shall have ten (10) days to appeal in writing the issuance of the notice to the City Council. The date of mailing of the appeal shall be the date of filing. All appeals shall specify the grounds for appeal. The appeal shall be filed with the City Clerk, together with the appeal fee provided in this code, failure to pay the required fee shall result in the appeal not being filed.~~

\_\_\_\_\_ (e) Any party served with an Order of Abatement must fully abate all violations of this Code described in the order by the compliance date specified in the order.

\_\_\_\_\_ (f) If the hazard is not timely abated, the City Manager or their designee may order the City, including without limitation, its agents, employees, and contractors, to enter upon the premises and fully abate any violations located thereon in any reasonable manner, without further notice.

\_\_\_\_\_ (g) The City may assess any person in lawful control of the premises for the cost of a City abatement conducted under this Section according to the provisions of Section 17-60 of this Chapter or by any other means authorized by law. Notwithstanding any provision of this Code or other policy, the City may dispose of any property or material removed as the result of an abatement, in any reasonable manner, including but not limited to destruction.

All costs accruing to the City according to this Section are in addition to any fines or fees imposed by the Municipal Court pursuant to this Chapter.

(h) The date the City has completed or verified the full abatement of all violations listed in the Order of Abatement is the abatement date.

(Code 1977, §§ 10-4-4 through 10-4-7; Ord. No. 90-09, 3/13/90; Ord. No. 92-39, 10/6/92, renumbered as Sec. 17-57; Ord. No. 93-01, 1/5/93, Amended, (a), (b) and (c); Ord. No. 00-20, 5/16/00, Amended (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Amended (SUPP 2004-4); Ord. No. 2017-30, § 8, 6-13-17)

**Section 12. Amend Chapter 17 - Nuisances, Section 17-58 Appeals of notices of violation; rubbish, trash, weeds, filth, debris, and dilapidated structures, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-58. Appeals of ~~notices an Order~~ of ~~violation; rubbish, trash, weeds, filth, debris, and dilapidated structures~~ Abatement.

~~(a) The City Manager shall delegate his authority to act as hearing officer for the City Council on appeals pursuant to Section 17-57 to a sales tax or other Hearing Officer appointed by the City. The Hearing Officer may exercise the power granted to the Council to compel the attendance of witnesses and to hear relevant evidence.~~

~~(b) The Hearing Officer shall hear the appeal within twenty (20) days after receipt and upon the conclusion of the hearing submit recommended findings and conclusions to the City Council. Written notice of the hearing shall be provided to the appropriate City departments and to the owner, occupant or lessee. The Hearing Officer shall recommend and the City Council shall determine, based upon a preponderance of the evidence, whether a violation of this chapter has occurred and whether rubbish, trash, weeds, or other accumulation of filth, debris, or dilapidated structures, including but not limited to accumulation of stagnant waters in swimming pools, spas and hot tubs constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets, and alleys. The City Council shall issue its findings in writing, upholding or reversing the notice of violation. The City Council shall not hold a second hearing to again consider the matter, but act on the recommendation of the Hearing Officer. The decision of the City Council shall be final.~~

~~(c) If an appeal is not filed in accordance with this section, the City Manager may issue an order of abatement upon the day following the last day to appeal a notice of violation. The order of abatement shall provide that the owner, occupant or lessee shall have the remainder of the thirty (30) day period provided for in the notice to remove rubbish, trash, weeds, filth, debris or litter from the subject property.~~

(a) Any party responsible for an Order of Abatement may appeal the order by filing an appeal in writing with the City Clerk together with the appeal fee provided in this Code by the compliance date specified in the order. The City Clerk shall not accept an appeal pursuant

to this Section unless the appeal is in writing and is accompanied by full payment for the appeal fee which may be waived upon a finding of indigency in the discretion of the City Clerk. Once the properly filed appeal is accepted, the City Clerk shall transmit the appeal to the Municipal Court.

(b) Upon the filing of a written appeal any time period for compliance set forth in the Order of Abatement shall be stayed pending the Municipal Court's decision. The date the City Clerk accepts the written appeal accompanied by the required fee shall be the date of filing. Upon receipt of the transmitted appeal, the Municipal Court shall notify the Code Compliance Manager or designee and arrange to forward the appeal to the department for a response. Within ten (10) days of the date of notification, the City may file a written response to the appeal or indicate to the Court that it does not intend to file a written response to the appeal. If the City does not intend to file a written response to an appeal, the Court shall consider the Order of Abatement as the City's response. The appeal and response shall each consist of no more than one document of not more than ten (10) pages in length, one-sided with standard margins and a standard font, to which any relevant evidence may be attached, and shall completely set forth the entire basis for the appeal or the response.

(c) If a party to an appeal desires an oral hearing, such a request must be indicated on the front page of the written appeal or response along with an explanation as to why an oral hearing is necessary to serve the ends of justice. The Municipal Court shall determine if an oral hearing will further the ends of justice in its sole discretion. The Municipal Court may refuse to conduct an oral hearing if it will not further the ends of justice. The Municipal Court may accept or consider any evidence that it deems relevant or necessary to serve the ends of justice. If no oral hearing is held, the Municipal Court shall decide appeals based on the written appeal, the City's response, and all evidence attached.

(d) If the Municipal Court determines that an oral hearing is necessary to serve the ends of justice, the Municipal Court may set such a hearing according to its calendar. If practicable such hearing date shall be within thirty (30) days of the date of filing of the appeal. The Presiding Judge may assign any judge, judge pro tem, or other hearing officer to hear the appeal in the Presiding Judge's sole discretion. The Municipal Court shall not grant any continuances unless the Presiding Judge determines that manifest injustice will otherwise result to either party. At an oral hearing, the appellant and the City shall have the opportunity to present evidence. The formal rules of evidence shall not apply, and the court may admit any evidence it deems relevant or probative. The burden of proof in the appeal is on the City to prove by a preponderance of the evidence that a violation of any provision in this Code has occurred and such violation constitutes a hazard to life or the public health, welfare, or safety.

(e) Upon the conclusion of the hearing, the Municipal Court shall make a finding as to whether the City has proven by a preponderance of the evidence that a violation of any provision in this Code occurred on the premises and such violation constituted a hazard to life or the public health, welfare, or safety. The Municipal Court shall prepare a written finding that sets forth the court's decision and the reasoning and basis for the decision.

(f) The decision of the Municipal Court shall be final subject to appeal in the Superior Court.

Code 1977, §§ 10-4-8, 10-4-9; Ord. No. 90-09, 3/13/90; Ord. No. 92-39, 10/6/92, renumbered as Sec. 17-58; Ord. No. 93-01, 1/5/93, Amended, (a), (b) and (c); Ord. No. 00-20, 5/16/00, Amended (a) and (b) (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Amended (SUPP 2004-4); Ord. No. 2017-30, § 9, 6-13-17)

Charter reference(s)—Assessments and liens authorized, art. I, § 3(4).

**Section 13. Amend Chapter 17 - Nuisances, Section 17-59 Order of abatement, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-59. ~~Order of abatement~~ Reserved.

~~Upon the expiration of the appeal period after issuance of the notice provided for in Section 17-57 of this Code, or at the time the final decision of the City Council upholding the notice of violation, the City Manager may issue an order of abatement providing for:~~

~~(a) The removal of all rubbish, trash, weeds, or other accumulation of filth, debris or dilapidated structures, including but not limited to removal of stagnant waters in swimming pools, spas and hot tubs which constitute a hazard to public health and safety by the City's employees or contractors within five (5) days or the remainder of the notice period, whichever is applicable. The order shall be in writing and signed by the City Manager or designee. The order shall include the estimated cost for the removal, plus a five percent (5%) surcharge, based on the estimated cost to cover the City's incidental costs.~~

~~(b) A copy of the order of abatement shall be posted upon the subject property. The order shall be sent by certified United States mail to the owner, occupant or lessee at their last known address or most recent address to which a tax bill was mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.~~

~~(c) After five (5) days have elapsed from the date of issuance of the Order of Abatement, the City, its employees or contractors enter upon the property and remove all rubbish, trash, weeds, filth, debris or dilapidated structures, including but not limited to removal of stagnant waters in swimming pools, spas and hot tubs from any lot, parcel or tract.~~

(Ord. No. 93-01, 1/5/93, Enacted; Ord. No. 00-20, 5/16/00, Amended (a) and (c) (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Amended (SUPP 2004-4))

**Section 14. Amend Chapter 17 - Nuisances, Section 17-60 Order of assessment, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-60. Order of assessment; appeals.

(a) ~~Within five (5) days after the City, its employees or contractors have removed rubbish, trash, weeds, filth, debris or dilapidated structures, including but not limited to removal of stagnant waters in swimming pools, spas and hot tubs from~~ If any ~~lot, parcel or tract~~ abatement action has been taken by the City, the City Manager or designee may issue a written Order of Assessment ordering payment for any monies owed to the City pursuant to this Chapter, the City shall issue a written order. The Order of Assessment should be issued within thirty (30) days of the abatement date and promptly recorded. The total assessment: ~~The order~~ is due and payable in equal annual installments to the City in accordance with the schedule in Section 17-60(b). The assessment or any unpaid portion thereof will become delinquent after the expiration of the applicable payment period. The date of mailing the Order of Assessment shall be the date of issuance.

(b) Assessments that are imposed under this section run against the property until paid and are due and payable in equal annual installments as follows:

(1) Assessments of less than \$500 shall ~~list the common address, legal description and~~ be paid within one year after the assessment is recorded.

(2) Assessments of \$500 or more but less than \$1,000 shall be paid within two years after the assessment is recorded.

(3) Assessments of \$1,000 or more but less than \$5,000 shall be paid within three years after the assessment is recorded.

(4) Assessments of \$5,000 or more but less than \$10,000 shall be paid within six years after the assessment is recorded.

(5) Assessments of \$10,000 or more shall be paid within ten years after the assessment is recorded.

(c) The Order of Assessment shall:

(1) List the tax parcel number of the property. ~~The order shall also list the;~~

(2) State the total amount due to the City, including:

(i) The ~~order shall also list the~~ actual cost of removal, the ~~five percent (5%) surcharge levied by the City, and the total cost.~~ The order shall indicate that the entire cost is due and payable in full within thirty (30) days from the date of issuance of the order to the City of the abatement, and

(ii) The actual costs of any additional inspection and other incidental costs,

(3) State that the ~~assessment will become delinquent on~~ total cost is due and payable in equal annual installments to the City in accordance with Section 17-60(b), and that ~~date. The order shall be~~ the assessment will become delinquent after the applicable payment period;

(4) State that any delinquent assessments shall accrue interest at the rate of interest on a judgment set by state law,

(5) Be signed by the City Manager or ~~his~~ designee ~~and shall be,~~

(6) Be recorded in the office of the County Recorder,

~~(b) The order as assessment shall also contain~~ (7) Indicate that the amount of the Order of Assessment may be appealed pursuant to Section 17-58 and that such an appeal must be timely filed along with the appeal fee as provided in this Code, and failure to pay the required fee will result in the appeal being rejected, and

(8) Contain the following notice in bold face print:

NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S. § 9-499 AND ARTICLE I, SECTION 3(4) OF THE PEORIA CITY CHARTER SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF THE CITY OF PEORIA, ARIZONA. THE CITY MAY TAKE ANY LEGAL ACTION INCLUDING WITHOUT LIMITATION ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE ~~COSTS~~ AMOUNT INDICATED IN THE ORDER OF ASSESSMENT.

~~(c) The order of assessment shall indicate that the owner, lessee or occupant shall have ten (10) days from the date of issuance to appeal the amount of the assessment levied by the City. The date of mailing the order shall be the date of issuance. All appeals of orders of assessments shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of the assessment may be appealed. The appeal shall be filed with the appeal fee provided in this Code, and failure to pay the required fee shall result in the appeal not being filed.~~

~~(d) The Hearing Officer shall hear the appeal within fifteen (15) days after receipt and upon conclusion submit recommended findings and conclusions to the City Council. Written notice of the hearing shall be provided to the appropriate City departments and to the owner, occupant or lessee. The Hearing Officer shall recommend and the City Council shall determine, based upon a preponderance of the evidence, whether the assessment was made in accordance with the provisions of this Chapter and whether the amount assessed actually covers the costs incurred by the City. The Council shall issue its findings in writing upholding or modifying the amount of assessment. The decision of the Council shall be final.~~

~~(e) The order of assessment shall provide that any delinquent assessments shall bear interest in the same manner as delinquent utility bills at a rate of twelve percent (12%).~~

~~(f) A prior assessment under this Chapter is not a bar to subsequent assessments under this Chapter and any number of liens imposed pursuant to this Chapter may be enforced in the same action.~~

(d) The amount indicated in an Order of Assessment may be appealed to the Municipal Court in the manner described in Section 17-58, except no oral hearings are permitted without a finding by the Municipal Court that exceptional circumstances exist that warrant an oral hearing. The Municipal Court may base its findings on the appeal, response, and any attached evidence. Only the amount of an assessment may be appealed. An appeal of an Order of Assessment amount shall stay the applicable period to pay the assessment only until the appeal has been decided.

(e) In the event the City elects to enforce an assessment by sale, the sale shall be made from a judgment of foreclosure and order of sale. The City shall have the right to enforce the assessment in the Superior Court of Maricopa or Yavapai County based on location of the premises at any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessments or liens for the purposes provided for in the Code shall not be a bar to subsequent assessments or liens and any number of liens or assessments on the same parcel may be enforced in the same action.

(f) The assessment shall constitute a first lien and is prior and superior to all other liens, obligations, mortgages, or other encumbrances, except liens for general taxes.

(g) Any liens or assessments filed with the County Recorder pursuant to previous provisions of this Chapter shall remain in effect under the same terms and conditions that existed at the time of recording.

(Ord. No. 93-01, 1/5/93, Enacted; Ord. No. 00-20, 5/16/00, Amended (a) (SUPP 2000-2); Ord. No. 04-212, 12/14/04, Amended (SUPP 2004-4); Ord. No. 2017-30, § 10, 6-13-17)

State law reference(s) – Removal of nuisances by city; costs assessed; collection, A.R.S. § 9-499.

**Section 15. Amend Chapter 17 - Nuisances, Section 17-61 Nuisance; abatements; assessments; lien enforcement, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-61. Nuisance; abatements; assessments; lien enforcement.

The Finance Department shall maintain a list of all delinquent assessments made pursuant to this Chapter.

(a) All assessments sixty (60) days delinquent shall be forwarded to the City Attorney for review. If the City Attorney determines that the value of the assessment(s), surcharges and interest, together with the value of all other liens having priority over the assessment, does not exceed the value of the property, the City Attorney may commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority, the assessment, surcharges, and interest.

(b) If the City Attorney or City Manager determines that the value of the assessment, surcharge and interest, together with the value of all other liens having priority over the assessment, exceeds the value of the property, the City Attorney need not commence legal action to foreclose the lien. The City Manager may negotiate on the City's behalf with parties holding liens which have priority on the property. Any agreement waiving part or all of an assessment, surcharge ~~and, or~~ interest shall be approved by the City Council.

(c) Upon payment in full of an assessment, surcharge and interest, or upon waiving of an assessment, surcharge and interest in full by the City Council, the City shall record a notice of satisfaction of assessment in the Office of the County Recorder. The notice shall contain the name of the owner of the property, the tax parcel number, the common street address, and the legal description of the property. The notice shall refer to the date of the ~~order~~ Order of ~~assessment~~ Assessment and the docket and page number in the Office of the County Recorder where such order is recorded.

(Ord. No. 93-01, 1/5/93, Enacted; Ord. No. 04-212, 12/14/04, Amended (SUPP 2004-4); Ord. No. 2017-30, § 11, 6-13-17)

**Section 16. Amend Chapter 17 - Nuisances, Section 17-62 Collection of assessments, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-62. Collection of assessments.

(a) The ~~city manager~~ City Manager shall be authorized to collect assessments imposed pursuant to this ~~chapter~~ Chapter in the same manner and method as delinquent utility bills and license taxes. No utility service shall be commenced on any property having delinquent assessments, surcharges ~~and, or~~ interest from an assessment levied pursuant to this ~~chapter~~ Chapter until the assessment, surcharges, and interest have been paid in full. No business license or sales tax license shall be issued for a business on any property having delinquent assessments, surcharges ~~and, or~~ interest from an assessment levied pursuant to this ~~chapter~~ Chapter until the assessment, surcharges, and interest have been paid in full.

(Ord. No. 93-01, 1/5/93, Enacted)

**Section 17. Amend Chapter 17 - Nuisances, Section 17-63 Public services revolving account, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-63. Public services revolving account.

(a) The public services revolving account within the ~~city's~~ City's general fund is established, consisting of monies collected from payments on assessments levied under this ~~chapter~~ Chapter, surcharges on fines, and such other funds as the ~~city council~~ City Council may appropriate. The finance director shall administer the account.

(b) All expenditures from the account shall comply with the provisions of this ~~code~~ Code and any administrative regulations and policies governing expenditures of the ~~city~~ City.

(c) The public services revolving account may be used to advance the costs for ~~the removal of rubbish, trash, weeds, filth, debris or dilapidated structures form any lot, parcel or tract~~ any abatement undertaken pursuant to this ~~chapter~~ Chapter.

(Ord. No. 93-01, 1/5/93, Enacted; Ord. No. 00-20, 5/16/00, Amended (c) (SUPP 2000-2); Ord. No. 02-42, 6/7/02, Amended (SUPP 2002-2))

**Section 18. Amend Chapter 17 - Nuisances, Section 17-64 Nuisance; transfer of property after notice, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-64. Nuisance; transfer of property after notice.

(a) The transfer of any ~~and all~~ property interest in any manner, including ~~but limited to~~ without limitation sale, trade, lease, gift, or assignment of any real property against which a notice of ~~violation~~ nuisance or an assessment has been issued shall not relieve ~~the party(s) served~~ an owner, occupant, lessee, or other person in control of any premises of any penalty, obligation, or assessment imposed pursuant to this Chapter unless the legal entity ~~assumes ownership interest in~~ acquiring the property interest assumes, in writing ~~assumes~~ presented to the City, full and complete responsibility ~~for compliance with~~ to abate the ~~notice of violation~~ nuisance and ~~a copy of such writing is provided to the City.~~

~~(b) If a violation of this Chapter exists on the property at the time legal ownership has been transferred~~ pay all outstanding assessments, fines, fees, and the entity assuming an ownership interest in the property is provided with notice of the violation, such entity shall also be liable for the violation as a successor owner of the property. costs.

(Ord. No. 04-212, 12/14/04, Enacted (SUPP 2004-4))

**Section 19. Amend Chapter 17 - Nuisances, Section 17-65 Shopping Carts; definitions, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-65. Shopping Carts; definitions.

In this ~~chapter~~ Chapter, unless the context otherwise requires:

(a) Actual Notice is defined as oral or written notice delivered to the owner of the shopping cart or retailer at the address on their sales tax or business license on file with the City by any of the following means:

(1) Personal service upon the location of the owner of the shopping cart or retailer. Personal service upon an employee of suitable age and discretion at such location is sufficient.

(2) Service by first class U.S. Mail or any recognized express delivery service upon the owner of the shopping cart or the retailer.

(3) Service by Facsimile to the Fax number of the owner of the shopping cart or the retailer.

(4) Service by Electronic Mail to the E-mail address of the owner of the shopping cart or the retailer.

(5) Service by posting the notice on the premises of the Owner of the shopping cart or the retailer.

(b) It shall be presumed that the address on the sales tax or business licenses on file with the City is the address of the owner of the shopping cart or retailer, unless the owner or retailer notifies the City in writing of a different address.

(c) Business of shopping cart retrieval: Searching for, gathering and restoring possession to the owner or the owner's agent, for compensation or in expectation of compensation, of shopping carts located outside the premises or parking area of a retail establishment.

(d) Electronic Device: A device using Radio Frequency Identification Devices or similar technology that is designed to prevent the Shopping Cart from being pushed and moved if removed from the premises of the Owner of the Shopping Cart or Retailer.

(e) Parking area: A parking lot or other property provided by a retailer for use by a customer for parking any automobile or other vehicle.

(f) Possession: Being in actual physical control of the shopping cart at the time of issuance of a citation or to permit the shopping cart to be located on property that the individual is the lawful owner, lessee, or possessor of.

(g) Premises: The designated premises of a retailer as set forth on the approved site plan on file with the ~~city~~ City, together with parking areas as defined in this ~~chapter~~ Chapter.

(h) Restrictive Device: Some form of Electronic Device, locking mechanism, mechanical device or other device that interferes with operation and/or removal of the shopping card from the designated premises of the retailer.

(i) Shopping cart: A basket that is mounted on wheels or a similar device that is generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-65 Enacted (SUPP 2007-4); Ord. No. 2017-30, § 12, 6-13-17)

**Section 20. Amend Chapter 17 - Nuisances, Section 17-66 Shopping carts; restrictive devices required; violations; penalties, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-66. Shopping carts; restrictive devices required; violations; penalties.

(a) On or after January 1, 2008, any person, partnership, corporation or other legal entity commencing operation of a retail establishment on any premises within the City shall have all Shopping Carts, owned, leased or which they are in lawful possession of, continuously equipped with a Restrictive Device that prevents their removal from the premises. The Community Development Director or his designee shall not issue a Certificate of Occupancy for the premises without a certification from the owner that all Shopping Carts owned, leased or which they are in lawful possession of are so equipped. The City shall charge a fee for the certification as provided in this ~~code~~ Code.

(b) On or after January 1, 2013, any person, partnership, corporation or other legal entity operating a retail establishment on any premises within the City shall have all Shopping Carts, owned, leased or which they are in lawful possession of, continuously equipped with a Restrictive Device that prevents their removal from the premises. Each person, partnership, corporation or other legal entity operating a retail establishment on January 1, 2013 shall file a certification with the Community Development Director or his designee that all Shopping Carts owned, leased or which they are in lawful possession of are so equipped. The City shall charge a fee for the certification as provided in this ~~code~~ Code.

(c) As an alternative to ~~subsection~~ Subsection (b), any person, partnership, corporation or other legal entity operating a retail establishment within the City on or before January 1, 2008, or any entity that begins operating in an existing building or suite shall enter into a contract with a shopping cart retrieval service that complies with the provisions of Section 17-69 to recover shopping carts unlawfully removed from the premises of the retail establishment. In order to comply with this alternative, the contract shall meet all of the following;

(1) The contract must be in writing. A copy of the Contract shall be filed not less than annually with the City. If the retail establishment terminates an existing contract and enters into a new contract, the new contract must be filed with the City within thirty (30) days following entry into the Contract.

(2) The shopping cart retrieval service that is a party to the Contract must hold a valid business license issued by this City.

(3) The contract with the shopping cart retrieval service must remain continuously in place. If the retail establishment does not have a contract that meets the requirements of this ~~subsection~~ Subsection for more than thirty (30) consecutive days, it shall immediately comply with the provisions of ~~subsection~~ Subsection (b)

(4) The retail establishment shall pay an annual fee of \$250.00 or such other amount as set in Chapter 2 of this ~~code~~ Code which shall be used to cover the City's costs in administrating this provision and removing any carts under the control of the retail establishment from any place within the City.

(5) The retailer shall continuously meet the requirements of ~~section~~ Section 17-68(a) of this ~~code~~ Code and have the name and phone number of the car retrieval service attached to all of the carts.

(6) The retail establishment shall be required to file the annual certificate of compliance required by ~~subsection~~ Subsection (b) and shall attach all required documents to indicate compliance with this ~~subsection~~ Subsection.

(7) In the event that 150 shopping carts under the control of a retail establishment using this ~~section~~ Section were logged as being collected, deposited and impounded with the City within one calendar year within a two consecutive year running period, the Community Development Director may order the retail establishment to comply with the provisions of ~~subsection~~ Subsection (b) and prohibit use of this alternative. For purposes of this ~~subsection~~ Subsection, impounded means that the shopping cart has been placed in a city-controlled storage yard and the requisite notice provided to the owner.

(d) Failure to equip a Shopping Cart with a Restrictive Device as provided in this ~~section~~ Section shall be a civil infraction. The Court shall impose a civil sanction for each Shopping Cart that is not equipped with a Restrictive Device. Each failure to equip a Shopping Cart with a Restrictive Device shall be deemed a separate violation of this ~~section~~ Section. It shall be presumed that all persons, partnerships, corporation of legal entities having control of shopping carts are subject to the provisions of this ~~section~~ Section. The burden of rebutting this presumption by compliance with the alternative contained in ~~subsection~~ Subsection (c) shall be on the legal entity having control of shopping carts.

(e) Failure to file a certification with the City as required by this ~~section~~ Section shall be a class three (3) Misdemeanor.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-66 Enacted (SUPP 2007-4); Ord. No. 2010-07, 02/16/2010, Amended (SUPP 2010-1); Ord. No. 2017-30, § 13, 6-13-17)

**Section 21. Amend Chapter 17 - Nuisances, Section 17-67 Shopping carts; activities; prohibitions; notices; applicability; consent; presumption; violations., leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-67. Shopping carts; activities; prohibitions; notices; applicability; consent; presumption; violations.

(a) A person shall not do any of the following with the intent to temporarily or permanently deprive the owner or retailer of possession of a shopping cart:

(1) Remove a shopping cart from the premises or parking area of a retail establishment.

(2) Be in possession of any shopping cart that has been removed from the premises or parking area of a retail establishment.

(3) Be in possession of any shopping cart with the serial numbers removed, obliterated or altered.

(4) Leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment.

(5) Alter, convert or tamper with a shopping cart, remove any part or portion of a shopping cart or remove, obliterate or alter serial numbers on a shopping cart, or obliterate or alter the name of the owner or remove, obliterate or alter any Restrictive Device that the Shopping Cart is equipped with.

(6) Be in possession of any shopping cart while that cart is not located on the premises or parking lot of a retail establishment.

(b) Each owner of a shopping cart or retailer shall post a notice in English and Spanish in the following format in a location on their premises reasonably accessible to the public as follows:

**NOTICE: REMOVAL OF SHOPPING CARTS FROM THE PREMISES AND PARKING LOT OF THIS ESTABLISHMENT IS ILLEGAL AND VIOLATIONS MAY BE CHARGED AS CRIMINAL OFFENSE.**

(c) Each owner of a shopping cart or retailer shall place on each shopping cart in their control the name of their business, address and telephone number.

(d) On or after October 1, 2007, an owner of a shopping cart or retailer who certifies to the City that all of their shopping carts are equipped with a Restrictive Device to make the

carts immobile if removed from the premises shall be exempt from ~~subsections~~ Subsections (b) and (c).

(e) An owner of a shopping cart or retailer shall only give consent in writing to the removal of a shopping cart from the premises or parking lot of their establishment. It shall be presumed as a matter of law that any person not having written consent other than the owner of the car or the retailer, in possession of a shopping cart located outside the premises of the owner or retailer has temporarily or permanently deprived the owner or retailer of possession of the shopping cart.

(f) This ~~section~~ Section does not apply to:

(1) The owner of a shopping cart or to a retailer or a retailer's agents, or employees.

(2) A customer of a retail establishment who has written consent from the owner of a shopping cart or a retailer to be in possession of the shopping cart or to remove the shopping cart from the premises or the parking area of the retail establishment

(3) An employee of the City designated to retrieve shopping carts.

(g) Violation of ~~subsection~~ Subsection (a) of this ~~section~~ Section is a class three (3) misdemeanor. Violation of ~~subsection~~ Subsection (b) shall be enforced by a civil penalty.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-67 Enacted (SUPP 2007-4); Ord. No. 2017-30, § 14, 6-13-17)

**Section 22. Amend Chapter 17 - Nuisances, Section 17-68 Shopping carts; finding; impoundment of shopping carts by local agencies; conditions; emergencies; costs; fines; disposal of unclaimed carts; applicability, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-68. Shopping carts; finding; impoundment of shopping carts by local agencies; conditions; emergencies; costs; fines; disposal of unclaimed carts; applicability.

(a) A shopping cart that does not have any identification affixed to in accordance with A.R.S. § 44-1799.32 or Section 17-66 of this ~~code~~ Code is deemed a public nuisance and may be immediately and summarily abated by impoundment of the shopping cart. ~~The City shall publish a notice one time describing such carts in a newspaper of general circulation in the City. A shopping cart that is not reclaimed from the City within fifteen days (15) following publication of the notice of impound may be sold or otherwise disposed of by the City in the City's~~ If such a shopping cart is not retrieved by its owner within thirty (30) days after the cart owner has received notice of the cart being impounded, or if the City cannot determine the identity of the cart owner within thirty (30) days after the cart was first impounded; then the City its agents, or contractors may sell, dispose of, or destroy the cart, in accordance with state law and this Code, in the City's sole discretion.

(b) A shopping cart that has a sign affixed to it in accordance with A.R.S. § 44-1799.32 or Section 17-66 of this ~~code-Code~~ may be impounded by the City provided all of the following conditions are met:

(1) The shopping cart is located outside the premises or parking area of a retail establishment. The parking area of a retail establishment located in a multi-store complex or shopping center includes the parking area used by the complex or center.

(2) The shopping cart is not retrieved within three business days after the date the owner of the shopping cart, or the owner's agent, receives actual notice from the city, town or county of the shopping cart's discovery and location.

(c) If the location of the shopping cart will impede emergency services, obstruct vehicle traffic or create a safety hazard to the public on a public right-of-way, the City may immediately retrieve the shopping cart from public or private property. It shall be presumed that a shopping cart blocking a sidewalk or bicycle path is a safety hazard to the public.

(d) The City shall recover its costs for impounding a shopping cart in the amount provided in Chapter 27, Fee Table 27-18 of this ~~code-Code~~.

(e) The City shall post on its website, the address and telephone number of the location where shopping carts will be impounded by the City and the hours that the location is open for business.

(f) The owner of a shopping cart or retailer shall retrieve the shopping cart within one business day after receiving notice. The owner of a shopping cart or retailer who has had more than three occurrences of shopping carts being impounded and failing to retrieve the shopping cart within one business day after receiving notice, within a six-month period shall be charged a civil penalty of fifty dollars (\$50.00) in addition to the impound fees. An occurrence includes all shopping carts impounded in accordance with this ~~section-Section~~ in a one-day period.

(g) A shopping cart that is not reclaimed from the City within thirty days after receipt of a notice of the impound by the owner of the shopping cart may be sold or otherwise disposed of by the City in the City's sole discretion.

(h) Notwithstanding ~~subsection-Subsection~~ (b), paragraph 2 of this ~~section-Section~~, a city, town or county may impound a shopping cart that otherwise meets the criteria prescribed in ~~subsection-Subsection~~ (b), paragraph 1 of this ~~section-Section~~ without complying with the three day advance notice requirement if all of the following apply:

(1) The owner of the shopping cart or the owner's agent is provided with actual notice within twenty-four hours after the impound and that notice informs the owner or the owner's agent of the location where the shopping cart may be claimed.

(2) The shopping cart is impounded at a location in compliance with ~~subsection-Subsection~~ (e) of this ~~section-Section~~.

(3) The shopping cart is reclaimed by the owner or the owner's agent within three business days after the date of actual notice as provided in paragraph 1 of this ~~subsection-Subsection~~ and is released and surrendered to the owner or agent at no charge, including the waiver of any impound and storage fees or fines that would otherwise apply pursuant to ~~subsection-Subsection~~ (d) or (f) of this ~~section-Section~~. Any cart reclaimed within the three business day period is not deemed an occurrence for purposes of ~~subsection-Subsection~~ (f) of this ~~section-Section~~.

(i) Any shopping cart not reclaimed by the owner or the owner's agent after three business days after the date of actual notice as provided in ~~subsections-Subsections~~ (b) and (h) of this ~~section-Section~~ is subject to any applicable fee or fine imposed pursuant to ~~subsection-Subsection~~ (d) or (f) of this ~~section-Section~~ commencing on the fourth business day after the date of the notice.

(j) Any shopping cart not reclaimed by the owner or the owner's agent within thirty days after the date of actual notice as provided by ~~subsection-Subsection~~ (h), paragraph 1 of this ~~section-Section~~ may be sold or disposed of in accordance with ~~subsection-Subsection~~ (g) of this ~~section-Section~~.

(k) On or after October 1, 2007, any owner of a shopping cart or retailer who has certified to the City that all of their shopping carts are equipped with a restrictive device to prevent removal from the premises of the owner or retailer shall be exempt from being charged any collection or impound fees for any carts collected by the City.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-68 Enacted (SUPP 2007-4); Ord. No. 2017-30, § 15, 6-13-17)

**Section 23. Amend Chapter 17 - Nuisances, Section 17-69 Shopping carts; retrieval; records; sign, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-69. Shopping carts; retrieval; records; sign.

(a) A person, other than the City who engages in the business of shopping cart retrieval shall retain records showing written authorization from the cart's owner, or an agent of the owner, to retrieve the cart and to be in possession of the carts retrieved. Any owner of a shopping cart or retailer located in the City of Peoria, Arizona, is deemed upon having applied for a sales tax or business license with the City to have granted consent to the City to retrieve and be in possession of the shopping carts in accordance with the provisions of this ~~chapter-Chapter~~.

(b) A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart retrieval.

(c) Each vehicle, other than those in the possession of the City used for the retrieval of shopping carts shall display a sign that clearly identifies the retrieval service.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-69 Enacted (SUPP 2007-4))

**Section 24. Amend Chapter 17 - Nuisances, Section 17-70 Shopping carts; violation; classification; applicability, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-70. Shopping carts; violation; classification; applicability.

(a) Unless otherwise specified, a person who violates any provision of Sections 17-65 ~~though~~through 17-69 is guilty of a class 3 misdemeanor.

(b) Sections 17-65 through 17-69 are not intended to preclude the application of any other laws relating to prosecution for a criminal offense.

(Ord. No. 91-08, 2/12/91; Ord. No. 92-39, 10/6/92; Ord. No. 93-01, 1/5/93, Reserved; Ord. No. 07-33, 10/16/07, Sec 17-70 Enacted (SUPP 2007-4))

**Section 25. Amend Chapter 17 - Nuisances, Section 17-71 Recreational Marijuana, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-71. Recreational Marijuana.

(a) To the fullest extent permitted by law, it is unlawful to consume, smoke, or possess Marijuana or Marijuana Products on ~~property~~premises that is occupied, owned, controlled, or operated by the City of Peoria.

(b) It is unlawful for an individual to smoke or consume Marijuana or Marijuana Products in any open space or public place in the City of Peoria.

(c) It is unlawful to smoke or consume Marijuana or Marijuana Products where smoking is prohibited as set forth in this Chapter.

(d) A violation of ~~subsections~~Subsections (a) and (c) of this Section is a Class One (1) misdemeanor subject to the provisions of Section 1-5 of the Code.

(e) A violation of ~~subsection~~Subsection (b) of this Section is a petty offense, unless the open space or public place is occupied, owned, controlled, or operated by the City of Peoria, then said violation will be subject to the penalties set forth in ~~subsection~~Subsection (d) of this Section.

(Ord. No. 2020-14, § 2, 11-10-20)

Editor's note(s)—Formerly, § 17-71 was reserved and derived from Ord. No. 91-08, 2/12/91; Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2).

**Section 26. Amend Chapter 17 - Nuisances, Section 17-72 Smoking in enclosed public places; definitions, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-72. Smoking in enclosed public places; definitions.

(a) "Smoking" means inhaling, exhaling, burning, or carrying or possessing any lighted tobacco product, including cigars, cigarettes, pipe tobacco and any other lighted tobacco product or the inhaling, exhaling, burning, carrying or possessing Marijuana pursuant to a Medical Marijuana Card issued pursuant to A.R.S. § 36-2801 et seq.

(b) Prohibitions.

(1) Smoking is prohibited in rest rooms, public buses, the public areas of grocery stores, convenience markets, drugstores, pharmacies, and in waiting or checkout line areas within other enclosed public places. For purposes of this Chapter, all rest rooms within an enclosed public place shall be deemed non-smoking.

(2) Smoking is prohibited in all other enclosed public places, except in a designated smoking area or as otherwise expressly provided in this Chapter or state law.

(3) The provisions of this Chapter shall not be construed to limit the ability of the owner, operator or manager of an enclosed public place or the employer to declare the whole or any portion of that enclosed public place or place of employment to be smoke free.

(4) Smoking in ~~city~~-City-owned public places. All enclosed public places owned, controlled, occupied or managed by the ~~city~~-City shall be subject to this Chapter. Nothing in this Chapter shall restrict the City Manager from adopting more stringent standards governing smoking in ~~city~~-City-owned public places pursuant to the City Charter.

(5) Private Residences that are used as a licensed ~~child care~~-childcare, adult day care, or health care facility.

(6) Smoking of Medical Marijuana is prohibited in those areas of public and private parks containing playground equipment for use by children. Playground equipment includes swing sets; pull up and climbing bars; water features; cushioned play areas, skateboard parks and skate areas and any other area designed for play by children. The play area shall include a buffer of fifty (50) feet from the actual play facilities.

(7) Smoking is prohibited in all public places as defined in A.R.S. § 36-601.01.A.9.

(8) Smoking is prohibited within fifty (50) feet of any entrance of a public place and within fifty (50) feet of any entrance of a licensed ~~child care~~-childcare, adult day care or health care facility.

(c) Optional areas. Other provisions of this Chapter to the contrary notwithstanding, the following areas shall not be subject to the smoking restrictions of this Chapter:

(1) Private residences except as provided in ~~subsections~~ Subsections (b)(5), (8).

(2) Hotel and motel rooms rented to guests and designated as smoking rooms.

(3) Retail stores dealing exclusively in the sale of tobacco products and smoking paraphernalia, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked in such retail stores.

(4) On-stage smoking as a part of a stage production, ballet or similar exhibition, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked as part of a stage production, ballet or similar exhibition.

(5) Outdoor patios so long as tobacco or marijuana smoke does not enter areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

(6) A private residence which serves as a ~~work place~~ workplace or place of employment.

(7) Private clubs and private recreation facilities, however, Medical Marijuana provided to a patient pursuant to a medical marijuana card may not be smoked in such Private clubs and private recreation facilities.

(Ord. No. 91-08, 2/12/91; Ord. No. 03-181, 12/02/03, Amended (SUPP 2003-4); Ord. No. 2011-07, 2/15/2011, Amended (SUPP 2011-1); Ord. No. 2017-30, § 16, 6-13-17)

**Section 27. Amend Chapter 17 - Nuisances, Section 17-73 Smoking in places of employment; definitions, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-73. Smoking in places of employment.

(a) For purposes of this ~~chapter~~ Chapter, places of employment shall be defined to include the following:

(1) Bars, Pool halls and bowling alleys; including those areas opened to the public.

(2) Hotel, motel and all other public and private conference/meeting rooms, while those places are being used for exclusively private functions.

(b) Each employer in each place of employment within the ~~city~~ City shall adopt, implement and maintain a written smoking policy, which shall be posted in the same manner as other employment notices required by law and containing at a minimum the following provisions and requirements:

(1) Address the issue of smoking in employer conference and meeting rooms, classrooms, auditoriums, waiting areas, medical facilities, hallways, stairways and elevators.

(2) Provision and maintenance of a physically separate and independently ventilated non-smoking area in restaurants, cafeterias, lunchrooms and employee lounges, located within a place of employment.

(c) Any employee may object to their employer about smoke in their immediate work area. The policy required by the preceding ~~subsection~~ Subsection shall include a reasonable definition of work area. Using already available means of ventilation or separation or partition of office space, the employer shall attempt to reach a reasonable accommodation insofar as possible, between the preferences of smoking and non-smoking employees. An employer is not required by this provision, however, to make any expenditures or structural changes to accommodate the preferences of smoking or non-smoking employees.

(d) If the employer cannot reach an accommodation which is reasonably satisfactory to all affected non-smoking employees, the preferences of the non-smoking employee shall prevail to the extent it does not interfere with the normal operation of the employer's business. Where the employer prohibits smoking in a work area, it shall clearly mark that area with appropriate "no smoking" signs and, upon request, shall provide signs to employees for use in designating their areas.

(e) The employer shall make known its policies regarding smoking as required by this Chapter to all the employer's employees working in ~~work places~~ workplaces in the ~~city~~ City and the employer shall post its written policies conspicuously in all ~~work places~~ workplaces under the employer's jurisdiction in the ~~city~~ City.

(f) Any person or employer who owns, manages, operates or otherwise controls the use of any premises subject to this Chapter has the responsibility to properly:

(1) Designate in a conspicuous manner required "no smoking" areas.

(2) Post signs required by this ~~subsection~~ Subsection or elsewhere in this Chapter.

(g) "Smoking" or "no smoking" signs, as appropriate, or the international "no smoking" symbol consisting of a picture of a burning cigarette inside a red circle with a red bar diagonally across it shall be clearly and conspicuously posted by the owner, operator, manager, employer or other person in control in every place where smoking is controlled by this Chapter.

(1) In those places of employment containing a bar or restaurant, the owner, manager or operator shall post a smoking compliance sign in a form provided by the City at the entrance of the facility that visible to any code compliance or peace officer who inspects the location.

(h) Owner, manager, operator or employee of any establishment to which this Chapter applies shall, upon either observing or being advised of a violation of sections 17-71 through 17-75 have the obligation to inform the violator of the requirements of this Chapter and request their immediate compliance. Should a person continue to violate any of sections 17-71—17-75 of this ~~code~~ Code, the Owner, manager, operator or employee of any establishment to which any of sections 17-71—17-75 apply may request the person to leave the premises. Should a person remain on the premises after such a request from the owner, manager, operator or employee of any establishment, there shall be a rebuttable presumption that the person is remaining unlawfully upon the ~~property~~ premises.

(Ord. No. 91-08, 2/12/91; Ord. No. 03-181, 12/2/03, Amended (SUPP 2003-4); Ord. No. 04-18, 03/16/04, Amended (SUPP 2004-1); Ord. No. 2017-30, § 17, 6-13-17)

**Section 28. Amend Chapter 17 - Nuisances, Section 17-74 Smoking; restaurants; bars, exemptions, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-74. Smoking; restaurants; bars, exemptions.

(a) No smoking shall be permitted in restaurants and bars, except as expressly provided in this Chapter.

(b) Any restaurant and/or bar having received a temporary or final certificate of occupancy on or after March 1, 2004 regardless of whether it contains an area designated for the serving of alcohol by the drink shall not permit smoking inside the restaurant, except as provided by this ~~section~~ Section.

(1) Smoking may be permitted in outside patio areas covered by a roof, but not enclosed.

(2) Any restaurant having received a temporary or final certificate of occupancy prior to March 1, 2004, may permit smoking in an accessory bar or room that is physically separated from the restaurant and independently ventilated from smoke free areas. The Building Official may adopt standards consistent with adopted building codes to accomplish this goal. Such accessory bar areas or rooms may not be located in such a manner as to require non-smoking customers to walk through the area to reach the non-smoking areas.

(3) All entry lobby areas, waiting areas, restrooms and areas within fifteen (15) feet of the entrance shall be designated as smoke free.

(4) Restaurants and bars which were closed for a period of one consecutive year or more prior to the date of reopening and reopened after March 1, 2004 shall comply with this ~~section~~Section.

(5) Restaurants having received a temporary or final certificate of occupancy on or after January 1, 2004 shall not permit smoking in any accessory bar or room area, regardless of physical separation and independent ventilation.

(c) A restaurant having received a temporary or final certificate of occupancy prior to March 1, 2004 may permit smoking within a designated area subject to the provisions of this ~~subsection~~Subsection. On or before December 31, 2004, restaurants shall permit smoking only:

(1) Smoking may be permitted in outside patio areas covered by a roof, but not enclosed.

(2) In an accessory bar or room that is physically separated from the smoke free areas and independently ventilated from smoke free areas. The Building Official may adopt standards consistent with adopted building codes to accomplish this goal. Such smoking area may not be located in such a manner as to require non-smoking customers to walk through the area to reach the non-smoking areas.

(d) All entry lobby areas, including but not limited to within fifteen feet of the entrance, waiting areas and restrooms shall be designated as smoke free.

(e) All restaurants shall conspicuously post notices at all public entrances indicating whether smoking is permitted in a designated area. All restaurants shall conspicuously post a notice provided by the City at their main public entrance indicating the status of compliance with the provisions of sections 17-71—17-75 of this ~~code~~Code.

(f) All Bars for which a certificate of occupancy was issued prior to March 1, 2004 shall be subject to the provisions of Sections 17-71 through 17-73 of this Chapter.

(g) The owner of any restaurant for which a temporary or final certificate of occupancy was issued prior to March 1, 2004 may apply for a one (1) year exemption to make the improvements required by this ~~section~~Section. The application shall be filed with the Building Official of the City. The improvements required by this ~~section~~Section shall be made within the one-year period unless a request for a hardship exemption is filed under this ~~section~~Section.

(h) The owner of any restaurant for which a certificate of occupancy was Issued prior to March 1, 2004 and for which a one-year exemption was issued by the Building Official may file for a hardship exemption at the end of the one-year exemption period. The hardship exemption shall be for a period of Five (5) years and shall expire upon the end of the five-year period of upon the owner making improvements greater than 25% of the Value of the building.

(1) The City Manager shall develop a grant program subject to the appropriation of funds by the Council through the annual budget process to award

grants to businesses requesting financial assistance to pay the cost of compliance with the new requirements of this Chapter. Such grants shall be available only to those businesses requesting a hardship exemption under this ~~section~~Section.

(Ord. No. 91-08, 2/12/91; Ord. No. 03-181, 12/2/03, Amended (SUPP 2003-4); Ord. No. 04-18, 03/16/04, Amended (SUPP 2004-1); Ord. No. 2017-30, § 18, 6-13-17)

**Section 29. Amend Chapter 17 - Nuisances, Section 17-75 Smoking; non-retaliation, violations, penalties; definitions, leaving all other sections and subsections not specifically referenced unchanged:**

Sec. 17-75. Smoking; non-retaliation, violations, penalties.

(a) It shall be unlawful for any person or employer to discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, customer, or other person because such person exercises any right to a smoke free environment afforded under this Chapter.

(b) It shall be unlawful for the owner, manager, operator or employee of any establishment subject to the provisions of Sections 17-71—17-75 to engage in or permit their agents and/or employees to engage in a violation of this ~~chapter~~Chapter by permitting invitees or other persons to smoke in an establishment where smoking is prohibited under the provisions of Sections 17-71—17-75 of this ~~code~~Code.

(c) It shall be unlawful to the owner, manager, operator or employee of any establishment subject to the provisions of Sections 17-71—17-75 to fail to post the notices required by this ~~chapter~~Chapter.

(d) Violations of Sections 17-71—17-75 shall be designated a class one misdemeanor.

(Ord. No. 91-08, 2/12/91; Ord. No. 00-20, 5/16/00, Repealed and Reserved (SUPP 2000-2); Ord. No. 03-181, 12/2/03, Enacted (SUPP 2003-4); Ord. No. 04-18, 03/16/04, Amended (SUPP 2004-1))