

Fountain Hills Town Code

Chapter 11

OFFENSES

Articles:

11-1 OFFENSES

Article 11-1

OFFENSES

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Section 11-1-1 Abandoned Vehicles

A. Definitions. In this section unless the context requires otherwise:

1. "Abandoned vehicle" has the meaning set forth in Title 28 of the Arizona Revised Statutes and additionally means any vehicle that is missing current license plates or tabs, is inoperable, is missing body parts, is incapable of operating under its own power, is missing glass or has shattered or broken glass that prevents safe operation, is missing wheels or has flat tires.
2. "Abandoned vehicle parts" means any vehicle part which is inoperable, unclaimed, scrapped, junked, discarded or not used in or on any vehicle.
3. "Classic car" means a vehicle licensed pursuant to A.R.S. Title 28, Chapter 3, Article 2 as a horseless carriage, classic car or historic vehicle.
4. "Private property" means land owned by any person other than the United States, the state, or a political subdivision of the state.
5. "Unsheltered" means anything located outside a garage in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.
6. "Vehicle" means a self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

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7. "Vehicle parts" means any parts, components or accessories of a vehicle.

B. Unsheltered Storage Prohibited

1. The unsheltered storage of any abandoned vehicle or abandoned vehicle parts on private or public property within the corporate limits of the town for the time periods set forth in A.R.S. §28-4801(1) as amended, is hereby declared to be a nuisance and dangerous to the public safety.
2. The provisions of paragraph 1 of this subsection shall not apply to the storage of abandoned vehicles or abandoned vehicle parts on the premises of a business enterprise operating in a lawful place and manner when necessary to the operation of such business enterprise or to a storage place or depository for vehicles or vehicle parts maintained in a lawful place and manner. The exceptions contained in this paragraph shall be an affirmative defense to be pled and proved by the defendant in any judicial proceedings under this section.

C. Removal

1. The owner, tenant, lessee or other occupant of any private property within the corporate limits of the town upon which storage is prohibited by subsection B of this section and also the owner of such abandoned vehicles or abandoned vehicle parts involved in such storage shall jointly and severally abate the nuisance.
2. Any person who fails, neglects or refuses to abate such nuisance shall be notified in writing pursuant to Subsection 1-8-3(c) of this Code to abate the nuisance within the time period appearing on such written notice.
3. When any person to whom notice has been provided according to this subsection fails, neglects or refuses for more than ten days from the date appearing on the notice to abate the nuisance, the town manager or his designee is hereby authorized to remove the abandoned vehicle or abandoned vehicle parts from the premises, store same, and dispose of same according to law.
4. The owner, tenant, lessee or other occupant of any private property, from which the town has removed an abandoned vehicle or abandoned vehicle parts pursuant to this section, shall be liable for all costs incurred in removing said items from the property.
5. Every person who fails, neglects or refuses to abate the abandoned vehicle or abandoned vehicle parts nuisance after notice as provided in this section shall also be guilty of a Class 1 Misdemeanor. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this section.

(17-02, Amended, 06/01/2017)

Section 11-1-2 Dangerous Constructions

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

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Section 11-1-3 Defacing Public and Private Property

- A. Definitions. The following words, terms and phrases, when used in this Section, have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
1. "Etch" means to permanently alter a surface by use of an etching solution or implement.
 2. "Graffiti" means writing, drawing, inscribing, etching, spray painting, sketching or otherwise applying a message, slogan, sign, image or symbol or mark of any type on any public or private building, structure or surface made without the express permission of the responsible party.
 3. "Responsible party" means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control property upon which graffiti occurs.
- B. It is unlawful for any person to deface any public property, including but not limited to writing or drawing thereon, or painting or pasting thereon, or attaching thereto any handbill or advertisement or other drawing or to scratch, mar, disfigure or defile such property or the floors or walls thereof. A complaint may be filed against any person in violation of this section by any citizen of the town or any police officer or other public official of the town who witnesses the incident.
- C. It is unlawful for any person to deface any private property, by writing or drawing thereon or by painting or pasting thereon, or attaching thereto any handbill or advertisement or other drawing or to scratch, mar, disfigure or defile such property or the floor or walls thereof without the express permission of the owner of such property. In the event of a violation of this subsection, the owner or the person entitled to possession may file with the law enforcement agency a complaint against any individual who violates this section of the code.
- D. In the event of a conviction for a first offense under this section, the minimum fine shall be \$100 with a maximum fine of \$1,000; the fine for a second conviction under this section shall be a minimum fine of \$300 with a maximum fine of \$2,500. In the event the defendant charged is a juvenile, his parents or other persons with whom he resides or who have custody over such juvenile shall be likewise cited and shall be subject to the fines provided herein.
- E. In addition to the fines provided herein, the town magistrate may impose other appropriate sentencing, including the requiring of public service time within the town limits, cleaning up graffiti, picking up waste and other papers and providing for such other community service as the court deems appropriate.
- F. The council is specifically authorized to offer a reward for the apprehension of parties who might be guilty of violation of this section and to solicit reward funds and other cooperation from the citizens and business community of the town.
- G. Graffiti prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti that is visible from the street, right-of-way or other public or private property.
1. Notice of Abatement. If it is determined by the Town that graffiti exists on property in violation of this Section, the Town shall, in writing, notify the responsible party with a notice

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of abatement. The notice of abatement shall direct that the graffiti be abated within 20 days of receipt of the notice. The notice of abatement shall state that in the event the responsible party fails to abate the graffiti within the time period specified in the notice of violation, the Town may, in addition to the civil penalty remedies set forth in Section 1-8, abate the graffiti as set forth in Subsection (G)(2) below, and may bill the responsible party for the cost and administrative charge as set forth in Subsection (G)(2) below. The notice of abatement may be served by regular mail, personal service or by posting the subject property.

2. Town's authority to abate. If the responsible party fails to abate the graffiti as required by the notice of abatement, the Town may proceed to abate the graffiti and may bill the responsible party for the cost thereof plus an administrative charge of ten percent of the cost of abatement. The Town or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section.

(13-05, Amended, 05/16/2013)

Section 11-1-4 Fireworks

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

1. **“Consumer firework”** means those fireworks defined as such by Ariz. Rev. Stat. § 36-1601, as amended.
2. **“Display firework”** means those fireworks defined as such by Ariz. Rev. Stat. § 36-1601, as amended.
3. **“Expenses of an emergency response”** means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.
4. **“Fireworks”** means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including a Consumer Firework, Display Firework or Permissible Consumer Firework as defined by Ariz. Rev. Stat. § 36-1601, as amended.
5. **“Novelty items”** means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Ariz. Rev. Stat. § 36-1601, as amended.
6. **“Permissible consumer fireworks”** means those fireworks defined as such by Ariz. Rev. Stat. § 36-1601, as amended.
7. **“Reasonable costs”** includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.
8. **“Supervised public display”** means a monitored performance of Display Fireworks open to the public and authorized by permit by the Fire Chief or his designee.

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B. Use of Fireworks prohibited; exceptions.

1. The use, discharge or ignition of Fireworks within the corporate limits of the Town is prohibited, except that Permissible Consumer Fireworks may be used during the periods of June 24 through July 6 and December 24 through January 3 of each year.
2. Nothing in this Section shall be construed to prohibit the use, discharge or ignition of Novelty Items or the occurrence of a Supervised Public Display of Fireworks.
3. Permits may be granted by the Fire Chief or authorized designee for conducting a properly Supervised Public Display of Fireworks. Every such Supervised Public Display of Fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals or property. A permit shall not be issued, and may be revoked, during time periods of High Fire Danger warnings. The Fire Chief or authorized designee has authority to impose conditions on any permits granted.
4. Failure to comply with any permit requirements issued by the Fire Chief or authorized designee is a civil offense punishable by a base fine of up to one thousand dollars (\$1,000) for each violation.

C. Sale of Fireworks.

1. The sale of fireworks within the corporate limits of the Town is prohibited, except that Permissible Consumer Fireworks may be sold during the periods of May 20 through July 6 and December 10 through January 3 of each year.
2. No person shall sell or permit, authorize the sale of Permissible Consumer Fireworks in conflict with State law. Nothing in this Subsection C or in this Section shall be construed to prohibit the sale of novelty items.
3. No person shall sell, permit or authorize the sale of Permissible Consumer Fireworks to a person who is under sixteen (16) years of age.
4. Permits for the sale of Permissible Consumer Fireworks are required and may be granted by the Fire Chief or his authorized designee. Violations of this Section or Arizona Revised Statutes, Chapter 13, Article 1, shall be grounds for immediate revocation of such permit.
5. The storage of fireworks within the corporate limits of the Town shall be in accordance with the National Fire Protection Association Standards 1124, 2006 Edition, as amended.

D. Posting of signs by persons engaged in the sale of Fireworks; civil penalty.

1. Prior to the sale of Permissible Consumer Fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - a. The use of Fireworks, including Permissible Consumer Fireworks except novelty Items as defined by Town Code, Section 11-1-4, is prohibited within the corporate limits of the Town.

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- b. Consumer Fireworks authorized for sale under State law may not be sold to persons under the age of sixteen (16).
 2. Signs required under this Section shall be placed at each cash register and in each area where Fireworks are displayed for sale.
 3. The Fire Chief or authorized designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the Town's website and filed with the Town Clerk's office.
 4. Failure to comply with Subsections 11-1-4(D)(1) or (2) of this Section is a civil offense punishable by a base fine of up to seven hundred fifty dollars (\$750.00).
- E. Authority to enforce violations of this Section; Means of enforcement.
1. The Fire Chief or authorized designee, a Maricopa County Sheriff Deputy, a Town Code Enforcement Officer or the Town Prosecutor may issue civil complaints to enforce violations of this Section designated as civil offenses.
 2. Any person authorized pursuant to this section to issue a civil citation may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil citation.
- F. Liability for emergency responses related to use of Fireworks.
1. A person who uses, discharges or ignites Permissible Consumer Fireworks, Fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this Section is prima facie evidence of liability under this Section.
 2. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to Subsection 11-1-4(F)(1) of this Section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The liability imposed under this Section is in addition to and not in limitation of any other liability that may be imposed.
- G. Penalty. Unless otherwise specifically set forth in this section, the civil penalty for violating any prohibition or requirement imposed by this section is a base fine of one thousand dollars (\$1,000) for each violation.

(14-05, Amended, 06/05/2014; 10-05, Amended, 10/21/2010)

Section 11-1-5 Fences - Barbed Wire or Electric

Unless permitted by zoning, it is unlawful for any person to erect or maintain within the town any electric fence or any fence constructed in whole or in part of barbed wire. Any such fence is hereby declared a public nuisance and subject to abatement by order of the town court.

Section 11-1-6 Curfew Hours for Minors

A. Definitions. In this section unless the context otherwise requires:

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

B. Offenses.

1. It is unlawful for any minor under the age of sixteen years to be in, about or upon any place in the town away from the property where the youth resides between the hours of 10:00 P.M. and 5:00 A.M. of the following day.
2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen, to be in, about or upon any place in the town away from the property where the child resides between the hours of 12:00 A.M. and 5:00 A.M.
3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate paragraphs 1 or 2 of this subsection.
4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of paragraphs 1 or 2 of this subsection.

C. Defenses/Exceptions.

It is a defense to prosecution under subsection B, including paragraph 3 of subsection B, of this section that the minor was:

1. Accompanied by the minor's parent or guardian.
2. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.
3. With prior permission of the parent or guardian, in an employment activity or going to or

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returning home from an employment activity without any detour or stop by the most direct route.

4. Involved in an emergency.
5. With prior permission of the parent or guardian, was engaged in reasonable, legitimate and specific business or activity. Examples include, but are not limited to, a juvenile with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.
6. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
7. Married and sixteen years of age or over, or in the military.
8. On the sidewalk abutting their residence or on the exit door neighbor's property with the consent of the neighbor.

D. Enforcement.

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in subsection C of this section is probably present.
2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of paragraphs 1 or 2 of subsection B of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

- E. Penalty. First offense convictions, under this section, shall be sentenced as a petty offense. Second offense convictions, under this section, shall be sentenced as a class 2 misdemeanor. Third and all subsequent convictions under this section shall be sentenced as a class 1 misdemeanor.

Section 11-1-7 Noise

- A. Purpose. The purpose of this Section is to promote the health and general welfare of the citizens and businesses of the Town by balancing the need to protect the community against unreasonable noise with the legitimate goal of promoting and encouraging commercial and business growth in the community.

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- B. Definitions. The following words, terms and phrases, when used in this Section, have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
1. “A band level” means the total sound level of all noise as measured with a sound level meter using an A-weighting network. The unit is the dB(A).
 2. “Complainant” means a person who files a noise complaint.
 3. “Decibel” means a sound pressure that is 20 times the logarithm to the base 10 of the ratio of the pressure of sound to the reference pressure, 2×10^{-5} newton/meter².
 4. “Emergency work” means any (a) work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency that has or may result in a disruption of service and that is necessary to restore property to a safe condition following a public calamity, (b) work required to protect the health, safety or welfare of persons or property or (c) work by private or public utilities when restoring utility service.
 5. “Noise violation” means any noise created that exceeds the maximum limits as specified in this Section.
 6. “Sound level (noise level)” means the sound measured with the A-weighting and slow response by a sound level meter.
 7. “Sound level meter” means an instrument including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement of sound levels that satisfies the pertinent requirements for Type 1 sound level meters as set forth in the most recent version of American Standard Specifications for Sound Level Meters ANSI S1.4-1983.
 8. “Sound Source” means the cause and location of the noise.
- C. Measurement Standard. Sound level shall be measured with a sound level meter operated in accordance with the manufacturer’s guidelines and instructions.
- D. Noise Violations Prohibited. Subject to the complaint processing provisions in Subsection 11-1-7(E) below, it shall be a violation of this Section to emit or allow to be emitted noise in excess of the permissible noise levels set forth in Table 1 below.

Table 1 Permissible Noise Levels:

Measurement Location	Time	Decibel dB(A)
Wall of structure proximate to complainant’s location 1	6:00 am to 10:00 pm	70
Wall of structure proximate to complainant’s location	10:00 pm to 6:00 am	50

1 For sounds emanating from within a multifamily residential building (in a unit or the common area

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of the building), the measurement location shall be anywhere in a dwelling unit within that building.

2 The 10:00 p.m. cut-off time may be extended to 11:00 p.m. in conjunction with a temporary use permit issued by the Town pursuant to Section 2.03 of the Town Zoning Ordinance.

- E. Complaint Processing. After receiving a noise complaint from a complainant, an individual authorized under Subsection H of this Section shall measure the noise level with such measurements being made at the wall of the complainant's location. The authorized individual shall determine a noise violation has occurred when the decibel levels at the complainant's location exceed the maximum decibel levels set forth in Table 1 above.
- F. Sound Truck. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character that emits loud and raucous noises and is attached to and upon any vehicle.
- G. Braking devices. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the Town any compression release or other engine braking device designed to aid in the braking or deceleration of any vehicle which results in noise in excess of that which would otherwise be produced from such vehicle without such braking device. The provisions of this Subsection do not apply to public safety vehicles or to any vehicle while descending Golden Eagle Boulevard.
- H. Violations. The Town Manager or designee, code official or Town law enforcement officer may issue civil citations pursuant to Subsection 1 8 3(D) of this Code to enforce violations of this Section. After civil enforcement as set forth in Subsection 1 8 3(D) of this Code, any POST-certified law enforcement officer or the Town Prosecutor may issue criminal complaints pursuant to Subsection 1-8-2(A) to enforce this Section.
- I. Exemptions. The following uses and activities shall be exempt from Town noise level regulations:
 - 1. Noises resulting from air-conditioning equipment when such equipment is in proper operating condition.
 - 2. Noises resulting from lawn maintenance equipment operated during daylight hours when such equipment is functioning with all mufflers and standard noise-reducing equipment in use and in proper operating condition.
 - 3. Noises of safety signals, warning devices and emergency pressure relief valves.
 - 4. Noises resulting from an authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
 - 5. Noises resulting from emergency work.
 - 6. Church chimes or bells.
 - 7. Any noise created by any Town or Town contractor vehicles, equipment or facilities while being operated or utilized for official business.

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8. Noises resulting from a special event being held pursuant to a Town-issued special event permit.
 9. An un-amplified human voice.
 10. Noises resulting from an event being held by a school.
- J. Nuisance Party. A Nuisance party is unlawful and constitutes a civil infraction.
1. Definitions. For the provisions of Section 11-1-7(J) the following definitions apply:
 - a. “Minor” means any person under the age of twenty-one (21) years.
 - b. “Enforcement Officer” means either a (i) Town designated law enforcement officer or (ii) Town code enforcement officer.
 - c. “Notice of Violation” has the same meaning as the term is defined in Section 1-8-3.
 - d. “Nuisance Party” means a gathering of one (1) or more persons on any private property, including property used to conduct business, in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons. Such disturbances include, but are not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and littering.
 - e. “Owner” means the Owner of any property, as well as any agent of an Owner who acts on behalf of the Owner to control or otherwise regulate the occupancy or use of the property.
 - f. “Premises” means the property that is the site of a nuisance party. For residential properties, “premises” means the dwelling unit or units where the nuisance party occurs.
 - g. “Responsible person” means any person in attendance who engaged in a nuisance party, including any Owner who is in attendance, occupant, tenant, guest or any sponsor, host or organizer of the nuisance party. “Responsible person” does not include Owners or persons in charge of premises where a nuisance party takes place if the persons in attendance obtained use of the premises through illegal entry or trespassing.
 2. Abatement of a nuisance party. An Enforcement Officer may abate a nuisance party by reasonable means including, but not limited to, warning, citation, or, in case of a law enforcement officer, arrest of violators under applicable ordinances or state statutes, and dispersal of the persons attending the gathering.
 3. When an Enforcement Officer responds to the first nuisance party and while at the scene determines that there is a threat to the public peace, health, safety, or general welfare, the officer may issue a citation to any Responsible Person(s).

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- a. If on a first response to a nuisance party, any of the following crimes are being committed:
 - i. Minor in possession of alcohol;
 - ii. Minor in consumption of alcohol;
 - iii. Possession or use of illegal drugs;
 - iv. Weapons misconduct, in violation of A.R.S. Section 13-3102; or
 - v. Any felony offense;
 - b. Then the Responsible Person(s) and Owner shall be assessed a fine commensurate with a second nuisance party, as set forth in subsections (5) and (6) of this section.
4. Notice of violation. If an Enforcement Officer issues a citation to an Owner or any Responsible Person(s) under this section, the officer shall notify the Town in writing. Upon such notification the Town shall issue a Notice of Violation to the Owner in the same manner as set forth in Subsection 1-8-3(c) of this Code.
5. Non-Owner liability for nuisance parties.
- a. Any of the following Responsible Person(s) may be liable for a civil infraction:
 - i. The person(s) who organized or sponsored the event constituting a nuisance party;
 - ii. Any person engaged in any conduct causing the gathering to be a nuisance party.
 - b. Civil penalties for Responsible Person(s)
 - i. For a first nuisance party violation the fine is two hundred fifty dollars (\$250.00), inclusive of any applicable fines, fees, assessments or surcharges.
 - ii. Subsequent Nuisance Parties. If the Responsible Person(s) found liable for a nuisance party have previously been found responsible for a nuisance party, regardless of the location of the prior violation, the penalties are as follows:
 1. For a second nuisance party violation within one hundred twenty (120) days of the first nuisance party the fine is five hundred dollars (\$500.00), inclusive of any applicable fines, fees, assessments or surcharges.
 2. For a third or subsequent nuisance party within one hundred twenty (120) days of the second nuisance party the fine is one thousand dollars (\$1,000.00), inclusive of any applicable fines, fees, assessments or surcharges.
 3. If on response to a third or subsequent nuisance party, any of the following crimes are being committed at the party:

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- a. Minor in possession of alcohol;
- b. Minor in consumption of alcohol;
- c. Possession or use of illegal drugs;
- d. Weapons misconduct, in violation of A.R.S. Section 13-3102; or
- e. Any felony offense.

Then the Responsible Person(s) shall be assessed a fine commensurate with two (2) times the fine for a third or subsequent nuisance party, as set forth in this subsection.

6. Owner liability for nuisance parties.

- a. The Owner of the property where the nuisance party occurred may be liable for a civil infraction.
- b. Civil penalties for Owners
 - i. An Owner who is not in attendance at the nuisance party, and who did not organize or sponsor the nuisance party, may be issued a written notice of violation.
 - ii. Subsequent Nuisance Parties.
 1. If, after a written notice of a violation is issued by the Town, an Enforcement Officer responds for a second time to the same premises for a nuisance party within one hundred twenty (120) days of the first response, such response shall be deemed a second nuisance party and the fine is five hundred dollars (\$500.00), inclusive of any applicable fines, fees, assessments or surcharges.
 2. If, after a written notice of a second violation is issued, an Enforcement Officer responds to the same premises for a third or subsequent nuisance party within one hundred twenty (120) days of the second nuisance party response, such response shall be deemed a third or subsequent nuisance party and the fine is one thousand dollars (\$1,000.00), inclusive of any applicable fines, fees, assessments or surcharges.
 3. If on response to a third or subsequent nuisance party, any of the following crimes are being committed at the party:
 - a. Minor in possession of alcohol;
 - b. Minor in consumption of alcohol;
 - c. Possession or use of illegal drugs;
 - d. Weapons misconduct, in violation of A.R.S. Section 13-3102; or
 - e. Any felony offense.

Then the Owner shall be assessed a fine commensurate with two (2) times the fine for a third or subsequent nuisance party, as set forth in this subsection.

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- c. Within ten (10) business days of receipt of a citation or notice of violation, the Owner may petition the Presiding Magistrate for a waiver of the civil fine, under any of the following circumstances:
 - i. The Owner has taken steps reasonably necessary to prevent a subsequent nuisance party or to exclude the uninvited person from the premises, or the Owner is actively attempting to evict the Responsible Person(s) from the premises.
 - ii. The Owner of a property with over fifty (50) individually rented units obtains and maintains private security services for the entire property.
 - iii. If an Owner evicts tenants from a premises where a nuisance party occurred and new tenants at the same premises are given notice of a nuisance party violation, the Owner must be re-notified in the same manner as set forth in Subsection 1-8-3(c) of this Code.
7. Enforcement. Enforcement Officers are authorized to enforce the provisions of this section provided that enforcement is initiated by a complaint from a member of the public or as otherwise provided by law. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible. Enforcement Officers shall enforce the provisions of this section using their sound discretion and the consideration of the totality of the circumstances, including but not limited to the uses of the premises (e.g. residential, commercial, etc.).
8. Other remedies. Nothing in this section shall be construed as affecting the ability of the State to initiate or continue concurrent or subsequent criminal prosecution of any Responsible Person(s) or Owner for any violations of the provisions of the Town code or State law arising out of the circumstances necessitating the application of this section.

(18-09, Amended, 06/19/2018; 16-10, Amended, 12/15/2016, and Restated)

Section 11-1-8 Obstruction of View

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

Section 11-1-9 Offensive Premises

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

Section 11-1-10 Searchlights

It is unlawful for any person to operate within the town any incandescent or arc-type searchlight, beacon

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light or similar lighting device designed to and capable of projecting a beam of light into the sky for a distance in excess of one-half mile unless permission is obtained from the council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

Section 11-1-11 Signs and Banners

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole or utility pole within the town without first obtaining an encroachment permit from the town manager and owner of the pole.

Section 11-1-12 Spitting

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

Section 11-1-13 Water - Flow Upon Streets Prohibited

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

Section 11-1-14 Discharge of Firearms

- A. Except as provided in Subsection "C" below, no person shall fire, discharge or shoot any weapon within the corporate limits of the town.
- B. For the purposes of this section only, "weapon" shall mean any firearm or bow and arrow, including but not limited to, a pistol, revolver, rifle, shotgun, air gun, BB gun, pellet gun, dart gun, gas operated gun, crossbow or other similar gun or instrument.
- C. The provisions of Subsections "A" and "B" above shall not apply to the use of any gun or instrument by:
 - 1. A law enforcement officer or other duly authorized public official in performance of an official law enforcement duty.
 - 2. Any person at a properly licensed and supervised shooting range.

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3. Any person when such weapon is used only for the necessary protection of property, habitation or person in a manner authorized by the laws of the State of Arizona.
- D. For the purposes of this section only, "properly licensed and supervised shooting range" means a shooting range operated by a club affiliated with the National Rifle Association of America, The Amateur Trapshooting Association, The National Skeet Association or any other nationally recognized bow and arrow or firearm shooting organization, any agency of the federal government, the State of Arizona, Maricopa County, the Town of Fountain Hills or any public or private school.
- E. Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor.
- F. Nothing in this section shall be interpreted to infringe upon a citizen's right to bear arms as guaranteed by the United States Constitution.
(98-07, Amended, 02/19/1998)

Section 11-1-15 Smoking Prohibited

It is unlawful for any person to smoke tobacco in any form in any building owned or directly leased by the town.

Section 11-1-16 Criminal Trespass

- A. Definitions. As used in this Section, unless the context clearly requires otherwise:
 1. "Entering or remaining unlawfully" means an act of a person who enters or remains on premises when such person's purpose for so entering or remaining is not licensed, authorized or otherwise privileged.
 2. "Entry" means the intrusion of any part of any instrument or any part of a person's body inside the external boundaries of a structure or unit of real property.
 3. "Fenced commercial yard" means a unit of real property surrounded completely by either fences, walls, buildings, or similar barriers or any combination thereof, and used primarily for business operations or where livestock, produce or other commercial items are located.
 4. "Fenced residential yard" means a unit of real property immediately surrounding or adjacent to a residential structure and enclosed by a fence, wall, building or similar barrier, or any combination thereof.
 5. "Nonresidential structure" means any structure other than a residential structure.
 6. "Residential structure" means any structure, movable or immovable, permanent or temporary, adopted for both human residence and lodging whether occupied or not.

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7. "Structure" means any building, object, vehicle, railroad car or place with sides and a floor, separately securable from any other structure attached to it and used for lodging, business, transportation, recreation or storage.
- B. A person commits criminal trespass by knowingly:
1. Entering or remaining unlawfully in or on a residential structure or a fenced residential yard.
 2. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.
 3. Entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.
 4. Entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.
 5. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.
- C. Criminal Trespass is a class 1 misdemeanor.
- D. In the event the defendant charged is a juvenile, the parents or other adult persons with whom the juvenile resides or who have custody over such juvenile shall be likewise cited and shall be subject to the fines provided herein.
- E. The Town Manager is authorized to (1) offer a reward for the apprehension of parties who might be guilty of violation of this section and (2) solicit reward funds and other cooperation from the citizens and businesses within Fountain Hills.

(06-15, Added, 06/15/2006)

Section 11-1-17 Use of Town-owned Washes

It is unlawful for any person to enter upon or use any Town-owned wash, as such term is defined in Section 9-3-2 of this Code, in violation of the following provisions:

- A. It shall be unlawful for any person, other than Town personnel conducting Town business therein, to occupy or be present in Town-owned washes during any hours in which the washes are not open to the public. Washes are open to the public from dawn to dusk daily unless otherwise posted by the Town. A violation of this subsection shall constitute an act of criminal trespass, as defined by Section 11-1-16 of this Code.
- B. The following are prohibited in all Town-owned washes:
1. Committing any act in a Town-owned wash that endangers the health and safety of any person.
 2. Using any portion of any Town-owned wash for archery, firearms, sling shots, rockets, darts,

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rocks or other projectile devices.

3. Dumping, unauthorized grading, or otherwise utilizing a Town-owned wash or any materials or vegetation therein, in an unauthorized or prohibited manner.
 4. Creating or maintaining open fires.
 5. Overnight camping.
 6. Pets, unless on a leash and under the constant control of a person and provided that any such person controlling a pet shall, at all times in a Town-owned wash (i) carry the necessary items to properly dispose of animal waste and (ii) immediately remove any animal waste from the Town-owned wash and dispose of same in a proper trash receptacle.
 7. Skateboards, roller blades, roller skates, bicycles or any (non-motorized) rolling vehicles, unless used in an area specifically designated for such use by the Town.
 8. Driving or riding, at any time, any automobile, truck, motorcycle, motor scooter, all-terrain vehicle, other motor vehicle, horse or other animal upon the grounds of any Town-owned wash.
 9. Consuming alcoholic beverages, spirituous liquors or malt beverages (beer), as defined in A.R.S. § 4-101, *et seq.*, as amended.
 10. Possessing a glass container, unless specifically authorized by the Town.
 11. Throwing, tossing or otherwise propelling any glass object, whether willfully and maliciously or carelessly and negligently, and causing such glass object to break in a Town-owned wash.
 12. Swimming, wading, bathing, fishing or boating in or on any water located within a Town-owned wash.
- C. The parents or adult persons with whom a juvenile resides shall be financially liable for consequences of the juvenile's infraction of this Section and/or any damage such Juvenile causes on or to Town-owned property.
- D. Penalties:
1. A person who violates the provisions of this Section shall, upon conviction thereof, be guilty of a Class 1 Misdemeanor.
 2. A person who violates the provisions of this Section may, upon conviction thereof, be temporarily or permanently banned from using any Town-owned wash.

(06-20, Added, 09/07/2006)