

CHAPTER 10 OFFENSES

Article 10-1 OFFENSES (1)

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Section 10-1-1 Dangerous Construction

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.

Section 10-1-2 Damage to Property

- A. It is unlawful for any person to damage in any manner or attempt to damage or tamper with any pipe lines, water hydrants, street lamps or lights, or the fixtures and appliances hereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the Town or any water pipes, hydrants, or any appliances pertaining to the water or sewer works, or any other property of any and every character belonging to the Town.

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(1) *Section 9-240 B, A.R.S.*

- B. It is unlawful for any person to deface, walk, ride or drive upon or over any sidewalk or street crossing composed of or containing cement, during the construction thereof, or before the same is thrown open to public use.
- C. It is unlawful for any person, firm or corporation to damage in any manner any road, street or bridge in the Town limits by using the same, by heavy vehicles, malicious destruction or by any act that will result in damage to any such road, street or bridge.
- D. It is unlawful to break or destroy any window, door or part of any dwelling owned or occupied by another or to break or sever from any premises owned or occupied by another any gate, fence, railing, tree, brush or vine or any property whatsoever, or to deface, mutilate or injure the same.
- E. It is unlawful for any person within the Town to throw stones or other missiles at railroad trains; or to let off the brakes of railroad cars standing on side tracks or tamper with the couplings of railroad cars, or to uncouple cars standing on railroad tracks, or to uncouple the air hose of the air brake system on railroad cars; or to remove, tamper with or break switch lamps or other signals set to control the movements of trains, or to jump on or off moving trains, or to throw refuse upon or in any way litter the depot or station grounds of any railroad.

Section 10-1-3 Deposits of Injurious Material on Thoroughfares/Covered Loads
(Deleted by Ordinance #340 Passed 1/24/12; Effective 2/24/12)

Section 10-1-4 Excavation to be Covered

- A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the Town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation during the day.
- B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection.

Section 10-1-5 Explosives (Revised 10/26/10, Effective 11/26/10; Ordinance 330)

It is unlawful for any person within the limits of the Town to blast or use powder or other

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explosives without a permit from the Chief of Police in writing.

Section 10-1-6 False or Misleading Reports to Police

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

Section 10-1-7 Fences - Electric

It is unlawful for any person to erect or maintain within the Town any electric fence. Any such fence is hereby declared a public nuisance and subject to abatement by order of the Town Court.

Section 10-1-8 Liquor Violations

- A. It is unlawful for any person to consume spirituous liquor from a broken package in a public place, thoroughfare or gathering. This subsection shall not apply to the sale of spirituous liquors on the premises of and by any on sale retail liquor licensee.
- B. For purposes of this section, “spirituous liquor” includes alcohol, brandy, whiskey, vodka, rum, tequila, mescal, gin, wine, porter, ale, beer, and malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquified mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.
- C. For purposes of this section, “broken package” means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.
- D. For purposes of this section, “premises” shall mean the area from which a liquor licensee is authorized to sell, dispense or serve spirituous liquors under the provision of the liquor license.

Section 10-1-9 Littering

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds or church grounds.

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Section 10-1-10 Loitering

It is unlawful for any person, other than the owner, manager or his authorized representative, to interfere individually or collectively with free enjoyment of such property by the owners thereof; or interfere with the conduct of any lawful business by obstructing entrance to such business or by obstructing free passage of persons or merchandise or commodities within such place of business, or by obstructing service rendered by such business to its customers.

Section 10-1-11 Noise

- A. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B. It is unlawful to play, operate, or use any device known as a sound track, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.
- C. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.
- D. Engine Braking: It is unlawful to operate a truck or motor vehicle in the Town of Clarkdale in such a manner as to cause the engine to emit additional noise from its exhaust or muffler system through deceleration or down shifting gears.

Section 10-1-12 Obstruction of Streets

It is unlawful for any person to obstruct any public street or alley, sidewalk or park or other

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public grounds within the Town by committing any act of, or doing anything which is injurious to the health, or indecent or offensive to the senses, or to do in or upon any such streets, alleys, sidewalks, parks, or other public grounds, any act or thing which is an obstruction of interference to the free use of property or with any business lawfully conducted by anyone, in or upon, or facing or fronting on any of such streets, alleys, sidewalks, parks or other public grounds in the Town.

Section 10-1-13 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.

A violation of this Section is a petty offense, punishable through citation and imposition of a fine not to exceed \$250.00.

Section 10-1-14 Offensive Business

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses of prejudicial to the public health within the limits of the Town.

Section 10-1-15 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 10-1-16 Prostitution

It is unlawful for any person to practice prostitution, to patronize a prostitute or to solicit any person to visit or patronize a prostitute or place of prostitution.

Section 10-1-17 Searchlights

It is unlawful for any person to operate within the Town any incandescent or arc-type searchlight, beacon 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 10-1-18 Signs and Banners

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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 authorization from the Council.

Section 10-1-19 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, byway 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.

A violation of this Section is a petty offense and punishable through citation and imposition of a fine not to exceed \$250.00.

Section 10-1-20 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 10-1-21 Camping Prohibited

- A. It is unlawful for any person to camp on public property within the Town limits of Clarkdale, Arizona, other than designated areas, without prior written approval of the Chief of Police.
- B. It is unlawful for any property owner to allow any person to camp on their private property within the Town limits of the Town of Clarkdale, Arizona except in accordance with the following:
 - 1. No person(s) shall so camp for more than two weeks per visit.
 - 2. Property owners shall be limited to no more than three (3) such camping visits per calendar year.

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3. Camping shall be in a recreational vehicle (RV) or travel trailer only, with a self contained sewage collection system.
- C. For the purposes of this section, the term “camping” means to use real property for living accommodation purposes such as sleeping activities, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants in conducting these activities are in fact using the area for living accommodations purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

Article 10-2 SMOKING

10-2-1	Purpose
10-2-2	Definitions
10-2-3	Regulation of Smoking in Town-Owned Public Places
10-2-4	Regulation of Smoking in Enclosed Public Places
10-2-5	Regulation of Smoking in Places of Employment
10-2-6	Hardship Cases; Exemptions
10-2-7	Appeals to the Service Committee
10-2-8	Where Smoking is Not Required
10-2-9	Posting Regulation

Section 10-2-1 Purpose

Since the smoking of tobacco or any other plant is a positive danger to the health and a material annoyance, inconvenience, discomfort and a health hazard to those who are present in confined spaces, and in order to serve the public health, safety and welfare, the declared purpose of this chapter is to prohibit the smoking of tobacco or any other plant within enclosed places, as defined in this chapter, and places of employment.

Section 10-2-2 Definitions

- A. **BAR**” means a facility devoted primarily to serving alcoholic beverages pursuant to either a Bar License or Beer and Wine Bar license from the State Liquor Department and which does not qualify as a restaurant.

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- B. **“DESIGNATED SMOKING AREA”** means any area within an enclosed public place where smoking is specifically permitted, provided however, that any designated smoking area shall not exceed in area and size of the nonsmoking area and shall be so situated as to allow nonsmoking individuals reasonable opportunity to conduct normal activity in a smoke free environment.
- C. **“EMPLOYEE”** means any person who is employed by an employer for direct or indirect monetary wages or profit.
- D. **“EMPLOYER”** means any person or entity employing the services of an employee.
- E. **“ENCLOSED PUBLIC PLACE”** means any area closed in by a roof and walls with openings for ingress and egress which is available to and customarily used by the public. Enclosed public places regulated by this chapter shall include but not be limited to public areas of grocery stores, waiting rooms, public and private schools, doctors office buildings, community centers, child care centers, public restrooms, hotels, motels, all indoor facilities, all public places regulated by A.R.S. 36-601.01, and restaurants or cafeterias. A private residence is not a “public place.”
- F. **“PLACE OF EMPLOYMENT”** means any enclosed area under the control of a private or public employer. A private residence is not a “place of employment.”
- G. **“PRIVATE OFFICE”** means a fully enclosed area, with doorways and walls extending from the floor to the ceiling occupied by a single person.
- H. **“RESTAURANT”** Means a facility which is regularly open for the primary purpose of serving food prepared for consumption, either on or off the premises, to customers for compensation. No facility shall be classified as a restaurant unless such facility receives at least forty percent (40%) of its gross revenues from serving food.
- I. **“SMOKE” OR “SMOKING”** as defined in this chapter includes:
1. Carrying or placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in one’s mouth for the purpose of inhaling and exhaling smoke or blowing smoke rings.
 2. Placing of a lighted cigarette or lighted cigar or lighted pipe or any other lighted smoking equipment in an ashtray or other receptacle, and allowing

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smoke to diffuse in the air.

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

- J. **“SMOKE MEDICAL MARIJUANA”** as defined in this chapter means the use of medical marijuana as authorized under the provisions of the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency, including smoking or any method of consumption other than smoking. (Created 3/8/11 Ordinance #331)

Section 10-2-3 Regulation of Smoking in Town - Owned Public Places

All enclosed public places occupied by the Town of Clarkdale shall be subject to the provisions of this Chapter.

Section 10-2-4 Regulation of Smoking in Enclosed Public Places (Revised 3/8/11 Ordinance #331)

- A. No person shall smoke in any enclosed public place except in designated smoking areas.
- B. No person shall smoke medical marijuana in any enclosed public place or public place, as defined by the pursuant to the Arizona Medical Marijuana Act and the regulations promulgated by the Arizona Department of Health Services or its successor agency.
- C. Any violation of this section is a petty offense punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) shall be imposed.

Section 10-2-5 Regulation of Smoking in Places of Employment

- A. On or before September 15, 1988, each employer in each place of employment within the Town shall adopt, implement, maintain, and announce to its employees a smoking policy containing at a minimum the following requirements:
 1. Smoking is prohibited in conference rooms, meeting rooms, classrooms, auditoriums, restrooms provided by employers for employee use, and in waiting areas, medical facilities, hallways, stairways and elevators.

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2. Provision and maintenance of a separate nonsmoking area of not less than one-half of the seating capacity and floor space in cafeterias, lunchrooms and employee lounges.
 3. Any nonsmoking employee may object to his or her employer about smoke in his or her immediate work area. The employer shall include in its written policy a reasonable definition of the term "immediate work area." The employer shall use its best efforts to reasonably accommodate the preferences of nonsmoking and smoking employees, but no employer is required to make any structural changes to the place of employment.
 4. If no accommodation reasonably satisfactory to all affected nonsmoking employees can be reached in any given work area, the preferences of nonsmoking employees shall prevail and the employer shall prohibit smoking in that work area. Where the employer permits smoking in a work area, it shall clearly mark that area with appropriate "Smoking Permitted" signs, and upon request provide signs to employee(s) for use in designating such areas.
 5. The occupant of a private office may designate such office as either a "smoking permitted" or a "no smoking" area. If designated as a smoking area, the occupant of the office shall mark the private office with appropriate "smoking permitted" signs.
- B. Notwithstanding the provisions of subsection A of this section every employer shall have the right to designate any place of employment, or portion thereof, as a nonsmoking area.
- C. No employee shall be terminated or subject to disciplinary action solely as a result of his or her complaint about smoking or nonsmoking in the work place.
- D. The Fire Chief, or his designee, is authorized to investigate any complaints of violation of this section. Upon a determination of reasonable cause that a violation exists, the Fire Chief, or his designee, may issue and serve upon the employer, or the employer's agent, a notice of violation stating with reasonable particularity the nature of the violation. Within fifteen (15) days of service of said notice the employer shall in writing either submit a compliance plan to the Fire Chief, or request a hearing on the violation by filing a written request with the Town Manager. If a hearing is requested, a hearing officer appointed by the Town Manager, or his designee, shall designate a time and place for the hearing and shall serve upon the employer a notice thereof not less than ten (10) days before the date of the hearing. For purposes of this subsection, service on the employer, or the employer's agent, shall be made by mailing a copy thereof to the

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place of business of the employer by certified or registered mail. Service shall be deemed completed when mailed.

- E. At the hearing it shall be the burden of the Town to provide by a preponderance of the evidence that a violation has occurred. Formal rules of evidence shall not apply and the hearing officer may admit whatever evidence he or she deems probative.
- F. If the hearing officer determines that a violation has occurred the hearing officer shall issue an order declaring continued noncompliance with this Section to be a nuisance and shall impose a civil sanction of one hundred dollars (\$100.00) against the employer. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
- G. Failure to respond timely to a notice of violation as described in Subsection D shall result in a default judgment imposing the penalties provided for in Subsection F being entered against the violator.

Section 10-2-6 Hardship Cases: Exemptions

- A. An employer may be granted an exemption from the requirements of Section 10-2-5 on a showing that an undue hardship would result to the business of the employer forced to comply with the provisions of that Section, and such exemption would not be detrimental to the employees of the employer.
- B. An application for an exemption pursuant to this subsection shall be made to the Town Manager and shall be in writing. The application shall set forth the reasons why the requirements of this Chapter would result in an undue hardship shall contain a statement by the employer that such an exemption would not be detrimental to any of the employees, and shall list the names, addresses and telephone numbers of all employees of the employer.
- C. Upon receiving an application, the Town Manager shall appoint a hearing officer to hear the application. The hearing officer shall set a hearing date, time and place within a reasonable time. The employer and all employees of the employer shall be given written notice by the hearing officer of the date, time and place of the hearing, and be given an opportunity to be heard. If the hearing officer finds that compliance with the requirements of Section 10-2-5 would be an undue hardship and that an exemption would not be detrimental to any of the employees, the hearing officer may grant an exemption.

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Section 10-2-7 Appeals to the Town Council

- A. Any person who appeared before the hearing officer at the hearing provided for in Section 10-2-6 may appeal the decision of the hearing officer to the Town Council. An appeal may be taken by filing with the hearing officer, appointed pursuant to Section 6, a notice of appeal specifying the grounds thereof. The hearing officer shall forthwith transmit to the members of the Town Council all papers constituting the records upon which the action appealed from was taken.
- B. Upon receiving the notice of appeal and the records from the hearing officer the Town Council shall set a hearing date, time and place with a reasonable time, with the hearing to be held before the Town Council. The employer and all employees of the employer shall be given written notice by the Mayor of the Town Council of the date, time and place of the hearing and be given an opportunity to be heard. The Town Council may affirm, reverse or modify any ruling made by the hearing officer, and the decision of the Town Council shall be final.

Section 10-2-8 Where Smoking is Not Regulated

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

- A. Private Residences.
- B. Bars.
- C. Bowling lanes, billiards/recreation rooms.
- D. Hotel and motel rooms rented to guests.
- E. Retail stores.
- F. On stage smoking as part of a stage production, ballet or similar exhibition.
- G. Conference and meeting rooms and private meeting rooms while these places are being used exclusively for private functions; excluding Town-owned buildings.
- H. Private clubs and recreation facilities.
- I. Public areas of restaurants that conspicuously post a notice at each entrance that

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the restaurant does not provide nonsmoking areas in accordance with this chapter.

- J. Public areas of hotels and motels that conspicuously post a notice at each entrance that the hotel or motel does not provide nonsmoking areas in accordance with this chapter.

Section 10-2-9 Posting Regulations

- A. “No Smoking” signs, or the international “No Smoking” symbol shall be clearly and conspicuously posted by the owner, operator, manager, or employer or other person in control in every place where smoking is controlled by this chapter, and “Smoking Permitted” signs shall be clearly and conspicuously posted in areas where smoking is permitted.
- B. Any owner, manager, operator or employer of any establishment controlled by this Chapter shall, upon either observing or being advised of a violation of Section 10-2-4, have the obligation to inform the violator of the appropriate requirements of this Chapter and then request immediate compliance.
- C. A violation of this Section is a petty offense, punishable by a fine not to exceed one hundred dollars (\$100.00).

Article 10-3 CURFEW HOURS FOR MINORS

10-3-1	Definitions
10-3-2	Curfew Regulations
10-3-3	Defenses/Exceptions
10-3-4	Enforcement
10-5-5	Penalties

Section 10-3-1 Definitions

- A. **“EMERGENCY”** means an unforeseen combination of circumstances or the resulting state that calls for immediate action.
- B. **“GUARDIAN”** means a person who, under court order, is the guardian of a minor or a public or private agency with who a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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- C. **“INSUFFICIENT CONTROL”** means failure to exercise reasonable care and diligence in the supervision of the minor.
- D. **“MINOR”** means any person under eighteen years of age.
- E. **“PARENT”** means a person who is a natural parent, adoptive parent or step-parent of another person.

Section 10-3-2 Curfew Regulations

- A. 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.
- B. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about, or upon any place in the Town away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.
- C. It is unlawful for a parent, guardian, or other person having supervisory custody of the minor to knowingly permit, or by insufficient control, allow a minor to violate the provisions of Subsections A or B of this Ordinance, except as expressly provided herein. It shall not constitute a defense hereto that such parent, guardian, or other person having supervisory custody of the minor did not have actual knowledge of the minor’s violation of Subsections A or B, if such parent, guardian, or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.
- D. It is unlawful for parent, guardian, or other person having the care, custody, or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of Subsection A or B as listed.

Section 10-3-3 Defenses/Exceptions

It is a defense to prosecution under Section 10-3-2 if the minor was:

- A. Accompanied by the minor’s parent or guardian or an adult having supervisory custody of the minor.

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

Section 10-3-4 Enforcement

- A. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offence has occurred and that, based upon circumstances, the minor's responses and minor's conduct, no defense as provided in Section 10-3-3 is probably present.
- B. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any of the provisions of Section 10-3-2, Subsection A or B is also hereby empowered to demand of the parent, guardian, or adult having supervisory custody that such parent, guardian, or other adult come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, an adult having supervisory custody or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

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Section 10-3-5 Penalties

- A. Any person who violates Section 10-3-2, of this ordinance is guilty of a petty offense.
- B. No fine imposed for violation of this ordinance shall exceed the maximum provided by statute for a petty offense.

ARTICLE 10-4 Fireworks Regulations (Created 10/26/10, Effective 11/26/10; Ordinance 330)

- 10-4-1 Definitions**
- 10-4-2 Fireworks Prohibited; exceptions**
- 10-4-3 Sale of Fireworks**
- 10-4-4 Posting of Signs by Persons Engaged in the Sale of Fireworks; penalty.**
- 10-4-5 Authority to Enforce Violations of this Article; Means of Enforcement**
- 10-4-6 Liability for Emergency Responses Related to Use of Fireworks; Definitions**
- 10-4-7 Penalty**

Section 10-4-1 Definitions

- A. The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
 - 1. *Consumer firework* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
 - 2. *Display firework* means those fireworks defined by Arizona Revised Statutes Section 36-1601.
 - 3. *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework, display firework or permissible consumer firework as defined by Arizona Revised Statute Section 36-1601.

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4. *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona Revised Statute 36-1601.
5. *Permissible consumer fireworks* means those fireworks as defined by Arizona Revised Statute Section 36-1601 that may be sold within the Town of Clarkdale even where the use of those items has been prohibited.
6. *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by permit by the Fire Marshall or his designee.

Section 10-4-2 Fireworks prohibited; exceptions.

- A. The use, discharge or ignition of fireworks within the Town of Clarkdale is prohibited.
- B. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- C. Permits may be granted by the Fire Marshall or designee for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection 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 Marshall has authority to impose conditions on any permits granted.
- D. Failure to comply with subpart A of this section is a Civil Offense, punishable by a fine with a minimum amount of \$50.00 and maximum amount of \$250.00, plus applicable surcharges, with no possibility of imprisonment or probation. A second or subsequent violation under subpart A of this section is a Class 2 Misdemeanor offense and may be punishable by a fine in an amount up to \$750, plus applicable surcharges, imprisonment for a period up to four months, and probation for a period up to two years.

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- E. Failure to comply with any permit requirements issued by the Fire Marshal, as identified in Subpart C, is a Class 1 Misdemeanor offense and may be punishable by a fine in an amount up to \$2,500, or imprisonment for a period up to six months.

Section 10-4-3 Sale of Fireworks.

- A. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen (16) years of age.
- B. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law or the Clarkdale Town Code.

Section 10-4-4 Posting of signs by persons engaged in the sale of fireworks; civil penalty.

- A. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - 1. The use of fireworks, except novelty items as defined by the Clarkdale Town Code, including permissible consumer fireworks, is prohibited.
 - 2. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
- B. Signs required under this section shall be placed at each cash register and in each area where fireworks are displayed for sale.
- C. The Community Development Director or 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.
- D. Failure to comply with subparts A and B of this section is a Class 1 Misdemeanor offense and may be punishable by a fine in an amount up to \$2,500 plus applicable surcharges, imprisonment for a period up to six months, and probation for a period up to three years.

Section 10-4-5 Authority to enforce violations of this article; means of enforcement.

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- A. A Town police officer or the Town Attorney may issue complaints to enforce violations of this article.

Section 10-4-6 Liability for emergency responses related to use of fireworks; definitions.

- A. 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 article is prima facie evidence of liability under this section.
- B. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subpart A 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.
- C. For the purposes of this section:
 - 1. “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.
 - 2. “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.

Section 10-4-7 Penalty.

- A. Unless another penalty is specifically provided for, the penalty for violating any prohibition or requirement imposed by this article is a Class 2 Misdemeanor and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period up to four months, and probation for a period up to two years.