

CHAPTER 1

GENERAL OFFENSES

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6-1-1: AID TO AN OFFENSE AND ATTEMPT:

- (A) It shall be unlawful to aid, counsel, agree to aid, or attempt to aid another person or persons in planning or engaging in the commission of any offense set forth in Title 6 of the Mesa City Code. (1635)
- (B) It shall be unlawful for a person to: (1635)
 - 1. Intentionally engage in conduct which would constitute an offense pursuant to said Title 6 if the attendant circumstances were as such person believes them to be; or (1635)
 - 2. Intentionally do or omit to do anything which, under the circumstances as such person believes them to be, is any step in a course of conduct planned to culminate in commission of an offense pursuant to said Title 6. (1635)
- (C) It is no defense that it was impossible for the person to aid the other party's commission of the offense, provided such person could have done so had the circumstances been as the person believed them to be. (1635)

6-1-2: BARBED WIRE, CONCERTINA WIRE, RAZOR WIRE, AND ELECTRIC FENCES: (1480,1635)

(Repealed by 2568)

6-1-3: CONDUCT OF PERSONS WITHIN CITY OF MESA CEMETERY:

- (A) Automobiles. Automobiles shall not be driven through the cemetery at a greater speed than fifteen (15) miles per hour and shall be kept on the right side of the roadway. (971,1635)
- (B) Bicycles and Motorcycles. Bicycles and motorcycles are not permitted in the cemetery except when in attendance at funerals or on cemetery business. (971,1635)
- (C) Children. Children under twelve (12) years of age shall not be permitted within the cemetery or its buildings unless accompanied by persons responsible for them. (971,1635)
- (D) Dogs. Dogs shall not be permitted on the cemetery grounds. (971,1635)
- (E) Flowers and Plants. No person shall gather flowers or damage or remove shrubbery or plants. (971,1635)
- (F) Rubbish. Depositing of rubbish on the walkways, roads, grounds, graves, or gravesites or in the buildings is prohibited. (971,1635)
- (G) Desecration of Marker or Burial Place. No person shall willfully or maliciously deface, break, destroy, disturb, or remove a tomb, monument, or grave stone erected for a dead person or mark, deface, injure, destroy, disturb, or remove any fence post, rail, or wall of the cemetery. (971,1635)
- (H) Loitering and Boisterousness. No person shall congregate within the cemetery; no automobiles shall be driven in the cemetery except for purposes directly associated with the cemetery; and no persons shall congregate within the cemetery except for such purposes. (971,1635)

6-1-4: EXPECTORATING ON SIDEWALK OR IN PUBLIC BUILDINGS:

It shall be unlawful for any person to expectorate upon any of the sidewalks or upon the floor of any theatre, public building, church, or room used for public assemblies. (1957 Code,1635)

6-1-5: KEEPING OF JUNK RESTRICTED: (1635,1952)

(Repealed by 2568)

6-1-6: LUG WHEELS PROHIBITED:

It shall be unlawful for any vehicle with wheels injurious to pavement to be permitted upon the public thoroughfares. (1957 Code,1635)

6-1-7: WILLFUL FAILURE TO RETURN LIBRARY PROPERTY:

It shall be unlawful for any person to willfully fail to return any book, pamphlet, record, magazine, or other property of the City of Mesa Public Library within five (5) days after the receipt of notice from the library demanding return of such property. (1635)

6-1-8: NUISANCE DEFINED: (1635,1952)

(Repealed by 2568)

6-1-9: DESTRUCTION OF BUILDINGS: (1957 CODE,1635)

(Repealed by 2568)

6-1-10: PROPERTY OWNER OR OCCUPANT TO ABATE: (1957 CODE,1635,1952)

(Repealed by 2568)

6-1-11: CITY TO ABATE: (1957 CODE,1635,1952)

(Repealed by 2568)

6-1-12: UNLAWFUL ACT:

It shall be unlawful for any person to create or maintain any nuisance or cause the same to exist or to knowingly permit a nuisance to be created or maintained on the premises or property owned, leased, occupied, maintained, used, or controlled by such person. (1957 Code, 1635,1952)

6-1-13: OBSCENE CONDUCT:

It shall be unlawful for any person to urinate or stool in any place open to public view. (1635)

6-1-14: WATER FLOWING UPON STREETS: (1065, 1635)

(Repealed by 4145)

6-1-15: WEAPONS:

It shall be a misdemeanor for any person to negligently or purposely discharge any firearm, BB gun, or slingshot within the corporate limits, except: (394,1635)

(A) In necessary self-defense. (394,1635)

(B) A law enforcement officer in necessary performance of his duty. (394,1635)

(C) For the purpose of target shooting or practice on a range operated by qualified personnel. Qualified personnel shall consist of either a certified firearms safety instructor, rifle or pistol marksmanship instructor certified by the National Rifle Association, or person designated by a rifle or pistol club, public or private school, or military agency. (394,1635)

(D) Target shooting on private premises with air or CO2-operated BB or pellet guns or slingshots, providing: (394,1635)

1. The target area is enclosed in such manner and with materials that will stop the projectiles. (394,1635)

2. Such target shooting is supervised by an adult at all times. (394,1635)

3. Any safety precautions recommended by the Police Chief are complied with. (394,1635)
- (E) In an area recommended as a hunting area by the Arizona Game and Fish Commission and approved by the Police Chief. Such area must be posted as required by the Police Chief and may be closed at any time by the Police Chief or the Director of the Game Department. (394,1635)
 - (F) Where a permit is issued by the Police Chief. (394,1635)
 - (G) In defense of property from damage by animals or birds, providing the property owner obtains a permit from the Arizona Game Department or U.S. Fish and Wildlife Service and the taking of such animals or birds is properly supervised by the Game Department or the Fish and Wildlife Service or a person designated by either of those agencies to assure the safety of surrounding property owners. (394,1635)
 - (H) Definition. For the purpose of this Section, a firearm is defined as any device that expels a projectile or projectiles by means of expanding gases. (394,1635)

6-1-16: OBSCENITY; LIVE SHOWS:

- (A) Legislative Finding and Purpose. The City Council finds that the crass commercial exploitation of explicit sexual conduct through the public exhibition of obscene films, live obscene shows, and the sale of obscene publications and devices constitutes a debasement and distortion of sensitive key relationships of human existence central to family life, community welfare, and the development of human personality; is indecent and offensive to the senses and to the public morals; and interferes with the comfortable enjoyment of life and property in that such interferes with the interest of the public in the quality of life and total community environment, the tone of commerce in the City, property values, and public safety; that the State Legislature has heretofore adopted Title 13, Chapter 35, Arizona Revised Statutes; that the provisions contained therein prohibit obscenity and should be diligently enforced by the administration of the City; that such enactments by the State Legislature do not prohibit live obscene productions, and the live obscene productions should be prohibited; and that the carrying on of any of the activities prohibited by those portions of the laws of the State of Arizona hereinabove referred to and in this Section hereafter referred to is detrimental to the best health, safety, convenience, good morals, and general welfare of the City of Mesa and the residents, citizens, inhabitants, and businesses thereof. Accordingly, the City Council hereby declares that the activities prohibited in those portions of Title 13 above set forth and hereinafter set forth are, and are hereby declared to be and constitute, a public nuisance. (1129,1635,3740)
- (B) Definitions. In this Section the following definitions shall apply: (1129,1635)

OBSCENE: That which is determined as obscene, applying the following guidelines: (1129,1635)

1. The average person, applying contemporary State standards, would find that the subject matter, taken as a whole, appeals to the prurient interest; and
2. The subject matter depicts or describes patently offensive sexual activity; and (3740)

3. The subject matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

KNOWINGLY: Having knowledge of the character and content of the material involved or failure on notice to exercise reasonable inspection which would disclose the content and character of same. (1129,1635)

PATENTLY OFFENSIVE SEXUAL ACTIVITY: So offensive on its face as to affront current standards of decency and shall be deemed to include any of the following described forms of sexual activities, if they are depicted, represented, or described so as to affront current standards of decency: (1129,1635,3740)

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, directly and not through clothing. (3740)
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy. (3740)
 3. Masturbation, actual or simulated. (3740)
 4. Flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed. (1129,1635, 3740)
 5. Excretory functions as part of or in connection with any of the activities set forth in (1) through (4) above. (3740)
- (C) Participation in Obscene Performance Prohibited. No person shall knowingly produce, present, or direct any obscene performance or participate in the portion thereof which is obscene. (1129,1635,3740)
- (D) Obscene Performance on Premises Prohibited. No person being the owner of any premises or having control thereof shall knowingly permit within or upon said premises any obscene performance. (1129,1635,3740)

6-1-17: PROHIBITED USE OF PUBLIC RIGHT-OF-WAY:

It shall be unlawful for any person to use a public street, highway, alley, lane, parkway, sidewalk, or other right-of-way, whether such right-of-way has been dedicated to the public in fee or by easement, for lying, sleeping, or remaining in a sitting position thereon, except in the case of a physical emergency or the administration of medical assistance. (1659)

6-1-18: PENALTY:

Any person convicted of a violation of any provision of Title 6, Chapter 1, Mesa City Code, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment not to exceed six (6) months, or by both fine and imprisonment. (1635,1659,2466)

6-1-19: PROBATION:

If a person convicted of a violation of any section of Title 6, Mesa City Code, is found eligible for probation by the City Police Court, the Court may suspend the imposition of execution of sentence for a period of time not to exceed three (3) years and if so, shall without delay place such person on supervised or unsupervised probation. If the court imposes probation, it may also impose a fine not to exceed two thousand five hundred dollars (\$2,500.00) and may require the convicted person to make restitution to the victim of the crime in such amount and manner as the court may order. (1635,1659,2466)

6-1-20: UNLAWFUL POSSESSION OF FIREARMS BY MINOR:

(A) Definitions. (2750)

1. **FIREARM:** Any loaded or unloaded pistol, revolver, rifle, shotgun, or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or expanding gases; except that it does not include an air rifle, air pistol, BB gun, or firearm in permanently inoperable condition. (2750)
2. **MINOR:** A person who is under the age of eighteen (18) years. (2750)
3. **WRITTEN CONSENT:** Written approval or permission to possess a firearm which is on a form prescribed by the Police Department, signed by the child's parent or legal guardian and notarized, which specifically describes the firearm by (a) type, (b) manufacturer, (c) caliber, and (d) serial number. (2750)

(B) Unlawful Possession of Firearm.

It shall be unlawful for a minor to possess any firearm within the City limits without written consent of the minor's parent or legal guardian. (2750)

(C) Possession of Consent Form; Keeping of Records. (2750)

1. The original written consent form shall be carried by the minor any time the minor is in possession of a firearm outside the minor's residence. (2750)
2. The Police Department shall not maintain a file or register of executed written consent forms. (2750)

(D) Forfeiture of a Firearm.

Any firearm possessed by a minor in violation of this Section may be subject to forfeiture in the same manner as authorized by Chapter 39 of Title 13, Arizona Revised Statutes. (2750)

6-1-21: SALE AND DISPLAY OF PSEUDOEPHEDRINE PRODUCTS:

Definitions. (4558)

In this article, unless the context otherwise requires:

1. "Pseudoephedrine product" means any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine, or phenyl-propranolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropranolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product. (4558)
 2. "Retail establishment" means any place of business that offers any pseudoephedrine product for sale at retail. (4558)
 3. "Pharmacist" means a person registered pursuant to Title 32, Chapter 18, of the Arizona Revised Statutes to dispense medicinal substances. (4558)
- (A) No retail establishment shall sell any pseudoephedrine product unless staffed with a pharmacist on the premises at the time of the sale except as exempted by order of the Attorney General of the United States or his designee, pursuant to federal law. (4558)
- (B) A person making a retail sale of a product containing pseudoephedrine shall only complete such a transaction upon display by the purchaser of a government-issued photo identification, and shall record the purchaser's name, quantity of pseudoephedrine product purchased, transaction date and the identity of the seller. At the discretion of the retail establishment, the information may be recorded in written tabulation or by electronic means. (4558)
- (C) The information required to be obtained by paragraph B will be retained by the retail establishment for a period of two (2) years, and will be considered a confidential document that will only be available to the operator of the retail establishment and certified Arizona peace officers. (4558)
- (D) Display of pseudoephedrine products. (4558)
1. The operator of a retail establishment shall keep all pseudoephedrine products in a manner that is inaccessible to customers without the assistance of a pharmacist or employee acting under the direct supervision of a pharmacist; (4558)
 2. Any pseudoephedrine product displayed in violation of this ordinance shall constitute a nuisance which, if not abated, shall subject the pseudoephedrine products to forfeiture; (4558)
 3. Upon an initial discovery of any pseudoephedrine product displayed in violation of this ordinance, the operator of the retail establishment, upon written notification by any law enforcement officer of the nuisance, shall immediately remove the pseudoephedrine products and thereby avoid their forfeiture; (4558)
 4. Any pseudoephedrine products displayed in violation of this ordinance within one year of written notice of the nuisance shall be immediately seized by any law enforcement officer discovering them; (4558)
 5. Upon the seizure of any pseudoephedrine products for violation of this ordinance, the law enforcement officer shall give written notice of the intent to forfeit the seized products. The notice shall include the date and time of the seizure, an inventory of the items seized, and directions on how a post-seizure hearing may be demanded to challenge the forfeiture of the items. (4558)
 6. Within fifteen (15) days of the seizure, the operator of a retail establishment may request the appointment of a hearing officer to preside over the post-seizure hearing in accordance with Mesa City Code Title 1, Chapter 27, Section 8. If no written demand for a post-seizure hearing is filed, the items seized shall be forfeited and destroyed. If a demand for a post-seizure hearing is timely filed, a hearing shall be held pursuant to the procedures set forth in Mesa City Code 8-6-8 (E) to determine if the seized pseudoephedrine products were displayed in violation of this ordinance. If it is determined that the pseudoephedrine products were displayed in violation of this ordinance, the items shall be ordered forfeited and destroyed. (4558)

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