

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

- 9.00 Criminal & Civil Citations**
- 9.04 Gambling**
- 9.08 Obscenity**
- 9.12 Prostitution**
- 9.16 Curfew**
- 9.24 Graffiti**
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- 9.32 Inhalants and Toxic Vapors**

Chapter 9.00

CRIMINAL & CIVIL CITATIONS

Sections:

9.00.010 Criminal & Civil Citations.

9.00.010 Criminal & Civil Citations.

Unless and until the City of Douglas Magistrate Court obtains jurisdiction to handle criminal matters and/or is consolidated with the local Justice Court, all criminal ordinances and penalties (inclusive of petty offenses) listed in all chapters of the DMC shall now have the option to alternatively be cited by law enforcement as a civil violation at the discretion of the arresting or citing officer. Unless the DMC otherwise provides for a civil penalty, the civil penalty shall be \$50 per violation which shall not be waived or suspended. The civil fine could be reduced at the discretion of the City Magistrate to a minimum of \$25 per violation. Law enforcement shall also have the option to cite criminally for state law offenses where these are available and this shall be at the officer's discretion. (Ord. 10-995 § 1, 2011).

Chapter 9.04

GAMBLING

Sections:

9.04.010 State statutes adopted.

9.04.010 State statutes adopted.

Gambling within the limits of the city will hereinafter be regulated and restricted in accordance with Chapter 33 of Title 13 of the Arizona Revised Statutes, and those statutes are adopted by reference as though fully set out herein. Copies of the statutes shall be kept on file in the office of the city clerk. (Ord. 687 § 2, 1996)

Chapter 9.08

OBSCENITY

Sections:

9.08.010 State statutes adopted.

9.08.010 State statutes adopted.

Obscenity within the limits of the city will hereinafter be regulated and restricted in accordance with Chapter 35 of Title 13 of the Arizona Revised Statutes, and those statutes are adopted by reference as though fully set out herein. Copies of the statutes shall be kept on file in the office of the city clerk. (Ord. 805 §1, 2002)

Chapter 9.12

PROSTITUTION

Sections:

9.12.010 State statutes adopted.

9.12.10 State statutes adopted.

Prostitution within the limits of the city will hereinafter be regulated and restricted in accordance with Chapter 32 of Title 13 of the Arizona Revised Statutes, and those statutes are adopted by reference as though fully set out herein. Copies of the statutes shall be kept on file in the office of the city clerk. (Ord. 805 §2, 2002)

Chapter 9.16

CURFEW

Sections:

- 9.16.010** Persons subject to curfew—Hours.
- 9.16.015** Exceptions.
- 9.16.020** Duty of legal custodian.
- 9.16.030** Detention of minors violating curfew.
- 9.16.040** Violation—Penalty.

9.16.010 Persons subject to curfew—Hours.

It is unlawful for any unemancipated person under eighteen years of age to be or remain in or upon any street or alley or any other public place within the city during the times set forth below:

A. Ten p.m. to five a.m., Sunday through Thursday, during the regular school year of the Douglas unified school district No. 27.

B. 12:01 a.m., Saturday, to five a.m., Saturday, and 12:01 a.m., Sunday, to five a.m., during the regular school year of the Douglas unified school district No. 27.

C. 12:01 a.m., to five a.m., the date following the closure of the Douglas unified school district No. 27 to begin any vacation period through the same period of time the date prior to the commencement of regularly scheduled classes within the Douglas unified school district No. 27 at the conclusion of the vacation period.

(Ord. 805 §3, 2002: Ord. 527 § 1, 1987: Ord. 449 § 3, 1980)

9.16.015 Exceptions.

The following shall constitute valid exceptions to the operation of the ordinance:

(A) When a juvenile is accompanied by a parent, guardian or legal custodian of such juvenile.

(B) When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designed period of time and purpose within a specified area.

(C) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one (1) hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event in writing with the chief of police (or his assigned representative) at least 72 hours in advance, informing the police department of the time that such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization.

(D) When the juvenile is legally employed and carries proof of said employment briefly identifying the juvenile, the addresses of the juvenile's home and place of employment, and the juvenile's hours of employment.

(E) When the juvenile is, with parental consent, engaged in normal interstate travel through the city or originating or terminating in the city.

(F) When the juvenile is married or has been married pursuant to state law.

(G) When an emergency exists. The

term “emergency” includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(H) With permission of the parent, guardian or lawful custodian, the minor is engaged in a reasonable and legitimate exercise of rights protected by the First Amendment of the United States Constitution. (Ord. 805 §3, 2002)

9.16.020 Duty of legal custodian.

It is unlawful for anyone having the legal care and custody of any child as described in Section 9.16.010 to allow or permit such person to go or be upon any public street, alley or other public place in the city, in the nighttime as restricted in Section 9.16.010, except in the case of exceptions in Section 9.16.015. (Ord. 449 § 4, 1980)

9.16.030 Detention of minors violating curfew.

(A) Every member of the police force of the city while on duty is authorized to detain any such minor willfully violating the provisions of Section 9.16.010 until the parent or guardian of the child shall take him or her into custody, subject to any orders of the Cochise County Juvenile Court; such officer shall immediately upon taking custody of the child communicate with the parent or guardian or other person having custody of such minor and shall also communicate with the appropriate official of the Cochise County Juvenile Court. (Ord. 449 § 5, 1980)

(B) When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information

has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(C) The parent or guardian having custody of a juvenile subject to this section shall be liable for all costs incurred by the city for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the city employee who is assigned to remain with the juvenile plus the cost of benefits for that employee. (Ord. 805 § 3, 2002)

9.16.040 Violation—Penalty.

(A) Any person willfully violating any of the provisions of this chapter shall be guilty of a Class II misdemeanor and shall be punished and/or fined according to law. (Ord. 527 § 2, 1987; Ord. 449 § 6, 1980)

(B) Any juvenile who shall violate any of the provisions of the ordinance more than three times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision and the chief of police may proceed to file such charges with the juvenile

court as he may deem appropriate. (Ord. 805 §
3, 2002)

Chapter 9.24

GRAFFITI

Sections:

- 9.24.010 Definitions.**
- 9.24.020 Prohibited acts.**
- 9.24.030 Parental liability.**
- 9.24.040 Abatement—Owner responsibility.**
- 9.24.050 Abatement by city.**
- 9.24.080 Violation—Penalty.**

9.24.010 Definitions.

A. “Graffiti” means any painting, etching, covering, drawing or marking which is placed upon any public or private property, whether occupied or not, with the intent to deface or damage such property or with the knowledge that such defacement or damage will occur.

B. “Minor” means any person under the age of eighteen years of age. (Ord. 621 § 1, 1993)

9.24.020 Prohibited acts.

A. No person shall place graffiti on any property, real or personal, without the express permission of the owner or operator of that property.

B. No minor shall possess any tool, instrument, article, substance, solution or other compound designed or commonly used to paint, etch, cover, draw upon or otherwise mark property with the intent to use the same to deface or damage property without the express permission of the owner or operator of that property. Possession of a spray paint can in public shall give rise to a presumption of intent to use the same to deface or damage property.

C. No person shall sell or otherwise transfer any spray paint or broad tip indelible marker to a minor.

D. No minor shall furnish fraudulent evidence of age in an attempt to purchase any spray paint container or broad tip indelible marker.

E. No minor shall, unless accompanied by a parent or legal guardian, possess a spray paint container or broad tip indelible marker on any city property or on private property except with the express permission of the lawful owner or operator of such private property. (Ord. 621 § 2, 1993)

9.24.030 Parental liability.

The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian shall be jointly and severally liable with the minor for any restitution imposed by a court upon the minor for a violation of this chapter if the minor fails to pay the restitution in the time required by the court. The joint and several liability of one or both parents or legal guardian under this section shall not exceed ten thousand dollars for each restitution order imposed upon the minor. (Ord. 805 § 5, 2002; Ord. 621 § 4, 1993)

9.24.040 Abatement—Owner responsibility.

A. Any graffiti which has been placed on the outside of any dwelling, building, wall or other structure, whether occupied or not, is declared to be a nuisance. It shall be the responsibility of the owner of the dwelling, building, wall or other structure to promptly contact the city to remove the graffiti.

B. A property owner may request that the graffiti be removed by persons performing community work service pursuant to court order. Such a request must be promptly made to the office of the city manager and shall require the execution of a proper request/consent form to allow completion of the work. (Ord. 636 § A (part), 1994; Ord. 621 § 5(a), 1993)

9.24.050 Abatement by city.

A. The city manager, or an authorized representative, shall send a notice of abatement to the owner of any property found to be a nuisance under Section 9.24.040. The notice shall be delivered to the owner in person or sent by certified or registered mail to the owner's address as found in the Cochise County property tax rolls.

B. Within ten days of the receipt of a notice of abatement, a person may request a hearing before the city manager, or authorized representative, solely on the issue whether a nuisance exists on the property in question. The request must be in writing and received at the city manager's office within the ten-day period. After the hearing, if the city manager, or authorized representative, determines that a nuisance exists on the property in question, the property owner shall abate the nuisance by removing the graffiti and repairing any property damage within ten days of the conclusion of the hearing.

C. If the owner fails, neglects or refuses to abate the nuisance, by removing the graffiti and repairing any property damage, within ten days of the notice (or within the time provided in subsection B of this section if a hearing is requested), the city council may direct that the

graffiti be removed by the city at the city's expense.

D. In the event graffiti is removed from private property by the city as provided in this chapter, any restitution paid by an offender for damage to that property shall be paid to the city. (Ord. 636 § A (part), 1994; Ord. 621 § 5(b), 1993)

9.24.080 Violation—Penalty.

A. Any violation of Section 9.24.020 of this chapter shall constitute a Class 1 misdemeanor.

B. Upon a finding of guilt for any violation of Section 9.24.020, in addition to any other penalty imposed, the court shall order the offender to pay restitution for the costs of removing any graffiti and repairing any property damage resulting from the violation.

C. Upon a finding of guilt for any violation of Section 9.24.020, in addition to any other penalty imposed, the court shall order the offender to perform community work service for the city. The offender may be directed by the city to remove graffiti from any public or private property in fulfillment of this requirement. (Ord. 621 § 3, 1993)

Chapter 9.28

TRUANCY

Sections:

- 9.28.010 School attendance required—Exceptions.**
- 9.28.020 Parent, guardian or legal custodian—Responsibility.**
- 9.28.030 Enforcement actions by law officers.**
- 9.28.040 Violation—Penalty.**
- 9.28.050 Chapter not to replace other regulations.**

9.28.010 School attendance required—Exceptions.

It is unlawful for a minor between the ages of six (including those who are six) and sixteen (including those who are fifteen, but not those who are sixteen) to be or remain in or upon a street, alley, sidewalk or any public place of amusement or entertainment within the city during the hours the Douglas Unified School District is in session, unless one or more of the following exceptions apply:

A. The minor is accompanied by a teacher, school bus driver or other school employee, a home school teacher or vocational instructor or a parent, guardian or other person having lawful custody of the minor.

B. The minor is in performance of a duty directed by a teacher, bus driver or other school employee, a home school teacher or vocational instructor or a parent, guardian or other person having lawful custody of the minor.

C. The minor is fourteen years of age or more and is engaged in lawful employment with the consent of the school and the minor's parent, guardian or custodian.

D. The minor is in the performance of a lawful errand making it necessary for the minor to be away from school at that time.

E. The minor has graduated from high school or obtained a GED.

F. The minor attends a school other than a school in the Douglas Unified School District and the school the minor attends is not in session.

G. The minor has been excused from school by school authorities.

H. With prior permission of the parent, guardian or lawful custodian, the minor is engaged in a reasonable and legitimate exercise of right protected by the First Amendment of the United States Constitution. (Ord. 693 § 1, 1996)

9.28.020 Parent, guardian or legal custodian—Responsibility.

It is unlawful for a parent, guardian or legal custodian of a minor between the ages of six (including those who are six) and sixteen (including those who are fifteen, but not those who are sixteen) knowingly to permit or by inefficient control to allow that minor to be or remain in or upon a street, alley, sidewalk or public place of amusement or entertainment within the city during the hours the Douglas Unified School District is in session, unless one or more of the exceptions in Section 9.28.010 apply. (Ord. 693 § 2, 1996)

9.28.030 Enforcement actions by law officers.

If a law enforcement officer has reason to believe a juvenile is between the ages of six and sixteen and that school is in session, the officer shall notify the juvenile of the ordinance codified in this chapter and require the juvenile

to provide information regarding his or her identity; the identity and whereabouts of the minor's parents, guardians or custodians; the name, location and attendance requirements of the minor's school and the reasons the minor is at or on public property at that time instead of being in school. The officer shall not take enforcement action under this chapter unless the officer reasonably believes that an offense has occurred and that none of the exceptions in Section 9.28.010 apply. (Ord. 693 § 3, 1996)

9.28.040 Violation—Penalty.

A. For a first violation of this chapter, a juvenile shall be given a written warning and ordered to return immediately to school or home. A written notice and warning will also be sent to the juvenile's parents, guardians or custodians by certified mail, return receipt requested, or personal service. A copy of the notice served on the juvenile will be provided to the juvenile's school.

B. The second violation of this chapter by a juvenile, after receiving a written warning, shall be considered a first violation by the juvenile's parents, guardians or custodians. For the first offense by a parent, guardian or custodian, the fine shall be fifty dollars. For each subsequent offense, the fine shall be one hundred dollars.

C. Upon the first or subsequent violations of this chapter by a parent, guardian or custodian, a citation shall be issued to the juvenile and the juvenile's parents, guardians or custodian to appear before the municipal court at the time and place specified. The citation shall state that failure to appear at the indicated time and place may result in issuance of an arrest warrant. The judge of the municipal court shall sentence the parents to pay the fines

required by this chapter upon finding the parent guilty of violating this chapter. (Ord. 693 §§ 4—6, 1996)

9.28.050 Chapter not to replace other regulations.

A. This chapter is not intended to replace Section 15-803 Chapter Eight of Title 15 of the Arizona Revised Statutes or any other state law governing school attendance.

B. This chapter is not intended to replace any truancy supervision provided by school districts, private schools or other schools recognized by law. (Ord. 693 §§ 7, 8, 1996)

Chapter 9.32

SALE OR USE OF TOXIC VAPORS – INHALANTS

Sections:

- 9.32.010 Definitions.**
- 9.32.020 Prohibitions.**
- 9.32.030 Violation – Civil Penalty.**
- 9.32.040 Habitual Offender.**
- 9.32.050 Exceptions.**

9.32.010 Definitions.

As used in this chapter, the phrase “toxic vapors” means and includes any substance containing one (1) or more of the following chemical compounds or the vapors of products containing such compounds:

- (a) Acetone;
- (b) Amylacetate;
- (c) Benzol or benzene;
- (d) Butyl acetate;
- (e) Butyl alcohol;
- (f) Carbon tetrachloride;
- (g) Chloroform;
- (h) Cyclohexanone;
- (i) Ethanol or ethyl alcohol;
- (j) Ethyl Acetate;
- (k) Hexane;
- (l) Isopropanol or isopropyl alcohol;
- (m) Isopropyl acetate;
- (n) Methyl “cellosolve” acetate;
- (o) Methyl ethyl ketone;
- (p) Methyl isobutyl ketone;
- (q) Toluol or toluene;
- (r) Trichloroethylene;
- (s) Triorthocresyl phosphate;
- (t) Xylol or xylene; or

- (u) Any other solvent, material, substance, chemical, or combination thereof, having the property of releasing toxic vapors.

9.32.020 Prohibitions.

A. Use or possession. It shall be unlawful for any person to intentionally smell or inhale the fumes of toxic vapors or to encourage any other person to do so, for the purpose of causing a condition of, or inducing symptoms or intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the auditory, visual, or mental processes.

B. Under the influence. It shall be unlawful for any person to be intentionally under the influence of any toxic vapors.

C. Sale.

(1) It shall be unlawful for any person who knows, or should know, that a substance that releases toxic vapors, and that could be used for the purposes of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses, to sell, give, deliver, or furnish any substance releasing toxic vapors to a person under eighteen years of age without the personal or written consent of a parent, guardian, or other person having legal care or custody of such minor, except when the sale of one (1) tube of glue is made simultaneously with the sale, purchase, and delivery of a hobby or model kit.

(2) It shall be unlawful for any person knowingly to sell or offer for sale, deliver or give away to any person any substance releasing toxic vapors, where the seller, offerer, deliverer or donor knows or has

reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses.

9.32.030 Violation – civil penalty.

A. Any person who is found by the court to be in violation of any of the provisions of this chapter shall be deemed responsible for a civil violation, unless otherwise designated in this chapter.

B. Upon the court finding a person responsible for a civil violation of this chapter, the court shall impose a fine in an amount not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) for each violation.

9.32.040 Habitual offender.

A. A person who commits a violation of this chapter after previously having been found responsible for committing three (3) or more civil violations of this chapter within a twelve (12) month period, whether by admission, by payment of the fine, by default or by judgment after hearing, shall be guilty of a class one misdemeanor.

B. For purposes of calculating the twelve (12) month period under this section, the dates of the commission of the offenses are the determining factor.

C. Upon conviction of a person of a violation of this chapter, the court may impose a sentence of incarceration not to exceed six (6) months in jail or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law, or both. The court shall order a person who has been convicted of this section to pay a fine of not less than five hundred dollars

(\$500.00) for each count upon which a conviction has been obtained.

D. Every action or proceeding under this section shall be commenced and prosecuted in accordance with the law of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

9.32.050 Exceptions.

This chapter shall not apply to the inhalation of anesthesia for medical or dental purposes. (Ord. 832 § 1, 2003)