

**CHAPTER 10
OFFENSES**

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CHAPTER 10 OFFENSES

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Section 10-1-1 Abandoned Refrigerators

It is unlawful for any person to abandon, discard, store or keep in any place accessible to children, or as the owner, lessee or manager to permit to remain on premises under his control, in any place accessible to children, a refrigerator, ice box, freezer cabinet or similar containers, of a capacity of not less than one and one-half cubic feet, which is no longer used for refrigeration purposes, without the attached doors, hinges, lids or latches being removed.

Section 10-1-2 Dangerous Constructions

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

Section 10-1-3 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 thereunto belonging upon any of the poles or other objects for use in connection with the lighting of the streets of the City 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 City.
- 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 opened to public use.
- C. It is unlawful for any person to damage in any manner any road, street or bridge in the City 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 building 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.

Section 10-1-4 Deposits of Injurious Material on Thoroughfares

It is unlawful for any person, either willfully and maliciously or carelessly and negligently to drop, throw, place or scatter upon any street, alley, sidewalk or public place in the City any nails, tacks, broken glass, glass bottles or any instrument or thing whatsoever of such nature as to be capable of injuring persons or property.

Section 10-1-5 Excavations 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 City without providing a sufficient light at night and a temporary fence or suitable obstruction around 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 (2') in depth on any unenclosed lot

without providing substantial curbing, covering or protection of such excavation.

Section 10-1-6 Explosives

It is unlawful for any person within the limits of the City to blast or use powder, fireworks or other explosives without a permit in writing from the office of the City Manager.

Section 10-1-7 False or Misleading Reports to Police

It is unlawful for any person willfully to make to the Police Department of the City 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 10-1-8 Fences; Electric

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

Section 10-1-9 Furnishing Weapons and Other Articles to Prisoners

It is unlawful for any person to furnish or attempt to furnish or take into jail or to deliver or attempt to deliver to any prisoner therein confined, or in the custody of any officer, any weapon, tool, intoxicating liquors, drug or other article without the consent of the officer in charge.

Section 10-1-10 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.

Section 10-1-11 Minors

- A. It is unlawful for any person thirteen (13) to seventeen (17) years of age to idle or loiter upon the streets or public places between the hours of midnight and five o'clock a.m. unless such person is accompanied by a parent, guardian or some person of legal age having custody of such person. It is unlawful for any parent, guardian or other adult person having the care and custody of such person to encourage or allow such person to idle or loiter upon the streets or public places between the hours of midnight and five o'clock a.m. unless accompanied by such parent or guardian. The provisions of this section shall not apply when the person is upon an emergency errand or legitimate business directed by his or her

parent, guardian or other adult person having the care and custody of the person.

- B. It is unlawful for any person twelve (12) years old or under to idle or loiter upon the streets or public places between the hours of ten o'clock p.m. and five o'clock a.m. unless such person is accompanied by a parent, guardian or some person of legal age having custody of such person. It is unlawful for any parent, guardian or other adult person having the care and custody of such person to encourage or allow such person to idle or loiter upon the streets or public places between the hours of ten o'clock p.m. and five o'clock a.m. unless accompanied by such parent or guardian. The provisions of this section shall not apply when the person is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the person.

[Amended Ord. 262-91]

Section 10-1-12 Noise

- A. INTRODUCTION. Certain noise levels must be tolerated by all citizens in order for the normal functions of city life to continue. However, excessive noise is detrimental to the physical, mental, and social well being of the citizens of the City of Page as well as to their comfort, living conditions, general welfare and safety. Thus, any loud, unnecessary, or unusual noise that is excessive, disruptive, and/or annoying is subject to regulation as provided herein.
- B. PROHIBITED NOISES, STANDARD. The creating, permitting or allowing of any unreasonably loud and disturbing noise originating from sources within the City of Page is hereby prohibited. An "unreasonably loud and disturbing noise" is hereby defined as noise of such character, intensity or duration as to be detrimental to the life or health or well-being of any individual, or as to disturb the public peace and quiet of a neighborhood, family or person. No person shall cause, suffer, allow or permit sound from any source which, when measured from the real property boundary of the source of the sound, is in excess of the following standards. As used herein, "A-weighted sound pressure level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network, as defined in American National Standards Institute ("ANSI") S1.4-1983 (R 2006). The level so read is designated dB(A). Impulsive sound, which repeats four or more times in any hour, shall be measured as continuous sound.
1. Residential use.
 - a. When the offending sound emanates from a residential use between the hours of 6:00 a.m. and 11:00 p.m., sound which has

an A-weighted sound pressure level of 70 dB(A), or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).

- b. When the offending sound emanates from a residential use between the hours of 11:00 p.m. and 6:00 a.m., sound which as an A-weighted sound pressure level of 60 dB(A), or impulsive sound which has an A-weighted sound pressure level of 70 dB(A).

2. Commercial use.

- a. When the offending sound emanates from a commercial use between the hours of 6:00 a.m. and 11:00 p.m., continuous or impulsive sound which has an A-weighted sound pressure level of 80 dB(A).
- b. When the offending sound emanates from a commercial use between the hours of 11:00 p.m. and 6:00 a.m., sound which as an A-weighted sound pressure level of 65 dB(A), or impulsive sound which has an A-weighted sound pressure level of 75 dB(A).

3. Industrial use.

- a. When the offending sound emanates from an industrial use, continuous or impulsive sound which has an A-weighted sound pressure level of 85 dB(A).

C. OTHER PROHIBITED NOISES. In addition to, and consistent with the provisions of this chapter, it shall be unlawful for any person within the City limits to make, produce, cause, suffer, continue or allow to be produced or continued by human voice, machine, animal, or device, or any combination of same, any unreasonably loud and disturbing noise which disturbs the peace and quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, or which otherwise injures or endangers the comfort, repose, health, peace, safety or welfare of others. The standards which shall be considered in determining whether a violation of this section exists shall include the following:

1. The volume of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The proximity of the noise to residential sleeping facilities, which includes hotels;

5. The time of day the noise occurs;
6. The volume of background noise, if any; and
7. The duration of the noise.

D. **SPECIFIC ACTS PROHIBITED.** The following acts are declared to be unreasonably loud, unusual or unnecessary noises in violation of this chapter, even if the noises referred to do not violate the noise level standards set forth herein and are prohibited:

1. The playing of any loudspeakers or other devices for reproduction or amplification of sound, from a public street, public property or public right of way, unless such person has first applied to and received permission from the Chief of Police to operate such equipment.
2. Operating or permitting the operation of any radio, stereo, player, or other sound device either in or on a vehicle or a self-contained non-vehicular device in such a manner that the sound is plainly audible at a distance of fifty feet (50') between the hours of 7:00 a.m. and 10:00 p.m. or at a distance of twenty-five feet (25') between the hours of 10:00 p.m. and 7:00 a.m.
3. Owning, possessing, harboring or permitting any animal or bird which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds. Prima facie evidence of a violation of this subsection shall include but not be limited to:
 - a. Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
 - b. Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

4. Operating a motor vehicle in such a manner as to cause the tire or tires to squeal or screech.
5. Operating a motor vehicle that is not at all times equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise. It is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

6. The use of any automobile, motorcycle, or other vehicle so out of repair or loaded in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.
7. Outdoor noise occurring during the course of construction at a temporary construction site which is generated by blasting, excavation, generators or heavy equipment (including, but not limited to, backhoes, tractors, concrete trucks, dump trucks, jackhammers and air compressors) shall only be allowed between the hours of 6:00 a.m. through 8:00 p.m. Monday through Saturday, unless expanded hours of operation are specifically allowed by permit from the City, and in that event under such terms, conditions and limitations as set forth in the permit.
8. Yelling, shouting, whistling, or singing on the public streets, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

E. EXCEPTIONS. None of the terms or prohibitions as set forth in this chapter shall apply to or be enforced against:

1. Any governmental vehicle or activity while engaged in necessary public business.
2. Excavations or repairs of water or sewer lines, utilities or streets by or on behalf of a governmental entity or utility company when the public welfare and convenience renders it impracticable to perform such work during the day.
3. Any private vehicle or activity while engaged in necessary public business at the request of a governmental entity, provided, however, that said private vehicle or activity shall not be exempt from the provisions of subsection 10-1-2 (D)(7) of this chapter.
4. Any special events, concerts, parades, sporting events and similar activities which are taking place on public property with the permission or consent of that public entity.
5. Use of domestic power equipment (including, but not limited to, power lawn mowers, leaf blowers, trimmers, tillers, saws, sanders, drills, or similar devices) between the hours of 7:00 a.m. and 10:00 p.m.
6. Attendant on-site noise connected with the actual performance of organized sporting events on school campuses and in publicly owned parks or facilities.

7. Human sounds emanating from children twelve (12) years of age or under, including but not limited to speech and utterances of laughter, cries, and sounds associated with play.
 8. Security alarms on structures or motor vehicles, except that such alarms must terminate operation within five (5) minutes after activation for continuous airborne sound and within fifteen (15) minutes for impulsive sound unless otherwise provided in this code.
 9. Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation.
 10. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations or air traffic control instructions issued pursuant to or within duly adopted federal air regulations, together with any noise created by aircraft operated under, or pursuant to, declaration of an emergency under federal air regulations.
 11. Any activities or actions that otherwise would violate this chapter may be conducted at different times and at higher noise levels than otherwise permitted, if upon written application, a permit is obtained beforehand from the City. The permit shall be kept on the site and shown to city officials or the city law enforcement agent on request and the city manager or council may prescribe in the permit such allowable conditions, times, restrictions and permissible noise emissions as he deems to be required in the public interest.
- F. VIOLATIONS. Any person who violates any provision of this chapter shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class two (2) misdemeanor, all punishable as set forth in this code and state law. For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.
1. The remedies herein are cumulative, and the city may proceed under one or more such remedies.
 2. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one half (1/2) hour or recurring within

one half (1/2) hour shall be considered a separate offense for each half hour of violation.

3. Nothing contained in this chapter shall be construed as requiring any warning to any person before the enforcement of the provisions of this chapter.
4. A violation of this chapter is hereby declared to be a public nuisance. In the event of a continuing violation of this chapter, the city attorney is hereby authorized to pursue a request for injunctive relief in a court of competent jurisdiction. In the event that an injunction is issued pursuant to this subsection, the court may also award reasonable attorney fees in favor of the City.

[Amended Ord. 614-14]

Section 10-1-13 Obstruction of Streets

It is unlawful for any person to obstruct any public street, alley, sidewalk or park or other public grounds within the City 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 or 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 City.

- A. It is unlawful for any person to place or construct any ramp in, on or across a city gutter or street except in conformity with a curb ramp policy that shall be maintained by the City of Page Public Works Department. Said policy shall be on file with the City Public Works Department for public use and inspection.

[Added Ord. 560-10]

Section 10-1-14 Obstruction of View

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstructions 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 10-1-15 Offensive Business

It is unlawful for any person to establish or maintain any slaughter house 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 or prejudicial to the public health within the limits of the City.

Section 10-1-16 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 10-1-17 Prostitution

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

Section 10-1-18 Searchlights

It is unlawful for any person to operate within the City 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 10-1-19 Signs and Banners

It is unlawful for any person to place any banner or sign upon any street light pole, traffic signal pole or utility pole within the City without first obtaining authorization from the Council.

Section 10-1-20 Spitting

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

Section 10-1-21 Water Flow Upon Streets

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 City.

Section 10-1-22 Weapons

- A. It is unlawful for any person within the limits of the City to fire or discharge any firearm, BB gun, air gun, pellet gun, dart gun, slingshot, gas operated gun or other similar gun or instrument.
- B. The prohibitions of the preceding subsection shall not apply to the use of any such gun or instrument by:
 - 1. A law enforcement officer or other duly authorized public official or employee in the performance of any official duty.
 - 2. Any person to whom a license, permit or authority is issued by the Chief of Police of the City for the use of such gun or instrument for a valid and proper purpose and for use in a manner not likely to harm any person, animal or property.
 - 3. Any person when used only for the necessary protection of property, habitation or person in a manner authorized by the laws of the state under or within rights guaranteed by the constitution of the state or the United States of America.
 - 4. Any person on a rifle, pistol or shotgun range constructed and maintained in accordance with such rules and regulations as the Council may designate.
- C. It is unlawful for any person, except a peace officer in actual service and discharge of his duty, to have on or about his person a concealed weapon.
 - 1. "Weapon", as used in this section, means anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term "weapon" includes a firearm which is not loaded or lacks a clip or other component to render it immediately operable, and components which can readily be assembled into a weapon.
 - 2. A weapon is not concealed weapon as used in this section if:
 - a. It is carried in a belt holster which is wholly or partially visible, or is carried in a scabbard or case designed for carrying weapons which scabbard or case is wholly or partially visible.
 - b. It is located in a closed trunk, luggage or glove compartment of a motor vehicle.
- D. It is unlawful for any person to recklessly or carelessly handle a weapon.

- E. Any person other than a peace officer on duty carrying a weapon, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event.
- F. It is unlawful for any person to sell or give to a person under the age of eighteen (18) years, without written consent of the person's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged.

Section 10-1-23 General Offense

It shall be unlawful for any person to commit any act or fail to perform any requirement which is prohibited or required by state law in so far as such laws are applicable to municipal government.

[Added Ord. 81-83]

Section 10-1-24 Public Consumption or Display of Medical Marijuana

It is unlawful for any person to consume or display medical marijuana in a public place, including public buildings and facilities, public and private schools, public parks and playgrounds, churches, sidewalks, streets, thoroughfares, and public gatherings.

[Added Ord. 567-11]

Section 10-1-25 Body Piercing; Misrepresentation of Age

- A. It is unlawful for a person who is under eighteen (18) years of age to misrepresent their age to any person by means of a written instrument of identification with the intent to induce a person to perform body piercing.
- B. It is unlawful for a person who is under eighteen (18) years of age to use a fraudulent or false written instrument to obtain a body piercing.
- C. It is unlawful for a person who knowingly influences the performing of a body piercing by misrepresenting the age of or the familiar status with such person.
- D. For the purpose of this section, "body piercing" means cutting, injection, poking or insertion of instruments upon or under the skin for the purpose

of attaching earrings, rings, jewelry, jeweled studs or any other metallic or plastic object for the purpose of wearing such object, excepting the piercing of earlobes.

Section 10-1-26 Aggressive Solicitation

Section 10-1-26-1 Definitions

In this section, unless the context requires otherwise:

- A. "Aggressive manner" means and includes either individually or as a group:
1. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or
 2. Approaching or following the person being solicited, if the conduct is:
 - a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm to oneself or another, or damage to or loss of property, or the commission of a criminal act upon the person or property in the person's possession; or
 - b. Intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or
 - c. Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response to such solicitation; or
 - d. Intentionally, knowingly, or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the [city/town], shall not constitute obstruction of pedestrian or vehicular traffic; or
 - e. Intentionally or recklessly using obscene or abusive language or gestures:
 - (1) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the

commission of a criminal act upon the person or property in the person's possession; or

- (2) Intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.
- B. "Automated teller machine" means a device, linked to a financial institution's account records, which is able to carry out transactions including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.
- C. "Automated teller machine facility" means the area comprised of one or more automated teller machines and any adjacent space which is made available to banking customers after regular banking hours. It shall be presumed that any automobile parking space within twenty-five (25) feet of an automated teller machine is part of the automated teller machine facility to provide access to bank customers.
- D. "Bank" means a bank, credit union, or other similar financial institution.
- E. "Public area" means an area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
- F. "Public transportation vehicle" means any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.
- G. "Solicit" means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

Section 10-1-26-2 Prohibited Acts

It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

- A. In an aggressive manner in a public area; or

- B. In any public transportation vehicle or from any persons within fifteen (15) feet of any transit stop, bus stop, taxi stand, train station platform or the inside of the train station, except that the operator of public transportation vehicle may request or accept payment of a fare; or
- C. Within fifteen (15) feet of any entrance or exit of any bank or automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or
- D. Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance.

Section 10-1-26-3 Penalty

Each day any violation of any provision of this Ordinance shall continue shall constitute a separate offense. A violation of this Ordinance shall be a class 3 misdemeanor and upon conviction shall be punishable by a fine of up to \$500 and up to 30 days in jail.

Section 2: Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section 3: Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

[Added Ord. 623-15]

ARTICLE 10-2 GRAFFITI

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- 10-2-3 Accessibility to Graffiti Implements
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- 10-2-5 Abatement Procedures; Notice; Administrative Review
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Section 10-2-1 Definitions

In this Article unless the context requires otherwise:

- A. "Graffiti" means any unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.
- B. "Graffiti implement" means an aerosol paint container, a broad-tipped marker, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface when the tools are used in an overt criminal act.
- C. "Aerosol paint container" means any aerosol container that is adapted or made for the purposes of applying spray paint or other substances capable of defacing property.
- D. "Broad-tipped marker" means any type of marker or similar instrument with a flat or angled writing surface of one-fourth inch or greater which contains ink or other pigmented liquid that is not water soluble.
- E. "Etching equipment" means any tool device or substance that can be used to make permanent marks on the surface of any property.
- F. "Business days" mean the days of the week of Monday through Friday, excluding legal holidays.
- G. "Abatement" means the act of removal of graffiti.
- H. "Responsible" means accountable, as for something within one's power.
- I. "Prior authorization" means with prior permission of the owner, manager or other person in control of the private or public property.

Section 10-2-2 Graffiti Prohibited

- A. No person may apply any graffiti to any natural or manmade surfaces on any publicly owned property or any privately owned property without the prior written consent of the owner or responsible party. The application of graffiti is deemed to be an act of malicious or, willful misconduct.

- B. No person may possess aerosol paint containers, broad-tipped markers, etching equipment, or any graffiti implements on any public property or private property with the intent to violate or in violation of this section.
- C. No minor may be in possession of aerosol paint containers, broad-tipped markers, etching equipment, or any other graffiti implements on any public property, structure or facility, any school property, structure or facility, or any private property without prior written permission of the lawful owner or responsible party for the property. The provisions of this section do not apply to minors possessing such implements for classes or organized extracurricular activities that require the use of such implements and whose use is limited to legitimate activities.

Section 10-2-3 Accessibility to Graffiti Implements

A. Furnishing to Minors Prohibited:

1. No person may sell any aerosol paint containers or broad-tipped markers, nor shall anyone sell, give, lend, or otherwise make available other graffiti implements to a minor unless that minor is accompanied by a parent or legal guardian at the time of purchase or transfer, and the purchase is for legitimate use in classes, organized extracurricular activities, or other legitimate activities.
2. No minor may furnish fraudulent evidence of majority at the time of purchase or transfer of any aerosol paint containers, broad-tipped markers, or any other graffiti implements.

B. Display and Storage:

Every person who owns, operates, or manages a commercial retail establishment that sells aerosol paint containers or broad-tipped markers must store the implements in an area inaccessible to the public without employee or owner assistance, or that is continuously observable through direct visual observation or surveillance equipment by the establishment's owner(s) or employees during the regular course of business.

C. Signs Required:

Every person who operates a commercial retail establishment that sells graffiti implements shall:

1. Place a sign at or near the display of such products stating: "Graffiti is against the law. Any person who defaces property with paint, markers, and other liquid or marking device is guilty of a

crime punishable by imprisonment and/or fines as allowed by law and restitution.”

2. Place a sign in view of persons accepting customer payment for graffiti implements stating: “Selling aerosol paint containers or broad-tipped markers to persons under the age of eighteen (18) is against the law and punishable by an imprisonment and/or fines as allowed by law and restitution.”

Section 10-2-4 Graffiti as Nuisance; Graffiti Removal

A. Graffiti as Nuisance:

The existence of graffiti on public and private property in violation of this Ordinance is expressly declared to be a public nuisance.

B. Removal of Graffiti by Perpetrator:

Any person applying graffiti on public or private property must remove or pay for the removal of the graffiti in a manner approved by the property owner within twenty-four (24) hours of notification. Failure of any person to remove or pay for removal of graffiti constitutes an additional violation of this Ordinance. If graffiti is applied by a minor, the parent(s) or legal guardian are also responsible for removal or payment for removal of graffiti.

C. Removal of Graffiti by Property Owner:

It shall be unlawful for any person owning or otherwise in control of any real property within the City of Page to maintain, permit or allow graffiti to remain on any property where the graffiti is visible from any street or other public or private property. The owner or other person in control of any public or private property shall remove or cause to be removed any graffiti on the property within three (3) business days, excluding legal holidays and weekends, of the placement of the graffiti. Absenteeism from the property of the owner or person in control of the property or knowledge of the graffiti by the owner or person in control of the property shall be considered when determining a violation of this section.

D. Removal of Graffiti by City:

The City is authorized, but not required, to use public funds for graffiti abatement on public or private property. The City is not required to paint, remove, or repair an area more extensive than that covered by graffiti, unless the owner has made prior arrangements with the City and agreed to pay the costs for more extensive painting, removal or repair.

Section 10-2-5 Abatement Procedures; Notice; Administrative Review

A. Permission for Entry; Cost Recovery by City:

1. Permission from an owner.

If the owner or responsible party of the property signs a permission form, the City or its private contractor may enter the property to abate graffiti. The owner or responsible party shall be responsible for the cost of the abatement, unless prior agreement for the costs are made.

2. No permission from an owner.

If the property owner or responsible party refuses to sign a permission form or cannot be located and the City, at its sole discretion, deems it appropriate to abate graffiti on the property, the City will issue a Notice of Graffiti Abatement. The Notice may be served in person, by certified mail, by posting on the subject property, or publishing in a City newspaper of general circulation.

B. The Notice of Graffiti Abatement will contain the following information:

1. Identify the property and describe the nature of the graffiti.
2. A statement declaring that the property is a public nuisance.
3. A statement declaring that abatement may commence within three (3) business days from the date of the notice.
4. Liability waived: Neither the City or its private contractor shall be liable for any abatement of graffiti that does not match or resemble the original surface.
5. Cost recovery: The owner or persons in control of the property shall be responsible for the cost of the abatement, unless prior agreement for the costs are made.

C. Designation of Enforcement Authority and Hearing Officers:

1. All officers and investigators of the Page City Police Department, Page City Fire Department, the City Building Official, the Code Enforcement Officer, the Building Inspectors, Sanitation Inspector, and the Code Enforcement specialist are authorized to issue

Notices of Graffiti Abatement for violations of this code within City jurisdiction.

2. The City Council of the City of Page shall appoint a Hearing Officer for Graffiti Abatement to preside over an administrative review from persons interested from within the City of Page. The Hearing Officer may be reappointed or replaced by majority vote of the Council at any regular City Council meeting.

D. Administrative Review:

1. Request for Review.

An owner or responsible party may object to the Notice of Graffiti Abatement by filing a written request for review with the Hearing Officer no later than three (3) business days after receiving the Notice of Graffiti Abatement.

2. Review Process.

Upon timely receipt of the request for review, the Hearing Officer, will notify the enforcement authority to defer enforcement action until the review is final. The owner or responsible party must promptly supply the Hearing Officer with any additional information necessary to determine whether or not the property constitutes a nuisance. When the review is final, the Hearing Officer will notify the owner or responsible party and the enforcement authority of his findings within five (5) business days. The owner or responsible party will be notified by certified mail.

3. Determinations of the Hearing Officer.

The determination by the Hearing Officer is final and not appealable. If the Hearing Officer determines that the property contains graffiti and is a public nuisance, the Hearing Officer will issue a written eradication order stating that the City may enter upon the property with 24 hours and abate the graffiti.

Section 10-2-6 Trust Fund Established

The City Council hereby creates the City of Page Anti-Graffiti Trust Fund. The proportion of the penalties assessed against violators of this Ordinance that accrues to the City will be placed in the fund, along with any monetary donations received from persons wishing to contribute to the fund. The Council will direct the expenditures of monies in the fund. Expenditures are limited to payment for the cost of graffiti removal, rewards for information leading to the successful arrest and indictment of violators of the Ordinance, the costs of administering the

Ordinance, and such other public purposes that are involved with graffiti abatement.

Section 10-2-7 Penalties

- A. Any person who violates any provision of this Ordinance shall be punished by a fine not exceeding three hundred dollars (\$300) or by imprisonment not exceeding six (6) months or by both fine and imprisonment.

- B. A person who is convicted of a violation of Section 10-2-2:
 - 1. Shall be punished by not less than forty (40) hours of community service involving the removal of graffiti within the community and a fine of not less than two hundred fifty dollars (\$250.00) and/or by imprisonment of not less than forty-eight (48) hours in jail.
 - 2. The court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in an amount equal to the damages and/or abatement thereof.
 - 3. Any person under the age of eighteen (18) will be punished as provided for in Title 8 of the Arizona Revised Statutes.
 - 4. No judge shall suspend the imposition of any of the mandatory minimum penalties required by this section.