

ORDINANCE NO. 08-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF HOLBROOK, ARIZONA, AMENDING THE CITY CODE, CHAPTER 3, PUBLIC HEALTH AND SAFETY, ARTICLES 3-4, GENERAL OFFENSES, AND 3-7, NUISANCE CONTROL AND PROPERTY MAINTENANCE, BY ADDING SECTIONS 3-4-10, PUBLIC DRUNKENNESS, AND 3-4-11, AGGRESSIVE PANHANDLING, AND BY AMENDING SECTION 3-7-3, INTOXICATING BEVERAGES; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR REPEAL AND SEVERABILITY.

WHEREAS, the Mayor and City Council of the City of Holbrook have considered the public health and safety impact of public drunkenness and aggressive panhandling by persons in the City; and

WHEREAS, it has been determined that public drunkenness and aggressive panhandling has a negative impact on the public's overall health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HOLBROOK, ARIZONA:

Section 1. AMENDMENT TO ARTICLE 3-4

Chapter 3 of the City of Holbrook City Code, Article 3-4, is hereby amended to read as follows, with deletions shown as strikethroughs, and with added language shown in CAPS and underlined:

3-4-1 _____ Weapons

- A. Unlawful Discharge; Exceptions: 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, archery projectiles or instrument except:
1. As allowed pursuant to the provisions of chapter 4, title 13 of the Arizona Revised Statutes, or,
 2. On a properly supervised range.

3-4-2 _____ 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 or interior of any public building in the city.

3-4-3 Hazardous Water Conditions

- A. **Unlawful to Permit:** It is unlawful for any person to wilfully or 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.
- B. **Irrigation Water:** It is unlawful for any person to wilfully or 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 city 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 wilful or negligent failure of said person to accept irrigation water after it has been ordered by him.

3-4-4 Obstruction of Streets

It is unlawful for any person to obstruct any public street or 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 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.

3-4-5 Unlawful Urination.

It is unlawful to publicly urinate or defecate on any public or private property within the city.

3-4-6 Curfew

- A. It is unlawful for any juvenile under the age of sixteen (16) years to be, remain or loiter in, about or upon any place in the city away from the dwelling house or usual place of abode of the said juvenile, between the hours of 10:00 o'clock p.m. and 5:00 o'clock a.m. of the following day.
- B. It is unlawful for any juvenile sixteen (16) years of age or older and under the age of eighteen years to be, remain or loitering, about or upon any public place in the city away from the dwelling house or usual place of abode of said juvenile, between the hours of 12:00 o'clock midnight and 5:00 o'clock a.m. of the following day.
- C. It is unlawful for a parent, guardian or other person having the care, custody or supervision of a juvenile to permit such juvenile to be, remain or loiter in, about or upon any place in the city away from the dwelling

house or usual place of abode of said juvenile in violation of Sections A and B.

- D. It is unlawful for any parent, guardian or other person having the care, custody or supervision of a juvenile to fail or refuse to take such juvenile into custody after demand is made pursuant to subsection G below.
- E. The curfew set forth above does not apply to any legally emancipated minor, whether the emancipation be through marriage, military service or other legally sufficient grounds; to any minor who is accompanied by his parent, guardian or other person having his legal care and custody; or to any minor, who might otherwise be in violation of the terms of this section, when any of the following applies:
 - 1. His presence is reasonably required in the pursuit of a lawful occupation, business or profession in which he is then engaged, with the permission of a parent, guardian or other person having his legal care and custody; or
 - 2. He is on an emergency errand, medical or otherwise; or
 - 3. He is going to or from or attending a place or function sponsored by or related to school, church, civic, or other non-profit organization. These functions shall include, but are not limited to, classes, services, meetings, dances, dramatic or musical performances, sporting events, or other social events sponsored by school, religious, civic, or other non-profit organizations, with the permission of his parent, guardian or other person having his legal care and custody. This exception shall apply for one (1) hour after the completion of said meeting or event, but in no case later than 1:00 a.m.
- F. It shall not constitute a defense to this section that any parent, guardian other adult having the care, custody or supervision of a juvenile did not have actual knowledge of the presence of such juvenile in, or about or upon any place in the city away from the dwelling house or usual abode of the juvenile, if said parent, guardian or other person having the care, custody or supervision of such juvenile, in exercise of reasonable care and diligence, should have known of the aforementioned unlawful act or acts of such juvenile.
- G. In addition to any other powers that he may have, any law enforcement officer who arrests a juvenile for violating any of the provisions of subsection A or B is also empowered to demand of said juvenile's parent, guardian or other person having his care, custody or supervision, that such parent, guardian or other person take custody of such juvenile. If the

parent, guardian or other person fails to take custody of the juvenile, the law enforcement officer shall then be authorized to take the juvenile to the dwelling house or usual place of abode of the juvenile.

- H. Each violation of the provisions of subsections A, B, C and D above shall constitute a separate offense.
- I. Any violation of the terms of this section shall be a Class 1 Misdemeanor.

3-4-7 Railroad Equipment

All railroad trains, engines, cars and other equipment or vehicles moving on fixed rails within the city limits of the City of Holbrook shall be run and operated at a speed not to exceed that mandated by the Federal Railroad Safety Act, 49 USC Section 20106, and relevant regulations covering train speed pursuant to Title 49 of the Code of Federal Regulations.

3-4-8 Operation of Vehicles

No person upon roller skates or roller blades or scooters or riding any coaster, toy vehicle, skateboard or similar device shall be upon any roadway except when crossing. Such person shall be granted all of the rights and shall be subject to all the duties applicable to pedestrians when crossing any roadway.

3-4-9 Obscene Language

It is unlawful for a person, in the presence or hearing of any other person, or in a public place, to use vulgar, abusive or obscene language.

3-4-10 PUBLIC INTOXICATION

IT IS UNLAWFUL FOR A PERSON TO BE IN A PUBLIC PLACE IN A STATE OF INTOXICATION CAUSED BY THE PERSON'S USE OF ALCOHOL OR A CONTROLLED SUBSTANCE SUCH THAT HE OR SHE IS UNABLE TO EXERCISE CARE FOR HIS OR HER OWN SAFETY OR THE SAFETY OF OTHERS, OR INTERFERES WITH OR OBSTRUCTS OR PREVENTS THE FREE USE OF A PUBLIC PLACE.

A. ARREST FOR PUBLIC INTOXICATION; OPTIONS AVAILABLE.

- 1. IF AN INDIVIDUAL IS UNMANAGEABLE OR IS CAUSING DAMAGE TO THE INDIVIDUAL OR OTHERS, A POLICE OFFICER OR PEACE OFFICER MAKING AN ARREST FOR PUBLIC INTOXICATION MAY TAKE THE INDIVIDUAL INTO CUSTODY FOR CRIMINAL PROCESSING IN THE CITY LOCK-UP OR COUNTY JAIL.

2. IF AN INDIVIDUAL IS MANAGEABLE AND NOT CAUSING DAMAGE TO THE INDIVIDUAL OR OTHERS, A POLICE OFFICER OR PEACE OFFICER MAKING AN ARREST FOR PUBLIC INTOXICATION MAY, AT THE OFFICERS' DISCRETION, DO EITHER OF THE FOLLOWING:

a. IF WITHIN REASONABLE PROXIMITY, TAKE THE INDIVIDUAL TO ANY OF THE FOLLOWING: THE INDIVIDUAL'S HOME, THE HOME OF A RELATIVE OF THE INDIVIDUAL, OR A RESPONSIBLE PERSON WHO IS COMPETENT AND WILLING TO PROVIDE CARE, ASSISTANCE, AND TREATMENT; OR

b. TAKE THE INDIVIDUAL TO AN APPROVED PUBLIC OR PRIVATE TREATMENT FACILITY, OR TO THE CITY LOCK-UP OR COUNTY JAIL IF NO FACILITY IS AVAILABLE.

3. INDIVIDUALS TAKEN TO CITY LOCK-UP OR COUNTY JAIL SHALL BE EVALUATED BY LAW ENFORCEMENT FOR NONALCOHOLIC FACTORS CONTRIBUTING TO THEIR INTOXICATED APPEARANCE.

B. PENALTY: A VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR. IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED BY LAW, THE COURT MAY ORDER A PERSON SENTENCED UNDER THIS SECTION TO PERFORM COMMUNITY SERVICE WORK.

3-4-11 AGGRESSIVE PANHANDLING

A. PROHIBITED ACTS: IT SHALL BE UNLAWFUL FOR ANY PERSON TO SOLICIT ANY MONEY OR OTHER THING OF VALUE, OR TO SOLICIT THE SALE OF GOODS OR SERVICES:

1. IN AN AGGRESSIVE MANNER IN A PUBLIC PLACE;

2. WITHIN THIRTY (30) FEET OF ANY ENTRANCE OR EXIT OF ANY BANK OR WITHIN THIRTY (30) FEET OF ANY AUTOMATED TELLER MACHINE; OR

3. IN ANY PUBLIC TRANSPORTATION VEHICLE OR FROM PERSONS WAITING WITHIN THIRTY (30) FEET OF A SIGN DESIGNATING A PUBLIC TRANSPORTATION STOP; NOT INCLUDING THE OPERATOR OF THE PUBLIC TRANSPORTATION VEHICLE.

B. FOR THE PURPOSE OF THIS SECTION, "AGGRESSIVE MANNER" MEANS:

1. INTENTIONALLY, KNOWINGLY OR RECKLESSLY MAKING ANY PHYSICAL CONTACT WITH OR TOUCHING ANOTHER PERSON IN THE COURSE OF THE SOLICITATION WITHOUT THE PERSON'S CONSENT;
2. APPROACHING OR FOLLOWING A PERSON BEFORE, DURING OR AFTER SOLICITING IF THAT CONDUCT IS INTENDED TO OR IS LIKELY TO CAUSE A REASONABLE PERSON TO FEAR BODILY HARM TO ONESELF OR ANOTHER, OR DAMAGE TO OR LOSS OF PROPERTY OR OTHERWISE TO BE INTIMIDATED INTO GIVING MONEY OR OTHER THING OF VALUE;
3. CONTINUING TO SOLICIT FROM A PERSON AFTER THE PERSON HAS GIVEN A NEGATIVE RESPONSE TO SUCH SOLICITING;
4. INTENTIONALLY, KNOWINGLY OR RECKLESSLY OBSTRUCTING THE SAFE OR FREE PASSAGE OF THE PERSON BEING SOLICITED OR REQUIRING THE PERSON 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 PROTEST SHALL NOT CONSTITUTE OBSTRUCTING PASSAGE; OR
5. INTENTIONALLY, KNOWINGLY OR RECKLESSLY USING OBSCENE, ABUSIVE OR THREATENING LANGUAGE OR GESTURES WHICH ARE INTENDED OR LIKELY TO CAUSE A REASONABLE PERSON TO FEAR IMMINENT BODILY HARM OR WHICH ARE REASONABLY LIKELY TO INTIMIDATE THE PERSON BEING SOLICITED INTO RESPONDING AFFIRMATIVELY TO THE SOLICITATION.

C. PENALTY: A VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR. IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED BY LAW, THE COURT MAY ORDER A PERSON SENTENCED UNDER THIS SECTION TO PERFORM COMMUNITY SERVICE WORK.

Section 2. AMENDMENT TO ARTICLE 3-7

Chapter 3 of the City of Holbrook City Code, Article 3-7, is hereby amended to read as follows, with deletions shown as strikethroughs, and with added language shown in CAPS and underlined:

3-7-1 Supervision

The city shall supervise all parks, park scheduling and park maintenance. Any construction, alterations, additions or repairs to the parks effected by anyone other than the city shall require written advance permission and comply with all specifications imposed by the city or its designated agent for such purposes.

3-7-2 Presence in Parks

- A. Hours Authorized: It is unlawful for any person to be upon or remain upon any city park, ball field, golf course or public right of way between twelve o'clock (12:00) p.m. and dawn of each day.
- B. Exception: Any authorized city employee or such other person as authorized in writing by the city manager shall be exempt from subsection A of this Section.

3-7-3 Intoxicating Beverages; Permit Required

No person shall consume spirituous liquor of any kind on the city playgrounds, ball fields or parks. ANY PERSON WHO VIOLATES THIS SECTION MAY ALSO BE SUBJECT TO THE ARREST AND PENALTY PROVISIONS CONTAINED IN SECTION 3-4-10 OF THIS CHAPTER.

3-7-4 Riding Vehicles on Grounds

No person shall, at any time, drive or ride any automobile, truck, motorcycle, motor scooter or other motor vehicle upon the grounds of any city park, playground, ball field or golf course, except in public streets running through such premises or within designated parking areas located upon such premises, without the written permission of the city manager or such other person as the city council may designate.

3-7-5 Improper Use of Facilities

No person shall damage or improperly use the toilets, or water and sewer facilities in any city park, playground, ball park or golf course or cause the lighting facilities to be turned on during other than normal hours, without the written consent of the city manager or such other person as the city council may designate.

3-7-6 Animals

No animals shall be allowed in city parks, golf course, playgrounds or ball fields, unless such animals are leashed or under the direct control of the owner.

3-7-7 Camping

No person shall sleep overnight or camp overnight in any city park or its adjacent streets, except by written permit issued by the city manager or other person designated by the city council.

3-7-8 Garbage and Trash

No person shall dump, spill, deposit, place, throw or leave refuse, rubbish, filthy or odor causing objects, substances or other trash in the parks, playgrounds, ball fields, golf course or any other city-owned or operated recreation area. No trash, except that associated with picnic activity at the park or recreation area shall be deposited in the trash receptacles provided by the city at these locations.

3-7-9 Glass Bottles or Containers

No person shall bring glass bottles or containers into or on the premises of the parks, playgrounds, ball fields, golf course or any other city-operated recreation area.

3-7-10 Use Contrary to Regulations; Permit Required

Any individual or group who wishes to use parks in a manner contrary to this Chapter must obtain a park use permit from the city manager or other person designated by the city council.

3-7-11 Additional Rules and Regulations; Authority

The city council may adopt additional rules and regulations from time to time as they deem reasonably necessary for the safety and efficient use by the public of the parks.

Section 3. EFFECTIVE DATE

The effective date of this ordinance is 12 Dec, 2008.

Section 4. REPEALING CLAUSE

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed, effective as of the date of posting hereof.

