

**TITLE 9**  
**OFFENSES**

**CHAPTERS:**

**9.04 CURFEW**

**9.06 USE OF CONSUMER FIREWORKS AND OPEN FIRES**

**9.08 HOUSING DISCRIMINATION**

## CHAPTER 9.04

### CURFEW

**SECTION:**

**9.04.010**

**CURFEW FOR MINORS**

**9.04.010**

**CURFEW FOR MINORS**

#### **A. Definitions**

***Emergency*** means an unforeseen combination of circumstances or the resulting state that calls for immediate action.

***Guardian*** means a person who, under court order, is the guardian of the person of a minor or public or private agency with whom a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

***Insufficient control*** means failure to exercise reasonable care and diligence in the supervision of the juvenile.

***Minor*** means any person under eighteen years of age.

***Parent*** means a person who is a natural parent, adoptive parent or step-parent of another person.

#### **B. Offenses**

1. It is unlawful for any minor under the age of eighteen years to be in, about, or upon any place in the town away from the property where the youth resides after 9:00 p.m. Sunday through Thursday and until 5:00 a.m. of the following day.
2. It is unlawful for any minor under the age of eighteen years, to be in, about, or upon any place in the city away from the property where the child resides between the hours of 10:00 p.m. Friday and Saturday and until 5:00 a.m. of the following day.
3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate subsection (B)(1) or subsection (B)(2) as listed above.
4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of subsection (B)(1) or (B)(2) as listed above.

#### **C. Defenses/Exceptions**

1. It is a defense to prosecution under subsection (B), including (B)(3), of this section that the minor was:

- a. Accompanied by the minor's parent or guardian.
- b. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.
- c. With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the most direct route.
- d. Involved in an emergency.
- e. With prior permission of the parent or guardian was engaged in reasonable, legitimate, and specific business and/or activity. Examples include, but are not limited to, a juvenile with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.
- f. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of the First Amendment rights protected by the United States Constitution.
- g. Married and 16 years of age or over, or in the military.
- h. On the sidewalk abutting their residence or in the next door neighbor's property with the consent of the neighbor.

**D Enforcement**

- 1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense as provided in subsection (C) of this section is probably present
- 2. In addition to any other powers he/she may have, any law enforcement officer who arrests a minor for violating any provision of subsection (B)(1) or (B)(2) of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

**E.** Each violation of a provision of subsection (B)(1), (B)(2), (B)(3) or (B)(4) of this section shall constitute a separate offense.

**F.** Any person convicted of a violation of any provision of this section shall be guilty of a Class 1 misdemeanor, penalties for which may include all fines, incarceration, probation, and restitution, as permitted by Arizona law and as may be limited by Title 8,

Chapter 3 of the Arizona Revised Statutes. This offense is designated as an incorrigible offense for minors under the jurisdiction of the juvenile court.  
(Ord. No. 153 § 2, 1961: Ord. No. 15 § 2, 1918:Ord. No. 355, 2017)

## CHAPTER 9.06

### USE OF PERMISSIBLE CONSUMER FIREWORKS AND OPEN FIRES

#### **SECTION:**

**9.06.010 USE OF PERMISSIBLE CONSUMER FIREWORKS PROHIBITED**

**9.06.020 OPEN FIRES PROHIBITED**

#### **9.06.010 USE OF PERMISSIBLE CONSUMER FIREWORKS PROHIBITED**

- A.** The use of "Permissible Consumer Fireworks" in the town is prohibited. For purposes of this Chapter, "Permissible Consumer Fireworks" shall have the same meaning as set forth in Section 36-1601(5), as amended, of the Arizona Revised Statutes,
- B.** Permissible Consumer Fireworks shall include, but not be limited to, ground and hand-held sparkling devices, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, toy smoke devices, wire sparklers or dipped sticks, multiple tub fireworks devices and pyrotechnic articles. Violations of this section are punishable as provided by Section 1.16.010 of this Code.

(Ord. No. 321, 2011; Ord. No. 350, 2017)

#### **9.06.020 OPEN FIRES PROHIBITED**

- A.** Except as provided in Subsection C of this Section, open fires, burning of refuse, green waste, litter, or any other materials within the incorporated boundaries of Miami is prohibited, effective at any time and for such times in which restrictions are declared in effect by the Town Manager.
- B.** At no time shall an open fire of any type, whether exempt or non-exempt from the prohibition of this section, be located within ten feet of any combustible building or structure.
- C.** Exempt from this prohibition are:
  - 1. Petroleum-fueled stoves or lanterns;
  - 2. Barbeque grills operated in residential yards;
  - 3. Fires used only for cooking food or providing warmth for human beings;
  - 4. Fires used for recreational purposes; and
  - 5. Fires for special events specifically approved by the Town Council and Fire Marshal for such purposes as school functions or Town-sponsored bonfires.
- D.** "**Recreational Purposes**" as used in this section shall mean an outdoor fire which burns material other than household waste or prohibited materials and has a total fuel area of three feet or less in diameter and two feet or less in height.

(Ord. No. 350, 2017)

## CHAPTER 9.08

### HOUSING DISCRIMINATION

#### SECTION:

<b>9.08.010</b>	<b>DECLARATION OF POLICY</b>
<b>9.08.020</b>	<b>DEFINITIONS</b>
<b>9.08.030</b>	<b>UNLAWFUL PRACTICES</b>
<b>9.08.040</b>	<b>EXEMPTIONS</b>
<b>9.08.050</b>	<b>PROCEDURE</b>
<b>9.08.060</b>	<b>OTHER REMEDIES</b>

#### 9.08.010                    DECLARATION OF POLICY

It is declared to be the policy of the town in the exercise of its police power for the public safety, public health and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any persons. (Ord. No. 211 § 1, 1981)

#### 09.08.020                    DEFINITIONS

When used in this chapter:

**“Discrimination”** or **“discriminatory housing practice”** means any difference in treatment based upon race, color, religion, sex or national origin; or any act that is unlawful under the ordinance codified in this chapter.

**“Financial institution”** includes any person, as defined in this section, engaged in the business of lending money or guaranteeing losses.

**“Housing accommodation”** or **“dwelling”** means any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed as, or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, mobile home or trailer, structure, or portion thereof, or any real property, as defined in this section, used or intended to be used for any of the purposes set forth in this subsection.

**“Mortgage broker”** means an individual who is engaged in or who performs the business or services of a mortgage broker as the same are defined by Arizona Statutes.

**“Open market”** means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

**“Owner”** includes a lessee, sublessee, cotenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

**“Person”** includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

**“Real estate broker”** or **“real estate salesman”** includes any individual, qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

**“Real property”** includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

(Ord. No. 211 § 2, 1981)

### **9.08.030                      UNLAWFUL PRACTICES**

In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any housing accommodation, it is unlawful within the town for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

- A. Refuse to sell, purchase, rent, lease or finance or deny to or withhold any housing accommodation, or land to be used for construction of housing, from a person because of his race, color, religion, national origin, sex, handicap or familial status; or
- B. To discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or
- C. To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, national origin, sex, handicap or familial status; or
- D. To refuse to negotiate for sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, national origin, sex, handicap or familial status; or
- E. To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, national origin, sex, handicap or familial status; or
- F. To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form or application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination; or

- G. To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or
- H. To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of person of any particular race, color, religion, sex, national origin, handicap or familial status, in the area to be affected by such sale, purchase, rental or lease will or may result in either:
  1. The lower of property values in the area, or
  2. An increase in criminal or antisocial behavior in the area, or
  3. A decline in the quality of schools serving the area;
- I. To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the town for the purpose of including or attempting to induce any such listing or any of the above transactions; or
- J. To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or
- K. To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this chapter; or
- L. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter; or to obstruct or prevent any person from complying with the provisions of this chapter; or any order issued thereunder; or
- M. By canvassing, to commit any unlawful practices prohibited by this chapter; or
- N. Otherwise to deny to, or withhold any housing accommodation from a person because of his race, color, religion, national origin, sex, handicap or familial status; or
- O. For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole, or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, national origin, handicap or familial status of such person or of any person associated with him in connection with such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or
- P. To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, national origin, handicap or familial status.

(Res. No. 817 (part), 1994; Ord. No. 211 § 3, 1981)



**9.08.040**

**EXEMPTIONS**

This chapter shall not apply to:

- A. A religious organization, association, or society or any nonprofit institution or organization operating, supervised or controlled by or in conjunction with a religious organization, association or society, which limits the sale, rental or occupancy of dwellings which it owns or operate for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex, national origin, place of birth, handicap or familial status;
- B. A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;
- C. Any single-family house sold or rented by an owner. Provided, that such private individual owner does not own more than three such single-family houses at any one time. Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period. Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. Provided further the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is sold or rented:
  - 1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman or person, and
  - 2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604(c) or of Section 9.08.030 of this chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- D. Rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarts as his residence.

(Res. No. 817 (part), 1994; Ord. No. 211 § 4, 1981)

**9.08.050**

**PROCEDURE**

Any person aggrieved by an unlawful practice prohibited by this chapter may file a complaint with the Town Attorney within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty (60) days after the alleged unlawful practice occurred. The Town Attorney or his duly authorized representative shall investigate

each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with this chapter shall cause the Town Attorney to forward the complaint and his findings to appropriate state and federal officials. (Ord. No. 211 § 5, 1981)

**9.08.060**                    **OTHER REMEDIES**

Nothing contained in this chapter shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing his complaint with any appropriate governmental agency. Within available resources the Town will assist all person who feel they have been discriminated against in housing issues on the basis of race, color, religion, sex, handicap, familial status or national origin to see equity under existing Federal and State laws to file a complaint with the Civil Rights Division of the Arizona General's Office or the U.S. Department of Housing and Urban Development. (Res. No. 817 (part), 1994; Ord. No. 211 § 6, 1981)