

COOLIDGE POLICE DEPARTMENT		
	<p style="text-align: center;">CHAPTER 9</p> <p style="text-align: center;">SOCIAL HOST AND SMOKE FREE ARIZONA ENFORCEMENT</p> <p>CALEA Standard(s):</p>	<p>General Orders</p>
Issue Date: 6-24-13	Review Date:	Revision Date:

A. Objectives

1. Officers of this department are expected to objectively enforce all criminal laws in accordance with local ordinances and state statutes.

B. Criminal Offenses

1. Smoke-free Arizona Act

- a. The Smoke-free Arizona Act took effect on May 1, 2007. Primary enforcement of the Act is vested in the Department of Health Services and the County Health Departments. However, enforcement action may also be taken against individuals not in compliance with the law. Under the Act (ARS 36-601.01) smoking is prohibited in all public places and places of employment with seven exceptions (defined in 36-601.01(B)). This law is designed to regulate no smoking in enclosed public places and enclosed places of employment. Smoking is also prohibited within 20 feet from any entrance, open window or ventilation system. Any violation of the Act is a petty offense and the citable code is 36-601.01(K).

b. Enforcement

1. Officers will only enforce this petty offense upon complaint or during an on-view incident while the officer is on duty. Officers will not take enforcement action for this petty offense while off

- duty. Off duty officers will report incidents to the local police department if action is warranted.
2. Officers will typically make an educational contact and complete a field interview card with the offender.
 3. In aggravated situations, officers may issue a citation for the petty offense.
 4. Offenders of this petty offense will not be arrested.
 5. Officers will direct complaints against a business, partnership, place of employment, etc. to the State Department of Health Services at:
 6. <http://www.smokefreearizona.org/reporting.asp>
 7. 1-877 AZ Stops (297-8677)

2. Social Host Ordinance

- a. The Social Host ordinance is intended to discourage adults from allowing underage persons to consume alcoholic beverages on their property. The ordinance is intended to focus on the responsibility of the adult owner or occupant of premises with regard to preventing underage consumption rather than the actual hand-to-hand sale or providing of the spirituous liquor to the minor.
- b. Officers will continue to enforce ARS Chapter 4 statutes with regard to underage consumption or the providing of alcohol to underage persons, and will cite for all violations in addition to violations of this ordinance.
- c. The Social Host ordinance will be applied in those instances where state statutes do not apply.
- d. Persons who own or occupy premises where an underage person is consuming or has consumed spirituous liquor may be cited under the Social Host ordinance even if there is no direct evidence that the owner or occupant provided the liquor to the underage person(s).

- e. If officers determine through their investigation that the owner or occupant failed to take reasonable action to prevent illegal consumption of spirituous liquor by underage persons or the illegal use of drugs by any person on their premises, the violator may be cited under the ordinance.
- f. Violation of the Social Host ordinance is a Class 1 misdemeanor. Violators will be cited and handled in compliance with department procedures for misdemeanor offenses.
- g. In completing the citation for the Social Host ordinance, officers will describe the violation in the following manner: "Knowingly permitting or encouraging Underage Drinking or Drug Use".

3. Unruly Gathering Ordinance

- a. The Unruly Gathering ordinance takes effect on August 14, 2009. The Coolidge Police Department will respond to any gathering of a loud and unruly nature. An "unruly gathering" is a gathering of five or more persons on any private property, which causes a disturbance of the quiet enjoyment of private or public property by any person or person(s). Such disturbances include, but are not limited to excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors, consumption of alcohol by minors, fighting, disturbing the peace, and littering. The existing noise ordinance, Coolidge City Code 08-11, Section 11-1-11, remains in effect. The Unruly Gathering Ordinance 09-15, Article 11-3-2, provides additional violations for disruptive conduct. **For Article 11-3-2 to apply, there must be a complaint from a member of the public, even if the complainant is refused.**
- b. Violation Criteria
 - 1. There must be a gathering of five (5) or more persons.
 - 2. This must occur on private property, which includes property used to conduct business. When a business other than an apartment complex is involved, a field supervisor shall be advised prior to issuing the citation and green tag notice.

3. The gathering must cause a disturbance as a result of conduct described above. Officers will cite for all violations of criminal law in addition to violations of this ordinance.

c. First Offense Enforcement

1. Officers shall take appropriate enforcement action for a violation of 11-3-2, if the criteria outlined above are met. The only exception to mandatory enforcement is at the discretion of a field supervisor, though they must be able to articulate their justification.
 - i. Issue citation(s) for a civil infraction, "Unruly Gathering, 11-3-2" to the owner or occupant in attendance, any other person in attendance who engaged in conduct causing the unruly gathering and any person who sponsored the event.
 - ii. Prepare a *Notice of Public Nuisance (green tag notice)*. Consult with the owner, occupant or tenant of the premises or sponsor of the event, if present, as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.
 - iii. Make a New World entry and enter all relevant information reference the call and the violation. This should include the case number, expiration date, where the green tag was posted, the person(s) cited, and the officer's name and badge number.
 - iv. Document in a case report under UCR classification "Disorderly Conduct/ Disturbing the Peace," (if there are no further charges with a higher crime class). Include the date and time the notice was served, to whom it was served, where it was posted, who was consulted on the posting location, and any statements made from the people at the gathering, witnesses, or the complainant. List the name, address, and phone number of the complainant and all witnesses. If the complainant is refused, document their refusal in the narrative, but do not include their personal information. The case officer shall forward a copy of his or her report to the officer(s) as designated by the Chief and/ or Field Services Commander for follow-up.
 - v. If the residents are not the property owners, obtain the property owners' name, address, and phone number if possible.

- vi. Officer(s) as designated by the Chief and/or Field Services Commander will follow up by sending a *“Notification of Posting”* by certified mail/return receipt requested to the property owner at the address provided by the responding officer or the address on the Pinal County Property Tax Assessment Records. The designee will document the mailing in a *Supplementary Report*. The return receipt must be retained in Records as evidence of notice. A tracking log of all such cases will be maintained.
- vii. Parents can be held responsible for the behavior of their juvenile children. If the parent/guardian who owns the property where the disturbance occurred is present, they shall be advised of the *Notice of Public Nuisance* posting and this information documented in the case report. If the parent/guardian is not present, they shall be notified by mailing the *Notification of Posting* by certified mail/return receipt requested. The ordinance does not extend to the parents/guardians of juveniles where the parents/guardians are not the property owners.

d. Subsequent Offense Enforcement

- 1. Officers shall take appropriate enforcement action for a second or subsequent violation of 11-3-2 which occurs within 180 days of the original offense. The only exception to mandatory enforcement is at the discretion of a field supervisor, though they must be able to articulate their justification. The protocol for handling subsequent offenses within the 180-day period is the same as under “First Offense,” other than as listed below.
 - i. Issue the new citation(s) for “Subsequent Unruly Gathering, 11-3-2 (f).”
 - ii. Prepare a new *Notice of Public Nuisance* with a new 180-day time period, again consulting as to its posting location.
 - iii. The latest New World entry should also include the connect-up case number.
 - iv. Officer(s) as designated by the Chief and/or Field Services Commander will follow-up by issuing a citation and notice of the intervention to the property owner provided the incident occurred not less than two (2) weeks after the mailing of the *Notification of Posting*. If

they have been given proper notice, agents of the owner(s) may also be held responsible. The designee will document the activity in a *Supplementary Report*.

e. Removal of Notice Prohibited

1. It is a civil infraction under 11-3-2 (c)(3) for the owner, occupant, or tenant to fail to ensure that the public notice is not removed, defaced, or concealed. The posting may be contested by filing a written request for a hearing with the Coolidge City Court within 10 days after the posting of the notice.
2. This requirement will be explained to the owner/occupant. Officers will take enforcement action for the removal of the "Notice of Public Nuisance" placard under 11-3-2(c)(3).