

ORDINANCE NO. 08-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 13 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 13-25 PERTAINING TO CRIMINAL NUISANCES; USE OF VEHICLES ON VACANT PROPERTY AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 13 of the Peoria City Code (1992) is amended by amending Section 13-25 pertaining to Criminal Nuisances; use of vehicles on vacant property and which shall read as follows:

Sec. 13-25. Criminal Nuisances; use of vehicles on vacant property.

(a) It is unlawful for any person to operate a motor vehicle, motorcycle, motor scooter, mini-bike, trail bike, dune buggy, jeep, all terrain vehicle, Rhino or other form of transportation, propelled by an internal combustion engine, upon the vacant unimproved private property of another, unless the property has been improved or treated in such a manner as to prevent the release of fugitive dust. It shall be presumed that all vacant unimproved land owned by the State of Arizona or any agency of the United States is closed for operation of any motor vehicle, motorcycle, motor scooter, mini-bike, trail bike, dune buggy, jeep, all terrain vehicle, Rhino or other form of transportation, propelled by an internal combustion engine, except those of the state or the agency of the United States or of a peace officer of this state or an emergency vehicle or of a public service corporation or telecommunications corporation, unless designated for such purpose on the official maps issued by the State of Arizona or an agency of the United States and posted as open to the public for this purpose. It shall be the burden of the Defendant/Respondent in any violation of this section to rebut the presumption

(b) A person shall have a written license issued by the owner of the property or the person entitle to immediate possession thereof or their authorized agent

(c) A person who operates a vehicle in the manner for which a license is required shall immediately display such license to any peace officer upon request of such peace officer.

- (d) Each license shall:
 - (1) Specify the period of time for which permission is granted.
 - (2) Set forth the name of the licensee.
 - (3) Be signed by the licensor.
 - (4) State the licensor's interest in the property.
 - (5) If the licensor is not the owner of the property, state the owner's name.
- (d) Violations of this section shall be punishable by Criminal or Civil Penalties.

(1) A civil penalty of not less than One Hundred and Fifty (\$150.00) Dollars. A second or subsequent offense within three (3) years of the date of the first offense shall be punished by minimum sanction of not less than Three Hundred (\$300.00) Dollars. Such penalties are not inclusive of surcharges imposed by the City or State. The Court may for a first offense and shall for a second or subsequent offense order not less than eight hours of community service and completion of an approved safety course related to the off-road operation of motor vehicles.

(2) In the alternative, the City may elect to punish a violation of this section by a class three misdemeanor with a minimum fine of not less than One Hundred and Fifty (\$150.00 Dollars). A second or subsequent offense within three (3) years of the date of the first offense shall be punished by minimum sanction of not less than Three Hundred (\$300.00) Dollars. Such penalties are not inclusive of surcharges imposed by the City or State. The Court may for a first offense and shall for a second or subsequent offense order not less than eight hours of community service and completion of an approved safety course related to the off-road operation of motor vehicles.

(e) The City may expend such funds as appropriate to post signage adjacent to such private and public property indicating this ordinance and the criminal trespassing statutes contained in Title 13, Arizona Revised Statutes and the minimum fines.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance 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 of this Ordinance.

SECTION *. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona,
this 18th day of March, 2008.

Dated: 3/22/08

Bob Barrett
Bob Barrett, Mayor

ATTEST:

Mary Jo Kief
Mary Jo Kief, City Clerk



APPROVED AS TO FORM:

Stephen M. Kemp
Stephen M. Kemp, City Attorney

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