

Article XIII.

Right-of-Way Management Program

Sec. 31-200. Authority and administration; adoption of Traffic Barricade Manual; definitions.

- A. The City Manager shall develop, revise and publish a manual on procedures and practices necessary to establish temporary traffic control measures to be used in conjunction with partial and full restrictions of all City streets, alleys, sidewalks, bicycle lanes, and highways for construction or maintenance of all facilities within the right-of-way, hereinafter the "Traffic Barricade Manual." The City Manager shall have the responsibility to approve or disapprove all requests for temporary street, sidewalk (paved or unpaved), bicycle lane, equestrian path, special use trail, or alley restrictions, and to maintain a record of such restriction for its duration.
- B. The City of Phoenix Traffic Barricade Manual, Revised Ninth Edition (2020), developed and published by the City Manager is hereby adopted.
- C. The definitions set forth in Section [31-80\(B\)](#) apply. (Ord. No. G-5277, § 2, 2008; Ord. No. G-6322, 2017; Ord. No. G-6779, § 1, 2020)

Sec. 31-201. Temporary traffic control device installation and removal certification.

Any party wishing to install and remove temporary traffic control devices within the public right-of-way shall obtain a certification issued by the City Manager to engage in such activities. The City Manager may, in their sole discretion, issue a certification upon the applicant's satisfactory completion and annual submission of the following:

- A. A fully completed application.
- B. An application fee in the amount of seven hundred fifty dollars. The application fee entitles the certificate holder to attend the City's training program at no additional cost, and in addition, as space is available, to allow the attendance of the certificate holder's personnel at no additional cost.
- C. Proof of insurance or an acceptable program of self-insurance for bodily injury and property damage liability in an amount required by the City Finance Department, Risk Management Division. All such insurance shall name the City as an additional insured and shall be maintained throughout the term of certification.
- D. A certificate from the American Traffic Safety Services Association at the "Supervisory Level" or equivalent as determined by the City Manager in their sole discretion.

- E. An agreement to protect, indemnify, defend and hold harmless the City for a claim for damage to a person or property that may be brought against the City because of applicant's activity conducted under the certification.
- F. Proof of successful completion within the two years immediately preceding the application date or within one year of the application date of the right-of-way management training program established and administered by the City Manager related to the Traffic Barricade Manual and temporary traffic control devices. (Ord. No. G-5277, § 3, 2008; Ord. No. G-5786, 2013)

Sec. 31-202. Temporary traffic control device removal only certification.

Any party wishing to remove temporary traffic control devices within the public right-of-way shall obtain a certification issued by the City Manager to engage in such activities. The City Manager may, in their sole discretion, issue a certification upon the applicant's satisfactory completion and submission of the following:

- A. A fully completed application.
- B. An application fee in the amount of two hundred fifty dollars. The application fee entitles the certificate holder to attend the City's training program at no additional cost, and in addition, as space is available, to allow the attendance of the certificate holder's personnel at no additional cost.
- C. Proof of insurance or an acceptable program of self-insurance for bodily injury and property damage liability in an amount required by the City Finance Department, Risk Management Division. All such insurance shall name the City as an additional insured and shall be maintained throughout the term of the certification.
- D. An agreement to protect, indemnify, defend and hold harmless the City for a claim for damage to a person or property that may be brought against the City because of applicant's activity conducted under the certification.
- E. Proof of successful completion within the two years immediately preceding the application date or within one year of the application date of the right-of-way management training program established and administered by the City Manager related to the Traffic Barricade Manual and temporary traffic control devices. (Ord. No. G-5277, § 4, 2008; Ord. No. G-5786, 2013)

Sec. 31-203. Temporary traffic control certification rejection, suspension or termination.

- A. *Rejection, suspension or termination of certification application.* The City Manager may, as appropriate, reject a party's application for temporary traffic control certification, suspend a party's existing temporary traffic control certification or terminate a party's existing temporary traffic control certification for any one of the following:
 1. The party's failure to satisfy all of the requirements in Section [31-201](#) or [31-202](#); or
 2. The party's failure to pay a Civil Sanction on final adjudication of the Civil Action as provided in this Article for a violation of the Traffic Barricade Manual.

B. *Notice of rejection, suspension or termination.* The City Manager will issue notice of certification rejection, suspension or termination to the applicant or certificate holder, as applicable, to such party's last known address. The rejection, suspension or termination will run from the first day after the date of notice.

C. *Appeal of certification rejection, suspension or termination.* A party may appeal a rejection, suspension or termination of temporary traffic control certification pursuant to Section [31-205](#). (Ord. No. G-5277, § 5, 2008)

Sec. 31-204. Traffic Barricade Manual violations; Civil Sanctions.

A. *Authority and administration.* The City Manager and the Director of the Police Department are authorized to issue notices for violating the Traffic Barricade Manual and may take those measures necessary to promote, preserve and protect public health, safety and welfare within the public right-of-way.

B. *Violations of Traffic Barricade Manual; Civil Sanctions.* The following violations of the Traffic Barricade Manual may result in a Civil Sanction. The amount of the Civil Sanction listed is the minimum amount per day for a violation prior to the commencement of a Civil Action as provided in Sections [31-206](#) through [31-208](#)

1. Any party's act, error, or omission within the right-of-way that creates an imminent risk of death or injury; Civil Sanction: \$1,500.00.
2. Any party that restricts the right-of-way without proper certification or a right-of-way use permit; *Civil Sanction: \$1,000.00.*
3. Any party that restricts the right-of-way during peak traffic hours without proper authorization, as such peak traffic hours and authorization are described in the Traffic Barricade Manual; *Civil Sanction: \$1,000.00.*
4. Any party that fails to correct or cure a violation of the Traffic Barricade Manual within the time period stated on the notice of violation; *Civil Sanction per day: \$1,000.00.*
5. Any party that restricts the right-of-way at an intersection with traffic signals and such party does not engage in any activity for a period of one continuous hour; *Civil Sanction: \$1,000.00.*
6. Any party that improperly closes a sidewalk or closes a sidewalk without proper certification or a right-of-way use permit; *Civil Sanction: \$500.00.*
7. Any holder of a right-of-way use permit that fails to comply with the conditions, restrictions, limits, times, or location of the right-of-way use permit; *Civil Sanction: \$500.00.*
8. Any party that fails to install advance warning signs or fails to install advance warning signs that comply with the Traffic Barricade Manual; *Civil Sanction: \$500.00.*
9. Any party that fails to install traffic barricades or channelizing devices or fails to install traffic barricades or channelizing devices that comply with the Traffic Barricade Manual; *Civil Sanction: \$500.00.*
10. Any party that fails to remove an advance warning sign leaving the sign facing traffic after the traffic restriction has been removed; *Civil Sanction: \$250.00.*

11. Any holder of a right-of-way use permit that fails to remove traffic control devices from right-of-way within twenty-four hours after right-of-way use permit expires; *Civil Sanction: \$250.00.*

12. Any party that fails to install and maintain traffic control devices as described in chapter eight of the Traffic Barricade Manual; *Civil Sanction: \$250.00.*

13. Any party that renders a bus stop inaccessible without relocating it or taking other actions that maintain access; *Civil Sanction: \$250.00.*

C. *Aggregate amount; separate violations.* The Civil Sanction amounts set forth in this Section do not limit the aggregate amount that may be imposed by the City. Each day any violation of any provision of this Article or the failure to perform any act or duty required by this Article exists shall constitute a separate violation or offense.

D. *Payment of civil sanctions.* A party receiving a notice of violation under this Article shall make payment to the City of Phoenix for the Civil Sanction within fifteen calendar days of the notice of violation.

E. *Failure to pay civil sanction.* The party's failure to pay a Civil Sanction as provided herein shall result in the commencement of a Civil Action as provided in Sections [31-206](#) through [31-208](#) (Ord. No. G-5277, § 6, 2008; Ord. No. G-5444, § 3, 2009)

Sec. 31-205. Appeal of certification rejection, suspension or termination.

A. *Time to appeal.* A certification rejection, suspension or termination may be appealed by filing a written request for appeal with the City Manager within five business days of the date of notice of certification rejection, suspension or termination.

B. *Appeal.* If an appeal request is timely filed, within ten business days of the appeal request, the City Manager shall schedule an appeal hearing and designate a Hearing Officer who will conduct the hearing. The party requesting an appeal shall be allowed to appear, with or without counsel, and the City Manager may be allowed to appear, with or without counsel, to address the action taken.

C. *Notice of appeal hearing.* A notice shall be given to all parties involved in the hearing at least five business days prior to the date set for the appeal hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing;
2. A statement of legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular section(s) of the City Charter, City Code, Traffic Barricade Manual or State Statutes at issue; and
4. A short and plain statement of the matters asserted.

D. *Hearing; burden of proof.* The Hearing Officer shall hear testimony and receive evidence regarding the merits of the appeal. The burden of proof by a preponderance of the evidence shall remain with the person filing the

appeal. The Hearing Officer shall issue findings of facts and conclusions of law no later than thirty business days from the date of the appeal request. Technical rules of evidence do not apply. (Ord. No. G-5277, § 7, 2008)

Sec. 31-206. Civil Action for Right-of-Way Management Program violations and penalties.

- A. The remedies herein are cumulative and the City may proceed under one or more remedies.
- B. Any party who causes, permits, facilitates, or aids or abets any violation of any provision of this Article or who fails to perform any act or duty required by this Article is subject to a civil sanction of not less than five hundred dollars nor more than two thousand five hundred dollars. The five hundred dollar minimum sanction may not be waived.
- C. Each day any violation of any provision of this Article or the failure to perform any act or duty required by this article exists shall constitute a separate violation or offense.
- D. Any Civil Action to enforce a Civil Sanction imposed pursuant to this Article shall be commenced and summons shall be issued in accordance with the procedures set forth in the Arizona Revised Statutes, City Ordinance or as provided in the Local Rules of Practice and Procedure, City Court, City of Phoenix.
- E. Any party may appeal the judgment of the City Court to the Superior Court. Appeals from Civil Proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure, Civil. Execution of any judgment shall be stayed pending appeal when the defendant posts an appeal bond in accordance with the order of the Trial Court, or when no bond is fixed and a notice of appeal has been filed.
- G. A civil citation or complaint brought pursuant to this Section shall be served within one year of the offense. (Ord. No. G-5277, § 8, 2008)

Sec. 31-207. Jurisdiction of Court.

- A. Jurisdiction of all proceedings to enforce the provisions of this Article relating to Civil Sanctions shall be in the Municipal Court of the City of Phoenix.
- B. Civil Actions to enforce this Article may be adjudicated by a judge or a Court Hearing Officer. (Ord. No. G-5277, § 9, 2008)

Sec. 31-208. Admission or denial of allegation; hearing; findings of Court; Civil Sanction.*

- A. A party served with a Civil Citation or complaint shall appear at the time and place stated in the citation or summons, or may appear prior to the time and admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted.
- B. If the allegations are admitted, the Court shall enter judgment for the City and impose a Civil Sanction.
- C. If the party denies the allegations, the Court shall set the matter for hearing. Civil Hearings are informal and held without a jury, and the City is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel, the person shall so notify the Court at least ten days prior to the hearing date. Hearings may be recorded. If the Court finds in favor of the party, the Court shall enter an order dismissing the citation or complaint. If the Court finds in favor of the City, The Court shall enter judgment for the City and impose a Civil Sanction.
- D. If the party served with a Civil Citation or complaint fails to appear on or before the time directed to appear or at the time set for hearing by the Court, the allegations shall be deemed admitted and the Court shall enter judgment for the City and impose a Civil Sanction.
- E. Failure of a party to pay a Civil Sanction upon final adjudication of the Civil Action as provided by law shall result in the automatic termination of the subject right-of-way use permit and any such party who is a certificate holder shall be prohibited from obtaining additional right-of-way temporary use permits until all outstanding Civil Sanctions have been dismissed or paid in full. (Ord. No. G-5277, § 10, 2008)

* **Editor's note**—Ord. No. [G-5277](#), adopted 11-12-2008, effective 12-12-2008, inadvertently misnumbered section 10 of said ordinance as chapter [10](#) and subsequently misnumbered section 11 of said ordinance as section 10. At the editor's discretion, these sections of said ordinance have been interpreted as sections 10 and 11.

The Phoenix City Code is current through Ordinance G-6839, passed April 21, 2021.

Disclaimer: The City Clerk's Office has the official version of the Phoenix City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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