

**ORDINANCE NO. O2025.XX**

**AN ORDINANCE OF THE CITY OF TEMPE, ARIZONA ADDRESSING PUBLIC HEALTH SAFETY AND WELFARE BY AMENDING TEMPE CITY CODE, CHAPTER THIRTEEN-A BY ADDING A NEW ARTICLE IV—HEAT SAFETY STANDARDS FOR OUTDOOR WORKERS.**

**WHEREAS**, under the Arizona Constitution, a city with a population of more than 3,500 people is entitled to establish a charter for its government and that a charter city is granted autonomy over matters of local interest; and,

**WHEREAS**, the voters of the City of Tempe established the Tempe City Charter in 1964 that vests policymaking in the Tempe City Council; and,

**WHEREAS**, the City Council finds it necessary to amend the City Code to protect workers employed directly or indirectly through City contracts and working in an outdoor environment; and,

**WHEREAS**, the City Council finds it necessary to adopt heat safety standards and regulations for such purpose; and,

**WHEREAS**, the City Council finds that enactment of this ordinance is in the health, safety, and welfare of the citizens and residents of the City of Tempe.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA**, as follows:

**Section 1.** That Chapter Thirteen-A, Tempe City Code, is hereby amended by adding a new Article IV, Heat Safety Standards for Outdoor Workers, as set forth in Exhibit A attached hereto.

**Section 2.** If any section, subsection, sentence clause, phrase, or portion of this ordinance or any part of the code adopted herein 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 thereof.

**Section 3.** All ordinances and parts of ordinances in conflict with the provisions of the Code adopted herein are hereby repealed.

**Section 4.** The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Tempe City Code.

**Section 5.** The various City officers and employees are hereby authorized and directed to perform all acts necessary to give effect to this ordinance.

**Section 6.** Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

**PASSED AND ADOPTED** BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Corey D. Woods, Mayor

ATTEST:

\_\_\_\_\_  
Kara A. DeArrastia, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Eric C. Anderson, City Attorney

**EXHIBIT A TO ORDINANCE O2025-XX**

**ARTICLE IV. - HEAT SAFETY STANDARDS FOR OUTDOOR WORKERS**

**SECTION 13A-101 DEFINITIONS.**

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- A. **CITY** MEANS THE CITY OF TEMPE
  
- B. **CITY CONTRACTOR** MEANS ANY PERSON OR ENTITY, OTHER THAN ANOTHER GOVERNMENT ENTITY, WHOSE EMPLOYEES, AGENTS, OR SUBCONTRACTORS ARE OR WILL BE PERFORMING WORK THROUGH A CONTRACT WITH THE CITY OR THROUGH A CONTRACT THAT IS FUNDED IN WHOLE OR IN PART BY THE CITY.
  
- C. **OUTDOOR ENVIRONMENT** MEANS A LOCATION WHERE WORK ACTIVITIES ARE CONDUCTED EITHER OUTSIDE OR WITHIN SHEDS, TENTS, GREENHOUSES, OR OTHER STRUCTURES INCLUDING, BUT NOT LIMITED TO, CONFINED AREAS, VAULTS, PIPES, WELLS, AND PUMP HOUSES WHEN THE TEMPERATURE WITHIN SUCH SPACES IS NOT MANAGED BY DEVICES THAT REDUCE HEAT EXPOSURE AND AID IN COOLING, SUCH AS AIR-CONDITIONING SYSTEMS.
  
- D. **SUBCONTRACTOR** MEANS ANY ENTITY OR INDIVIDUAL WITH A DIRECT CONTRACT WITH A CITY CONTRACTOR FOR ALL OR ANY PORTION OF THE WORK THAT IS THE SUBJECT OF THE CITY CONTRACT.
  
- E. **SHADE** MEANS ANY NATURAL FEATURE OR ARTIFICIAL STRUCTURE THAT SUFFICIENTLY BLOCKS DIRECT SUNLIGHT TO A WORK AREA SUCH THAT OBJECTS LOCATED WITHIN THE WORK AREA DO NOT CAST A SHADOW IN OR OUTSIDE THE AREA OF BLOCKED SUNLIGHT AND SUCH BLOCKAGE DOES NOT CREATE A CONDITION THAT INCREASES THE TEMPERATURE OR HEAT IN THE AREA SUCH THAT IT DEFEATS THE PURPOSE OF PROVIDING BLOCKED SUNLIGHT, WHICH IS TO ALLOW THE BODY TO COOL. FOR EXAMPLE, A CAR SITTING IN THE SUN DOES NOT PROVIDE ACCEPTABLE SHADE TO A PERSON INSIDE IT, UNLESS THE CAR IS RUNNING WITH AIR CONDITIONING. SHADE MAY BE PROVIDED BY ANY NATURAL OR ARTIFICIAL MEANS THAT DO NOT

EXPOSE EMPLOYEES TO UNSAFE OR UNHEALTHY CONDITIONS AND THAT DO NOT DETER OR DISCOURAGE ACCESS OR USE.

F. ***SUBSTANTIAL PERIOD OF TIME*** MEANS ANY PERIOD OF TIME PERFORMING DUTIES WHICH CONSUMES A SIGNIFICANT PORTION OF THE WORKDAY AND IS NOT MERELY INCIDENTAL TO OTHER REGULAR WORK DUTIES. ANY CONSECUTIVE PERIOD OF 60 MINUTES OR GREATER IS PRESUMED TO BE A SUBSTANTIAL PERIOD OF TIME.

G. ***TEMPERATURE*** MEANS THE DRY BULB TEMPERATURE IN DEGREES FAHRENHEIT OBTAINABLE BY USING A THERMOMETER TO MEASURE THE AMBIENT TEMPERATURE IN AN AREA WHERE THERE IS NO SHADE. WHILE THE TEMPERATURE MEASUREMENT MUST BE TAKEN IN AN AREA WITH FULL SUNLIGHT, THE BULB OR SENSOR OF THE THERMOMETER SHOULD BE SHIELDED WHILE TAKING THE MEASUREMENT, E.G., WITH THE HAND OR SOME OTHER OBJECT, FROM DIRECT CONTACT BY SUNLIGHT.

H. ***VENTILATION*** MEANS THAT OUTDOOR AIR IS PROVIDED TO AN INDOOR PLACE AT THE RATE OF 15 CUBIC FEET PER MINUTE PER PERSON. AIR CIRCULATED IN ANY INDOOR PLACE MAY NOT BE SUPPLIED THROUGH AIR INLETS ARRANGED, LOCATED, AND EQUIPPED SO THAT THE PERSONS INSIDE ARE SUBJECTED TO AIR VELOCITIES EXCEEDING 200 FEET PER MINUTE.

## **SECTION 13A-102 CONTRACTOR REQUIREMENTS FOR WORK PERFORMED IN AN OUTDOOR ENVIRONMENT**

**ANY CITY CONTRACTOR OR SUBCONTRACTOR WHOSE EMPLOYEES OR AGENTS ARE PERFORMING WORK IN AN OUTDOOR ENVIRONMENT FOR A SUBSTANTIAL PERIOD OF TIME SHALL MEET THE FOLLOWING CONDITIONS DURING SUCH WORK:**

- 1) POTABLE, COOL DRINKING WATER SHALL BE PROVIDED FREE OF CHARGE AT LOCATIONS THAT ARE ACCESSIBLE TO ALL EMPLOYEES AND CONTRACT WORKERS. THE WATER SHALL BE LOCATED IN A PLACE REASONABLY ACCESSIBLE DURING REST AND MEAL PERIODS AND NO FURTHER THAN 0.25 MILES FROM THE WORKSITE FOR EMPLOYEES ACCESSING THE WATER SOURCE BY FOOT.
- 2) EMPLOYEES AND WORKERS SHALL HAVE THE ABILITY TO TAKE REGULAR BREAKS AS NEEDED AND ADDITIONAL BREAKS FOR

HYDRATION. EMPLOYERS SHALL ENSURE THAT NO MORE THAN TWO HOURS OF WORK ARE PERFORMED BEFORE AT LEAST TEN MINUTES OF REST WHEN THE NATIONAL WEATHER SERVICE ISSUES A “HEAT ADVISORY,” AN “EXCESSIVE HEAT WARNING,” OR AN “EXCESSIVE HEAT WATCH.” EMPLOYERS MAY APPLY THE SAME WORK-TO-BREAK PERIOD WHEN TEMPERATURES EXCEED 100 DEGREES FAHRENHEIT OR THROUGHOUT THE ARIZONA DEPARTMENT OF HEALTH SERVICES DEFINED “HEAT SEASON”—MAY 1ST THROUGH SEPTEMBER 31<sup>ST</sup>. EMPLOYERS MAY PROVIDE ADDITIONAL BREAK PERIODS FOR WORKERS IN AREAS WHERE OUTDOOR TEMPERATURES ARE INTENSIFIED BY SURFACES SUCH AS PAVEMENT OR ASPHALT.

- 3) EMPLOYEES AND WORKERS SHALL BE PROVIDED ACCESS TO SHADED AREAS AND/OR AIR CONDITIONING FOR THE DURATION OF ALL BREAKS WHEN THE TEMPERATURE EXCEEDS NINETY DEGREES FAHRENHEIT. SHADE DOES NOT QUALIFY IF:
  - THE SHADED AREA CONTAINS ANY SOURCE YIELDING ADDITIONAL HEAT;
  - THE SHADED AREA IS FURTHER THAN 0.25 MILES FROM THE WORKSITE;
  - THE SHADED AREA IS “TOO SMALL FOR EMPLOYEES TO SIT FULLY SHADED IN NORMAL POSTURE, WITHOUT TOUCHING ONE ANOTHER.”
  
- 4) EMPLOYEES OPERATING VEHICLES OR OTHER MOTORIZED EQUIPMENT WITHIN ENCLOSED CABS SHALL HAVE ACCESS TO FUNCTIONABLE AIR CONDITIONING CAPABLE OF COOLING THE WORKSPACE OF THE CAB TO A REASONABLE LEVEL OF COMFORT CONSISTENT WITH THE STANDARDS SET FORTH IN THIS ARTICLE.

#### **SECTION 13A-103 CONTRACT REQUIREMENTS.**

- A. THE FOLLOWING CLAUSE IS REQUIRED TO APPEAR IN ALL CONTRACTS EXECUTED ON OR AFTER SEPTEMBER 1, 2025 BETWEEN THE CITY AND A CITY CONTRACTOR AND CONTRACTS BETWEEN A CITY CONTRACTOR AND ITS SUBCONTRACTORS:

IF CONTRACTOR’S EMPLOYEES OR CONTRACT WORKERS WILL PERFORM WORK UNDER THIS CONTRACT IN AN OUTDOOR ENVIRONMENT FOR A SUBSTANTIAL PERIOD OF TIME, THE CONTRACTOR MUST HAVE AND IMPLEMENT A WRITTEN PLAN LISTING THE PREVENTATIVE AND PROACTIVE MEASURES THAT CONTRACTOR WILL TAKE TO PROTECT THOSE EMPLOYEES AND CONTRACT WORKERS FROM HEAT HAZARDS (THE “HEAT SAFETY PLAN”) WHILE PERFORMING THAT WORK. THE CITY MAY REQUEST A COPY OF THIS HEAT SAFETY PLAN AND DOCUMENTATION OF ALL HEAT SAFETY

AND MITIGATION EFFORTS CURRENTLY IMPLEMENTED BY THE CONTRACTOR TO PREVENT HEAT-RELATED ILLNESSES AND INJURIES FOR WORK DONE UNDER THIS CONTRACT. THE HEAT SAFETY PLAN MUST ALSO BE POSTED WHERE IT IS ACCESSIBLE TO EMPLOYEES.

AT A MINIMUM, THE HEAT SAFETY PLAN MUST INCLUDE EACH OF THE FOLLOWING ELEMENTS AS IT RELATES TO HEAT SAFETY:

1. THE HEAT SAFETY PLAN SHALL ADDRESS THE REQUIREMENTS OF SECTION 13A-102.
2. EFFECTIVE ACCLIMATIZATION PRACTICES TO PROMOTE THE PHYSIOLOGICAL ADAPTATION OF EMPLOYEES OR CONTRACT WORKERS NEWLY ASSIGNED OR REASSIGNED TO WORK IN AN OUTSIDE ENVIRONMENT. AN EMPLOYEE WHO HAS BEEN NEWLY ASSIGNED TO A HIGH HEAT AREA SHALL BE CLOSELY OBSERVED BY A SUPERVISOR OR DESIGNEE FOR THE FIRST 10 DAYS OF THE EMPLOYEE'S EMPLOYMENT. EMPLOYERS MAY FOLLOW THE ARIZONA DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (ADOSH) ACCLIMATIZATION RECOMMENDATIONS, WHICH PRESCRIBE STARTING WITH 20% OF A NORMAL WORKLOAD AND PROGRESSIVELY INCREASING IT BY 20% EACH SUBSEQUENT DAY.
3. CLOSE MONITORING AND OBSERVATION OF EMPLOYEES WORKING IN HEAT, POTENTIALLY INCLUDING A 'BUDDY SYSTEM' WHERE EMPLOYEES ARE PARTNERED TOGETHER.
4. COMMUNICATION AND EMERGENCY RESPONSE PROTOCOLS: SPECIFICALLY, A MEANS OF COMMUNICATION BETWEEN SUPERVISORS AND EMPLOYEES IN THE EVENT OF A HEAT-RELATED EMERGENCY.
5. TRAINING OF EMPLOYEES AND CONTRACT WORKERS, NO LATER THAN ONE WEEK PRIOR TO BEING DEPLOYED TO WORK IN AN OUTDOOR ENVIRONMENT, ON HEAT ILLNESS AND INJURY THAT FOCUSES ON ENVIRONMENTAL AND PERSONAL RISK FACTORS, PREVENTION, HOW TO RECOGNIZE AND REPORT SIGNS AND SYMPTOMS OF HEAT ILLNESS AND INJURY AND HOW TO REPORT HEAT ILLNESS AND INJURY TO EMERGENCY MEDICAL PERSONNEL. EMPLOYEES SHALL RECEIVE AT LEAST ONE ADDITIONAL TRAINING SESSION ANNUALLY THEREAFTER.
6. THE POSTING OF SIGNAGE AT THE JOB SITE THAT CONTAINS INFORMATION, IN BOTH ENGLISH AND SPANISH, EXPLAINING HOW TO (A) RECOGNIZE AND REPORT SIGNS AND SYMPTOMS OF HEAT ILLNESS AND INJURY; (B) ADMINISTER APPROPRIATE FIRST AID MEASURES, AND (C) REPORT HEAT-RELATED ILLNESS AND INJURY TO EMERGENCY MEDICAL PERSONNEL. THE SIGNAGE MUST ALSO INCLUDE A PHONE

NUMBER FOR REPORTING HEAT VIOLATIONS TO OSHA/ADOSH. THE SIGNAGE MUST ALSO INCLUDE A PHONE NUMBER FOR REPORTING HEAT VIOLATIONS TO OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA), ARIZONA DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (ADOSH). THE SIGNAGE MUST INDICATE THAT REPORTS MAY BE MADE ANONYMOUSLY.

7. PROVIDING WRITTEN NOTIFICATION TO ALL EMPLOYEES AND CONTRACT WORKERS REGARDING THEIR NEW WORKER PROTECTIONS UNDER THIS PROVISION. THIS NOTIFICATION SHALL BE PROVIDED TO EXISTING EMPLOYEES AND DURING THE ONBOARDING PROCESS FOR NEW EMPLOYEES. THE NOTIFICATION SHALL BE PROVIDED TO EACH WORKER IN THE LANGUAGE PREFERRED BY THAT WORKER AND MUST BE POSTED IN THE WORKPLACE. CONTRACTORS WILL INCORPORATE THIS SECTION IN ALL SUBCONTRACTS WITH SUBCONTRACTORS OR OTHER ENTITIES OR INDIVIDUALS WHO MAY PERFORM WORK UNDER THIS CONTRACT, INCLUDING THE REQUIREMENT THAT THOSE SUBCONTRACTORS IMPOSE THE SAME OBLIGATIONS UNDER ANY SUB-SUBCONTRACTORS. IT IS THE OBLIGATION OF THE CONTRACTOR TO ENSURE COMPLIANCE WITH THIS PROVISION BY ITS SUBCONTRACTORS. CITY MAY TERMINATE THIS CONTRACT FOR FAILURE TO COMPLY WITH THIS PROVISION.

B. ANY SUBCONTRACTOR MAY ADOPT AN APPROVED HEAT SAFETY PLAN OF THE GENERAL CONTRACTOR AS ITS OWN.

#### **SECTION 13A-104 ADMINISTRATIVE RESPONSIBILITY.**

- A. COMMENCING SEPTEMBER 1, 2025, CITY DEPARTMENTS SHALL INCLUDE THE REQUIREMENTS OF THIS ARTICLE IN ALL SOLICITATIONS AND CONTRACTS WHEN IT IS ANTICIPATED THAT THE WORK REQUIRED UNDER THE CONTRACT WILL INCLUDE WORK IN AN OUTDOOR ENVIRONMENT FOR A SUBSTANTIAL PERIOD OF TIME. IF THE DEPARTMENT PRIMARILY RESPONSIBLE FOR MANAGING ANY CONTRACT COVERED BY THIS ARTICLE LEARNS THAT THE CONTRACTOR HAS VIOLATED THE ABOVE PROVISION, THE DEPARTMENT MUST NOTIFY THE APPLICABLE PROCUREMENT AUTHORITY REGARDING THE NON-COMPLIANCE. IF THE CONTRACTOR, AFTER BEING ADVISED OF THE NONCOMPLIANCE, DOES NOT DEMONSTRATE THAT IT HAS TAKEN APPROPRIATE CORRECTIVE ACTION FOR THE BREACH, THE PROCUREMENT AUTHORITY MAY NOTIFY OSHA/ADOSH AND MAY TAKE OTHER ACTION AS PERMITTED BY THE PROCUREMENT CODE AND/OR THE APPLICABLE CONTRACT, INCLUDING TERMINATION OF THE CONTRACT IN CASES OF REPEATED VIOLATIONS BY A CONTRACTOR.

- B. FOR ANY QUALIFICATIONS BASED SOLICITATION THAT IS ANTICIPATED TO REQUIRE WORK IN AN OUTDOOR ENVIRONMENT FOR A SUBSTANTIAL PERIOD OF TIME, THE SOLICITATION SHALL REQUIRE RESPONDING CONTRACTORS TO SUBMIT A HEAT SAFETY PLAN AND THE CITY SHALL ADD THE "QUALITY OF HEAT SAFETY PLANS AND COMPLIANCE WITH PAST HEAT SAFETY PLANS" AS AN EVALUATION CRITERIA FOR CONSIDERATION IN THE SCORING PROCESS AND ANY SUBSEQUENT INTERVIEWS.

**13A-105 NONRETIATION.**

IT SHALL BE CONSIDERED A VIOLATION OF THIS ARTICLE FOR THE CONTRACTOR TO RETALIATE AGAINST, DISCRIMINATE AGAINST, OR OTHERWISE TAKE ANY ADVERSE EMPLOYMENT ACTION AGAINST ANY EMPLOYEE BECAUSE SUCH EMPLOYEE FILED A REPORT OR COMPLAINT WITH THE CITY OR THE CONTRACTOR ALLEGING VIOLATIONS OF THIS ARTICLE, OR OTHERWISE ASSERTED A CLAIM OR RIGHT UNDER THIS ARTICLE.

**13A-106 CITY WORKERS.**

ALL CITY DEPARTMENTS THAT HAVE EMPLOYEES REGULARLY WORKING IN AN OUTDOOR ENVIRONMENT FOR ANY SUBSTANTIAL PERIOD OF TIME SHALL ADOPT A HEAT SAFETY PLAN SUBSTANTIALLY SIMILAR TO THE MODEL HEAT SAFETY PLAN ADOPTED FOR CONTRACTORS UNDER THIS ORDINANCE OR AS OTHERWISE APPROVED BY THE RISK MANAGEMENT DIRECTOR TAKING INTO ACCOUNT THE OPERATIONAL NEEDS AND CIRCUMSTANCES OF INDIVIDUAL DEPARTMENTS. CITY EMPLOYEES SHALL BE ENTITLED TO PROTECTION FROM NONRETIATION IN THE SAME MANNER AS CONTRACTOR EMPLOYEES AS SET FORTH IN SECTION 13A-105.