



Phoenix City Code Chapter 18: Proposed Amendments for the Mitigation of Heat-Related Illnesses and Injuries in the Workplace (Ordinance G-7241)

This report transmits proposed changes to Phoenix City Code (PCC) Chapter 18, Human Relations, to adopt language adding Article XI to address contractor requirements for the mitigation of heat-related illnesses and injuries in the workplace and adopt all related conforming changes.

THIS ITEM IS FOR DISCUSSION AND POSSIBLE ACTION.

Summary

Summer heat is a serious public health challenge for residents of and visitors to the region. Heat-related deaths in Phoenix as reported by the Maricopa County Department of Public Health have risen substantially since 2014, to a new record high of 395 during 2023, the hottest summer in the City's history.

The total public health burden of extreme heat in Phoenix also includes thousands of cases of heat-related illness that require medical treatment including ambulance dispatches, emergency room visits and overnight hospitalization. In 2023, the single day with the most medical calls to the Phoenix Fire Department was July 18. Total calls surged 34 percent higher than a typical day as high temperatures reached 118 degrees Fahrenheit in the middle of what would become the hottest month on record for any major American city. In response to the impact of extreme heat, the City of Phoenix has developed a Heat Response Plan. The Heat Response Plan is organized into nine broad strategies. One of these strategies includes implementation of heat safety measures for workers.

Additionally, in further recognition of the serious health challenge during the summer months, the State of Arizona established a State Emphasis Program (SEP) focused on mitigating heat-related illnesses and injuries in the workplace. As part of the SEP, employers are compelled to create plans to reduce the risk for heat-related illnesses and injuries. Per the SEP, written plans will need to include water, rest, shade, acclimatization, and training to recognize signs and symptoms of heat stress. As a result, each City department created a Heat Illness and Injury Prevention Plan to support City of Phoenix employees.

Following the creation of the City's Heat Illness and Injury Prevention Plans supporting City of Phoenix employees, staff gathered stakeholder feedback to determine the best approach to support contracted workers as well. As part of this stakeholder engagement effort, staff held two rounds of stakeholder meetings:

The first round of stakeholder meetings focused on initial proposal and feedback.

- Workers - Feb. 12, 2024
- Labor Organizations - Feb. 13, 2024
- City Contractors - Feb. 13, 2024

The second round of stakeholder meetings focused on reviewing the draft ordinance that incorporated feedback from the first round and to receive additional feedback:

- City Contractors - March 7, 2024
- Workers and Labor Organizations - March 7, 2024

Based on the feedback received from stakeholders, staff have proposed an ordinance to amend PCC Chapter 18 to add Article IX: Contractor Requirements for the Mitigation of Heat-Related Illnesses and Injuries in the Workplace (**Attachment A**). The new requirements apply to all contracts, licenses, and leases between the City and the contractor, licensee, lessee and contracts between the contractor and its subcontractors, sublicensees, and sublessees with workers that perform work in an outdoor environment.

The applicable entities must have a written heat safety plan on file, which at a minimum, must include the following:

1. Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
2. Ability to take regular and necessary breaks as needed and additional breaks for hydration.
3. Access to shaded areas and/or air conditioning.
4. Access to air conditioning in vehicles with enclosed cabs with such access to functioning air conditioning required by no later than May 1, 2025.
5. Effective acclimatization practices.
6. Conduct training and make it available and understandable to all employees and contract workers.

Staff requests City Council adopt the proposed amendments to PCC Chapter 18 to add Article XI to address the contractor requirements for the mitigation of heat-related illnesses and injuries in the workplace.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays, Deputy City Manager Gina Montes, the City Manager's Office, the Office of Heat Mitigation and Response, and the Law Department.

Attachment A

**THIS IS A DRAFT COPY ONLY AND IS NOT AN OFFICIAL COPY OF THE FINAL
ADOPTED ORDINANCE**

ORDINANCE G-XXXX

AN ORDINANCE AMENDING CHAPTER 18 OF THE PHOENIX CITY CODE TO REVISE ARTICLE I, SECTION 18-2(A)(6) AND ADD ARTICLE XI TO ADDRESS CONTRACTOR REQUIREMENTS FOR THE MITIGATION OF HEAT-RELATED ILLNESSES AND INJURIES IN THE WORKPLACE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. That Chapter 18, Article I, Section 18-2(A)(6) is hereby amended and revised to clarify the authority and responsibility for monitoring compliance with the contractor requirements for the mitigation of heat-related illnesses and injuries as set forth in Article XI as follows:

**Article I.
In General**

* * * *

Sec. 18-2 Administrative provisions.

A. *Powers and duties of Phoenix Commission on Human Relations and Equal Opportunity Department.*

* * * *

6. EXCEPT FOR ARTICLE XI, [t]he authority and responsibility for administering this chapter rests with the Director of the Equal Opportunity Department.

SECTION 2. That Chapter 18 of the Phoenix City Code is amended to add Article XI to address contractor requirements for the mitigation of heat-related illnesses and injuries in the workplace as follows:

**ARTICLE XI.
CONTRACTOR REQUIREMENTS FOR THE MITIGATION OF HEAT-RELATED
ILLNESSES AND INJURIES IN THE WORKPLACE.**

SEC. 18-411. DECLARATION OF POLICY.

A. IT IS THE POLICY OF THE CITY OF PHOENIX THAT ANY CONTRACTOR, WHOSE EMPLOYEES AND CONTRACT WORKERS PERFORM WORK IN AN OUTDOOR ENVIRONMENT UNDER A CITY CONTRACT, LEASE OR LICENSE MUST UTILIZE HEAT SAFETY AND MITIGATION PLANS TO PREVENT HEAT-RELATED ILLNESSES AND INJURIES IN THE WORKPLACE.

B. THE PURPOSE OF THIS ARTICLE IS TO ADDRESS A SERIOUS PUBLIC HEALTH CONCERN IN THE CITY OF PHOENIX AND TO TAKE MEASURES TO PROTECT THE OUTDOOR WORKFORCE.

C. IT IS ACKNOWLEDGED THAT THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) HAS PUBLISHED AN ADVANCED NOTICE OF PROPOSED RULEMAKING TO ADDRESS HEAT INJURY AND ILLNESS PREVENTION IN OUTDOOR AND INDOOR WORK SETTINGS. IT IS ALSO ACKNOWLEDGED THAT NO STATE STANDARD OR REGULATION ADDRESSING THE MITIGATION OF HEAT-RELATED ILLNESSES AND INJURIES IN THE WORKPLACE IS CURRENTLY CODIFIED AND IN EFFECT WITHIN THE STATE OF ARIZONA. IT IS FURTHER ACKNOWLEDGED THAT, IF OSHA ULTIMATELY ADOPTS

A RULE OR THE ARIZONA LEGISLATURE ENACTS HEAT MITIGATION WORKPLACE LEGISLATION, THEN ENFORCEMENT OF THIS ARTICLE MAY BE PREEMPTED BY FEDERAL OR STATE LAW.

SEC. 18-412. DEFINITIONS.

IN ADDITION TO THE DEFINITIONS SET FORTH IN SECTION 18-3, IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

CITY MEANS THE CITY OF PHOENIX.

CONTRACTOR MEANS ANY PERSON OR ENTITY THAT IS A PARTY TO A CITY CONTRACT, CITY LEASE OR CITY LICENSE (COLLECTIVELY A CONTRACT).

HEAT MITIGATION MEANS THE IMPLEMENTATION OF PREVENTATIVE AND PROACTIVE MEASURES BY CONTRACTORS TO PROVIDE PROTECTION AND RELIEF FROM HEAT HAZARDS WHEN WORKING ON CITY-OWNED, CITY-LEASED OR CITY-LICENSED PROPERTY INCLUDING ON ANY CITY STREETS OR DEDICATED RIGHTS OF WAY.

OUTDOOR ENVIRONMENT MEANS A CITY-OWNED, CITY-LEASED OR LICENSED LOCATION WHERE WORK ACTIVITIES ARE CONDUCTED OUTSIDE. THE TERM ALSO INCLUDES LOCATIONS SUCH AS SHEDS, TENTS, GREENHOUSES, OR OTHER STRUCTURES INCLUDING JET BRIDGES TO AIRCRAFT WHERE WORK ACTIVITIES ARE CONDUCTED INSIDE BUT THE TEMPERATURE IS NOT MANAGED BY DEVICES THAT REDUCE HEAT EXPOSURE AND AID IN COOLING, SUCH AS AIR CONDITIONING SYSTEMS.

SUBCONTRACTORS MEANS A FIRM, PARTNERSHIP, CORPORATION OR COMBINATION THEREOF HAVING A DIRECT CONTRACT WITH THE CONTRACTOR

FOR ALL OR ANY PORTION OF THE WORK THAT IS THE SUBJECT OF THE CITY CONTRACT. FOR PURPOSES OF THIS ARTICLE, SUBCONTRACTORS INCLUDE SUBLESSEES AND SUBLICENSEES.

SEC. 18-413. REQUIREMENTS OF CONTRACTORS.

A. REQUIRED CONTRACT LANGUAGE.

THE FOLLOWING CLAUSE IS REQUIRED TO APPEAR IN ALL CONTRACTS BETWEEN THE CITY AND THE CONTRACTOR AND CONTRACTS BETWEEN THE CONTRACTOR AND ITS SUBCONTRACTORS, SUBLICENSEES AND SUBLESSEES: *ANY CONTRACTOR WHOSE EMPLOYEES AND CONTRACT WORKERS PERFORM WORK IN AN OUTDOOR ENVIRONMENT UNDER THIS CONTRACT MUST KEEP ON FILE A WRITTEN HEAT SAFETY PLAN. THE CITY MAY REQUEST A COPY OF THIS PLAN AND DOCUMENTATION OF ALL HEAT SAFETY AND MITIGATION EFFORTS CURRENTLY IMPLEMENTED TO PREVENT HEAT-RELATED ILLNESSES AND INJURIES IN THE WORKPLACE. THE PLAN MUST ALSO BE POSTED WHERE IT IS ACCESSIBLE TO EMPLOYEES. AT A MINIMUM, THE HEAT SAFETY AND MITIGATION PLAN AND DOCUMENTATION REQUIRED UNDER THIS PROVISION SHALL INCLUDE EACH OF THE FOLLOWING AS IT RELATES TO HEAT SAFETY AND MITIGATION:*

1. AVAILABILITY OF SANITIZED COOL DRINKING WATER FREE OF CHARGE AT LOCATIONS THAT ARE ACCESSIBLE TO ALL EMPLOYEES AND CONTRACT WORKERS.

2. ABILITY TO TAKE REGULAR AND NECESSARY BREAKS AS NEEDED AND ADDITIONAL BREAKS FOR HYDRATION.

3. ACCESS TO SHADED AREAS AND/OR AIR CONDITIONING.

4. ACCESS TO AIR CONDITIONING IN VEHICLES WITH ENCLOSED CABS. ALL SUCH VEHICLES MUST CONTAIN FUNCTIONING AIR CONDITIONING BY NO LATER THAN MAY 1, 2025.

5. EFFECTIVE ACCLIMATIZATION PRACTICES TO PROMOTE THE PHYSIOLOGICAL ADAPTATIONS OF EMPLOYEES OR CONTRACT WORKERS NEWLY ASSIGNED OR REASSIGNED TO WORK IN AN OUTSIDE ENVIRONMENT.

6. CONDUCT TRAINING AND MAKE IT AVAILABLE AND UNDERSTANDABLE TO ALL EMPLOYEES AND CONTRACT WORKERS ON HEAT ILLNESS AND INJURY THAT FOCUSES ON THE ENVIRONMENTAL AND PERSONAL RISK FACTORS, PREVENTION, HOW TO RECOGNIZE AND REPORT SIGNS AND SYMPTOMS OF HEAT ILLNESS AND INJURY, HOW TO ADMINISTER APPROPRIATE FIRST AID MEASURES AND HOW TO REPORT HEAT ILLNESS AND INJURY TO EMERGENCY MEDICAL PERSONNEL.

THE CONTRACTOR FURTHER AGREES THAT THIS CLAUSE WILL BE INCORPORATED IN ALL SUBCONTRACTS WITH SUBCONTRACTORS, SUBLICENSEES OR SUBLESSEES WHO MAY PERFORM LABOR OR SERVICES IN CONNECTION WITH THIS CONTRACT. ADDITIONALLY, THE CONTRACTOR AGREES TO REQUIRE ALL SUBCONTRACTORS, SUBLICENSEES OR SUBLESSEES TO INCLUDE THIS CLAUSE IN ALL CONTRACTS WITH ANY THIRD PARTY WHO IS CONTRACTED TO PERFORM LABOR OR SERVICES IN CONNECTION WITH THIS CONTRACT. IT IS THE OBLIGATION OF THE CONTRACTOR TO ENSURE COMPLIANCE BY ITS SUBCONTRACTORS.

B. DOCUMENTATION.

IN ADDITION TO THE DOCUMENTS REQUIRED IN SUBSECTION A, CONTRACTORS MAY BE REQUIRED TO PROVIDE ADDITIONAL DOCUMENTATION VERIFYING THAT MITIGATION EFFORTS TO PROTECT AGAINST HEAT RELATED ILLNESS OR INJURY IN THE WORKPLACE ARE BEING UTILIZED.

C. MONITORING.

THE DEPARTMENT PRIMARILY RESPONSIBLE FOR MANAGING ANY CONTRACT COVERED BY THIS ARTICLE SHALL MONITOR COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE.

SEC. 18-414. FAILURE OF CONTRACTORS TO COMPLY.

A CONTRACTOR WHO FAILS TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE AFTER RECEIVING NOTICE AND AN OPPORTUNITY TO CURE SHALL BE SUBJECT TO THOSE SANCTIONS ALLOWED BY LAW INCLUDING, BUT NOT LIMITED TO, CANCELLATION, TERMINATION, SUSPENSION OF THE CONTRACT, OR SUSPENSION OR DEBARMENT IN ACCORDANCE WITH CHAPTER 43, ARTICLE IX, OF THE PHOENIX CITY CODE .

SEC. 18-415. ADMINISTRATIVE RESPONSIBILITY.

CITY DEPARTMENTS SHALL INCLUDE THE REQUIREMENTS OF THIS ARTICLE AS EXPRESSED IN SECTION 18-413 IN ALL BIDS, PROPOSALS, WRITTEN QUOTES, CONTRACTUAL AGREEMENTS, LEASES, LICENSES OR REQUESTS FOR QUALIFICATIONS.

SEC. 18-416. EXCLUSIONS.

THIS ARTICLE DOES NOT APPLY TO ANY CITY CONTRACT, CITY LEASE OR CITY LICENSE WITH ANY OTHER GOVERNMENTAL AGENCY.

PASSED by the City Council of the City of Phoenix this 26TH day of March, 2024.

MAYOR

Date

ATTEST:

Denise Archibald, City Clerk

APPROVED AS TO FORM:
Julie M. Krieger, City Attorney

By:

REVIEWED BY:

Jeffrey Barton, City Manager