

**CHAPTER 10.**

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**10-01-010 Dangerous Structures.**

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-010)

**10-01-020 Excavations to be Covered.**

- A. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the Town without providing a sufficient lighted barricade at night and a temporary fence or suitable obstruction around or in front of such excavation during the day.
- B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two (2) feet in depth on any unenclosed lot, without providing substantial curbing, covering or protection of such excavation.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-040)

**10-01-030 Fireworks.**

- A. Definitions. In this Section, unless the context otherwise requires:

1. *Consumer firework* means those fireworks defined by A.R.S. §36-1601, as amended.
2. *Display firework* means those fireworks defined by A.R.S. §36-1601, as amended.
3. *Fireworks* means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework or display firework. "Fireworks" do not include those devices listed in A.R.S. §36-1601(4)(b)(i)-(iv).
4. *NFPA 1124* means the national fire protection association code for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles, 2013 edition as published in August 2012.
5. *Novelty items* means federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers, and certain toys as defined in A.R.S. §36-1601(4)(b)(i)-(ii).
6. *Permissible consumer fireworks* means those fireworks as defined by A.R.S. §36-1601.
7. *Supervised public display* means a monitored performance of display fireworks open to the public and authorized by the Fire Marshal after appropriate inspection(s) to confirm that all safety precautions deemed necessary and prudent by the Fire Marshal for safe deployment of the display are in place.

B. Possession of Fireworks Prohibited; Exceptions.

No person shall possess fireworks within the Town except as follows:

1. Persons of suitable age and discretion may possess novelty items.
2. Persons at least sixteen (16) years of age or older may possess permissible consumer fireworks.

C. Use of Fireworks Prohibited; Exceptions.

The use, discharge or ignition of fireworks within the Town is prohibited except as follows:

1. Novelty items may be used within the Town with appropriate caution and supervision by a responsible adult.
2. Supervised public displays by licensed fireworks contractors and shooters may be permitted within the Town after proper inspection and authorization by the Fire Marshal or designee. Such displays shall be of a character and so located, discharged or fired, as to not endanger persons, animals, or property. The Fire Marshal or designee has authority to impose conditions on any such display and to decline to authorize, or revoke authorization, of any public display of

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fireworks during time periods when High Fire Danger Warnings are in effect. Failure to comply with the requirements issued by the Fire Marshal for a public display of fireworks is punishable as provided in this Section and the applicable rules and regulations of the State Fire Marshal.

3. Persons at least sixteen (16) years of age or older may use permissible consumer fireworks only on June 24 through July 6 and December 24 through January 3 of each year. Use of permissible consumer fireworks on days other than June 24 through July 6 and December 24 through January 3 of each year is strictly prohibited.
  - (a) If a federal or state agency implements a stage one or higher fire restriction at any time during the periods of June 24 through July 6 and December 24 through January 3, use of permissible consumer fireworks is strictly prohibited each and every day that the stage one or higher fire restriction is in place.

D. Sale of Fireworks Prohibited; Exceptions.

Sale of fireworks within the Town is prohibited except as follows:

1. Novelty items may be sold.
2. Permissible consumer fireworks may be sold only on May 20 through July 6 and December 10 through January 3 of each year and only to persons at least sixteen (16) years of age or older. The sale of permissible consumer fireworks on days other than May 20 through July 6 and December 10 through January 3 of each year is strictly prohibited.
  - (a) If a federal or state agency implements a stage one or higher fire restriction at any time during the periods of May 20 through July 6 and December 10 through January 3, the sale of permissible consumer fireworks is strictly prohibited each and every day that the stage one or higher fire restriction is in place.
3. Sale of permissible consumer fireworks and novelty items shall conform to the requirements of the Town Code, including the provisions of Chapter 13 and Articles 8-02 and 8-07, as applicable.
4. All sales of permissible consumer fireworks shall conform to the requirements of state law and to the rules and regulations adopted by the State Fire Marshal pursuant to A.R.S. §36-1609.
5. Pursuant to A.R.S. §36-1609, all sales of permissible consumer fireworks shall also conform to NFPA 1124. Those rules require, among other things, that:
  - (a) All persons desiring to sell permissible consumer fireworks must obtain a permit from the Central Yavapai Fire District Fire Marshall for the construction, erection or operation of any permanent building or structure or any temporary structure such as a stand, tent or canopy to

be used for the purpose of the retail display, sales or storage of permissible consumer fireworks to the public, in addition to any other permit required by law.

- (b) No smoking shall be permitted within fifty (50) feet of the permissible consumer fireworks retail sales area.
  - (c) Only those permissible consumer fireworks that have been successfully tested in accordance with PYR 1129, *Standard Method of Fire Test for Covered Fuse on Consumer Fireworks*, to determine compliance with the covered fuse requirements of NFPA 1124 shall be permitted for sale to the public. The individual permissible consumer fireworks device or the packaging in which the permissible consumer fireworks device(s) is contained for retail sale shall be labeled to indicate compliance with PYR 1129.
  - (d) All personnel handling permissible consumer fireworks shall receive safety training related to the performance of their duties. Such training may include any training required by OSHA for employment in the operation of a permissible consumer fireworks retail sales or storage facility.
  - (e) Any person selling permissible consumer fireworks shall not knowingly sell permissible consumer fireworks to any person who is, or is suspected to be, under the influence of alcohol or controlled substances.
  - (f) No motor vehicle, trailer or storage container used for the storage of consumer fireworks shall be parked/placed within ten (10) feet of a permissible consumer fireworks retail sales facility except when delivering, loading or unloading permissible consumer fireworks or other merchandise and materials used, stored or displayed for sale in the facility.
6. Failure to comply with the requirements of this Subsection is a criminal offense punishable as a class 3 misdemeanor.

E. Labeling/Packaging of Fireworks for Sale.

- 1. Labeling of all permissible consumer fireworks for sale within the Town shall comply with the labeling regulations prescribed in 49 Code of Federal Regulations parts 172 and 173, 16 Code of Federal Regulations parts 1500 and 1507, and the American Pyrotechnics Association, Standard 87-1 "Standard for Construction and Approval for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics," December 1, 2001 version.
- 2. All multi-assortment packages for sale within the Town shall contain only permissible consumer fireworks and/or novelty items. Labeling for multi-assortment packages shall conform to the requirements of 16 Code of Federal Regulations, part 1500.83.

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### F. Signage Required for Sale of Fireworks.

1. Prior to the sale of permissible consumer fireworks, seller shall prominently display signs stating the following:
  - (a) Fireworks - No Smoking
  - (b) No Fireworks Discharge Within 300 Feet
  - (c) State of Arizona Consumer Fireworks Regulations
2. The sign required in paragraph (a) above shall contain letters that are at least two (2) inches in height on a contrasting background and shall be conspicuously posted at each entrance of a permissible consumer fireworks retail sales facility or within ten (10) feet of every aisle directly serving the permissible consumer fireworks retail sales area in a store pursuant to NFPA 1124, Subsection 7.3. 10.2.
3. The sign required in paragraph (b) above shall contain letters that are at least four (4) inches in height on a contrasting background and shall be conspicuously posted on the exterior of each side of a permissible consumer fireworks retail sales facility.
4. The sign required in paragraph (c) above shall be eight and one-half inches by eleven inches (8 ½" x 11") cardstock paper in landscape orientation. The lettering shall be on a contrasting background. The sign must be posted by the retail display of permissible consumer fireworks. The required verbiage and sign specifications will be posted on the Town's website and will be available at the Town Clerk's office.
5. Failure to comply with this Subsection is a criminal offense punishable as a class 3 misdemeanor.

### G. Enforcement.

The Fire Marshal or designee, a Town Code Enforcement Officer or the Town Attorney may issue civil complaints to enforce civil violations of this Section and may also issue a notice of violation specifying actions to be taken and the time in which they must be taken to avoid issuance of a civil complaint. Persons found responsible for civil violations of this Section shall be subject to fines, an administrative fee then in effect, restitution (if applicable) and any other remedies available under applicable law. Unless otherwise stated, a violation of this Section shall be considered a civil violation. A Town police officer or the Town Prosecutor may issue criminal complaints to enforce violations of this Section designated as class 3 misdemeanors.

### H. Emergency Response; Liability.

1. A person who uses, discharges or ignites permissible consumer fireworks or anything that is designed or intended to rise into the air and explode or to

detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this Section is prima facie evidence of liability under this Subsection.

2. The expenses of an emergency response include all reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to the incident. Such expenses constitute a debt against the person liable for those expenses pursuant to paragraph 1 of this Subsection and may be collected proportionately by the responding agencies/entities that incurred the expenses. A person's liability for the expense of an emergency response shall not exceed \$10,000 for a single incident. The liability imposed under this Subsection is in addition to, and not in limitation of, any other liability that may be imposed.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-050; Ord. No. 752, Amended, 10/28/10; Ord. No. 806, Amended, 6/25/15)

#### **10-01-040 Reserved.**

(Ord. No. 73, Enacted, 08/26/82; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-220; Ord. No. 779, Rep&ReEn, 11/21/13)

#### **10-01-050 Fences - Barbed Wire and Electric.**

- A. It is unlawful for any person to erect or maintain any electric fence or any fence constructed in whole or in part of barbed wire on a lot in a residential area within the Town. Any such fence is a public nuisance and subject to abatement by order of the Town Magistrate Court.
- B. Barbed wire fences enclosing more than two and one half (2 1/2) acres and used to restrain livestock shall be exempt from this Section.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 46A, Amended, 11/25/80; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-070)

#### **10-01-060 Minors.**

- A. Curfew Hours for Minors.
  1. Definitions. In this Section, unless the context otherwise requires:
    - a. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action.
    - b. "Guardian" means a person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor

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has been placed by an authorized agency or court; or a person at least twenty-one (21) years of age and authorized by a parent or guardian to have the care and custody of a minor.

- c. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the minor.
- d. "Minor" means any person under eighteen (18) years of age.
- e. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.

### 2. Offenses.

- a. It is unlawful for any minor under the age of sixteen (16) years to be in, about, or upon any place in the Town away from the property where the minor resides, between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
- b. It is unlawful for any minor sixteen (16) years of age or older and under the age of eighteen (18) years, to be in, about, or upon any place in the Town away from the property where the minor resides, between the hours of 12:00 a.m. and 5:00 a.m.
- c. It is unlawful for a parent, guardian, or other person having supervisory custody of a minor to knowingly permit or, by insufficient control, allow the minor to violate the provisions of Subparagraphs 10-01-060(A)(2)(a) or 10-01-060(A)(2)(b), except as expressly provided herein. It shall not constitute a defense hereto that such parent, guardian, or other person having supervisory custody of the minor did not have actual knowledge of the minor's violation of Subparagraphs 10-01-060(A)(2)(a) or 10-01-060(A)(2)(b), if such parent, guardian, or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.
- d. It is unlawful for a parent, guardian, or other person having the care, custody, or supervision of a minor to fail or refuse to take custody of the minor after such demand is made upon him or her by a law enforcement officer who arrests the minor for violation of Subparagraphs 10-01-060(A)(2)(a) or 10-01-060(A)(2)(b).

### 3. Defenses/Exceptions. It is a defense to prosecution under Subparagraphs 10-01-060(A)(2)(a), 10-01-060(A)(2)(b) or 10-01-060(A)(2)[c] that the minor was:

- a. Accompanied by the minor's parent or guardian or an adult having supervisory custody of the minor.
- b. With prior permission of the parent or guardian or an adult having supervisory custody, in a motor vehicle involved in interstate travel.



- c. With prior permission of the parent or guardian or an adult having supervisory custody, in an employment activity or going to or returning home from an employment activity without a detour or stop by the most direct route.
  - d. On an emergency errand.
  - e. Specifically directed to the location by the parent or guardian or an adult having supervisory custody, on reasonable, legitimate business or some other activity, or going to or returning home from such business or activity.
  - f. With prior permission of the parent or guardian or an adult having supervisory custody, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
  - g. Married and sixteen (16) years of age or over, or in the military.
  - h. On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.
4. Enforcement.
- a. Before taking any enforcement action under this Section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and the minor's conduct, no defense as provided in Subparagraph 10-01-060(A)(3) is probably present.
  - b. In addition to any other powers he or she may have, any law enforcement officer who arrests a minor for violating any of the provisions of Subparagraphs 10-01-060(A)(2)(a) or 10-01-060(A)(2)(b) is also hereby empowered to demand of the parent, guardian, or adult having supervisory custody that such parent, guardian, or other adult come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, an adult having supervisory custody or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer is then empowered to take the minor home.
- B. Separate Offenses. Each violation of any provisions of Subparagraph 10-01-060(A)(2) shall constitute a separate offense.
- C. Penalties.

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1. Any person who violates Subparagraphs 10-01-060(A)(2)(a), 10-01-060(A)(2)(b) or 10-01-060(A)(2)(d) is guilty of a Class 1 misdemeanor. This offense is designated as an incorrigible offense for minors under the jurisdiction of the Juvenile Court.
2. Any person who violates Subparagraph 10-01-060(A)(2)[c] is guilty of a petty offense.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-100; Ord. No. 421, Rep&ReEn, 06/26/97)

**10-01-070 Noise.**

- A. **Policy.** It is hereby declared to be the policy of the Town of Prescott Valley to prohibit excessive, unnecessary and annoying noises from all sources subject to its police power. At and above certain levels, noises are detrimental to the health and welfare of the citizens of the Town and it is in the best interest that such noises be systematically eliminated.
- B. **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

“Person” means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

“Plainly Audible” means any sound that can be detected by a person using his or her unaided hearing faculties.

“Sound Amplification System” is any device, instrument or system, whether electrical or mechanical or otherwise for amplifying sound or for producing or reproducing sound, including (but not limited to) any radio, stereo, musical instrument, compact disc, or sound or musical recorder or player.
- C. **Public Nuisance; Music/Musical Instruments.** It is hereby declared to be a public nuisance, and it is unlawful for any person owning or operating or in control of any residence, business, restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or sound amplification system in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person, and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- D. **Sound Amplification Systems.**

1. It shall be unlawful for any person to operate personal or commercial sound amplification systems within the Town at any time in such a manner or with such volume that it is plainly audible at a distance of fifty (50) feet in any direction from the operator, or which causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet or more.
  2. Between the hours of eight o'clock (8:00) a.m. and ten o'clock (10:00) p.m., self contained, portable, hand-held music or sound amplification systems shall not be operated on public property or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator, or which causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet or more. Between the hours of ten o'clock (10:00) p.m. and eight o'clock (8:00) a.m., sound and/or vibration from such equipment shall not be plainly audible or detected by any person other than the operator.
- E. Motor Vehicles. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise. It further is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.
- F. Construction. It is unlawful to construct (including excavation), erect, install, place, demolish, alter or repair any building, structure, facility, street or improvement in any residential district prior to 7:00 a.m. and after 7:00 p.m., subject to the following exceptions:
1. Cases of emergency (in the interest of public health, safety and welfare) with the permission of the Town Manager, which permission may be granted for a period not to exceed thirty (30) days or the period of the emergency;
  2. Cases where the Town Manager determines that the public health, safety and welfare will not be impaired and that loss or inconvenience will not result to any party-in-interest, which permission may be granted upon application either at the time the building permit or other permit is issued by the Building Department, or during the progress of the work; or
  3. Cases of public works construction of all kinds, repair or alteration of public streets, utilities, or other facilities, snow plowing, emergency responses of every kind, or other public business or activities by any public agency (including its employees, officers, contractors, and agents).
- G. Exemptions. The terms or prohibitions of Subsection 10-01-070(B) shall not be applicable to or enforced against authorized emergency or public safety vehicles, vehicles operated by a gas, electric, communications or water utility, or government entity, or a vehicle used in an authorized public activity for which a permit has been granted by the Chief of Police.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-110; Ord. No. 345, Amended, 11/17/94; Ord. No. 574, Amended, 01/08/04)

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### **10-01-080 Obstruction of View.**

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstruction which prevents persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-130)

### **10-01-090 Offensive Business.**

It is unlawful for any person to establish or maintain any slaughterhouse or make a practice of slaughtering cattle, hogs, sheep or any other kind of animal, or establish or maintain any soap factory, render tallow, or pursue, maintain or carry on any other business or occupation offensive to the senses or prejudicial to the public health within the limits of the Town.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-140)

### **10-01-100 Offensive Premises.**

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him, or any cellar, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-150)

### **10-01-110 Prostitution.**

It is unlawful for any person to practice prostitution or to solicit any person to visit or patronize a prostitute or place of prostitution.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-160)

### **10-01-120 Nuisance Lighting.**

Any lighting fixtures which violate the provisions of Article 13-26a of this Code constitute a public nuisance, and are subject to abatement, injunction, and criminal prosecution as provided by law.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-170; Ord. No. 276, Amended, 06/11/92; Ord. No. 521, Amended, 05/09/02)

### **10-01-130 Signs and Banners.**

It is unlawful for any person to place any banner or sign on, in or over any public right-of-way, street light pole, traffic signal pole or utility pole within the Town except as provided in Section 13-23-030 (A)(7) of the Town Code.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-180; Ord. No. 816, Amended, 05/26/16)

**10-01-140 Spitting and Public Urination or Defecation.**

- A. It is unlawful for any person to spit upon any public sidewalks or crosswalks in the Town or upon any public path, by-way or highway, or upon the floor or interior of any public building in the Town.
- B. It is unlawful for any person to urinate or defecate in or upon any open public place or place where the public is invited, not designed or designated for urination or defecation, which is easily visible or readily accessible from a public thoroughfare or public conveyance.
- C. A violation of Subsection A or B herein is a class 3 misdemeanor, and the violator shall be subject to a fine of not more than five hundred dollars (\$500.00).

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-190; Ord. No. 266, Amended, 10/17/91)

**10-01-150 Water - Flow Upon Streets.**

- A. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the Town.
- B. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic, or to cause damage to the public streets of the Town through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 11-01-200)

**10-01-160 Penalties for Misuse of Library Property.**

- A. It is unlawful for any person to injure the public library, including real and personal library property (to include, but expressly not limited to, removing or damaging books and other materials circulated for public use).
- B. It is unlawful for any person to fail to return books or any other library property

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circulated for public use, in violation of rules and regulations adopted from time to time by the library trustees.

- C. A violation of Subsection A herein is a class 1 misdemeanor, subject to fines and/or imprisonment as set forth from time to time by state law. A violation of Subsection B herein is a class 3 misdemeanor, subject to fines and/or imprisonment as set forth from time to time by state law.

(Ord. No. 379, Enacted, 02/22/96)

**Article 10-02      TOWN PROPERTY**

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- 10-02-045    Mountain Valley Skate/Bike Park Rules and Regulations
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- 10-02-060    Permit to Possess or Consume Spirituous Liquor.
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- 10-02-090    Maintenance of Trees.

**10-02-010    Trespass on Town Property.**

- A.    It is unlawful for any person to willfully commit any trespass upon Town-owned or leased lands by either cutting down, destroying or injuring any kind of wood or timber growing upon the lands, or digging, taking or carrying away any earth or soil lying or being upon the lands, or under the surface thereof, or to remove any other materials or objects from the Town-owned or leased land or property, except as follows:
  - 1.    Gold panning and metal detecting may continue within the boundaries of Fain Park, so long as such activity is limited to -
    - a.    use of gold pans, metal detectors, and hand tools such as picks and shovels [use of motorized or mechanical equipment or mining aids (e.g. sluice boxes, dry washers, gold screws, gold bugs, rocker boxes, wheel barrows or other devices designed to increase production above that level obtained with gold pans and hand tools) is prohibited];
    - b.    excavations made below the high water mark of the stream channel that do not damage or disturb root systems of live vegetation and are filled in before the area is left;
    - c.    day use [no fires, washing of utensils, or camping is permitted as part of the activity, all trash is to be disposed of in marked receptacles, and Park restrooms are to be used instead of depositing or burying human waste in the Park]; and
    - d.    use of metal detectors to locate mineral deposits such as gold and silver [it is not permitted to use metal detectors in Fain Park to search for treasure trove, to locate historical and prehistorical artifacts and features, or to search for recent coins and lost metal objects].
  - 2.    Historical presentations related to mining activity in the area may continue within the boundaries of Fain Park, so long as such presentations are limited to

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- a. those made by bonafide historical organizations during Town-sponsored or approved activities in the Park.
- B. It is unlawful for any person to willfully commit a trespass upon Town-owned or leased garbage or trash landfills for the purpose of milling upon, junking or removing any items of trash, garbage or debris in said landfill or garbage dump, without the written permission of a Town official.
- C. It is unlawful for any person to willfully commit any trespass by entering onto or storing, parking, placing or dumping any object, item or vehicle upon Town-owned or leased land or property.
- D. It is unlawful for any person to willfully commit any trespass by entering onto or being within any Town playground or recreational area at any time other than the times established for hours of operation of such premises.

(Ord. No. 71, Enacted, 06/10/82; Ord. No. 178, Ren&Amd, 05/26/88, 11-03-010; Ord. No. 509, Amended, 07/26/01)

**10-02-020 Town Parks - Hours of Operation.**

- A. The hours of operation during which Town parks, playgrounds or outdoor recreational areas shall be open to public access are hereby established as:

Daily, 7:00 a.m. to 10:00 p.m.  
October 1 through March 31

Daily, 5:00 a.m. to 10:00 p.m.  
April 1 through September 30

The hours of operation may be extended only upon the express permission or consent of authorized Town officials. In no event shall an extension of park operating hours be construed to extend curfew limits. All park operating hours shall be posted at the established entrances thereto.

- B. The provisions of Subsection A shall not apply when a person has express permission or consent from Town officials to be engaged in any action otherwise prohibited in Section 10-02-010(D).

(Ord. No. 71, Enacted, 06/10/82; Ord. No. 178, Ren&Amd, 05/26/88, 11-03-020; Ord. No. 271, Amended, 01/09/92; Ord. No. 429, Amended, 11/20/97; Ord. No. 573, Amended, 11/13/03)

**10-02-030 Town Parks - Emergency Closure.**

- A. The Mayor or Town Manager shall be authorized to direct that any Town park, playground or recreational area be closed to all persons not properly authorized to be therein when, in his opinion, an emergency situation exists therein that demands for



the protection of the public health, safety or welfare that the premises be closed. Such closure shall be for a period not to exceed seven (7) days.

- B. It is unlawful for any person to, without proper authorization, willfully commit any trespass by entering onto or failing to vacate any Town park, playground or recreational area after adequate notice of emergency closure has been given.

(Ord. No. 71, Enacted, 06/10/82; Ord. No. 178, Ren&Amd, 05/26/88, 11-03-030)

**10-02-040 Prohibited Activities in Parks, Playgrounds and Outdoor Recreational Areas.**

- A. The following activities are prohibited at all times within all Town parks, playgrounds and outdoor recreational areas, unless otherwise expressly permitted by authorized Town officials:

1. The possession of any open container of, or the consumption of "spirituous liquor" as defined in ARS §4-101 (31), as amended;
2. The allowing of any dog to be at-large, as defined by Section 6-01-010(D), by any owner or responsible party, subject to the exceptions set forth in Section 6-01-110(B)(6);
3. The operation of motorized vehicles in violation of Section 11-02-130, as amended;
4. The leading or riding of horses, including any animal of the equine species, other than service animals, as defined in A.R.S. §11-1024, except in an undeveloped park or outdoor recreational areas;
5. Golfing or golfing practice;
6. The allowing of any forage-consuming domestic livestock to graze or roam at-large within the boundaries of any Town park or recreation area;
7. Fishing in Town ponds and lakes where signs are posted prohibiting such activity, and fishing in any and all Town ponds and lakes without obtaining a state-issued fishing license;
8. Wading or swimming in Town ponds and lakes;
9. Participating in paintball games, contests, tournaments or similar activities;
10. Glass containers of any kind; and

- B. The following activities are prohibited at all times within any Town parks, playgrounds and outdoor recreational areas in which synthetic athletic turf has been installed, unless otherwise expressly permitted by authorized Town officials:

1. Organized use of the turf area without an approved permit.

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2. Kicking or bouncing balls against any perimeter fence or related standing structure.
3. Picking or pulling grass fibers, or redistributing or removing infill material.
4. Marking (including, but not limited to, painting) any part of the turf area or related surfaces.
5. Use of footwear other than turf shoes, sneakers, or rubber cleats (including, but not limited to, metal cleats and high-heeled shoes).
6. Consumption of any beverages or liquids other than water carried in clear plastic containers (including, but not limited to, soda, sports drinks, and coffee).
7. Use of glass containers (including, but not limited to, bottles).
8. Consumption of any food (including, but not limited to, snacks, candy, chewing gum, nuts, and sunflower seeds).
9. Consumption of any tobacco products.
10. Allowing any animals, other than service animals, as defined in A.R.S. §11-1024, thereon (including, but not limited to, pets), with or without a leash.
11. Operating any vehicle thereon (motorized or non-motorized), (including, but not limited to, bicycles and strollers).
12. Using any open flames (including, but not limited to, lighters and grills) within twenty (20) feet of the turf area.

(Ord. No. 271, Enacted, 01/09/92, Ord. No. 533, Amended, 11/07/02; Ord. No. 614, Amended, 02/10/05; Ord. No. 651, Amended, 03/23/06; Ord. No. 747, Amended, 07/08/10; Ord. No. 759, Amended, 05/12/11; Ord. No. 824, Amended, 02/23/17)

### **10-02-045 Mountain Valley Skate/Bike Park Rules and Regulations.**

All persons entering the Skate/Bike Park at Mountain Valley Park shall strictly adhere to the following rules and regulations:

- A. All persons entering the Skate/Bike Park are deemed to have acknowledged that the Skate/Bike Park is a non-supervised activity site designed for skateboarding, in-line skating, and BMX biking only, and that all use of the Skate/Bike Park is at the risk of the user.
- B. All persons entering the Skate/Bike Park are deemed to have agreed to indemnify, defend, and save harmless the Town of Prescott Valley, its officers, employees, agents and volunteers for, from and against any accident, injury, including death, and/or loss

of property or damage thereto sustained as a result of using the Skate/Bike Park.

- C. All persons entering the Skate/Bike Park are deemed to have acknowledged the recommendation that personal protective equipment (helmet, elbow and knee pads) be used by them at all times during their use of the Skate/Bike Park.
- D. Use of any and all motorized and non-motorized vehicles within the Skate/Bike Park, including (without limitation) tricycles, unicycles and scooters, is strictly prohibited. Use of the Skate/Bike Park is limited to non-motorized skateboards, in-line skates, and BMX bikes.
- E. No food, beverages or glass containers are permitted within the Skate/Bike Park (with the sole exception of water contained in plastic water bottles).
- F. No alcoholic beverages, tobacco in any form, or illegal drugs are permitted within the Skate/Bike Park.
- G. All trash must be deposited in the provided trash containers.
- H. No spectators and/or pets are permitted within the Skate/Bike Park.
- I. No one may enter or use the Skate/Bike Park during the time that it is closed due to rain, snow or lightning.
- J. No one may enter the Skate/Bike Park during the time that it is closed for routine maintenance or in any other circumstance deemed necessary by authorized Town staff.
- K. The hours of operation during which the Skate/Bike Park shall be open to public access are:
  - Daily, 7:00 a.m. to 10:00 p.m.  
October 1 through March 31
  - Daily, 5:00 a.m. to 10:00 p.m.  
April 1 through September 30
- L. No additional obstacles (including, without limitation, benches and tables) may be taken into or used within the Skate/Bike Park.
- M. Amplified music is not permitted within the Skate/Bike Park without the express approval of the Parks and Recreation Director ("Director").
- N. Express approval of the Director is required for any and all competitive and demonstration events at the Skate/Bike Park.
- O. All users of the Skate/Bike Park shall demonstrate common courtesy to all other users of the Skate/Bike Park and be respectful of their different levels of ability.
- P. Foul language and gestures are strictly prohibited within and surrounding the

## OFFENSES

Skate/Bike Park.

- Q. All persons entering the Skate/Bike Park are deemed to have acknowledged that the Town of Prescott Valley is not responsible for lost or stolen property.
- R. Users are encouraged to travel with the "flow" of the park and not across it. Users shall not proceed down a ramp until clear of other skaters and/or bikers. Users must know their ability and skate/bike accordingly.
- S. Bike pegs are not permitted for use in the Skate/Bike Park.
- T. The Town of Prescott Valley reserves the right to change or modify user groups, use hours, or days of use.
- U. All persons using the Skate/Bike Park shall adhere to all other rules and regulations governing Town parks/property as set forth in the Town Code.

(Ord. No. 528, Enacted, 6/27/02; Ord. No. 573, Amended, 11/13/03; Ord. No. 703, Amended, 11/08/07)

### **10-02-050 Prohibited Activities on Other Property Owned or Operated by the Town.**

The following activities are prohibited at all times on or within any other property owned or operated by the Town, including the buildings, parking areas, sidewalks and surrounding grounds, unless otherwise expressly permitted by authorized Town officials:

- A. The possession of any open container of, or the consumption of "spirituous liquor" as defined in ARS §4-101(31), as amended.

(Ord. No. 175, Enacted, 04/28/88; Ord. No. 216, Amended, 11/09/89; Ord. No. 344, Rep&ReEn, 11/17/94; Ord. No. 614, Amended, 02/10/05; Ord. No. 759, Amended, 05/12/11; Ord. No. 759, Amended, 05/12/11)

### **10-02-055 Off-Leash Area Park(s) Rules and Regulations.**

All persons entering the Town's off-leash area park(s) shall strictly adhere to the following rules and regulations:

- A. For purposes of this Section, "leash" means a chain, rope, strap, cord or similar restraint attached to a collar or harness or otherwise secured around an animal's neck. "Leash" does not include electronic leashes or other similar electronic devices.
- B. All persons entering the Town's off-leash area park(s) are deemed to have acknowledged that the off-leash area park(s) are not supervised by the Town and that all use of the off-leash area park(s) is at the risk of the user.
- C. All persons entering the Town's off-leash area park(s) are deemed to have agreed to indemnify, defend, and save harmless the Town of Prescott Valley, its officers, employees, agents and volunteers for, from and against any accident, injury, including death, and/or loss of property or damage thereto sustained as a result of using the

off-leash area park(s).

- D. Dogs must be kept on a leash (no longer than six (6) feet) until inside the fenced off-leash area, subject to the exception set forth in A.R.S. §11-1024(L)(6) for service animals.
- E. Dog handlers must carry a leash for each dog in their custody while using the off-leash area, subject to the exception set forth in A.R.S. §11-1024(L)(6) for service animals.
- F. Dogs must be supervised and maintained under voice control at all times.
- G. Owners and/or handlers of dogs using the off-leash area are responsible and legally liable for the acts and conduct of the dog at all times when the dog is in a Town park.
- H. Aggressive dogs, as defined in Subsection 6-01-010(A) of the Town Code, shall be prohibited from entering the off-leash area at any time.
- I. Any dog exhibiting vicious, fierce, aggressive, or dangerous behavior shall be immediately removed from the off-leash area.
- J. No child or youth under the age of sixteen (16) shall be allowed in the off-leash area unless accompanied by an adult. Infants, toddlers and small children must remain within arm's reach of a supervising adult at all times and shall, in no instance, be permitted to run or chase dogs in the off-leash area.
- K. All dogs must be currently licensed and vaccinated against rabies, bordetella, distemper, and parvo.
- L. Puppies under the age of four (4) months shall not be permitted in the off-leash area until they have been vaccinated and licensed.
- M. All dogs must bear permanent ID (collar tag or microchip) and a current license.
- N. Dog owners and/or handlers shall be responsible for cleaning up after the dog(s) in their custody by removing and disposing of the dog's waste, using the canisters provided by the Town. This subsection shall not apply to an individual who has a disability and who uses a service animal as defined in A.R.S. §11-1024, or police officers or other law enforcement officers accompanied by police dogs while responding to an emergency.
- O. Female dogs in heat are not permitted within the facility.
- P. It is recommended that only spayed or neutered animals be permitted to use the off-leash area park(s).
- Q. Food bowls, long-lasting chews and/or dog food are not allowed within the facility. This subparagraph shall not be construed as prohibiting dog treats used for training/rewarding purposes.
- R. Smoking and eating within the off-leash facility are strictly prohibited.

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- S. Glass containers of any kind are not permitted in the off-leash area.
- T. No more than three (3) dogs per person shall be permitted at any time.
- U. Dog owners and/or handlers shall be responsible for providing water to their dogs before and after exercise.
- V. Incessant barking is prohibited. Dog owners and/or handlers shall immediately remove from the off-leash area any dog in their custody that ignores commands to stop barking.
- W. Dog agility equipment is for dog use only. Users of the off-leash area, including children, are prohibited from sitting on or playing with dog agility equipment.
- X. The off-leash area park(s) shall be open from 7:00 a.m. to dusk, seven (7) days per week. Use of the off-leash areas after the posted times is prohibited.
- Y. No one may enter the off-leash area park(s) during the time that it is closed for maintenance and repairs.
- Z. Any dog attack, dog/owner behavior issue and park maintenance concerns shall be reported to the Town of Prescott Valley Parks and Recreation Department immediately.
- AA. Any person violating or failing to comply with any of the provisions of this Section shall be guilty of a class 1 misdemeanor subject to fines and/or imprisonment as set forth in Section 1-08-010 of this Code.

(Ord. No. 632, Enacted, 07/14/05; Ord. No. 759, Amended, 05/12/11; Ord. No. 759, Amended, 05/12/11; Ord. No. 824, Amended, 02/23/17)

### **10-02-060 Permit to Possess or Consume Spirituous Liquor.**

- A. Upon application to the Town Clerk, the Town Council may, at its sole discretion, authorize the applicants and their invitees to possess and/or consume "spirituous liquor" as defined in ARS §4-101(31) (as amended) in, on or within Town parks, playgrounds, outdoor recreational areas, or other property owned or operated by the Town.
- B. Such permits shall, among other things, specify the names of the applicants, the persons in charge of the authorized group or function (if different from the applicants), the nature of the authorized group or function and the types of invitees expected to be part of the group or function, the specific locations where possession and/or consumption of spirituous liquor is authorized by the permit, and the times and dates when such possession and/or consumption is authorized.
- C. Applicants for such permits shall remit to the Town Clerk at the time of application a fee of seventy-five dollars (\$75.00) for a single-event permit, or a fee of one hundred

dollars (\$100.00) for a multiple-event permit [good for a period of thirty (30) days after approval by the Council]. Said fee shall be refunded in the event the permit is not issued by the Council. In the event the permit is issued but it is not used for any function, refunds may be issued in accordance with policies established by the Parks & Recreation Department.

- D. Nothing herein shall excuse compliance by any applicants with the requirements of Title 4 of the Arizona Revised Statutes (as amended) with regard to the sale of spirituous liquor.

(Ord. No. 175, Enacted, 04/28/88; Ord. No. 216, Amended, 11/09/89; Ord. No. 344, Rep&ReEn, 11/17/94, Ord. No. 533, Amended, 11/07/02; Ord. No. 614, Amended, 02/10/05; Ord. No. 759, Amended, 05/12/11; Ord. No. 759, Amended, 05/12/11)

#### **10-02-070 Penalty.**

Any violation of this Article shall be a misdemeanor, pursuant to Subsection 1-08-010(A).

(Ord. No. 271, Enacted, 01/09/92; Ord. No. 344, Renumbered, 11/17/94, 10-02-050)

#### **10-02-080 Town Facilities Use and Regulations.**

- A. There shall be adopted Town Facilities Usage Policies and Procedures to provide sufficient guidance to Town staff for the lawful, timely, effective, equitable, and consistent administration of the various types of real and personal property in which the Town has an interest. The policies and procedures shall apply to all of the various types of real and personal property in which the Town has an interest as a municipal corporation (including, but not limited to, lands and appurtenances inside and outside the Town limits) and to any and all persons, firms, associations, organizations, partnerships, companies or corporations that desire to occupy or use any of said real and personal property.
- B. The Council shall adopt the Town Facilities Usage Policies and Procedures by resolution and may modify or change the same by resolution from time to time. Any term or condition of usage of Town Facilities set out in said policies and procedures affected by such modification shall be changed or abolished upon the effectiveness of the resolution. The Town Manager, or his/her designee, shall be responsible for administering the Town Facilities Usage Policies and Procedures, and is authorized to promulgate such rules and regulations as may be appropriate to carry out the provisions of same.

(Ord. No. 533, Enacted, 11/07/02)

#### **10-02-090 Maintenance of Trees.**

- A. Authority. The Town Manager (or his/her designee) shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards

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of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the Town, and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Town. The Town Manager shall cause the provisions of this Section to be enforced.

- B. Abuse or Mutilation of Public Trees. No person shall intentionally damage, cut, carve, transplant, or remove any Public Tree; allow any gas, liquid, solid or other harmful substance to come in contact with any Public Tree; set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any Public Tree; attach any electrical installation to any Public Tree; or attach any wire, advertising posters or signs, nails, or other contrivance to any Public Tree. No person, except when authorized by the Public Works Director, shall undertake any construction or development activity, including, but not limited to, the excavation of ditches, tunnels, or trenches or the laying of pavement within the dripline of any Public Tree. For purposes of this Section, "Public Tree" means any tree in public parks, or areas to which the public has free access as a park, and all other areas owned by the Town and shall include those trees on public lands lying within the rights-of-way of all streets, avenues, boulevards, roads or ways within the Town.
- C. Violation and Penalty. Any person, tenant or property owner violating or failing to comply with any of the provisions of this Section shall be guilty of a class 1 misdemeanor subject to fines and/or imprisonment as set forth in Section 1-08-010 of this Code.

(Ord. No. 621, Enacted, 04/28/05)



**Article 10-03      *UNDERAGE DRINKING; NUISANCE PARTIES***

- 10-03-010 Purpose.
- 10-03-020 Definitions.
- 10-03-030 Enforcement.
- 10-03-040 Summary Abatement of Nuisance Parties.
- 10-03-050 Nuisance Parties a Civil Violation, Responsible Persons.
- 10-03-060 Second Law Enforcement Response to Nuisance Party Complaint, Warning Notice to Responsible Persons.
- 10-03-070 Notice of Nuisance Party, Posting, Removal of Notice Prohibited, Right to Contest Posting.
- 10-03-080 Removal of Notice Prohibited.
- 10-03-090 Notification of Property Owner.
- 10-03-100 Right to Contest Posting.
- 10-03-110 Subsequent Nuisance Parties on Posted Properties, Civil Violations, Responsible Persons.
- 10-03-120 Penalties.
- 10-03-130 Reserved.
- 10-03-140 Reserved.
- 10-03-150 Reserved.
- 10-03-160 Reserved.

**10-03-010 Purpose.**

The Town of Prescott Valley recognizes the threat to the public health, safety, peace and welfare of its citizens caused by inadequately supervised loud or unruly parties where alcohol and/or illegal drugs are served to, consumed by, or in the possession of underage persons. Youth who drink alcohol may experience among other things, trouble at school, alcohol-related car crashes, high risk sexual activity and alcohol poisoning. The service to and consumption of alcohol by minors at such parties may also significantly disrupt citizens quiet enjoyment of their households, especially in residential neighborhoods. The purpose of this Article is to deter nuisance parties by targeting the persons responsible for repeatedly hosting nuisance parties and allowing underage persons to consume alcohol or drugs on their premises.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-020, 9-08-020; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-020 Definitions.**

For the purposes of this section, unless the context otherwise requires, the following terms or phrases are defined as:

- A. "Responsible Person" means the property owner, agent, occupant, tenant, or any person otherwise having any possessory control, individually or jointly of any premises who either sponsors, conducts, hosts, invites, suffers, permits, or continues to allow a gathering to continue which is or becomes a nuisance party as described in

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this Article. If the person responsible for the event is a juvenile, then the juvenile and the parents or guardians of that juvenile will be jointly and severally liable for the fines incurred under this Chapter.

- B. "Premises" means the property that is the site of a nuisance party. For residential rental properties, premises mean the dwelling unit or units where the nuisance party occurs.
- C. "Nuisance Party" means a gathering of five (5) or more persons on any private property, where alcohol is served to, consumed by, or in the possession of underage persons which by reason of the conduct of those persons in attendance causes a substantial disturbance of the comfortable enjoyment of a neighborhood as a result of conduct constituting a violation of the law. Such violations include, but are not limited to:
1. Excessive, unnecessary or unusually loud noise or music that disturbs the comfort, quiet or repose of the neighborhood.
  2. Unlawful conduct causing injury to a person or persons.
  3. The unlawful sale, furnishing or service of alcohol to minors or consumption of alcohol by persons under the legal drinking age.
  4. The unlawful sale, furnishing, manufacture, use, or possession of a controlled substance as defined by federal or state law.
  5. Fighting, disturbing the peace, and disorderly conduct, or the destruction of property.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-030,,9-08-030,,9-09-140; Ord. No. 258, Amended, 06/27/91; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

### **10-03-030 Enforcement.**

The police department is authorized to enforce the provisions of this Article provided that enforcement is initiated by a complaint from a member of the public. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-040,9-08-050; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

### **10-03-040 Summary Abatement of Nuisance Parties.**

A peace officer may abate a nuisance party by reasonable means, including but not limited to the dispersal of the persons attending the gathering and citation and/or arrest of violators under the applicable ordinances or state statutes.

(Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Renumbered, 05/26/88, 9-08-040; Ord. No. 258, Amended, 06/27/91; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-050 Nuisance Parties a Civil Violation, Responsible Persons.**

- A. It shall be a civil violation for a responsible person to knowingly conduct or allow a nuisance party as defined herein. The following persons, if found responsible for such a violation, are liable for the civil penalties provided in Section 10-03-120 (A):
1. The person or person who organized or sponsored the event constituting the nuisance party, including any owner or occupant in attendance.
  2. Any person in attendance at the nuisance party who engaged in any unlawful conduct causing the gathering to be a nuisance party as defined herein.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-050; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-060 Second Law Enforcement Response to Nuisance Party Complaint, Warning Notice to Responsible Persons.**

- A. In addition to the citation and/or arrest of violators under all applicable ordinances or state statutes, officers responding to a site in which a nuisance party has been abated in the previous ninety (90) days, shall warn the responsible persons on site that a third response by law enforcement to nuisance party complaint at that site, shall result in the premises being posted as a nuisance property.
- B. Once a responsible person at the property has been verbally warned and the conduct causing the party to become a nuisance has ceased, a resumption of the nuisance party resulting in additional law enforcement response shall constitute a new and separate nuisance party for the purposes of this Article.
- C. Within ten (10) days of the nuisance party a written warning shall be mailed to the property owner, if not residing therein, in addition to responsible persons residing in the premises. The written warning notification shall state the date, place and nature of the second nuisance party and urge the responsible persons to take action to prevent such parties in the future. It shall further state that law enforcement response to nuisance parties occurring at the property within the next (ninety) 90 days may result in, (i) the property being deemed a nuisance; (ii) being posted as such, and; (iii) fines imposed pursuant to this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-060; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-070 Notice of Nuisance Party, Posting, Removal of Notice Prohibited, Right to Contest Posting.**

- A. When law enforcement officers respond to the site of a nuisance party for a third time

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in ninety (90) days, in addition to issuing citations for violations of Section 10-03-050 and any other violation of law, the premises shall be posted with a notice as provided in this Article for a period of one hundred and eighty days (180). The notice shall state:

1. That a nuisance party has occurred at the premises.
  2. The date of the nuisance party.
  3. Notice that subsequent nuisance parties occurring on the premises within one hundred and eighty (180) days shall result in liability for the penalties provided in Section 10-03-120 (B). Persons liable include any responsible person as defined in Section 10-03-020 (A) of this Article.
  4. The right to contest the posting as provided in Section 10-03-100 of this Article.
- B. Posting Requirements. The owner, occupant or tenant of the premises or sponsor of the event constituting the nuisance party, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.
1. In the event that a premise is already posted at the time of a subsequent nuisance party, the one hundred and eighty (180) period from the date of the existing posting shall be extended ninety (90) days from the expiration date of the subsequent posting and the notice shall remain posted on the property until the expiration of the additional time period.
  2. Once a premise is initially posted as a result of a nuisance party and the conduct causing the party to become a nuisance has ceased, a resumption of the nuisance party resulting in additional law enforcement response shall constitute a new and separate nuisance party for the purposes of this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-070; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-080 Removal of Notice Prohibited.**

The owner, occupant, or tenant of the posted premises shall be responsible for ensuring the notice is not removed, defaced or concealed. The removal, defacement, or concealment of a posted notice is a civil violation carrying a minimum, mandatory one hundred dollar (\$100.00) fine, in addition to any other penalties that may be imposed under this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-080; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-090 Notification of Property Owner.**

- A. Notification of the posting of the notice of nuisance parties shall be mailed to any property owner at the address shown on the Yavapai County Property Tax Assessment

Records. The notification shall advise the property owner that any subsequent nuisance party within one hundred and eighty(180) days on the same premises shall result in liability of the property owner for all applicable penalties as provided in this Article. Notification shall be made by certified mail and the return receipt shall be prima facie evidence of service. Additionally, notice shall be provided to an agent of the owner who controls or regulates the use of the premises, if known. Notice to the owner's agent may be provided by hand delivery or by certified or regular mail to the agent's last known address.

- B. The failure to serve notice to any person described in this subsection shall not invalidate any citation or other proceedings as to any other person duly served, or relieve any such person from any duty imposed by this Article/Section.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-090; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

#### **10-03-100 Right to Contest Posting.**

- A. The owner, occupant, or tenant of the posted premises may contest the posting of the notice by filing a written petition for review with the Prescott Valley Magistrate Court requesting that the Court determine whether justification existed for posting the notice under the provisions of this Article. The petition must be filed within ten (10) days after the posting of the notice or, if the notice is given by mail, within fifteen (15) days after receipt of the written petition and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the town prosecutor of the hearing date. The Arizona Rules of Procedure in Civil Traffic and Civil Boating Violation Cases shall apply. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the Town has the burden of proving by a preponderance of the evidence that the posting of the notice was justified pursuant to the provisions of this Article.
- B. An owner of a posted premises, at any time after the posting or the mailing of the notice, may petition the court for an order directing the removal of the notice on the grounds that the owner has taken responsible and necessary actions, such as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent nuisance party at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen days after receipt of the petition and shall notify both the petitioner and the town prosecutor of the hearing date. At the hearing, the petitioner has the burden of proving by a preponderance of the evidence that he or she has taken reasonable and necessary actions to prevent the occurrence of a subsequent nuisance party. This petition process is not available to an owner who was present at the nuisance party and engaged in conduct causing the gathering to be a nuisance as defined herein.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-100; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

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**10-03-110 Subsequent Nuisance Parties on Posted Properties, Civil Violations, Responsible Persons.**

- A. The occurrence of a nuisance party on premises posted as a nuisance property more than once in any one hundred and eighty (180) day period constitutes a civil violation. The following parties, if found responsible for such a violation, are liable for the civil penalties provided in Section 10-03-120:
1. The owner of the property where the subsequent nuisance party occurred, if either:
    - a. The owner was present when the property was posted, or
    - b. Notification of posting was mailed or delivered to the owner of the property per Section 10-03-080, and the subsequent nuisance party occurred not less than two (2) weeks after the mailing of such notification.
  2. The occupant or tenant of the property where the subsequent nuisance party occurred.
  3. The person or persons who organized or sponsored the event constituting the subsequent nuisance party.
- B. Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the event constituting the nuisance party, for the conduct of persons who are in attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant or sponsor has taken steps reasonably necessary to prevent a subsequent nuisance parties or to exclude the uninvited persons from the premises, including owners who are actively attempting to evict a tenant from the premises.
- C. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purposes of determining liability under this section.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-110; Ord. No. 295, Rep&ReEn, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-120 Penalties.**

- A. Nuisance Party. The penalty for persons found responsible for a nuisance party violation as provided in Section 10-03-150, shall be a minimum mandatory fine of one hundred dollars (\$100.00).
- B. Nuisance parties on posted properties. The penalty for persons found responsible for

the occurrence of a nuisance party at a posted property, as provided in Section 10-03-070, shall be:

1. A minimum mandatory civil fine of five hundred dollars (\$500.00) for a first violation,
2. A minimum mandatory civil fine of one thousand dollars (\$1,000.00) for a second violation, and
3. Minimum mandatory civil fines of one thousand five hundred dollars (\$1,500.00) for each third or subsequent violation.

C. The civil fines provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of a nuisance party.

(Ord. No. 295, Enacted, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, 09/08/2011)

**10-03-130 Reserved.**

(Ord. No. 295, Enacted, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03)

**10-03-140 Reserved.**

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-120; Ord. No. 295, Ren&Amd, 07/22/93, 10-03-120; Ord. No. 559, Rep&ReEn, 07/10/03)

**10-03-150 Reserved.**

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-130,9-08-070; Ord. No. 295, Renumbered, 07/22/93, 10-03-130; Ord. No. 559, Rep&ReEn, 07/10/03)

**10-03-160 Reserved.**

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-130,9-08-070; Ord. No. 295, Renumbered, 07/22/93, 10-03-130; Ord. No. 539, Amended, 02/27/03; Ord. No. 559, Rep&ReEn, 07/10/03)

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**Article 10-04 WEAPONS (DISCHARGE)**

- 10-04-010 Purpose.
- 10-04-020 Definitions.
- 10-04-030 Discharge of Weapons.
- 10-04-040 Reserved.
- 10-04-045 Reserved.
- 10-04-050 Reserved.
- 10-04-060 Reserved.

**10-04-010 Purpose.**

The purpose of this Article is to regulate, as allowed by State law, the discharge of weapons within the Town of Prescott Valley in order to protect the health, safety and welfare of visitors and residents of the Town.

(Ord. No. 189, Enacted, 11/10/88; Ord. No. 307, Amended, 10/14/93; Ord. No. 786, Amended, 01/23/14)

**10-04-020 Definitions.**

- A. "Deadly Weapon" means anything designed for lethal use (including a firearm).
- B. "Discharge" means to expel a projectile from a weapon. "
- C. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will expel, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.
- D. "Peace Officers" means any person vested by law with a duty to maintain public order and make arrests.

(Ord. No. 189, Enacted, 11/10/88; Ord. No. 759, Amended, 05/12/11; Ord. No. 759, Amended, 05/12/11; Ord. No. 786, Amended, 01/23/14)

**10-04-030 Discharge of Weapons.**

- A. Except as provided in paragraph B of this section, it is unlawful for any person other than a peace officer on duty to discharge a firearm within one mile of an occupied structure, as defined in A.R.S. §13-3101, within the limits of the Town of Prescott Valley.
- B. During an open season established by the Arizona Game and Fish Commission for the



lawful taking of wildlife a person may discharge a firearm within one-fourth mile of an occupied structure without the consent of the owner or occupant of the structure. For the purposes of this paragraph B:

1. "Occupied Structure" means any building in which, at the time of the firearm's discharge a reasonable person from the location where a firearm is discharge would expect a person to be present.
- C. It is unlawful for any person other than a peace officer on duty to discharge a firearm in Town parks and preserves except as follows:
1. On a properly supervised range as defined in A.R.S. §13-3107.
  2. In an area approved as a hunting area by the Arizona game and fish department. Any such area may be closed when deemed unsafe by the director of the Arizona game and fish department.
  3. To control nuisance wildlife by permit from the Arizona game and fish department or the United States fish and wildlife service.
  4. By special permit of the Prescott Valley Chief of Police.
- D. It is unlawful to discharge deadly weapons (other than firearms) within the Town limits in an unreasonable or unsafe manner. However, nothing in this Article shall be construed as prohibiting private property owners, or their invitees, from engaging in bow and arrow or crossbow target practice on the owners' private property under adult supervision in a reasonable and safe manner.
- E. Nothing in this Article shall be construed as prohibiting a person from discharging a weapon:
1. As allowed pursuant to A.R.S. §13-401 *et seq.*
  2. As required by an animal control officer in performing duties specified in A.R.S. §9-499.04.
  3. In self-defense or defense of another person against an animal attack if a reasonable person would believe that deadly physical force against the animal is immediately necessary and reasonable under the circumstances to protect oneself or the other person.
- F. Any violation of this Section 10-04-030 shall be punished as a class 2 misdemeanor.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Repealed, 05/26/88, 11-01-210; Ord. No. 189, Enacted, 11/10/88; Ord. No. 252, Amended, 03/14/91; Ord. No. 273, Amended, 04/09/92; Ord. No. 759, Amended, 05/12/11; Ord. No. 765, Amended, 09/22/11; Ord. No. 786, Amended, 01/23/14; Ord. No. 795, Amended, 08/28/14)

10-04-040 Reserved.

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(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Repealed, 05/26/88, 11-01-210; Ord. No. 189, Enacted, 11/10/88; Ord. No. 759, Amended 05/12/11; Ord. No. 786, Rep&ReEn, 01/23/14)

### **10-04-045    Reserved.**

(Ord. No. 533, Enacted, 11/07/02; Ord. No. 759, Rep&ReEn, 05/12/11)

### **10-04-050    Reserved.**

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Repealed, 05/26/88, 11-01-210; Ord. No. 189, Enacted, 11/10/88; Ord. No. 759, Amended 05/12/11; Ord. No. 786, Rep&ReEn, 01/23/14)

### **10-04-060    Reserved.**

(Ord. No. 189, Enacted, 11/10/88; Ord. No. 307, Rep&ReEn, 10/14/93; Ord. No. 393, Amended, 07/11/96; Ord. No. 614, Amended, 02/10/05; Ord. No. 759, Amended 05/12/11; ; Ord. No. 786, Rep&ReEn, 01/23/14)

**Article 10-05      ALARM SYSTEMS**

- 10-05-010    Purpose.
- 10-05-020    Definitions.
- 10-05-030    Exemptions.
- 10-05-040    Alarm Registration Requirement; False Alarm Warning Notice; Annual Renewal Requirement.
- 10-05-050    Alarm User Responsibilities and Duties.
- 10-05-060    Alarm Business Responsibilities and Duties.
- 10-05-070    False Alarms; Assessments.
- 10-05-080    False Alarm Review Procedure.
- 10-05-090    Payment of Fees and Assessments.
- 10-05-110    Appeal Procedures for False Alarm Assessments.
- 10-05-120    Grace Period.
- 10-05-130    Prohibition of Automatic or Prerecorded Messages; Exception.
- 10-05-140    Police Department Delegation of Duties.

**10-05-010    Purpose.**

This Article is intended to regulate the activities and responsibilities of those persons who purchase, own, lease or rent alarm systems and those persons who own or operate businesses that monitor or service alarms or alarm systems. It is further intended to encourage the improvement in reliability of these systems and to insure that public safety personnel will not be unduly endangered or diverted from responding to actual criminal activity or other required duties as a result of responding to false alarms. This ordinance specifically encompasses all alarm systems monitoring a structure, including but not limited to burglar alarms and robbery and panic alarms, both audible and inaudible. By adopting the provisions as set forth in this Article, the Town of Prescott Valley, its officers, employees and agents shall not assume any greater duty or obligation to an alarm user than that which is owed to the public in general by the Town, its officers, employees and agents.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

**10-05-020    Definitions.**

For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein.

- A.    "Act of Nature". An unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight.
- B.    "Alarm" or "Alarm System". Any mechanical, electrical or other device or system used for the purpose of protecting buildings, places or premises from criminal acts or

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unauthorized entries by warning of an illegal entry or other criminal activity through the emission or transmission of an alarm signal.

- C. "Alarm Administrator". Any person, persons, company or independent contractor hired by the Town to administer, control and review false alarm reduction efforts and administer the provisions of this Article. The Alarm Administrator may also be a Police Department employee, as designated by the Chief of Police
- D. "Alarm Coordinator". Police Department employee designated by the Chief of Police to represent the Town of Prescott Valley in the administration of this Article, and to act as liaison to the Alarm Administrator
- E. "Alarm System User". Any person who leases, rents, purchases, uses or is otherwise responsible for an alarm or alarm system, device or service at the premises where an alarm system is located.
- F. "Audible Alarm". An alarm or alarm system designed for the detection of a criminal act or an unauthorized entry on a building, place or premises and which, when activated, generates an audible sound on or in the premises.
- G. "Burglary, Robbery or Panic Alarm". Any alarm or alarm system designed for the detection of a burglary, robbery or the commission of an unlawful act, and which when activated automatically or intentionally, generates an inaudible signal to a central monitoring station and is designed to alert or cause to be alerted Police Department personnel to an emergency situation occurring to or against an individual or premises. A burglary, robbery or panic alarm may also generate an audible sound on the premises.
- H. "Cancellation". The process where police response is terminated when the alarm business or other responsible person (as designated by the alarm system user) notifies police dispatch that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arrival at the scene, this shall not be considered a false alarm for the purpose of this Article and no Assessment shall be charged.
- I. "Common Cause". A common technical difficulty or malfunction which causes an alarm system to generate a series of false alarms, all of which occur within a twenty-four (24) hour period. The series of false alarms shall be counted as one false alarm only if the cause is repaired within seventy-two (72) hours and/or before it generates additional false alarms, documentation of the repair is provided to the Alarm Administrator, and during the thirty (30)-day period following the repair, the alarm system generates no additional false alarms from the documented cause.
- J. "Enhanced Call Verification (ECV)". An independent method whereby the alarm monitoring company attempts to determine that a signal from an automatic alarm system reflects a need for immediate police assistance or investigation, by making at least two (2) phone calls to the responsible party or parties. The time for such verification shall not exceed more than five (5) minutes from the time the alarm signal has received by the alarm system monitoring company.

- K. "False Alarm". Any activation of an alarm or alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm system user, his/her employees or agents, that signals to summon law enforcement personnel, unless law enforcement response was cancelled by the alarm system user or the alarm system user's agent prior to the arrival of law enforcement at the alarm location. An alarm is false within the meaning of the Article when, upon inspection by the Police Department, evidence indicates that no unauthorized entry, robbery, or other crime was committed or attempted in or on the premises, which would have activated a properly functioning alarm or alarm system. Notwithstanding the foregoing, a false alarm shall not include the following:
1. An activation caused by law enforcement;
  2. An activation for testing purposes when the police department has been given advance notice of such testing;
  3. An activation which can reasonably be determined to have been caused by an act of nature; or
  4. Other extraordinary circumstances not reasonably subject to control by the alarm system user.
- L. "Person". Any individual, corporation, partnership, incorporated association or any other legal entity.
- M. "Proprietary Alarm System". An alarm system exclusively owned by an individual or corporation that is (1) not rented, leased, installed, maintained, monitored or serviced by an alarm business; (2) does not emit an audible alarm; and (3) to which response is provided solely by the user or his or her own security force.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

#### 10-05-030 Exemptions.

The provisions of this Chapter are not applicable to:

- A. Fire alarm systems.
- B. Audible alarms affixed to a motor vehicle, watercraft, or aircraft.
- C. Proprietary alarm systems, as defined herein.
- D. Independent, stand-alone alarm systems installed or placed by or at the direction of the Prescott Valley Police Department for law enforcement purposes.
- E. Alarm or alarm signals caused by the testing, repair or malfunction of telephone equipment lines or electrical utility equipment or lines that are not reasonably subjected to control by the alarm user.

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- F. Personal emergency response alarms or medical alert alarms worn or carried on a person's body for the purpose of summoning assistance in a panic situation or medical emergency.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

**10-05-040 Alarm Registration Requirement; False Alarm Warning Notice; Annual Renewal Requirement.**

- A. When any unregistered alarm or alarm system generates a false alarm as defined herein, the alarm administrator shall provide written notification, by mail, to the alarm user that he or she is now required to apply for and obtain an alarm registration permit and pay an alarm registration permit fee of fifteen dollars (\$15).
- B. The alarm registration application shall be available through the Alarm Administrator and must be submitted within ten (10) business days of receipt of the notification. A \$15 late fee shall be added to any registration application not received within the 10-day period.
- C. The Alarm Administrator shall, at the same time, inform the alarm user that the next false alarm occurring at the alarm location within a consecutive three hundred and sixty-five (365) calendar day period shall result in a false alarm assessment in the amount of fifty-two dollars (\$52). The notification shall also include the following:
  - 1. A copy of this alarm ordinance, and
  - 2. False alarm education material including, but not limited to, information regarding the availability of online false alarm educational classes.
- D. Any law enforcement response to a false alarm occurring at a location in which a prior false alarm has occurred and resulted in the registration requirement noted above in Subsection (A) and the alarm user has failed to obtain the required alarm registration, shall result in an additional thirty dollar (\$30) fee for failure to comply with the registration requirements.
- E. Once an alarm or alarm system has been registered pursuant to Subsection A, above, the alarm user shall submit an alarm registration permit renewal application annually and pay an alarm permit renewal fee of \$15.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

**10-05-050 Alarm User Responsibilities and Duties.**

The responsibilities and duties of all alarm users operating alarm systems in the Town of Prescott Valley are as follows:

- A. Instruct all persons authorized to place the alarm or alarm system into operation in the appropriate method of operation for the system and for locking and securing all points of entry.

- B. Maintain the alarm or alarm system in good working order and take reasonable measures to prevent false alarms.
- C. Provide the name and contact information (including, but not limited to, a current telephone number) to the alarm business monitoring the alarm or other person authorized to place the alarm system into operation, of the primary person responsible for responding to the premises in the event of a false alarm. In addition, the alarm owner shall provide the name and contact information of at least one alternate person responsible for responding to the premises if the primary person cannot be reached when the alarm is activated and shall keep all information as required above up-to-date.
- D. Respond to the scene within thirty (30) minutes after notification by the Police Department or the subscribers alarm business of the alarm's or alarm system's activation.
- E. In the event that an alarm user or other responsible party cannot be reached by the Police Department or an alarm monitoring company or does not arrive at the scene of an alarm within 30 minutes, the Police Department shall have no further obligation to remain on scene or to otherwise secure the premises at which the alarm is activated.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

#### **10-05-060 Alarm Business Responsibilities and Duties.**

The responsibilities and duties of all alarm businesses doing business within the Town of Prescott Valley shall be as follows:

- A. Instruct each of its alarm or alarm system purchasers and subscribers in the proper use and operation of the alarm or alarm system. Such instruction shall include all necessary instructions in turning the alarm or alarm system on and off and in avoiding false alarms.
- B. To provide each purchaser and subscriber a copy of this Article.
- C. Upon installing, maintaining or servicing an alarm or alarm system:
  - 1. Ensure that the alarm or alarm system is installed, maintained or serviced in good working order, as applicable.
  - 2. Take reasonable measures to prevent the occurrence of false alarms.
  - 3. The alarm business shall use Enhanced Call Verification protocol as defined herein, prior to contacting law enforcement to verify that the alarm actually requires law enforcement response.
- D. Upon renting or leasing an audible alarm:

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1. Conspicuously place on the premises a tag identifying the telephone number to call when the alarm has been activated.
  2. Maintain records of the location of all such alarms and the name and telephone number of the primary contact person and alternate to be notified whenever the alarm is activated and readily report such information to the police department upon request.
  3. Inactivate or cause to be inactivated an audible alarm within fifteen (15) minutes of the notification of its activation in the event the primary and/or alternate contact persons cannot be contacted, or after being informed by law enforcement that the responsible persons did not respond within thirty (30) minutes.
- E. In addition to the certificate and registration requirements provided under ARS §32-121 et seq., an alarm business shall apply for and maintain a valid Prescott Valley Business License.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

**10-05-070 False Alarms; Assessments.**

- A. When any registered alarm or alarm system generates a false alarm within any consecutive three hundred sixty-five (365) calendar day period, the alarm administrator shall provide written notification of the false alarm by mail to the alarm user or their authorized designee and/or the alarm business, as applicable, at the address registered with the Alarm Administrator. The written notification shall:
1. State the details regarding the false alarm,
  2. State the amount of the penalty to be assessed,
  3. Set forth the process by which the alarm user may appeal the false alarm assessment.
- B. In order to reimburse the Town of Prescott Valley for law enforcement response to a false alarm as described above, the party responsible for the false alarm shall be assessed fifty-two dollars (\$52) for each and every false alarm occurring within the 365 calendar day period.
1. The alarm assessment shall be waived for a false alarm happening at a location in which no false alarms have occurred within a consecutive 365 calendar day period.
  2. The assessment for a second false alarm occurring within a consecutive 365 calendar day period shall be waived by the Alarm Administrator upon proof of completion of an alarm education class authorized by the Alarm Coordinator. An alarm user may only complete an alarm education class once in a consecutive 365-day period.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)



**10-05-080 False Alarm Review Procedure.**

- A. Any party aggrieved by a decision of the Alarm Administrator may appeal the determination of false alarms by submitting a report to the Alarm Coordinator within twenty (20) days of the date of mailing of the written false alarm notification. The report shall contain:
1. A description of the action taken to discover and eliminate the cause of the false alarm(s).
  2. The specific reasons(s), if any, why the false alarm(s) should not be subject to an assessment. Evidence that an alarm was caused by an act of nature, common cause or action of the telephone company shall constitute valid reasons why an assessment should not be imposed. With respect to subscribers only, evidence that the false alarm was due to defective equipment or other fault of the alarm business shall relieve the subscriber from liability and shall shift the responsibility to the alarm business monitoring the alarm or alarm system.
  3. If the report required in Subsection (A) is not submitted within the specified time-period any further review or appeal of the assessment shall be considered to have been waived by the aggrieved party and they shall be held liable for the false alarm assessment.
  4. After submission of the report required above, the Alarm Coordinator shall review the information provided and may make a determination regarding the cause of the false alarm and the specific reason(s), if any, for the false alarm(s). The alarm coordinator may:
    - a. Overrule the Assessment, finding that the corrective action taken will substantially reduce the likelihood of false alarms, or that a valid reason for the false alarm(s) has been shown, and the aggrieved party is not liable for the assessment as imposed by the Alarm Administrator, or
    - b. Uphold the Assessment, finding that the corrective action taken or to be taken will not substantially reduce the likelihood of false alarms or that a valid reason for the false alarm(s) has not been shown and the aggrieved party is liable for the assessment as imposed by the Alarm Administrator.
  5. Written notice shall be sent to the aggrieved party indicating the decision of the Alarm Coordinator and shall set forth the findings and conclusions with respect to the review of the report submitted.

(Ord. No. 180, Enacted, 08/25/88; Ord. No. 700, Repealed 10/25/08; Ord. No. 779, Enacted, 11/21/13)

**10-05-090 Payment of Fees and Assessments.**

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- A. Except as otherwise provided for in this Article, any and all fees and assessments shall be paid to and received by the Alarm Administrator within thirty (30) days from the date a notice of false alarm assessment is deposited in the regular first class U.S. Mail with postage fully paid and addressed to the responsible party.
- B. Failure to pay such false alarm assessment within 30 days from the date of the notice may result in legal action by the Town or its authorized designee, to collect all unpaid fees and assessments. The 30-day period may be tolled during the pendency of (1) a false alarm review, and (2) an appeal to the Town Manager as set forth below.
- B. After the false alarm assessment has been mailed as required above, and if there has been no contact from the responsible party for sixty (60) days a "Final Notice" shall be mailed. This Final Notice will require the immediate payment of the false alarm assessment.
- C. If there is no additional response from the responsible party within 30 days after the Final Notice was mailed, the Alarm Administrator may send the unpaid assessment to a collection agency and shall notify the responsible party that such action has been taken.
- D. Any unpaid balance of an assessment as listed herein shall be subject to interest in the maximum amount allowable under Arizona law.

(Ord. No. 779, Enacted, 11/21/13)

**10-05-110 Appeal Procedures for False Alarm Assessments.**

- A. Any party aggrieved by a decision of the Alarm Coordinator, made pursuant to a false alarm review and a subsequent assessment determination may appeal such decision to the Town Manager. The appeal shall be requested within twenty (20) days from the date of the mailing of the Alarm Coordinator's written notice pursuant to Subsection 10-05-080(A)(5). The appeal shall be in writing and shall set forth specifically the grounds for such an appeal.
- B. Within five (5) business days of the appeal, the Town Manager shall contact the aggrieved party and may, in his/her discretion, stay any enforcement of the assessment pending a final determination of the appeal and set a time and place to meet with the aggrieved party as soon as practicable.
- C. At that meeting, the aggrieved party shall have the opportunity to present and discuss their position or concerns regarding the Alarm Coordinator's review of the false alarm assessment. The Town Manager shall hear and consider such evidence as is relevant to the determination of such issues. The Town Manager shall not be bound by technical rules of evidence or procedure in conducting the meeting.
- D. The Town Manager shall render a written decision within ten (10) business days after the meeting has been conducted based on the evidence presented by the Alarm Coordinator and the appellant. The decision of the Town Manager shall be final.

(Ord. No. 779, Enacted, 11/21/13)

**10-05-120 Grace Period.**

All newly installed or reinstalled alarms and alarm systems shall not be subject to the provisions of this Article relating to the counting and assessment of false alarms for a period of thirty (30) days from the date the alarm or alarm system becomes operational. For the purposes of this Section, "reinstalled" means the installation of a new control panel.

(Ord. No. 779, Enacted, 11/21/13)

**10-05-130 Prohibition of Automatic or Prerecorded Messages; Exception.**

No person shall use or cause to be used any telephone device or attachment that automatically selects or dials a published emergency telephone number or any Town telephone number and then reproduces a prerecorded message or signal. This Section shall not apply to a life safety alert system utilizing residential transmitting equipment designated for direct telephone access to dedicated control receiving equipment located in a local fire department.

(Ord. No. 779, Enacted, 11/21/13)

**10-05-140 Police Department Delegation of Duties.**

Except as otherwise provided in this section, the Chief of Police is authorized to delegate an Alarm Administrator, or to any other authorized designee, all duties of the Police Department as set forth in this Article. Except as specifically set forth herein, the Chief of Police may not delegate any duty specifically reserved to law enforcement.

(Ord. No. 779, Enacted, 11/21/13)

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**Article 10-06 ADMINISTRATIVE HEARING OFFICER**

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**10-06-010 Office of Administrative Hearing Officer.**

There is hereby established in the Town the office of Administrative Hearing Officer to assist with enforcement of the Town Code by hearing, deciding and resolving non-traffic violations designated as civil violations.

(Ord. No. 431, Enacted, 11/20/97; Ord. No. 539, Amended, 02/27/03)

**10-06-020 Appointment of Hearing Officers.**

- A. One or more Hearing Officers shall be appointed from time to time by the Town Council for two-year terms. The compensation for such officers shall be set from time to time in the Classification Plan of the Personnel Manual, and such officers shall be part of the Personnel System as set forth in Article 3-03 of this Code (as amended).
- B. Hearing Officers may be current employees of the Town of Prescott Valley. However, no Hearing Officer may be a current employee of the Prescott Valley Community Development Office (or its successor), and no Hearing Officer shall continue in office if he or she has a conflict-of-interest as defined in Article 8, Chapter 3, Title 38 of the Arizona Revised Statutes (as amended).
- C. It is expressly understood that such Hearing Officers are administrative officers of the Town and are not officers of the judicial branch of government. Therefore, they shall be subject to removal with or without cause prior to completion of their terms as set forth hereafter in this Article.

(Ord. No. 431, Enacted, 11/20/97)

**10-06-030 Scope of Authority.**

- A. The office of Administrative Hearing Officer is hereby granted authority to hear, decide and resolve all civil complaints filed by authorized Town officers, officials or agents against violations of the Town Code and to enter judgment and impose civil

sanctions against defendants found responsible for such violations. Such authority is separate and apart from the jurisdiction of the Magistrate Court.

- B. The discretion to either file civil complaints with the office of the Administrative Hearing Officer or to arrange to file criminal complaints in the Magistrate Court or seek other remedies in other forums shall rest solely with authorized Town officers, officials or agents.
- C. At any time prior to satisfaction of a judgment and order issued by a Hearing Officer with regard to a particular civil complaint filed with the office of the Administrative Hearing Officer, the authorized Town officers, officials or agents may dismiss that complaint and, at his or her discretion, arrange for a criminal complaint to be filed with the Magistrate Court or seek other available remedies in other forums. However, in the event any judgment and order issued by a Hearing Officer is satisfied by a defendant in the opinion of the Hearing Officer, no Town officers, officials or agents shall arrange for a criminal complaint to be filed in the Magistrate Court or seek other available remedies in other forums with regard to the subject matter of the civil complaint filed with the office of the Administrative Hearing Officer.

(Ord. No. 431, Enacted, 11/20/97; Ord. No. 539, Amended, 02/27/03)

#### **10-06-040 Hearing Officer Powers and Duties.**

Each Hearing Officer appointed by the Town Council shall exercise the following powers and duties:

- A. Hear, decide and enter judgments and orders to resolve complaints filed by authorized Town officers, officials or agents regarding violations of the Town Code;
- B. Issue subpoenas and summonses ordering appearance of defendants and witnesses before the Hearing Officer;
- C. Administer oaths;
- D. Conduct and continue hearings;
- E. Receive and rule upon evidence presented;
- F. Assess against defendants and waive (where appropriate) such civil sanctions as have been set from time to time by Council resolution; and
- G. Take such other actions, make such other rulings, and issue such other orders as may be necessary to hear, decide and resolve complaints of Town Code violations.

(Ord. No. 431, Enacted, 11/20/97; Ord. No. 539, Amended, 2/27/03)

#### **10-06-050 Standard of Review.**

## OFFENSES

The standard of review to be applied to the judgments of Hearing Officers as to whether a defendant has violated a provision of the Town Code is a preponderance of the evidence presented.

(Ord. No. 431, Enacted, 11/20/97)

### **10-06-060 Proceedings.**

- A. Proceedings within the office of the Administrative Hearing Officer shall be commenced pursuant to Article 1-08.
- B. No Hearing Officer shall collect the civil sanctions assessed against defendants, but shall direct defendants to pay such sanctions directly to the office of Management Services (or its successor).

(Ord. No. 431, Enacted, 11/20/97; Ord. No. 539, Amended, 02/27/03)

### **10-06-070 Removal of Hearing Officers.**

Hearing Officers serve at the pleasure of the Town Council and may be removed at any time, with or without cause, by vote of the Council. In the event a Hearing Officer is removed prior to the completion of his or her term, the successor shall be appointed for a new two-year term beginning as of the date of appointment, without regard to the term of the prior Hearing Officer.

(Ord. No. 431, Enacted, 11/20/97)