

## ORDINANCE NO. 774

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING SECTIONS 2-01-010 AND 2-01-050(A) IN ARTICLE 2-01 "COUNCIL", SECTION 2-02-010 IN ARTICLE 2-02 "MAYOR", AND SECTION 2-03-010 IN ARTICLE 2-03 "COUNCIL ELECTION" IN CHAPTER 2 "MAYOR AND COUNCIL" OF THE TOWN CODE TO COMPLY WITH AMENDMENTS BY THE LEGISLATURE TO ARS §16-204 REQUIRING ALL MUNICIPAL ELECTIONS TO BE HELD IN THE FALL OF EVEN-NUMBERED YEARS TO CORRESPOND WITH STATE AND FEDERAL ELECTIONS; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; PROVIDING THAT ALL OTHER PROVISIONS NOT HEREIN AMENDED SHALL REMAIN IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, in 2012 the Arizona Legislature adopted HB 2826 (Session Laws 353) whereby it amended ARS §16-204 to require all municipalities in the state to hold their regular candidate elections in the fall of even-numbered years in order to correspond with state and federal elections; and

WHEREAS, said law becomes effective on January 1, 2014; and

WHEREAS, said law requires adjusting the length of terms for Mayor, Council member and for alternative expenditure limitation elections which have already been set in recent elections; and

WHEREAS, the legality of alternatively shortening or extending such terms at the municipal level has been in question; and

WHEREAS, in 2013 the Legislature adopted SB 1454 (Session Laws 254) §22 to resolve this question; and

WHEREAS, said legislation provides that a city or town may lengthen the terms of office for its elected officials in order to comply with the prescribed consolidation of election dates; and

WHEREAS, said legislation further provides that cities or towns whose alternative expenditure limitations were set to expire in 2016 (or sooner) the penalties prescribed in ARS §41-1279.07 will not apply if the city or town seeks voter approval for a new alternative expenditure limitation in the fall of that year; and

WHEREAS, the Town most recently adopted its Alternative Expenditure Limitation at the primary election held on March 12, 2013; therefore it appears the Town will be required to hold any new election for an Alternative Expenditure Limitation in Fall 2016 rather than at a primary election in March 2017; and

WHEREAS, the consolidated election mandate of this recent amendment to ARS §16-204 risks unnaturally increasing the number of votes needed for a candidate for Mayor or Council member to be declared elected at the primary election (since voters may cast a ballot but may choose not to actually vote for local candidates after having voted for federal and state candidates); and

WHEREAS, in 2010 the Arizona Legislature attempted to address this concern by adopting HB 2491 (Session Laws 51) which allowed cities and towns to provide that the total of all votes tabulated for the candidates for the office of mayor would constitute the total number of votes cast at the election for purposes of calculating whether a candidate for mayor or city council has received a majority of all votes cast at the primary election;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That Section 2-01-010 “Elected Officers” in Article 2-01 “COUNCIL” in Chapter 2 “MAYOR AND COUNCIL” of the Town Code of the Town of Prescott Valley, Arizona, be hereby amended to read as follows:

**2-01-010 Elected Officers.**

The elected officials of the Town shall be a Mayor and six (6) Council members, who shall constitute the Town Council. Beginning with the Town election in ~~1985~~ 2018 and each alternate election thereafter, the Mayor and two (2) Council members shall be elected. Beginning with the ~~1987~~ 2016 election and each alternate election thereafter, four (4) Council members shall be elected. The Mayor and Council members shall hold office for terms of four (4) years each and until their successors are elected and qualified.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 774, Amended, 8/22/13)

SECTION TWO. That Subsection A, Section 2-01-050 “Compensation” in Article 2-01 “COUNCIL” in Chapter 2 “MAYOR AND COUNCIL” of the Town Code be hereby amended to read as follows:

**2-01-050 Compensation.**

The compensation of the Mayor and Council members is fixed herein and may

be modified from time to time by an ordinance that shall be passed only with a two-thirds (2/3) vote of the Council; provided that the compensation allowed to the Mayor and Council members shall be subject to the provisions of Article IV, Part 2, Section 17 of the Arizona Constitution.

A. Any increase or decrease in compensation shall be subject to the following:

1. It shall become effective for the Mayor and all Council members after the date set for the regular election (notwithstanding that the Mayor and/or any one (1) Councilmember may have been elected at the primary election), following passage of the ordinance increasing or decreasing the compensation; and
2. Following the election, the increase or decrease in compensation will not actually begin to be earned until the first (1st) day of ~~July~~ January.

. . .

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 219, Amended, 01/25/90; Ord. No. 339, Amended, 10/27/94; Ord. No. 410, Amended, 01/23/97; Ord. No. 687, Amended, 05/10/07; Ord. No. 774, Amended, 8/22/13)

SECTION THREE. That Section 2-02-010 “Selection of Mayor” in Article 2-02 “MAYOR” in Chapter 2 “MAYOR AND COUNCIL” of the Town Code be hereby amended to read as follows:

**2-02-010 Selection of Mayor.**

Beginning at the Town election in ~~1985~~ 2018, the Mayor shall be elected to a term of four (4) years and shall qualify for office as provided in Sections 2-01-060 and 2-01-070.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 774, Amended, 8/22/13)

SECTION FOUR. That Section 2-03-010 “Primary Election” in Article 2-03 “COUNCIL ELECTION” in Chapter 2 “MAYOR AND COUNCIL” of the Town Code be hereby amended to read as follows:

**2-03-010 Primary Election.**

Any candidate, including a candidate for Mayor, who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided

that if more candidates receive a majority than there are offices to be filled then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected. For the purposes of this Section, the total of all votes tabulated for the candidates for the office of mayor constitutes the total number of votes cast at the election and shall be the basis for calculating whether a candidate for mayor or city council has received a majority of all votes cast at the election.

(Ord. No. 5, Enacted, 12/14/78; Ord. No. 8, Rep&ReEn, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 774, Amended, 8/22/13)

SECTION FIVE. That all other provisions of the Town Code of the Town of Prescott Valley, Arizona, not herein amended, shall remain in full force and effect.

SECTION SIX. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION SEVEN. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 22<sup>nd</sup> day of August, 2013.

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Harvey C. Skoog, Mayor

ATTEST:

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Diane Russell, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney