

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: July 9, 2015**

SUBJECT: Revised Town Policy No. 1-07 "Town Facilities Usage"

SUBMITTING DEPARTMENT: Legal

PREPARED BY: Ivan Legler, Town Attorney

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: a) Resolution No. 1924, and b) Revised Policy No. 1-07 Town Facilities Usage (including Appendix A "Civic Center Public Forum Areas")

SUMMARY/BACKGROUND: The "Prescott Valley Policies and Procedures Manual" includes Policy No. 1-07 "Town Facilities Usage" which provides guidance to Town staff and the public regarding usage of the various types of real and personal property in which the Town has an interest.

For many years, use of tobacco products on and in Town property and facilities has been prohibited by state law (and by Policy No. 1-07). However, products known as "e-cigarettes" which are not yet covered by state law have grown in popularity and usage of such products by both adults and youth on and in Town property and facilities (particularly the public Library) has been observed. E-cigarettes are devices that heat up a liquid and turn it into vapor that is then inhaled or "vaped." They run on lithium batteries and contain a vaporization chamber for the liquid in the attached cartridge. Puffing triggers the heating and vaporizing of the liquid. Some (but not all) e-cigarettes attempt to mimic the appearance of regular cigarettes by including an LED tip that glows. E-cigarettes are smoke-free and tobacco-free but are not necessarily nicotine-free. The liquid is typically a combination of nicotine, flavorings (such as bubble gum or watermelon), propylene glycol (a solvent), and other additives. The amount of nicotine depends on the particular cartridge used (some containing amounts comparable to regular cigarettes and others with lower levels). Indeed, some purport to contain no nicotine at all but only flavorings.

Increased use of e-cigarettes in public places has raised concern. Concentrated liquid nicotine can be lethal if ingested in sufficient amounts. Less than one tablespoon of the liquids in many cartridges could kill an adult if ingested at once. As little as a teaspoon could kill a child. Food and Drug Administration testing has found that some cartridges under the same manufacturing label released significantly different levels of nicotine (ranging from 26.8 to 43.2 micrograms nicotine per 100 milliliter puff). Some cartridges labeled nicotine-free actually provided a low dose. In 2009, the FDA found that some cartridges of liquid nicotine contained about 1 percent diethylene glycol (a toxic chemical ingredient also found in antifreeze). And, some testing has suggested that certain e-cigarette devices may release metals during use -- including tin in some cases -- as well as other impurities known to be toxic and/or carcinogenic.

The impact of vapor exhaled by e-cigarette users on those around them in enclosed spaces is a particular matter of concern. Persons in the immediate vicinity of persons vaping nicotine-filled cartridges will be exposed to nicotine. Though studies to-date suggest the exposure is far less than smoke from regular cigarettes (10 times lower) and secondhand vapor doesn't contain significant amounts of tobacco-specific toxins (e.g. carbon monoxide or other toxic volatile organic compounds), those aware of the significant

risks from second-hand exposure to tobacco smoke often find it disconcerting when exposed to vapor exhaled by e-cigarette users.

Use of e-cigarettes by youth has raised concerns that it models similar behavior of cigarette smoking which public agencies (particularly schools) have worked for years to eradicate among youth.

In April 2014, the FDA proposed to apply regulations on e-cigarettes (and other previously unregulated tobacco products) under the Family Smoking Prevention and Tobacco Control Act. This would include requiring disclosure of all ingredients, restrictions on marketing, and prohibition of sales to minors. And, some countries (including Australia, Canada, Israel and Mexico) and some local U.S. jurisdictions (like Los Angeles, Chicago and New York) have banned e-cigarettes or restricted their use in some public venues. In Arizona, some local government entities have taken similar steps to at least restrict e-cigarette use in public buildings and vehicles.

At a work-study session held on February 5, 2015, the Town Council discussed these issues and directed staff to prepare proposed regulations for Council adoption to address known and uncertain hazards for public and employee health involved with e-cigarette usage inside Town-owned facilities and vehicles. In response, staff has added language in Subsection 6.9(B) of Policy No. 1-07 to prohibit vaping in all Town Facilities and vehicles.

In the process of adding this language to Policy No. 1-07, it was noted that the Policy was very lengthy and detailed and needed to be simplified in substance and organization. Staff has attempted to do that with this revision. It was also noted that on April 13, 2015, the Governor of Arizona had signed into law H.B. 2008 “Fireworks” requiring all cities and towns in Yavapai County (and similar rural areas) to allow the sale and use of fireworks within their boundaries during prescribed time periods. Consequently, the Town Code has been amended to only prohibit use of fireworks within the Town limits at the times and in the circumstances allowed by state law. But, in the process, it was noted that use of fireworks could still be prohibited in Town Facilities (except for fireworks programs actually conducted by the Town), and that has been accomplished in Subsection 6.14(E) of Policy No. 1-07. Finally, it was noted that the description of public forum areas in the Civic Center complex lacked the specificity needed to help staff respond to public inquiries about areas where solicitation, demonstrations and other 1st Amendment activities could take place. Therefore, the map which staff had prepared in the past based on word descriptions in Policy No. 1-07 should be revised and expressly attached to the Policy as Appendix A. _

OPTIONS ANALYSIS: Council may adopt Resolution No. 1924 approving the revised Town Policy No. 1-07 Town Facilities Usage, propose revisions to the Policy (including revisions to Appendix A) prior to approval, OR decline to adopt Resolution No. 1924 approving the revised Policy (including Appendix A).

ACTION OPTION: Motion to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1924 approving the revised Town Policy No. 1-07 Town Facilities Usage (including Appendix A “Civic Center Public Forum Areas”), **OR** Motion not to adopt Resolution No. 1-07 approving revised Town Policy No. 1-07. **VOTE.**

RECOMMENDATION: Town staff recommends authorizing signature of Resolution No. 1924 approving revised Town Policy No. 1-07 Town Facilities Usage, including Appendix A “Civic Center Public Forum Areas”.

FISCAL ANALYSIS: Town staff does not see a direct fiscal impact related to this action. However, clarity with regard to regulation of “vaping” in Town buildings, use of fireworks on Town property (including the parks), and location of public forum areas in the Civic Center complex will likely assist the Town in avoiding certain potential enforcement costs.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____