

RESOLUTION NO. 1924

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, REPEALING AND REENACTING ADMINISTRATIVE POLICY NO. 1-07 "TOWN FACILITIES USAGE" OF THE PRESCOTT VALLEY POLICIES AND PROCEDURES MANUAL IN ORDER TO REORGANIZE AND SIMPLIFY SAID POLICY, INCLUDE REGULATIONS REGARDING USE OF E-CIGARETTES AND FIREWORKS WITHIN TOWN FACILITIES, AND CLARIFY PUBLIC FORUM, LIMITED FORUM AND NON-FORUM DESIGNATIONS; PROVIDING THAT IF ANY PROVISION IN THIS POLICY IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, by Resolution No. 1029 (dated July 26, 2001), the Town Council adopted the "Prescott Valley Policies and Procedures Manual," which consolidated all Town policies into a single notebook made up of individual, numbered policies on various topics; and

WHEREAS, by Resolution No. 1126 (dated October 10, 2002), the Council adopted Policy No. 1-07 "Town Facilities Usage" ("Policy No. 1-07") to provide guidance to Town staff regarding lawful, timely, effective, equitable, and consistent administration of the various types of real and personal property in which the Town has an interest; and

WHEREAS, Policy No. 1-07 was subsequently amended by Resolution No. 1349 (dated May 26, 2005) (authorizing staff to direct persons to immediately vacate facilities premises under certain circumstances), Resolution No. 1408 (dated February 9, 2006) (prohibiting paintball games in Town facilities), Resolution No. 1535 (dated October 11, 2007) (implementing the Smoke-Free Arizona Act), Resolution No. 1745 (dated April 28, 2011) (firearms regulation), and Resolution No. 1850 (dated August 22, 2013) (regulating entry of service animals in Town facilities in accordance with Arizona law); and

WHEREAS, because tobacco smoking is known to contribute to one out of every five deaths in the United States, the use of so-called smokeless tobacco products (including e-cigarettes) has grown substantially and continues to grow; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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. Calls to poison control centers regarding accidental poisonings from e-cigarette liquids rose sharply every month between September 2010 and February 2014. Unfortunately, the amount of nicotine listed on particular cartridge labels may not match actual amounts. Food and Drug Administration testing 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. Moreover, e-cigarette manufacturers are not currently required to disclose all the ingredients used or to verify health and safety claims. 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. Researchers have recently found that e-cigarette users also experience diminished lung function, airway resistance and cellular changes (similar to cells exposed to tobacco smoke). Even users who vape nicotine-free e-cigarettes experience airway resistance and other signs of inflammation; and

WHEREAS, the impact of vapor exhaled by e-cigarette users on those around them in enclosed spaces is a 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; and

WHEREAS, in light of current uncertainties regarding impacts on users and non-users of e-cigarettes, there is increasing debate about whether restrictions similar to those applied to tobacco smoking should be imposed by regulatory agencies. 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; and

WHEREAS, in recent months, increasing e-cigarette use has been reported in facilities of the Town of Prescott Valley (particularly in the Public Library). Such use by both adults and youth has been noted. Use by youth has raised concerns that it models the similar behavior of cigarette smoking which public agencies (particularly schools) have worked for years to eradicate among youth. And, use by adults raises concerns about the yet-unknown secondhand effects of inhaling nicotine and non-nicotine vapor in enclosed areas; and

WHEREAS, 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; and

WHEREAS, it is now proposed that the Town Council adopt by Resolution No. ____ the following amendments to Policy No. 1-07 to prohibit use of e-cigarettes anywhere in or on Town-owned facilities or vehicles (to the same extent that tobacco smoking is prohibited in such facilities and vehicles); and

WHEREAS, on April 13, 2015, the Governor of Arizona 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 is proposed that Policy No. 1-07 be revised to clarify that use of fireworks is prohibited at all times in Town Facilities (unless part of a fireworks program conducted by the Town); and

WHEREAS, staff also proposes that Policy No. 1-07 be revised to clarify the designations of public-forum, limited-forum and non-forum Facilities, including the attached map that shows the public-forum areas in the Civic Center complex; and

WHEREAS, the Town Council finds that this revised Policy 1-07 “Town Facilities Usage” meets the health, safety and welfare needs of the community;

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

1. That Policy No. 1-07 “Town Facilities Usage” (initially adopted on October 10, 2002 and subsequently amended) be hereby repealed and re-enacted in its entirety. [Said policy is attached hereto and expressly made a part hereof].

2. That, if any provision in this Resolution [or in said re-enacted policy] is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

3. That this Resolution shall be effective after its passage and approval according to the law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 9th day of July, 2015.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney