

Ordinance No. 810

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT "PROPERTY MAINTENANCE AMENDMENTS" DECLARED BY RESOLUTION NO. 1934 TO BE A PUBLIC RECORD; REVISING ARTICLE 9-04 "PROPERTY MAINTENANCE" IN CHAPTER 9 "HEALTH AND SANITATION" OF THE TOWN CODE BY AMENDING SECTION 9-04-010 "DEFINITIONS", REPEALING AND REENACTING SECTIONS 9-04-020 "OWNER, LESSEE OR OCCUPANT TO MAINTAIN PROPERTY" AND 9-04-030 "PROHIBITION AGAINST PLACING RUBBISH ON OTHER PROPERTY", ENACTING A NEW SECTION 9-04-035 "CRIMINAL AND CIVIL LIABILITY", AND RENAMING AND OTHERWISE AMENDING SECTIONS 9-04-040 "NOTICE TO COMPLY", 9-04-070 "ABATEMENT BY TOWN" AND 9-04-080 "ASSESSMENT FOR ABATEMENT" TO (AMONG OTHER THINGS) SPECIFY THAT OWNERS, LESSEES OR OCCUPANTS OF REAL PROPERTY SHALL REMOVE RUBBISH (INCLUDING OTHER ACCUMULATIONS OF FILTH, RELATED DEBRIS, AND DILAPIDATED BUILDINGS) THAT CONSTITUTE A HAZARD TO PUBLIC HEALTH AND SAFETY FROM APPURTENANT, ADJACENT OR CONTIGUOUS SIDEWALKS, ALLEYS AND PORTIONS OF STREETS WHICH ARE NOT HARD-SURFACED FOR VEHICULAR TRAFFIC, MAINTAIN SAID AREAS IN A CLEAN AND SAFE CONDITION, AND OTHERWISE AVOID KEEPING OR MAINTAINING ANY NUISANCE THEREON (INCLUDING KEEPING THE PORTION OF ANY SIDEWALK IMMEDIATELY ADJACENT TO THE PROPERTY CLEAN AND FREE OF SNOW AND ICE); FURTHER SPECIFYING THAT OWNERS, LESSEES OR OCCUPANTS OF REAL PROPERTY SHALL KEEP THE PORTION OF ANY SIDEWALK IMMEDIATELY ADJACENT TO THE PROPERTY IN GOOD CONDITION AND REPAIR; CONFORMING WITH AMENDMENTS TO ARIZONA REVISED STATUTES LIMITING THE ABILITY OF MUNICIPALITIES TO REQUIRE PAYMENT OF ASSESSMENTS FOR TOWN ABATEMENT OF VIOLATIONS OF THE ARTICLE FROM OWNERS OF RESIDENTIAL PROPERTY OF FOUR (4) OR FEWER UNITS SERVING AS A RENTAL (WITH A TENANT AT THE TIME OF REMOVAL); SETTING FORTH IN FULL THE PENALTY CLAUSES; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES, AND SECTIONS OF THE TOWN CODE, 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, ARS §9-240(B)(21)(a) grants Arizona towns authority to define, abate and remove nuisances, and punish persons committing nuisances; and

WHEREAS, ARS §9-240(B)(21)(b) grants Arizona towns authority to compel the owner or occupant of any house or premises to clean the grounds, stables, alleys, streets and walks appurtenant and adjacent thereto; and

WHEREAS, ARS §9-499 grants Arizona cities and towns authority to compel by ordinance owners, lessees or occupants of real property (including structures on the property) to remove rubbish, trash, weeds, or other accumulations of filth, debris or dilapidated buildings that

constitute a hazard to public health and safety from the property and its contiguous sidewalks, streets, and alleys; and

WHEREAS, in *Bonito Partners LLC v Flagstaff*, 229 Ariz. 75 (AZ 2012), the Arizona Court of Appeals construed ARS Title 9 to encompass the authority of cities to require private property owners to repair sidewalks adjacent to their property; and

WHEREAS, under this authority the Prescott Valley Town Council has heretofore adopted Town Code Article 9-04 to require owners, lessees or occupants of property to maintain their property (including abutting public rights-of-way) free of rubbish to prevent it from becoming unsightly or detracting from the appearance of the immediate neighborhood or becoming a threat to the safety and welfare of the citizens; and

WHEREAS, staff now proposes that this Article be revised to clarify (similar to other Arizona communities) that owners, lessees or occupants of real property shall remove rubbish (including other accumulations of filth, related debris, and dilapidated buildings) that constitute a hazard to public health and safety from appurtenant, adjacent or contiguous sidewalks, alleys and portions of streets which are not hard-surfaced for vehicular traffic, maintain said areas in a clean and safe condition, and otherwise avoid keeping or maintaining any nuisance thereon (including keeping the portion of any sidewalk immediately adjacent to the property clean and free of snow and ice); and

WHEREAS, staff further proposes to specify that owners, lessees or occupants of real property shall keep the portion of any sidewalk immediately adjacent to the property in good condition and repair; and

WHEREAS, ARS §9-499 has previously authorized cities and towns to abate such hazards if owners, lessees or occupants do not do so after notice, and then assess the cost thereof on the property as a lien superior to all other liens (except general taxes); and

WHEREAS, on April 1, 2015, the Governor of Arizona signed into law S.B. 1342, which amended ARS §9-499 to prohibit cities and town from requiring payment from a homeowner for an assessment imposed for removal of rubbish, trash, filth or debris if the property has 4 units or less, was serving as a rental, and had a tenant at the time of the assessment; and

WHEREAS, the Town Council must now amend Article 9-04 to conform to this new prohibition; and

WHEREAS, the Council hereby finds that these revisions to Article 9-04 are in the best interests of the community and are designed to further the health, safety and welfare of its citizens; and

WHEREAS, ARS §9-802 provides for adoption by reference of certain lengthy documents designated as "public records" (in order to save on publication costs); and

WHEREAS, the document entitled “Property Maintenance Amendments” has been declared by Resolution No. 1934 to be such a “public record”; and

WHEREAS, ARS §9-803 requires in such cases that the penalty clauses (if any) in those public records be set forth in full in the adopting ordinance so that they may be published;

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

SECTION ONE. That certain document entitled “Property Maintenance Amendments” declared to be a “public record” by Resolution No. 1934 (and available for public inspection in the Office of the Town Clerk, 7501 East Civic Circle, Prescott Valley, Arizona, 86314), is hereby referred to, adopted and made a part hereof as if fully set forth herein.

SECTION TWO. That a new Section 9-04-035 “Criminal and Civil Liability” in Article 9-04 “PROPERTY MAINTENANCE” in Chapter 9 “HEALTH AND SANITATION” of the Town Code, is hereby enacted to read as follows:

9-04-035 Criminal and Civil Liability

Violation of this Article shall constitute a class 1 misdemeanor or a civil offense as set forth in Article 1-08 of this Code.

SECTION THREE. That all other Chapters, Articles and Sections of the Town Code, not herein amended, shall remain in full force and effect.

SECTION FOUR. 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 FIVE. 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 3rd day of December, 2015.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney