

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: December 10, 2015**

SUBJECT: Proposed Maintenance of Sidewalks, Ditches & Unused ROW by Adjacent Owners

SUBMITTING DEPARTMENT: Public Works
Community Development

PREPARED BY: Norm Davis, Public Works Director
Richard Parker, Community Development Director

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

ATTACHMENTS: (a) Resolution No. 1934, (b) Ordinance No. 810, and (c) public record "Property Maintenance Amendments"

SUMMARY/BACKGROUND: On November 12, 2015, the Town Council considered a draft ordinance requiring private property owners to keep sidewalks adjacent to their property free of snow and ice, confirming the current requirement that adjacent property owners maintain unused public rights of way (including adjacent storm water drainage ditches) free of weeds, and requiring private owners to keep any adjacent sidewalks in good repair. After considerable discussion, the Council directed staff to remove the requirement for owners to keep adjacent sidewalks in good repair and to include direction for enforcement staff to consider addressing circumstances of indigency and physical and mental incapacity through such efforts as coordination with service groups, diversion programs, and community service programs.

For many years, the Town had few sidewalks, curbs and gutters or related stormwater drainage systems. It did, however, have unused right of way areas between lots and travel ways and stormwater ditches which could become overgrown with weeds. Town staff regularly removed silt accumulations from the drainage ditches and cut the weeds immediately adjacent to the travel ways a few times each season. But, it did not have the manpower to cut the weeds in all unused right of way areas or to cut weeds in drainage ditches as often as was needed. Therefore, the Town has historically relied on private property owners to maintain such areas adjacent to their lot at the same time they cut the weeds on their lot. Now, as the Town has found grant money to build sidewalks, curbs, gutters and stormwater drainage systems on major roadways (and new subdivisions have built such infrastructure and turned it over to the Town) there is a need to ask private property owners to also keep those improvements free of weeds, snow and ice.

Cities and towns generally have a duty to maintain their public rights of way. But, they also have statutory authority to share that duty with owners of adjacent property because of the special benefit those owners receive from the rights of way and the public improvements built therein. The Town has previously relied on that authority to share the responsibility with private property owners to keep the weeds down in unused right of way areas and drainage ditches. Now it is proposed that the Town add the responsibility for adjacent property owners to keep sidewalks free of weeds, snow and ice.

To accomplish this, it is necessary to amend Town Code Article 9-04. And, since this Article has not been updated in many years it is necessary to make clarifying amendments to definitions and reorganize the traditional nuisance and abatement provisions. Furthermore, the Arizona Legislature adopted SB

1342 in 2015 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. Thus, this Ordinance must also revise the abatement and lien processes in Article 9-04 to comply with that legislation.

[Note: ARS §9-802 provides for adoption by reference of particularly lengthy or complex ordinances when they are declared to be “public records. Thus, the changes to Article 9-04 are prepared as a separate document for later approval by reference.]

OPTIONS ANALYSIS: N/A for discussion only

ACTION OPTION: N/A for discussion only

RECOMMENDATION: N/A for discussion only

FISCAL ANALYSIS: This extension of shared maintenance responsibility with adjacent private property owners is necessary to avoid the considerable additional expenses which would be necessary for the manpower and equipment to maintain new sidewalks.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____