

**TOWN OF PRESCOTT VALLEY  
REQUEST FOR COUNCIL ACTION  
Date: October 7, 2010**

**SUBJECT:** Amend Section 10-01-030 “Fireworks” of the Town Code

**SUBMITTING DEPARTMENT:** Legal Department

**PREPARED BY:** Colleen Auer, Deputy Town Attorney

**AGENDA LOCATION:** Comments/Communications , Consent , Work/Study ,  
New Business , Public Hearing , Second Reading  (Check appropriate box)

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**ATTACHMENTS:** a) Ordinance No. 752

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**SUMMARY/BACKGROUND:** Section 10-01-030 “Fireworks” of the Town Code was originally enacted in 1979. It prohibited the use or possession of fireworks within Town limits without a permit from the Police Chief

The Arizona Legislature has now amended the state’s fireworks law, A.R.S. §§36-1601 et seq., to provide for the sale of certain “permissible consumer fireworks” (as defined by A.R.S. §36-1601) in Arizona. The new law, which takes effect December 1, 2010, authorizes the State Fire Marshal to adopt rules regarding the sale of “permissible consumer fireworks” and requires retailers to comply with those rules. Sales of such fireworks are prohibited to persons under the age of 16.

The new law also allows city or town councils to regulate the use of some or all of these fireworks within their corporate limits; counties may regulate them in unincorporated areas during times when there is a reasonable risk of wildfires in the immediate county.

The kinds of consumer fireworks that can be sold under the new law include:

- Ground and hand-held sparkling devices
- Cylindrical fountains
- Cone fountains
- Illuminating torches
- Wheels
- Ground spinners
- Flitter sparklers
- Toy smoke devices
- Wire sparklers or dipped sticks
- Multiple tube fireworks devices and pyrotechnic articles

NOT included is anything designed or intended to rise into the air and explode or to fly above the ground, such as:

- Bottle rockets
- Sky rockets
- Missile-type rockets
- Helicopters
- Torpedos
- Roman candles
- Jumping jacks

Items not regulated by the new law include:

- Toy pistols, canes or guns that use paper caps and paper caps themselves
- Federally deregulated novelty items such as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers.

Under the new law, cities or towns may regulate the use of “permissible consumer fireworks” within their corporate limits by passing a local ordinance or resolution. The local regulation cannot prohibit the sale of such fireworks within the city or town, but it can prescribe requirements for their use or prohibit their use altogether within the city’s or town’s corporate limits.

The proposed revisions to Section 10-01-030 “fireworks” of the Town Code will bring the Town’s fireworks provisions current with the new law by (i) permitting the sale of “permissible consumer fireworks” within the Town subject to certain restrictions and limitations, as set forth in A.R.S. §§36-1605, 36-1609 and Town Code, and (ii) prohibiting the use of such fireworks within the Town’s limits.

The proposed revisions are consistent with the recommendations of the Central Yavapai Fire District Fire Marshal in light of the perceived risks and fire hazards in this area, and have been reviewed and approved by the Fire Marshall, Police Chief Maxson and the Town’s Parks & Recreation Director. Other communities in the area, including Prescott, Cottonwood, Sedona and Dewey-Humboldt, have enacted, or are expected to enact, similar provisions prohibiting the use of “permissible consumer fireworks” within their corporate limits.

This is the second time this matter is being brought forward in work study for Council’s consideration. On September 2, 2010, Council considered a set of proposed revisions to Section 10-01-030 “Fireworks” to which certain objections had been raised by proponents of the new law. The objections centered on proposed retail signage, labeling and licensing requirements that objectors claimed improperly regulated the *sale* of fireworks (as opposed to their use) in violation of the new law. It was determined that Town staff would perform additional research concerning the objections, including evaluating the National Fire Protection Association (NFPA) requirements incorporated into the new law and federal regulations governing the sale of fireworks, and make any adjustments to the proposed fireworks ordinance deemed appropriate as a result of that research. Town staff has now completed that work and presents a revised ordinance for Council’s consideration. The revisions address the objections previously raised by tracking the language of the new law, NFPA requirements incorporated into the new law, federal regulations for permitting, storage, labeling and sale of fireworks and the League of Arizona Cities and Towns’ proposed model “fireworks” ordinance based on the new law.

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**OPTIONS ANALYSIS:** N/A For discussion only.

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**ACTION OPTION:** N/A For discussion only.

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**RECOMMENDATION:** N/A For discussion only.

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**FISCAL ANALYSIS:** The Town will have to devote personnel time and resources to enforce these new fireworks provisions at some administrative cost to the Town. These administrative costs may be recouped in whole or part through the civil and/or criminal enforcement processes included in the proposed revisions to address violations of this Section of Town Code, as amended.

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**REVIEWED BY:**

Management Services Director \_\_\_\_\_ Town Clerk \_\_\_\_\_

Town Attorney \_\_\_\_\_

Town Manager \_\_\_\_\_

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**COUNCIL ACTION:**

Approved    Denied    Tabled/Deferred    Assigned to \_\_\_\_\_