

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: October 28, 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

ATTACHMENTS: (a) Ordinance No. 752

SUMMARY/BACKGROUND: Section 10-01-030 “Fireworks” of the Town Code was originally enacted in 1979.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.

The proposed revisions also track the language of the new law, National Fire Protection Association 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. Additionally, the proposed revisions emphasize the fact that violations of the ordinance are punishable as class 3 misdemeanors and as otherwise provided by Town Code Article 1-08 and other applicable law.

At its regular meeting on October 14, 2010, the Council voted to read Ordinance No. 752 on two separate occasions by title only, then place the same on final passage. The Clerk then read the Ordinance for the first reading.

OPTIONS ANALYSIS: The Council may adopt the ordinance as drafted, suggest revisions prior to adoption, or decline to adopt the proposed ordinance.

ACTION OPTION: [the Mayor instructs the Town Clerk to read Ordinance No. 752 by title only for the second reading, then asks “Shall the Ordinance Pass?”] **VOTE.**

RECOMMENDATION: Staff recommends approval of Ordinance No. 752.

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 criminal and/or civil enforcement processes included in the proposed revisions to address violations of this Section of Town Code, as amended.

REVIEWED BY:

Management Services Director _____ Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____