

Article 10-03 UNDERAGE DRINKING; NUISANCE PARTIES

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10-03-010 Purpose.

The Town of Prescott Valley recognizes the threat to the public health, safety, peace and welfare of its citizens caused by inadequately supervised loud or unruly parties where alcohol and/or illegal drugs are served to, consumed by, or in the possession of underage persons. Youth who drink alcohol may experience among other things, trouble at school, alcohol-related car crashes, high risk sexual activity and alcohol poisoning. The service to and consumption of alcohol by minors at such parties may also significantly disrupt citizens quiet enjoyment of their households, especially in residential neighborhoods. The purpose of this Article is to deter nuisance parties by targeting the persons responsible for repeatedly hosting nuisance parties and allowing underage persons to consume alcohol or drugs on their premises.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-020, 9-08-020; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, ___/___/___)

10-03-020 Definitions.

For the purposes of this section, unless the context otherwise requires, the following terms or phrases are defined as:

- A. “Responsible Person” means the property owner, agent, occupant, tenant, or any person otherwise having any possessory control, individually or jointly of any premises who either sponsors, conducts, hosts, invites, suffers, permits, or continues to allow a gathering to continue which is or becomes a nuisance party as described in this Article. If the person responsible for the event is a juvenile, then the juvenile

and the parents or guardians of that juvenile will be jointly and severally liable for the fines incurred under this Chapter.

- B. "Premises" means the property that is the site of a nuisance party. For residential rental properties, premises mean the dwelling unit or units where the nuisance party occurs.
- C. "Nuisance Party" means a gathering of five (5) or more persons on any private property, where alcohol is served to, consumed by, or in the possession of underage persons which by reason of the conduct of those persons in attendance causes a substantial disturbance of the comfortable enjoyment of a neighborhood as a result of conduct constituting a violation of the law. Such violations include, but are not limited to:
 - 1. Excessive, unnecessary or unusually loud noise or music that disturbs the comfort, quiet or repose of the neighborhood.
 - 2. Unlawful conduct causing injury to a person or persons.
 - 3. The unlawful sale, furnishing or service of alcohol to minors or consumption of alcohol by persons under the legal drinking age.
 - 4. The unlawful sale, furnishing, manufacture, use, or possession of a controlled substance as defined by federal or state law.
 - 5. Fighting, disturbing the peace, and disorderly conduct, or the destruction of property.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-030,,9-08-030,,9-09-140; Ord. No. 258, Amended, 06/27/91; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-030 Enforcement.

The police department is authorized to enforce the provisions of this Article provided that enforcement is initiated by a complaint from a member of the public. The complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-040,9-08-050; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-040 Summary Abatement of Nuisance Parties.

A peace officer may abate a nuisance party by reasonable means, including but not limited to the dispersal of the persons attending the gathering and citation and/or arrest of violators under the applicable ordinances or state statutes.

(Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Renumbered, 05/26/88, 9-08-040; Ord. No. 258, Amended,

06/27/91; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-150 Nuisance Parties a Civil Violation, Responsible Persons.

- A. It shall be a civil violation for a responsible person to knowingly conduct or allow a nuisance party as defined herein. The following persons, if found responsible for such a violation, are liable for the civil penalties provided in Section 10-03-120 (A):
 - 1. The person or person who organized or sponsored the event constituting the nuisance party, including any owner or occupant in attendance.
 - 2. Any person in attendance at the nuisance party who engaged in any unlawful conduct causing the gathering to be a nuisance party as defined herein.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-050; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-060 Second Law Enforcement Response to Nuisance Party Complaint, Warning Notice to Responsible Persons.

- A. In addition to the citation and/or arrest of violators under all applicable ordinances or state statutes, officers responding to a site in which a nuisance party has been abated in the previous ninety (90) days, shall warn the responsible persons on site that a third response by law enforcement to nuisance party complaint at that site, shall result in the premises being posted as a nuisance property.
- B. Once a responsible person at the property has been verbally warned and the conduct causing the party to become a nuisance has ceased, a resumption of the nuisance party resulting in additional law enforcement response shall constitute a new and separate nuisance party for the purposes of this Article.
- C. Within ten (10) days of the nuisance party a written warning shall be mailed to the property owner, if not residing therein, in addition to responsible persons residing in the premises. The written warning notification shall state the date, place and nature of the second nuisance party and urge the responsible persons to take action to prevent such parties in the future. It shall further state that law enforcement response to nuisance parties occurring at the property within the next (ninety) 90 days may result in, (i) the property being deemed a nuisance; (ii) being posted as such, and; (iii) fines imposed pursuant to this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-060; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-070 Notice of Nuisance Party, Posting, Removal of Notice Prohibited, Right to Contest Posting.

- A. When law enforcement officers respond to the site of a nuisance party for a third time in ninety (90) days, in addition to issuing citations for violations of Section 10-03-150

and any other violation of law, the premises shall be posted with a notice as provided in this Article for a period of one hundred and eighty days (180). The notice shall state:

1. That a nuisance party has occurred at the premises.
 2. The date of the nuisance party.
 3. Notice that subsequent nuisance parties occurring on the premises within one hundred and eighty (180) days shall result in liability for the penalties provided in Section 10-03-120 (B). Persons liable include any responsible person as defined in Section 10-03-020 (A) of this Article.
 4. The right to contest the posting as provided in Section 10-03-100 of this Article.
- B. Posting Requirements. The owner, occupant or tenant of the premises or sponsor of the event constituting the nuisance party, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.
1. In the event that a premise is already posted at the time of a subsequent nuisance party, the one hundred and eighty (180) period from the date of the existing posting shall be extended ninety (90) days from the expiration date of the subsequent posting and the notice shall remain posted on the property until the expiration of the additional time period.
 2. Once a premise is initially posted as a result of a nuisance party and the conduct causing the party to become a nuisance has ceased, a resumption of the nuisance party resulting in additional law enforcement response shall constitute a new and separate nuisance party for the purposes of this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-070; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-080 Removal of Notice Prohibited.

The owner, occupant, or tenant of the posted premises shall be responsible for ensuring the notice is not removed, defaced or concealed. The removal, defacement, or concealment of a posted notice is a civil violation carrying a minimum, mandatory one hundred dollar (\$100.00) fine, in addition to any other penalties that may be imposed under this Article.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-080; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-090 Notification of Property Owner.

- A. Notification of the posting of the notice of nuisance parties shall be mailed to any property owner at the address shown on the Yavapai County Property Tax Assessment Records. The notification shall advise the property owner that any subsequent nuisance party within one hundred and eighty(180) days on the same premises shall result in liability of the property owner for all applicable penalties as provided in this Article. Notification shall be made by certified mail and the return receipt shall be prima facie evidence of service. Additionally, notice shall be provided to an agent of the owner who controls or regulates the use of the premises, if known. Notice to the owner's agent may be provided by hand delivery or by certified or regular mail to the agent's last known address.
- B. The failure to serve notice to any person described in this subsection shall not invalidate any citation or other proceedings as to any other person duly served, or relieve any such person from any duty imposed by this Article/Section.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-090; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-100 Right to Contest Posting.

- A. The owner, occupant, or tenant of the posted premises may contest the posting of the notice by filing a written petition for review with the Prescott Valley Magistrate Court requesting that the Court determine whether justification existed for posting the notice under the provisions of this Article. The petition must be filed within ten (10) days after the posting of the notice or, if the notice is given by mail, within fifteen (15) days after receipt of the written petition and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the town prosecutor of the hearing date. The Arizona Rules of Procedure in Civil Traffic and Civil Boating Violation Cases shall apply. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the Town has the burden of proving by a preponderance of the evidence that the posting of the notice was justified pursuant to the provisions of this Article.
- B. An owner of a posted premises, at any time after the posting or the mailing of the notice, may petition the court for an order directing the removal of the notice on the grounds that the owner has taken responsible and necessary actions, such as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent nuisance party at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen days after receipt of the petition and shall notify both the petitioner and the town prosecutor of the hearing date. At the hearing, the petitioner has the burden of proving by a preponderance of the evidence that he or she has taken reasonable and necessary actions to prevent the occurrence of a subsequent nuisance party. This petition process is not available to an owner who was present at the nuisance party and engaged in conduct causing the gathering to be a nuisance as defined herein.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-100; Ord. No. 295, Amended, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-110 Subsequent Nuisance Parties on Posted Properties, Civil Violations, Responsible Persons.

- A. The occurrence of a nuisance party on premises posted as a nuisance property more than once in any one hundred and eighty (180) day period constitutes a civil violation. The following parties, if found responsible for such a violation, are liable for the civil penalties provided in Section 10-03-120:
1. The owner of the property where the subsequent nuisance party occurred, if either:
 - a. The owner was present when the property was posted, or
 - b. Notification of posting was mailed or delivered to the owner of the property per Section 10-03-080, and the subsequent nuisance party occurred not less than two (2) weeks after the mailing of such notification.
 2. The occupant or tenant of the property where the subsequent nuisance party occurred.
 3. The person or persons who organized or sponsored the event constituting the subsequent nuisance party.
- B. Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the event constituting the nuisance party, for the conduct of persons who are in attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant or sponsor has taken steps reasonably necessary to prevent a subsequent nuisance parties or to exclude the uninvited persons from the premises, including owners who are actively attempting to evict a tenant from the premises.
- C. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purposes of determining liability under this section.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-110; Ord. No. 295, Rep&ReEn, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-120 Penalties.

- A. Nuisance Party. The penalty for persons found responsible for a nuisance party violation as provided in Section 10-03-150, shall be a minimum mandatory fine of one hundred dollars (\$100.00).

B. Nuisance parties on posted properties. The penalty for persons found responsible for the occurrence of a nuisance party at a posted property, as provided in Section 10-03-070, shall be:

1. A minimum mandatory civil fine of five hundred dollars (\$500.00) for a first violation,
2. A minimum mandatory civil fine of one thousand dollars (\$1,000.00) for a second violation, and
3. Minimum mandatory civil fines of one thousand five hundred dollars (\$1,500.00) for each third or subsequent violation.

C. The civil fines provided herein shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of a nuisance party.

(Ord. No. 295, Enacted, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03; Ord. No. 762, Rep&Amd, __/__/__)

10-03-130 Reserved.

(Ord. No. 295, Enacted, 07/22/93; Ord. No. 559, Rep&ReEn, 07/10/03)

10-03-140 Reserved.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-120; Ord. No. 295, Ren&Amd, 07/22/93, 10-03-120; Ord. No. 559, Rep&ReEn, 07/10/03)

10-03-150 Reserved.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-130,9-08-070; Ord. No. 295, Renumbered, 07/22/93, 10-03-130; Ord. No. 559, Rep&ReEn, 07/10/03)

10-03-160 Reserved.

(Ord. No. 156, Enacted, 08/27/87; Ord. No. 157, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 9-07-130,9-08-070; Ord. No. 295, Renumbered, 07/22/93, 10-03-130; Ord. No. 559, Rep&ReEn, 07/10/03)