

**TOWN OF PRESCOTT VALLEY  
REQUEST FOR COUNCIL ACTION  
Date: September 8, 2011**

**SUBJECT:** Underage Drinking, Nuisance Parties - Ordinance No. 762

**SUBMITTING DEPARTMENT:** Police Department

**PREPARED BY:** James Tobin for Chief Bill Fessler

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

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**ATTACHMENTS:** a) Ordinance No. 762, b) Resolution No. 1759, and c) Notice of Nuisance Party Posting

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**SUMMARY/BACKGROUND:** At a Work-Study Session on August 4, 2011 and a Regular Session on August 25, 2011, the Town Council considered Ordinance No. 762 defining nuisance parties and providing for abatement.

Alcohol use by minors is a major public safety concern. According to the Centers for Disease Control and Prevention, alcohol is the most commonly used and abused drug among youth in the United States. Underage drinking often leads to other criminal behavior, including drinking and driving, public drunkenness, fights, and disturbances of the peace. In an effort to reduce underage drinking, the Police Department conducts periodic compliance checks to determine if retailers are selling alcohol to minors. However, young people also obtain alcohol from other, noncommercial sources, such as older friends, family members or other adults. The proposed Ordinance would provide police officers with another enforcement tool aimed at curbing the availability of alcohol to minors by deterring party hosts and/or property owners from repeatedly hosting or allowing parties at which alcohol is served to persons under the legal drinking age.

The Ordinance defines a nuisance party as a gathering of five or more persons on private property where alcohol is served, consumed by, or in the possession of underage persons and the unlawful conduct of those persons at such a party causes a disturbance to the surrounding neighborhood. Of particular note, the Ordinance requires a complaint from the public about unlawful conduct at such an event prior to enforcement of the provisions of this ordinance. The Ordinance provides a process for posting properties as a nuisance where underage drinking parties have occurred three or more times within a ninety-day period. In addition, it provides civil penalties for those persons who continue to allow nuisance parties to occur on posted properties. This Ordinance is in no way intended to interfere with parties or events on private property that are not creating an unlawful disturbance of the peace.

The main provisions of the Ordinance are as follows:

- Makes it a civil violation for a responsible person to knowingly conduct or allow a nuisance party and provides for a \$100 fine if found responsible.
- Defines “responsible persons” as the property owner, occupant, tenant or persons having possessory control of the property, individually or jointly.
- Provides that officers responding to a second nuisance party warn the responsible person that another nuisance party shall result in the property being posted as a nuisance property.

- Provides for posting the property as a nuisance property for one hundred and eighty days following a third nuisance party.
- Provides a notice requirement to all persons responsible for the property and a right for those persons to contest the posting at a hearing.
- Provides graduated fines for nuisance parties occurring on posted properties.
- All civil fines are in addition to any other violations of applicable state statutes and Town Code provisions.

[Note: ARS §9-802 permits lengthy ordinances to be broken into separate “codes” which may be adopted by reference. The adopting ordinance is published in the local newspaper, but the code is simply made available in the Town Clerk’s office for public reference. This permits considerable savings in annual publication costs for the Town. At the first reading on August 25, 2011, Resolution No. 1759 was adopted declaring the new Town Code Article 10-03 “Underage Drinking; Nuisance Parties” to be a public record. Then, Ordinance No. 762 adopting this record by reference was read for the first reading.]

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**OPTIONS ANALYSIS:** The Council may adopt Ordinance No. 762 as drafted; table the item and direct staff to make revisions to the Ordinance prior to approval, or decline approval.

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**ACTION OPTION:** [the Mayor instructs the Town clerk to read Ordinance No. 762 adopting by reference that certain public record entitled “Underage Drinking Nuisance Parties” by title only for the 2<sup>nd</sup> Reading, then asks “Shall the Ordinance Pass?” VOTE]

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**RECOMMENDATION:** Staff recommends approval of Ordinance No. 762 adopting by reference that certain public record entitled “Underage Drinking; Nuisance Parties”.

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**FISCAL ANALYSIS:** Although adoption of Ordinance No. 762 will involve additional administrative action by Police Department staff to track the locations of nuisance parties and to provide the notices required under the Ordinance, in addition to action by court staff should a hearing be requested, it is anticipated that it will reduce law enforcement response to locations where nuisance parties repeatedly occur, thereby, ultimately being revenue neutral.

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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 \_\_\_\_\_