



TOWN OF PRESCOTT VALLEY STAFF REPORT

DATE: October 3, 2024

TO: Mayor & Town Council

THROUGH: Gilbert Davidson, Town Manager

FROM: Bob Ticer, Police Chief

DEPARTMENT: Police Department

AGENDA TYPE: Discussion Items(s):

SUBJECT: Town Code Restrictions Public Solicitation Motor Vehicles - Discussion Only [Bob Ticer, Police Chief]

VISION 2024 FOCUS AREA: Enhancing the health of neighborhoods by promoting well-being for all through safety, infrastructure, housing, connectivity, recreational space, and community engagement.

SUMMARY/BACKGROUND:

In 2013, the US District Court for Arizona found Arizona's longstanding anti-begging provision (ARS §13-2905(a)(3)) unconstitutional as violating free speech rights under the US and Arizona constitutions. In response, the Arizona Legislature adopted SB1094 (2015 Ariz. Legis. Serv. Ch. 146) removing the provision and replacing it with an "aggressive solicitation" prohibition in ARS §13-2914 that applied to a broad range of public areas (including "alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks and streets open to the general public, and the doorways and entrances to buildings and dwellings and the grounds enclosing them."). In 2015, the US Supreme Court issued its decision in *Reed v. Town of Gilbert*, and said decision became the "new standard for content-neutrality determinations", including with regard to panhandling restrictions.

In this context, Arizona municipalities (including the neighboring community of

Prescott) considered what restrictions might be applied to ongoing solicitation of occupants of operating motor vehicles in streets. At that time prohibitions were adopted against such activity if the solicitation interfered with or impeded the flow of traffic. Unfortunately, the popularity of soliciting occupants of operating vehicles in streets appeared to continue unabated. Therefore, in October 2022 the City of Glendale adopted an ordinance prohibiting all solicitation of occupants of operating motor vehicles in streets (whether such vehicles are moving or stopped). Prescott is among other Arizona municipalities that have followed Glendale's example and adopted similar prohibitions.

As Prescott Valley has grown in population (and seen increased motor vehicle traffic in commercial areas), there has also been a noticeable increase in solicitation of occupants of operating motor vehicles in the streets (whether the vehicles are moving or stopped). This has raised local concern for the safety of both those soliciting and the vehicle occupants (due to proximity to operational vehicles that are moving...or may move at any moment), along with the potential for impeding flow of traffic due to unexpected stops for reasons other than traffic control devices.

General law municipalities like Prescott Valley are specifically authorized "to prohibit and punish any...practice tending to...obstruct persons passing upon the streets or sidewalks...and to restrain and punish the...crying of goods or other...performances and practices tending to cause the collection of persons upon the streets or sidewalks and the obstruction thereof." [ARS §9-240(B)(15)] This specific authority necessarily includes implied authority to address the issue of solicitation of occupants of operating motor vehicles in the streets. Without intending to limit any person from exercising the constitutional right to solicit funds, picket, protest, or engage in other constitutional activity, it is felt that imposing specific time, place, and manner restrictions on solicitation and associated conduct under circumstances deemed particularly threatening or dangerous is appropriate.

Therefore, it is proposed that the Town Council discuss the possibility of adopting in the Town Code the same prohibitions found in ARS §13-2914 and adding thereto the same prohibition adopted by other municipalities relating to solicitation of occupants of operating motor vehicles on the public streets (whether moving or stopped). A draft ordinance to that effect is attached for Council review and comment.

RECOMMENDED MOTION:

N/A No Council Action Requested.

STAFF RECOMMENDATION:

N/A No Council Action Requested.

FISCAL ANALYSIS:

There is no anticipated direct fiscal impact due to the requested action.

Council Action at the Meeting: N/A

ATTACHMENTS: Yes