# TOWN OF PRESCOTT VALLEY
# STAFF REPORT

**DATE:** October 24, 2024

**TO:** Mayor & Town Council

**THROUGH:** Gilbert Davidson, Town Manager

**FROM:** Bob Ticer, Police Chief

**DEPARTMENT:** Police Department

**AGENDA TYPE:** Old Business

**SUBJECT:** Town Code Restrictions Public Solicitation Motor Vehicles, Ordinance 2024-944 - Consideration & Possible Action (2nd Reading) [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 the 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 was among other Arizona municipalities that 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.

At its regular meeting on October 10, 2024, the Town Council voted to read Ordinance 2024-944 by title only on two separate occasions then place the same on final passage. The Ordinance then received its first reading.

It is now proposed that the Mayor instruct the Town Clerk to read Ordinance No. 2024-944 by title only for the second reading, then ask if the Ordinance shall pass. The Council will then vote on whether to adopt Ordinance No. 2024-944.

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**RECOMMENDED MOTION:**

[the Mayor instructs the Town Clerk to read Ordinance No. 2024-944 by title only for the 2nd Reading, then asks "Shall the Ordinance Pass?"] **VOTE**

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**STAFF RECOMMENDATION:**

Staff recommends approving Ordinance No. 2024-944 adopting new Section 10-01-170 "Prohibited Solicitation".

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**FISCAL ANALYSIS:**

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

**Council Action at the Meeting:**

**ATTACHMENTS:** Yes