

**TITLE VIII
PUBLIC WAYS AND PROPERTY**

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CHAPTER 8-1: SIDEWALKS

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8-1-1: CONSTRUCTION OF SIDEWALKS:

Hereafter, every sidewalk within the corporate limits shall be constructed in accordance with the YAG standards, 1998, and the MAG specs, 1998 edition, as both may be amended from time to time. Where there is a contradiction between the YAG standards and the MAG specs, the YAG standards shall prevail and take precedence. All sidewalk construction shall meet the approval of the public works director. (Ord. 3852, 3-9-1999, eff. 3-11-1999)

8-1-2: REPAIR AND MAINTENANCE OF SIDEWALKS AND ALLEYS:

- (A) All owners and/or agents of owners and/or persons (and/or their agents) in possession of property (hereinafter collectively referred to as the "responsible party") abutting or fronting any sidewalk within the corporate limits of the city are required to keep the public sidewalks immediately abutting or fronting their property clean and free of snow, ice and debris, and in good order and repair. The responsible party shall be liable to the city for all losses to the city or recoveries from or claims against the city for damages to person or property caused by the failure of the responsible party to repair and keep in good order and reasonably safe condition all such sidewalks abutting and fronting his/her property within the corporate limits of the city. "Property" as used herein shall not be deemed to include public streets or public rights of way. (Ord. 2272, 6-25-1991; amd. Ord. 3293, eff. 1-12-1995)
- (B) In the event that the condition of a sidewalk is in disrepair, the city may at its discretion, through the public works director, notify the responsible party that repairs are necessary to put such sidewalk in good order and such responsible party shall complete such repairs as specified in such notice. If the responsible party fails to make the required repairs, the city may undertake to do said repairs. (Ord. 3293, eff. 1-12-1995)
- (C) All owners or agents of owners or persons (or their agents) in possession of property abutting or fronting any alley within the corporate limits of the

city are required to keep the alley immediately abutting or fronting their property clean and free of debris and rubbish. Each owner shall be liable to the city for all losses to the city or recoveries from or claims against the city for damages to person or property caused by his or her failure or that of his/her agents to keep such alleys abutting and fronting his/her property within the corporate limits of the city free of any and all debris and rubbish. (Ord. 2272, 6-25-1991)

- (D) It shall be unlawful for any person to place or maintain an encroachment or obstruction upon, damage or otherwise use or occupy a sidewalk for any purpose other than authorized public travel unless authorized to do so by a permit issued by the public works department, pursuant to a permit issued in accordance with chapter 9 of this title, or as allowed by section 8-2-4 of this title. (Ord. 4121, 6-26-2001)

8-1-3: PERMIT REQUIRED:

A permit shall be required to make repairs pursuant to this chapter. However, there will be no charge for such permit unless it is proposed to make a change in the grade, location or dimensions of the sidewalk. (Ord. 2272, 6-25-1991)

8-1-4: INSPECTION:

The alteration or repair of all sidewalks as called for pursuant to this chapter shall be subject to inspection by the city, during its construction and upon completion. All work shall conform to the rules and regulations established by the public services director and to instructions issued pursuant thereto. (Ord. 2272, 6-25-1991)

8-1-5: COST; LIEN:

In the event that the city makes any repairs to a sidewalk or alleyway pursuant to subsection 8-1-2(B) of this chapter after the failure of the responsible party to do so, there shall be added to the actual costs of said repair fifteen percent (15%). A lien may be filed against the adjoining property and filed with the Yavapai County assessor, and shall draw interest at the rate of ten percent (10%) per annum until paid, and shall become and be a lien against said property and the whole thereof until paid in full. The city may also pursue any civil remedies available to obtain restitution for the costs of said repair. (Ord. 214, 10-6-1915; amd. Ord. 3293, eff. 1-12-1995)

8-1-6: VIOLATION:

- (A) Unless otherwise provided for herein, and in addition to any other remedy set forth herein, a violation of section 8-1-1, 8-1-3, 8-1-4 or subsection 8-1-

2(C) of this chapter shall be a civil violation, subject to the provisions of section 1-3-2 of this code. (Ord. 3293, eff. 1-12-1995)

- (B) That notwithstanding the foregoing, a violation of subsection 8-1-2(D) of this chapter shall be deemed a petty offense. (Ord. 2101, 8-8-1989; amd. Ord. 3257, eff. 10-13-1994)

CHAPTER 8-2: CITY RIGHT OF WAY

SECTIONS:

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8-2-1: DEFINITIONS OF TERMS:

CITY RIGHT OF WAY: Any public street, highway, alley, sidewalk or other platted or written easement which has been dedicated to, or accepted by, or acquired by, the city for public purposes.

EASEMENT: The total area lying between the exterior edges of the easement.

PERSON: Any individual or his agent, firm, partnership, association, corporation or agent of the aforementioned groups.

STREET, HIGHWAY AND ALLEY: The total area of right of way lying between property lines.

STREET PARKWAY: That area of city right of way lying between a curb and the adjacent street right-of-way line, excluding sidewalk.

UTILITIES COMPANY: Shall include the city of Prescott, Arizona Public Service, Mountain Bell, Southern Union Gas Company, Cable Television, El Paso Natural Gas Company and any other lawfully operating utility company. (Ord. 1338, 6-11-1979; amd. Ord. 2279, 6-25-1991; Ord. 4121, 6-26-2001)

8-2-2: IMPROVEMENTS:

No person shall make or allow to remain any improvement in any city right of way unless a permit from the engineering division is first secured and unless the permit fees specified in this chapter are first paid to the city. The term "improvement", as herein used, means and includes grading or regrading, placing of base materials, paving or repaving, construction or reconstruction of any sidewalk, driveway approach, curb, curb and gutter, bike path, alley gutter or cross gutter; the placement of any bench or planter box or other solid object, traffic-control and protection devices, striping and fences, the planting or removal of any tree or shrubbery; the placing, relocating or transporting of any structure; excavations for the installation or repair of any sanitary sewer line, water line, gas line, electrical line, television cable, telephone line or appurtenant facilities; and the installation or repair of any storm drain, drainage structures or appurtenant facilities. (Ord. 1338, 6-11-1979; amd. Ord. 1432, 3-10-1980; Ord. 1508, 3-9-1981; Ord. 3350, eff. 6-22-1995)

Drainage regulations for the control of drainage in public right of way, public easement or public property shall be as set forth in title XVI, chapter 2 of this code. (Ord. 3853, 3-9-1999)

8-2-3: USE OF CITY RIGHT OF WAY:

- (A) No person shall maintain or use a location on any city right of way or sidewalk owned by the city for the purpose of conducting any business, providing a service, advertising or making or attempting to make sales, except for those facilities or uses described as follows: sanitary sewer mains; manholes and service connections; water mains; vaults and service connections; gas mains, vaults, manholes and service connections; television conduit, duct, direct buried cable or wire, vaults, manholes and poles; electrical conduit, duct, direct buried cable or wire, vaults, manholes and poles; telephone and other communication conduit, duct, direct buried cable or wire, vaults, manholes and poles; and those uses and facilities specifically listed in section 8-2-4 of this chapter.
- (B) No person shall make any improvement at any location on, over, across or under any city right of way or sidewalk owned by the city other than that which has been approved and a permit issued by the public works department for said improvement.
- (C) No person shall stand on any city right of way or sidewalk owned by the city and solicit, or attempt to solicit employment, business or contributions from the occupants of any vehicle. (Ord. 3528, eff. 8-13-1996)
- (D) No person shall place, maintain or cause to be placed or maintained an encroachment or obstruction on or in any public right of way, unless a

permit has been issued by the city of Prescott pursuant to section 8-2-6 of this chapter. (Ord. 4107, 5-8-2001)

8-2-4: EXEMPTIONS:

The following uses are hereby exempt from the provisions of section 8-2-2 and subsection 8-2-3(A) of this chapter, but are subject to the remaining provisions of this chapter (unless otherwise indicated):

- (A) The placement of mailboxes. Said mailboxes are also exempt from the provisions of section 8-2-7 of this chapter unless they do not meet the construction requirements as set forth in the YAG standard details and specifications.
- (B) The placement of newspaper receptacles, which are also exempt from the provisions of subsection 8-2-3(B), sections 8-2-5 and 8-2-7 of this chapter. However, said receptacles shall be placed back of the curb where curbs are installed and shall be placed so as not to interfere with the traveled roadway where curbs are not installed.
- (C) The placement of newspaper sales racks are exempt from the provisions of this chapter with respect to requiring a permit and paying the fees therefor, but said newspaper racks shall be securely fastened by a chain or cable to a permanent structure to prevent their being moved and interfering with pedestrian traffic.
- (D) The placement of public telephones and attendant structures, provided however that in the downtown Prescott area all such telephones and attendant structures must be constructed of material which is compatible with the existing downtown furnishings in the downtown Prescott area.
- (E) The planting of or the removal of any tree or shrubbery, which is also exempt from the provisions of section 8-2-7 of this chapter.
- (F) All duly franchised or licensed utility companies installing mains, service connections, conduit, ducts, direct buried cable or wire, overhead wires, poles, vaults or manholes in any city right of way, which are also exempt from the provisions of section 8-2-7 of this chapter.
- (G) The placement of racks or similar improvements for the securing and parking of bicycles adjacent to businesses owned by or occupied by the applicant, which are also exempt from the provision of section 8-2-7 of this chapter, provided however that in the downtown Prescott area all such racks or similar improvements must be constructed of black metal or iron which is compatible with the existing downtown furnishings in the downtown Prescott area.

No permit shall be issued pursuant to this subsection until the applicant posts with the city a general liability insurance policy, in an amount of not less than one million dollars (\$1,000,000.00), naming the city of Prescott as an additional insured. The requirement for insurance shall remain in full force and effect so long as the racks or similar improvements remain in the public right of way.

- (H) Planters or other similar uses, which are also exempt from the provisions of section 8-2-7 of this chapter.
- (I) Sidewalk sales by duly licensed businesses adjacent thereto, which are also exempt from the provisions of section 8-2-7 of this chapter. Said sales shall only be allowed by written permission of the city manager, subject to any terms, conditions and restrictions as determined by the city manager. Such sales shall be limited to four (4) events per year per business, as determined by the city manager. All merchandise and associated equipment, if placed in a sidewalk, must be placed in such a manner that it allows a minimum of forty eight inches (48") of unobstructed travel on the sidewalk, and must be placed closer to the business than the curb or outside edge of the sidewalk. Such sales shall also be exempt from the provisions of sections 8-2-6 and 8-2-7 of this chapter.
- (J) Tables, benches and chairs, which are also exempt from the provisions of sections 8-2-5, 8-2-6 and 8-2-7 of this chapter. Said tables, benches and chairs may be placed on a sidewalk adjacent to a duly licensed business by that business, with the following limitations and conditions:
 - 1. Tables and chairs may only be outside of a business when the adjacent business is open to the public.
 - 2. All such tables, chairs and benches must be kept in a clean condition and in a good state of repair. Unsightly conditions, including, but not limited to, the accumulation of dirt, debris, breakage, rotting, crumbling, cracking, peeling or rusting, and any other similar condition of disrepair or deterioration, is expressly prohibited.
 - 3. If placed in a sidewalk, all such benches must be placed in such a manner that it allows a minimum of forty eight inches (48") of unobstructed travel on the sidewalk. All such tables and chairs must be placed in such a manner that it allows a minimum of forty eight inches (48") of unobstructed travel on the sidewalk between the tables and chairs and the curb or outside edge of the sidewalk. All tables and chairs must be placed closer to the business than the

curb or outside edge of the sidewalk, and laterally may not extend past the building facade of that business.

4. All tables, chairs and benches allowed by this subsection (J) must be made of metal, wood or a combination thereof; provided, however, that in the downtown Prescott area, all tables, chairs and benches must be constructed of black metal or iron which is compatible with the existing downtown furnishings, and further that outside umbrellas associated with tables or benches is hereby prohibited in the downtown Prescott area.
- (K) Sandwich signs, which are also exempt from the provisions of sections 8-2-5, 8-2-6 and 8-2-7 of this chapter, with the following limitations and conditions:
1. Said signs may only be outside of a business which conducts business on a continuing basis at a permanent location, when the adjacent business is open to the public, and placed in the right of way by or on behalf of that business.
 2. Said signs may be no more than fifty inches (50") high and thirty one inches (31") wide. The foregoing measurement shall include all structures or objects upon which the sign is placed or located, together with anything affixed or attached thereto.
 3. All such signs must be kept in a clean condition and in a good state of repair. Unsightly conditions, including, but not limited to, the accumulation of dirt, debris, breakage, rotting, crumbling, cracking, peeling or rusting, and any other similar condition of disrepair or deterioration, is expressly prohibited.
 4. There may only be a maximum of one sign in front of any one property at any one time.
 5. If placed in a sidewalk, any such sign must be placed in such a manner that it allows a minimum of forty eight inches (48") of unobstructed travel on the sidewalk. In the downtown Prescott area, all such signs must be placed closer to the curb or outside edge of the sidewalk than to the business.
 6. The following signs are expressly prohibited: any sign emitting sound, containing light bulbs, balloons, or signs with intermittent or flashing illumination, or animated or moving signs.

7. No signs may be located within a street, public trail, city planter, roadway or other thoroughfare, nor may any sign be affixed to a tree, traffic sign, traffic-control device or utility pole.
- (L) Off-site signage within the right of way, which is also exempt from the provisions of sections 8-2-5, 8-2-6 and 8-2-7 of this chapter, with the following limitations and conditions:
1. These signs are not associated with any adjacent business; they are for transient events, sales, etc., which do not take place on an ongoing basis or at a permanent location.
 2. These signs are not allowed for businesses which have an ongoing business which takes place on a continuing basis at a permanent location.
 3. Said signs may be no more than twenty one inches by twenty seven inches (21" x 27"). The foregoing measurement shall include all structures or objects upon which the sign is placed or located. In the event that a box-type sign is used, the dimensions cannot exceed twenty one inches by twenty one inches by twenty seven inches (21" x 21" x 27").
 4. The total number of allowable signs within the city rights of way advertising a sale or event for any one location may not exceed two (2), unless additional signage is permitted pursuant to subsection (M) of this section.
 5. If placed in a sidewalk, any such sign must be placed in such a manner that it allows a minimum of forty eight inches (48") of unobstructed travel on the sidewalk.
 6. Any signs allowed by this subsection shall only be allowed between the hours of six o'clock (6:00) A.M. Friday and seven o'clock (7:00) P.M. Sunday unless extended times are allowed by permit pursuant to subsection (N) of this section.
 7. All signs allowed by this subsection (L) must be of a weather resistant material. Paper and cardboard are expressly prohibited.
 8. The signage allowed by this subsection (L) is expressly prohibited in the defined downtown Prescott area.
 9. The following signs are expressly prohibited: any sign emitting sound, constructed of open light bulbs, or signs with intermittent or flashing illumination, or animated or moving signs, or balloons.

10. No signs may be located within a street, public trail, city planter, roadway or other thoroughfare, nor may any sign be affixed to a tree, traffic sign, traffic control device or utility pole.
 11. All signs must have printed thereon the name and address of the individual placing said sign within the right of way, unless that sign has a permit affixed thereto and issued by the city of Prescott.
- (M) Notwithstanding the limitations as set forth in subsection (L)4 of this section, upon the request of any individual or business desiring additional signage, the city will issue permits for up to five (5) additional signs to be placed within the city right of way. A permit shall cost fifty dollars (\$50.00) per sign per year. Said permitted signs are subject to all of the remaining provisions of subsection (L) of this section except for subsection (L)4 of this section.
- (N) Notwithstanding the limitations as set forth in this section, upon the request of any individual or business desiring extended times for the display of signs, the city will issue permits for a maximum of seven (7) signs to be placed within city right of way seven (7) days per week. A permit shall cost two hundred dollars (\$200.00) per sign per year. Said permitted signs are subject to all of the provisions of subsection (L) of this section except for subsections (L)4 and (L)6 of this section; provided, however, that in no event may more than a total of seven (7) signs be placed in the right of way for a sale or event for any one location.
- (O) The ability to obtain permits for additional signage or extended time periods pursuant to subsections (M) and (N) of this section shall be limited to each sale, activity or event.
- (P) For the purposes of this section, the "downtown Prescott area" is hereby defined as follows: that area which is bounded on the south by Carleton Street (not inclusive of Carleton Street), on the east by Marina Street (inclusive of Marina Street), on the north by Sheldon Street (inclusive of Sheldon Street), and on the west by McCormack Street (inclusive of McCormack Street). (Ord. 4121, 6-26-2001)
- (Q) The placement of kiosks and the use thereof which are owned by the city. (Ord. 4420, 10-26-2004)

8-2-5: APPLICATION REQUIRED:

It shall be unlawful to make any improvement in any city right of way without filing with the engineering services department an application in writing on such form as may be required by the city and obtaining a formal permit for such work,

unless specifically exempted pursuant to the terms of this chapter. (Ord. 4121, 6-26-2001; Ord. 4504, 10-25-2005)

8-2-6: PERMITS:

- (A) Every permit granted by the city for the making of any improvement shall be deemed to have been granted subject to the terms of this chapter and the city of Prescott standard details and specifications, and shall remain with the property affected. Every such improvement shall be made under the direction of and/or to the satisfaction of the public works director or his designee. Depending upon the nature of the improvements, the city may require that the applicant for a permit hold the proper license or licenses from the Arizona registrar of contractors.
- (B) Every applicant for a permit pursuant to this chapter shall be the party held responsible for completing all phases of a project for which a permit has been issued until final acceptance of the work by the city.
- (C) All projects involving excavations in the right of way shall include backfill and compaction thereof, base material replacement and compaction thereof, and the pavement replacement and compaction thereof.
- (D) The public works director may require bonds (or such other surety as is acceptable to the city) in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions and conform to the approved plans and specifications. (Ord. 4121, 6-26-2001)

8-2-7: FEES:

Unless a different fee (or waiver thereof) is provided for in this chapter, a minimum fee of twenty dollars (\$20.00) shall be paid prior to the issuance of any permits pursuant to this chapter. (Ord. 4121, 6-26-2001)

8-2-8: RESPONSIBILITY OF PERMITTEE:

All work performed under a permit issued by the engineering services department shall be performed in accordance with the plans and/or specifications submitted by the permittee and approved by the engineering services department, shall be performed so as to cause minimum interference with the proper and usual use of the streets, alleys or easements, shall be completed within a reasonable time and shall be guaranteed by the permittee for a period of one year from the time of acceptance by the engineering services department. In the event that any such work becomes unsatisfactory during the guarantee period, the permittee shall immediately repair the same at his own expense. In

case the permittee is dilatory about repairing defective work during the guarantee period, the city shall make the necessary repairs at the expense of the person obtaining the permit for the work. In such event, the city shall charge therefore the rate established by the engineering services department for making such repair.

It shall be the duty of every person making any improvement to maintain safe crossings for vehicle traffic at all street intersections and safe crossings for pedestrians which may necessitate the use of flagmen on occasion at intervals of not more than three hundred feet (300'). If any such improvement is made across any street, at least one safe crossing shall be maintained at all times for vehicles and pedestrians. Clear access must be provided to all fire hydrants. All excavated materials from trenching shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to the public traffic. All gutters shall be maintained clear and unobstructed adjacent to any curb at least one foot (1') in width from the face of such curb and the gutter line. An adequate waterway shall be provided and maintained across street intersections. It shall be the duty of every person making an improvement to place and maintain barriers at each end of an open trench and at such places as may be necessary along an improvement to prevent accidents, and also to place and maintain lights at each end of an open trench and at distances of not more than one hundred feet (100') along the line of an open trench or other improvements, from sunset each day to sunrise of the next day, until such improvement is completed.

No excavation shall be left unfilled over Saturday and Sunday, except as allowed by the engineering services department. Trenching shall not be excavated more than three hundred feet (300') in advance of laying any underground lines nor left unfilled for more than three hundred feet (300') where underground lines have been installed, unless permission is granted by the engineering division to exceed these limits.

All excavations crossing any city arterial or collector street shall be limited to the excavating in and the closing of only one lane of traffic at a time. This provision may be modified, subject to the approval of the engineering services department, to the extent that excavations may be made to more than one lane of traffic; provided, that steel plates, sufficient to withstand the load of heavy traffic, are placed over those excavations made in excess of one lane of traffic.

No person shall install underground service pipe or main pipe, conduit, direct buried cable or wire or other structures, except manholes, culverts and catch basins in any city right of way at less than the following minimum depths unless a lesser depth is approved by the engineering services department.

Notwithstanding the foregoing, permission for roadway pavement cuts shall not be granted within the city rights of way or roadways on any bituminous and/or

concrete pavement structures that are less than five (5) years of age unless there is an actual emergency, or said pavement cut is necessary because there is no other reasonable alternative to perform the desired work or improvements without making such roadway pavement cut.

(Ord. 1338, 6-11-1979; amd. Ord. 1432 3-10-1980 Ord. 2279, 6-25-1991; Ord. 4504, 10-25-2005)

- (A) All sanitary sewer mains and service connections and all water mains and service connections shall be installed not less than three feet (3') below the city engineer's designed final grade or, if the city engineer's designed final grade has not been established, the installation of said mains and service connections shall be installed not less than three feet (3') below the existing grade.
- (B) All gas mains shall be constructed not less than two feet (2'), and all gas services shall be constructed not less than eighteen inches (18") below the city engineer's designed final grade or, if the city engineer's designed final grade has not been established, the installation of said mains and services shall be constructed not less than the herein specified depths below the surface of the existing grade.
- (C) All television conduit, duct, direct buried cable or wire shall be constructed not less than eighteen inches (18") below the city engineer's designed final grade or, if the city engineer's designed final grade has not been established, the installation of said conduit, duct, direct buried cable or wire shall be constructed not less than eighteen inches (18") below the surface of the existing grade.
- (D) All electrical conduit, duct, direct buried cable or wire shall be constructed not less than thirty six inches (36") below the city engineer's designed final grade or, if the city engineer's designed final grade has not been established, said conduit, duct, direct buried cable or wire shall be constructed not less than thirty six inches (36") below the surface of the existing grade.
- (E) All telephone or other communication conduit, duct, direct buried cable or wire shall be constructed not less than thirty inches (30") below the city engineer's designed final grade or, if the city engineer's designed final grade has not been established, said conduit, duct, direct buried cable or wire shall be constructed not less than thirty inches (30") below the surface of the existing grade. (Ord. 1338, 6-11-1979)
- (F) Permittees shall inspect, at least annually, and maintain underground mains and service lines in unpaved city rights of way at a safe, reasonable and adequate minimum depth so as not to unreasonably interfere with routine municipal road and borrow (drainage) ditch grading and

maintenance. For purposes of this subsection only, "unpaved City rights-of-way" shall mean those rights of way used for street, highway or alley purposes which are unpaved.

- (G) The provisions of this section are declared to be severable and if any subsection, sentence, clause or phrase of this section shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining subsections, sentences, clauses or phrases of this section but they shall remain in effect, it being the legislative intent that this section shall stand notwithstanding the invalidity of any part. (Ord. 1952, 10-27-1987)

8-2-9: RESPONSIBILITY OF PROPERTY OWNER:

Notwithstanding any of the provisions of this chapter, it shall be the responsibility of the property owner to provide the maintenance or repair of that portion of the sanitary sewer connection serving the property and located within the city right of way or sanitary sewer easement from the edge of the city right of way or sanitary sewer easement to the point of connection with a sanitary sewer collector main. Said maintenance and repair shall require a permit and the paying of all fees thereof and compliance with all the provisions of this chapter. The responsibility of the property owner as herein defined shall be waived with respect to repairs to any portion of the sanitary sewer connection serving the property and located within the city right of way or sanitary sewer easement; provided, that the repairs to be made are the result of damage to the said sanitary sewer connection caused by other "persons" or "utility company" as defined in section 8-2-1 of this chapter. (Ord. 1338, 6-11-1979; amd. Ord. 1432, 3-10-1980)

8-2-10: COMMENCEMENT OF WORK:

Every permit for any improvement shall become void unless the improvement is commenced within six (6) months from the date of issuance of such permit. The engineering division shall be given two (2) working days' notice in advance of the time of commencement of the work of making any such permitted improvements in order for an inspector to schedule an inspection of the work. No such work on an improvement shall be commenced until after such notice has been given. (Ord. 1338, 6-11-1979; amd. Ord. 1432, 3-10-1980)

8-2-11: CITY NOT LIABLE:

The city shall not be liable or responsible for any act or damage that may occur in the performance of any work by the holder of a permit, and the issuance of a permit by the city shall be deemed an agreement on the part of the permittee to indemnify the city and hold the city harmless against any and all liability, loss, cost, damage or expense which may occur to the city because of the negligence

or misconduct in the performance of any work by the permittee. (Ord. 1338, 6-11-1979)

8-2-12: PENALTIES:

It shall be unlawful and a misdemeanor for any person to violate any of the requirements or provisions contained in this chapter. Any person convicted of a violation of any section of this chapter shall be punished as provided in section 1-3-1 of this code. (Ord. 1338, 6-11-1979; amd. Ord. 1834, 9-23-1986)

Each day that a violation is permitted to exist constitutes a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. For the purposes of this chapter, a "person" means any individual or his agent, firm, partnership, association, corporation or agent of the aforementioned groups. (Ord. 1338, 6-1979)

In addition to the penalties provided herein, any person who commences or causes to be commenced any work, or places, maintains or causes to be placed or maintained any encroachment or obstruction without a proper permit as required by this chapter shall pay double permit fees for any work which was unlawfully commenced, if such permit is subsequently issued by the city. Furthermore, any person found in violation of this chapter shall also be required to make restitution to the city of Prescott for any costs incurred by the city to remove or remediate said violation. (Ord. 4107, 5-8-2001)

A violation of any provision or section of this chapter is further declared to be a public nuisance and the city attorney may, upon order of the city council, or on his own initiative, immediately commence any necessary civil actions or proceedings for the abatement, enjoinder or removal thereof in the manner provided by law of any such violation. (Ord. 1338, 6-1979)

8-2-13: EMERGENCY WORK:

Nothing in this chapter shall be construed to prevent any person maintaining any pipe or conduit in any street, highway, alley, city easement or other public place by virtue of any law, ordinance or permit, from making such excavation as may be necessary for the public health and safety or preservation of property when such necessity arises during such hours as the offices of the city are closed, provided that the person making such excavation shall obtain a permit therefor within two (2) working days after the offices of the city are first opened subsequent to the making of such excavation. (Ord. 1338, 6-1979)

8-2-14: ABANDONMENT:

Any person who desires that the city abandon any portion of any public street, highway or alley, or other platted or written easement duly recorded in the office

of the Yavapai County recorder which has been dedicated to, or acquired by the city, shall file a written request for abandonment with the city clerk. Said request shall be accompanied by a nonrefundable thirty dollar (\$30.00) fee to help defray the costs of processing the request, which includes, but is not limited to, the preliminary investigation and consideration by staff and council of said request. The city shall use its best efforts to notify affected property owners of said request. (Ord. 3178, eff. 4-21-1994)

In the event the city council approves an abandonment, any ordinance approving said abandonment shall not be effective nor any action relating thereto recorded with the county recorder until a processing fee of two hundred thirty five dollars (\$235.00) is paid to the city, to help defray the costs of processing the abandonment, preparation and publication of the ordinance and any associated documents, and recordation costs. (Ord. 1660, 1-1984; amd. Ord. 3178, eff. 4-21-1994)

In addition to the foregoing, in the event that the city council determines that consideration is required, said ordinance of abandonment will not become effective, nor shall any action relating thereto be recorded, until all consideration is paid to the city. (Ord. 3178, eff. 4-21-1994)

8-2-15: SEVERABILITY:

The provisions of this chapter are declared to be severable and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this chapter but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part. (Ord. 1878, 3-24-1987)

8-2-16: SALE OF UNNECESSARY PUBLIC WAYS:

(A) The city may sell excess city rights of way, any portion of any public city street, roadway, highway or alley, other platted or written easements duly recorded in the office of the Yavapai County recorder which has been dedicated to, or acquired by the city for public purposes, determined not to be needed or likely to be needed within a reasonable future time. Each sale shall be made on the conditions as the city council may prescribe to the highest responsible bidder after published notice of the sale in accordance with the city charter, provided that:

1. Purchaser shall pay for costs of publication, appraisal, escrow, title search, recordation, and all other costs related to said sale.
2. City shall sell said real property by quit claim deed.

3. The city may prescribe such other terms and conditions as in its sole discretion shall determine, including, but not limited to, those necessary for the protection and benefit of abutting owners.
 4. The city shall reserve existing public easements for sewer, gas, water or similar pipelines and appurtenances and for canals, laterals, ditches and appurtenances, and for electric, telephone and similar lines and appurtenances.
 5. If the purchaser of said real property is an abutting owner, title shall vest, subject to the same encumbrances, liens, limitations, restrictions and estates, as exist on the purchaser's abutting land.
 6. The city may obtain appraisals, hold hearings, and take other similar action in connection with disposition of excess roadways when it deems such action necessary or advisable.
- (B) In no event shall the city sell excess rights of way so as to leave any land adjoining the roadway right of way without an established public road, street or other public way, connecting the land with another established public street unless there is expressly reserved in the conveyancing instrument roadway rights of ingress and egress for public and emergency vehicles, all property owners, their guests and invitees and persons lawfully conducting business on the land. (Ord. 1890, 4-28-1987)
- (C) Notwithstanding the foregoing, the city may trade unnecessary public ways as set forth in subsection (A) of this section, conditioned the land being traded for is substantially equivalent in value or size, and subject to the provisions in subsections (A)1, (A)3, (A)4 and (A)6 of this section. (Ord. 2279, 6-25-1991)

8-2-17: BUS BENCHES:

Notwithstanding anything to the contrary herein, bus benches shall be allowed within public rights of way, subject to the following limitations: (Ord. 3094, eff. 5-25-1993)

- (A) An annual permit for each and every bus bench shall be issued by the engineering services director. An annual fee of twenty five dollars (\$25.00) shall be levied for each location for which a permit is issued. (Ord. 4504, 10-25-2005)
- (B) Permits for bus benches may only be issued to a provider of public mass transit within the city limits, and upon presentation of liability insurance in an amount of not less than one million dollars (\$1,000,000.00), naming the city of Prescott as an additional insured, which insurance must be

maintained in full force and effect for as long as the benches permitted are within the city right of way.

- (C) The number and location of each bus bench is subject to the approval of the engineering services director, in his sole discretion, provided, however, that a bus bench may only be located at a duly designated bus stop in accordance with subsection 9-1-10(B) of this code. An applicant for bus benches may appeal the engineering services director's decision pursuant to this subsection to the transportation coordinating committee. (Ord. 4504, 10-25-2005)
- (D) Any permit issued hereunder is conditioned upon the permittee maintaining the bus benches in a clean, safe and structurally sound condition, so as not to create a visible deteriorated or blighted appearance.
- (E) Any signage on a bus bench shall consist of the following dimensions: The horizontal dimension of the sign shall not extend beyond the actual seating dimensions of the bench, but in no event to exceed eight feet (8'); the vertical dimension of the sign shall commence at the seat of the bench, and shall extend no further than forty four inches (44") above the ground. The following types of signs shall be specifically prohibited: illuminated signs, animated signs, and any sign specifically prohibited under subsection 6.12(H)1 in section 10-1-4 of this code. (Ord. 3334, eff. 5-11-1995)
- (F) Any permit issued hereunder is revocable at will by the city council. In the event of revocation, if the permittee does not remove any benches for which a permit has been revoked pursuant to this subsection within ninety (90) days after receiving notice thereof, the engineering services director may effectuate the removal of said benches, the cost of which removal shall be assessed against the permittee, and may be recovered by the city in a civil action instituted in the appropriate court of law. (Ord. 4504, 10-25-2005)
- (G) Any permits issued hereunder may be revoked by the engineering services director in the event of the failure of the permittee to correct any violations of this section within ten (10) days of receiving notice thereof. In the event of revocation, if the permittee does not remove any benches for which a permit has been revoked pursuant to this subsection within ten (10) days after receiving notice thereof, the engineering services director may effectuate the removal of said benches, the cost of which removal shall be assessed against the permittee, and may be recovered by the city in a civil action instituted in the appropriate court of law. (Ord. 687, 11-9-1964; Ord. 4504, 10-25-2005)

CHAPTER 8-3: WEEDS; RUBBISH

SECTIONS:

- 8-3-1: REMOVAL FROM BUILDING, GROUNDS OR PREMISES, SIDEWALKS AND STREET PARKWAYS:
- 8-3-2: FAILURE OF OWNER TO COMPLY:
- 8-3-3: CITY MAY REMOVE:
- 8-3-4: SEVERABILITY:
- 8-3-5: CIVIL VIOLATION:

8-3-1: REMOVAL FROM BUILDING, GROUNDS OR PREMISES, SIDEWALKS AND STREET PARKWAYS:

- (A) All persons owning or occupying any building, grounds or premises within the City are hereby required to remove therefrom all dirt, debris, rubbish, garbage, weeds and brush and said persons are also required to remove therefrom all dirt, debris, rubbish, garbage, weeds and brush and maintain all sidewalks, driveway culverts and street parkways adjacent to said building, grounds or premises.
- (B) It shall not be the responsibility of said person or occupant to maintain the drainage catch basins, culverts or channels within the limits of a City street right-of-way other than a drainage pipe culvert or bridge-type structure crossing a paved or unpaved driveway or accessway to that person's or occupant's property.
- (C) For purposes of this Chapter, a street parkway is defined as follows:
 - 1. Improved Streets With Curbs and Pavement. That area of City street right-of-way lying between a curb and the adjacent street right-of-way line.
 - 2. Paved Traveled Roadway (No Curbs). That area of City street right-of-way lying on either side of the pavement between the edges of the pavement and the adjacent street right-of-way lines.
 - 3. Unpaved Traveled Roadways: That area of City street right-of-way lying on either side of a traveled roadway between the edges of the traveled roadway and the adjacent street right-of-way lines.

8-3-2: FAILURE OF OWNER TO COMPLY:

Upon failure of the persons owning or occupying any buildings, grounds or premises within the City to remove therefrom all dirt, debris, rubbish, garbage, weeds and brush, and maintain all sidewalks, driveways, culverts and street parkways adjacent to said building, grounds or premises, notice shall be given or served upon said persons herein referred responsible for the condition of violation of this Code, either by verbal notification, personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises, and by mailing a copy thereof to such person by registered mail to his last known address. Orders or notices which are given verbally shall be confirmed by service in writing as herein provided.

8-3-3: CITY MAY REMOVE:

- (A) Should any such owner or occupant of any building, grounds or premises within the City fail, neglect or refuse to forthwith remove from said building, grounds or premises, or from the sidewalk, driveway culverts or street parkway adjacent thereto, any dirt, debris, garbage, rubbish, weeds or brush; or should any such owner or occupant fail to keep and maintain any such building, grounds or premises or any sidewalk, driveway culverts or street parkway adjacent thereto, free and clear of any dirt, debris, rubbish, garbage, weeds or brush, then the City Manager is hereby authorized and directed to remove or destroy, or cause to be removed or destroyed, any and all such dirt, debris, rubbish, garbage, weeds or brush, at the expense of such owner or occupant; and the City Clerk is hereby directed to forthwith prepare a verified statement and account of all expense incurred in or occasioned by or incident to such removal or destruction, or either of them, and to file such verified statement and account with the Yavapai County Assessor and Tax Collector.

All such expenses incurred in connection with, or incident to, such removal and destruction or either of them, and as fixed with the Yavapai County Assessor and Tax Collector, is hereby declared as a tax lien upon such building, grounds and premises; and shall be charged and assessed upon and against such building, grounds and premises, and shall be collected at the same time and in the same manner as other City taxes are collected. (Ord. 1686, 5-14-84)

- (B) Notwithstanding other provisions to the contrary, the City Manager may, but shall not be required to, landscape and maintain the sidewalks, culverts, and street parkways adjacent to certain main arterial entrances to the City, including but not limited to:

1. East Gurley Street from City limits to Courthouse Plaza;
2. White Spar Road from City limits to Montezuma Street to Courthouse Plaza;
3. Iron Springs Road from City limits to Five Points Intersection;
4. Willow Creek Road from City limits to Five Points Intersection to Miller Valley Road to Grove Avenue to West Gurley Street and east to Courthouse Plaza.

For purposes of this subsection only, the notice provisions of Section 8-3-2 shall not apply, and the cost of landscaping and maintaining shall be borne by the City.

8-3-4: SEVERABILITY:

The provisions of this Chapter are declared to be severable and if any section, sentence, clause or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the invalidity of any part. (Ord. 1878, 3-24-87)

8-3-5: CIVIL VIOLATION:

In addition to any other remedy set forth herein, violation of any provision of this Chapter shall be a civil violation subject to the provisions of Section 1-3-2 of the Prescott City Code. (Ord. 2102, 8-8-89)

CHAPTER 8- 4: TRESPASS ON CITY LANDS

SECTIONS:

8-4-1: TRESPASS ON CITY LANDS:

8-4-2: CITY PARKS, HOURS OF OPERATION:

8-4-3: CITY PARKS, EMERGENCY CLOSURE:

8-4-1: TRESPASS ON CITY LANDS:

- (A) A person is guilty of a misdemeanor who intentionally commits any trespass upon City owned or leased lands by either cutting down, destroying or injuring any kind of wood or timber growing upon the lands, or digging, taking or carrying away any earth or soil lying or being upon the lands, or under the surface thereof, or who removes any other materials or objects from the City owned or leased land.
- (B) A person is guilty of a misdemeanor who intentionally commits a trespass upon City owned or leased garbage or trash landfills for the purpose of milling upon, junking or removing any items of trash, garbage or debris in said landfill or garbage dump.
- (C) A person is guilty of a misdemeanor who intentionally commits any trespass by entering onto or storing, parking, placing or dumping any object, item or vehicle upon City owned or leased land or property when said land or property is posted with a prohibition against any person committing any of the acts prohibited in this subsection.
- (D) The provisions of the above subsections shall not apply when a person has express permission or consent from City authorities to be engaged in any action otherwise prohibited in this Section. (Ord. 1132, 1-12-76; amd. Ord. 1834, 9-23-86)

8-4-2: CITY PARKS, HOURS OF OPERATION:

- (A) The opening and closing time for any unit of the park system or any portion thereof, as established by the Recreation Services Director or his designee, and posted at the established entrances thereto, shall be complied with. (Ord. 1282, 6-21-78; amd. Ord. 1458, 7-14-80; amd. Ord. 3533, eff. 10-10-96)
- (B) A person is guilty of a misdemeanor who commits any trespass by entering onto, into or being within any City park, playground or recreational area at anytime other than the times established for hours of

operation of such premises indicated by the posted signs at the established entrances thereto, without the express permission of the Recreation Services Director or his designee.(Ord. 1282, 6-21-78; amd. Ord. 1458, 7-14-80; amd. Ord. 1834, 9-23-86; amd. Ord. 3533, eff. 10-10-96)

- (C) A person is guilty of a misdemeanor by remaining within any City park, playground or recreational area after having been ordered by the Recreation Services Director or his designee to vacate the premises. (amd. Ord. 3533, eff. 10-10-96)

8-4-3: CITY PARKS, EMERGENCY CLOSURE:

- (A) The City Manager shall be authorized to direct that any City park, playground or recreational area be closed to all persons not properly authorized to be therein, when in his opinion an emergency situation exists therein, that demands for the protection of the public health, safety or welfare, that the premises be closed. Such closure shall be for a period not to exceed seven (7) days. (Ord. 1282, 6-21-78; amd. Ord. 1458, 7-14-80)
- (B) A person is guilty of a misdemeanor who, without proper authorization, intentionally commits any trespass by entering onto or failing to vacate, any City park playground or recreational area after adequate notice of emergency closure has been given. (Ord. 1282, 6-21-78; amd. Ord. 1458, 7-14-80; Ord. 1834, 9-23-86)

CHAPTER 8-5: RESERVED

CHAPTER 8-6: SIGNS IN THE CITY RIGHT OF WAY

SECTIONS:

- 8-6-1: DEFINITIONS OF TERMS:
- 8-6-2: USE OF CITY RIGHT OF WAY:
- 8-6-3: VARIANCES:
- 8-6-4: EXISTING SIGNS:
- 8-6-5: INAPPLICABILITY OF CHAPTER:
- 8-6-6: CIVIL VIOLATION:

8-6-1: DEFINITIONS OF TERMS:

PERSON: An individual, or his agent, firm, partnership, association, corporation, or agent of the aforementioned group.

RIGHT OF WAY: Any public street, highway, alley, or other platted or written easement duly recorded in the office of the Yavapai County recorder which has been dedicated to and accepted by, or acquired by, the city for public purposes.

SIGN: Any device or visual communication which is used to attract or intended to attract the attention of the public for any purpose. (Ord. 1508, 3-9-1981; amd. Ord. 2101, 8-8-1989; Ord. 2279, 6-25-1991)

8-6-2: USE OF CITY RIGHT OF WAY:

Signs located in, on or across the city right of way are hereby prohibited. This does not apply to the placement of traffic control signs or other public purpose signs by an authorized employee or agent of the city. (Ord. 1508, 3-9-1981; amd. Ord. 2101, 8-8-1989)

8-6-3: VARIANCES:

- (A) The city council may, in cases of extreme hardship of the land, grant a variance from the terms of this chapter. The application to request a variance shall contain the following:
1. A drawing to scale of the proposed sign, in order to determine that the proposed sign will not adversely affect sight visibility or create a traffic or pedestrian hazard.
 2. A site plan of the proposed location.
 3. A nonrefundable application fee of two hundred dollars (\$200.00).
- (B) If a variance is granted, the applicant shall be responsible for:

1. Obtaining a permit from the public works department.
 2. Ongoing maintenance of the sign and sign structure.
 3. Removal of the sign and sign structure when the sign is no longer needed or useful, or upon revocation of the variance.
- (C) The city council may rescind a variance granted herein in the event that the sign and sign structure are not maintained to the satisfaction of the city, as required by subsection (B)2 of this section, or when the conditions as set forth in subsection (B)3 of this section warrant removal. The applicant and/or subsequent owner of the sign shall be given a minimum of seventy two (72) hours' notice of the council's intention to rescind said variance.
- (D) "Extreme hardship", as used in this section, means:
1. A topographic situation which exists that prohibits visibility of a business from the adjoining right of way; or
 2. A topographic situation which exists that prohibits the visibility of a "shopping mall" (which is defined as retail stores included within a complex having a common parking area and containing a cumulative amount of not less than 100,000 square feet of retail space) from the nearest arterial roadway. (Ord. 4182, 12-18-2001)

8-6-4: EXISTING SIGNS:

Signs already in the right of way are not subject to the approval provisions of this chapter provided they have previously received written approval from the city. (Ord. 1508, 3-9-1981)

8-6-5: INAPPLICABILITY OF CHAPTER:

This chapter shall not be applicable to the placement of signs as may be allowed in accordance with section 8-2-4 or 8-2-17 of this title. (Ord. 4121, 6-26-2001)

8-6-6: CIVIL VIOLATION:

Violation of any provision of this chapter shall be a civil violation and shall be subject to the provisions of section 1-3-2 of this code for each day that the violation continues. (Ord. 2102, 8-8-1989; amd. Ord. 2279, 6-25-1991)

CHAPTER 8-7: RESERVED

CHAPTER 8-8: REGULATION OF COMMERCIAL VEHICLES

SECTIONS:

- 8-8-1: DEFINITIONS:
- 8-8-2: THROUGH TRUCK ROUTES:
- 8-8-3: LOCAL TRUCK ROUTES:
- 8-8-4: REQUIRED ROUTES:
- 8-8-5: EXEMPTIONS FOR USE OF CERTAIN NONDESIGNATED ROADWAYS:
- 8-8-6: ADDITIONAL EXEMPTIONS:
- 8-8-7: PENALTY:

8-8-1: DEFINITIONS:

DEVIATING TRUCK: A truck which leaves and departs from a truck route while traveling inside the City.

TRUCK: Any commercial motor vehicle which has a vehicle rated chassis capacity in excess of one (1) ton, and which is designated or used primarily for the carrying of property other than the effects of the driver or passengers, and includes a motor vehicle to which has been added a box, platform or other equipment for such carrying, and also includes trailers being towed.

THROUGH TRUCK ROUTE: A way over certain streets, as designated herein, over and along which trucks coming into and going out of the City must operate unless otherwise exempted pursuant to Sections 8-8-5 or 8-8-6.

LOCAL TRUCK ROUTE: Those streets or roads which shall be used by a truck to arrive at an in-City destination which is not located on a Through Truck Route or to reach a Through Truck Route when departing from an in-City origination when the point of origination is not on a Through Truck Route.

8-8-2: THROUGH TRUCK ROUTES:

There is hereby established within the City the following Through Truck Routes:

- (A) Highway 69
- (B) Highway 89
- (C) Whipple - Montezuma Connector
- (D) Willow Creek Road

- (E) Sixth Street/Merritt Street (Whipple St. to Sheldon St.)
- (F) Williamson Valley Road
- (G) Iron Springs Road

8-8-3: LOCAL TRUCK ROUTES:

In addition to those streets in the City designated as "Through Truck Routes", the following streets shall be designated as Local Truck Routes:

- (A) Sturm Ruger
- (B) Larry Caldwell Drive and Wilkinson Drive (Highway 89 to Airport)
- (C) Miller Valley Road (Four-Points Intersection to Grove Avenue to West Gurley Street)
- (D) West Gurley Street (from west end of Granite Creek Bridge to Thumb Butte Road)
- (E) Thumb Butte Road from West Gurley Street to City Limits
- (F) Gail Gardner Way
- (G) Copper Basin Road
- (H) Mount Vernon Street, south from Sheldon Street to City Limits
- (I) Haisley Road
- (J) Sundog Ranch Road

8-8-4: REQUIRED ROUTES:

- (A) All trucks using City streets must travel over the designated Through Truck Routes unless otherwise exempted pursuant to Sections 8-8-5 or 8-8-6.

8-8-5: EXEMPTIONS FOR USE OF CERTAIN NONDESIGNATED ROADWAYS:

Trucks entering the City going to an in-City destination, leaving the City from an in-City point of origination and/or conducting business between points within the City, shall conform to the following:

- (A) In-City destination, single destination. All trucks entering the City for a destination point in the City shall proceed only over an established truck route and shall deviate only at the intersection with the street upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest reasonable route.
- (B) In-City destination, multiple destinations. All trucks entering the City for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street upon which such traffic is permitted, nearest to the first destination point. Upon leaving the first destination point, a deviating truck shall proceed to other destination points by the shortest route and only over streets upon which such traffic is permitted. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest reasonable route.
- (C) In-City origination. All trucks on a trip originating in the City, and traveling in the City for a destination point outside the City, shall proceed by the shortest reasonable route over streets on which such traffic is permitted to a truck route as herein established.
- (D) In-City origination and destination. All trucks, on a trip originating in the City, and traveling in the City for destination points in the City, shall proceed only over streets upon which such traffic is permitted.
- (E) Public Utility Vehicles. Vehicles belonging to, or operated by, a public utility or its agent, traveling to an emergency incident within the City where there is a potential danger to life or property, may use whatever streets are necessary in order to arrive at the location of the emergency in the shortest period of time.

8-8-6: ADDITIONAL EXEMPTIONS:

The following are exempt from the provisions of this Chapter:

- (A) Operation on street of destination. The operation of trucks upon any street where necessary to conduct business at a destination point on that street provided streets upon which traffic is permitted are used until reaching the intersection nearest the destination point.
- (B) Emergency Vehicles. The operation of emergency vehicles upon any street in the City.
- (C) Detoured Trucks. The operation of trucks in compliance with any designated detour in any case where such trucks could otherwise be lawfully operated upon the street for which such detour is established.

8-8-7: PENALTY:

Violation of any provision of this Chapter shall be a civil violation, and shall be subject to the provisions of Section 1-3-2 for each instance that the violation occurs. (Ord. 2310, 11-26-91)

CHAPTER 8-9: PARADE, SPECIAL EVENT AND PUBLIC ASSEMBLY PERMITS

SECTIONS:

- 8-9-1: DEFINITIONS:
- 8-9-2: PERMIT REQUIRED:
- 8-9-3: EXCEPTIONS:
- 8-9-4: APPLICATION:
- 8-9-5: POLICE PROTECTION:
- 8-9-6: STANDARDS FOR ISSUANCE:
- 8-9-7: NONDISCRIMINATION:
- 8-9-8: NOTICE OF DENIAL OF PERMIT:
- 8-9-9: APPEAL PROCEDURE:
- 8-9-10: DUTIES OF PERMITTEE:
- 8-9-11: PUBLIC CONDUCT DURING PARADES, SPECIAL EVENTS AND PUBLIC ASSEMBLIES:
- 8-9-12: REVOCATION OF PERMIT:
- 8-9-13: PENALTY:
- 8-9-14: SEVERABILITY:

8-9-1: DEFINITIONS:

DIRECTOR: The city of Prescott parks and recreation director or his designee.

OWNED BY THE CITY: Ownership in fee simple by the city or a public easement which has been approved by the city.

PARADE: Any march, demonstration, procession or motorcade consisting of persons, animals or vehicles, or a combination thereof, upon any public streets, or parks or other public grounds owned by the city, with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon or within said property or interferes with or restricts the normal use of said property by the general public.

PERMIT: A permit as required by this chapter.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC ASSEMBLY: Any meeting, demonstration, picket line, rally or gathering of more than twenty five (25) persons for a common purpose which might interfere with the normal flow or regulation of traffic upon or within public property

or which might interfere with or restrict the normal use of said property by the general public.

SIDEWALK: Any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved, which is owned by the city.

SPECIAL EVENT: The use of any public street, or park or other public grounds which is owned by the city, for events including (but not limited to) sporting events, music festivals, pageants, reenactments, regattas, entertainment, public assemblies, demonstrations, and other activities which would require a closure or limitation of some or all of said grounds for the uses to which they are generally available.

STREET: Any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right of way or median strip thereof, which is owned by the city. (Ord. 4088, 2-27-2001)

8-9-2: PERMIT REQUIRED:

No person shall engage in or conduct any parade, special event or public assembly unless a permit is issued by the director. (Ord. 4088, 2-27-2001)

8-9-3: EXCEPTIONS:

The provisions of this chapter shall not apply to:

- (A) Funeral processions.
- (B) Students going to and from school classes or participating in educational or school-related activities.
- (C) A governmental agency acting within the scope of its functions.
- (D) Spontaneous events occasioned by news or affairs coming into public knowledge within three (3) days of such public assembly, provided that the organizer thereof gives written notice to the city chief of police at least twenty four (24) hours prior to such parade or public assembly. (Ord. 4088, 2-27-2001)

8-9-4: APPLICATION:

- (A) A person seeking a parade, special event or public assembly permit shall file an application with the director on forms provided by the city.

- (B) For a single, nonrecurring parade, special event or assembly, a permit shall be filed with the director at least thirty (30), but not more than one hundred eighty (180), days before the parade, special event or assembly is proposed to commence. The director may waive the minimum thirty (30) day filing period and accept an application filed within a shorter period of time if, after due consideration of the date, time, place and nature of the parade, special event or public assembly, the anticipated number of participants, and the city services required in connection with the event, the director determines that the waiver will not present a hazard to public safety.
- (C) For events held on a regular or recurring basis at the same location, an application for a permit covering all such events during that calendar year may be filed with the director at least sixty (60) days and not more than one hundred eighty (180) days before the date and time at which the first such event is proposed to commence. The director may waive the minimum sixty (60) day period after due consideration of the factors specified in subsection (B) of this section. (Ord. 4088, 2-27-2001)

8-9-5: POLICE PROTECTION:

- (A) The city chief of police or his designee shall determine whether and to what extent additional police protection is reasonably necessary for the parade, special event or public assembly for traffic control and public safety. The chief of police shall base his decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections to be blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. The speech content of the event shall not be a factor in determining the amount of police protection necessary. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police are deemed necessary by the chief of police, he shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the chief of police, at the sole expense of the applicant, prior to the issuance of a permit. The applicant may also provide security other than certified police officers if so approved by the chief of police.
- (B) Persons engaging in parades, special events or public assemblies conducted for the sole purpose of public issue speech protected under the first amendment are not required to pay for any additional police protection which may be required by the city; provided, however, that if the applicant requests additional police protection (which is not otherwise required by the chief of police), then and in that event the applicant shall be

responsible for all costs associated therewith, which must be paid or provided for prior to the issuance of a permit. (Ord. 4088, 2-27-2001)

8-9-6: STANDARDS FOR ISSUANCE:

- (A) The director, after consultation with affected city departments, shall issue a permit provided for herein when, from a consideration of the application and from such other information as may be otherwise obtained, he/she finds that:
1. The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location; and
 2. The conduct of the event will not require the diversion of so great a number of city police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the city; and
 3. The concentration of persons, animals and vehicles at public assembly points of the event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly areas; and
 4. The conduct of the event is not reasonably likely to cause injury to persons or property; and (Ord. 4088, 2-27-2001)
 5. The event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; or if the event provides for a total or partial closure of a roadway, the closure of said roadway is for the minimum period of time required for the event; and (Ord. 4121, 6-26-2001)
 6. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas; and
 7. There are sufficient parking places near the site of the event to accommodate the number of vehicles reasonably expected; and
 8. The applicant has secured the necessary additional police protection, if any, required under section 8-9-5 of this chapter; and (Ord. 4088, 2-27-2001)
 9. The event is not for the primary purpose of advertising any product, goods or services, and the event itself is not primarily for profit; provided, however, that a "farmers' market" or similar type of event

which would result in the provision of goods or services from numerous vendors representing a common theme, and which would result in perceived economic benefits to the area where the event is scheduled (such as increased pedestrian traffic, tourism, etc.) would not be prohibited by the provisions of this subsection; and (Ord. 4121, 6-26-2001)

10. No permit application for the same time and location has already been granted; and
 11. No event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and/or property. (Ord. 4088, 2-27-2001)
- (B) The director, after consultation with affected city departments, may deny a permit in the event that he/she finds that:
1. The application for permit (including any required attachments and submissions) is not fully completed and executed; or
 2. The applicant has not tendered any required fees, insurance certificates or other required documentation; or
 3. The application contains a material falsehood or misrepresentation; or
 4. The applicant is legally incompetent to contract or to sue or be sued; or
 5. The applicant or the person or entity on whose behalf the application is being made has on prior occasions damaged city property and has not paid in full for such damage, or has other outstanding and unpaid debts to the city; or
 6. A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular portion of city property; or
 7. The use or activity intended by the applicant would conflict with previously planned programs organized, conducted or sponsored by the city for the same time and place; or

8. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of city property, or of city employees, or of the general public; or
9. The applicant has not complied with or cannot comply with applicable licensure requirements; or
10. The use or activity intended by the applicant is prohibited by law. (Ord. 4200, 2-12-2002)

8-9-7: NONDISCRIMINATION:

The director shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this chapter based upon political, religious, ethnic, race, disability or gender related grounds. (Ord. 4088, 2-27-2001)

8-9-8: NOTICE OF DENIAL OF PERMIT:

The director shall act promptly upon a timely filed application for an event, but in no event shall grant or deny a permit no more than forty five (45) days after said application has been filed. (Ord. 4088, 2-27-2001)

8-9-9: APPEAL PROCEDURE:

An applicant shall have the right to appeal the denial of a permit, or any conditions included as a part of the approval thereof, to the city manager. Said appeal shall be in writing and shall be made within five (5) working days after written notice of the denial or of the conditions of approval. The city manager shall rule upon said appeal within ten (10) working days of the receipt of said appeal. (Ord. 4088, 2-27-2001)

8-9-10: DUTIES OF PERMITTEE:

- (A) A permittee hereunder shall comply with all permit directions and conditions, and with all applicable laws and ordinances.
- (B) The chairman or other person heading the event shall carry the permit upon his person during the conduct of the event. (Ord. 4088, 2-27-2001)

8-9-11: PUBLIC CONDUCT DURING PARADES, SPECIAL EVENTS AND PUBLIC ASSEMBLIES:

- (A) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade, special event or public assembly, or with any person, vehicle or animal participating or used in any such event.
- (B) No driver of a vehicle shall drive between the vehicles or persons comprising a parade, special event or public assembly. (Ord. 4088, 2-27-2001)

8-9-12: REVOCATION OF PERMIT:

The director and/or the chief of police or his designee shall have the authority to revoke a permit issued pursuant to this chapter immediately upon a violation of the conditions or standards for issuance as set forth in this chapter, or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the event would have an immediate and adverse effect upon the welfare and safety of persons or property. (Ord. 4088, 2-27-2001)

8-9-13: PENALTY:

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 4088, 2-27-2001)

8-9-14: SEVERABILITY:

The provisions of this chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the validity of any part thereof. (Ord. 4088, 2-27-2001)