Ordinance No. 2026-989

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF THE STATE OF ARIZONA, REPEALING AND REENACTING SECTION 3-02-050 "TOWN ATTORNEY", IN ARTICLE 3-02 "OFFICERS", IN CHAPTER 3 "ADMINSTRATION" OF THE TOWN CODE TO UPDATE PROVISIONS REGARDING THE POSITION OF TOWN ATTORNEY WITHIN THE LEGAL DEPARTMENT; PROVIDING THAT, IF ANY PROVISION OF THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, pursuant to ARS §9-237, common councils of towns may appoint officers (other than the town clerk, town marshall, and town engineer) as provided by ordinance; and

WHEREAS, beginning with Ordinance No. 8 (June 28, 1979) the Prescott Valley Town Council created and established the office of Town Attorney; and

WHEREAS, the Town Council has specified by ordinance the duties of the Town Attorney from time to time in accordance with ARS §9-239; and

WHEREAS, the Town Council desires now to repeal and reenact Town Code Section 3-02-050 in order to update and further clarify and specify the duties of the Town Attorney within the Legal Department; and

WHEREAS, the Town Council finds the proposed update is in the best interests of the community and meets the health, safety, and welfare needs thereof;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That Section 3-02-050 "Town Attorney" in Article 3-02 "OFFICERS" in CHAPTER 3 "ADMINISTRATION" of the Town Code of the Town of Prescott Valley, Arizona, be hereby repealed in its entirety and reenacted as follows:

3-02-050 Town Attorney.

A. Legal Counselor and Duties. The Town Attorney shall act as the legal counselor and advisor of the Council and other Town officials and, as such, shall give his or her opinion in writing when requested. The Town Attorney shall draft or assist in drafting all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments, and shall approve as to form, in writing, all drafts of such deeds, contracts, conveyances, ordinances, resolutions and other legal instruments before final approval or acceptance thereof. The Town Attorney shall promptly prosecute and defend all suits, actions or

causes where the Town is a party, whether civil, criminal or quasi criminal in nature, and shall report to the Council, when required, the condition of any suit or action to which the Town is a party.

B. Deputy Town Attorney and Assistant Town Attorneys. The Town Attorney shall have the power to appoint a Deputy Town Attorney and such other attorneys and employees of the Town Attorney's office as may be authorized in the Town's adopted budget. The Deputy Town Attorney shall be authorized to do all acts required by law of the Town Attorney.

C. All attorneys and employees of the Town Attorney's office, other than the Town Attorney, shall be subject to the Town's Human Resources Policy Manual rules of the Town and to the discipline, grievance, and appeal provisions of the Human Resources Policy Manual.

D. Status of the Town Attorney. The Town Attorney is an officer appointed by the Town Council and is not subject to the merit system rules or the Personnel Policy Manual, except to the extent the Council provides otherwise by employment contract pursuant to Section 3-03-010.

E. Professional Independence, Supervision, and Confidentiality. Nothing in this Section or in the Human Resources Policy Manual shall be construed to authorize the Town Manager, the Director of Human Resources, a hearing officer, the Personnel Board, or any other non-lawyer official or body to direct, regulate, or control the professional legal judgment of the Town Attorney or of any attorney in the Town Attorney's office in the rendering of legal services, or to limit the Town Attorney's authority to assign, direct, and supervise the legal work of the office. Consistent with the Arizona Rules of Professional Conduct, the Town Attorney shall retain authority to supervise the professional conduct of the attorneys in the office and, when necessary to comply with those Rules, to reassign or remove an attorney from a particular legal matter; such action is independent of, and does not require exhaustion of, the personnel processes that govern the employment relationship. In any disciplinary or appeal proceeding under the Town's Human Resources Policy Manual involving an attorney employee of the Town Attorney's office, the Town shall be represented, and the Town Manager and any hearing officer advised, by independent legal counsel from outside the Town Attorney's office. Any such proceeding shall be conducted in a manner that protects information the attorney is obligated to keep confidential under the Arizona Rules of Professional Conduct, including by closed hearing and limitation of the public record to the extent permitted by Arizona's public records law.

F. Licensure and Compensation. The Town Attorney and any Deputy and/or Assistant Town Attorneys shall be duly licensed to practice law in the State of Arizona. The Town Attorney shall receive compensation as the Council may from time to time direct. The Deputy Town Attorney and the Assistant Town Attorneys and other employees of the Town Attorney's office shall receive compensation in accordance with the Town's adopted compensation policies and practices and the Human Resources Policy Manual applicable to such employees.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 205, Amended, 04/13/89; Ord. No. 491, Amended, 10/26/00; Ord. No. 2026-989, Rep&ReEn, 12/10/26)

SECTION TWO. That all other Chapters, Articles, and Sections of the Town Code, not herein repealed or amended, shall remain in full force and effect.

SECTION THREE. That, if any provision of this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FOUR. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 10th day of December 2026.

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Kell Palguta, Mayor

ATTEST:

_____
Fatima Fernandez, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney