ORDINANCE NO. 692

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 130.38 TO THE CODE OF THE TOWN OF PAYSON TO PROTECT THE TOWN'S ROADWAYS DURING THE CONSTRUCTION OF SUBDIVISIONS AND BUILDINGS.

WHEREAS, construction traffic from the construction of subdivision infrastructure and buildings has in some instances damaged the Town's existing roadways; and

WHEREAS, the Town wishes to maintain the quality of its roadways and to prohibit such damage in the future, and if such damage does occur to require the developer of the subdivision or building to repair such damage; and

WHEREAS, the Town of Payson finds that the adoption of this Ordinance Number 692 is necessary and appropriate to protect the health, safety, and welfare of the citizens of the Town of Payson as a lawful exercise of police power vested in the Town by the State of Arizona; and

WHEREAS, it is the desire and intent of the Mayor and Common Council to amend the Code of the Town of Payson by adding Section 130.38,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That Section 130.38 of the Code of the Town of Payson is hereby added and as added shall read as follows:

130.38 Roadway Protection

(A) For the purposes of this subsection

(1) Subdivision Construction Traffic means the operation on Town roads of all trucks, trailers, tractors, backhoes, graders and any other equipment or machinery used to construct infrastructure as detailed on the final improvement plans of a subdivision.

(2) Building Construction Traffic means the operation on Town roads of all trucks, trailers, tractors, backhoes, graders and any other equipment or machinery used to construct any building or structure for which a building permit is required.

(B) Prior to the commencement of any Subdivision Construction Traffic, the developer of a subdivision shall obtain from the Public Works Engineer or designee an ingress/egress plan (to include street

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names) for all Subdivision Construction Traffic. All Subdivision Construction Traffic must enter and leave the subdivision in accordance with the ingress/egress plan.

(C) No Subdivision Construction Traffic or Building Construction Traffic shall damage any of the Town's existing roadways. The developer of a subdivision or the person holding the building permit shall be responsible to repair such damage.

(D) If Subdivision Construction Traffic does cause damage to the Town's existing roadways, the Town shall not accept the public improvements of the subdivision until such damage has been repaired to the satisfaction of the Public Works Engineer.

(E) If Building Construction Traffic does cause damage to the Town's existing roadways, the Town shall not grant a certificate of occupancy for the building or structure benefitting from the Building Construction Traffic until such damage has been repaired to the satisfaction of the Public Works Engineer.

Section 2. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 692 are hereby repealed to the extent of such conflict.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 692 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance Number 692. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 692 and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____

F. Robert Edwards, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney