

RESOLUTION NO. 2214

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 50.03 OF THE CODE OF THE TOWN OF PAYSON AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD.**

**WHEREAS**, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

**WHEREAS**, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

**WHEREAS**, it is the intention of the Town of Payson to amend Section 50.03 of the Code of the Town of Payson; and

**WHEREAS**, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

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

Section 1. Section 50.03 of the Code of the Town of Payson is hereby amended, as amended shall read as follows, and is declared to be a public record:

§ 50.03 WATER SUPPLY AND STORAGE REQUIREMENTS.

- (A) At the time of the issuance of any building permit, the permittee shall pay the then existing Water Development Fees set forth in §50.56.
- (B)
  - (1) Notwithstanding Subsection A above a new development may provide the Town with a new water supply in lieu of paying the Technical Studies Recapture fee and the Water Supply Recapture fee set forth in §50.56. Such new water supply shall be credited only at the site of such new development and in no case shall any transferable credits be created, recognized, or allowed for sale.
  - (2) Any new water supply provided pursuant to Subsection (B)(1) shall be capable of producing the greater of 0.4 gallons of water per minute for Equivalent Residential Unit (as defined by §50.57) needed for the development or thirty five (35) gallons per minute.
  - (3) For the purposes of this section, a 'new water supply' shall mean water that is not accessible by and does not impact or affect the Town's current water system or supplies.
- (C) This section shall not apply to building units erected upon property which receives or has previously received metered water service from the Town, as long as the new building unit(s) erected upon said property do(es) not increase the number of Equivalent Residential Units used by the property and a water development fee has been paid each Equivalent Resident Unit being used on the property.
- (D) All persons or entities who establish water service which requires new or upgraded public water service facilities shall bear all costs associated with the establishment or upgrading of

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the water service facilities to meet the water demands and requirements of the new use.

- (E) In order to ensure the proper and orderly development of the public water system, it may be necessary for the Public Works Director to require of a developer the construction of water system facilities over and above the needs of a developer's project. In such instances, developer is entitled to enter into a Water Facilities Recapture Agreement with the Town whereby the developer may be reimbursed for any expenses associated with the over sizing of water system facilities by any future users of said water system facilities. In no event shall a developer recover more than 100% of the cost representing the upgraded or oversized facilities construction.
- (F) All planned improvements and alterations of the Town's water system facilities shall be approved prior to construction and shall pass final inspection prior to Town's acceptance of said construction. The Town shall receive title to all improvements and alterations, free and clear of all liens or encumbrances. All water system facilities shall be constructed within dedicated easements or, if necessary, upon land for which title is deeded to the Town of Payson, upon completion of the improvements and alterations.
- (G) All construction and alterations to the water system facilities shall be governed by a two-year warranty for parts and labor which will benefit the Town. Said two-year warranty shall commence upon the date the Town finally approves said construction and has received title to the constructed water system facility. The Town shall be held harmless from all claims arising from the course of construction by all contractors, owners or employees of contractors, during the course of construction or alteration of the Town's water system.
- (H) At the sole discretion of the Public Works Director, the Town may elect to enter into an agreement for the collection of Water Development Fees over a period of time, not to exceed 60 months from the original due date of said fees. All such agreements shall carry interest at the prime rate plus 2% per annum on the unpaid balance. Any agreement for the collection of Water Development Fees exceeding 60 months shall be approved by the Council. Interest on an agreement made pursuant to this subsection shall be waived for persons who agree to and abandon the use of a well within the Town limits and who receive water from the Town water system.
- (I) When a homeowner extends public water mains or fire protection facilities solely for the benefit of his or her residence, he or she shall be entitled to enter into a Special Recapture Agreement whereby said homeowner is entitled to receive for each lateral connection to said public water main a sum of money equal to the following formula, the money to be collected from anyone wishing to construct a service connection to the main by the Water Department as a recapture fee and forwarded to the homeowner:

Total homeowner cost to construct main divided by the total number of building units that could be connected to that main (based on number of lots times the density per each lot that could be served in effect at the time Special Recapture Agreement is executed).

This Recapture Program shall be limited to a period of ten years after acceptance by the Payson Water Department of said facilities. If a person builds on a lot or parcel that could be served by these facilities, but does not desire public water service, said fee is due before

issuance of a building permit.

- (J) In the event Town monies are used to construct public water mains, pressure booster facilities, and/or fire protection facilities, a special recapture condition is implied whereby the Town may recover said monies based on a per-lot or unit served pro rata division of the entire monies expended for said facilities on any particular construction project.
- (K)
  - (1) Specifications and requirements for the design and construction of facilities necessary for the expansion of the public water system shall be on file in the office of the Public Works Engineer and with the Town Clerk.
  - (2) In order to ensure the proper and orderly development of the public water system, the Water Superintendent shall review all plans and documents relating to the expansion, extension or construction of the public water system.
  - (3) The Water Superintendent shall recommend changes necessary to assure the proper growth of the water system on a Town-wide basis.
  - (4) The Water Superintendent shall approve all proposed additions to the public water system if and when said additions are determined to be for the public benefit as a whole, as well as for the benefit of any particular development.
  - (5) In the event it is necessary to alter or change any specifications or requirements relating to the design and construction of the public water system, the Water Superintendent shall make necessary changes and file them with the Town Clerk.

Section 2. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2214 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 Resolution Number 2214. The Town Council of Payson declares that it would have adopted Resolution Number 2214 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may 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:

APPROVED AS TO FORM:

\_\_\_\_\_  
Silvia Smith, Town Clerk

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Samuel I. Streichman, Town Attorney