

ORDINANCE NO. 705

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, CREATING PAYSON'S DESIGN REVIEW BOARD BY ADDING CHAPTER 156 TO THE CODE OF THE TOWN OF PAYSON.

WHEREAS, the Town of Payson has numerous standing Boards, Committees, and Commissions that act in various capacities; and

WHEREAS, it is the intention of the Town of Payson to create a Design Review Board and to establish its functions by adding Chapter 156 to the Code of the Town of Payson; and

WHEREAS, the Town of Payson has found that the adoption of this Ordinance Number 705 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,

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

Section 1. Chapter 156 of the Code of the Town of Payson as set forth in Resolution 2244 was heretofore declared to be a public record by such Resolution, and all the provisions thereof are hereby referred to and added to the Code of the Town of Payson and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 705.

Section 2. That at least three copies of Chapter 156 of the Code of the Town of Payson, as adopted by this Ordinance Number 705, shall be filed in the Office of the Town Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance Number 705 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 705. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 705 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.

Prepared by Town of Payson Legal Department

SIS:drs January 24, 2007 (11:50AM)

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1st Reading & Pub. Hrg. FEB 01 2007 C.S

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

RESOLUTION No. 2244

FOR INFORMATION ONLY

RESOLUTION NO. 2244

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING CHAPTER 156 TO THE CODE OF THE TOWN OF PAYSON, CREATING A DESIGN REVIEW BOARD, 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 create a Design Review Board by adding Chapter 156 to 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. Chapter 156 (Design Review Board) is hereby added to the Code of the Town of Payson, is declared to be a public record, and shall read as set forth on Exhibit "A", attached hereto and made a part hereof by this reference as though set forth in full at this point.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Resolution Number 2244 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 Resolution Number 2244. The Town Council of Payson declares that it would have adopted Resolution Number 2244 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one 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, ARIZONA, this ____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

EXHIBIT “A”

to Resolution No. 2244

TITLE XV CHAPTER 156 DESIGN REVIEW

DEFINITIONS

1. “Applicant” means any real property owner or agent applying for Design Review approval according to this Chapter.
2. “Board” means the Design Review Board of the Town of Payson.
3. “Commission” means the Planning and Zoning Commission of the Town of Payson.
4. “Department” means the Community Development Department of the Town of Payson.
5. “Building Inspector” means building inspector of the Community Development Department of the Town of Payson.
6. “Vertical Structure” includes all construction with the exception of resurfacing of streets, parking lots, and driveways.

PURPOSE

1. The Town of Payson’s Design Review process is intended to provide an aesthetic direction for continuing development within Town boundaries in order to help preserve the rural character, natural resources, open space, recreational opportunities, and access to forests described in the Town’s General Plan. A Town Council appointed citizen’s board will review applicable proposed building projects to help ensure that new construction is consistent with the General Plan’s vision of the Town’s past, present and future character.
2. To further this purpose, the Town, through the Design Review Board, will review and the Board shall act upon all development applications pertaining to commercial, industrial, and multi-family developments.

APPLICABILITY

1. This Ordinance shall apply to all buildings and other vertical structures and signs erected, constructed, converted, established, altered (including resurfacing and repainting), or enlarged within commercial, industrial, or multi-family projects or developments in the Town of Payson.
2. Exceptions. This Ordinance shall not apply to:
 - a. Single Family dwellings and accessory structures.
 - b. Temporary sales and construction offices.
 - c. Public utility electrical transmission structures. Substations are considered voltage reduction facilities and are not exempt from the provisions of this Ordinance.

POWERS AND DUTIES

1. The Board shall have the power to hold public meetings to review design aspects of the following applications to ensure conformance with the general intent and specific provisions of this Ordinance and of existing and prospective design review standards, and shall review the following: applications for new commercial development, industrial

development, institutional development, multi-family development, and vertical structures within commercial development, industrial development, and multi-family development within the Town of Payson to assure conformance with the general intentions and provisions of the Town of Payson Design Review Ordinance.

2. Each Board member shall fairly review each application without regard to (1) property ownership, (2) the member's relationship, if any, to the Applicant or property owner, or (3) the type of business proposed. All members shall be subject to A.R.S. § 38-501, *et seq.*
3. The Board shall have the power and duty to grant approval, conditional approval, or disapproval of all applications for Design Review under this Ordinance based solely on the criteria established under Section J of this Ordinance and any supplemental guidelines as approved by the Town Council.

D. ESTABLISHMENT, COMPOSITION

1. The members of the Board shall be appointed and serve as provided in Section 33.02(A) through (D) and (F) through (H). The Board shall be comprised of seven (7) voting members. The composition of the Board shall be as follows:
 - a. Two (2) members who shall be qualified by background, training or experience in design related occupations such as architecture/building design, landscape architecture, land use planning, civil engineering, or similar fields.
 - b. Two (2) members who shall be or have been a builder, contractor, developer, real estate agent, or otherwise represent contracting, development or real estate interests.
 - c. Three (3) members who shall represent the general public interest. These members may be lay persons with or without special knowledge of building design, construction, or real estate development, but should not be generally representative of those occupations described above.
 - d. Every member of the Board shall be a resident of northern Gila County who shall reside within the Payson Justice Court judicial district.
 - e. No member shall serve on any other Town board, committee, or commission simultaneously with that member's service on the Design Review Board.
 - f. Except as herein provided, the Board shall be subject to the provisions of Town Code Sections 33.01 through 33.04.

E. TERMS OF MEMBERS, VACANCIES, COMPENSATION

1. Members shall be appointed to three-year terms of service. However, the first appointment for one member of each of the three representative groups shall be to two-year terms to stagger appointments as determined by the Town Council.
2. Members of the Board may be removed pursuant to Town Code Section 33.02(D).

F. SELECTION OF OFFICERS

1. The Board shall elect a Chairman and Vice-Chairman from among its members in accordance with Town Code Section 33.02(D). The Chairman shall preside at all

meetings and exercise all the usual rights and duties of the head of any similar organization. The Chairman shall have the power to administer oaths and to take evidence. The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or disability. A new election shall be held to fill any vacancy for an unexpired term.

G. QUORUM, VOTING

1. Four (4) members shall constitute a quorum. The affirmative vote of a majority of all members shall be required for passage of any matter before the Board. A member may abstain from voting only upon a declaration that he or she has a conflict of interest, in which cases such member shall take no part in the deliberation on the matter in question.
2. In the event the Board is unable to achieve a voting quorum on a particular application due to declared conflicts of multiple members, the Board shall operate pursuant to the provisions of A.R.S. § 38-508(B).

H. RULES AND REGULATIONS

1. The Board, with the written approval of the Town Council, shall have the authority to make rules and regulations as necessary to govern its proceedings and to provide for its meetings.
2. All meetings of the Board shall be open to the public.
3. The minutes and records of all Board proceedings shall be kept and filed as public record in the Office of the Town Clerk.

I. ADMINISTRATION AND PROCEDURES

1. The Design Review Board shall prepare and submit for review and approval by the Town Council procedures for making and reviewing applications for Design Review.
2. The Design Review Board shall have the power to approve, conditionally approve, or deny all applications for Design Review
3. Upon receiving approval or a conditional approval from the Design Review Board, the Applicant may proceed with the preparation of a complete set of plans for submittal to the Building Department for a building permit. Prior to issuance of a building permit, the Building Inspector shall determine that all Design Review requirements have been met.

J. CRITERIA

1. The Design Review Board shall review existing Town Design Review guidelines and recommend to the Town Council any new or revised Town Design Review standards which it finds to be in conformity with the Board's purposes, and which, after approval by the Town Council, will be incorporated into the Town Code.

K. DECORUM, PROTOCOL

1. Meetings will be conducted according to policies established by the Board and approved by the Town Council.
2. The Chairman shall direct meetings in such a manner as to assure adequate discussion

- among members and applicants. All speakers shall address the Chair.
3. Design Review Board proceedings are regulatory in nature rather than advisory or legislative. While open to the public, no statutory right of the public to speak exists. The Chairman may allow public input as appropriate; however, the decision of the Board is to be primarily made based on the merits of the application.
- L. APPEAL**
1. Any person who is dissatisfied or aggrieved by the decision of the Design Review Board may appeal such decision to the Town Council by filing a written Notice of Appeal with the Town Clerk, not later than fifteen (15) days from the date of the Board's decision, and the Council shall hear all appeals *de novo*. The decision of the Council shall be binding upon all parties.