RESOLUTION NO. 2367

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING ARTICLE 2 OF CHAPTER 50 OF TITLE V OF THE CODE OF THE TOWN OF PAYSON, RELATING TO WATER CONSERVATION, 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 Article 2 of Chapter 50 of Title V of the Code of the Town of Payson relating to water conservation; 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. Article 2 of Chapter 50 of Title V of the Code of the Town of Payson, is hereby amended, and as amended is declared to be a public record, and as amended shall read as follows:

TITLE V: PUBLIC WORKS
Chapter 50. Water
Article 2. Water Conservation

§ 50.75 DECLARATION OF POLICY.

A. The Town of Payson has a limited water supply.

B. It is necessary for the Town of Payson to protect its limited water supply to allocate and monitor water use to both existing, pending, and future development within its jurisdictional boundaries to ensure the continuing economic development and stability of the Town.

C. It is necessary to require that the Town of Payson implement conservation measures and to require that water is utilized in the maximum beneficial way and that waste, unreasonable use, or unreasonable methods of use of water be prevented.

D. This Resolution Number 2367 and Ordinance Numbers 620 and 735 are each a fair and reasonable means of achieving, and substantially advances, the public purposes set forth in this Resolution and those Ordinances and each has been drafted to provide the controls necessary to accomplish the stated public purposes.

MAY 01 2008 G.2

E. Conservation of water is in the interests of the Town of Payson and its citizens and promotes the public welfare.

F. Ordinance Numbers 620 and 735 area adopted pursuant to the authority vested in the Town of Payson by the Arizona Revised Statutes to maintain and operate a water system and provide the Town with water.

G. This Article shall apply to all water whether potable or effluent and all citizens, businesses, and governmental entities within the corporate limits of the Town of Payson and all customers of the Water Department wherever situated. All provisions of this Article related to water surcharges shall apply to all persons, customers, and property served by the Water Department wherever situated.

§ 50.76 WATER CONSERVATION COMPLIANCE.

It shall be unlawful for any customer of the Town of Payson Water Department to, and no customer of the Town of Payson Water Department shall, knowingly make, cause, use, or permit the use of water from the Town for residential, commercial, industrial, agricultural, or any other purpose in a manner contrary to the provisions of this Article, or in an amount in excess of that use permitted under any water conservation level declared in accordance with this Article.

§ 50.77 DEFINITIONS. The following terms shall have the following meanings for purposes of this Article:

Effluent means treated wastewater, whether publicly or privately owned.

Fugitive water means the pumping, flow, release, escape, or leakage of any potable water from any pipe, valve, faucet, irrigation system or facility onto any hard surface such that water accumulates as to either create individual puddles in excess of ten square feet in size or cause flow along or off of the hard surface or onto adjacent property or the public right-of-way, arroyo, or other water course, natural or manmade. Fugitive water also means, during the irrigation of landscaping, the escape or flow of water away from the landscaping plants being irrigated even if such flow is not onto a hard surface. Excluded from this definition is incidental runoff caused by vehicle washing (provided that a positive shut-off nozzle is used), the periodic draining of swimming pools and spas, and the intentional washing of hard surfaces for an explicit public health, safety, or sanitation purpose as approved by the Water Superintendent.

Grey Water means household wastewater other than from water closets and kitchen sinks.

Private Eating Establishment means any establishment which admits a limited or restricted portion of the public and which serves food and washes dishes.

Public Eating Establishment means any establishment which admits the public generally with no limitations or restrictions and which serves food and washes dishes.

Waste means any non-beneficial use of water within the city limits including that caused by the pumping of wells. Waste includes, but is not limited to, the following: Leaks in an indoor or outdoor plumbing system (faucets, hose bibs, showerheads, toilets, etc.) in excess of 0.25 gallons per minute. Residential water users, both single family and multi-family are excluded from the indoor plumbing portion of this definition.

Wastewater for purposes of this chapter means the liquid and water carried waste or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions whether treated or untreated.

Water Department means the Town of Payson Water Department.

§ 50.78 RESTRICTIONS DURING WATER SHORTAGE.

A. The Town Manager, upon the recommendation of the ~~Public Works Director~~Water Superintendent, is hereby authorized to declare or rescind Water Conservation Levels in conformity with and based upon the Resource Status Levels set forth hereinbelow which assess the relationship between water demand and municipal safe production capability. Safe production capability is ninety percent (90%) of the total available water resources, based upon distribution components, storage reserves, weather conditions and historic data.

B. The following Resource Status Levels are hereby prescribed:

(1) ***Resource Status I***: When water demand is equal to or less than safe production capability. Resource Status I shall correspond with Water Conservation Level I. When Resource Status I is reached, Water Conservation Level I shall be declared.

(2) ***Resource Status II***: When demand is greater than safe production capability for three (3) consecutive days. Resource Status II shall correspond with Water Conservation Level II. When Resource Status II is reached, Water Conservation Level II shall be declared.

(3) ***Resource Status III***: When demand is greater than safe production capability for two (2) consecutive weeks. Resource Status III shall correspond with Water Conservation Level III. When Resource Status III is reached, Water Conservation Level III shall be declared.

(4) ***Resource Status IV***: When water demand exceeds total production capability. Resource Status IV shall ~~correspond with Water Conservation Level IV. When Resource Status IV is reached, Water Conservation Level IV shall be declared.~~ require the enactment of additional water use restrictions. Said restrictions shall be determined by the Town in an amount necessary to reduce water demand to a safe level. An emergency may be declared in this instance at the discretion of the Town Council.

C. The following Water Conservation Levels shall govern the use of water by customers of the Payson Water Department, as prescribed below:

~~(1) ***Water Conservation Level I: Water Awareness***. Water users are specifically encouraged to minimize waste in water used for irrigation, vehicle and pavement washing, construction and other water consuming activities.~~ Sentence edited and moved below. ~~No person shall wash paved areas such as drives, sidewalks, or tennis courts, except for health or safety.~~ Moved to F below.

~~(2)~~ ***Water Conservation Level ~~II~~ I: Water Restrictions***. Water users are specifically encouraged to minimize waste in water used for irrigation, vehicle washing, construction and other water consuming activities. The following water uses are restricted or prohibited. ~~In addition to the restrictions set forth in Section (1) above, no person shall:~~

(a) Irrigate, wash vehicles, fill or refill pools, spas, or wading pools except as provided in this Article and subject to the restrictions contained in

Section 50.83.

(b) Wash vehicles on the allowed days unless a bucket and hose with a positive cutoff nozzle is used. No restrictions apply to vehicles that must be washed for public health, safety or welfare purposes, or to commercial car washes.

(c) Irrigate golf courses except before 9:00 a.m. and after 6:00 p.m. No restrictions apply if treated effluent is used.

(d) Use ornamental fountains except if equipped with a recycling pump and subject to restrictions contained in Section 50.83.

(e) Use water from a fire hydrant except for emergencies or upon the written approval of the ~~Public Works Director~~Water Superintendent and Fire Chief; and except for such use associated with firefighting activities, public health, safety or welfare.

(f) No person shall wash paved areas such as drives, sidewalks, or tennis courts, except for health or safety reasons.

(3) ***Water Conservation Level ~~III:~~II: Water Reductions***. In addition to the restrictions set forth in ~~Sections (1) and (2)~~Level I above, the following water uses are further restricted or prohibited. No person shall:

(a) Fill or refill swimming pools, spas or wading pools.

(b) Irrigate golf courses. No restrictions apply if treated effluent is used.

(c) Wash vehicles, paved areas, or use fire hydrants on a non-emergency basis without written approval of the ~~Public Works Director~~Water Superintendent and Fire Chief. No restrictions apply to vehicles that must be washed for public health, safety or welfare, or to commercial car washes.

(d) Irrigate outdoors except as permitted pursuant to § 50.83.

(4) ***Water Conservation Level ~~IV:~~III: Water Curtailments.*** The following water uses are restricted or prohibited. No person shall:

(a) Do any of the acts prescribed in ~~Sections (1) through (3)~~Levels I and II above.

(b) Use any potable water for irrigation.

(c) Use fire hydrants, wash pavements, fill or refill pools or spas or fountains unless for public health, safety or welfare.

(d) Use potable water for dust control on public or private streets or capital improvement projects.

(e) Use potable water in violation of any other restriction deemed necessary by the Town Council for the purpose of protecting the welfare of the citizens of the Town of Payson.

(5) ***Reduction in Anticipated Water Use.*** The foregoing water conservation levels shall be utilized to achieve the following respective reductions in anticipated water use:

~~(a) Water Conservation Level I: 0% reduction in anticipated water use~~

(b) Water Conservation Level ~~II:~~I: 5% reduction in anticipated water use

(c) Water Conservation Level ~~III:~~II: 10% reduction in anticipated water use

(d) Water Conservation Level ~~IV:~~III: 30% reduction in anticipated water use

The Town Council may, from time to time, change the established water conservation level or enact additional water conservation or water use reduction measures as may be necessary or appropriate to achieve a desired reduction in

water use.

D. In addition to the restrictions set forth above, the Town of Payson shall establish yearly water conservation goals and implement such water conservation measures as may be appropriate for any year in which precipitation levels for the previous year fall below twenty-two inches of precipitation as measured by the National Weather Service. On or before May 1 of each year, the Water Department shall report to the Town Council the amount of precipitation, as measured by the National Weather Service, for the immediately previous twelve month period. The Water Department shall report the amount of precipitation for such period, whether it is above or below twenty-two inches for the period, and the percentage variation from twenty-two inches of precipitation for each such twelve-month period. In the event that the precipitation level for any such yearly period is less than twenty-two inches, the water restrictions provided for in this Section, or so many of such restrictions as may be necessary, shall be implemented immediately to reduce water demand, defined as a percentage, in an amount equal to the reported percentage shortfall of precipitation.

E. In addition to the provisions set forth in Subsections A through D above, the Water Department shall report on a quarterly basis to the Town Council and shall furnish to the Town Council, as part of such report, the amount of precipitation and water usage for such quarterly period, and shall make such recommendations as may be appropriate regarding water restrictions based upon the information presented. The Town Council shall review quarterly precipitation and water usage and such other information as is presented by the Water Department and may take such action as is necessary or appropriate to implement water restrictions or modify water restrictions then in effect at such time.

§ 50.79 ENFORCEMENT. The provisions in this Article 2 shall be enforceable in three ways: payment of administrative fees, termination of service, and prosecution as a civil violation in the Town of Payson Magistrate Court.

A. Administrative Fees. Customers of the Water Department who violate any provision in this Article 2 may be assessed an administrative fee for each such violation, whether the same occurs inside or outside of the Town limits. Such fees shall be assessed on the customer's water bill. All violations on a single date at a single customer address shall constitute a single offense under this Article and each day that a violation occurs shall be considered a separate offense under this Article.

(1) Amount of Administrative Fees. The administrative fees which may be assessed pursuant to this Article shall be as follows:

(a) Twenty Dollars ($20.00) for the first violation at a single address of a Water Department customer;
(b) Fifty Dollars ($50.00) for a second violation at the same customer address;
(c) One Hundred Dollars ($100.00) for a third violation at the same customer address; and
(d) Two Hundred Dollars ($200.00) for the fourth and each additional violation at the same customer address.

(2) Right to Appeal. Each customer who is assessed an administrative fee as provided in this Article shall have the right to appeal the imposition of such fee by filing a written notice of appeal with the Town Water Department within ten (10) days of receiving the water bill containing the administrative fee which has been imposed. Within ten (10) days following receipt of such notice of appeal, the ~~Public Works Director~~Water Superintendent shall set a date for hearing the appeal, which shall occur not later than thirty (30) days after receipt of the written notice of appeal. The customer against whom an administrative fee has been imposed shall be notified in writing of the time and place of such hearing and such notification shall be made to the last billing address of the appealing party shown on the Water Department billing records. The appeal shall be informal and shall be heard by the ~~Public Works Director~~Water Superintendent, whose decision shall be final.

B. Termination of Service. In addition to any other legal or equitable remedy to enforce the provisions of this Article, the Town of Payson may terminate or suspend water service to property owned or controlled by any party in violation of any provision in this Article. The Town Manager or the ~~Public Works Director~~Water Superintendent may cause a notice of water termination to be served upon the violating party stating that service will be discontinued in five (5) calendar days from the day of service unless a hearing is requested. A hearing may be requested by delivery of a request in writing to the Town Manager, which shall be received by the Town Manager, on or before the expiration of said five (5) calendar day period. If a hearing is requested, the Town Manager shall convene a hearing within three (3) days of the written request. The requesting party may appear before the Town Manager and may present such evidence and reasons such party may have for not effectuating a termination or suspension of water service and may bring to the hearing such other persons or evidence as such party may desire. After hearing, and upon finding that such a violation has occurred, the Town Manager may order that water service be terminated or suspended pending compliance with the provisions in this Article.

C. Emergency Termination of Service. When a violation of this Article occurs, and the ~~Public Works Director~~Water Superintendent or his or her designee determines that the specific circumstances of the violation are of such a serious nature as to require immediate measures and abatement, the Director or his or her designee may take steps to temporarily shut off the water source or discontinue the water service to the property where the violation is occurring. In such cases, the ~~Public Works Director~~Water Superintendent shall cause a notice of water termination to be served upon the violating party at the time of emergency termination of services. The violating party, upon service of such notice of emergency termination, shall have the right to request hearings concerning such action as provided in Section 50.79(A) above. The Town may effect such emergency measures by entry upon private premises if the water service or Town meter is located on private premises. Any violation of this Article which depletes the water system during a period that Water Conservation Level III or IV is in effect shall be deemed to deplete water essential to maintain fire flows and shall be cause for immediate emergency termination of water service pursuant to this Article. Persons who violate any provision in this Article 2 who are not Town of Payson municipal water users shall be subject to prosecution as set forth in Section 50.99 of this Code.

D. Prosecution of any violation of this Article as a civil violation shall be done in accordance with § 50.99 of the Code of the Town of Payson.

§ 50.80 CONSERVATION SIGNAGE AND LITERATURE DISTRIBUTION.

A. Restroom and Shower Facilities. Public, semi-public, and governmental restroom and shower facilities shall post not less than one (1) water conservation sign in each restroom and shower facility, the size of which shall not be less than eight and one-half (8½) inches by eleven (11) inches. Such entities may use a Town-provided sign or develop their own sign using Town-provided text, the text of which shall cite this Article. A "public facility" shall not include those facilities used solely by the employees of an entity. A "semi-public facility" shall include all private clubs and fraternal organizations.

B. Guest Rooms. Hotels, motels, and other lodging facilities shall provide a water conservation informational card or brochure in a visible location in each guest room. Such facilities may use Town-provided literature or develop their own using Town-provided text. Lodging facilities shall not provide daily linen and towel changing for those guests staying multiple nights unless a guest specifically requests each day that the linen and towels be changed.

C. Nurseries. Retail plant nurseries shall provide their end-use customers with Town-provided low water use landscape literature and water efficient irrigation guidelines at the time of sale of any outdoor perennial plants. An "end-use customer" is the person or persons who will ultimately own the plant material. A landscape contractor or architect is not an end-use customer. In order to facilitate the purchasing of low water use plants, nurseries are strongly encouraged to tag or sign their low water use plants that require little to no supplemental watering once established. For the sale of all turf or grass seed or sod, the end-use customer shall be given Town-provided literature indicating the restrictions to planting water consumptive turf. ~~established in Section 15.03 of the Unified Development Code.~~ The establishment of turf, from either sod or seed or expansion of existing turf areas, is expressly prohibited. Signs, provided by Retailer or the Town shall be prominently displayed indicating this restriction on turf. Landscape contractors, maintenance companies, and architects shall provide their prospective clients with Town-provided low water use landscape literature and water efficient irrigation guidelines at the time of presenting a service contract to the prospective client. Landscape professionals are strongly encouraged to educate their customers regarding the operation of their timed irrigation systems.

D. Real Estate Transactions. Title companies and other organizations which close real estate transactions shall provide each person or entity purchasing a home, business, or real property within the Town of Payson with Town-provided indoor and outdoor conservation literature at the time of closing.

E. Permits. Departments of the Town of Payson shall provide indoor and outdoor conservation literature to:

(1) All persons applying for a building permit.
(2) All customers initiating new water service from the Water Department.

§ 50.81 INDOOR CONSERVATION.

A. Water system leaks from private water lines creating waste shall be repaired by the owner within fifteen (15) days of a repair notification by the Water Department. Proof of repair shall be provided to the Water Department upon completion of the repair.

B. High efficiency washers must be installed in all new multi-family and commercial laundry facilities.

§ 50.82 WATER CONSERVATION PLUMBING STANDARDS.

For all new construction, remodeling, and all replacements of existing plumbing fixtures, the water conservation plumbing standards set out in this Section shall be met. All existing water users shall retrofit their facilities such that the plumbing fixtures noted below are in place by January 1, 2005. Single and multi-family residential water users shall be exempt from this retrofit requirement.

C. Water Closets. Water closets, either flush tank, flushometer tank, or flushometer valve operated, shall have an average consumption of not more than 1.6 gallons (6.1 liters) of water per flush. Water closets that use a "quick closing" flapper to limit the flush to 1.6 gallons per flush shall not be used to satisfy this requirement.

D. Urinals. Waterless urinals shall be installed in all new public, commercial, multi-family residential common-use, and commercial and industrial building restroom remodels. Retrofits at such locations shall convert existing urinals to waterless urinals.

E. Non-Metered Faucets. Lavatory and kitchen faucets shall be equipped with aerators and shall be designed and manufactured so that they will not exceed a water flow rate of 2.5 gallons (9.5 liters) per minute.

F. Metered Faucets. Self-closing or self-closing metered faucets shall be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, airports, restaurants, bars, parks, golf courses, and convention halls. Metered faucets shall deliver not more than 0.25 gallons (1.0 liters) of water per use.

G. Shower Heads. Shower heads shall be designed and manufactured so that they will not exceed a water supply flow rate of 2.5 gallons (9.5 liters) per minute. Emergency safety showers are exempted from this provision.

H. Requirements for certain recirculating systems in new construction or remodeling or retrofit of existing equipment. New construction or remodeling or retrofit of existing equipment shall be equipped with recycling or reuse systems for the following water service-receiving equipment: evaporative cooling systems, decorative water fountains, car washes, and commercial or industrial clothes washers. The use of chilled water and cooling towers for space cooling and commercial and industrial cooling purposes is prohibited.

I. Installation.

(1) Water-conserving fixtures shall be installed in strict accordance with the manufacturer's instructions to maintain their rated performance.

(2) Hot Water Heaters. Hot water heaters in new construction shall be installed not more than forty (40) feet from the hot water using fixture or appliance to which the heater supplies hot water, or fifty (50) feet if water pipe of less than 3/4" diameter is used for a minimum of fifty percent (50%) of the total pipe length connecting the water heater to the fixture or appliance. If a hot water recirculating system is installed, this requirement does not apply.

(3) Certificate of Compliance. For all new and remodeling construction, all the requirements regarding water conserving devices mentioned in this Section shall be certified by a certificate of compliance issued by a licensed mechanical contractor or plumbing permittee before or at the time of the final plumbing inspection.

J. Authority to Permit Exceptions. The ~~Public Works Director~~Water Superintendent shall have the authority to permit exceptions to the requirements in this Section in any case that the Director finds an exception is necessary to maintain adequate health and sanitation standards.

K. Eating Establishments. All public and private eating establishments shall provide water or other beverages only upon request of a customer. Eating establishments serving beverages in single-serving containers shall only serve an accompanying glass if specifically requested by the customer. These provisions shall be clearly communicated to the customer in at least one of the following manners: on the menu, by use of a "table tent" or similar signage on the table, or by posting in a location clearly visible to all customers. All persons and entities providing catering and banquet services shall comply with the provisions of this subsection.

L. The use of reverse osmosis water treatment equipment in conjunction with drinking water vending machines and commercial ice making equipment is prohibited.

§ 50.83 OUTDOOR CONSERVATION.

A. Outdoor Irrigating Periods. The following requirements for outdoor irrigation of landscaping shall be in effect ~~from May 1 through October 31 of each and every~~throughout the year. Outdoor irrigation is prohibited between 9:00 a.m. and 6:00 p.m. In addition, if water supply and demand conditions indicate a need to manage demands more aggressively at any time, the ~~Public Works Director~~Water Superintendent may institute "odd-even" irrigation restrictions. In such case, odd-numbered addresses may irrigate only on Tuesdays, Thursdays, and Saturdays. Even-numbered addresses may irrigate only on Wednesdays, Fridays, and Sundays. Except as provided in subsection B below, no irrigation restrictions apply if treated effluent is used. It is emphasized that most landscaping can remain healthy and attractive with much less frequent irrigating than the three (3) days per week allowance. For a location lacking an identifiable odd- or even-numbered address, the owner or managing agent shall select an odd-even schedule to which it chooses to adhere provided the Water Department is so notified. A large irrigation user may designate a portion of its landscape area as "odd" and a portion as "even" if active use of the landscaping and/or water pressure limitations constrains the user's ability to irrigate the entire landscaped area in either an odd or even day, provided the Water Department is so notified.

B. Exemptions.

(1) Water Sources and Irrigation Methods. The following sources of water and types of irrigation methods and applications are exempt from the "odd-

even" outdoor irrigation restrictions in subsection A above, should the ~~Public Works Director~~Water Superintendent institute such restrictions. These sources and irrigation methods are not exempt from time of day irrigation restrictions:

(a) Treated effluent applied by truck or other vehicle;
(b) Water harvested from precipitation;
(c) Grey water; and
(d) The irrigation of outdoor plants which are in movable containers.

(2) Nursery Stock. Plants being irrigated for retail or wholesale sales are exempt from the restrictions imposed in subsection A above.

C. Prohibitions.

(1) Artificial Water Features. New artificial water features such as ponds, lakes, water courses, and other types of water features larger than fifty (50) gallons capacity are prohibited. Water features less than fifty (50) gallons capacity must be equipped with a recirculating pump.

(2) Spray Irrigation. ~~Plants that Require Spray Irrigation. New plantings that require spray irrigation are prohibited.~~Spray irrigation and/or plants that require spray irrigation are prohibited.

(3) Use of Misters. The use of misters is prohibited.

D. Authority to Permit Exceptions. The ~~Public Works Director~~Water Superintendent has the authority to permit exceptions to the requirements of this Section provided the water conservation objective is not compromised.

E. Potable Water Use for Certain Construction and Landscaping Purposes. For those construction and landscaping purposes permitted by the Town of Payson to use treated wastewater, potable water use from a fire hydrant is prohibited, except for construction projects for which written approval has been granted by the Water Department. Treated wastewater from the Northern Gila County Sanitary District effluent fill station or other facility shall be used for such purposes.

F. Charity Car Washes. Charity car washes are encouraged to utilize commercial car washing facilities which either recycle their water or which discharge all water into the sanitary sewer system.

G. Automatic Shutoff Nozzles. Automatic shutoff nozzles are required for all hoses used for hand watering, car washing, or other outdoor uses.

H. The use of plants not listed on the Town of Payson "Native and Low Water Use Plant List" for industrial, commercial, and multi-family residential landscaping is prohibited.

I. Watering native plants is prohibited.

J. Smart controllers (programmable, climate based) must be installed on all new

commercial landscape irrigation projects.

§ 50.84 WATER WASTE.

A. Water Waste Prohibited. No person, firm corporation, county, state, federal, or municipal facility or operation which is served by the Water Department shall cause or permit to occur any water waste.

B. Unforeseeable Events. For unforeseeable or unpreventable failure or malfunction of plumbing or irrigation hardware, the Town shall generally issue a formal warning notice prior to taking enforcement action. Prior to taking formal enforcement action, the Town may instruct the water user to not operate the faulty system until it is appropriately repaired. If operating the system is integral to the operation of the facility, the Town may, in its discretion, provide a period of time in which to remedy the violation prior to commencing formal enforcement action. Once a warning notice or an initial citation has been issued for an outdoor occurrence, subsequent water waste events shall be subject to strict enforcement. Strict enforcement may include the issuance of citations and such other actions as the Town deems necessary to bring the user into compliance. For indoor water waste events and for those water waste events outdoors caused by a faulty system which is integral to the operation of the facility, the waste must be abated within seven (7) calendar days of the issuance of a warning notice. Enforcement action shall be commenced if the water waste continues to occur beyond the seven-day period.

C. New Turf Areas Prohibited. The planting or establishment of new turf areas and the expansion of existing turf areas, whether from seed or sod, is prohibited.

D. Fugitive Water Flow Prohibited. No person, firm, corporation, county, state, federal, or municipal or other government facility or operation shall cause or permit the occurrence of fugitive water.

E. Exemptions.

(1) "Water Waste" shall not include:

(a) Flow resulting from fire fighting or routine inspection of fire hydrants or from fire training activities.

(b) Water applied to abate spills of flammable or otherwise hazardous materials.

(c) Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available.

(d) Water which reaches or flows onto adjacent property or public or private right-of-way when caused by vandalism, wind, emergencies, or acts of God.

(e) Flow resulting from a routine inspection or maintenance of the Town water utility system.

(f) Water used by the Town in the installation, maintenance, repair, or replacement of public facilities and structures including, but not limited to, traffic control devices, storm and sanitary sewer structures, and road or street improvements.

(g) Water used by contractors or utilities including, but not limited to, saw

cutting or pavement, compaction, or other use required under terms of their contract.

(h) Firefighter training activities for which written approval has been granted by the Water Department.

(2) "Fugitive Water" shall not include:

(a) Storm run-off, including snowmelt run-off, allowed under provisions of Article VIII SFCC 1987 14-90.4.

(b) Flow resulting from temporary Town water utility system failures or malfunctions.

(c) Water applied, such as in the cleaning of hard surfaces, to prevent or abate public health, safety, or accident hazards when alternate methods are not available. The washing of outdoor eating areas and sidewalks is not included in this exemption.

(d) Flow resulting from vandalism, high winds, emergencies, and acts of God.

(e) The occurrence of an unforeseeable or unpreventable failure or malfunction of plumbing or irrigation system hardware prior to the issuance of a formal warning notice issued to the water user. Once a formal warning notice has been issued, the water user is instructed not to operate the faulty system until it is appropriately repaired, unless operating the system is integral to the operation of the facility. Once a warning notice has been issued, subsequent fugitive water events at the same location will be subject to issuance of citations.

§ 50.99 PENALTY.

A. Any violation of this chapter for which no other penalty is designated shall constitute a misdemeanor and shall be punishable as set forth in § 10.99 of this code.

B. Any violation of any provision in §§ 50.75 to 50.84 shall be a civil violation and shall be subject to a civil sanction of not less than Fifty Dollars ($50.00) and not to exceed Two Thousand Five Hundred Dollars ($2,500.00) for each day that the violation continues. The imposition of a civil sanction shall not be suspended.

Section 2. All resolutions or parts of resolutions in conflict with this Resolution Number 2367 are hereby repealed to the extent of such conflict.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Resolution Number 2367, or of the amendments to Article 2 of Chapter 50 of the Code of the Town of Payson incorporated herein, 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 either this Resolution or said amended Chapter 50 of the Code of the Town of Payson.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, 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