

ORDINANCE NO. 744

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF PAYSON, ARIZONA, ADOPTING AMENDMENTS TO
SECTION 15-10 OF THE PAYSON UNIFIED DEVELOPMENT CODE.
(ENFORCEMENT)

WHEREAS, the Town of Payson has adopted a Unified Development Code ("UDC") to regulate development within the Town; and

WHEREAS, on July 14, 2008, following a public hearing, the Payson Planning and Zoning Commission reviewed certain proposed amendments to the enforcement procedures contained in Section 15-10 of the UDC and recommended that the Town Council adopt such amendments; and

WHEREAS, on August 7, 2008, the Town Council conducted a public hearing on such proposed amendments; and

WHEREAS, the Town of Payson has found that the adoption of this Ordinance Number 744 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 of the Mayor and Common Council to amend the UDC by amending Section 15-10 (Enforcement); and

WHEREAS, the amendments to Section 15-10 of the UDC were declared to be a public record by Resolution 2408; and

WHEREAS, it is the desire of the Mayor and Common Council to amend the Code of the Town of Payson by amending Section 15-10 by reference pursuant to A.R.S. § 9-802,

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

Section 1. That the amendments to Section 15-10 (Enforcement) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2408 were heretofore declared to be a public record by such Resolution, and that the amendments to Section 15-10 are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 744.

Prepared by Town of Payson Legal Department

First Reading and Public Hearing AUG 07 2008 G. 4
Second Reading and Public Hearing SEP 04 2008 G. 3

Section 2. That at least three copies of the amendments to Section 15-10 of Chapter 154, as adopted by this Ordinance Number 744 shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 3. That Section 15-10-004(B) of Chapter 54 (the Unified Development Code) of the Code of the Town of Payson is hereby added and shall read as follows:

15-10-004(B) Criminal

1. Each person, firm, sole proprietorship, corporation, partnership, LLC, or other entity violating a provision of the Unified Development Code for which it has been charged and found responsible for within the prior 24 months may be subject to a criminal penalty as provided for in Section 10.99 of the Code of the Town of Payson.
2. No de minimis violations shall be subject to a criminal penalty.
3. For the purposes of this subsection, a de minimis violation means a violation which, although undesirable, has no direct or immediate relationship to safety, health, or damage to property, and does not violate the overall intent of this Code.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 744 are hereby repealed to the extent of such conflict.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 744 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 744. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance Number 744 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 _____, 2008, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney



MEMO

TO: Planning and Zoning Commission Members
FROM: Ray Erlandsen, Zoning Administrator
DATE: July 14, 2008
SUBJECT: **Proposed Unified Development Code (UDC) Amendment
Section 15-10, Enforcement P-346-08**

Currently, in Section 15-10 of the UDC, the first step of violation enforcement is a 15-day Notice of Violation and Request for Voluntary Compliance letter. Basically, this letter outlines the violation and requests the responsible person(s) to abate the alleged violation within 15 days. If voluntary compliance is not achieved within 15 days, a civil citation may be issued.

Recently, several situations involving violations of the UDC highlighted the fact that current enforcement procedures leave staff with no ability to take immediate enforcement action when necessary.

Egregious sign violations, cutting of trees without a permit, blatant zoning violations that create extreme nuisances for residents in terms of noise, dust, etc. and similar violations are a few examples that show a Notice of Violation and Request for Voluntary Compliance letter is not always practical.

Staff has been directed to propose an amendment to the UDC allowing the ability to take immediate enforcement action, when appropriate. This proposed amendment does not remove the 15-day Notice of Violation and Request for Voluntary Compliance letter.

Attached are both the ~~strikeout~~ and proposed versions of the amendment. Staff has taken this opportunity to amend several provisions of this section of the UDC to clarify and remove redundant language. A provision had been added to this section making a second or subsequent violation of the same or similar provisions of the UDC within 24 months subject to a criminal penalty.

Possible Motion to recommend Approval:

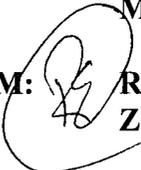
“I move the Planning & Zoning Commission recommend to the Town Council approval of P-346-08, a request to amend Section 15-10, Enforcement, of the Unified Development Code as attached.”

SUMMARY OF AGENDA ITEM

DATE: August 7, 2008

TO: Mayor and Council

AMENDED 8-5-08

FROM:  Ray Erlandsen
Zoning Administrator

SUBJECT: Ordinance 744, Resolution 2408
Proposed Amendment to the Unified Development Code (UDC)
Section 15-10, Enforcement

PURPOSE:

Amend the Unified Development Code (UDC) to allow civil citations under certain circumstances to be issued without the current requirement of a 15-day Notice of Violation and Request for Voluntary Compliance Notice.

SUMMARY:

Currently, in Section 15-10 of the UDC, the first step of violation enforcement is a 15-day Notice of Violation and Request for Voluntary Compliance letter. Basically, this letter outlines the violation and requests the responsible person(s) to abate the alleged violation within 15 days. If voluntary compliance is not achieved within 15 days, a civil citation may be issued.

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The Planning and Zoning Commission recommended approval to the Town Council of this proposed amendment on July 14, 2008, on a 7-0 6-1 vote.

Addendum to: AUG 07 2008 G.4