

SUMMARY OF AGENDA ITEM

DATE: September 18, 2008 (Amended for October 2, 2008 Meeting)
TO: Mayor and Council
FROM: Legal Department
SUBJECT: Ordinance 748/Resolution 2416 (Technical and Conforming Changes Relating to Water Conservation and the Timing of Impact Fee Payments)

PURPOSE:

In the last 20+ years, the Town has enacted various water conservation and water impact fee requirements. Over the years, conflicts have arisen between various Town Code provisions and between the Town Code and the Unified Development Code. Ordinance 748 and Resolution 2416 remove these various conflicts and make conforming changes.

SUMMARY OF CHANGES:

Below is an explanation of the changes made by each section of Resolution 2416:

Section 1 Because of changes to the Town's organizational structure, all references to the 'Public Works Director' are being replaced with 'Water Superintendent.' Although the Town does not currently have a person whose sole responsibility is 'Water Superintendent,' the Assistant Public Works Director or the Town Manager would assign an existing employee the responsibilities of the Water Superintendent.

Note - the term 'reserved' in the Code is used to delete the provision without requiring a renumbering of all of the surrounding sections.

Sections 2&4 The provision for the deferred payment of fees was adopted in Ordinance 481 (October 17, 1996) and later codified under the 'Water Storage' section. This amendment moves the deferred payment provision to the 'Time of Payment' section and removes the interest provisions.

Subsections (C) and (D) of §50.59 have been added to Section 4. Subsection (C) allows the Town Council to defer the payment of fees for up to 10 years for projects requiring more five ERU's. It also allows, but does not require, the Council to contract for interest on the outstanding balance. Subsection (D) directs the Water Superintendent to obtain security for any fees paid over time.

- Section 3 ~~Language defining what qualifies as an ‘apartment, townhouse, or condominium’ has been added assuring that large Condos and Townhomes are paying the appropriate water development fee.~~
- Section 3 has been removed and the issue of ERU’s and apartments, townhomes, and condominiums will be brought back to the Council at a later date.
- Section 5 Subsection (E) previously required quarterly reports to the Council. Such reports have not been used for several years.
- Section 6 This purely technical correction clarifies what ‘this Article’ refers to.
- Section 7 This is a technical correction. When the number of conservation levels was reduced from four to three, this reference was not changed.
- Section 8 This section originally required a ‘Certificate of Compliance’ from the contractor that all construction met the water conservation standards. This requirement has not been used because a final certificate of occupancy is not issued unless the water conservation standards are met.
- Section 9 During the most recent amendments of the Water Conservation provisions (May 2008), subsections 4-6 were inadvertently eliminated from this section. Those sections have been returned to the Code.
- Additionally, (1) the prohibition of flood irrigation has been added; (2) clarifying language that *above or below grade* outdoor swimming pools are prohibited has been added; and (3) the requirement of ‘drip irrigation’ has been moved over from the Unified Development Code.
- Section 10 This section of the Unified Development Code contained provisions that have since been superseded by the Water Conservation provisions of Chapter 50.
- Section 11 The provisions regarding ‘Oasis Areas’ and the use of turf have been superseded by the Water Conservation Ordinance. The other changes are conforming changes.
- Section 12 This section is being removed. The updated requirements for commercial irrigation systems are covered under section 50.83 of the Water Conservation portion of the Town Code. See Section 9 above.
- Sections 13&14 These are purely conforming amendments. These two provisions have been superseded by Sections 50.82 and 50.83 of the Water Conservation portion of the Town Code.

ORDINANCE NO. 748

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADOPTING TECHNICAL AND CONFORMING CHANGES TO VARIOUS CODE PROVISIONS RELATING TO WATER CONSERVATION AND THE TIMING OF IMPACT FEE PAYMENTS.

WHEREAS, dating back to 1982, the Town has approved numerous Ordinances addressing Water Supply Requirements and Water Development Fees; and

WHEREAS, in 1996, the Town approved the Unified Development Code regulating development within the Town; and

WHEREAS, in January of 2003, the Town enacted a comprehensive Water Conservation Ordinance that has been amended from time to time; and

WHEREAS, it is the desire of the Mayor and Common Council to make technical and conforming changes to these various enactments to eliminate actual or potential conflicts,

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

- Section 1. That the amendments to Sections 50.03, 50.57, 50.59, 50.78, 50.79, 50.82, and 50.83 of the Code of the Town of Payson; and Sections 15-03-001 and 15-03-002 of the Code of the Town of Payson relating to Water Conservation and the timing of Impact Fee payments set forth in Resolution 2416 were heretofore declared to be a public record by such Resolution, and that such amendments are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 748.
- Section 2. That at least three copies of the amendments to Sections 50.03, 50.57, 50.59, 50.78, 50.79, 50.82, and 50.83 of the Code of the Town of Payson; and Sections 15-03-001 and 15-03-002 of the Code of the Town of Payson relating to Water Conservation and the timing of Impact Fee payments, as adopted by this Ordinance Number 748 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. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 748 are hereby repealed to the extent of such conflict.
- Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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

First Reading + Public Hearing
Second Reading + Public Hearing

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portions of this Ordinance. The Town Council of Payson declares that it would have adopted this Ordinance 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 _____, 2008, by the following vote:

AYES ____ NOES ____ ABSTENTIONS ____ ABSENT ____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney