

ORDINANCE NO. 754

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADOPTING AMENDED SECTION 50.57(B) OF THE CODE OF THE TOWN OF PAYSON RELATING TO THE EQUIVALENT RESIDENTIAL UNIT CALCULATIONS FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENTS. (ERU CALCULATIONS)

WHEREAS, the Town's water development fees are based upon Equivalent Residential Units ("ERUs"); and

WHEREAS, based upon experience, the Town has determined that certain types of residential units and commercial developments and certain conservation measures (beyond what is required by the Town Code) reduce water usage; and

WHEREAS, the Town has further determined that such reduced water usage should be reflected in the ERU calculations for such units and developments; and

WHEREAS, it is the desire of the Mayor and Common Council to amend section 50.57(B) of the Code of the Town of Payson to provide such calculations,

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 50.57(B) of the Code of the Town of Payson relating to ERU calculations for residential and commercial development set forth in Resolution 2463 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 754.

Section 2. That at least three copies of the amendments to Section 50.57(B) of the Code of the Town of Payson relating to ERU calculations for residential and commercial development, as adopted by this Ordinance Number 754 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 Sections 50.57(B)(3) and (B)(6) are added to the Code of the Town of Payson and as added shall read as follows:

(B)(3) If, at any time, a Water Conservation Unit fails to meet the requirements of this subsection, the then owner of the Unit shall be given 30 days to remedy such failure. If the failure is not remedied within 30 days, the then owner of the Unit shall be liable to pay the then existing water development fee for a non Water Conservation Unit less the amount of the reduced water

development fee previously paid for the Unit. The Owner shall also pay an additional 20% on the amount owing. Upon payment of the full water development fee and the additional 20%, the unit shall no longer be deemed a Water Conservation Unit.

(B)(6) For any Water Conservation Unit (that has paid a reduced ERU equivalent pursuant to subsection (1) above) or any commercial development (that paid a reduced ERU equivalent pursuant to subsection (5) above), if the gallons used in any month exceed the reduced ERU equivalent times 7,500, such unit or development shall pay a penalty assessment (in addition to the ordinary water fees) equal to two times the amount billed for such month. The owner or occupant of any unit or development assessed a penalty charge may appeal such charge to the Town Manager. Upon showing of good cause, the Manager may reduce or waive the penalty assessment.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 754 are hereby repealed to the extent of such conflict.

Section 5. 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 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 _____, 2009, 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