

ORDINANCE NO. 762

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE CODE OF THE TOWN OF PAYSON RELATING TO THE SETTING OF THE AMOUNT OF VARIOUS FEES AND CHARGES AND ADOPTING SUCH AMENDMENTS BY REFERENCE.

WHEREAS, various Town Fees and Charges are now set by the Town Council; and

WHEREAS, some other Town Fees and Charges are now set by specific Town Code provisions; and

WHEREAS, the Town desires to consolidate all its Fees and Charges into one schedule and annually approve a consolidated Fees and Charges Schedule; and

WHEREAS, in order to annually approve such a consolidated Fees and Charges Schedule, those Town Code sections setting specific Fees and Charges must be amended; and

WHEREAS, it is the desire of the Mayor and Common Council to amend various sections of the Code of the Town of Payson relating to how fees and charges are set 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 Sections 90.36, 98.05, 110.13, 113.06, and 110.13(C) of the Code of the Town of Payson set forth in Resolution 2484 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 762.
- Section 2. That at least three copies of the amendments to Sections 90.36, 98.05, 110.13, 113.06, and 110.13(C), as adopted by this Ordinance Number 762 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 the provisions of this Ordinance shall not be effective until the Town Council adopts Fees and Charges under each and all of Sections 90.36, 98.05, 110.13, 113.06, and 110.13(C) of the Code of the Town of Payson.
- Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 762 are hereby repealed to the extent of such conflict.

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

**RESOLUTION NO. 2484 IS
PROVIDED FOR INFORMATION
ONLY
AT THE 5/7/09 COUNCIL MEETING.**

**RESOLUTION NO. 2484 WILL
BE AGENDIZED AS AN ACTION ITEM
AT THE 5/21/09 COUNCIL MEETING.**

RESOLUTION NO. 2484

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADOPTING AMENDMENTS TO THE CODE OF THE TOWN OF PAYSON RELATING TO THE SETTING OF THE AMOUNT OF VARIOUS FEES AND CHARGES, AND DECLARING SUCH AMENDMENTS 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 the Code of the Town of Payson relating to how Fees and Charges are set; 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. Section 90.36 of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 90.36 APPLICATION; FEE.

(A) Application. Application for a dog license shall be made by the owner on a form to be provided by the town within ten days after acquiring any dog over four months of age, or within ten days after a dog becomes four months of age; provided that any owner moving to the town for the purpose of establishing residence or becoming a resident as a result of any annexation, and otherwise required to obtain a license, shall have until ten days after moving or annexation to obtain such a license.

(B) License fee for dogs. A license fee shall be paid at the time of making application. License fees shall be set determined by the Council from time to time as ~~necessary and may be amended by resolution~~. ~~The license fees for dogs, upon implementation of this chapter, shall be as follows:~~

- ~~_____ (1) One-year license:~~
 - ~~_____ (a) Altered dog: _____ \$3.~~
 - ~~_____ (b) Unaltered dog: _____ \$7.~~
- ~~_____ (2) Two-year license:~~
 - ~~_____ (a) Altered dog: _____ \$6.~~

~~(b) Unaltered dog: \$14.~~

~~(3) Three-year license:~~

~~(a) Altered dog: \$9.~~

~~(b) Unaltered dog: \$21.~~

(C) Vicious animal surcharge. If a dog is a vicious animal, an \$50 annual surcharge shall be added to the license fees in an amount set by the Council from time to time. ~~set forth in this section.~~

Section 2. Section 98.05 of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 98.05 SERVICE CHARGES.

~~(A) Public safety alarm response service charges shall be assessed against alarm users, except as otherwise provided herein, as follows:~~

ACTIVATIONS PER CALENDAR YEAR	SERVICE CHARGE
First through Third	None
Fourth	\$50.00
Fifth	\$75.00
Sixth or more	\$100.00

(A) The Council shall, from time to time, set public safety alarm response service charges including charges for late payments.

(B) No service charges shall be assessed for alarm activations which occur within the first 30 days following the completion of the installation of a new alarm system, nor shall division (A) of this section be applicable to such activations.

(C) No service charges shall be assessed for an alarm activation that results in the preparation of a report by the Police Department or the Fire Department in response to the activation.

(D) All service charges shall become due and payable when a statement of charges is mailed to the alarm user and, except when specific arrangements are made in advance, shall become delinquent 21 days after being mailed. ~~A late charge of \$20 shall be assessed for delinquent payments.~~

(E) Records of service charges assessed against any alarm user, or premises, shall be deemed confidential and may only be disclosed to the alarm user and town representatives, including members of the Police and Fire Departments, acting in their official capacity.

Section 3. Section 110.13 of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 110.13 APPEAL; NOTICE AND HEARING, ADMINISTRATIVE REINSTATEMENT.

(A) Any person, firm, company or corporation aggrieved by the denial of an application for a business license, and any person, firm, company or corporation whose business license has been revoked, shall have the right of appeal to the Town Manager.

(B) The appeal shall be taken by filing with the Town Business License Clerk, within 14 calendar days after denial or revocation, a written statement setting forth fully the grounds for the appeal.

(C) The Town Manager shall set a time and a place for hearing of the appeal, and notice of the hearing shall be given to the appellant at least 10 calendar days prior to the date set for the hearing. The mailing of the notice to the address on the business license application shall constitute proper notice to the licensee or applicant.

(D) A licensee whose license has been revoked may request reinstatement of the business license by the Town Manager. If the licensee has remedied the violations for which the license was revoked, pays any investigative costs associated with the revocation, has not had the license revoked more than two previous times, and pays the an administrative sanction ~~as set by the Council forth below~~, the Town Manager shall reinstate the business license.

~~(E) Administrative sanctions pursuant to division (D) shall be as follows:~~

~~(1) \$500.00 for the first revocation;~~

~~(2) \$1,000.00 for the second revocation~~

Section 4. Section 113.06 of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 113.06 LICENSE FEES.

~~(A) The annual non-refundable application fee for a sexually oriented business~~

license is \$150.

~~—(B)— The annual non-refundable application fee for a sexually oriented business employee license is \$80.~~

The annual application fees for a sexually oriented business license and for a sexually oriented business employee shall be set by the Council.

Section 6. Section 110.13(C) of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 130.03 REGULATION OF LIBRARY USE

(C) Penalties; enforcement procedure; appeal.

(1) Penalties. Any person who pleads responsible, or who is found to be responsible by the Payson Magistrate Court of a violation of this section shall be guilty of a civil petty offense and shall be subject to the following:

(a) A minimum civil penalty in the amount of \$25 for each offense, and, in addition to the civil penalty, restitution as described in this section.

(b) If the library material which is the subject of the civil complaint is returned in the same condition as when removed from the library, restitution as may be set by the Council from time to time. ~~follows:~~

~~1. Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~2. Late notification/processing costs in the amount of \$24.50.~~

(c) If the library material which is the subject of the civil complaint is not returned in the same condition as when removed from the library, restitution as follows:

1. Replacement value of all item(s); and

2. Restitution as set forth in subsection (b) above. ~~Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~3. Late notification/processing costs in the amount of \$24.50.~~

(2) Commencement of proceedings. An action to hear and determine a civil offense resulting from a violation of this section shall be commenced by the issuance of a complaint by the library, filed in the Payson Magistrate Court. Service of the complaint and a summons issued by the Court, shall be completed by certified mail, return receipt requested, in accordance with A.R.S. § 28-1073 under the Procedure for Adjudication of Civil Traffic Violations, A.R.S. § 28-1591, et seq.

(3) Rules of procedure. The Arizona Rules of Procedure in Civil Traffic Violation Cases shall govern the proceedings under this section, except as modified by, or

where inconsistent with, the provisions of this section.

(4) Initial appearance and admission of responsibility. The defendant may admit responsibility by appearing in person before the court, at the time and date set forth on the summons and shall, at such appearance, tender to the court the monetary penalty set forth in subsection (1) above. following:

~~———— (a) A minimum civil penalty in the amount of \$25 for each offense; and, in addition to the civil penalty, restitution as described hereinafter.~~

~~———— (b) If the library material which is the subject of the civil complaint is returned in the same condition as when removed from the library, restitution as follows:~~

~~———— 1. Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~———— 2. Late notification/processing costs in the amount of \$24.50.~~

~~———— (c) If the library material which is the subject of the civil complaint is not returned in the same condition as when removed from the library, restitution as follows:~~

~~———— 1. Replacement value of all item(s);~~

~~———— 2. Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~———— 3. Late notification/processing costs in the amount of \$24.50.~~

(5) Initial appearance and denial of responsibility. The defendant may not deny responsibility of violation of this section by appearing in person and entering a plea of not responsible. The court shall thereupon schedule the matter for trial within 60 days after the defendant's initial appearance, except where either party shall request a pretrial hearing, the court shall schedule the pretrial hearing within 30 days after the defendant's initial appearance.

(6) Appearance by the state through counsel. The state need not appear through counsel at the trial of a civil complaint hereunder except in cases where the defendant is represented by counsel.

(7) Rules of evidence. The Arizona Rules of Evidence shall not apply in civil enforcement proceedings for violation of this section. Any evidence offered may be admitted subject to a determination by the Payson Magistrate that the offered evidence is relevant and material and has some probative value to a fact at issue. Nothing in this rule is to be construed as abrogating any statutory provisions relating to privileged communications.

(8) Default; defendant's failure to appear. If the defendant fails to appear as provided herein, the allegations of the civil complaint shall be deemed admitted, and the Payson Magistrate Court shall enter judgment for the state and impose the monetary penalties set forth in subsection (1) above. following sanctions against the defendant:

~~———— (a) A minimum civil penalty in the amount of \$25 for each offense; and, in addition to the civil penalty, restitution as described hereinafter.~~

~~———— (b) If the library material which is the subject of the civil complaint is~~

~~returned in the same condition as when removed from the library, restitution as follows:~~

~~1. Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~2. Late notification/processing costs in the amount of \$24.50; or~~

~~(c) If the library material which are the subject of the civil complaint is not returned in the same condition as when removed from the library, restitution as follows:~~

~~1. Replacement value of all items(s); and~~

~~2. Late daily rental fee at \$.10 per day per book or other item beginning the day after the original due date of the library material and continuing to date of sentencing; and~~

~~3. Late notification/processing costs in the amount of \$24.50.~~

(9) Appeal. Appeal from an order entered by the Payson Magistrate Court shall be governed by the Rules of Procedure in Civil Traffic Violation Cases.

Section 7. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2484 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 Resolution Number 2484. The Town Council of Payson declares that it would have adopted Resolution Number 2484 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