ORDINANCE NO. 761

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING CHAPTER 110 OF THE CODE OF THE TOWN OF PAYSON BY REPLACING THE TERM *CERTIFICATE OF OCCUPANCY* WITH THE TERM *BUSINESS OCCUPANCY PERMIT*.

WHEREAS, Chapter 110 (Business Licensing) of the Code of the Town of Payson requires all business to obtain a *Certificate of Occupancy*; and

WHEREAS, there has been some confusion between the Chapter 110 *Certificate of Occupancy* requirement and the certificate of occupancy given by the building department upon final inspection of a new structure; and

WHEREAS, the Town desires to amend Chapter 110 of the Code of the Town of Payson to remove this confusion; and

WHEREAS, the Town desires to change the name of the Chapter 110 approval to *Building Occupancy Permit*,

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

Section 1. That all references to the *Certificate of Occupancy* in Sections 110.06, 110.07, and 110.09 of the Code of the Town of Payson are hereby replaced with *Building Occupancy Permit*.

Section 2. That all references to the *Certificate* in Sections 110.06 and 110.09 are hereby replaced with *Building Occupancy Permit*.

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:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

First Reading & Public Hearing MAY 07 2009 G.4
Second Reading & Public Hearing MAY 19 2009 G.5

LEGAL DEPARTMENT
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MEMORANDUM

May 7, 2009

TO: **Mayor and Council**
FROM: **Legal Department**
SUBJECT: **Ordinance 761**

The Town has recently streamlined the procedure for new businesses to obtain necessary approvals. The purpose of these changes is to provide businesses with additional information, assist businesses through the process, and to assure an expeditious process. During this process, it has come to the Town's attention that there is confusion about the Certificate of Occupancy given at building construction and the Certificate of Occupancy given prior to the opening of a new business. To eliminate this confusion, staff is recommending that the approval given at the opening of a new business be called a Business Occupancy Permit.

Chapter 110 of the Town Code (Business Licensing) regulates new business and requires two separate approvals before a business can begin operation. The first is the actual Business License. The Business License is an administrative process that is granted upon presentation of a completed application, applicable fee, affidavit on employment, proof of worker's compensation insurance, and proof of all required state licenses. The second approval is currently called a Certificate of Occupancy. The Certificate of Occupancy is granted upon verification by Town departments that the building and location of the new business are in compliance with Town Codes.

This second requirement has caused some confusion because this same term, *Certificate of Occupancy*, is used in the building code. Under the building code, a *Certificate of Occupancy* is issued to signify final approval of the building process. And although a new building may receive a *Certificate of Occupancy* from the building department, such *Certificate of Occupancy* does not necessarily mean that any given use in the building complies with the Town's Codes.

For example, if a new building is designed as an office complex, upon completion of construction, the building receives a building department *Certificate of Occupancy*. But, if a new business comes in several years later and wants to use the same building for a restaurant, there may be different code requirements, i.e., there may be additional parking, zoning requirements, fire exits, etc. So although the building received a building department *Certificate of Occupancy*, the new use may require modifications prior to a Chapter 110 *Certificate of Occupancy*.

To eliminate the confusion raised by having two separate approvals with the same name, the Town has started using the term 'Business Occupancy Permit' in reference to the Chapter 110 approval. Ordinance 761 would codify this change.