ORDINANCE 789

A ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 50.59 OF THE CODE OF THE TOWN OF PAYSON. (WATER DEVELOPMENT FEE - TIME FOR PAYMENT)

WHEREAS, the Town of Payson imposes a Water Development Impact Fee ("the Fee") on new developments; and

WHEREAS, section 50.59 of the Town Code sets forth the timing for the payment of such Fees; and

WHEREAS, section 50.59(B) and (C) allow for deferred payment of the Fee in certain circumstances; and

WHEREAS, on July 15, 2010, the Town Council directed staff to add additional flexibility for the payment of the Fee; and

WHEREAS, it is the intention of the Town of Payson to amend Section 50.59 of Chapter 50 of the Code of the Town of Payson, providing additional flexibility in the payment of Water Development Impact Fees,

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

Section 1. Section 50.59 (Water Development Impact Fees - Time for Payment) of the Code of the Town of Payson is hereby amended and as amended shall read as set forth in Exhibit A attached hereto.

Section 2. If any section, subsection, sentence, or clause of Section 50.59 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of Section 50.59. The Mayor and Common Council of the Town of Payson declares that it would have adopted Section 50.59 and each section, subsection, sentence, and clause thereof despite the fact that any one or more sections, subsections, sentences, or clauses would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2010, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

First Reading and Public Hearing AUG 19 2010 G.6

Second Reading & Public Hearing SEP 02 2010 G.3

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Timothy M. Wright, Town Attorney

EXHIBIT A TO ORDINANCE 789

§ 50.59 TIME FOR PAYMENT.

(A) Except as set forth in subsections ~~divisions~~ (B), ~~and~~ (C), and (D) below, the Water Development Fee required under this section shall be paid at the time when construction permits are issued.

~~(B) At the sole discretion of the Water Superintendent, the town may elect to enter into an agreement for the collection of Water Development Fees over a period of time not to exceed 60 months from the original due date of the fees.~~

(B) For commercial and multifamily projects, the Town may enter into an agreement for the deferred collection of the Water Development Fee subject to the following:

(1) Such agreements shall not exceed 60 months;

(2) Such agreements shall be approved by the Public Works Director;

(3) Payments on the outstanding Water Development Fee shall be made monthly or annually; and

(4) No interest shall accrue or be payable if the Water Development Fee is paid in full within 60 months and in accordance with the terms of the agreement.

~~(C) For projects or developments where the number of Equivalent Residential Units being paid for exceeds five, at the sole discretion of the Town Council, the town may elect to enter into an agreement for the collection of Water Development Fees over a period of time not to exceed 120 months from the original due date of the fees. The agreement may include the payment of interest on the amount owing under the agreement.~~

(C) For commercial and multifamily projects requiring five or more Equivalent Peak Residential Units, the Town may enter into an agreement for the deferred collection of the Water Development Fee subject to the following:

(1) Such agreements shall not exceed 120 months;

(2) Such agreements shall be approved by the Town Council;

(3) Payments on the outstanding Water Development Fee shall be made monthly or annually; and

(4) Interest shall be charged on the outstanding Water Development Fee.

(D) For commercial and multifamily projects requiring more than ten Equivalent Peak Residential Units, the Town may enter into an agreement for the deferred collection of the Water Development Fee subject to the following:

(1) Such agreements shall not exceed 120 months;

(2) Such agreements shall be approved by the Town Council;

(3) Payments on the outstanding Water Development Fee shall be made monthly or annually. The agreement may allow for the deferral of the first payment for up to 36 months; and

(4) Interest shall be charged on the outstanding amount of the agreement.

~~(D) The Water Superintendent is authorized to obtain or require any assurances necessary to protect the town's interest in fees collected under divisions (B) and (C) above.~~

(E) Any agreement for the deferral of Water Development Fees pursuant to this section shall be in a form approved by the Town Attorney and shall be secured by any assurances deemed necessary by the Town.