

RESOLUTION NO. 2582

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 130.03 (REGULATION OF LIBRARY USE) OF THE CODE OF THE TOWN OF PAYSON AND DECLARING SUCH AMENDMENT 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 Section 130.03 (Regulation of Library Use) of the Code of the Town of Payson; 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 130.03 (Regulation of Library Noise) of the Code of the Town of Payson is hereby amended, is declared to be a public record, and shall read as set forth in Exhibit A.

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

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

EXHIBIT A TO RESOLUTION 2582

§ 130.03 REGULATION OF LIBRARY USE.

(A) Definitions. For the purpose of this section the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

(1) LIBRARY CARD. Card or plate issued by a library facility for purposes of identifying the person to whom the LIBRARY CARD was issued, as authorized to borrow library material(s), subject to all limitations and conditions imposed on borrowing by the library facility issuing the card.

(2) LIBRARY FACILITY. Any town library, other public library or any library of a public museum, historical institution, organization or society.

(3) LIBRARY MATERIAL. Any book, plate, picture, photograph, engraving, painting, sculpture, statue, artifact, drawing, map, newspaper, pamphlet, magazine, manuscript, document, coin, model, apparatus or other work of literature or art or mechanics, objects of curiosity, letter, microfilm, sound recording, audiovisual material, magnetic or other tape, electronic data processing record or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, or on loan to, or otherwise in the custody of, a library facility.

(4) LIBRARY THEFT. ~~When a~~ A person commits Library Theft by doing ~~does~~ any of the following acts:

(a) ~~Knowingly and i~~ntentionally removes any library material from the premises of a library facility without authority to do so.

(b) ~~Knowingly and i~~ntentionally conceals any library material upon his or her person or among his or her belongings and removes library material beyond the last point in the premises of the library facility at which library material may be borrowed in accordance with procedures established by the library facility for the borrowing of library material.

(c) With the intent to deceive, borrows or attempts to borrow, any library material from a library facility by use of a library card issued to another, or use of a library card knowing that it is revoked, canceled or expired, or use of a library card knowing that it is falsely made, counterfeit or materially altered.

~~(d) Borrows from a library facility, library material and fails to return the library material within 30 days after written notice to return the library material, the notice being given after the expiration of the due date of the library material pursuant to the rules of the library facility.~~

(d) Fails to return overdue library material within 30 days of notice of such failure from the library.

(5) PREMISES OF A LIBRARY FACILITY. The interior of a building, structure or other enclosure in which a library facility is located and in which the library facility keeps, displays and makes available for inspection or borrowing library material, but for purposes of this section, ~~or~~ such premises do not include the exterior appurtenances to the building, structure or enclosure nor the land on which the building, structure or other enclosure is located.

(B) Prohibitions. It is unlawful for any person to commit a library theft, as defined in this section, or to maliciously cut, tear, deface, break or injure any library material. ~~A violation of any prohibitions shall be a violation of this section.~~

(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 ~~fine~~ civil penalty in the amount of \$25 for each ~~charge offense, and, in addition to the civil penalty, restitution fees and charges 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, ~~fees and charges~~ restitution as may be set by the Council from time to time.

(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:~~ replacement value of the library material and fees and charges as set forth in subsection b above.

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

~~2. Restitution as set forth in division (b) above.~~

(2) Commencement of proceedings. An action under ~~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~~ 1593 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 division (1) above.~~

~~(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 penalty set forth in division (1) above.~~

~~(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.~~