ORDINANCE NO. 798

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING PORTIONS OF SECTION 50.59 OF THE CODE OF THE TOWN OF PAYSON AND AMENDING SECTION 3 OF ORDINANCE 487, ALLOWING FOR THE LIMITED DEFERRAL OF RESIDENTIAL DEVELOPMENT IMPACT FEES.

WHEREAS, state law authorizes and the Town of Payson charges development impact fees for all new development; and

WHEREAS, state law generally requires that residential development impact fees be paid at the time a building permit is issued; and

WHEREAS, A.R.S. §9-463.05(B)(3) permits Arizona municipalities to enter into development agreements deferring payment of such development impact fees until after the issuance of construction permits, so long as such deferred fees are paid no later than fifteen (15) days after the issuance of a certificate of occupancy and the value of the deferred fees is supported by appropriate security; and

WHEREAS, on January 20, 2011, the Town Council approved a new policy allowing the Town to utilize the deferral provision of 9-463.05(B)(3), directed staff to create a process to utilize such limited deferral provision, and directed staff to return any necessary Town Code and/or Town Ordinances amendments; and

WHEREAS, the Town desires to amend section 50.59(E) of the Code of the Town of Payson and Section 3 of Ordinance 487 in accordance with the Council's direction,

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

Section 1. Section 50.59(A) of the Code of the Town of Payson is hereby amended, and as amended shall read as follows:

50.59 (A) Except as set forth in subsections ~~divisions~~ (B), ~~and~~ (C), (D), and (E) below, the Water Development Fee required under this Section shall be paid no later than the issuance of ~~at the time when~~ construction permits ~~are issued~~.

Section 2. Section 50.59(E) of the Code of the Town of Payson is hereby amended renumbered to Section 50.59(F).

Insertions underline/~~deletions strikeout~~

FIRST READING AND PUBLIC HEARING FEB 03 2011 G,5

SECOND READING AND PUBLIC HEARING FEB 17 2011 G,4

Section 3. New Section 50.59(E) of the Code of the Town of Payson is hereby added and shall read as follows:

50.59 (E) For residential projects, the Town may enter into a development agreement for the deferred collection of the Water Development Fee if such deferral is permissible under state law and the terms of the development agreement conform with state law.

Section 4. Subsection 5-13-002 (Applicability) of Section 3 of Ordinance 487 is hereby amended, and as amended shall read as follows:

5-13-002 **APPLICABILITY**

a. This Development Impact Fee Code applies to all fees imposed by the Town of Payson to finance capital facilities, the need for which is created by new development.

b. Any person who, after the effective date of this Code, undertakes a residential development project within the Town of Payson, shall pay a development impact fee as provided for in this Code unless such fee has already been paid for such project. ~~at the time of applying for a building permit and shall not receive a building permit until such development impact fee is paid~~.

Section 5. Subsection 5-13-005 (Payment of Fee) of Section 3 of Ordinance 487 is hereby amended, and as amended shall read as follows:

5-13-005 **PAYMENT OF FEE**

a. The fee payer shall pay the development impact fee provided for pursuant to this Code to the Community Development Department prior to the issuance of a building permit or mobile home permit.

b. Notwithstanding subsection a above, the Town may enter into a development agreement for the deferred collection of the development impact fees if such deferral is permissible under state law and the terms of the development agreement conform with State law.

Section 6. 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 Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2011, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney