RESOLUTION NO. 2809

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING PAYSON'S TOWN CODE CHAPTER 94: STREETS AND SIDEWALKS 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 1536; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance 588; and

WHEREAS, it is the intention of the Town of Payson to amend various provisions of Chapter 94 of the Payson Town Code relating to Streets and Sidewalks; and

WHEREAS, such amendments may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND THE PAYSON TOWN COUNCIL, RESOLVE AS FOLLOWS:

Section 1. Payson Town Code Chapter 94: Streets and Sidewalks is amended, declared to be a public record, and shall read as set forth in Exhibit A attached.

Section 2. If any portion of this Resolution is held to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL this _____ day of November, 2014, 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

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Exhibit A
To
Resolution 2809

CHAPTER 94: STREETS AND SIDEWALKS

§ 94.01 PERMIT REQUIRED.

(A) It is unlawful for any person to cut, remove or damage any street, sidewalk, drainage conveyance, or other public improvement without first obtaining a permit from the town, except in cases of emergency.

(B) It is unlawful for any person to place, construct or install any improvement or make any change to an existing place, structure or facility, including but not limited to culverts, head walls, drainage structures, ditches, flat work for driveways or sidewalks, walls, fences, grading, or landscaping within any Town right-of-way, easement for public ingress or egress or of any public place without first obtaining a permit from the town.

§ 94.02 APPLICATION FOR PERMIT.

(A) All applicants for permits as may be required by this Chapter shall provide (1) the location of the proposed cut, construction, installation or change, (2) a certificate of insurance listing the Town as an additional insured, and (3) any other information as may be required by the Town.

(B) A separate application shall be made for each place where a pavement cut of a street, sidewalk, alley or public place is to be made or for which construction or changes to areas of dedicated right-of-way, easements or other public places are proposed to be made. The Town may waive the requirement for separate applications if the cuts, construction, and/or changes are part of a unified plan.

(C) All applications shall be accompanied by a permit fee established by the Council

(D) If the application is for a pavement cut, the applicant shall be either a utility company as defined in Section 94.05 or a Licensed Arizona Contractor with the appropriate license to work within public right-of-way.

§ 94.03 PERMIT PROVISIONS.

(A) Each permit issued by the town pursuant to this Chapter shall provide that the permittee shall (1) save and hold the town, its officers, agents and employees harmless from any claim for injury or damages resulting from the performance or maintenance of the work for which the permit is issued and (2) during the progress of such work, place and maintain proper barriers and lights to ensure public safety.

(B) Each permit shall require the permittee to perform the work in conformity of the Uniform Standard Specifications for Public Works Construction and the Uniform Details for Public Works Construction, sponsored and distributed by the Maricopa Association of Governments as amended by the Town ("MAG Standards").

(C) All excavations shall be repaired in accordance with MAG Standards, or shall be returned to the same condition of the area being excavated as it existed prior to the excavation. All excavations shall be have a compaction ratio in the excavated or repaired area at least equal to that

of the area immediately surrounding the excavated site. Backfill material shall be the same as specified by the controlling utility company, but in any event shall conform to the following requirements: for bedding and shading material (to a maximum of 1 foot above the pipe) shall be either 3/4 inch aggregate base course material compacted to at least 95% of the maximum dry density or flowable backfill slurry. The backfill from 1 foot above the pipe to the pavement subgrade shall be the above flowable backfill slurry. The flowable slurry mix shall consist of 1 sack cement to 1 cubic yard of aggregate.

(D) The driving surface of any street which has been excavated shall be repaired with a minimum of 2 inches of compacted hot mix asphalt, or the hot mix asphalt thickness shall match the thickness of the adjacent asphalt, whichever is greater, and the surface shall match the existing grades of the surrounding driving surface. Any street cut shall have a "T" top with a minimum of 12 inch shoulders.

(E) All street cut repairs shall conform to the Town of Payson Street Pavement & Surface Replacement Detail, latest revision.

(F) All permittees shall notify Blue Stake in accordance with A.R.S. §§40-360.22 and 40-360.23 of their intention to excavate, together with the date and site of each excavation.

(G) Street excavations may be commenced only on Mondays through Fridays, inclusive. However, such excavations may continue uninterrupted through the entire period allowed by the permit.

(H) All pavement cuts shall be repaired within ten working days from the date the cut was made.

(I) Permittees shall be responsible for maintaining the pavement cut in an acceptable condition until repaired.

(J) Permits allowing construction or work, other than excavations within the driving surface or shoulder of a street, may be issued for a period of time up to six months.

§ 94.04 BOND REQUIRED; PROVISIONS.

(A) Bond required. It shall be unlawful for any person to cut, open or remove any pavement on any street, sidewalk, alley or other public place without providing a bond or cash deposit in the amount of $2,000, unless it is determined by the Town that the work is estimated to cost more than $2,000. In such event, the bond or cash deposit will be in the amount estimated by the Town.

(B) Bond provisions. Each bond or cash deposit provided pursuant to this Section shall guarantee faithful performance of the cutting, opening and removing, and subsequent repairs to, the pavement.

§ 94.05 PROVISIONS FOR UTILITY COMPANIES.

(A) For the purposes of this chapter, a Utility Company UTILITY COMPANY shall be defined as a provider of services such as piped propane, electric, cable TV, sewer, water, or wired phone services that is commonly owned or regulated by a governmental entity.

(B) The provisions of §§ 94.04 shall not apply to any Utility Company. Such Utility Companies shall as a condition of the issuance of a permit pursuant to this chapter, agree that any work which is not completed by such Utility Company in conformance with the standards set forth in § 94.03 may and will be corrected by the town, and such utility company shall be liable to the town for the cost of such corrections.

(C) A utility company may hire a Licensed Arizona Contractor to perform the work but the permittee shall be the utility company. Upon receipt of an application from a Utility Company the Town shall issue a permit if the proposed work does not conflict with this Code or any other ordinance or regulation of the town.

§ 94.06 INSPECTIONS.

(A) The Town shall be notified at least 24 hours prior to any backfill or pavement to allow for inspections. Any backfill or pavement placed without the approval of the Town is subject to removal at the permittee's expense.

(B) Upon completion of the work, the Town will perform a final inspection.

(C) The Town will inspect the project site periodically (at least quarterly) to ascertain if the work is being performed and whether such work is in compliance with the standards set forth in § 94.03, and with all other requirements of law and of this Code. If the Town finds that such standards have not been complied with, the Town Public Works Director shall, within ten days of the inspection, forward to the permittee a list of all specifications and requirements not complied with. The permittee shall ~~then~~ have ten working days to correct the problems. If the permittee does not correct the problems within ten working days, the town may make the corrections. The cost of such corrections shall be paid to the town from such bond or cash deposit, unless the costs of correction exceed the amount of such bond or cash deposit, in which case, the Town shall so notify the permittee, who shall pay any such amounts in addition to the posted bond or cash deposit within 30 days of such notice. In the case of a permittee operating as a utility company under § 94.05, which has not repaired the noted deficiencies within ten working days, a list of all specifications not complied with shall be sent to such permittee, together with an invoice for the cost to the town, which invoice shall be paid by said permittee within 30 days of the date of such invoice.

(D) Upon the Town's final approval of a project, the two year warranty period shall begin.

§ 94.07 WARRANTIES.

(A) The permittee shall warranty all materials and workmanship used in conjunction with any street cut and repair for a period of two years.

(B) The Town shall inspect the street repairs within ten working days of the end of the warranty period. If all work still appears to have been constructed in compliance with the standards set forth in § 94.03, the remainder of any bond or cash deposit shall be returned to the permittee. If the Town finds that such standards have not been complied with, the Town shall, within ten days of the inspection, forward to the permittee a list of all specifications and requirements not complied with. The permittee shall then have ten working days to correct the problems. If the permittee does not correct the problems within ten working days, the town will make the corrections. The cost of such corrections shall be paid to the town from such bond or cash deposit, unless the costs of correction exceed the amount of such bond or cash deposit remaining, in which case, the Town shall so notify the permittee, who shall pay any such amounts in addition to the posted bond or cash deposit within 30 days of such notice.

§ 94.08 EMERGENCIES.

In the event of a bonafide emergency, as determined in the discretion of the town, a person may perform work for which a permit is otherwise required by this chapter, without first making application for such permit. However, the person performing the work shall apply for a permit for the work performed and post any required bonds within 48 hours of performing the work. All other provisions of this chapter shall nevertheless apply to work performed on such an emergency basis. In the event that the town determines that a bonafide emergency did not exist, then in addition to any other penalty provided herein, a $50 penalty for failure to obtain a permit may be assessed.

§ 94.99 PENALTY.

(A) Each violation of this chapter may be punishable as a class one misdemeanor as provided in Section 10.99.

(B) Each violation of this chapter may be subject to a civil penalty not to exceed the sum of $1,000.

(C) Any violation of this chapter may be enforced by the town pursuant to subsection (A) above, as a criminal offense or pursuant to subsection (B) above, as a civil penalty, or through any combination thereof in the sole discretion of the town and without election among remedies.

(D) In addition to any other penalty, the Town may withhold any permit applied for by any person pursuant to this chapter when such person has not fully complied with all provisions of this chapter prior to the application for such permit, including those provisions relating to payment of the cost of correction.

(E) Each day of a violation of this chapter shall constitute a separate offense.