RESOLUTION NO. 2949

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING PAYSON TOWN CODE SECTION 154-09-016 UNIFIED DEVELOPMENT CODE, PROCEDURES TO ABANDON TOWN RIGHTS-OF-WAY AND EASEMENTS, AND MOVING PROCEDURES TO SECTION 156 (A) THROUGH (D), AND DECLARING SUCH AMENDMENTS AND ADDITION TO BE A PUBLIC RECORD.

WHEREAS, the Code of the Town of Payson ("Code") was declared to be a public record by Resolution 1536 and was adopted as a public record by Ordinance 588; and

WHEREAS, in 1996, the Mayor and Council approved Ordinance 466 adopting the Unified Development Code ("UDC") and in 2014 approved Ordinance 850 incorporating the UDC into the main Town Code compilation; and

WHEREAS, it is the intention of the Town of Payson to amend section 154-09-016 of the Code of the Town of Payson to streamline and to move the Procedures to Abandon Town Right-of-Way and Easements to section 156 *et seq.*; and

WHEREAS, the Town's current provisions under section 154-09-016 are in need of some streamlining to allow flexibility for reviewing and approving abandonment requests; and

WHEREAS, the Town may enact the provisions of a code or a public record theretofore in existence by reference pursuant to A.R.S. § 9-802 *et seq.* without setting forth the provisions, but the adopting ordinance shall be published in full.

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

Section 1: Section 154-04-016 of the Unified Development Code of the Town of Payson is hereby amended to streamline and to move the Procedures to Abandon Town Right-of-Way and Easements to section 156 (A) through (D), as set forth in **Exhibit A**.

Section 2: That Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute Resolution 2949 and Ordinance 885 as presented to Mayor and Council; and

Section 3: This Resolution and said **Exhibit A** are hereby declared to be a public record pursuant to A.R.S. § 9-802 *et seq.*

Section 4: That the Town of Payson and Town Officials are authorized to take such other and further actions as may be necessary or appropriate to carrying out the intent of this Resolution.

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Section 5: 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 COUNCIL OF THE TOWN OF PAYSON, ARIZONA this 4th day of August, 2016, by the following vote:

AYES ____ NOES ____ ABSTENTIONS ____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Hector M. Figueroa, Town Attorney

Prepared by Town of Payson Legal Department
HMF: dkk 7/26/2016 12:38 PM
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Exhibit A

to Resolution 2949

(UDC ABANDONMENT PROCEDURE AMENDMENT)

Exhibit A

§156. PROCEDURES TO ABANDON TOWN RIGHTS-OF-WAY AND EASEMENTS.

(A) *Application.* Any person desiring to request the abandonment of town rights-of-way, any easement owned by the town, rights-of-way or easements dedicated to the use of the public within the town limits, or rights-of-way or easements which have been sought to be dedicated, but not accepted by the town, shall make application therefore to the Town Engineer ("Application for Abandonment").

(B) *Requirements for application.* All applications shall be in accordance with state law and procedures prescribed by the Town of Payson on forms provided by the Town of Payson.

(C) *Rights-of-way and easements not subject to abandonments.* Any rights-of-way or easement which has not been dedicated to and accepted by the public and accepted by the town shall not be abandoned by the town. Rights-of-way or easements dedicated to the town shall be treated in the same manner as rights-of-way or easements which have been dedicated to and accepted by the town. If it is determined that the requested right of way or easement abandonment is not subject to Town abandonment, the application shall be rejected and the submitted paperwork and fee shall be returned to the requester.

(D) *Town Council action.* If the requested right of way or easement is subject to Town abandonment, the Town Engineer shall submit a Council Decision Request to the Town Council for action. The Town Council may take action on the Council Decision Request. The Town Council may, but shall not be required to, hold a public hearing before taking action. If the abandonment, or any portion thereof, on the CDR is approved by the Town Council, a Resolution shall be submitted for the next regular council meeting to finalize the abandonment. The Town Council shall not abandon any rights-of-way or easement if the effect of such abandonment is to leave any land adjoining the same without a legal connection between the land served by the rights-of- way or easement and another established public roadway unless there is expressly reserved in the conveying instrument the roadway rights for ingress and egress for public or emergency vehicles, all property owners, property owner guests and invitees and persons lawfully conducting business on the land.

§ 154-08-003 PLANNING AND ZONING COMMISSION.

The Commission shall primarily serve as an advisory body to the Town Council to direct growth and physical development of the town in a sound and orderly manner for prosperity, health, safety, and welfare of citizens.

(A) *Membership.*

(1) The Commission shall be composed of seven members who shall be residents of the town. The members of the Commission shall be appointed by the Mayor subject to the approval of the Council. These appointments shall be for a period of three years each with the terms of members so staggered that the terms of no more than three members shall expire in any one year. All members shall be appointed for full three year terms except that in the event of death or resignation of a member the vacancy may be filled for the unexpired term. The term of all members shall extend until their successors are qualified; except that three successive unexcused or unexplained absences from any regular or special meeting shall be grounds for termination at the will and pleasure of the appointing authority without the necessity of a hearing or notice, and such action shall be final.

(2) All members shall serve without pay. Members of the Commission may be reimbursed for actual expenses incurred in connection with duties upon authorization or ratification by the Community Development Director and approval of such expenditures by the Town Manager.

(B) *Officers.* The Commission shall elect a chairman and vice-chairman from among its own members, who shall serve for one year and until their successors are elected and qualified. The chairman shall preside at all meetings and exercise all the usual rights, duties, and prerogatives of the head of any similar organization. The chairman shall have the power to administer oaths and to take evidence. The vice-chairman shall perform the duties of the chairman in the absence or disability of the chairman. Vacancies created by any cause shall be filled for the unexpired term by a new Council appointment.

(C) *Duties.* It shall be the duty of the Commission to hold public hearings when necessary and make recommendations to the Council on all matters concerning or related to the creation of zoning districts and boundaries, the appropriate regulations to be enforced therein, the amendment of this Code, and any other matter within the scope of the zoning power.

(1) To hear, review, and make recommendations to the Council regarding applications for amendments to the General Plan and other planning documents.

(2) To serve as an advisory body to the Council and to furnish to the Council through its secretary the facts concerning the adoption of any report or recommendation.

(3) To initiate, hear, and review amendments to the Zoning Map in accordance with the provisions of §§ 154-09-001 through 154-09-017.

(4) To initiate, hear, and review amendments to the text of this Code.

(5) To make investigations, maps, reports and recommendations in regard to the physical development of the Town of Payson.

(6) To review and approve, approve with stipulations, or disapprove preliminary subdivision plats in accordance with rules and procedures of the subdivision regulations.

(7) To approve or disapprove conditional use permits.

~~(8) To hear, review and make recommendations to the Town Council regarding requests to abandon town rights-of-way and easements.~~