RESOLUTION NO. 2767

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING CHAPTER 50: WATER OF PAYSON TOWN CODE AND DECLARING SUCH AMENDMENTS 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 Chapter 50:Water 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. Chapter 50:Water, Sections 50.01 through 50.05 (General Provisions) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 1.

Section 2. Chapter 50:Water, Sections 50.15 through 50.16 (Extensions; Design and Construction) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 2.

Section 3. Chapter 50:Water, Sections 50.30 through 50.40 (Cross-Connection Control) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 3.

Section 4. Chapter 50:Water, Sections 50.50 through 50.53 (Rates, Charges and Billing) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 4.

Section 5. Chapter 50:Water, Sections 50.55 through 50.59 (Water Development Fees) will be amended at the time the Town Council approves Replacement Water Development Impact Fees in May, 2014. Note - Exhibit 5 is intentionally blank.

Section 6. Chapter 50:Water, Sections 50.60 through 50.69 (Water Conservation) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 6.

Second Hearing APR 17 2014 D.6.A

First Hearing APR 03 2014 D.2.A

Section 7. Chapter 50:Water, Sections 50.65 and 50.66 (renumbered as 50.80 and 50.81) and 50.99 (Administration and Enforcement) of the Payson Town Code are amended, declared to be a public record, and as amended shall read as set forth in Exhibit 7.

Section 8. 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 COMMON COUNCIL OF THE TOWN OF PAYSON this 17th day of April, 2012, 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

EXHIBIT 1

TO

RESOLUTION 2767

EXHIBIT 1 - GENERAL PROVISIONS

§ 50.01 APPLICATION FOR SERVICE; DEPOSIT.

(A) All customers shall submit a deposit in an amount as is determined by the Council.

(B) The person in whose name the application is made shall be responsible for payment of all bills incurred in connection with the service furnished.

(C) A separate deposit shall be required for each meter installed.

(D) Upon discontinuance of service, the town shall apply the deposit toward settlement of the account.

§ 50.02 TOWN AND CONSUMER RESPONSIBILITIES; DISCONTINUATION.

(A) Town responsibilities.

(1) The town shall not be responsible for inspecting consumer's piping or apparatus.

(2) The town shall refuse service unless consumer's lines or piping are installed in such manner as to prevent cross-connections or backflow.

(3) Under normal conditions, the town shall notify a consumer of any anticipated interruption of service.

(4) The town shall not be responsible for negligence of third persons or forces beyond the control of the town, resulting in any interruption of service.

(B) Consumer responsibilities.

(1) Piping on consumer's premises shall be arranged so that the connections are conveniently located with respect to the municipal water system lines or main.

(2) If consumer's piping is arranged to require additional meters, each place of metering shall be considered as a separate and individual account.

(3) Where a meter is placed on a consumer's premises, the consumer shall provide a suitable place for the meter, which place shall be unobstructed and accessible at all times to the meter reader.

(4) Consumer shall furnish and maintain a private shut off valve on consumer's side of the meter.

(5) In the event of any loss or damage to the property of the town being used to provide water service to consumer, consumer shall pay to the town the cost of the necessary repairs or replacements, and consumer shall assume any liability otherwise resulting. The town shall add the amount of the loss or damage to consumer's bill.

(6) Only consumer, members of consumer's household, guests, tenants and employees of consumer shall use water furnished by the town. Consumer shall not sell water to any other person or permit any other person to use water unless such sale is approved in writing by the Water Division Manager.

(7) If consumer alters the grade of the land surrounding ~~any of~~ the town's meters or other water system facilities~~,~~ such that alteration of the facility is necessitated ~~thereby~~, ~~a~~ consumer shall pay to the town the costs of such alteration by town. The town shall add the amount of the costs to consumer's bill.

(8) Consumer shall obtain and maintain a connection to an approved sewer or septic system.

(C) Discontinuation.

(1) (a) Upon receipt of an official notice from the sanitary district that a consumer's sewer service is subject to disconnection on a date specific, the town may discontinue water service to the consumer no more than three days prior to the disconnection date.

(b) Prior to discontinuation of water service under this subsection, the town or sanitary district will provide the consumer with at least 10 days notice of such discontinuation. If prior to discontinuation of water service, the consumer provides the town with proof that the consumer's sewer service is no longer subject to disconnection, water service shall not be discontinued.

(2) The town may discontinue water service without notice for any of the following reasons:

(a) To prevent fraud or abuse.

(b) The consumer's willful disregard of or refusal to comply with this chapter.

(c) To prevent or stop any serious public health hazard, including, but not limited to, lack of connection to an approved sewer or septic system or the discharge of sewage in any manner other than to an approved sewer or septic system.

§ 50.03 WATER INFRASTRUCTURE DEVELOPMENT.

(A) At the time of the issuance of any building permit, the permittee shall pay the then-existing Water Development Impact Fees set forth in § 50.56.

(B) This section shall not apply to building units erected upon property which receives or has previously received metered water service from the town, as long as the new building unit(s) erected upon the property do(es) not increase the number of Equivalent Residential Units it uses, and a water development fee has been paid for each Equivalent Resident Unit the property uses.

(C) All persons or entities who propose development requiring new or upgraded public water service facilities shall bear all costs associated with such establishment or upgrading of the water service facilities to serve such development.

(D) In order to ensure the proper and orderly development of the public water system, it may be necessary for the Water Division Manager to require of a developer the construction of water system facilities over and above the needs of a developer's project.

(1) In such instances, the developer is entitled to enter into a water facilities recapture agreement with the town, whereby the developer may be reimbursed for any expenses associated with the oversizing of water system facilities for any future users of the water system facilities.

(2) In no event shall a developer recover more than 100% of the cost representing construction of the upgraded or oversized facilities.

(E) All planned improvements and alterations of the town's water system facilities shall be approved prior to construction and shall pass final inspection prior to town's acceptance of the construction.

(1) The town shall receive title to all improvements and alterations, free and clear of all liens or encumbrances.

(2) All water system facilities shall be constructed within dedicated easements or, if necessary, upon land for which title is deeded to the town.

(F) All construction and alterations to the water system facilities shall be governed by a

two-year warranty for parts and labor which will benefit the town.

(1) The two-year warranty shall commence upon the date the town finally approves the construction and has received title to the constructed water system facility.

(2) During the course of construction or alteration of the town's water system, the town shall be held harmless from all claims arising from the course of construction by all contractors, and all owners or employees of contractors.

(G) When a homeowner extends public water mains or fire protection facilities solely for the benefit of his or her residence, he or she shall be entitled to enter into a special recapture agreement, whereby the homeowner is entitled to receive for each lateral connection to the public water main a sum of money equal to the following formula, the money to be collected from anyone wishing to construct a service connection to the main by the Water Department as a recapture fee and forwarded to the homeowner:

Total homeowner cost to construct main divided by the total number of building units that could be connected to that main (based on number of lots times the density per each lot that could be served in effect at the time the special recapture agreement is executed).

(1) This recapture program shall be limited to a period of ten years after the Water Department's acceptance of the facilities.

(2) If a person builds on a lot or parcel that could be served by these facilities, but does not desire public water service, the fee is due before issuance of a building permit.

(H) In the event town monies are used to construct public water mains, pressure booster facilities, and/or fire protection facilities, a special recapture condition is implied, whereby the town may recover such monies based on a per-lot or unit served pro rata division of the entire monies expended for such facilities on any particular construction project.

(I) (1) Specifications and requirements for the design and construction of facilities necessary for the expansion of the public water system shall be on file with the Town Engineer.

(2) In order to ensure its proper and orderly development, the Water Division Manager shall review all plans and documents relating to the expansion, extension or construction of the public water system.

(3) The Water Division Manager shall recommend changes necessary to assure the proper growth of the water system on a town-wide basis.

(4) The Water Division Manager shall approve all proposed additions to the public water system if and when such additions are determined to be for the public benefit as a whole, as well as for the benefit of any particular development.

(5) In the event it is necessary to alter or change any specifications or requirements relating to the design and construction of the public water system, the Water Division Manager shall make necessary changes and file them with the Town Engineer.

§ 50.04 TEMPORARY SERVICE.

The town may, in its discretion, supply services for temporary purposes.

§ 50.05 DISCONTINUATION OF SERVICE.

Consumer shall give the town not less than three days' notice of customer's intention to discontinue service or to change occupancy.

EXHIBIT 2

TO

RESOLUTION 2767

EXHIBIT 2 - EXTENSIONS; DESIGN AND CONSTRUCTION

§ 50.15 EXTENSIONS TO MAINS AND SERVICES.

Extensions to water mains and services shall meet the specifications, regulations, and requirements of the town as approved by the Water Division Manager.

§ 50.16 DESIGN AND CONSTRUCTION SPECIFICATIONS.

(A) Specifications and requirements for the design and construction of facilities necessary for the expansion of the public water system shall be on file with the Town Engineer.

(B) In the event it is necessary to alter or change any specifications or requirements relating to the design and construction of the public water system, the Water Division Manager shall make necessary changes and file them with the Town Engineer.

EXHIBIT 3

TO

RESOLUTION 2767

EXHIBIT 3 - CROSS-CONNECTION CONTROL

§ 50.30 ADOPTION OF CROSS-CONNECTION CONTROL POLICY

A. The Water Division shall adopt a Cross-Connection Control Policy. Such policy shall be available for review by the public.

B. All customers shall comply with the adopted Cross-Connection Control Policy.

50.31 REVIEW AND ENFORCEMENT OF CROSS-CONNECTION CONTROL POLICY

(A) The Water Division shall periodically review and determine if any amendments or revisions to the Cross-Connection Control Policy are warranted based upon changes in Federal Regulations, technology, or any other relevant factor.

(B) The Water Division shall be responsible for the enforcement of the Cross-Connection Control Policy.

§ 50.32 DISCONTINUATION OF SERVICE

If a customer violates or is not in compliance with the Cross-Connection Control Policy, the Water Division may take enforcement action as allowed by law, up to, and including discontinuation of service. Unless the violation of the Policy creates a danger to public health or the integrity of the Town's water supply, the Water Division shall attempt to give at least 5 working days notice prior to any discontinuation of service.

EXHIBIT 4

TO

RESOLUTION 2767

EXHIBIT 4 - RATES, CHARGES AND BILLING

§ 50.51 INSTALLATION; METER ADVANCES.

(A) The town shall run a service line from the town's distribution line to the property line if its distribution line exists and runs adjacent and parallel to the property to be served.

(B) The town shall install the meter at the property line or, at the town's option, on the consumer's property, or in a mutually agreed upon location.

§ 50.52 RATE SCHEDULE AND DEPOSITS.

The town shall require various payments for connection fees, deposits and usage rates, according to a schedule as determined by resolution of the Council.

§ 50.53 METER READING, BILLING AND COLLECTING.

(A) Meters shall be read and bills shall be rendered monthly.

(B) Charge for service shall commence when the meter is installed and connection made, whether used or not.

(C) Readings from different meters shall not be combined for billings, irrespective of the fact that the meters may be for the same premises, for the same or different consumers or for the same or different services.

(D) Bills shall be due when rendered and shall be delinquent 15 days thereafter. It is the policy of the town to discontinue utility service to consumers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills.

(E) If any bill becomes delinquent, a second bill will be mailed containing a cutoff notice, stating that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment.

(F) Any consumer disputing the correctness of a bill shall have a right to a hearing at which time the consumer may be represented in person, ~~and~~ by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the consumer's service not be discontinued and shall have the authority to make a final determination of the consumer's complaint.

Requests for delays or waiver of payment will not be entertained at this hearing; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(G) When it becomes necessary for the town to discontinue utility service to a consumer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge as determined by the Council.

(H) Consumer's bills shall become delinquent despite consumer's failure to receive bills or notices, and consumer shall not be relieved of his or her obligation therein due to his or her failure to receive bills or notices.

(I) The town shall make special meter readings at the request of a consumer for a fee as determined by the Council, provided that, if the special reading discloses that the meter was over-read, no charge shall be made.

(J) Meters shall be tested at a consumer's request. Consumer shall pay to the town an amount determined by the Council, provided that, if the test discloses that the meter over-registered beyond 3% of the correct volume, no charge shall be made. The town shall add the amount of the cost to consumer's bill and, if the amount is not paid, the town shall discontinue service to consumer.

(K) If the seal of a meter is broken by anyone other than the town's representative, consumer shall pay an amount estimated from the record of consumer's previous bills or from other proper data.

(L) If a meter fails to register or stops for any cause for which consumer is not responsible, consumer shall pay an amount estimated from the record of consumer's previous bills or from other proper data until the meter is repaired or replaced.

EXHIBIT 5

TO

RESOLUTION 2767
(Note - Exhibit 5 intentionally blank)

EXHIBIT 6

TO

RESOLUTION 2767

EXHIBIT 6 - WATER CONSERVATION

§ 50.60 DECLARATION OF POLICY.

The Town of Payson has a limited water supply and it is necessary for the town to protect its limited water supply. The Town encourages all of its citizens to conserve water and finds that it is necessary to implement certain water conservation measures.

§ 50.61 WATER CONSERVATION COMPLIANCE.

It shall be unlawful for any customer of the Water Division to knowingly use or permit the use of water supplied by the Water Division in a manner contrary to any provision of this subchapter.

§ 50.62 INDOOR CONSERVATION.

(A) Leakage - Water system leaks from private water lines creating waste shall be repaired by the owner within 15 days of a repair notification by the Water Division. Proof of repair shall be provided to the Water Division.

(B) Clothes Washers - High efficiency washers must be installed in all new multi-family and commercial laundry facilities.

(C) Water closets. Water closets, either flush tank, flushometer tank, or flushometer valve operated, shall have an average consumption of not more than 1.6 gallons (6.1 liters) of water per flush. Water closets that use a "quick closing" flapper to limit the flush to 1.6 gallons per flush shall not be used to satisfy this requirement.

(D) Urinals. Urinals shall be installed in all new public, commercial, multi-family residential common-use, and commercial and industrial building restroom remodels. All such Urinals shall utilize no more than 16 ounces per flush.

(E) Non-metered faucets. Lavatory and kitchen faucets shall be equipped with aerators and shall not exceed a water flow rate of 2.5 gallons (9.5 liters) per minute.

(F) Metered faucets. Self-closing or self-closing metered faucets shall be installed on lavatories intended to serve the transient public. Metered faucets shall deliver not more than 0.25 gallons (1.0 liters) of water per use.

(G) Shower heads. Shower heads shall not exceed a water supply flow rate of 2.5 gallons (9.5 liters) per minute. Emergency safety showers are exempted from this provision.

(H) Recirculation and reuse systems. New construction, remodeling, or retrofit of evaporative cooling systems and decorative water fountains shall be equipped with recirculation systems. New construction of car washes shall be equipped with recycling and reuse systems.

(I) Chilled water/cooling towers. The use of chilled water and cooling towers for space cooling and commercial and industrial cooling purposes is prohibited.

(J) Hot water heaters. Hot water heaters in new construction shall be installed not more

than 40 feet from any hot water using fixture or appliance, or more than 50 feet if water pipe of less than 3/4" diameter is used for a minimum of 50% of the total pipe length. This requirement does not apply if a hot water recirculating system is installed.

(K) Fixture Installation. Water-conserving fixtures shall be installed in accordance with the manufacturer's instructions to maintain their rated performance.

(L) Eating establishments. All public and private eating establishments shall provide water or other beverages only upon request of a customer. Eating establishments serving beverages in single-serving containers shall only serve an accompanying glass if requested by the customer. These provisions shall be communicated to the customer in at least one of the following manners: on the menu, by use of a "table tent" or similar signage on the table, or by posting in a location clearly visible to all customers. All persons and entities providing catering and banquet services shall comply with the provisions of this subsection.

(M) Reverse Osmosis. The use of reverse osmosis water treatment equipment in conjunction with drinking water vending machines and commercial ice making equipment is prohibited.

§ 50.63 OUTDOOR CONSERVATION.

(A) Artificial water features. New artificial water features utilizing potable water, such as ponds, lakes, water courses, and other types of water features larger than 500 gallons are prohibited. All permitted water features must be equipped with a recirculating pump.

(B) Irrigation. Flood irrigation is prohibited. All other methods of irrigation shall be designed and maintained such that water does not leave the property being irrigated.

(C) Automatic shutoff nozzles. All hoses used for hand watering, car washing, or other outdoor uses shall be equipped with an automatic shutoff nozzle.

(D) Turf/grass areas prohibited. The planting, establishment, or expansion of turf or grass areas, whether from seed or sod, is prohibited. THIS SUBSECTION SHALL AUTOMATICALLY BE REPEALED UPON THE WATER DIVISION MANAGER PRESENTING TO THE COUNCIL AT A PUBLIC MEETING A LETTER INDICATING THAT WATER FROM THE CC CRAGIN RESERVIOR IS AVAILABLE FOR USE IN THE TOWN'S WATER SYSTEM.

§ 50.64 RESTRICTIONS ON COMMERCIAL LANDSCAPING. (current)

(A) The use of plants not listed on the Town of Payson Native and Low Water Use Plant List for industrial, commercial, and multifamily residential landscaping is prohibited.

(B) Irrigation systems shall be of the drip irrigation type and smart controllers (programmable, climate based) must be installed on all new commercial landscape irrigation projects.

SECTION 50.64 SHALL READ AS FOLLOWS UPON THE WATER DIVISION MANAGER PRESENTING TO THE COUNCIL AT A PUBLIC MEETING A LETTER INDICATING THAT WATER FROM THE CC CRAGIN RESERVIOR IS AVAILABLE FOR USE IN THE TOWN'S WATER SYSTEM.

§ 50.64 RESTRICTIONS ON COMMERCIAL LANDSCAPING. (upon availability of C.C. Cragin water)

(A) It is recommended that all industrial, commercial, and multifamily developments use landscaping listed on the Town of Payson Native and Low Water Use Plant List.

(B) All new commercial, industrial, and multifamily developments shall use smart controllers (programmable, climate based) for their landscape irrigation projects.

§ 50.65 WATER WASTE AND FUGITIVE WATER.

(A) Water waste prohibited. No customer shall cause or permit to occur any water waste.

(B) Fugitive water flow prohibited. No customer shall cause or permit the occurrence of fugitive water.

(C) Unforeseeable events. For unforeseeable or unpreventable failure or malfunction of plumbing or irrigation hardware causing water waste or fugitive water, the town shall issue a warning notice prior to taking enforcement action.

(D) Exemptions. "Water waste" and "Fugitive Water" shall not include:

(1) Flow from fire fighting, routine hydrant inspection or fire training activities.

(2) Water to abate spills of flammable or hazardous materials.

(3) Water to prevent or abate health, safety, or accident hazards.

(4) Flow resulting from a routine inspection or maintenance of the water utility system.

(5) Water used by the town in the installation, maintenance, repair, or replacement of public facilities and structures including, but not limited to, traffic control devices, storm and sanitary sewer structures, and road or street improvements.

(6) Storm run-off, including snowmelt run-off

(7) Flow resulting from temporary town water utility system failures or malfunctions.

(8) Flow resulting from vandalism, high winds, emergencies, and acts of God.

(9) The occurrence of an unforeseeable or unpreventable failure or malfunction of plumbing or irrigation system hardware.

(E) The Water Division may issue administrative policies as may be needed to clarify what is water waste and fugitive water.

§ 50.66 RESTRICTIONS DURING TIMES OF SHORTAGE.

(A) The Town Manager, upon recommendation of the Water Division Manager is authorized to declare or rescind Water Conservation Levels based upon the Resource Status Levels set forth below.

(B) The following Resource Status Levels are hereby prescribed:

(1) Resource Status Level I: When water demand is equal to or less than safe production capability. When Resource Status Level I is reached, Water Conservation Level I shall be declared.

(2) Resource Status Level II: When demand is greater than safe production capacity for three consecutive days. When Resource Status II is reached, Water Conservation Level II shall be declared.

(3) Resource Status Level III: When demand is greater than safe production capacity for two consecutive weeks. When Resource Status III is reached, Water Conservation Level III shall be declared.

(4) Resource Status Level IV: When demand exceeds the total available water resources production capacity. Resource Status Level IV shall require the enactment of additional water use restrictions. These restrictions shall be determined by the town in an amount necessary to reduce water demand to a safe level..

(C) Conservation Levels:

(1) Conservation Level I: Conservative Water Usage. Water users are encouraged to minimize waste in water used for irrigation, vehicle washing, construction and other water consuming activities.

(2) Water Conservation Level II: Water Usage Restrictions. The following water uses are restricted or prohibited:

(a) Irrigate, wash vehicles, fill or refill pools, spas or wading pools as provided in subsection (E) below.

(b) Use ornamental fountains except if equipped with a recycling pump and subject to restrictions contained in subsection (E) below.

(c) Use water from a fire hydrant except for emergencies or upon the written approval of the Water Division Director and the Fire Chief.

(d) Wash paved areas such as drives, sidewalks, or tennis courts, except for health, safety or welfare.

(3) Water Conservation Level III: Water Usage Reductions. In addition to the restrictions set forth in Level II above, the following water uses are prohibited.

(a) Fill or refill swimming pools, spas, or wading pools.

(b) Irrigate with potable water.

(c) Wash vehicles. No restrictions apply to vehicles that must be washed for public health, safety or welfare or to commercial car washes.

(d) Water misters.

(e) Use potable water for dust control on public or private streets or capital improvement projects.

(f) Use potable water in violation of any other restriction deemed necessary by the Town Council for the purpose of protecting the welfare of the citizens of the Town.

(D) Reduction in anticipated water use.

(1) Water Conservation Level I: up to 5% reduction in anticipated water use.

(2) Water Conservation Level II: up to 15% reduction in anticipated water use.

(3) Water Conservation Level III: 30% reduction in anticipated water use.

(E) Outdoor irrigating periods during Conservation Level II. If Conservation Level II is in effect, the following requirements for outdoor irrigation of landscaping shall be followed:

(1) Outdoor irrigation with potable water is prohibited between 9:00 a.m. and 6:00 p.m.

(2) The Water Division Manager may institute "odd-even" irrigation restrictions. In such case, odd-numbered addresses may irrigate only on Tuesdays, Thursdays and Saturdays. Even-numbered addresses may irrigate only on Wednesdays, Fridays and Sundays. For a location lacking an identifiable odd- or even-numbered address, the owner or managing agent shall select an odd-even schedule to which it chooses to adhere provided the Water Division is so notified. A large irrigation user may designate a portion of its landscape area as "odd" and a portion as "even" if active use of the landscaping and/or water pressure limitations constrains the user's ability to irrigate the entire landscaped area in either an odd or even day, provided the Water Department is so notified.

(3) Nursery stock. Plants being irrigated for retail or wholesale sales are exempt from the restrictions imposed in subsections (1) and (2) above.

§ 50.67 CONSERVATION AWARENESS.

(A) Restroom and shower facilities. Public, semi-public, and governmental restroom and shower facilities shall post at least one water conservation sign in each restroom and shower facility not less than eight and one-half inches by 11 inches. Such entities may use a town-provided sign or develop their own sign using town-provided text, the text of which shall cite this subchapter. A "public facility" shall not include those facilities used solely by the employees of an entity. A "semi-public facility" shall include all private clubs and fraternal organizations.

(B) Lodging guest rooms. Hotels, motels and other lodging facilities shall provide a water conservation informational card or brochure in a visible location in each guest room. Such facilities may use town-provided literature or develop their own using town-provided text. Lodging facilities shall not provide daily linen and towel changing for those guests staying multiple nights unless a guest specifically requests each day that the linen and towels be changed.

(C) Nurseries. Retail plant nurseries shall provide their end-use customers with town-provided low water use landscape literature and water efficient irrigation guidelines at the time of sale of any outdoor perennial plants. An "end-use customer" is the person or persons who will ultimately own the plant material. A landscape contractor or architect is not an end-use customer. In order to facilitate the purchasing of low water use plants, nurseries are strongly encouraged to tag or sign their low water use plants that require little to no supplemental watering once established. *[For the sale of all turf or grass seed or sod, the end-use customer shall be given town-provided literature indicating the restrictions to planting water consumptive turf. The establishment of turf, from either sod or seed or expansion of existing turf areas, is expressly prohibited.]* Signs provided by the retailer or the town shall be prominently displayed indicating this restriction on turf. Landscape contractors, maintenance companies, and architects shall provide their prospective clients with town-provided low water use landscape literature and water efficient irrigation guidelines at the time of presenting a service contract to the prospective client. Landscape professionals are strongly encouraged to educate their customers regarding the operation of their timed irrigation systems. NOTE THE BRACKETED, ITALICIZED PORTION OF THIS SUBSECTION SHALL AUTOMATICALLY BE REPEALED UPON THE WATER DIVISION MANAGER PRESENTING TO THE COUNCIL AT A PUBLIC MEETING A LETTER INDICATING THAT WATER FROM THE CC CRAGIN RESERVIOR

IS AVAILABLE FOR USE IN THE TOWN'S WATER SYSTEM.

(D) Real estate transactions. Title companies and other organizations which close real estate transactions are encouraged to provide each person or entity purchasing property within the town with town-provided indoor and outdoor conservation literature at the time of closing.

(E) Permits. Departments of the town shall provide indoor and outdoor conservation literature to:

(1) All persons applying for a building permit.

(2) All customers initiating new water service from the Water Division.

§ 50.68 ENFORCEMENT.

This subchapter may be enforceable through one or more of the following ways: payment of administrative fees, termination of service and prosecution in the Payson Magistrate Court.

(A) Administrative fees. Customers who violate any provision in this subchapter may be assessed an administrative fee for each such violation. Such fees shall be assessed on the customer's water bill. All violations on a single date at a single customer address shall constitute a single offense and each day that a violation occurs shall be considered a separate offense under this subchapter.

(1) Amount of administrative fees. The administrative fees shall be as determined by Council.

(2) Right to appeal. Each customer who is assessed an administrative fee shall have the right to appeal the imposition of such fee by filing a written notice of appeal with the Water Division within ten calendar days of receiving the water bill containing the administrative fee. Within ten calendar days following receipt of such notice of appeal, the Division Manger shall set a date for hearing the appeal, which shall occur not later than 30 days after receipt of the written notice of appeal. The customer shall be notified in writing of the time and place of such hearing and such notification shall be made to the last billing address of such customer. The appeal shall be informal and shall be heard by the Division Manager. The Division Manager's decision shall be final.

(B) Termination of service. The town may terminate or suspend water service to property owned or controlled by a customer in violation of this subchapter. The Division Manager shall cause a notice of water termination to be served upon the violating party stating that service will be discontinued in five calendar days from the day of service unless a hearing is requested. A hearing may be requested by delivery of a request in writing to the Town Manager within 5 calendar days. If a hearing is requested, the Town Manager shall convene a hearing within three days. The requesting party may appear before the Town Manager and may present such evidence and reasons such party may have for not effectuating a termination or suspension of water service and may bring to the hearing such other persons or evidence as such party may desire. After hearing, and upon finding that such a violation has occurred, the Town Manager may order that water service be terminated or suspended pending compliance with this subchapter.

(C) Emergency termination of service. When a violation of this subchapter occurs, and the Division Manager determines that the specific circumstances of the violation are of such a serious nature as to require immediate measures and abatement, the Division Manager may take steps to temporarily shut off the water source or discontinue the water service to the property

where the violation is occurring. In such cases, the Division Manager shall cause a notice of water termination to be served upon the violating party at the time of emergency termination of services. The violating party shall have the right to appeal such action as provided in subsection (B) above.

§ 50.69 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

FUGITIVE WATER. The pumping, flow, release, escape, or leakage of any potable water from any pipe, valve, faucet, irrigation system or facility onto any hard surface such that water accumulates as to either create individual puddles in excess of ten square feet in size or cause flow along or off of the hard surface or onto adjacent property or the public right-of-way, arroyo, or other water course, natural or manmade. FUGITIVE WATER also means, during the irrigation of landscaping, the escape or flow of water away from the landscaping plants being irrigated even if such flow is not onto a hard surface. Excluded from this definition is incidental runoff caused by vehicle washing (provided that a positive shut-off nozzle is used), the periodic draining of swimming pools and spas, and the intentional washing of hard surfaces for an explicit public health, safety, or sanitation purpose as approved by the Water Division Manager.

GREY WATER. Household wastewater other than from water closets and kitchen sinks.

NONPOTABLE WATER. Water which does not meet nationally recognized standards for human consumption.

POTABLE WATER. Water which, according to the town, meets nationally recognized standards for human consumption.

PRIVATE EATING ESTABLISHMENT. Any establishment which admits a limited or restricted portion of the public and which serves food and washes dishes.

PUBLIC EATING ESTABLISHMENT. Any establishment which admits the public generally with no limitations or restrictions and which serves food and washes dishes.

SAFE PRODUCTION CAPACITY. 90% of the total available water resources, based upon distribution components, storage reserves, weather conditions and historic data.

WASTE. Any non-beneficial use of water within the town limits including that caused by the pumping of wells. WASTE includes, but is not limited to, the following: leaks in an indoor or outdoor plumbing system (faucets, hose bibs, showerheads, toilets, and the like) in excess of 0.25 gallons per minute. Residential water users, both single family and multi-family are excluded from the indoor plumbing portion of this definition.

WASTEWATER. For purposes of this chapter means the liquid and water carried waste or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions whether treated or untreated.

WATER DIVISION OR DIVISION. The Town of Payson Water Division.

EXHIBIT 7

TO

RESOLUTION 2767

EXHIBIT 7 - ADMINISTRATION AND ENFORCEMENT

§ 50.80 ACCESS TO PREMISES.

(A) Authorized agents of the town shall have access, at all reasonable hours, to the premises of consumers for the purposes of installing or removing town property, inspecting piping, reading or testing meters, or for any other purpose in connection with the town's service or facilities.

(B) Each consumer shall grant or convey or shall cause to be granted or conveyed to the town a permanent easement across any property owned or controlled by the consumer wherever the easement is necessary to enable the town to furnish water. Consumer shall not erect a fence around, across or on the easement or any other water system facility without the approval of the town.

§ 50.81 VARIANCE.

(A) The Public Works Director may grant a variance from the technical requirements of this chapter so long as such variance does not violate the policy, purposes or objectives of this chapter.

(B) The decision of the Public Works Manager on a variance request shall be final.

(C) The Public Works Director shall create and the Town Manager shall approval an administrative policy detailing the process by which a variance may be requested and the parameters within which such variance may be granted.

§ 50.99 PENALTY.

(A) Any violation of this chapter for which no other penalty is designated shall constitute a misdemeanor, and shall be punishable as set forth in § 10.99 of this code.

(B) Any violation of any provision in §§ 50.60 to 50.69 shall be a civil violation subject to a civil sanction not less than $50 and not to exceed $2,500 for each day that the violation continues. The imposition of a civil sanction shall not be suspended.