ORDINANCE NO. 876

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING PAYSON TOWN CODE SECTION 154-02-004(B)(3) TO THE UNIFIED DEVELOPMENT CODE RELATING TO THE KEEPING OF POULTRY HENS IN RESIDENTIAL DISTRICTS, ADDING THE DEFINITION OF "HENHOUSE" TO SECTION 154-11-002 OF THE UNIFIED DEVELOPMENT CODE, ESTABLISHING A SUNSET CLAUSE AND DECLARING SUCH AMENDMENT 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, the Code currently prohibits the keeping of poultry hens on residential lots less than one acre in size and is silent on the keeping of roosters; and

WHEREAS, on September 21, 2015, the Town Planning and Zoning Commission held a public hearing regarding the proposed amendments to Unified Development Code ("UDC") Section 154-02-004(B)(3) (Residential District Stipulations and Provisions) and 154-11-002 (Definitions) regarding the keeping of poultry hens and roosters in residential districts and recommended approval to the Town Council of said amendments; and

WHEREAS, the Town Council held Public Hearings on October 15, 2015 and November 5, 2015 on the proposed additions to UDC Sections 154-02-004(B)(3) and 154-11-002 and desires to enact said additions to the UDC; and

WHEREAS, the Town Council heard and considered public input at a Public Hearing and, because of concerns associated with Proposition 207 (The Private Property Rights Protection Act), desires to address concerns and suggestions received by establishing and adopting a Sunset Clause for a period of sixty (60) months with a review process to take place during the six (6) months prior to the expiration date.

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

SECTION 1: The amendments to UDC Sections 154-02-004(B)(3) and 154-11-002 set forth in Resolution 2881 were declared to be a public record by Resolution 2881, and are referred to and adopted by reference as though set forth in full in this Ordinance.

SECTION 2: At least three copies of the UDC amendments adopted by this Ordinance shall be filed in the Office of the Town Clerk and shall be kept available for public use and inspection.

NOV 0 5 2015 D.6.B

Second Reading & Public Hearing

SECTION 3: All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

SECTION 4: If any portion of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Payson, Arizona, this _____ day of November, 2015, 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:drs 10/28/2015 11:56 AM
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RESOLUTION NO. 2881

IS PRESENTED FOR

INFORMATION ONLY

AT THE

OCTOBER 15, 2015

COUNCIL MEETING

RESOLUTION NO. 2881

WILL BE PRESENTED

AS AN ACTION ITEM

AT THE

NOVEMBER 5, 2015

COUNCIL MEETING

RESOLUTION NO. 2881

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING PAYSON TOWN CODE SECTION 154-02-004(B)(3) TO THE UNIFIED DEVELOPMENT CODE RELATING TO THE KEEPING OF POULTRY HENS IN RESIDENTIAL DISTRICTS, AND ADDING THE DEFINITION OF "HENHOUSE" TO SECTION 154-11-002 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENT 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, the Code currently prohibits the keeping of poultry hens on residential lots less than one acre in size and is silent on the keeping of roosters; and

WHEREAS, on September 21, 2015, the Town Planning and Zoning Commission held a public hearing regarding proposed amendments to Unified Development Code ("UDC") Section 154-02-004(B)(3) (Residential District Stipulations and Provisions) and 154-11-002 (Definitions) regarding the keeping of poultry hens and roosters in residential districts and recommended approval to the Town Council of said amendments; and

WHEREAS, the proposed UDC amendments allow the keeping of poultry hens on residential lots less than one acre in size subject to housing and separation requirements and require a minimum of one acre of land for the keeping on roosters on residential lots; and

WHEREAS, the Town Council held Public Hearings on October 15, 2015 and November 5, 2015 on the proposed amendments to UDC Sections 154-02-004(B)(3) and 154-11-002 and desires to enact said amendments to the UDC; and

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

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

Section 1. Section 154-02-004(B)(3) of the Town of Payson Unified Development Code is hereby amended, declared to be a public record, and shall read as follows:

3. Livestock and poultry are permitted ***ACCESSORY USES*** if they do not create a nuisance, are in conformance to this Code, and are kept in accordance with the following:
   a. A minimum of 1.0 acres of land shall be required for maintenance of livestock ~~or poultry~~; or a ***ROOSTER(S);***

b. A total of two livestock may be maintained on the first acre, and up to one additional livestock for each additional one-half acre;

c. No livestock or poultry shall be permitted in any front yard, nor shall any horses or other livestock be maintained closer than 75 feet from any residential unit on another lot. Where an adjacent residential lot is not currently developed, the required setbacks ***ON THE ADJACENT PROPERTY*** shall be used to determine the potential placement of ~~housing~~, ***ANIMALS, ANIMAL ENCLOSURES, CORRALS, ETC.,*** to ensure the 75 foot separation from horses, other livestock and ~~poultry~~ **ROOSTERS.**

d. ***A MAXIMUM OF TEN POULTRY HENS KEPT ONLY WITHIN AN ENCLOSURE OR FENCED AREA SHALL BE ALLOWED ON ALL RESIDENTIAL LOTS, REGARDLESS OF LOT SIZE.***

e. ***DURING NON-DAYLIGHT HOURS ALL POULTRY SHALL BE CONFINED TO A HENHOUSE.***

f. ***POULTRY SHALL BE KEPT, HOUSED, OR OTHERWISE MAINTAINED A MINIMUM OF TWENTY-FIVE FEET FROM ANY MINIMUM SETBACK LINE ON AN ADJACENT PROPERTY. MINIMUM SEPARATION REQUIREMENTS MAY BE WAIVED WITH WRITTEN AGREEMENT FROM AFFECTED ADJACENT PROPERTY OWNER(S).***

g. ***THE KEEPING OF POULTRY ON ANY PARCEL NOT ZONED R1 SHALL REQUIRE A ZONING PERMIT, NOTIFICATION AS OUTLINED IN §154-08-008(2) SHALL BE PROVIDED. NOTICE SHALL FURTHER INCLUDE ANY AND ALL OTHER TENANTS/RESIDENTS/USERS ON THE SUBJECT PROPERTY. APPROVAL MAY BE SUBJECT TO ADMINISTRATIVE HEARING FINDINGS AND/OR CONDITIONS.***

h~~d~~. The keeping of all animals shall be subject to the regulations and conditions of the Gila County Health Department and the Town of Payson Animal Control Division.

i~~e~~. The keeping of dangerous, wild or non-domestic animals is prohibited.

j~~f~~. For the purposes of this subsection, the area comprising an adjoining roadway that has been dedicated to, and accepted by, the Town pursuant to the 2003 Payson Dirt Road Improvement Project shall be included when determining the area of any land.

4. Keeping of poultry, exotic birds or other animals shall be permitted in accordance with the "Table of Residential District Uses", in this Code, and Gila County Health Department standards, and shall be kept in such a manner as to not create a nuisance, nor disturb the character, as defined by this Code, of a residential area. Exotic animals shall be kept in such a manner to prevent any audible, physical, or other disturbance of neighbors.

Section 2. The definition of "Henhouse" is hereby added to UDC Section 154-11-002 (Definitions), declared to be a public record, and shall read as follows:

§ 154-11-002 Definitions

HENHOUSE: An enclosure used to keep poultry for personal use on a residential property, which is impermeable to predators including dogs and cats, and is kept supplied with clean water at all times.

Section 3. 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.

Section 4. This Resolution is hereby declared to be a public record.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of November, 2015, 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: drs 10/2/2015 11:35 AM
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