

ORDINANCE NO. 09-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS, ARTICLE 7-10, DEVELOPMENT FEES, RELATING TO ADJUSTMENTS TO DEVELOPMENT FEES FOR THE TOWN OF FOUNTAIN HILLS, ARIZONA.

WHEREAS, the Town received from Red Oak Consulting two written reports dated April 2009, entitled "Infrastructure Improvement Plan" and "Development Fee Update" and (collectively the "2009 Development Fee Study") containing the studies and analysis required by ARIZ. REV. STAT. § 9-463.05, as amended, relating to adjustments to the Town's existing development fees, which 2009 Development Fee Study has been released to the public; and

WHEREAS, notice of intention to assess modified development fees was given on April 28, 2009, as required by ARIZ. REV. STAT. § 9-463.05(C); and

WHEREAS, the 2009 Development Fee Study recommended increases for all fee categories except for Law Enforcement and Open Space, which were recommended for decreases; and

WHEREAS, a public hearing concerning the modified development fees was held on July 2, 2009, in accordance with ARIZ. REV. STAT. § 9-463.05(C); and

WHEREAS, subsequent to the public hearing, the Arizona Legislature adopted House Bill 2008, Laws 2009, Chapter 7, Forty-Ninth Legislature, Third Special Session, Section 41 of which related to a moratorium on new or increased development fees (the "Moratorium"); and

WHEREAS, to comply with the Moratorium, the Town Council desires to impose a delay in implementation of the fee increases until expiration or elimination of the Moratorium, while at the same time immediately implementing (subject to statutory time frames) the decreases in fees recommended by the 2009 Development Fee Study.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The Fountain Hills Town Code, Chapter 7, Buildings and Building Regulations, Article 7-10, Development Fees, Section 7-10-8, Fees, is hereby deleted in its entirety and replaced with the following:

Section 7-10-8 Fees

- A. All new residential (single family and multifamily) and non-residential development in the Town shall be subject to payment of the development fees in amounts as periodically adopted and adjusted by the Town Council pursuant to ARIZ. REV. STAT. § 9-463.05, as amended.

- B. Pursuant to ARIZ. REV. STAT. § 9-463.05(F), as amended, the development fees adopted by the Town Council according to this section will automatically adjust for inflation using the Engineering News Record - 20 City Construction Cost Index (ENR-CCI) on the first day of each Fiscal Year following adoption. The Town shall provide public notice of such annual adjustments at least thirty (30) days in advance of their effective dates.
- C. The amounts of the development fees adopted or adjusted as set forth above shall be set forth in a fee schedule adopted by the Town Council by ordinance, resolution or as part of the Town's annual budget.

SECTION 3. The following modified development fees are hereby adopted:

<u>Fee Area</u>	<u>Unit</u>	<u>Fee</u>
<i>General Government</i>		
Residential ⁽¹⁾	dwelling	\$1,549
Non-Residential ⁽²⁾	s.f.	\$0.966
<i>Law Enforcement</i>		
Residential ⁽¹⁾	dwelling	\$112
Non-Residential ⁽²⁾	s.f.	\$0.070
<i>Open Space</i>		
Residential ⁽¹⁾	dwelling	\$430
<i>Parks & Recreation</i>		
Residential ⁽¹⁾	dwelling	\$2,289
<i>Streets</i>		
SF-Residential	dwelling	\$5,614
MF-Residential	dwelling	\$3,942
Commercial	s.f.	\$3.835
Hotel	s.f.	\$2.258
Industrial	s.f.	\$1.235
Office	s.f.	\$2.835
<i>Fire & Emergency</i>		
Residential ⁽¹⁾	dwelling	\$207
Non-Residential ⁽²⁾	s.f.	\$0.129
<i>Library & Museum</i>		
Residential ⁽¹⁾	dwelling	\$258
⁽¹⁾ Residential includes single and multi-family dwelling units.		
⁽²⁾ Non-Residential includes commercial and industrial square footage		

SECTION 4. The fees adopted pursuant to this Ordinance shall not become effective until 75 days after the adoption of this Ordinance, subject to the further limitations set forth in Section 5 below.

SECTION 5. The fees for Law Enforcement and Open Space shall be collected in the amounts set forth in this Ordinance beginning upon the first day such fees are effective. The fees for General Government, Parks and Recreation, Streets, Fire and Emergency and Library and Museum shall be collected in the amounts existing prior to adoption of this Ordinance until the earlier to occur of (i) expiration or elimination of the Moratorium or (ii) July 1, 2011.

SECTION 6. The fee schedule adopted by the Town Council as part of its 2009-2010 Fiscal Year budget is hereby amended to include the adjusted development fees for Law Enforcement and Open Space adopted pursuant to this Ordinance, subject to the delayed effective date set forth above. The Fee Schedule adopted by the Town Council as part of its 2010-2011 Fiscal Year budget shall include all of the adjusted development fees adopted by this Ordinance.

SECTION 7. If any provision or any portion of any provision of this Ordinance is for any reason held to be unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be deemed separate, distinct and independent of the remaining provisions of this Ordinance and shall be severed therefrom without affecting the validity of the remaining portions of this Ordinance.

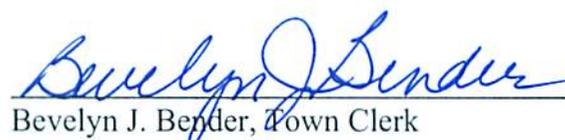
PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, December 3, 2009.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Jay T. Schlum, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Richard L. Davis, Town Manager



Andrew J. McGuire, Town Attorney