

When recorded, return to:
Paradise Valley Town Attorney
6041 E. Lincoln Drive
Paradise Valley, AZ 85253

ORDINANCE NUMBER 2019-__

**AN ORDINANCE OF THE TOWN OF PARADISE VALLEY,
ARIZONA; CREATING CHAPTER 5, BUILDING AND
CONSTRUCTION, ARTICLE 5-10-10, ASSESSMENTS FOR STREETS
AND SIDEWALKS CONSTRUCTED BY TOWN AND WATER LINE
EXTENSIONS; CODIFYING THE AUTHORITY OF THE TOWN TO
ISSUE ASSESSMENTS FOR TOWN-CONSTRUCTED
IMPROVEMENTS AND PROVIDING PROCEDURES FOR
EXERCISING THAT AUTHORITY**

WHEREAS, A.R.S. § 9-243, as amended, establishes the authority to adopt ordinances providing for the construction of streets and sidewalks and to require such construction by abutting property owners or proprietors; and

WHEREAS, A.R.S. § 9-243 further authorizes the Town Council to determine when such improvements are necessary prior to development of property, to order construction of the improvements, to assess the expense against the adjacent property, and to establish the process to be utilized when exercising its authority; and

WHEREAS, the Town Council desires to establish a procedure in Town Code to implement the authority granted to the Town by A.R.S. § 9-243; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA AS FOLLOWS:

Section 1. Chapter 5, Building and Construction, is hereby amended by adding a new Article 5-10-10, Assessments for Streets and Sidewalks Constructed by Town with the text of said new section to be as follows (added text appears in **bold**):

**ARTICLE 5-10 ASSESSMENTS FOR STREETS AND SIDEWALKS
CONSTRUCTED BY TOWN; AND WATER LINE EXTENSIONS**

5-10-1 Definitions

In this Article unless the context requires otherwise, the following terms contained in this article shall mean:

“Assessment” means the amount of the assessment that may be fixed, levied, and assessed by the Town, pursuant to A.R.S. §§ 9-243, 9-500.5 and this Article, against real property abutting streets and sidewalks constructed by the Town, where the owner or its predecessors in interest did not construct or pay for any of the costs of construction.

“Development” means construction of residential, commercial or industrial buildings or structures or major additions or alterations to existing structures and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural or single family use at the time of assessment, development shall also require a change of use or purpose.

5-10-2 Assessment Procedure

(a) In accordance with A.R.S. § 9-243, as amended, the Town Council may adopt ordinances providing for the construction of streets and sidewalks. Such ordinances shall describe the location of the streets and/or sidewalks to be constructed and shall order and direct that the construction of the streets and/or sidewalks shall be made by the owners of the abutting property and also that, in the event of the failure of the abutting property owners to construct such streets and/or sidewalks, the Town may do the work and the expense shall be charged to the abutting property owners.

(b) The ordinance shall state that the public health, safety, welfare and convenience requires construction of the streets and/or sidewalks prior to the Development of abutting properties, and direct the Town Engineer or designee to prepare a map establishing the boundaries of the area showing the width and location of the proposed streets and sidewalks to be filed in the office of the Town Clerk. The map shall contain:

- (1) A description of the streets and sidewalks to be constructed;
- (2) A general description of the estimated total cost and cost per lineal foot of frontage of the proposed street and/or sidewalk improvements; and
- (3) A list of all parcels (including parcel numbers) depicted on the map.

(c) The Town Engineer or designee shall apportion the estimated total construction costs to be assessed against each listed property based on the lineal foot frontages of the streets and sidewalks of each of the parcels depicted on the map.

(d) Within 14 business days of filing the map in the office of the Town Clerk, the Town shall provide each owner of the parcels listed and shown on the map a written notice accompanied by a copy of the map setting forth the following:

- (1) A statement that the property owner shall obtain a construction permit from the Town for construction of the streets and/or sidewalks within 60 days from the date of the notice;
- (2) A statement that if the property owner does not obtain a construction permit within 60 days from the date of the notice, the Town will proceed to make the improvements and apportioned cost of construction the street

and/or sidewalk improvements abutting the property shall become an assessment upon the property; and

- (3) A statement of the apportioned cost of constructing the street and/or sidewalk improvements for the abutting property and how the amount was determined.

(e) The map (inclusive of parcel numbers) shall be recorded with the Maricopa County Recorder concurrently with the owners of the real property receiving written notice of the proposed assessments.

(f) It shall be the duty of the owner of any lot or parcel abutting upon any proposed street and/or sidewalk to proceed to construct such streets and sidewalks as provided by the terms of the ordinance of the Town Council. If the owner fails to comply with the ordinance and the notice provided, the Town shall have the right to construct the streets and/or sidewalks and assess the costs and expenses thereof to the abutting property owner.

(g) Any assessment under this Article 5-10 shall abate if the property has not been engaged in Development within 10 years of the assessment.

(h) If the assessment has not abated and a parcel shown on the map engages in Development, building permits shall not be issued for such parcel until after the assessment for that parcel is paid in full.

5-10-3 Water Line Extensions and Reimbursement Procedure

In the event the Town elects to extend a water line to service new development, the Town shall be entitled to reimbursement of its cost plus a five percent administrative charge from any property benefiting from the extension. The Town Engineer shall designate those properties that benefit from the water line extension and determine the portion of the costs of the design and construction of the water line extension. Properties that benefit from the water line extension are required to pay for the portion of the costs assigned by the Town Engineer to such benefitted property prior to the benefitting property being permitted to tie in to the extended water line or to be issued a building permit that relies on the use of the extended water line for the provision of water service to the benefitted property.

Section 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 3. This Ordinance shall become effective in 30 days.

PASSED AND ADOPTED by the Mayor and Council of the TOWN OF PARADISE VALLEY, Arizona, this ___ day of _____ 2019.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED THIS _____ DAY OF _____ 2019

ATTEST:

APPROVED AS TO FORM:

Duncan Miller, Town Clerk

Andrew Miller, Town Attorney