

**RESOLUTION NO. 2010-15**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY, OFFICE OF MANUFACTURED HOUSING, RELATING TO THE TOWN ENFORCING INSTALLATION STANDARDS FOR MANUFACTURED HOMES, FACTORY-BUILT BUILDINGS AND MOBILE HOMES AND ADOPTING A COMPANION FEE SCHEDULE.

**BE IT RESOLVED** BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The Intergovernmental Agreement between the Town of Fountain Hills and the Arizona Department of Fire, Building and Life Safety, Office of Manufactured Housing, relating to the enforcement of installation standards for manufactured homes, factory-built buildings and mobile homes within the Town's jurisdiction (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Fee Schedule as authorized by the Arizona Department of Fire, Building and Life Safety, Office of Manufactured Housing, is hereby approved in substantially the form attached hereto as Exhibit B and incorporated herein by reference. Such Fee Schedule may hereafter be modified by (i) the Town Council as part of the annual Town Budget adoption or by separate resolution or (ii) the Arizona Department of Fire, Building and Life Safety, and upon such modification, the Fee Schedule shall be automatically modified.

SECTION 3. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

**PASSED AND ADOPTED BY** the Mayor and Council of the Town of Fountain Hills, September 2, 2010.

**FOR THE TOWN OF FOUNTAIN HILLS:**

**ATTESTED TO:**

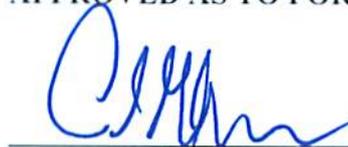
  
Jay T. Schlum, Mayor

  
Bevelyn J. Bender, Town Clerk

**REVIEWED BY:**

**APPROVED AS TO FORM:**

  
Richard L. Davis, Town Manager

  
Andrew J. McGuire, Town Attorney

**EXHIBIT A  
TO  
RESOLUTION NO. 2010-15**

**[Intergovernmental Agreement]**

**See following pages.**

**AGREEMENT  
BETWEEN  
ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY  
OFFICE OF MANUFACTURED HOUSING  
AND  
TOWN OF FOUNTAIN HILLS  
TO ENFORCE INSTALLATION STANDARDS**

THIS AGREEMENT ("Agreement") is made as of \_\_\_\_\_, 2010, by and between the Arizona Department of Fire, Building and Life Safety, Office of Manufactured Housing ("OMH") and the Town of Fountain Hills, an Arizona municipal corporation ("Town").

**RECITALS**

A. Pursuant to ARIZ. REV. STAT. § 41-2151 the purpose of OMH is to maintain standards of quality and safety for manufactured homes, factory-built buildings, mobile homes, and the installation of the same.

B. ARIZ. REV. STAT. § 41-2153(B) (5) directs the Deputy Director of OMH to enter into agreements with local enforcement agencies to enforce the installation standards in their respective jurisdictions consistent with the installation standards of OMH.

C. It is the desire of both parties to eliminate unnecessary duplication of inspections regarding installation standards within the Town's jurisdiction;

**AGREEMENT**

NOW, THEREFORE, in consideration of the premises and mutual promises and undertakings herein contained, and for other good and valuable consideration, the parties agree as follows:

1. **Monitoring and Enforcement.** For the duration of this Agreement, the Town will monitor and enforce the installation standards set forth in ARIZ. REV. STAT. § 41-2195 and A.A.C. R4-34-102 as they apply to installation standards and accessory structures.

2. **Term.** Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2015.

3. **Standards of Performance.** In exercising the authority delegated hereunder the Town shall perform to the same standards of performance that the law imposes upon OMH in exercising the authority described in Section 1 hereof. In addition, the Town shall not approve any installation unless the installer affixes a State Insignia of Approval as required by A.A.C. R4-34-802.A and pays to the Town the fee established by OMH pursuant to the authority by A.A.C. R4-34-501 and as permitted by A.A.C. R4-34-506.

4. **Fees Charged by the Town.** Permit fees charged by the Town shall be the same as the Fee Schedule created by OMH pursuant to its authority under ARIZ. REV. STAT. § 41-2144

(4) and A.A.C. R4-34-501 and no more than permitted by R4-34-801(E). All fees collected by the Town shall be kept by the Town as compensation for the services performed by the Town under this Agreement. The Town shall not be entitled to any other compensation for services rendered by it under this Agreement.

5. Termination. Either party may terminate this Agreement at any time without cause by giving the other party 30 days written notice prior to the date of termination. Additionally, OMH may terminate this Agreement immediately and without notice, if OMH determines that the installation standards required in the Agreement are not being maintained, or that local fees are not consistent with the inspection fees established by the Board of Manufactured Housing.

6. Qualifications of Personnel. The personnel that perform the functions delegated to the Town in Section 1 hereof shall each have no less than one year of experience as a building code inspector or manufactured housing installation inspector.

7. Duties of OMH. Should OMH require inspections of any portion of the installation of mobile, manufactured homes, accessory structures or factory built buildings not required by the regulations referred to herein and not covered under this Agreement, OMH shall be responsible for the inspections and enforcement thereof.

8. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to OMH: Department of Fire, Building and Life Safety  
Office of Manufactured Housing  
1110 West Washington, Suite #100  
Phoenix, Arizona 85007-2935  
Attn: Debra Blake, Deputy Director  
Phone: (602) 364-1022

If to the Town: Town of Fountain Hills  
16705 East Avenue of the Fountains  
Fountain Hills, Arizona 85268  
Facsimile: (480) 837-3145  
Attn: Richard L. Davis, Town Manager

With copy to: GUST ROSENFELD, P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Facsimile: (602) 254-4878  
Attn: Andrew J. McGuire, Esq

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (a) when delivered to the party, (b) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (c) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (d) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Entire Agreement; Interpretation; Parol Evidence This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

10. Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Contractor.

10. Headings. Headings are for convenience only and are not to be construed as part of this Agreement.

11. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

12. Dispute. In the event of any dispute between the parties under this Agreement, the parties agree that they shall submit the dispute to arbitration pursuant to ARIZ. REV. STAT. §§ 12-133(D) and 12-1518.

13. Inspection and Audit. Pursuant to ARIZ. REV. STAT. §§ 35-214 and 35-215, all books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five (5) years after completion of this Agreement. Such records shall be produced at the Auditor General's Office or such other office as the parties hereto may mutually agree within a reasonable time after request.

14. E-verify, Records and Audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either party under the terms of this Agreement. The parties each retain the legal right to randomly inspect the papers and records of the other party and the other party's subcontractors who work under this Agreement to ensure that the other party and its subcontractors are complying with the above-mentioned warranty. The parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties and their respective subcontractors shall cooperate with the other party's random inspections including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

15. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the parties each certify that they do not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the either party determines that the other party submitted a false certification, the party making such determination may impose remedies as provided by law including terminating this Agreement.

16. Conflict of Interest. This Agreement may be cancelled by either party pursuant to ARIZ. REV. STAT. § 38-511.

17. Nondiscrimination. Each party shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations regarding nondiscrimination, including the Americans with Disabilities Act.

18. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. The exclusive venue for any litigation, arbitration, administrative hearing or the like concerning this Agreement or any matter arising therefrom shall be in Maricopa County, State of Arizona.

19. Appropriation of Funds. Every payment or financial obligation of the parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. Each party shall be the sole judge and authority in determining the availability of funds under this Agreement. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by any party at the end of the period for which funds are available. The obligation of each Party to make any payment pursuant to this Agreement is a current expense of each Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of either Party. No liability shall accrue to any party in the event this provision is exercised, and neither the OMH nor Town shall be obligated or liable for any future payments or for any damages as a result of termination under this Section.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

“OMH”

DEPARTMENT OF FIRE, BUILDING AND  
LIFE SAFETY, Office of Manufactured Housing

\_\_\_\_\_  
Debra Blake, Deputy Director

“TOWN”

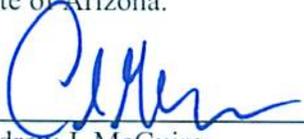
TOWN OF FOUNTAIN HILLS, an Arizona  
municipal corporation

  
\_\_\_\_\_  
Jay T. Schlum, Mayor

ATTEST:

  
\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

  
\_\_\_\_\_  
Andrew J. McGuire  
Fountain Hills Town Attorney

\_\_\_\_\_  
Assistant Attorney General

**EXHIBIT B  
TO  
RESOLUTION NO. 2010-15**

**[Fee Schedule]**

**See following pages.**

JANICE K. BREWER  
Governor



GENE PALMA  
Director

## DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

1110 WEST WASHINGTON, SUITE 100  
PHOENIX, ARIZONA 85007  
(602) 364-1003  
(602) 364-1052 FAX

OFFICE OF ADMINISTRATION \* OFFICE OF MANUFACTURED HOUSING \* OFFICE OF STATE FIRE MARSHAL

### FEE SCHEDULE FOR 2010-2011 FISCAL YEAR

*FEEES ARE EFFECTIVE BEGINNING JULY 1, 2010*

#### LICENSING FEES

	Class	Class Description	New License	Renewal License
MANUFACTURER	M-9A	Factory-built-buildings (FBB) and subassemblies	\$ 882.00	\$ 441.00
	M-9C	Manufactured (MFG) Homes	\$ 882.00	\$ 441.00
	M-9E	Master, includes M-9A and M-9C	\$ 1,386.00	\$ 693.00
RETAILER/ DEALER/ BROKER	D-8	Retailer Mobile/MFGHomes	\$ 567.00	\$ 283.50
	D-8B	Broker Mobile/MFG Homes	\$ 441.00	\$ 220.50
	D-10	Retailer FBB or FBB Subassemblies	\$ 567.00	\$ 283.50
	D-12	Master, includes D-8, D-8B, and D-10	\$ 882.00	\$ 441.00
INSTALLERS	I-10C	General Installer	\$ 441.00	\$ 220.50
	I-10D	Installer of Attached Accessory Structures	\$ 441.00	\$ 220.50
	I-10G	Master, includes I-10C and I-10D	\$ 756.00	\$ 378.00
SALESPERSON	NA	Employee of a licensed Retailer/Dealer/Broker	\$ 210.00	\$ 105.00

#### PLAN FEES

Description	FEE
Application Submittal	\$31.50 each
Plan Review	\$105.00 hour/one hour minimum

#### INSIGNIA FEES

Description	FEE
MFG Home	\$10.50 each
FBB	\$52.50 each
FBB Subassembly	\$10.50 each

**PERMIT FEES**

Description	FEE	STATE ISSUED PERMIT FEE
Mobile/MFG Home	Up to \$300.00 each	\$ 126.00 each
FBB - residential	Up to \$600.00 per story <i>including systems</i>	\$ 420.00 per story <i>including systems</i>
FBB - commercial	\$ 4.60/LF per story <i>including systems</i>	
Renewal permit (MFG and FBB)	\$ 84.00	
Special Use	\$ 68.25	
Rehabilitation – Mobile Home	\$ 50.00	

**INSPECTION FEES**

Description	FEE
MFG facility	\$ 52.50 per hour, plus mileage @ 0.445/mile
Installation <i>(first 3 inspections included in the cost of the permit)</i>	\$ 84.00 per hour, plus mileage @ 0.445/mile
Technical Service	\$ 84.00 per hour
Rehabilitation – Mobile Home	\$ 84.00 per hour

**ADMINISTRATIVE FUNCTION FEES**

Description	FEE
Change name of license	\$ 10.50 each
Change license location	\$ 10.50 each
Change license telephone number	\$ 10.50 each
Add branch location	\$ 10.50 each
Delete branch location	\$ 10.50 each
Reinstate bond	\$ 10.50 each
Process returned check	\$ 10.50 each
Change status of license to inactive	\$ 10.50 each
Copies	\$ .50 each
All refunds are subject to a fee of	\$ 60.00 each

***Fees charged by the Department are not included in Rule and are exempt from the State Rule procedures (Arizona Revised Statutes § 41-2144(C)).***