



Staff Report

Agenda Item: **ORDINANCE AMENDING SECTION 12-1, SUBDIVISION REGULATIONS, GENERAL PROVISIONS, BY CREATING SECTION 12-1-21, WATER ADEQUACY OF THE CODE OF THE TOWN OF CLARKDALE, AND DELETING SECTION 12-3-6 (B) (12) (d) AND SECTION 12-3-13 (B) (12) (d) - SUBDIVISION REGULATIONS, SUBDIVISION PLATTING PROCEDURES AND REQUIREMENTS, STAGE IV – FINAL PLAT, FORM OF PRESENTATION FOR THE FINAL PLAT - Discussion and consideration of Ordinance # _____, providing for new subdivisions located in the Town of Clarkdale to have an adequate water supply and repealing conflicting ordinances and providing for severability.**

Staff Contact: Sherry Bailey, Community Development Director

Sponsored By: Mayor Von Gausig

Meeting Date: August 12, 2008

Background:

At the July 8, 2008 Council Meeting Mayor Von Gausig reviewed the options for the Town to consider concerning SB 1575 - the Water Adequacy certification requirement for subdivisions located outside an Active Management Area. After discussion by the Council, staff was directed to bring to Council an ordinance approving this requirement. As was stated in the Council Meeting on the 8th, Yavapai County will not be approving this requirement at this time, so each community must decide for themselves if they want to adopt an ordinance requiring certification. Adopting this ordinance will allow the Town to require an adequate water supply determination from ADWR for approval of new subdivisions located outside an Active Management Area, or the director of ADWR can allow an exemption and issue a finding of inadequate water supply determination under specified circumstances. In turn, the Department of Real Estate can not approve a public report with an adequate water supply determination.

For Clarkdale it means all subdivisions located outside an Active Management Area and minor subdivisions over six lots must have such a determination. Each subdivision located outside an Active Management Area will have to indicate whether they are obtaining their water from an approved city, town, or private well system which has already received certification as an adequate water service provider. Minor subdivisions with five lots or less do not fall under this requirement. There are certain circumstances where the Director of the Arizona Department of Water Resources can approve a subdivision with an inadequate water supply and issue an exemption, but the ordinance narrowly defines those circumstances.

At issue is, if the county does not adopt a similar ordinance there will be different standards within the same aquifer and could that mean a developer would opt for the area with the more relaxed standards? It is important to extend water lines throughout the community so that an approved water source is available for development.

Recommendation: Staff recommends approval of Ordinance #_____, an Ordinance of the Town of Clarkdale, Arizona, amending Section 12-1, Subdivision Regulations, General Provisions; by creating Section 12-1-21, Water Adequacy of the Code of the Town of Clarkdale, deleting Section 12-3-6 (b) (12) (d) and Section 12-3-13 (b) (12) (d), Subdivision Regulations, Subdivision Platting Procedures and Requirements, Stage IV – Final Plat, Form of Presentation for the Final Plat; repealing conflicting ordinances and providing for severability.

ORDINANCE # 314

**AN ORDINANCE OF THE TOWN OF CLARKDALE, ARIZONA,
AMENDING SECTION 12-1, SUBDIVISION REGULATIONS, GENERAL PROVISIONS; BY
CREATING SECTION 12-1-21, WATER ADEQUACY OF THE CODE OF THE TOWN OF
CLARKDALE, DELETING SECTION 12-3-6 (B) (12) (d) AND SECTION 12-3-13 (B) (12) (d),
SUBDIVISION REGULATIONS, SUBDIVISION PLATTING PROCEDURES AND
REQUIREMENTS, STAGE IV – FINAL PLAT, FORM OF PRESENTATION FOR THE FINAL
PLAT; REPEALING CONFLICTING ORDINANCES AND PROVIDING FOR
SEVERABILITY**

**BE IT ORDAINED BY THE MAYOR AND THE COMMON COUNCIL OF THE TOWN OF
CLARKDALE, ARIZONA THAT:**

SECTION 1: Section 12-1-21 Subdivision Regulations, General Provisions, Water Adequacy be created to read:

- A. The Common Council shall not approve a final plat for a subdivision, as defined in A.R.S. § 32-2101, unless one of the following applies:
 - 1. The Director of the Arizona Department of Water Resources has determined that there is an adequate water supply for the subdivision pursuant to A.R.S. § 45-108, and the subdivider has included the report with the plat.
 - 2. The subdivider has obtained a written commitment of water service for the subdivision from a city, town, or private water company designated as having an adequate water supply by the Director of the Arizona Department Water Resources pursuant to A.R.S. § 45-108.
- B. The requirements of Subsection 12-1-21 (A) do not apply to:
 - 1. A proposed subdivision that the Director of the Arizona Department of Water Resources has determined will have an inadequate water supply pursuant to A.R.S. § 45-108, if the Director grants an exemption for the subdivision pursuant to A.R.S. § 45-108.2, and the exemption has not expired, or the Director of the Arizona Department of Water Resources grants an exemption pursuant to A.R.S. § 45-108.3.
 - 2. A proposed subdivision that received final plat approval from the Town before the requirement for an adequate water supply became effective in the Town, if the plat has not been materially changed since it received the final plat approval.
 - a. If changes were made to the plat after the plat received the final plat approval, the Director of the Arizona Department of Water Resources

shall determine whether the changes are material.

b. .

- C. If the Council approves a final plat for a subdivision pursuant to 12-1-21 (A), the Council shall note on the face of the plat that the Director of the Arizona Department of Water Resources has reported the subdivision has an adequate water supply, or that the subdivider has obtained a commitment of water services for the proposed subdivision from a city, town, or private water company designated as having an adequate water supply pursuant to A.R.S. § 45-108.
- D. If the Council approves a final plat for a subdivision pursuant to an exemption authorized by 12-1-21 (B)(2) or granted by the Director of the Arizona Department of Water Resources pursuant to A.R.S. § 45-108.02, or A.R.S. § 45-108.3, the Council shall:
 - 1. Give written notice of approval to the Director of the Arizona Department of Water Resources and the Director of Environmental Quality.
 - 2. Include on the face of the plat a statement that the Director of the Arizona Department of Water Resources has determined that the water supply for the subdivision is inadequate along with a statement describing the exemption under which the plat was approved, including a statement that the Council or the Director of the Arizona Department of Water Resources, whichever applies, has determined that the specific conditions of the exemption were met.
 - 3. If the Director of the Arizona Department of Water Resources subsequently informs the Council that the subdivision is being served by a water provider that has been designated by the Director as having an adequate water supply pursuant to A.R.S. § 45-108, the Council shall record in the County Recorder's office a statement disclosing that fact.

SECTION 2: Section 12-3-6 (B) (12) (d) – Subdivision Regulations, Subdivision Platting Procedures and Requirements, Stage IV - Final Plat, is hereby deleted.

SECTION 3: Section 12-3-13 (B) (12) (d) – Subdivision Regulations, Subdivision Platting Procedures and Requirements, Stage IV - Final Plat, is hereby deleted.

SECTION 4: That all Ordinances and part of Ordinances in conflict with the provisions of this Ordinance or any part of this document adopted herein by reference are hereby repealed.

SECTION 5: Any portion of the Town Code repealed by this Ordinance does not affect rights and duties that matured or penalties that were incurred, and proceedings that were begun before the effective date of the repeal.

SECTION 6: If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of this document adopted herein by reference 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 7: This ordinance shall take effect and be in force thirty (30) days after passage by the Council and approval by the Mayor.

Passed and adopted by the Mayor and Common Council of the Town of Clarkdale, Arizona, this 12th day of August, 2008.

APPROVED:

ATTEST:

Doug Von Gausig, Mayor

Kathy Bainbridge, Town Clerk

APPROVED AS TO FORM:

Robert S. Pecharich, Town Attorney