

ORDINANCE NO. 14-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 11, SECTION 11-1-4, FIREWORKS, AMENDING THE FOUNTAIN HILLS AMENDMENTS TO THE 2012 INTERNATIONAL FIRE CODE, APPENDIX K, CONTROL AND SUPPRESSION OF HAZARDOUS FIRE AREAS, SECTION K110, FIREWORKS, AND DECLARING AN EMERGENCY.

WHEREAS, the Fountain Hills Town Code (the “Town Code”) prohibits the use of fireworks within the corporate limits of the Town of Fountain Hills (the “Town”); and

WHEREAS, the Fifty-First Arizona Legislature, during the Second Regular Session, adopted SB1158, which modified State law to require the Town allow the use of fireworks within its corporate limits during certain times of the year; and

WHEREAS, SB1158 was signed by the Governor on April 22, 2014, as an emergency measure that is necessary to preserve the public peace, health or safety, causing it to become immediately effective; and

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the “Town Council”) desire to amend the Town Code to comply with the changes to State law.

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 Town Code, Chapter 11 (Offenses), Section 11-1-4 (Fireworks), Subsection A (Definitions), Paragraph 6, is hereby amended as follows:

6. “Permissible consumer fireworks” means those fireworks defined as such by ARIZ. REV. STAT. § 36-1601, as amended, ~~that may be sold within the Town, even where the use of those items has been prohibited.~~

SECTION 3. The Town Code, Chapter 11 (Offenses), Section 11-1-4 (Fireworks), Subsection B (Use of fireworks prohibited; exceptions), is hereby amended as follows:

1. The use, discharge or ignition of Fireworks within the CORPORATE LIMITS OF THE Town is prohibited, EXCEPT THAT PERMISSIBLE CONSUMER FIREWORKS MAY BE USED DURING THE PERIODS OF JUNE 24 THROUGH JULY 6 AND DECEMBER 24 THROUGH JANUARY 3 OF EACH YEAR.

. . .

4. Failure to comply with any permit requirements issued by the fire chief or authorized designee is a civil offense punishable by a base ~~civil~~ fine of up to ~~seven hundred and fifty~~ ONE THOUSAND dollars (\$1,000) for each violation.

SECTION 4. The Town Code, Chapter 11 (Offenses), Section 11-1-4, (Fireworks), Subsection C (Sale of fireworks), is hereby amended as follows:

1. ~~No person shall sell, permit or authorize the sale of Permissible Consumer Fireworks to a person who is under sixteen (16) years of age~~ THE SALE OF FIREWORKS WITHIN THE CORPORATE LIMITS OF THE TOWN IS PROHIBITED, EXCEPT THAT PERMISSIBLE CONSUMER FIREWORKS MAY BE SOLD DURING THE PERIODS OF MAY 20 THROUGH JULY 6 AND DECEMBER 10 THROUGH JANUARY 3 OF EACH YEAR.

2. No person shall sell, permit or authorize the sale of Permissible Consumer Fireworks in conflict with State law. NOTHING IN THIS SUBSECTION C OR IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE SALE OF NOVELTY ITEMS.

3. NO PERSON SHALL SELL, PERMIT OR AUTHORIZE THE SALE OF PERMISSIBLE CONSUMER FIREWORKS TO A PERSON WHO IS UNDER SIXTEEN (16) YEARS OF AGE.

4. PERMITS FOR THE SALE OF PERMISSIBLE CONSUMER FIREWORKS ARE REQUIRED AND MAY BE GRANTED BY THE FIRE CHIEF OR HIS AUTHORIZED DESIGNEE. VIOLATIONS OF THIS SECTION OR ARIZONA REVISED STATUTES, CHAPTER 13, ARTICLE 1, SHALL BE GROUNDS FOR IMMEDIATE REVOCATION OF SUCH PERMIT.

5. THE STORAGE OF FIREWORKS WITHIN THE CORPORATE LIMITS OF THE TOWN SHALL BE IN ACCORDANCE WITH THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS 1124, 2006 EDITION, AS AMENDED.

SECTION 5. The Town Code, Chapter 11 (Offenses), Section 11-1-4 (Fireworks), Subsection E (Authority to enforce violations of this section; means of enforcement), is hereby amended as follows:

. . .

2. Any person authorized pursuant to this section to issue a civil CITATION ~~complaint~~ may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil CITATION ~~or criminal complaint~~.

~~3. — A Maricopa County Sheriff Deputy or the Town Prosecutor may issue criminal complaints to enforce this Section.~~

SECTION 6. The Town Code, Chapter 11 (Offenses), Section 11-1-4 (Fireworks), Subsection G (Penalty), is hereby amended as follows:

G. Penalty. Unless otherwise specifically set forth in this section, the CIVIL penalty for violating any prohibition or requirement imposed by this section is a BASE ~~class three misdemeanor~~ FINE OF ONE THOUSAND DOLLARS (\$1,000) FOR EACH VIOLATION.

SECTION 7. The Fountain Hill Amendments to the 2012 International Fire Code, Appendix K (Control and Suppression of Hazardous Fire Areas), Section K110 (Fireworks), is hereby amended as follows:

K110.1 Fireworks. Fireworks shall not be used or possessed in hazardous fire areas, EXCEPT AS PERMITTED BY STATE LAW. The *fire code official* or an appointed representative is authorized to seize, take, remove or cause to be removed fireworks in violation of this Section K110.

SECTION 8. The immediate operation of this Ordinance is necessary to ensure public health and safety by complying with the statewide declaration of an emergency; therefore, an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Town Council as required by law, and this Ordinance is hereby exempt from the referendum provisions of the constitution and laws of the State of Arizona.

SECTION 9. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held 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 10. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Ordinance.

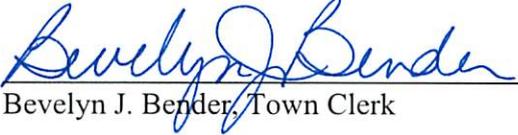
[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, June 5, 2014.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Kenneth W. Buchanan, Town Manager


Andrew J. McGuire, Town Attorney