

ORDINANCE 16-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS ZONING ORDINANCE, CHAPTER 5, SECTION 5.19, AND CHAPTER 18, SECTION 18.06, BY REVISING PROVISIONS RELATED TO NOISE VIOLATIONS.

WHEREAS, the Town of Fountain Hills Town Code and the Town of Fountain Hills Zoning Ordinance (the "Zoning Ordinance") each contain provisions pertaining to noise violations; and

WHEREAS, it is in the best interests of the community for the Town of Fountain Hills (the "Town") to have a uniform set of standards by which authorized individuals may objectively determine whether a noise violation has occurred; and

WHEREAS, the Town desires to clarify the provisions of the Zoning Ordinance relating to noise violations to provide its citizens with a clear statement of the noise violation provisions applicable to activities in the corporate limits of the Town; and

WHEREAS, in accordance with the Zoning Ordinance and pursuant to ARIZ. REV. STAT. § 9-462.04, public hearings regarding this Ordinance were advertised in the August 24, 2016 and August 31, 2016, editions of the *Fountain Hills Times*; and

WHEREAS, public hearings were held by the Fountain Hills Planning and Zoning Commission on September 8, 2016, and by the Town Council on October 6, 2016, which hearing was continued to December 1, 2016, and again to December 15, 2016.

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

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

SECTION 2. The Town of Fountain Hills Zoning Ordinance, Chapter 5 (General Provisions), Section 5.19 (Performance Standards) is hereby amended by deleting Subsection A thereof (Noise) and replacing it with the following:

- A. Noise. The sound pressure level of any individual operation shall not exceed the maximum decibel levels set forth in the Fountain Hills Town Code Section 11-1-7, Table 1, with each individual operation being considered a sound source, as such term is defined in the Fountain Hills Town Code Subsection 11-1-7(B)(8), as amended. For purposes of this Subsection 5.19(A), decibel levels shall be measured according to the measurement standards set forth in the Fountain Hills Town Code Section 11-1-7, as amended; provided, however, that for purposes of this Subsection 5.19(A), the registering of a noise complaint shall not be necessary.

SECTION 3. The Town of Fountain Hills Zoning Ordinance, Chapter 18 (Town Center Commercial Zoning District), Section 18.06 (Additional regulations) is hereby amended by deleting Subsection B thereof and replacing it with the following new Subsection B, to read as follows:

- B. Any recorded or live music or sound that is electronically amplified and played outside an establishment shall only be permitted at establishments with dedicated outdoor seating areas for food and beverage service. Such establishments shall comply with the sound level requirements set forth in the Fountain Hills Town Code Section 11-1-7, as amended.

SECTION 4. 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 of this Ordinance.

SECTION 5. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, December 15, 2016.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



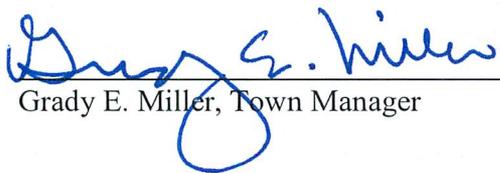
Linda M. Kavanagh, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Grady E. Miller, Town Manager



Andrew J. McGuire, Town Attorney