

ORDINANCE 17-02

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, ADOPTING THE “2017 PARKING AMENDMENTS” BY REFERENCE AND AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 1, SECTION 1-8-2 (CRIMINAL AND CIVIL TRAFFIC PENALTY PROVISIONS); CHAPTER 10, SECTION 10-2-2 (PUBLIC NUISANCES DEFINED) AND ARTICLE 10-2 (ABANDONED VEHICLES); CHAPTER 11, SECTION 11-1-1 (ABANDONED VEHICLES); CHAPTER 12 (TRAFFIC), ARTICLE 12-3 (PARKING) AND ARTICLE 12-4 (PRIVATE PARKING); AND DECLARING AN EMERGENCY.

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

SECTION 1. The document known as the “2017 Parking Amendments” (the “2017 Parking Amendments”), of which one paper copy and one electronic copy maintained in compliance with ARIZ. REV. STAT. § 44-7041 are on file in the office of the Town Clerk, which document was made a public record by Resolution 2017-21 of the Town of Fountain Hills, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 2. The Town of Fountain Hills Town Code, Chapter 10 (Health and Sanitation), Article 10-2 (Litter; Nuisances), Section 10-2-2 (Public Nuisances Defined) is hereby amended by creating a new Subsection “R” to read as follows:

R. To park, store or maintain a vehicle in violation of Articles 11-1 or 12-3 of this Code.

SECTION 3. The Town of Fountain Hills Town Code, Chapter 10 (Health and Sanitation), is hereby amended by deleting Article 10-3 (Abandoned Vehicles) in its entirety and reserving the article for future use.

SECTION 4. The Town of Fountain Hills Town Code, Chapter 11 (Offenses), Article 11-1(Offenses), Section 11-1-1 (Abandoned Vehicles) is hereby amended to read as follows:

11-1-1 Abandoned Vehicles

A. Definitions. In this section unless the context requires otherwise:

1. “Abandoned vehicle” HAS THE MEANING SET FORTH IN TITLE 28 OF THE ARIZONA REVISED STATUTES AND ADDITIONALLY means any vehicle ~~which~~ THAT is ~~without~~ MISSING current license plates or tabs, IS inoperable, ~~stripped, unclaimed, scrapped, junked or discarded,~~ IS MISSING BODY PARTS, IS INCAPABLE OF OPERATING UNDER ITS OWN POWER, IS MISSING GLASS OR HAS SHATTERED OR BROKEN GLASS THAT PREVENTS SAFE OPERATION, IS MISSING WHEELS OR HAS FLAT TIRES.

...

4. "Private property" means land owned by any person other than the United States, the state, OR A POLITICAL SUBDIVISION OF THE STATE ~~the county or the town.~~

...

B. Unsheltered Storage Prohibited

1. The unsheltered storage of any abandoned vehicle or abandoned vehicle parts ON PRIVATE OR PUBLIC PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN for THE TIME PERIODS SET FORTH IN A.R.S. § 28-4801(1), AS AMENDED, ~~a period of fifteen days or more on any private property within the corporate limits of this town~~ is hereby declared to be a nuisance and dangerous to the public safety.
2. The provisions of paragraph 1 of this subsection shall not apply to the storage of abandoned vehicles or abandoned vehicle parts on the premises of a business enterprise operating in a lawful place and manner when necessary to the operation of such business enterprise or to a storage place or depository for vehicles or vehicle parts maintained in a lawful place and manner. The exceptions contained in this paragraph shall be an affirmative defense to be pled and proved by the defendant in any judicial proceedings under this section.
3. ~~The provisions in paragraph 1 of this subsection shall not apply to classic cars while such are maintained or stored on the owner's private property.~~

C. Removal

1. The owner, tenant, lessee or other occupant of any private property within the corporate limits of the town upon which storage is prohibited by subsection B of this section and also the owner of such abandoned vehicles or abandoned vehicle parts involved in such storage shall jointly and severally abate the nuisance. ~~Every person who shall fail, neglect or refuse to abate the nuisance as provided in this section shall also be guilty of a class 1 misdemeanor. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this section.~~
2. Any person who fails, neglects or refuses to abate such nuisance shall be notified in writing ~~by certified or registered mail or by personal service by the town manager or his representative~~ PURSUANT TO SUBSECTION 1-8-3(c) OF THIS CODE to abate the nuisance within ~~fifteen days from~~ the TIME PERIOD ~~date~~ appearing on such written notice.
3. When any person to whom notice ~~as HAS BEEN~~ provided ~~in~~ ACCORDING TO this subsection ~~has been mailed~~ fails, neglects or refuses for more than ~~fifteen~~ TEN days from the date appearing on the notice to abate the nuisance, the town manager or his DESIGNEE ~~representative~~ is hereby authorized to remove the abandoned vehicle or

abandoned vehicle parts from the premises, STORE SAME, and dispose of same according to law.

4. The owner, tenant, lessee or other occupant of any private property, from which the town has removed an abandoned vehicle or abandoned vehicle parts pursuant to this section, shall be liable for all costs incurred in removing said items from the property.
5. EVERY PERSON WHO FAILS, NEGLECTS OR REFUSES TO ABATE THE ABANDONED VEHICLE OR ABANDONED VEHICLE PARTS NUISANCE AFTER NOTICE AS PROVIDED IN THIS SECTION SHALL ALSO BE GUILTY OF A CLASS 1 MISDEMEANOR. THE IMPOSITION OF ANY SENTENCE SHALL NOT EXEMPT THE OFFENDER FROM COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 5. The Town of Fountain Hills Town Code, Chapter 12 (Traffic), Article 12-1 (Administration), is hereby amended by adding a new Section 12-1-2 (Definitions), to read as follows:

Section 12-1-2 Definitions

The following words, terms and phrases, when used in this Chapter, have the meanings ascribed to them in this Section.

- A. “Commercial Vehicle” means a vehicle or combination of vehicles used to transport passengers or property if the vehicle:
 1. Has a gross vehicle weight rating of 10,000 pounds or more; or
 2. Transports passengers for hire and has a design capacity of seven or more passengers.
- B. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a street, including devices used exclusively upon stationary rails or tracks, except for a device propelled solely by human power.

SECTION 6. The Town of Fountain Hills Town Code, Chapter 12 (Traffic), Article 12-2 (Traffic Control), Section 12-2-12 (Commercial Vehicles Prohibited on Certain Streets), subsections “A” and “D” are hereby amended as follows:

- A. No person shall operate any commercial vehicle ~~exceeding eight thousand pounds gross vehicle weight~~ at any time upon any town streets except those streets or parts of streets described as truck routes.
- ...
- D. Notwithstanding any of the provisions of this section, no person shall operate any commercial vehicle ~~exceeding eight thousand pounds gross vehicle weight~~ on any street

within the town except upon designated through truck routes when such operation is not in connection with a delivery or pickup within the corporate limits of the town. Designated through truck routes shall be limited to the following:

...

SECTION 7. The Town of Fountain Hills Town Code, Chapter 1 (General), Article 1-8 (Penalty), Section 1-8-2 (Criminal and Civil Traffic Penalty Provisions) is hereby amended to read as follows:

Section 1-8-2 Criminal and Civil Traffic Penalty Provisions

...

B. UNLESS OTHERWISE SPECIFIED, Any violation of or failure or refusal to do or perform any act ~~required by Chapter 12 of this code constitutes~~ DESIGNATED AS a civil traffic violation. ~~Civil traffic violations are~~ IS subject to A.R.S. Title 28, Chapter 56, ~~Articles 20 and 21~~, and amendments thereto.

...

SECTION 8. The Town of Fountain Hills Town Code, Chapter 12 (Traffic), Article 12-3 (Parking), is hereby deleted in its entirety and replaced with the 2017 Parking Amendments.

SECTION 9. The Town of Fountain Hills Town Code, Chapter 12 (Traffic), Article 12-4 (Private Parking), is hereby deleted in its entirety and reserved for future use.

SECTION 10. Any person who fails to comply with any provision of the 2017 Parking Amendments shall be subject to civil and criminal penalties as set forth in Section 1-8-1 of the Fountain Hills Town Code, including civil penalties of not more than \$250 base fine. Criminal penalties shall constitute a class one misdemeanor, punishable by a fine not to exceed \$2,500.00 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

SECTION 11. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or 2017 Parking Amendments 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 or the 2017 Parking Amendments.

SECTION 12. The immediate operation of this Ordinance is necessary to address a threat to health and public safety; 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 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 13. 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, June 1, 2017.

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