

ORDINANCE NO. 18-12

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS SUBDIVISION ORDINANCE, ARTICLE 5, SECTION 5.02 AND SECTION 5.04 TO REMOVE THE REQUIREMENTS FOR 6-FOOT TALL CHAIN LINK FENCING TO DELINEATE THE DISTURBANCE LIMIT BOUNDARIES AND TO ALLOW ROPE AND FLAG TO BE USED TO DELINEATE THE DISTURBANCE LIMIT BOUNDARIES

RECITALS:

WHEREAS, the Mayor and the Council of the Town of Fountain Hills (the "Town Council") adopted Ordinance No. 96-29, which established the Subdivision Ordinance for the Town of Fountain Hills (the "Subdivision Ordinance"); and

WHEREAS, the Town Council desires to amend Article 5 (Grading Standards), Section 5.02 (Subdivision grading Standards) and Section 5.04 (Hillside Disturbance) of the Subdivision Ordinance to remove the requirements for 6-foot tall chain link fencing to delineate the disturbance limit boundaries and to allow rope and flag to be used to delineate the disturbance limit boundaries; and

WHEREAS, public hearings regarding this Ordinance were advertised in the August 22, 2018, and August 29, 2018 editions of the *Fountain Hills Times*; and

WHEREAS, public hearings were held by the Fountain Hills Planning & Zoning Commission on September 16, 2018, and by the Town Council on October 2, 2018.

ENACTMENTS:

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 Subdivision Ordinance, Article 5 (Grading Standards), Section 5.02 (Subdivision Grading Standards), is hereby amended as follows:

Section 5.02 Subdivision Grading Standards

Section 5.02.B.8

8. Disturbance Limit Fencing: Prior to the issuance of a building or grading permit, and prior to any disturbance activities, ~~a six-foot-high imbedded chain-link fence~~ **ROPE AND FLAG** shall be installed on the disturbance limit line as identified on the approved site plan for the site. The disturbance limit boundary shall be established and staked by an Arizona-registered land surveyor. No disturbance limit ~~fencing~~ **ROPE** shall be located outside of the surveyor's staked area. Appropriate warning signs in English and Spanish shall also be posted at least every 100 linear feet on the required ~~fencing~~ **ROPE**. The Town Manager or authorized designee shall inspect the ~~fence~~ **ROPE**, signage, and

surveyor's staking to insure its proper location and construction prior to the issuance of the building/grading permit for the site. Such ~~fencing~~ **ROPE** and signage shall be maintained in place throughout the grading/construction process and shall only be removed after a final inspection or Certificate of Occupancy has been issued by the Town. These regulations may be waived by the Town Manager or authorized designee if 100% of the lot on which the construction activity is permitted has been graded or disturbed as part of an approved subdivision grading permit.

SECTION 3. The Subdivision Ordinance, Article 5 (Grading Standards), Section 5.04 (Hillside Disturbance), is hereby amended as follows:

Section 5.04 Hillside Disturbance

Section 5.04.E.

1. Fencing: Except as provided in Subsection 5.04.E.2, after a disturbance area is defined, an area at least equal to the hillside protection requirements of the lot, parcel, or tract, shall be protected by ~~chain-linked fence six feet in height~~ **ROPE AND FLAG** and affixed in the ground to assure non-movement. The ~~fenced~~ **ROPED-IN** area shall include all previously disturbed areas and all areas intended to be disturbed. There shall be no disturbance outside the ~~fenced~~ **ROPED-IN** area. However, the ~~Community Development~~ **SERVICES** Director or designee may approve the re-vegetation of nondisturbance areas or hillside protection areas disturbed prior to September 21, 1991 in accordance with a landscape plan approved by the ~~Community Development~~ **SERVICES** Director or designee. The ~~fencing~~ **ROPE AND FLAG** may be removed only after the completion of all construction activity on the lot.

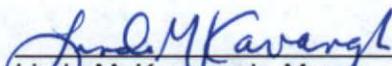
SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

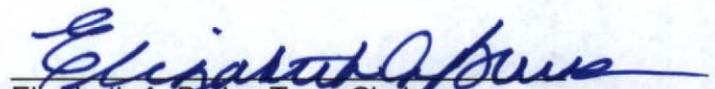
SECTION 5. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, this 2nd day of October, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

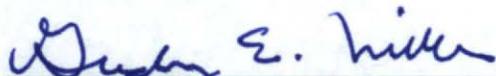
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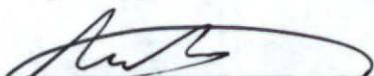

Linda M. Kavanagh, Mayor


Elizabeth A. Burke, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Grady E. Miller, Town Manager


Aaron D. Arnson, Town Attorney
Pierce Coleman