

ORDINANCE NO. 09-07

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS, TO ADD A NEW ARTICLE 7-12, ILLEGAL CONSTRUCTION SITE ACTIVITY, RELATING TO CERTAIN BUILDING ACTIVITIES THAT MAY NEGATIVELY IMPACT ADJACENT PROPERTY.

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the "Town Council") supports legal building activity in all its forms; and

WHEREAS, the Town Council recognizes that certain building related activities may negatively impact adjacent property; and

WHEREAS, while these impacts should be tolerated for the initial period of time associated with typical building activity, their prolonged existence can be a nuisance, particularly to adjacent neighbors.

WHEREAS, the Town Council desires to take the steps necessary to address the unnecessary negative impacts to neighboring properties caused by prolonged existence of construction activities.

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

SECTION 1. That the Fountain Hills Town Code, Chapter 7, Buildings and Building Regulations is hereby amended to add a new Article 7-12, Illegal Construction Site Activity, to read as follows:

ILLEGAL CONSTRUCTION SITE ACTIVITY

Section 7-12-1 Purpose and Intent

The Town of Fountain Hills supports legal building activity in all its forms. The Town also recognizes that certain building activities may negatively impact adjacent property. While these impacts should be tolerated for the initial period of time associated with typical building activity, their prolonged existence can be a nuisance, particularly to adjacent neighbors. This Article is adopted for the purpose of mitigating the negative impacts that unreasonably prolonged building-related activities have on neighboring property.

Section 7-12-2 Mitigation of Negative Impacts

- A. The owner of any property subject to a building permit for construction activity on that property shall not maintain on the property, or allow to be maintained on the property,

construction activities that cause unreasonable negative health, safety or welfare impacts to neighboring properties.

- B. If a building permit is expired for construction on property, the owner thereof shall immediately (1) remove, or cause to be removed, any construction equipment, materials and debris and (2) restore the property to as safe a condition as existed prior to commencement of construction activities thereon, as determined by the Chief Building Official.
- C. The Chief Building Official shall (1) notify the property owner of any conditions on such property that are in violation of Subsection 7-12-2(A) or (B) above by first class mail and (2) provide the property owner with a reasonable period of time to correct or mitigate the condition. The Chief Building Official shall determine if and when the condition has been corrected.
- D. Should the condition continue beyond a reasonable period of time, as determined by the Chief Building Official and included in the notice request under Subsection 7-12-2(C) above, the property shall be considered a nuisance pursuant to Article 10-2 of this Code and shall be subject to all penalties related thereto. In addition to prosecuting the nuisance in the manner described in this Code, the Town may, at its sole option, also cause the removal of such nuisance by any means permitted pursuant to ARIZ. REV. STAT. § 9-499, as amended, or Article 10-4 of this Code.

Section 7-12-3 Building Permit Extension of Time

- A. Prior to any extension of time granted to a property owner for a building permit, the Chief Building Official shall inspect the property to ensure that no unsafe conditions exist and that the property owner is not in violation of any provision of this Article 7-12.
- B. Prior to extending any permit, the Chief Building Official shall ensure that any stock piled dirt or other construction material is fully contained on the property and does not exceed a height of twenty-five (25) feet, measured from natural grade.

Section 7-12-4 Unrelated Equipment, Material or Debris

- A. It shall be a violation of this Code for a property owner or contractor to keep on property any equipment, material or debris unrelated to authorized construction activity on the property.
- B. It shall be the responsibility of the property owner to ensure that all debris resulting from authorized construction is contained within an approved container on the site.

Section 7-12-5 Authority of Chief Building Official

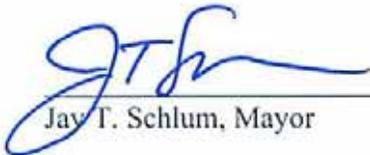
The provisions of this Article shall not restrict or otherwise limit the ability of the Chief Building Official to take whatever action may be necessary in the event of an immediate threat to public health or safety as a result of any construction related activity.

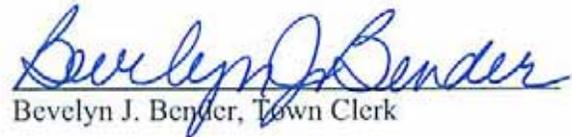
SECTION 2. That if any provision or any portion of any provision of this Ordinance is for any reason held to be unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be deemed separate, distinct and independent of the remaining provisions of this Ordinance and shall be severed therefrom without affecting the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, September 17, 2009.

FOR THE TOWN OF FOUNTAIN HILLS:

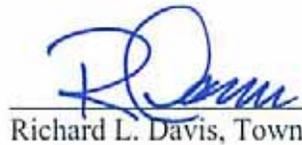
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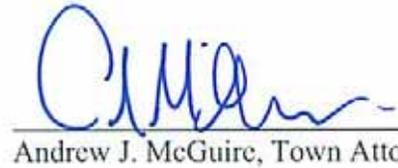

Jay T. Schlum, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Richard L. Davis, Town Manager


Andrew J. McGuire, Town Attorney