ORDINANCE 15-09

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN CODE, CHAPTER 2, MAYOR AND COUNCIL, ARTICLE 2-3, COUNCIL ELECTION, BY MODIFYING THE PROVISIONS RELATING TO ALL-MAIL BALLOT ELECTIONS AND BY INCORPORATING CHANGES TO STATE LAW REGARDING CALCULATION OF THE MAJORITY OF VOTES CAST.

WHEREAS, the Fountain Hills Town Code (the "Town Code") provides that all Town of Fountain Hills ("Town") elections shall be exclusively by mail; and

WHEREAS, the Town contracts with Maricopa County to conduct elections on the Town's behalf; and

WHEREAS, many of the Town's elections are, due to State Law, held on the same dates as county-wide and state-wide elections; and

WHEREAS, Maricopa County recently informed the Town that, for Town elections falling on the same day as county-wide and state-wide elections, the County would no longer be accommodating all-mail election procedures, and would instead be conducting all such elections by traditional "ground" polling stations; and

WHEREAS, during the 2015 Legislative Session, the Arizona Legislature revised the provisions in State Law regarding how the majority of votes cast is calculated, causing the Town Code to be out of conformance; and

WHEREAS, the Mayor and Council of the Town desires to amend the Town Code to modify the provisions requiring all-mail elections and to revise the procedures for calculating a majority of votes cast at an election to conform with 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 2 (Mayor and Council), Article 2-6 (Initiative and Referendum), Section 2-6-5 (Mail Ballot Election), is hereby amended as follows:

Section 2-6-5   Mail Ballot Election

The Town Clerk ~~shall~~ MAY conduct ~~all~~ initiative and referendum elections ~~whether on the date of primary, general or special elections, exclusively~~ using mail ballots in accordance with ARIZ. REV. STAT. § 16-409, as amended, IF SUCH ELECTIONS ARE NOT CONSOLIDATED WITH COUNTY-WIDE OR STATE-WIDE ELECTIONS.

SECTION 3.   The Town Code Chapter 2 (Mayor and Council), Article 2-3 (Council Election), is hereby deleted in its entirety and replaced with the following:

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Article 2-3

COUNCIL ELECTIONS

Sections:

Section 2-3-1   Consolidated Election Dates

All elections shall be held as pursuant to ARIZ. REV. STAT. § 16-204, as amended.

Section 2-3-2   Non-Partisan Ballot

Elections shall be non-partisan and nothing on the ballot in any election shall be indicative of the support of a candidate. Candidates' names shall appear on the ballot pursuant to the procedure set forth in ARIZ. REV. STAT. § 16-464, as amended.

Section 2-3-3   Primary Election

Any candidate who shall receive at the primary election a majority of all the votes cast at that election for the office shall be declared to be elected to the office for which the person is a candidate, effective as of the date of the general election, and no further election shall be held as to such candidate. If more candidates receive a majority of votes cast than there are seats to be filled for the office, from among those candidates who receive a majority of votes cast, the candidates who receive the highest number of votes equal to the number of seats to be filled for the office shall be declared elected to that office. The majority of votes cast is determined by:

A.   Calculating the total number of actual votes cast for all candidates for an office whose names were lawfully on the ballot for that office.

B.   Dividing the sum reached pursuant to paragraph A of this section by the number of seats to be filled for the office.

C.   Dividing the number reached pursuant to paragraph B of this section by two and rounding that number to the highest whole number.

Section 2-3-4   General Election Nomination

Unless otherwise proscribed by State Law, if at the primary election no candidate receives the majority of the votes cast or the number of seats to be filled for the office is more than the

number of candidates who receive a majority of votes cast, of the candidates who did not receive a majority of votes cast, the number of candidates who advance to the general election shall be equal in number to twice the number of seats to be filled for the office and the candidates who received the highest number of votes for the office shall be the only candidates at the general election. If more than one candidate received an equal number of votes and that number was the highest number of votes for the office, then all candidates receiving the equal number of votes shall be candidates at the general election. The candidates equal in number to the seats to be filled for the office who receive the highest number of votes at the general election shall be declared elected to that office. If two or more candidates receive an equal number of votes cast for the same office, and a higher number than any other candidate, the candidate who shall be declared elected shall be determined by lot in the presence of the candidates.

Section 2-3-5 Candidate Financial Disclosure

Pursuant to ARIZ. REV. STAT. § 38-543, as amended, each candidate for the office of Councilmember shall file a financial disclosure statement on a form prescribed by law when such candidate files a nomination paper. The statement shall contain such information as required by law.

### Section 2-3-6 Mail Ballot Election

The Town Clerk may conduct primary, general and special elections using mail ballots in accordance with ARIZ. REV. STAT. § 16-409, as amended, if such elections are not consolidated with county-wide or state-wide elections.

SECTION 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, November 5, 2015.

FOR THE TOWN OF FOUNTAIN HILLS: ATTESTED TO:

Linda M. Kavanagh, Mayor
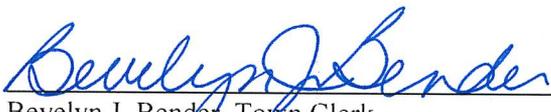
Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

Grady E. Miller, Town Manager

Andrew J. McGuire, Town Attorney

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