

## ORDINANCE NO. 13-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE FOUNTAIN HILLS TOWN CODE, CHAPTER 11, RELATING TO GRAFFITI REGULATIONS.

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

SECTION 1. The Fountain Hills Town Code, Chapter 11 (Offenses), Section 11-1-3 (Defacing Public and Private Property), is hereby amended by adding a new Subsection A (Definitions) to read as follows, and renumbering subsequent subsections accordingly:

- A. Definitions. The following words, terms and phrases, when used in this Section, have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
1. "Etch" means to permanently alter a surface by use of an etching solution or implement.
  2. "Graffiti" means writing, drawing, inscribing, etching, spray painting, sketching or otherwise applying a message, slogan, sign, image or symbol or mark of any type on any public or private building, structure or surface made without the express permission of the responsible party.
  3. "Responsible party" means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control property upon which graffiti occurs.

SECTION 2. The Fountain Hills Town Code, Chapter 11, (Offenses), Section 11-1-3 (Defacing Public and Private Property), is hereby amended by adding a new Subsection G (Graffiti prohibited) to read as follows:

- G. Graffiti prohibited. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from graffiti that is visible from the street, right-of-way or other public or private property.
1. Notice of Abatement. If it is determined by the Town that graffiti exists on property in violation of this Section, the Town shall, in writing, notify the responsible party with a notice of abatement. The notice of abatement shall direct that the graffiti be abated within 20 days of receipt of the notice. The notice of abatement shall state that in the event the responsible party fails to abate the graffiti within the time period specified in the notice of violation, the Town may, in addition to the civil penalty remedies set forth in Section 1-8, abate the graffiti as set forth in Subsection (G)(2) below, and may bill the responsible party for the costs and administrative charge as set forth in Subsection (G)(2) below. The notice of abatement may be served by regular mail, personal service or by posting the subject property.

2. Town's authority to abate. If the responsible party fails to abate the graffiti as required by the notice of abatement, the Town may proceed to abate the graffiti and may bill the responsible party for the costs thereof plus an administrative charge of ten percent of the cost of abatement. The Town or its authorized private contractor is expressly authorized to enter private property and abate graffiti thereon in accordance with this section.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute all documents and take all steps 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, May 16, 2013.

**FOR THE TOWN OF FOUNTAIN HILLS:**

**ATTESTED TO:**

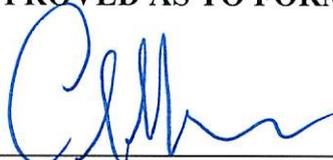
  
\_\_\_\_\_  
Linda M. Kavanagh, Mayor

  
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Bevelyn J. Bender, Town Clerk

**REVIEWED BY:**

**APPROVED AS TO FORM:**

  
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Kenneth W. Buchanan, Town Manager

  
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Andrew J. McGuire, Town Attorney