

ORDINANCE NO. 18-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING TOWN CODE CHAPTER 16 "STREETS AND SIDEWALKS" TO INCLUDE ARTICLE 16-2 CONTAINING PROVISIONS RELATING TO SMALL WIRELESS FACILITIES AND THE USE OF PUBLIC RIGHTS OF WAYS; AND DECLARING AN EMERGENCY.

WHEREAS, the Arizona State Legislature passed House Bill 2365 amending the Arizona Revised Statutes by adding Title 9, Chapter 5, Article 8 "Use of Public Highways by Wireless Providers"; and

WHEREAS, the Town Council has determined that it is in the best interest of the residents of Fountain Hills to amend Chapter 16 of the Town Code, to include Article 16-2;

WHEREAS, the Town Council declared Article 16-2 of the Town Code, which is incorporated herein by reference, a public record by Resolution No. 2018-03 and ordered one paper copy and one electronic copy maintained in compliance with Ariz. Rev. Stat. § 44-7041 on file in the office of the Town Clerk and open for public inspection during normal business hours; and

WHEREAS, the Town Council has determined that changes to the Town Code are necessary to: promote the health, safety, and general welfare of the residents of the Town; to enhance the aesthetic quality of the natural and built environment of the community; to maintain and enhance the desirable character of the community; and to facilitate quality development in accordance with the Town's adopted General Plan.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AS FOLLOWS:

Section 1. Any proposal for the construction or installation of new monopoles, utility poles associated with small wireless facilities, or wireless facilities in the public right of way shall be subject to the following: Article 16.2 of the Town Code; the Town's reasonable design standards; the Town's reasonable stealth and concealment standards; the Town's reasonable rates and fees as adopted by the Town; and all other applicable regulatory processes.

Section 2. Existing Chapter 16 of the Fountain Hills Town Code is hereby amended by the addition of a new Article 16-2.

Section 3. Article 16-2 is hereby approved, adopted and incorporated into the Town Code by reference, as fully as if set forth in this Ordinance in its entirety.

Section 4. If any section, subsection, clause, phrase or portion of this Ordinance or any part of the amended and restated Town Code Article 16-2 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 thereof.

Section 5. Because of the urgent need for the implementation of the Town's regulations concerning small wireless facilities, and the immediate operation of this Resolution is necessary for the preservation of the public peace, health and welfare, an emergency is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law and is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, this 20th day of February, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



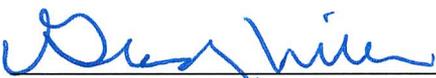
Linda M. Kavanagh, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Grady Miller, Town Manager



FOR:
Fredda Bisman, Town Attorney