

ORDINANCE NO. 18-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING TOWN CODE CHAPTER 9 "PARKS AND RECREATION" BY ADDING ARTICLE 9-6 "RESTRICTIONS ON SMOKING IN PUBLIC PARKS, PRESERVES, AND TRAILS"; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Fountain Hills ("Town") owns and operates parks, mountain preserve areas, and trail systems within the Town to provide recreational opportunities, and to enhance the quality of life, for the Town's residents and visitors; and

WHEREAS, the Town Council finds and determines that prohibiting smoking in the Town's parks, mountain preserve areas, and trail systems will protect the recreational and physical environment and improve the public health of all citizens and visitors.

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

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. Smoking in the Town's parks, mountain preserve areas, and trail systems shall be regulated in accordance with and subject to Article 9-6 of the Town Code.

SECTION 3. The existing Chapter 9 of the Fountain Hills Town Code is hereby amended by the addition of a new Article 9-6, attached hereto as "Exhibit A" and incorporated herein by this reference.

SECTION 4. If any section, subsection, clause, phrase or portion of this Ordinance or any part of the newly adopted Town Code Article 9-6 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 4. Because of the urgent need for the implementation of the Town's regulations concerning smoking in parks, mountain preserve areas, and trail systems, and the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare, an emergency is hereby declared to exist and this Ordinance, 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, June 19, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



Linda M. Kavanagh, Mayor



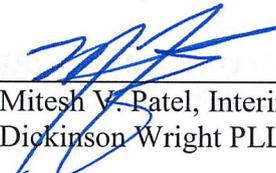
Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Grady E. Miller, Town Manager



Mitesh V. Patel, Interim Town Attorney
Dickinson Wright PLLC

**EXHIBIT A
TO
ORDINANCE 18-08**

[TOWN CODE ARTICLE 9-6]

See Following Pages.

Fountain Hills Town Code

Article 9-6

RESTRICTIONS ON SMOKING IN PUBLIC PARKS, PRESERVES, AND TRAILS

Sections:

- 9-6-1 Purpose and Intent**
- 9-6-2 Restrictions**
- 9-6-3 Definitions**
- 9-6-4 Order to leave; unlawful failure to comply**

Section 9-6-1 Purpose and Intent

Town owned parks, preserves, and trails provide recreational opportunities and enhance the quality of life of the Town residents and visitors. The purpose of this Article is to protect the recreational environment and improve the public health of all citizens and visitors by prohibiting smoking in parks, preserves and trails.

Section 9-6-2 Restrictions

- A. No person shall smoke in a park, mountain preserve area, or on Town owned or operated trails, where one or more signs are posted prohibiting such activity.
- B. The Director of Parks and Recreation is authorized to post signs prohibiting smoking in parks, mountain preserve areas, and Town owned or operated trails.
- C. The Director of Parks and Recreation is authorized to post signs designating areas where smoking is permitted.

Section 9-6-3 Definitions

- A. "Smoke" or "smoking" means and includes:
 - 1. The burning of any tobacco or other plant product;
 - 2. Placing a lighted cigarette, cigar, or pipe or any other lighted smoking equipment in an ashtray or other receptacle and allowing smoke to diffuse in the air;
 - 3. The use of electronic devices that produce an aerosol by heating a liquid, instead of burning a plant product, commonly referred to as "e-cigs", "vapes", "vape pens", "tank systems", and "mods".

Section 9-6-4 Order to leave; unlawful failure to comply

- A. The Director of Parks and Recreation, or any designee, may order any person who has failed to comply with the requirements of this section to immediately leave the park, preserve, or trail

system in which the violation occurred. No person may remain in a park, preserve, or trail system or return to such location on the same day after such person has been ordered to leave.

B. Any person who fails to comply with an order to leave the park, preserve, or trail system shall be responsible for a petty offense, punishable by:

1. A fine not exceeding \$100 for a first violation;
2. A fine not exceeding \$200 for a second violation;
3. A fine not exceeding \$300 for a third violation;
4. Any person who violates this section four or more times in any 24 month period may be charged with and found guilty of a class 1 misdemeanor.