

ORDINANCE NO. 16-01

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, BY AMENDING TITLE 8 HEALTH AND SAFETY, BY CREATING A NEW CHAPTER 8.10 RECYCLING BINS, RELATED TO THE SIZE, LOCATION, AND COLLECTION OF MATERIALS COLLECTED IN RECYCLING BINS AND PROVIDING A PERMIT PROCESS FOR REGULATION OF RECYCLING BINS; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, several commercial and non-commercial recycling bins are located on private property in the Town of Youngtown;

WHEREAS, The Town has experienced serious clutter and sanitation problems when items are placed outside of recycling bins, causing the property to become a public nuisance;

WHEREAS, owners and operators of recycling bins can be difficult to locate;

WHEREAS, the Town Council recognizes that donations of clothing, shoes, textiles, books, and other household items and recyclable materials are beneficial to nonprofit organizations, religious organizations, for-profit recyclers, and needy families in the Town of Youngtown and elsewhere and that donations protect the environment by encouraging recycling;

WHEREAS, the Town Council desires to support the collection of recyclable materials in a safe and sanitary manner and prevent public nuisances;

WHEREAS, regulations regarding the size, location, and collection of materials are necessary to protect public health and safety;

WHEREAS, the accumulating trash and debris around recycling bins poses an immediate threat to the health and safety of Youngtown's residents; and

WHEREAS, requiring owners and operators to obtain permits for recycling bins will provide a contact person to ensure compliance with regulations.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Youngtown, Arizona, as follows:

Section I. In General.

The Code of Youngtown, Arizona, Title 8 Health and Safety, is hereby amended by creating new Chapter 8.10 Recycling Bins to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

CHAPTER 8.10 RECYCLING BINS.

SECTIONS:

- 8.10.010 DEFINITIONS.
- 8.10.020 PERMITS.
- 8.10.030 RECYCLING BINS.
- 8.10.040 DENIAL, MODIFICATION, OR REVOCATION OF PERMIT.
- 8.10.050 IMPOUNDMENT.

8.10.010 DEFINITIONS.

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

“OPERATOR” MEANS A PERSON HAVING POSSESSION, CONTROL, OR MANAGEMENT OF A RECYCLING BIN.

“OWNER” MEANS A PERSON HAVING LEGAL TITLE TO A RECYCLING BIN.

“PERSON” MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION, FIRM, COMPANY, CORPORATION, OR ORGANIZATION OF ANY KIND.

“RECYCLING BIN” MEANS AN ATTENDED OR UNATTENDED RECEPTACLE MADE OF METAL, STEEL, OR A SIMILAR PRODUCT USED OR INTENDED TO BE USED TO DEPOSIT NEW OR USED CLOTHING, SHOES, TEXTILES, BOOKS, AND OTHER HOUSEHOLD ITEMS AND RECYCLABLE MATERIALS.

“RECYCLING BIN” INCLUDES COMMERCIAL AND NON-COMMERCIAL BINS AND BINS USED FOR CHARITABLE DONATIONS OF ITEMS.

“REGISTRANT” MEANS ANY PERSON THAT REGISTERS A RECYCLING BIN PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

8.10.020 PERMITS.

A. *REQUIRED.* IT SHALL BE UNLAWFUL FOR ANY PERSON TO PLACE OR KEEP A RECYCLING BIN WITHIN THE TOWN WITHOUT HAVING FIRST OBTAINED A PERMIT. SUCH PERMIT SHALL BE IN FORCE AND EFFECT FOR ONE YEAR.

B. *APPLICATION.* APPLICATIONS FOR RECYCLING BIN PERMITS SHALL BE MADE TO THE TOWN MANAGER ON A

FORM PROVIDED BY THE TOWN. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

1. THE NAME AND ADDRESS OF THE OWNER OR OPERATOR AND A TELEPHONE NUMBER AND EMAIL ADDRESS, IF APPLICABLE, WHERE THE OWNER OR OPERATOR OR AN AGENT OF THE OWNER OR OPERATOR CAN BE REACHED.
2. THE SIZE AND TYPE OF PROPOSED RECYCLING BINS.
3. A DIAGRAM INDICATING THE LOCATION OF THE RECYCLING BIN AND MEANS OF ACCESS FOR DROP-OFF AND PICKUP OF MATERIALS.
4. THE TYPES OF MATERIALS TO BE COLLECTED.

C. *WRITTEN AND SIGNED STATEMENT.* THE APPLICATION SHALL BE ACCOMPANIED BY A WRITTEN AND SIGNED STATEMENT FROM THE OWNER OF THE PROPERTY WHERE THE RECYCLING BIN IS TO BE PLACED, GRANTING PERMISSION FOR PLACEMENT.

D. *NO FEE.* THERE SHALL BE NO FEE FOR THE ANNUAL PERMIT OR RENEWAL.

8.10.030 RECYCLING BIN REQUIREMENTS.

A. *SPECIFICATIONS.* EACH RECYCLING BIN SHALL HAVE A LID THAT CLOSSES FIRMLY AND HAVE A CAPACITY OF NOT GREATER THAN SIX CUBIC YARDS. THE RECYCLING BIN SHALL BE CONSTRUCTED OF PAINTED METAL, RUBBER, WOOD OR PLASTIC AND SHALL BE PROPERLY MAINTAINED IN A SAFE AND GOOD CONDITION.

B. *IDENTIFICATION; MARKINGS.* EACH RECYCLING BIN SHALL BE CLEARLY MARKED TO IDENTIFY THE MATERIALS REQUESTED TO BE LEFT AT THE RECYCLING BIN, THE NAME OF THE OPERATOR OR OWNERS OF THE RECYCLING BIN, AND A TELEPHONE NUMBER WHERE THE OWNER, OPERATOR OR AGENT OF THE OWNER OR OPERATOR MAY BE REACHED AT ANY TIME DURING REGULAR WORKING HOURS FROM 8:00 AM TO 5:00 PM MONDAY THROUGH FRIDAY AND THE CAPACITY TO LEAVE MESSAGES AND RETURN CALLS FOR SERVICING REQUESTS WITHIN 24 HOURS ON SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

C. *LOCATION.* THE TOWN MAY DENY PERMITS FOR RECYCLING BINS LOCATED WITHIN A PUBLIC STREET, RIGHT-OF-WAY, ALLEY, SIDEWALK, OR WHERE ACCESS TO THE RECYCLING BIN IS NOT SUFFICIENT. RECYCLING BINS SHALL BE LOCATED SO AS NOT TO INTERFERE WITH SIGHT TRIANGLES, ON-SITE CIRCULATION, REQUIRED SETBACKS,

LANDSCAPING, PARKING, AND ANY OTHER REQUIREMENTS THAT MAY HAVE BEEN IMPOSED AS PART OF THE SITE PLAN APPROVAL FOR THE PROPERTY.

D. *RECYCLABLES*. IT IS UNLAWFUL TO PLACE ANY MATERIALS IN ANY RECYCLING BIN EXCEPT THE MATERIALS NAMED ON THE OUTSIDE OF THE RECYCLING BIN. IT IS ALSO UNLAWFUL TO PLACE CONTAMINATED RECYCLABLES IN ANY RECYCLING BIN AND TO DUMP REFUSE IN RECYCLING BINS.

E. *CLEANLINESS*. NO PERSON SHALL LEAVE ANY MATERIALS OUTSIDE OF A RECYCLING BIN. OWNERS AND/OR OPERATORS SHALL PROVIDE WEEKLY PICKUP OF ITEMS LEFT IN RECYCLING BINS AND PROVIDE ADDITIONAL PICKUPS AND CLEANUP AS NEEDED TO PREVENT MATERIALS FROM ACCUMULATING OUTSIDE THE RECYCLING BINS. RECYCLING BINS SHALL BE SERVICED REGULARLY.

8.10.040 DENIAL, MODIFICATION, OR REVOCATION OF PERMIT.

THE TOWN MANAGER MAY DENY, MODIFY, OR REVOKE A PERMIT FOR VIOLATIONS OF THIS CHAPTER UPON WRITTEN NOTICE TO THE PERMIT APPLICANT OR HOLDER. ANY AGGRIEVED PERSON MAY REQUEST A HEARING BEFORE THE TOWN COUNCIL WITHIN 15 DAYS FROM RECEIPT OF THE NOTICE. ANY DECISION OF THE TOWN COUNCIL SHALL BE IN WRITING AND SET FORTH THE FINDINGS AND REASONS FOR THE DECISION. THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT.

8.10.050 IMPOUNDMENT.

A. IN ADDITION TO THE PENALTIES PROVIDED FOR IN THE TOWN CODE, ANY RECYCLING BIN IN VIOLATION OF THIS CHAPTER OR THE REQUIREMENTS OF A PERMIT MAY BE REMOVED BY THE TOWN AT THE OPERATOR'S OR OWNER'S EXPENSE. THE RECYCLING BIN SHALL BE IMPOUNDED UNTIL THE OPERATOR OR OWNER REIMBURSES THE TOWN FOR THE COST OF REMOVAL AND STORAGE. IF THE OPERATOR OR OWNER OF AN IMPOUNDED BIN OR CONTAINER HAS NOT REIMBURSED THE TOWN FOR THE COST OF REMOVAL AND STORAGE AND HAS NOT RETRIEVED THE RECYCLING BIN WITHIN 60 DAYS OF ITS REMOVAL, THE TOWN MAY DISPOSE OF THE RECYCLING BIN.

B. PRIOR TO THE REMOVAL AND IMPOUNDMENT OF ANY RECYCLING BIN, THE TOWN SHALL NOTIFY THE PERSON IDENTIFIED ON THE RECYCLING BIN, AND CONSPICUOUSLY ATTACH A NOTICE OF VIOLATION TO THE RECYCLING BIN. THE NOTICE SHALL SPECIFY THE CODE SECTION OF WHICH THE RECYCLING BIN IS IN VIOLATION, AND SHALL SPECIFY A

DATE AT LEAST TEN DAYS AFTER THE POSTING OF THE NOTICE WHEN THE RECYCLING BIN WILL BE REMOVED AND IMPOUNDED IF NOT BROUGHT INTO COMPLIANCE.

C. VIOLATIONS OF THIS CHAPTER ARE IN ADDITION TO ANY OTHER VIOLATION ENUMERATED WITHIN THE TOWN ORDINANCES AND CODES, AND IN NO WAY LIMITS THE PENALTIES, ACTIONS, OR ABATEMENT PROCEDURES WHICH MAY BE TAKEN BY THE TOWN FOR ANY VIOLATION OF THIS DIVISION WHICH MAY ALSO BE A VIOLATION OF ANOTHER ORDINANCE OF THE TOWN, OR STATE STATUTE.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance, or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference is for any reason held to be 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 IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a class one misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

Section V. Declaring an Emergency.

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the Town of Youngtown, and an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Common Council of the Town of Youngtown.

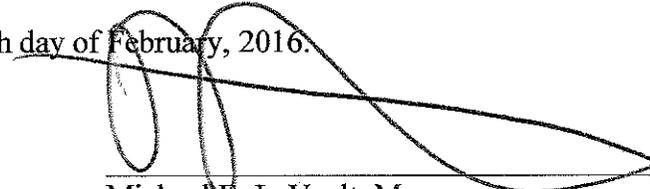
PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 18th day of February, 2016, by the following vote:

AYES: 7

NAYES: 0 ABSENT: 0

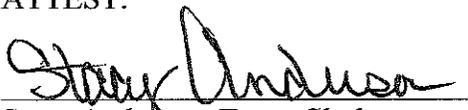
EXCUSED: 0 ABSTAINED: 0

APPROVED this 18th day of February, 2016.



Michael E. LeVault, Mayor

ATTEST:


Stacy Anderson, Town Clerk

APPROVED AS TO FORM:


Gust Rosenfeld, P.L.C.
Town Attorneys
By Trish Stuhan

I, STACY ANDERSON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 16-01 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 18th DAY OF FEBRUARY, 2016, WAS POSTED IN THREE PLACES ON THE 19TH DAY OF FEBRUARY, 2016.


Stacy Anderson, Town Clerk