

ORDINANCE NO. 18-10

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, TITLE 15 BUILDINGS AND CONSTRUCTION, CHAPTER 15.15 STORM WATER POLLUTION PREVENTION, BY AMENDING SECTIONS 15.15.020 DEFINITIONS; 15.15.040 PROHIBITION OF NON-STORM WATER DISCHARGE TO THE PUBLIC STORM DRAIN SYSTEM - EXEMPTIONS; 15.15.080 CLEANUP AND NOTIFICATION REQUIREMENTS; AND 15.15.100 ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES.

WHEREAS, the Town Council desires to update Title 15 Buildings and Construction, Chapter 15.15 Storm Water Pollution Prevention to protect public health, safety, and welfare of Town residents; and

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 15 Buildings and Construction, Chapter 15.15 Storm Water Pollution Prevention, Section 15.15.020 Definitions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

15.15.020 - Definitions.

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“Director” means the public works ~~director~~ MANAGER.

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The Code of Youngtown, Arizona, Title 15 Buildings and Construction, Chapter 15.15 Storm Water Pollution Prevention, Section 15.15.040 Prohibition of non-storm water discharge to the public storm drain system - Exemptions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

15.15.040 - Prohibition of non-storm water discharge to the public storm drain system - Exemptions.

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5. No person shall establish, use, maintain, or continue any connection to the public storm drain system, which has caused or is likely to cause a

violation of this section. ANY CONNECTION THAT WAS PERMITTED OR AUTHORIZED BY A GOVERNMENTAL ENTITY WITH JURISDICTION AND AUTHORITY, WILL BE DISCONTINUED UPON THIRTY (30) DAYS WRITTEN NOTICE BY THE DIRECTOR TO (A) THE LAST KNOWN ADDRESS OF THE OWNER OF THE PROPERTY AND BY POSTING ON THE PROPERTY; OR (B) THE PERSON MAINTAINING THE CONNECTION. This prohibition is retroactive and shall apply to any connection that was made in the past, regardless of whether it was made under permit or other authorization, or whether it was permissible under the law or practices applicable or prevailing at the time of the connection.

The Code of Youngtown, Arizona, Title 15 Buildings and Construction, Chapter 15.15 Storm Water Pollution Prevention, Section 15.15.080 Cleanup and Notification Requirements is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

15.15.80 - Cleanup and notification requirements.

- A. As soon as any owner or operator has actual or constructive knowledge of any discharge which may result in pollutants entering the public storm drain system, such person shall promptly take all necessary steps to ensure the discovery of the source and the extent, and proceed with containment and cleanup of such discharge.

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The Code of Youngtown, Arizona, Title 15 Buildings and Construction, Chapter 15.15 Storm Water Pollution Prevention, Section 15.15.100 Enforcement and Penalties is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

15-15-100 - Enforcement and penalties.

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- C. **Notice of Violation.** The director may issue a written notice of violation to any person who has violated or is in violation of this chapter. Failure to comply with any act required in the notice of violation shall be a separate violation for each day beyond the thirtieth (30th) day following the notice of violation. **THE REMEDIES PROVIDED FOR IN THIS CHAPTER ARE NOT EXCLUSIVE.** Nothing in this section shall limit the authority of the director to take any action, including emergency actions, ~~or any other~~ enforcement action, **OR A COMBINATION OF ACTIONS**, without first issuing a notice of violation. In appropriate situations the director may notify the person orally either in person or by telephone prior to, and in some cases in lieu of, written notification.

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F. Civil Penalties.

1. In addition to any other enforcement authority contained in this chapter, the director may issue a civil citation to any person who has violated, or continues to violate, any provision of this chapter or any related laws or regulations.
2. IF THE DEFENDANT FAILS TO APPEAR AS DIRECTED ON THE CITATION, THE COURT UPON REQUEST OF THE TOWN, SHALL ENTER A DEFAULT JUDGMENT FOR THE AMOUNT OF THE FINE INDICATED FOR THE VIOLATION CHARGED, TOGETHER WITH A DEFAULT PENALTY NOT TO EXCEED FIFTY DOLLARS (\$50.00).
3. A person who violates any requirement of this chapter or any applicable NPDES or AZPDES storm water permit condition shall be civilly liable to the town for a sum not to exceed thirty-two thousand five hundred dollars (\$32,500.00) per day for each violation.
4. ALL CIVIL HEARINGS UNDER THIS ARTICLE BEFORE THE YOUNGTOWN MUNICIPAL COURT SHALL BE INFORMAL AND WITHOUT A JURY, EXCEPT THAT TESTIMONY SHALL BE GIVEN UNDER OATH OR AFFIRMATION. THE RULES OF EVIDENCE DO NOT APPLY, EXCEPT FOR ANY RULES OR STATUTES RELATING TO PRIVILEGED COMMUNICATIONS. IF THE ALLEGATION IN THE CITATION IS DENIED BY THE DEFENDANT, THE TOWN IS REQUIRED TO PROVE THE VIOLATION BY A PREPONDERANCE OF THE EVIDENCE. THE COURT IS AUTHORIZED TO MAKE SUCH ORDERS AS MAY BE NECESSARY OR APPROPRIATE TO FAIRLY AND EFFICIENTLY DECIDE THE CASE AT HAND.
5. AN APPEAL FROM THE JUDGMENT OF THE COURT MAY BE TAKEN IN THE SAME MANNER PROVIDED IN TITLE 1, CHAPTER 1.12, SECTION 1.12.010(D).

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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 violating, disobeying, omitting, neglecting or refusing to comply with any provision of this Ordinance or any related laws or regulations shall be (a) responsible under Section 15.15.100 for a civil violation or (b) any person who willfully or negligently violates any provision of this chapter, or any related laws or regulations shall, upon conviction, be guilty of a class one misdemeanor punished by a fine not to exceed thirty-two thousand five hundred dollars (\$32,500.00) per day for each violation and/or by imprisonment for a period not to exceed six months.

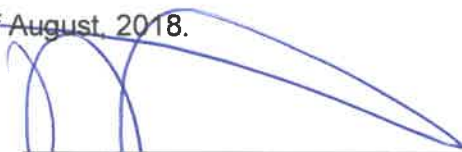
PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 16th day of August, 2018, by the following vote:

AYES: 7

NAYES: 0 ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this 16th day of August, 2018.




Michael E. LeVault, Mayor

ATTEST:



Mary Reynolds, Town Clerk

APPROVED AS TO FORM:



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

I, MARY REYNOLDS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 18-10 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 16TH DAY OF AUGUST, 2018, WAS POSTED IN THREE PLACES ON THE 17TH DAY OF AUGUST, 2018.



Mary Reynolds, Town Clerk