

**ORDINANCE NO. 19-01**

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA; TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES, BY AMENDING CHAPTER 12.08 PARKS, SECTION 12.08.020 GENERAL RULES FOR USE AND BY AMENDING CHAPTER 12.10 URBAN CAMPING, ALL RELATED TO REPEALING CRIMINAL SANCTIONS AND IMPOSING CIVIL SANCTIONS FOR URBAN CAMPING AND TRESPASS IN TOWN PARKS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, public places in the Town of Youngtown provide common areas for residents of the community and non-residents to meet, relax, and take part in recreational, cultural, social, and other activities; and

WHEREAS, it is the responsibility of the Town and, in the best interests of residents of the community and nonresidents, to insure that public streets, sidewalks, parks, and other public places are made readily accessible to the public; and

WHEREAS, the Town has adopted urban camping and trespass ordinances to prohibit the use of certain public areas for urban camping and the storage of personal property to ensure that public streets, sidewalks, parks, and other public places are accessible to the public and maintained in a clean and sanitary manner; and

WHEREAS, the Ninth Circuit Court of Appeals held in *Martin v. City of Boise* that the Eighth Amendment prohibits the imposition of criminal penalties for camping on outdoor public property for homeless individuals who cannot obtain shelter; and

WHEREAS, the Town Council of the Town of Youngtown is committed to working with community partners to provide social support services and housing options for the homeless and believes that urban camping and trespass regulations should be enforced to protect health and safety; and

WHEREAS, the Town Council of the Town of Youngtown desires to adopt this ordinance to repeal criminal sanctions for urban camping and trespass in parks and allow for civil sanctions instead and for the transportation of consenting individuals to social support facilities providing services related to mental health, housing, and/or substance abuse treatment.

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

Section I. In General.

The Code of Youngtown, Arizona, Title 12 Streets, Sidewalks and Public Places, is hereby amended by amending Chapter 12.08 Parks, Section 12.08.020 General rules for use to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

**Section 12.08.020 General rules for use.**

\* \* \*

L. Park hours for public use of all portions of town parks, including parking areas, shall be from sunrise until ten p.m., unless authorized by permit issued by the town or as otherwise provided by the public works manager. TRESPASSING IN TOWN PARKS THAT ARE CLOSED SHALL BE PUNISHABLE BY A CIVIL PENALTY IN ACCORDANCE WITH YOUNGTOWN TOWN CODE, SECTION 1.12.010, EXCEPT THAT NO CRIMINAL SANCTIONS SHALL APPLY FOR HABITUAL OFFENDERS. INDIVIDUALS MAY BE TAKEN TO A FACILITY PROVIDING SOCIAL SERVICES RELATED TO MENTAL HEALTH, HOUSING, AND/OR SUBSTANCE ABUSE TREATMENT IN LIEU OF CITATION WITH THEIR CONSENT.

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The Code of Youngtown, Arizona, Title 12 Streets, Sidewalks and Public Places, is hereby amended by amending Chapter 12.10 Urban Camping, to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

**Chapter 12.10 Urban Camping**

**Sections:**

- 12.10.010 Definitions.**
- 12.10.020 Prohibited use of public right-of-way.**
- 12.10.030 Camping in public places.**
- 12.10.040 Violation – penalty.**

**12.10.010 Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Camp* means to reside in or use a public park, street, or other public place for temporary or permanent living accommodation purposes including, but not limited to, activities such as erecting tents or any other structure providing shelter, digging or breaking earth, laying down bedding for the purposes of sleeping, using camp paraphernalia, storing personal belongings, starting a fire, regularly cooking or preparing meals, or living in a parked vehicle.
- B. *Camp paraphernalia* includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, blankets, or non-town designated cooking facilities and similar equipment.

- C. *Public park* means all Town parks and playgrounds.
- D. *Public street* means all public streets and highways, public sidewalks, public benches, public parking lots, and public parking structures.
- E. *Public place* means public plazas, transportation facilities, bus stops, schools, attractions, monuments, and improved and unimproved public area.

**12.10.020 Prohibited use of public right-of-way.**

It shall be unlawful for any person to use a public street, alley, lane, parkway, or other right-of-way, whether such right-of-way has been dedicated to the public, in fee or by easement, for lying, sleeping, remaining in a sitting position thereon, or camping, except in the case of a physical emergency or the administration of medical assistance.

**12.10.030 Camping in public places.**

A. *Camping prohibited.* No person shall camp in any public park or place, except where specifically authorized by the Town.

B. *YOUTH ORGANIZATION Exception.* The Town may, in accordance with the Town's established procedures, issue special use permits or reservation permits to authorize youth organizations to camp or park vehicles overnight in a park. Nothing in this section shall be interpreted to prohibit camping or overnight parking sponsored or approved by the Town of Youngtown.

C. *DESIGNATED CAMPING ZONES.* THE TOWN COUNCIL MAY DESIGNATE CERTAIN PUBLIC PROPERTY FOR CAMPING AND IF SUCH DESIGNATION HAS BEEN MADE AND SPACE IS AVAILABLE, THEN INDIVIDUALS DESIRING TO CAMP ON PUBLIC PROPERTY SHALL BE REQUIRED TO CAMP IN THE DESIGNATED AREA.

**12.10.040 Violation – penalty.**

A. Violation of this chapter is a ~~class one misdemeanor~~ CIVIL PENALTY punishable in accordance with Youngtown Town Code, Section 1.12.010, EXCEPT THAT NO CRIMINAL SANCTIONS SHALL APPLY FOR HABITUAL OFFENDERS.

B. AN INDIVIDUAL CHARGED WITH VIOLATION OF THIS CHAPTER, WITH THE CONSENT OF THE INDIVIDUAL, MAY BE TAKEN TO A FACILITY PROVIDING SOCIAL SERVICES RELATED TO MENTAL HEALTH, HOUSING, AND/OR SUBSTANCE ABUSE TREATMENT IN LIEU OF CITATION.

**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 responsible for violating any provisions of this Ordinance, except as otherwise provided in this Ordinance, shall be responsible for a civil infraction, punishable by a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation in accordance with Youngtown Town Code Section 1.12.010, except that no criminal sanctions shall apply for habitual offenders. Each day that a violation continues shall be a separate offense punishable as hereinabove 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 7<sup>th</sup> day of February, 2019, by the following vote:

AYES: 7

NAYES: 0 ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this 7<sup>th</sup> day of February, 2019.

  
Michael LeVault, Mayor

ATTEST:

  
Mary Reynolds, Town Clerk

APPROVED AS TO FORM:

  
Trish Stuhan, Gust Rosenfeld, PLC  
Town Attorney

I, MARY REYNOLDS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 19-01 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 7<sup>TH</sup> DAY OF FEBRUARY, 2019, WAS POSTED IN THREE PLACES ON THE 8<sup>TH</sup> DAY OF FEBRUARY, 2019.

  
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Mary Reynolds, Town Clerk