

ORDINANCE NO. 2916

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 42 OFFENSES AND ABATEMENT OF PUBLIC NUISANCES, BY AMENDING ARTICLE VIII ABATEMENT OF PUBLIC NUISANCES AND COMMUNITY PRESERVATION; DIVISION 2 COMMUNITY PRESERVATION ORDINANCE, PART. 2 MAINTENANCE STANDARDS, SECTION 42-317 EXTERIOR PREMISES AND VACANT LAND, PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES.

WHEREAS, A.R.S. § 9-240 gives the Common Council of the Town exclusive authority to define, abate and remove nuisances; and

WHEREAS, it is essential to protect the health, safety, and well-being of the community; and

WHEREAS, public nuisances can significantly impact the comfortable enjoyment of life and property of an entire community or neighborhood; and

WHEREAS, providing clear and reasonable expectations and duties of the Town and property owners will result in maintained communities and neighborhoods and allow for resources to be identified that may provide assistance for those with challenges.

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

Section I. In General

The Code of Gilbert, Arizona, Chapter 42 Offenses and Abatement of Public Nuisances, Article VIII Abatement of Public Nuisances and Community Preservation, Division 2 Community Preservation Ordinance, Part. 2 Maintenance Standards, Section 42-317 Exterior Premises and Vacant Land, to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 42-317. Exterior Premises and Vacant Land.

- (a) *Scope.* Unless otherwise provided, this section applies to all land, vacant or improved, in the town.

(b) *General.* All land including exterior premises and vacant land, whether improved or unimproved, shall be maintained free from any hazard or accumulation of garbage, debris, rubble, hazardous waste, litter, refuse, waste material, or blight. This includes, but is not limited to, graffiti on walls, fences, mailboxes, etc., organic or inorganic material; the exterior visible use or display of tarps, plastic sheeting, or other similar materials as flexible or inflexible screening, fencing or wall covering upon a residential lot; an accumulation of inoperable or abandoned vehicles, discarded, broken, or inoperable appliances, discarded or broken furniture, broken glass, discarded, broken or inoperable equipment, discarded or broken bicycles, an accumulation of inoperable or abandoned vehicles, bicycle or appliance parts, piles of mixed materials, dry vegetation, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, loose or other packing material; lumber not neatly piled, lumber stored in front yards, scrap iron, tin and other metal not neatly piled or anything whatsoever in which insects, rodents, snakes or other harmful pests may live, breed or multiply or which may otherwise create a fire hazard. This does not include bulk trash properly prepared and placed for pickup in compliance with chapter 66 of this Code. ~~A single inoperable vehicle in combination with any of the above-described conditions shall be deemed a violation of this subsection. It is an affirmative defense to a violation of this subsection based on the presence of an inoperable vehicle that the vehicle was registered to a resident of the property, that the vehicle was undergoing repair, and that the total period during which the vehicle was inoperable did not exceed 15 days. This affirmative defense may not be raised more than three times in any combination of civil or criminal proceedings in any one calendar year.~~

(1) FOR PURPOSES OF THIS SUBSECTION:

(i) A SINGLE INOPERABLE VEHICLE IN COMBINATION WITH ANY OF THE ABOVE-DESCRIBED CONDITIONS SHALL BE DEEMED A VIOLATION OF THIS SUBSECTION.

(ii) INOPERABLE VEHICLES SHALL NOT BE PARKED IN FRONT YARDS. A LAWFUL INOPERABLE VEHICLE MAY BE PARKED IN A REAR OR SIDE YARD WHEN LOCATED BEHIND AN OPAQUE FENCE, WALL, OR GATE THAT IS PERMANENTLY AFFIXED TO THE GROUND AND TALLER THAN THE VEHICLE. THE VEHICLE MUST BE COMPLETELY SCREENED FROM VIEW. TEMPORARY FENCING OR TARPING IS NOT CONSIDERED ADEQUATE SCREENING.

(iii) IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF THIS SUBSECTION BASED ON THE

PRESENCE OF AN INOPERABLE VEHICLE THAT THE VEHICLE WAS REGISTERED TO A RESIDENT OF THE PROPERTY, THAT THE VEHICLE WAS UNDERGOING REPAIR, AND THAT THE TOTAL PERIOD DURING WHICH THE VEHICLE WAS INOPERABLE DID NOT EXCEED FIFTEEN DAYS. THIS AFFIRMATIVE DEFENSE MAY NOT BE RAISED MORE THAN THREE TIMES IN ANY COMBINATION OF CIVIL OR CRIMINAL PROCEEDINGS IN ANY ONE CALENDAR YEAR.

\* \* \*

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 punishable 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 IV. Providing for Civil Sanctions.

Any person found responsible for violating this Ordinance shall be subject the civil sanctions and habitual offender provisions as set forth in Section 42-333 of the Gilbert Municipal Code. Each day a violation continues, or the failure the failure to perform any act or duty required by the Municipal Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 10<sup>th</sup> day of September 2024, by the following vote:

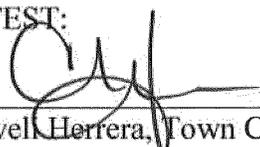
AYES: ANDERSON, BONGIOVANNI, BUCHLI, KOPROWSKI, PETERSON, TILQUE

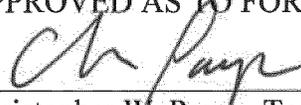
NAYS: TORGESON ABSENT: \_\_\_\_\_

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

APPROVED this 10<sup>th</sup> day of September 2024

  
\_\_\_\_\_  
Brigitte Peterson, Mayor

ATTEST:  
  
\_\_\_\_\_  
Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2916 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 10TH DAY OF SEPTEMBER, 2024, WAS POSTED IN ONE PLACE ON THE 11<sup>TH</sup> DAY OF SEPTEMBER, 2024

  
\_\_\_\_\_  
Chaveli Herrera, Town Clerk