

ORDINANCE NO. 2922

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA CHAPTER 54 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, SECTION 54-1 OBSTRUCTION OF PUBLIC PROPERTY, RELATED TO USE OF BUS SHELTERS AND TRANSPORTATION FACILITIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, Section 54-1 of the Town of Gilbert Municipal Code (“Code”) requires that public property be kept free of obstructions to allow for the free use and passage of such property; and

WHEREAS, the Town has determined that it is in the best interest of Town of Gilbert residents to ensure unobstructed access to bus shelters and transportation facilities by prohibiting persons from remaining at bus shelters and transportation facilities for more than one (1) hour;

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 54 Streets, Sidewalks, and Other Public Places, Section 54-1 Obstruction of Public Property, is hereby amended to read as follows (additions in UNDERLINED/ALL CAPS; deletions in ~~strikeout~~):

**Section 54-1. – Obstruction of Public Property.**

- (a) *Authority.* The town manager or designee, code inspectors, park rangers, and Gilbert police officers may enforce this section.
- (b) *Obstructions prohibited.* Unless exempted under subsection 54-1(d) or otherwise permitted by this Code:
  - (1) Except for emergency reasons or where otherwise allowed by the town or state law, it is unlawful for any person or entity, directly or indirectly by itself or through another, to place or maintain upon public property anything that obstructs or interferes with the free use of or passage upon such property, or which otherwise interferes with any lawfully conducted business in or upon, facing or fronting onto any such public property.

(2) It is unlawful for any person, directly or indirectly, by himself or through another person, without permission of the town to:

- a. Place any awning, post, balcony, sign, bridge, curb, hydrant, faucet, water pipe or other structure on, over or across public property
- b. Use, occupy or obstruct public property for the purpose of displaying, selling or leasing goods, wares or merchandise, property or services, except that sign walkers may be allowed on town sidewalks subject to the Land Development Code and state law.

(3) IT IS UNLAWFUL FOR ANY PERSON TO REMAIN AT A BUS SHELTER OR TRANSPORTATION FACILITY FOR MORE THAN ONE (1) HOUR.

(3)(4) Violations; penalties.

- a. Any person or entity found to be in violation of this chapter is responsible for a civil violation subject to the penalty provisions set forth in section 1-5, including provisions governing habitual offenders. Each obstruction in violation of this section shall constitute a separate offense. Each day an obstruction continues shall constitute a separate offense.
- b. The town may immediately cause the removal or relocation of any obstruction if the obstruction will impede emergency services, obstruct vehicle traffic or create a safety hazard to the public on a public right-of-way. In addition, the town may cause the impoundment and storage of any property used in the commission of a violation of section 54-1(b) at the sole cost of the responsible party.
- c. Whenever the town impounds property on a reasonable belief that a violation of this section has occurred or that prompt action is required to protect the health or safety of the public, the owner of the property may request an appeal hearing to determine the validity of the impoundment by filing a written request with the town clerk no later than 15 days from the date of the notice of violation. The hearing shall occur within 30 calendar days from the date a timely request is filed with the town clerk. The hearing shall be conducted by a hearing officer designated by the town manager, but not a town employee. Failure to file a timely hearing request constitutes a waiver of any rights the owner may have to a hearing.
- d. The owner shall pay all impoundment and storage costs no later than 60 days from the date of the notice of violation. A request for a hearing under this subsection 54-1(b)(3)d. shall not relieve the owner from said

payment obligation. Should the owner prevail at the post-impoundment hearing, the town will reimburse the owner for the amount paid under this subsection 54-1(b)(3)e.

- e. Impounded property shall be released to the owner or its authorized representative only upon the furnishing of satisfactory identification or authorization, provided that all amounts owed have been paid.
  - f. Property that is not reclaimed from the town within 60 days after the date of the notice of violation shall be considered abandoned and may be sold or otherwise disposed of by the town in accordance with chapter 2, article V of this Code.
  - g. The violations and penalties herein are in addition to any other violations and penalties established by the law. This section shall not be interpreted as limiting the penalties, actions, abatement procedures, and other remedies that may be taken by the town or other persons under written agreements or any law, ordinance, or rule, including, but not limited to, public nuisance actions for abatement and damages. In addition, the imposition of a penalty or fee does not prevent the revocation or suspension of a license, permit or franchise.
- (c) *Vegetation.* Subject to any restrictions under state law, the owner of any property fronting or bordering a street, alley, sidewalk or other passageway shall not allow or permit trees, plant growth, or shrubs to grow in a manner that impedes, or obstructs or interferes with passage on said street, alley, sidewalk or other passageway or limits the visibility of any regulatory sign or traffic control device or signal. Notwithstanding the foregoing, said vegetation must be trimmed a minimum of eight feet over a sidewalk and a minimum of 13 feet and six inches above a street, alley or other passageway.
- (d) *Exemptions.* Section 54-1 shall not apply to obstructions for emergency reasons or to other encroachments authorized by this Code, state law, a town permit, an easement, license or other written agreement with the town.
- (e) *Definitions.*
- (1) *Obstructions,* as used in this article, means any unauthorized encroachment or placement upon public property, which interferes with or impedes upon its free use or passage, including, but not limited to, plant growth, structures, trash receptacles, vehicles, rubbish, unlawful congregations of persons, signage, bicycles micromobility devices, motorized play vehicles, and other commercial or personal property items.
  - (2) *Person,* means an individual, firm, association, partnership, joint venture or corporation.

- (3) *Public property*, as used in this article, means that portion of any property, street, alley, path, lane, multiuse trail, sidewalk, facility or improvement that is owned, leased, operated, maintained or managed by the town, or is otherwise open to the town for providing town services.
- (4) *Responsible party*, as used in this article, means any person or entity who causes, permits, facilitates, aids or abets a violation of this section or who fails to perform an act or duty required pursuant to this section is subject to the enforcement provisions of this section. For the purpose of this chapter, there is a rebuttable presumption that the owner of the property used in the commission of a violation of this section is the responsible party.
- (5) TRANSPORTATION FACILITY, AS USED IN THIS ARTICLE, MEANS A LOCATION FROM WHICH A PUBLIC BUS, TROLLEY, SHUTTLE, VALLEY METRO OR OTHER PUBLIC TRANSIT VEHICLE IS USED TO TRANSPORT PASSENGERS.

#### 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.

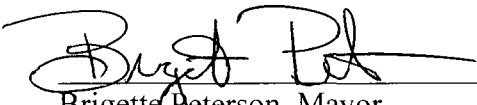
PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 17<sup>th</sup> day of December, 2024, by the following vote:

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

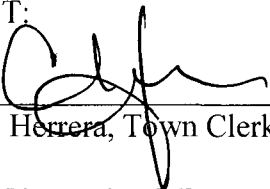
NAYS: \_\_\_\_\_ ABSENT: BUCHLI

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

APPROVED this 17<sup>th</sup> day of December, 2024.

  
Brigitte Peterson, Mayor

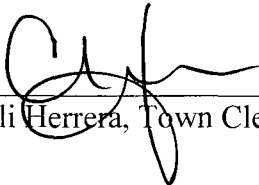
ATTEST:

  
\_\_\_\_\_  
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. 2922 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 17<sup>th</sup> DAY OF DECEMBER, 2024, WAS POSTED IN ONE PLACE ON THE 18<sup>TH</sup> DAY OF DECEMBER, 2024.

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