

ORDINANCE NO. 2012.03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 19 OF THE TEMPE CITY CODE, RELATING TO MOTOR VEHICLES AND TRAFFIC BY AMENDING SECTIONS 19-5, 19-93 AND 19-93.1

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Section 19-5 of the Tempe City Code is hereby amended to read as follows:

Sec. 19-5. Parking violations; notice required; judgment by default.

Whenever a vehicle without a driver is found parked in violation of the provisions of this chapter, any police officer, municipally approved private contractor, POLICE AIDE or employee of the city designated to give such notices shall take the vehicle's registration number, and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously attach to the vehicle a notice of parking violation on a form supplied by the police department. The notice of parking violation shall include the date, time and location of the violation, the vehicle registration number, reference to the city code provisions violated, and a warning that failure either to pay the fine indicated on the notice or to appear at the location indicated on the notice of parking violation and otherwise dispose of the charge within seven (7) calendar days from the date on which the notice was issued may result in a judgment by default being entered against the registered owner of the vehicle, and that the vehicle may thereafter be subject to immobilization by the installation of a wheel clamp and to towing and impoundment pursuant to § 19-4. The notice of parking violations attached to the vehicle pursuant to this section shall be deemed constructive notice to the registered owner that the vehicle may be immobilized and impounded.

Section 2. That Section 19-93 of the Tempe City Code is hereby amended to read as follows:

Sec. 19-93. Restricted parking areas reserved for the physically disabled; penalty.

(a) No person shall stop, stand or park a vehicle, or direct a vehicle to be parked, in a restricted parking area unless the vehicle has displayed thereon the international symbol of access special plates that are currently registered to the vehicle or a valid placard issued pursuant to state law. The provisions of this section shall not prohibit the driver of a vehicle without a placard or the international symbol of access special plates from temporarily stopping in a restricted parking area in accordance with other parking regulations while actually engaged in loading or unloading a physically disabled passenger.

(b) No person shall stop, stand or park a vehicle in such a manner as to block or deny access to an unoccupied restricted parking area, except that this provision shall not prohibit the driver of a vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in loading or unloading physically disabled passengers.

(c) No person shall stop, stand or park a vehicle, including a vehicle displaying international symbol of access special plates or a placard, in the access aisle of a restricted parking area **OR ANY DESIGNATED ACCESSIBLE ROUTE OF TRAVEL OR ANY DESIGNATED ACCESSIBLE PASSENGER LOADING ZONE.**

(d) It is unlawful for a person to stop, stand or park in a restricted parking area any vehicle that displays a placard that is altered, forged or counterfeited.

(e) **IT IS UNLAWFUL FOR ANY PERSON TO BLOCK, USE OR OTHERWISE OCCUPY A RESTRICTED PARKING AREA IN SUCH A MANNER AS TO BLOCK OR DENY ACCESS TO A VEHICLE DISPLAYING THEREON THE INTERNATIONAL SYMBOL OF ACCESS SPECIAL PLATES OR VALID PLACARD ISSUED PURSUANT TO STATE LAW.**

(f) **IT IS UNLAWFUL FOR AN OWNER OF REAL PROPERTY OR OTHER PERSON RESPONSIBLE FOR REAL PROPERTY, TO ALLOW A RESTRICTED PARKING AREA TO BE BLOCKED, USED OR OTHERWISE OCCUPIED IN SUCH A MANNER AS TO BLOCK OR DENY ACCESS TO A VEHICLE DISPLAYING THE INTERNATIONAL SYMBOL OR ACCESS SPECIAL PLATES OR VALID PLACARD ISSUED PURSUANT TO STATE LAW. IT IS A DEFENSE TO A VIOLATION OF THIS SECTION IF THE OWNER OF THE SUBJECT PROPERTY WAS NOT ON PREMISES WHEN THE VIOLATION OCCURRED AND DID NOT HAVE PREVIOUS KNOWLEDGE OF SAID VIOLATION.**

(g) **IT IS UNLAWFUL FOR ANY PERSON TO BLOCK EGRESS OF ANY VEHICLE PROPERLY PARKED IN A RESTRICTED PARKING AREA OR FOR AN OWNER OF REAL PROPERTY OR OTHER PERSON RESPONSIBLE FOR REAL PROPERTY TO ALLOW THE EGRESS OF ANY VEHICLE PROPERLY PARKED IN A RESTRICTED PARKING AREA TO BE BLOCKED.**

(h) For the purposes of this section, the following words shall have the meaning given herein:

(1) *Access aisle* means a designated area within a restricted parking area that is marked by either spaced, crosshatched or diagonal stripes OF a **CONTRASTING** color (preferably yellow) or **DISTINCTIVE CHANGE IN PAVING** material, and that leads to an accessible route of travel.

(2) **ACCESSIBLE ROUTE OF TRAVEL MEANS A DESIGNATED ACCESSIBLE ROUTE FROM PUBLIC TRANSPORTATION STOPS, ACCESSIBLE PARKING, ACCESSIBLE PASSENGER LOADING ZONES, PUBLIC STREETS AND SIDEWALKS TO THE ACCESSIBLE BUILDING ENTRANCE THEY SERVE OR CONNECTING BUILDINGS, FACILITIES, ELEMENTS, AND SPACES ON THE SAME SITE. THE ACCESSIBLE ROUTE IS MARKED BY EITHER SPACED, CROSSHATCHED OR DIAGONAL STRIPES OF A CONTRASTING COLOR (PREFERABLY YELLOW) OR A DISTINCTIVE CHANGE IN PAVING MATERIAL.**

(3) **PARKING SPACE MEANS AREAS THAT ARE CLEARLY IDENTIFIED WITH THE INTERNATIONALLY ACCEPTED SYMBOL OF ACCESS, EITHER BY A CLEARLY VISIBLE PERMANENT SIGN THAT IS MOUNTED ON A STATIONARY POST OR OBJECT, OR THE INTERNATIONAL SYMBOL OF ACCESS PAINTED ON THE PAVING SURFACE WITHIN THE BOUNDARIES OF A PARKING SPACE, OR BOTH.**

(4) *Placard* means a permanently disabled removable windshield placard or a temporarily disabled removable windshield placard as defined in § 28-2409, Arizona Revised Statutes.

(5) *Restricted parking area* means a parking space and, if available, an access aisle set aside and identified for use only by persons with physical disabilities.

(i) **THIS SECTION SHALL NOT APPLY IF:**

(1) **RESTRICTED PARKING AREAS ARE TEMPORARILY USED FOR A PURPOSE OTHER THAN ACCESSIBLE PARKING EXPRESSLY AUTHORIZED THROUGH A SPECIAL EVENT PERMIT ISSUED PURSUANT TO SECTION 5-2 OF THIS CODE; AND**

(2) **THE SPECIAL EVENT PERMIT SPECIFIES THAT THE PERMIT HOLDER SHALL PROVIDE ADEQUATE ALTERNATIVE ACCESSIBLE PARKING FOR THE DURATION OF THE SPECIAL EVENT.**

(j) A violation of subsection (a), (b), (c), (d), (e), (f), OR (h) of this section shall constitute a civil traffic violation and the violator shall be subject to a civil sanction of not less than two hundred fifty dollars (\$250). A violation of subsection (d) of this section shall constitute a civil traffic violation and the violator shall be subject to a civil sanction of not less than three hundred dollars (\$300). If a person cited under subsection (a) provides the court with acceptable proof of a placard, and this proof is provided prior to, or at, any scheduled hearing, then the court may reduce the fine to an amount deemed appropriate by the court.

Section 3. That Section 19-93.1 of the Tempe City Code is hereby amended to read as follows:

Sec. 19-93.1. ACCESSIBLE curb ramps; sanctions.

(A) It is unlawful to stop, stand or park a vehicle in such a manner as to block or deny access to ANY ACCESSIBLE curb ramp, except that this provision shall not prohibit the driver of a vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in loading or unloading physically disabled passengers.

(B) IT IS UNLAWFUL FOR ANY PERSON TO USE ANY MEANS TO BLOCK OR DENY ACCESS TO ANY ACCESSIBLE CURB RAMP EXCEPT AS ALLOWED IN § 19-93.1

(C) IT IS UNLAWFUL FOR ANY OWNER OF REAL PROPERTY OR ANY OTHER PERSON RESPONSIBLE FOR REAL PROPERTY TO ALLOW AN ACCESSIBLE CURB RAMP ON REAL PROPERTY UNDER SAID CONTROL TO BE BLOCKED BY ANY MEANS EXCEPT AS ALLOWED IN § 19-93.1. IT IS A DEFENSE TO A VIOLATION OF THIS SECTION IF THE OWNER THE SUBJECT PROPERTY WAS NOT ON PREMISES WHEN THE VIOLATION OCCURRED AND DID NOT HAVE PREVIOUS KNOWLEDGE OF SAID VIOLATION.

(D) A violation of this section shall constitute a civil traffic violation and the violator shall be subject to a civil sanction of not less than two hundred fifty dollars (\$250).

Section 4. That Section 5.2 of the Tempe City Code is hereby amended to read as follows:

Sec. 5-2. Temporary special events or activities; permit.

(a) In addition to any other permits, licenses, taxes or requirements imposed by this code, the following temporary special events or activities shall be required to obtain a permit before carrying on such activity within the city:

(1) Any outdoor public gathering or celebration involving the use of city owned properties that involve but are not limited to any of the following:

- a. Entertainment;
- b. Dancing;
- c. Music;
- d. Dramatic productions;

- e. Athletic tournaments;
- f. Amusements, festivals or carnivals;
- g. Sale of merchandise, food or alcohol, including sidewalk sales;
- h. Parades, walks, bicycle rides or runs; or
- i. Any temporary extension of premises of an existing use.

(2) Any activity taking place on private or city owned property which requires a state issued temporary extension of liquor licensed premises or a special event liquor license;

(3) Any activity taking place on private or city owned property, which may require for its successful execution city services to a degree significantly over and above that routinely provided under ordinary circumstances; and

(4) Any activity taking place on city or privately owned property used as a public gathering place that involves a substantial deviation from the current land use designation or legal nonconforming use.

(b) Parades, runs, walks, bicycle rides, or other similar events which will use or may impact city streets or rights-of-way will be required to comply with the provisions of § 19-43 of the Tempe City Code.

(c) The promoter or sponsoring organization, or their authorized agent, shall apply to the city manager or his authorized representative at least sixty (60) days in advance of the scheduled starting date of the event or activity. At the time of the application, the promoter or sponsoring organization shall pay a non-refundable application fee (see Appendix A). Late applications will be accepted at an additional fee (see Appendix A). If the event is cancelled by the promoter, the application fee shall not be refunded to the applicant. Once the event or activity is approved and permitted within the city, the promoter or sponsoring organization shall pay a permit fee for each day of operation of the event or activity (see Appendix A). The permit fee shall not exceed a maximum of five (5) days per event.

(d) The city manager or his authorized representative shall send copies of applications and other pertinent material to other city departments which could be affected by the proposed special event or activity. Such departments may recommend to the city manager or his authorized representative that the permit be issued only after the applicant has met, at his own cost, certain stipulations including but not limited to any of the following:

- 1) Hiring a stated number of security personnel;
- 2) Erecting security fencing or approved security barriers;
- 3) Providing sanitary facilities;
- 4) **IF RESTRICTED PARKING AREAS AS DEFINED IN SECTION 19-93 OF THIS CODE ARE TEMPORARILY USED FOR A PURPOSE OTHER THAN ACCESSIBLE PARKING, PROVIDING ADEQUATE ALTERNATIVE ACCESSIBLE PARKING FOR THE DURATION OF THE SPECIAL EVENT;**

- 5) Agreeing to pay for any anticipated or unforeseen costs associated with the special event, including posting a performance bond if requested by the city;
- 6) Applying for and receiving all other necessary permits and approvals; or
- 7) Taking other measures to provide for fire protection or the health, safety and welfare of the public.

Issuance of the permit may be made contingent upon meeting any or all of these recommended stipulations.

(e) The permit fee may be refunded by the city manager or his authorized representative if the proposed event is sponsored by a nonprofit charitable, educational or civic service organization and providing that the city manager or his authorized representative can determine to his own satisfaction that the net proceeds accruing to the sponsoring organization will be directed to a charitable purpose directly benefiting residents of the city. Requests for a refund must be made in writing at the time of the permit application. If the stipulated allocation of proceeds is not carried out within sixty (60) days after the final performance, the permit fee shall not be refunded. The amount of the refund shall be offset as described in subsection (c).

(f) The city manager or his authorized representative shall, after obtaining recommendations from the various departments, authorize issuance of the permit with or without stipulations or shall refuse to issue the permit if, on the basis of reports received, it appears that the intended activity would be detrimental to the health, safety or welfare of either the general public or of nearby residents or owners of nearby property or place an undue burden on city services. If the applicant disagrees with the decision of the city manager or his authorized representative, he shall promptly file with the city clerk a request for reconsideration by the city council at the next meeting which occurs fifteen (15) days or more after the request is made.

(g) If issuance of the permit is authorized pursuant to section (f) above, the permit shall not actually be issued until all applicable city code and state statutory requirements have been met, and all city and state permits have been obtained; until both the promoter or sponsoring organization have signed applications agreeing to indemnify and to hold harmless the city from and against any and all losses, claims or actions resulting from the activities of the applicant or of the applicant's employees, principals or agents; and until the organization directly responsible for the special event or activity has provided satisfactory evidence of suitable personal injury and property damage insurance or other such insurance as deemed necessary by the city.

(h) The city manager or his authorized representative may revoke a special event permit if the permittee fails to abide by any of the conditions of the permit or any of the provisions of this section. Violations of this section are punishable as set forth in § 1-7, Tempe City Code.

Section 5. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption or at any later date specified therein. This Ordinance shall be effective March 1, 2012.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,
this ____ day of _____, 2012.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney