

ORDINANCE NO. 2013.37

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 20 OF THE TEMPE CITY CODE, RELATING TO SPECIAL NOISE SOURCES BY AMENDING SECTION 20-7.

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

Section 1. That Chapter 20, Section 20-7 of the Tempe City Code is hereby amended by amending subsections 20-7(a) and (b) as follows:

Sec. 20-7. Special noise sources.

~~(a) It shall be unlawful for any person within any residential zone of the city to use or operate any radio receiving set, musical instrument, phonograph, television set or other machine or device for the producing or reproducing of sound (between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day) in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area. Any noise level exceeding the community noise standard at either the property line or the affected area of any property (or, if a condominium or apartment house, within any adjoining apartment) by more than five (5) decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section.~~

~~(b) It shall be unlawful for any person to operate any machinery, equipment, pump, fan or similar mechanical device in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area. Any noise which would cause the noise level at either the property line or the affected area of any property to exceed the applicable community noise standard by more than five (5) decibels shall be deemed to be a prima facie evidence of a violation of the provisions of this section.~~

(A) RESIDENTIAL ZONES.

- (1) IT SHALL BE UNLAWFUL FOR ANY PERSON, OTHER THAN LAW ENFORCEMENT PERSONNEL OR GOVERNMENT AGENCIES ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT, TO INSTALL, USE OR OPERATE WITHIN ANY RESIDENTIAL ZONE OF THE CITY, A**

LOUDSPEAKER OR SOUND-AMPLIFYING DEVICE OR EQUIPMENT IN A FIXED OR MOVABLE POSITION, ON PUBLIC PROPERTY INCLUDING ANY PUBLIC RIGHT-OF-WAY, WITHOUT FIRST OBTAINING A TEMPORARY PERMIT FROM THE SPECIAL EVENTS TASK FORCE.

(2) THE SPECIAL EVENTS TASK FORCE SHALL CONSIDER APPLICATIONS FOR PERMITS FOR THE USE OF A LOUDSPEAKER OR SOUND-AMPLIFYING DEVICE AS FOLLOWS:

A. EACH APPLICANT FOR A PERMIT TO USE OR OPERATE A LOUDSPEAKER OR SOUND-AMPLIFYING DEVICE OR EQUIPMENT SHALL SUBMIT A COMPLETE SPECIAL EVENTS PERMIT APPLICATION TO THE CITY SPECIAL EVENTS OFFICE AT LEAST TEN (10) DAYS PRIOR TO THE DATE UPON WHICH SUCH LOUDSPEAKER OR SOUND-AMPLIFYING DEVICE OR EQUIPMENT IS TO BE USED OR OPERATED. SUCH APPLICATION SHALL STATE THE SPECIFIC LOCATION, DATE AND HOURS FOR THE PROPOSED USE, AND THE VOLUME OF SOUND PROPOSED TO BE USED MEASURED BY DECIBELS.

B. THE ISSUANCE OF A PERMIT SHALL NOT BE DENIED TO ANY APPLICANT WHO COMPLIES WITH THE PROVISIONS OF THIS SECTION, EXCEPT FOR THE REASONS SPECIFIED IN THIS ARTICLE OR FOR FAILURE TO REMIT PAYMENT OF FEES.

(3) THE SPECIAL EVENTS TASK FORCE SHALL NOT ISSUE A PERMIT FOR A LOUDSPEAKER OR SOUND-AMPLIFYING DEVICE OR EQUIPMENT AS FOLLOWS:

A. IN ANY LOCATION WITHIN FIFTY (50) FEET OF A SCHOOL, COURTHOUSE, PLACE OF WORSHIP, HOSPITAL OR SIMILAR INSTITUTION;

B. IN ANY LOCATION WHERE THE SPECIAL EVENTS TASK FORCE DETERMINES THAT THE CONDITIONS OF VEHICULAR, PEDESTRIAN TRAVEL OR BOTH, WOULD CONSTITUTE A THREAT TO HEALTH, SAFETY OR WELFARE; OR, WOULD INTERFERE WITH PEDESTRIAN OR MOTOR VEHICLE TRAVEL;

C. IN ANY LOCATION IN WHICH OVERCROWDING, STREET REPAIR OR OTHER PHYSICAL CONDITIONS EXIST THAT WOULD DEPRIVE THE PUBLIC OF SAFE, COMFORTABLE, CONVENIENT OR PEACEFUL ENJOYMENT OF ANY PUBLIC PROPERTY;

- D. IN ANY VEHICLE WHILE IN TRANSIT; OR
 - E. BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M.
- (4) THE FOLLOWING ACTIVITIES SHALL BE EXEMPTED FROM THE PROVISIONS OF THIS SECTION:
- A. WARNING DEVICES FOR THE PROTECTION OF PUBLIC SAFETY, AS USED FOR THAT PURPOSE;
 - B. ACTIVITIES CONDUCTED ON PUBLIC OR PRIVATE SCHOOL GROUNDS;
 - C. PUBLIC HEALTH AND SAFETY ACTIVITIES CONDUCTED BY PUBLIC UTILITIES, TRANSPORTATION, FLOOD CONTROL, CONSTRUCTION OR MAINTENANCE OPERATIONS THAT ARE SERVING THE PUBLIC INTEREST, AS OTHERWISE AUTHORIZED BY THE CITY;
 - D. ANY MECHANICAL DEVICE, APPARATUS OR EQUIPMENT USED FOR OR IN RELATION TO EMERGENCY MACHINERY OR VEHICLE WORK THAT IS OTHERWISE AUTHORIZED BY THE CITY;
 - E. TESTING OF EMERGENCY SIGNALING DEVICES OR SYSTEMS, CONDUCTED DURING THE HOURS OF 8:00 A.M. AND 8:00 P.M.;
 - F. ANY ACTIVITY TO THE EXTENT THAT SUCH ACTIVITY IS PREEMPTED AND REGULATED BY STATE OR FEDERAL LAW; AND,
 - G. ANY OUTDOOR PUBLIC GATHERING OR CELEBRATION INVOLVING THE USE OF CITY OWNED PROPERTIES THAT INVOLVE BUT ARE NOT LIMITED TO ANY OF THE FOLLOWING: ENTERTAINMENT; DANCING; MUSIC; DRAMATIC PRODUCTIONS; ATHLETIC TOURNAMENTS; AMUSEMENTS, FESTIVALS OR CARNIVALS; SALE OF MERCHANDISE, FOOD OR ALCOHOL, INCLUDING SIDEWALK SALES; PARADES, WALKS, BICYCLE RIDES OR RUNS; ANY TEMPORARY EXTENSION OF PREMISES OF AN EXISTING USE; OR, ANY OTHER ACTIVITY REQUIRING A SPECIAL EVENTS PERMIT AS DEFINED IN § 5-2 OF THIS CODE.

(B) NON-RESIDENTIAL ZONES. It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital, which noise unreasonably interferes

with the workings of such institution or which disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are displayed in such streets, sidewalk or public place indicating the presence of a school, church or hospital; OR THAT IS DETRIMENTAL TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC IN A MANNER INCLUDING BUT NOT LIMITED TO, A USE OR OPERATION THAT DIVERTS THE ATTENTION OF PEDESTRIANS OR VEHICLE OPERATORS IN PUBLIC STREETS, PARKS AND PLACES.

Section 2. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2013.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney