

## **ORDINANCE 1523**

**AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA AMENDING THE TEMPLE TERRACE CODE OF ORDINANCES CHAPTER 1 TITLED "GENERAL PROVISIONS," ARTICLE II. CODE ENFORCEMENT, DIVISION 3. SUPPLEMENTAL ENFORCEMENT PROCEDURES, SUBSECTION 1-105 (b) TO ADD CITY CODE 16-7 TO THE SCHEDULE OF VIOLATIONS AND PENALTIES; AMENDING THE TEMPLE TERRACE CODE OF ORDINANCES CHAPTER 16 TITLED "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE I. IN GENERAL, SUBSECTION 16-7. NOISE CONTROL TO PROVIDE DEFINITIONS AND LIMITATIONS ON EXCESSIVE NOISE WITHIN CITY LIMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Temple Terrace is a municipal corporation organized and operating under the laws of the State of Florida and governed by a City Council that is an elected legislative and deliberative public body serving the citizens of Temple Terrace; and

**WHEREAS**, the City Council recently received public comment regarding excessive noise being an increasing problem for residents of the City such that it is interfering with the quiet enjoyment of residents' homes; and

**WHEREAS**, the Centers for Disease Control and Prevention has determined that "continual exposure to noise can cause stress, anxiety, depression, high blood pressure, heart disease, and many other health problems" in addition to noise induced hearing loss, and cites to a report prepared in March 1974 by the U.S. Environmental Protection Agency Office of Noise Abatement and Control stating, "Noise produces the same general types of effects on animals as it does on humans, namely: hearing loss, masking of communications, behavioral, and non-auditory physiological effects;" and

**WHEREAS**, the City Council directed the City's Legal Department to make changes to the City's noise ordinance to address reported problems and ensure enforceability of the ordinance; and

**WHEREAS**, the City's Legal Department made additions and changes to the City's noise control ordinance, which are set forth in Attachment A; and

**WHEREAS**, the City Council has determined that the amendments to the City's noise ordinance, as set forth in Attachment A, promote and protect the general health, safety, and welfare of the residents of the City; and

**WHEREAS**, duly noticed public hearings as required by law were held by the City Council at which public hearings all residents and interested persons were given an opportunity to be heard; and

**WHEREAS**, the City Council deems it in the best interest of the public to amend the City's Code of Ordinances as set forth in Attachment A hereto.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Temple Terrace, Florida that:

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are incorporated herein and made a specific part of this Ordinance upon adoption hereof.

**Section 2.** The amendment to the Temple Terrace Code of Ordinances Chapter 1 titled "General Provisions," Article II. Code Enforcement, Division 3. Supplemental Enforcement Procedures, Subsection 1-105 (B)" to add City Code Section 16-7 to the Schedule of Violations and Penalties, as set forth in Attachment A, is approved and incorporated by reference as if fully set forth herein.

**Section 3.** The amendment to the Temple Terrace Code of Ordinances Chapter 16 titled "Offenses and Miscellaneous Provisions, Article I. In General, Subsection 16-7. Noise Control" to provide definitions and limitations on excessive noise within city limits, as set forth in Attachment A, is approved and incorporated by reference as if fully set forth herein.

**Section 4.** If any part of this Ordinance is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts hereof shall continue to be in full force and effect.

**Section 5.** The provisions of this Ordinance shall become and be made a part of the Temple Terrace Code of Ordinances.

**Section 6.** All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect, but all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7.** This Ordinance shall take effect immediately upon its becoming a law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA, this 1<sup>st</sup> day of March 2022.**

(Corporate Seal)

Attest:



X

Andrew Ross, Mayor  
Chair of the City Council

Attest:

X

Cheryl A. Mooney  
City Clerk

Approved As To Form & Content:

X

Pamela Cichon  
City Attorney

## ATTACHMENT A

Sec. 1-105. - Schedule of violations and penalties.

\* \* \*

(b) Violations of the following sections of the city Code of Ordinances are considered Class II violations and will carry a fine of:

For a first offense, \$75.00.

For a second offense, \$150.00.

For a third or subsequent offense, \$300.00

### City Code Section

14-224 Hawking, peddling, soliciting and canvassing prohibited without license

14-225 Solicitation in public rights-of-way prohibited

16-3 Public buildings; injury, deface, etc.

16-7 Excessive noise control

Sec. 16-7. - Excessive noise control.

(a) Intent

1. The City Council, having received an increasing number of complaints from the citizens of the City concerning excessive noise as the City continues to develop and grow, and having information and evidence concerning the impacts of excessive noise, hereby finds that the health, safety and welfare of its citizens requires protection from excessive, unnecessary, and unreasonably loud noise.

a. Excessive noise, when unnecessary to the carrying on of religious, political, civic or commercial activities, or when not generated in the course of other activity necessary to the carrying on of daily life, can create a significant threat to the public health, safety, welfare, and peaceful enjoyment of one's home.

b. Those noises which are most detrimental to public health, safety, and welfare in the City are those which are loud and raucous or generated without regard to the health, safety, and welfare of others who are unable to avoid being subjected to such noises.

- c. There has been an increase in the frequency and volume of noise generated, therefore, the intent of this legislation is to strike an appropriate balance between the rights of individuals to derive pleasure from and conduct business using various sources of sound and the rights of individuals to a peaceful and healthful environment.
- d. It is not the intent of this legislation to interfere unduly with freedom of speech or religion by regulating the initial production of sound.
- e. The reasonable regulation of noise as provided by this code section serves a significant government interest and this code section allows for ample alternative means of communication.
- f. This code section shall apply to the control of all sound originating within the limits of the City.

(b) Definitions

- (1) Amplification device means any machine, instrument, tool, or apparatus whether freestanding or an integrated component of a larger device (such as an integrated speaker) which augments sound by electronic or another means in a manner that increases the sound level or volume.
- (2) Fully enclosed structure means a permanently located structure having a roof, four walls, and doors and windows that close.
- (3) Loud and raucous means any sound that because of its volume level, duration, tone, or character annoys, jars, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensibilities, or which causes or tends to cause adverse psychological or physiological effect on humans. The detection of a rhythmic, reverberating bass type sound that:
  - 1. vibrates or rattles a residential structure or any component thereof, or
  - 2. is felt or detected by one's bodyis sufficient to constitute loud and raucous sound.
- (4) Plainly audible means any sound that can be clearly heard by a person using his or her unaided normal hearing faculties. The person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a low frequency reverberating type sound is sufficient to constitute a plainly audible sound.
- (5) Receiving property means the property being impacted or affected by the sound.

~~(a)~~(c) *Loud and raucous noise prohibited.* No person shall willfully make, ~~or~~ cause to be made, allow to be made upon property he or she owns or manages, or continue to make any loud and raucous noise, ~~which term shall mean any sound which because of its volume level, duration, and character annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities within the corporate limits of the city. The term shall be limited~~ applicable to loud and raucous noise heard:

- (1) upon the public streets;i
- (2) in any public park;i
- (3) in any school or public building or upon the grounds thereof while in use;i
- (4) in any church, or other house of worship, while in use;
- (5) in any hospital, or upon the grounds thereof while in use;i
- (6) upon any parking lot open to members of the public or invitees or licensees;i
- (7) in any occupied residential building or unit which is not the source of the noise or upon the grounds thereof;i and
- (8) in any event ~~from~~ at a location not less than fifty (50) feet from the source of the noise, measured in a straight line from the noise source, if accessible, and if not, from the structure or vehicle from which the sound is emanating.

~~(b)~~(d) *Enumerated.* The following acts, subject to the limitations provided above and the exceptions contained within this section, are declared to be in violation of subsection ~~(a)~~ (c) of this section:

- (1) *Engine exhaust.* The discharge into the open air of the exhaust of any steam engine or stationary internal combustion engine except through a muffler or other device which will effectively prevent loud and raucous noises therefrom.
- (2) ~~*Pile drivers, etc.*~~ *Heavy Equipment.* The operation between the hours of ~~6:00~~ 7:00 p.m. and 7:00 a.m. on weekdays or ~~between the hours of 6:00~~ before 9:00 a.m. p.m. and after 6:00 p.m. ~~9:00 a.m.~~ on Saturday or any time on Sunday of any earth mover, loader, crane, pile driver, pneumatic hammer, commercial chain saw, derrick, steam or electric hoists, commercial blowers/fans, any internal combustion engines, or other commercial tools or heavy equipment ~~appliances,~~ the use of which is attended by loud and raucous noise.
- ~~(3) *Blowers, etc.* The operation of blower, or power fan, or any internal combustion engine, which causes loud and raucous noise, unless the noise from such blower or fan is muffled or such engine is equipped with a muffler device sufficient to prevent loud and raucous noise.~~

- ~~(4)~~(3) *Horns, signaling devices, etc.* The sounding of any whistle, horn, or other audible device so as to create a loud and raucous noise and which is not listed as an exception under subsection (e) below.
- ~~(5)~~(4) *Radios, amplifiers, boom boxes, etc.* Amplified sound. The use, operation, or playing of any radio, amplifier, tape recorder, receiving set, boom box, cellular telephone, speaker, television, musical instrument, bullhorn, or other device for the producing or reproducing of sound in such manner as to cause loud and raucous noise at any time, or be plainly audible to a person of ordinary sensibilities at a distance of 50 feet or more from the structure that is the source of the sound between the hours of ~~10:00~~ 8:00 p.m. and 8:00 a.m. ~~on any day~~ Sunday through Thursday or between the hours of 10:00 p.m. and 8:00 a.m. on Friday, Saturday, and the night prior to a national holiday.
- a. No amplification device shall be left in operation outside meaning not within a fully enclosed structure with doors and windows closed, when no person is present on the property to attend to it.
- b. Speakers or other amplification devices that are set up outside shall be oriented away from residential properties or in the direction that best minimizes the amount of sound directed at the closest residential property.
- ~~(6)~~(5) *Sound trucks.* No amplifier or loudspeaker in, upon, or attached to a ~~sound truck~~ vehicle or other device for amplifying sound shall be operated or permitted to operate within the city for advertising purposes or to attract the attention of the public unless a permit is obtained.
- ~~(7)~~(6) *Yelling, shouting, etc.* Yelling, shouting, whistling or singing at any time or place so as to create a loud and raucous noise between the hours of 10:00 p.m. and 8:00 a.m. ~~on any day.~~
- ~~(8)~~ *Animals, birds, etc.* ~~The keeping of any animal or bird which habitually causes a loud and raucous noise.~~ (Note: noise from animals is regulated in section 6-3 of the City Code).
- ~~(9)~~(7) *Defect in vehicle or load.* The use of any motor vehicle so out of repair, so loaded in such manner as to create loud grating, grinding, rattling or other loud and raucous noise, or which is not equipped with a muffler in good working order so as to prevent loud and raucous noise.

~~(10)~~ (8) *Loading and unloading.* The creation of a loud and excessive noise in connection with loading or unloading of a vehicle or with the opening and destruction of bales, boxes, crates and containers, between the hours of ~~10:00~~ 9:00 p.m. and 7:00 a.m. ~~on any day.~~

~~(11)~~ (9) *Construction or repairing of buildings.* The erection, including excavation, demolition, staging of materials or equipment, alteration, or repair of any building so as to create a loud and raucous or loud and repetitive noise between the hours of ~~6:00~~ 7:00 p.m. and 7:00 a.m. on any weekday or between the hours of 6:00 p.m. and 9:00 a.m. on Saturday or any time on Sunday, except in case of urgent necessity in the interest of public health and safety, the city manager or designee may issue a permit for such work to be done during non-designated hours.

~~(12)~~ (10) *Noises heard within schools, public buildings, houses of worship churches, etc.* The creation of any loud and raucous noise heard within any school, public building, church or other ~~place~~ house of worship, or upon the grounds thereof while in use, which interferes with the workings of such institution, if not the source of the noise.

~~(13)~~ (11) *Noises to attract attention.* The shouting and crying of peddlers, hawkers and vendors or the use of any drum or other instrument or device which creates a loud and raucous noise.

~~(14)~~ (12) *Lawn maintenance equipment.* The use or operation of mowers, edgers, blowers, chain saws, or other similar equipment between the hours of ~~9:00~~ 8:00 p.m. and 7:00 a.m. ~~on weekdays and 9:00 p.m. and 8:00 a.m. on Saturday and Sunday.~~

(13) *Air conditioning or pool equipment.* Operating or permitting the operation of any pool equipment, air conditioning or air-handling equipment which is not in good working condition and creates sound that is plainly audible to a person at a distance of 50 feet or more from the equipment.

(14) *Vehicles.* The causing, allowing, creating, emitting, or sustaining of loud and raucous noise from a vehicle in the City.

~~(e)~~ (e) *Persons responsible.* Any person, owner, agent, or supervisor in charge of operating, ordering, directing, or allowing the operation or maintenance of a device or machine that is the source of the ~~creating~~ noise as prohibited in this section shall be deemed guilty of violating this section. This includes any person having operational control of the volume of the sound, manager of a commercial property, or person authorized to make decisions regarding the use of sound equipment either jointly or severally.

~~(d)~~(f) *Exceptions.* The following events, activities, and actions shall not be considered violations of "loud and raucous noise" under this section:

- (1) Events, activities, and actions for which a permit has been issued by the ~~City~~ Manager or designee;
- (2) Cries for emergency assistance and warning calls;
- (3) Radios, sirens, horns, and bells on police, fire, and other emergency response vehicles;
- (4) Parades, fireworks displays, and other special events for which authorization has been obtained from the city manager or designee;
- (5) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm;
- (6) Religious worship activities, including but not limited to the ringing of bells and playing of organs;
- (7) Activities, ~~and repairs,~~ and use of generators in response to natural disasters, extreme weather conditions, ~~or other~~ City or County declared public emergencies, or extended power outages ~~when~~ coordinated by ~~the city or~~ a public utility;
- (8) Road construction or repair required to minimize impact of activities during peak traffic periods.
- (9) Testing of a stationary emergency signaling device between 10:00 a.m. and 4:00 p.m. and for no longer than 60 seconds.
- (10) Warning devices required on vehicles by any state or federal laws or regulations.
- (11) Aircraft and railroad operations.
- (12) Motorboat engines being repaired, maintained, or tested between 9:00 a.m. and 7:00 p.m.
- (13) Unamplified public speaking and public assembly activities subject to the limitation of paragraph (d)(6) above.

(14) Unamplified sound emitting from sporting activities at designated athletic venues.

(g) *Penalty.* An officer may issue a civil citation, in accordance with section 1-105(b), after providing a five-minute warning for unreasonably excessive noise, if the officer has probable cause to believe the noise is loud and raucous or plainly audible as defined and prohibited in this section after considering (if applicable):

- (1) Whether the sound is plainly audible within a fully enclosed structure or residence with doors and windows closed located on private property of a person making a complaint;
- (2) Whether the sound is causing vibration, rattles, thumping, or pulsating within a fully enclosed structure or residence located on private property of a person making a complaint;
- (3) Whether the duration of the sound jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities; and
- (4) Whether the sound is recurrent, intermittent, or continuous in a manner that jars, injures, or endangers the health, safety, welfare, or wellbeing of a reasonable individual of ordinary sensibilities.
- (5) The distance from the source of the sound to the receiving property.
- (6) The ability of a witness to hear the sound and testify about the complaint.

(h) *Alternative enforcement.* Nothing contained in this section shall limit enforcement of noise by alternative methods of enforcement as otherwise allowed by law.