

ORDINANCE NO. 2023-1596

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 11, ARTICLE 11-1 (OFFENSES) OF GOODYEAR CITY CODE; PROVIDING FOR CORRECTIONS, SEVERABILITY, PENALTIES, AND AN EFFECTIVE DATE.

WHEREAS, certain minor revisions are needed in Article 11-1 Offenses to add clarification to the restrictions and requirements provided in Section 11-1-8 (Noise) of Goodyear City Code; and

WHEREAS, the Mayor and Council of the City of Goodyear have determined it is in the best interest of the public health, safety, and welfare of the City of Goodyear and its citizens to amend Article 11-1 of the City of Goodyear City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. GOODYEAR CITY CODE CHAPTER 11, ARTICLE 11-1 (OFFENSES), SECTION 11-1-8 (NOISE) OF GOODYEAR CITY CODE IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING:

§ 11-1-8 Noise.

(A) *Public nuisance declared.* It is declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation to play or permit to be played any music or musical instrument or instruments, whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses or so as to disturb the slumber, peace and quiet or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.

(B) *Prohibited noises.* It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier, or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Chief of Police to operate any such vehicle so equipped.

(C) It is unlawful within the City for any person to play, or to cause or permit another person to play, a radio, stereo, phonograph, tape player, CD player, television, or other similar sound-producing device at an

unreasonably loud volume which disturbs the peace or quiet of a neighborhood, family, or person. This prohibition applies regardless of whether the device is stationary or portable, or whether it is located within a building, within a vehicle, or at any other place.

(D) *Operation of construction or landscaping equipment.* It shall be unlawful for any person to operate equipment or perform any outside construction, landscaping, or repair work on residences, buildings, structures, or projects or to operate any pile driver, power shovel, electric, battery, or gasoline-powered blower, hedge, or tree trimming equipment, pneumatic hammer, derrick, power hoist or any other construction or landscaping type device within a residential zoning district, or within 500 feet of a residential zoning district, except within the time periods specified herein, unless a permit has been obtained beforehand from the City Manager or his or her authorized representative.

(E) *Construction and landscaping start/stop times.*

(1) *Concrete.* From April 15 to October 15 inclusive, concrete may be poured each day between the hours of 5:00 a.m. and 7:00 p.m. or at such times as authorized by permit. From October 16 to April 14 inclusive, concrete may be poured each day between the hours of 6:00 a.m. to 7:00 p.m. or at such times as authorized by permit.

(2) All other construction, landscaping or repair work activities in residential zoning districts or within 500 feet of a residential zoning district. From April 15 to October 15 inclusive, construction, landscaping, or repair work shall not begin prior to 6:00 a.m. and must stop by 7:00 p.m. each day in or within 500 feet of a residential zoning district or at such times as authorized by permit. From October 16 to April 14 inclusive, all other construction, landscaping, or repair work shall not begin prior to 7:00 a.m. and must stop by 7:00 p.m. each day in or within 500 feet of a residential zoning district or at such times as authorized by permit.

(3) *Commercial and industrial zoning districts.* Construction and repair work in commercial and industrial zoning districts not within 500 feet of a residential zoning district may be conducted seven days a week, 24 hours a day at any time of the year.

(F) *Weekends and holidays.* Notwithstanding the foregoing, construction, landscaping, or repair work within a residential zoning district, or within 500 feet of a residential zoning district, shall not begin prior to 7:00 a.m. and must stop by 7:00 p.m. on any Saturday, Sunday or a legally recognized city holiday, unless such other times are authorized by permit.

(G) Golf courses located within the City of Goodyear are exempt from subsections (E) and (F).

(H) *Permit.* Construction and repair work may be conducted at different times than otherwise permitted herein if, upon written application, a permit is obtained

beforehand from the City Manager, or his or her authorized representative. In granting such special permit, the City Manager, or his or her authorized representative, shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of different population levels or different neighboring activities; if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site; if the neighborhood of the proposed work site is primarily residential in character wherein sleep could be disturbed; if great economic hardship would occur if the work was spread over a longer time; if the work will abate or prevent hazard to life or property; if the proposed early morning or night work is in the general public interest, and he or she shall prescribe such conditions, working times, types of construction equipment to be used and permissible noise emissions as he or she deems to be required in the public interest. No permit shall be required to perform emergency repair or construction work.

(I) *Revocation of permit and appeal.* The City Manager, or his or her authorized representative, may revoke any permit granted hereunder upon complaints based upon evidence that the construction activity causes significant disturbance in the vicinity of the work site. Any person aggrieved by the granting of a permit or the refusal to grant a permit by the City Manager, or his or her authorized representative, may appeal the decision to the City Manager who shall schedule a hearing with the aggrieved person within ten calendar days after receipt of the written appeal. The City Manager's decision shall be final.

SECTION 2. CORRECTIONS

The City Attorney, City Clerk, the codifiers of the ordinance, and their respective designees are authorized to make necessary clerical corrections to this ordinance, including but not limited to, the correction of scrivener's/clerical errors, references, numbers, sections/subsection numbers and any references thereto.

SECTION 3. SEVERABILITY

If any section, subsection, clause, phrase, or portion of this ordinance 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 4. PENALTIES

The penalties for violation of Sections 11-1-8 (Noise) are subject to the penalties provided in Section 1-8-1 of the Goodyear City Code as follows.

§ 1-8-1 Penalty. Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$2,500 for an individual and not more than \$20,000 for an enterprise or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. The term *ENTERPRISE* as used in this subsection shall mean any corporation, partnership, association, labor union or other entity or any group of persons associated in part although not a legal entity.

SECTION 5. EFFECTIVE DATE

This ordinance shall become effective as prescribed by law. The provisions of the ordinance, regulation, or requirement of the city of Goodyear being amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20____.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney