

ORDINANCE NO. 45XXX

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE,
AMENDING ARTICLE VIII, OF CHAPTER 18 OF THE SCOTTSDALE
REVISED CODE CONCERNING NUISANCE PARTIES AND UNLAWFUL
GATHERINGS

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Section 18-122 of Article VIII, Chapter 18 of the Scottsdale Revised Code is amended as follows with eliminated language in strikeout format and new language in shaded format:

Sec. 18-122. - Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them herein unless the context requires otherwise:

"A" band level means the total sound level of all noise as measured with a sound level meter using A-weighting network. The unit is the dB(A).

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far. For the purpose of this article, ambient noise level is the level obtained when the noise level is averaged over a period of fifteen (15) minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made. Averaging may be done by instrumental analysis in accordance with American National Standard S. 13-1971 or the most recent revisions, or may be done manually as follows:

(a) Observe a sound level meter for five (5) seconds and record the best estimate of central tendency of the indicator needle, and the highest and lowest indications.

(b) Repeat the observations as many times as necessary to ensure that observations are made at the beginning and the end of the fifteen (15) minute averaging period and that there are at least as many additional observations as there are decibels between the highest high indication and the lowest low indication.

(c) Calculate the arithmetical average of the observed central tendency indications.

"C" band level means the total sound level of all noise as measured with a sound level meter using C-weighting network. The unit is the dB(C).

Decibel means a sound pressure that is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of sound to the reference pressure, 2×10^{-5} Newton/meter².

Excessive noise means noise caused by a nuisance party or unruly gathering that disturbs the peace or quiet of a residence or neighborhood from the perspective of a reasonable person of normal sensibilities. For deciding that noise is excessive pursuant to this article, a reasonable person of normal sensibilities shall include Scottsdale police officers or other city employees authorized to enforce this article. A sound level meter may be used, but is not required, to assist in determining whether noise is excessive or not. It shall be a rebuttable presumption under this article that noise levels over (68) dB(A) or (70) dB(C) between 10:00 PM and 9:00 AM are considered excessive under this article, if they can be heard beyond the property line of the property where the nuisance party or unruly gathering is occurring.

Frequency. "Frequency" of a function periodic in time shall mean the reciprocal of the primitive period. The unit is the hertz and shall be specified.

Illegal drugs shall ~~have the same meaning~~ mean any drug as defined in A.R.S. § 13-3401.

Impulse noise means a noise of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.

Juvenile means a minor under the age of eighteen (18) years.

Microbar means a unit of pressure commonly used in acoustics and is equal to one (1) dyne per square centimeter.

Minor means any person under the age of twenty-one (21) years.

Nuisance party means an assembly of persons for a social activity or for a special occasion in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property. This includes, but is not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace and litter.

Owner means any property owner, as well as an agent of an owner acting on behalf of the owner to control or otherwise regulate the occupancy of use of the property.

Period means "Period" of a periodic quantity shall mean the smallest increment of time for which the function repeats itself.

Periodic quantity means oscillating quantity, the values of which recur for equal increments of time.

Pure tone noise means any noise which is distinctly audible as a single pitch (frequency) or set of pitches as determined by an enforcement officer.

Premises mean the property that is the site of a nuisance party or an unlawful gathering. For residential properties, a premise can mean the dwelling unit, units or other common areas where the nuisance party or the unlawful gathering occurs.

Promoter means a person who contracts for or arranges with an owner or other responsible person, to provide any activity or event with or without compensation, and who is responsible for or directly organizes the presentation of the activities or events. Promoter does not include a person who contracts for or arranges with an owner or other responsible person to provide or organize a political event on behalf of or against any candidate for public office or in support of or opposition to any ballot measure or a charitable event on behalf of a 501(C)(3) non-profit registered with the United States Internal Revenue Service. For purposes of this chapter, promoter also includes an employee or agent of a promoter.

Responsible person means any persons in attendance including any owner, occupant, tenant, or tenant's guest or any sponsor, promoter, host or organizer of the social activity or special occasion constituting the nuisance party or unlawful gathering. If such a person is a juvenile, the term "responsible person" includes, in addition to the juvenile, the juvenile's parents or guardians. Responsible person does not include owners or persons in charge of premises where an unlawful gathering or nuisance party takes place if the persons in attendance obtained use of the property through illegal entry, fraud or trespassing.

Scottsdale police officer means any peace officer employed by the Scottsdale Police Department.

Special event shall have the same meaning as Chapter 22 of this code.

Spirituos liquor shall have the same meaning as defined in A.R.S. § 4-101(31).

Sound level. "Sound level" (noise level), in decibels (dB) is the sound measured with the A-weighting or C-weighting and slow response by a sound level meter.

Sound level meter means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels which satisfies the pertinent requirements in American Standard Specifications for Sound Level Meters S1.4-1971 or the most recent revision thereof.

Unlawful gathering means a party, gathering, or event where spirituous liquor is served to, or is in the possession of, or consumed by, any minor, or where illegal drugs are in the possession of, or consumed by, any person, regardless of whether it would otherwise qualify as a nuisance party.

Section 2. Section 18-131 of Article VIII, Chapter 18 of the Scottsdale Revised Code is amended as follows with eliminated language in strikeout format and new language in shaded format:

~~Sec. 18-131. - Other remedies.~~

~~Nothing in this article shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal or civil prosecution for any violation of the provisions of this code or state law arising out of the circumstances necessitating the application of this article.~~

Sec. 18-131. - Unlawful for a promoter to advertise, permit or organize a nuisance party or unlawful gathering; unlawful for a promoter to advertise a special event at a residence within the city without having first obtained a special event permit; civil penalties.

(a) It shall be unlawful for a promoter to advertise, permit or organize a nuisance party or unlawful gathering.

(b) It shall be unlawful for a promoter to advertise a special event at a residence within the city without first having obtained a special event permit from the city.

(c) A violation of this section is a civil offense and shall be punished with a minimum fine of one thousand dollars (\$1,000.00) for a first offense, a minimum fine of one thousand five hundred dollars (\$1,500.00) for a second offense, a minimum fine of two thousand five hundred dollars (\$2,500.00) for a third offense or subsequent offenses within two years.

(d) Representations or advertisements including online listings that advertise or promote an event or activity within the city is prima facie evidence that a person is acting as a promoter.

Section 3. Sections 18-132 and 18-133 of Article VIII, Chapter 18 of the Scottsdale Revised Code is added as follows with new language in shaded format:

Sec. 18-132. – Scottsdale police officer authority to order persons to leave a nuisance party or unruly gathering; notice; and penalty for failure to leave or entry after notice.

(a) If a Scottsdale police officer determines based on a preponderance of the evidence that a nuisance party and/or unlawful gathering is occurring and that there is a threat to the public peace, health, safety or general welfare, the officer may order all persons not residing at the premises to leave.

(b) Upon issuing such an order, the officer shall place a written notice on the front door of the premises indicating that a nuisance party or unlawful gathering has been declared by the Scottsdale Police Department and that all non-residents must leave and may not reenter the premises for a period of eight (8) hours as indicated on the notice.

(c) It shall be unlawful for any person not residing at the premises to fail to immediately leave the premises after a Scottsdale police officer has determined that either a nuisance party or unlawful gathering has occurred at the premises in accordance with subsection (a) above. A violation of this subsection shall be a class three (3) misdemeanor. A peace officer may not arrest or cite a person for a violation of this subsection unless the person has been warned that his or her refusal to leave will result in his or her arrest or citation.

(d) It shall be unlawful for any person not residing at the premises to intentionally, knowingly or recklessly enter the premises after a written notice has been posted in accordance with subsection (b) above. A violation of this subsection shall be a class three (3) misdemeanor. This subsection does not apply to an owner entering the property if the owner is otherwise legally entitled to do so.

(e) For purposes of this article it shall be a rebuttable presumption that persons in excess of six (6) adults and their dependent children are not residing at the premises.

Sec. 18-133. - Other remedies.

Nothing in this article shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal or civil prosecution for any violation of the provisions of this code or state law arising out of the circumstances necessitating the application of this article.

Sec. 18-134 through Sec. 18-149. Reserved.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ____ day of
____ 2024

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Ben Lane, City Clerk

David Ortega, Mayor

APPROVED AS TO FORM:

Sherry R. Scott City Attorney
By: Luis E. Santaella
Deputy City Attorney