

ORDINANCE NO. 4109

AN ORDINANCE OF THE CITY OF SCOTTSDALE,
MARICOPA COUNTY, ARIZONA, ADDING ARTICLE IV,
SECTIONS 23-50 THROUGH 23-76 TO CHAPTER 23 OF
THE SCOTTSDALE REVISED CODE FOR THE
IMPOSITION AND REGULATION OF PUBLIC SAFETY
PLANS

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

Section 1. Article IV, Sections 23-50 through 23-76 are hereby added to Chapter 23 of the Scottsdale Revised Code as follows:

Article IV. Public Safety Plans.

Sec. 23-50. Purpose.

The purpose of this ordinance is to promote the general health, safety and welfare of citizens, visitors, businesses and the community in general by requiring certain types of businesses within the city to file, follow and keep current a public safety plan.

Sec. 23-51. Definitions.

In this article, unless the context otherwise requires a different meaning:

Business means a corporation, limited liability corporation, company, partnership, any other type of fictitious person or in the event the business is not owned by a fictitious entity, the individual owners. A business does not mean a governmental agency or entity, or a non-profit organization organized for charitable or religious purposes.

Chief of Police means the Chief of the Scottsdale Police Department, or designee.

Fire Chief means the Chief of the Scottsdale Fire Department, or designee.

Disc jockey or DJ means a person who actively plays, mixes or arranges sounds or music by using turntable(s), computer(s), and/or other electronic device(s) and may emcee or otherwise perform for patrons within a business, whether or not that person interacts with patrons within a business. Disc jockey does not include karaoke.

Live entertainment means live entertainment as defined in Section 3.100 of Appendix B of this code.

Peak hours means those hours listed on an approved public safety plan as being a businesses' peak hours of operation.

Private event means an event not open to the general public where either live entertainment or a DJ perform and the event is by invitation only. Invitation only does not include an event where members of the public may purchase tickets in advance or at the door.

Promoter means a person who contracts for or arranges with a business, that either requires age verification for admittance or provides a DJ or live entertainment, to provide any activity, and who is responsible for or directly organizes the presentation of the activities or events.

Public Safety Incident means an incident classified as a felony under state law consisting of a riot, sexual assault, a brawl or a disturbance, in which bodily injuries are sustained by any person and such injuries would be obvious to a reasonable person, or tumultuous conduct of sufficient intensity as to require the intervention of a peace officer to restore normal order, or an incident in which a weapon is brandished, displayed or used. Public Safety Incident does not include the use of nonlethal devices by a peace officer.

Security officer means an employee of a business whose primary responsibilities include the security and safety of the employees, patrons and premises of a business regulated by this article.

Security personnel means security officers and management personnel responsible for the day to day activities of security officers.

Sec. 23-52. Applicability.

This article is applicable to businesses within the city that operate any location or facility classified as an Assembly Group A-2, A-3 or A-4 Occupancy pursuant to Chapter 36 of this code and engage in one or more of the following activities:

- a. Age verification is requested for admittance;
- b. Provide a disc jockey;
- c. Provide an adult service as defined in Section 16-237;
- d. A teen dance center as defined in Section 16-391;
- e. Or utilize a promoter.

Sec. 23-53. Exemptions; movie theatres; special and private events.

This article is not applicable to:

- a. Movie theatres;
- b. An event being held pursuant to a city issued special events permit provided that the business is operating in accordance with the conditions of that permit or an event held on city property approved by the city;

- c. Or a private event.

Sec. 23-54. Public safety plan required; non-transferable.

- a. It shall be unlawful for any business required by this article to have a public safety plan to operate without a city approved public safety plan.
- b. A public safety plan required by this article is in addition to any other approval, license or permit required to engage in business by the city, county, state and federal governments, and shall be nontransferable, either person-to-person or location-to-location.

Sec. 23-55. Public safety plan submittal.

Every business requiring a public safety plan shall furnish to, on forms provided and developed by, the Chief of Police the following information:

- a. Plan of operation including a crowd management plan, hours of operation and a listing of peak hours;
- b. Site/building information;
- c. Copy of floor plan and city approved occupancy limit;
- d. Safety conditions;
- e. Patron parking, ingress and egress, vehicular and pedestrian traffic control, if applicable;
- f. Listing of management personnel;
- g. Staffing including the number of security and operations personnel;
- h. Contact person and information designating who can receive complaints from the public and/or city on behalf of the business;
- i. Evacuation routes; and
- j. Any additional criteria required by the Chief of Police.

Sec. 23-55.1 Peak hours; rebuttable presumption.

In the processing of a public safety plan application, it shall be a rebuttable presumption that a businesses' peak hours of operation are between 9:00 PM and 2:00 AM, Thursdays, Fridays and Saturdays. Notwithstanding this presumption, the peak hours listed on an approved public safety plan shall control in the enforcement of this article.

Sec. 23-56. Public safety plan review and approval time frames.

- a. Administrative time frame: Unless the public safety plan has already been approved, within fifteen (15) days after receiving a public safety plan submittal under this article, the Chief of Police will determine whether the application is administratively complete, and notify the applicant as set forth in Chapter 16, Article I.
- b. Substantive review time frame: Within forty-five (45) days after the notice of administrative completion, the city will complete its substantive review of the license application.

c. Overall time frame: Within ninety (90) days, subject to any authorized extensions, after receiving a public safety plan submittal pursuant to this article, the Chief of Police will approve or deny the public safety plan.

d. The time frames provided for in this section are suspended if a public safety plan submittal has been determined to be administratively incomplete or a supplemental request has been made during the substantive review period until the applicant corrects any deficiencies or responds to a supplemental request for information.

Sec. 23-57. Special requirements.

No public safety plan shall be approved pursuant to this article that does not contain all of the following requirements:

- a. Staffing of at least one (1) security officer per fifty (50) patrons for the first five hundred (500) patrons and at least one (1) additional security officer per seventy five (75) patrons thereafter during peak hours except that:
 1. For businesses where sixty (60) percent or more of total gross sales are food sales, upon presentation of proof substantiating such sales and upon a finding of good cause taking into account the size, type and safety conditions of the venue, the Chief of Police may authorize such a business to have staffing of at least one (1) security officer per seventy five (75) patrons during peak hours; and
 2. For businesses where ninety (90) percent of the occupant load as determined by the Fire Chief is based on fixed seating and upon a finding of good cause taking into account the size, type and safety conditions of the venue, the Chief of Police may authorize such a business to have staffing of at least one (1) security officer per one hundred (100) patrons during peak hours.
- b. That all security personnel attend training provided by the city or an entity designated by the city within thirty (30) days of hire that at a minimum covers, general security training, liquor law compliance, crowd management and fire safety. All security personnel shall attend refresher training provided by the city or an entity designated by the city every two (2) years from the date of their initial training.
- c. That all security personnel review and be familiar with the public safety plan for their employing business.
- d. That a business with two (2) or more public safety incidents within a one (1) week period or three (3) or more public safety incidents within a one (1) month period be required to retain the services of a minimum of two (2) off-duty peace officers to supplement existing security personnel during peak times for a minimum period of three (3) months or until at least three (3) consecutive months have

gone by without two (2) or more public safety incidents, which ever period is longer. In the alternative based on the size and type of venue, occupancy and nature of the triggering public safety incidents, the Chief of Police may reduce the requirement above for two (2) off-duty peace officers to one (1) off-duty peace officer.

- e. That a business with one (1) or more public safety incidents involving the use or threatened use of a deadly weapon or deadly instrument or a death or catastrophic bodily injury be required to retain the services of a minimum of two (2) off-duty peace officers to supplement existing security personnel during peak times for a minimum period of three (3) months or until at least three (3) consecutive months have gone by without any public safety incidents involve the use or threatened use of a deadly weapon or deadly instrument, which ever period is longer. In the alternative based on the size and type of venue, occupancy and nature of the triggering public safety incidents, the Chief of Police may reduce the requirement above for two (2) off-duty peace officers to one (1) off-duty peace officer.
- f. That all security personnel wear an appropriately styled shirt or jacket with the word "Security" on both the front and back in three (3) inch lettering that is clearly visible. The Chief of Police may waive this requirement upon good cause, if the business is able to demonstrate to the Chief's satisfaction that this requirement can be met through alternative means such as the wearing of metal security badges, pins or embroidered patches.

Sec. 23-58. Duration and renewal.

- a. A public safety plan approved by the Chief of Police shall be valid for a period of two (2) years.
- b. All businesses required to have a public safety plan shall submit a new public safety plan at least ninety (90) days prior to the expiration of their current plan.

Sec. 23-59. Non-acceptance and denial.

- a. The Chief of Police shall not accept a public safety plan submittal if the application is incomplete.
- b. The Chief of Police shall deny approval of a public safety plan submittal if:
 - 1. All requirements for the public safety plan have not been completed; or
 - 2. The applicant is a corporation or other fictitious entity not qualified to transact business in Arizona; or
 - 3. False or misleading information was given or submitted in support of a public safety plan, or the applicant failed or refused to make full disclosure of all required information.

4. The applicant is delinquent in payment to the city or state of any taxes, fees, fines, or penalties imposed upon the applicant, or arising out of any other business activity owned or operated by the applicant and licensed by the city or state.

Sec. 23-60. Information update.

All businesses required to have a public safety plan shall give written notice to the Chief of Police of any material changes in information submitted in connection with a submittal or approved public safety plan. This information shall be provided to the Chief of Police within thirty (30) days of any such change.

Sec. 23-61. Revocation; grounds.

- a. Failure to comply with the terms and conditions of an approved public safety plan on two (2) or more occasions within a one (1) year period constitute grounds for the revocation of a public safety plan approved pursuant to this article.
- b. Submitting false or misleading information in support of a public safety plan constitute grounds for revocation.
- c. The Chief of Police shall be responsible for initiating revocation proceedings. Any such proceedings shall follow the provisions for revocation found in Chapter 16, Article I.

Sec. 23-62. Review and appeals.

Any person aggrieved by any decision with respect to either the denial of or a refusal to issue a public safety plan, or the revocation of a public safety plan, shall be entitled to the review and appeal procedures provided in Chapter 16, Article I.

Sec. 23-63. Additional regulations and criteria.

- a. The Chief of Police may develop reasonable regulations to implement this article as well as establish additional criteria for the submittal and approval of public safety plans.
- b. Any additional regulations and criteria developed by the Chief of Police shall be subject to approval by the City Attorney, filed with the City Clerk and posted on the city's website.
- c. No new regulation or criteria created by the provisions of this section shall be effective until thirty (30) days after being filed with the City Clerk.

Sec. 23-64. Authority to enforce violations of this article; means of enforcement.

- a. The City Manager or designee, Fire Chief, a Scottsdale police officer, or the City Attorney may issue civil complaints to enforce violations of this article.
- b. Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.
- c. A Scottsdale police officer or the City Attorney may issue criminal complaints to enforce this article.

Sec. 23-65. Onsite records required; inspections.

- a. Each business required to have an approved public safety plan shall maintain onsite a current copy of the plan, proof that all security personnel have completed the training required by this article and proof that all security personnel have reviewed the public safety plan. These records shall be made available for inspection and review upon the request of the Chief of Police, the City Manager or designee or the Fire Chief whenever occupied.
- b. The premises of a business required to have a security and safety plan shall be open to inspection to verify compliance with an approved plan whenever occupied by the Chief of Police, the City Manager or designee or the Fire Chief.
- c. All security personnel that have completed the training required by this article shall carry proof of such completion upon their person while on duty and present it to any Scottsdale police officer upon demand.
- d. A violation of this section is a petty offense and shall be punished by a fine of fifty dollars (50) per violation. A second or subsequent violation of this section within one (1) year of a first violation is a class one misdemeanor.

Sec. 23-66. Failure to follow public safety plan.

It shall be unlawful for a business to fail to follow the requirements of a city approved public safety plan.

Sec. 23-67. Mandatory Reporting.

- A. Any business regulated by this article shall immediately report to the Scottsdale Police Department any act constituting a public safety incident that occurs on its premises located within the City of Scottsdale.
- B. A violation of this section is a civil offense and shall be punished by a fine of not less than one thousand dollars (\$1,000.00) per violation. A second or subsequent violation of this section within one (1) year of a first violation is a class one misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not

less than two thousand dollars (\$2,000.00) per violation. The court shall not suspend any part of any fine required by this section.

Sec. 23-68. Penalties.

a. Unless otherwise specified a first violation of this article is a civil offense and shall be punished by a fine of not less than five hundred dollars (\$500.00) per violation.

b. Unless otherwise specified, a second or subsequent violation of this article within one (1) year of conviction of a first violation is a class one misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not less than one thousand dollars (\$1,000.00) per violation.

c. The court shall not suspend any part of any fine required by this section.

Sec. 23-69. Remedies cumulative.

All remedies prescribed by this article shall be cumulative and supplemental and the use of one (1) or more remedies by the city shall not bar the use of any other remedy for enforcing this article.

Sec. 23-70. Conflicting provisions conditional use permits.

Where a provision of a public safety plan approved pursuant to this article is in conflict with a provision of a security, maintenance and operations plan included as a stipulation of a conditional use permit, the provision which establishes the higher standard for the protection of the public health and safety shall prevail.

Sec. 23-71. Peace officers; state registered security guards; training exemption.

Arizona POST certified peace officers and security personnel who hold a current security guard registration certificate or armed security guard registration certificate issued by the State of Arizona are exempt from the training requirements of this article.

Sec. 23-72. Security officer to patron ratios; supervisory personnel.

For calculating the ratio of security officers to patrons, supervisory security personnel employed in that capacity full time may be counted as security officers. A business may also include towards its security officer to patron ratio one (1) supervisor or manager not employed as a full time security supervisor, who has undergone the training required by this article and whose duties include supervision of on duty security officers.

Sec. 23-73. Applicability to existing businesses.

All businesses required to have a public safety plan pursuant to this article shall have ninety (90) days from the effective date of this article to comply with the provisions of this article.

Secs. 23-74 – 23-76. Reserved.

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 10th day of September, 2013.

ATTEST:

CITY OF SCOTTSDALE, an Arizona
municipal corporation

Carolyn Jagger
City Clerk

W. J. "Jim" Lane
Mayor

APPROVED AS TO FORM:

Bruce Washburn, City Attorney
By: Luis E. Santaella, Senior Assistant City Attorney