




CITY MANAGER'S OFFICE

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Date: November 1, 2021
To: Honorable Mayor and Members of the City Council
From: Brent Stockwell, Assistant City Manager 
Subject: Short-term Rentals Work Study Session

The following materials are provided for the Nov. 9, 2021 Work Study Session.

1. The Short-term Rental Quarterly Report (July 1 – Sept. 30, 2021) is attached and is on the city's website, go to ScottsdaleAZ.gov and search "Short Term Rentals". The report is interactive in the online version, but also provided as a PDF (Attachment 1). Staff will review this report at the meeting and are interested in feedback on the report format and data. Police data is not available in the report yet, but we do know that there have been 1,710 calls for service through Sept. 30, 2021, resulting in 167 notices of violation.

The Short-term Rental Team members meet bi-weekly to implement recommendations. They are City Attorney's Office: Luis Santaella; City Manager's Office: Brent Stockwell (Team Facilitator), Shane Stone; City Treasurer's Office: Whitney Pitt; Communications and Citizen Service: Kelly Corsette, Holly Walter, Joy Racine; Mayor & City Council Office: Rachel Smetana; Planning: Randy Grant, Erin Perreault; Police: Asst. Chief Rich Slavin.

2. A copy of the Short-term Rental Working Group Recommendations, as approved on July 1, 2021, is attached for reference (Attachment 2). Staff continues to work through implementing each of these recommendations and will provide updates quarterly.
3. Amendments to the Vacation Rental ordinance (Attachment 3) and the Nuisance Party and Unlawful Gatherings ordinance (Attachment 4) are provided for review and discussion at the work study session.

The key changes to the Vacation Rental ordinance include requiring a one-hour response time in the event of an emergency and setting a penalty for non-response.

The key changes to the Nuisance Party ordinance include adding a noise levels and measurement criteria, replacing the police service fee and administrative hearing process with a civil citation process, increasing minimum fines for hosts and owners, allowing for mitigation, suspension or reduction of fines based on best practices, and defining habitual offenders.

Deputy City Attorney Luis Santaella will review each ordinance draft with you at the meeting. Staff's intent is to make any necessary changes and add to a December agenda for adoption.

4. There are several issues that warrant specific mention that we are still working on resolving or need additional direction.
 - a. *Occupancy* – while occupancy levels are a common complaint, they are difficult to enforce. The current approach is to focus on the negative results from high occupancy (such as nuisance parties) rather than the occupancy itself. However,

Code Enforcement continues to enforce units advertising occupancy exceeding the ordinance limits, and the Rentalscape technology should be helpful with identification.

- b. *Additional regulations* – staff is still working to analyze data on complaints and calls for service to see if additional regulations are warranted relating to fire and building codes, health and sanitation, or traffic control. Staff is also working on identifying requirements applicable to hotels that could be applied to short-term rentals.
 - c. *Rental of detached casitas or guest houses separate from the main residence* – The Zoning Ordinance states that all dwelling units and any accessory guest houses must be rented or offered for rent together and may not be rented or offered for rent independently. Residents have requested that the City Council change this requirement to allow owners to rent casitas or guest houses separately from the main residence to permit them to provide this service and have this source of income. Currently, main residences and guest houses can be rented together without the owner present, and an owner can rent out a room in the main residence, but an owner cannot remain in the main residence and rent out a detached guest house or casita. However, this change would create multi-family uses within single-family districts. This would require the initiation of a text amendment to the Zoning Ordinance.
5. The presentation to guide the discussion is attached (Attachment 5)

Attachments:

- 1. Short-term Rentals Quarterly Report (July 1 – Sept. 30, 2021)
- 2. Short-term Rental Working Group Recommendations as Accepted July 1, 2021
- 3. Vacation Rental Ordinance No. 4527
- 4. Nuisance Party and Unruly Gathering Ordinance No. 4528
- 5. Overview presentation



Short-Term Rental Report

Report Created On: Nov 08, 2021

Objective 3.1

To improve resident livability in Scottsdale neighborhoods, review working group recommendations to improve short-term rental monitoring and enforcement and implement changes to reduce complaints by 50 percent by Dec. 31, 2021.

Initiative: 9

On July 1, 2021 the Scottsdale City Council adopted all nine of the recommendations of the Short-Term Rental Working Group. These nine recommendations are included within this plan as "initiatives" and will have their progress routinely updated. These recommendations included the following:

- *Improve enforcement against properties who regularly violate the ordinances.*
- *Work with the short-term rental industry to increase properties providing emergency contacts and improve voluntary compliance and ensure input from the industry is received prior to implementing any recommendations.*
- *Use technology to identify and increase emergency contacts and compliance from short-term rentals.*
- *Ensure Scottsdale is collecting all allowable revenue from short-term rentals and analyze whether fines could be increased.*
- *Evaluate whether Scottsdale's ordinances (Vacation Rental, Nuisance Party and Unlawful Gathering, and Noise Ordinances) could be strengthened to eliminate loopholes and improve ability to enforce.*
- *Improve information and resources shared by the city to help inform residents about what the city can and cannot do with short-term rentals and make it easier for people to contact the property managers/hosts when there are problems.*
- *Assist neighborhoods, including homeowners' associations, with information and resources on how to manage short-term rentals.*
- *Improve education about short-term rental best practices for residents, owners, and hosts.*
- *Share information with the State of Arizona about how the City of Scottsdale is using the powers available to cities, and advocate for necessary changes to State Law to return needed short-term rental oversight to the City of Scottsdale.*

Initiative 3.1.1

Ongoing - Ongoing

Improve enforcement against properties who regularly violate the ordinances.

Staff continue to consider and evaluate future potential demands on staffing, especially in the Police Department, Code Enforcement and the City Attorney's Office.

Collaboration is being explored between the Citizen Services call center and 9-1-1 to appropriately route calls, potential solutions are currently being evaluated.

Business Services is primarily focusing on following up with the short-term rental properties they have identified. With 3,500 listings reviewed, 2,000 letters were sent seeking compliance on recording complaint and emergency contact information and paying all applicable taxes.

The Police Department will be adopting a new records management system in the next 12-18 months which will allow for better tracking of short-term rental related calls for service to best inform needs to staff a response team.

Initiative 3.1.2

Ongoing - Ongoing

Work with the short-term rental industry to increase properties providing emergency contacts and improve voluntary compliance and ensure input from the industry is received prior to implementing any recommendations.

Staff has met with several representatives of the short-term rental industry to discuss compliance issues, and potential updates to the Scottsdale City Code.

Between the adoption of the Short-Term Rental Working Group recommendations and the end of September 2021, 384 short-term rental properties provided their complaint and emergency contact information to the City. Many of these properties were contacted manually by Business Services and voluntarily complied once notified of their noncompliance.

Initiative 3.1.3

Ongoing - Ongoing

Use technology to identify and increase emergency contacts and compliance from short-term rentals.

The City of Scottsdale has contracted for the use of the Rentalscape technology solution. Rentalscape will identify short-term rental properties, map and monitor their activity on a regular basis and keep the city informed. This solution will also host a portal for short-term rental operators to record their information, including complaint and emergency contact information, and will conduct outreach to short-term rental hosts to help gain compliance to local ordinances.

In the meantime, this work has been done manually by the Business Services department, resulting in more than 700 new properties submitting their complaint and emergency contact information in 2021.

Initiative 3.1.4

Ongoing - Ongoing

Ensure Scottsdale is collecting all allowable revenue from short-term rentals and analyze whether fines could be increased.

Scottsdale is working to collect all prescribed revenue from short-term rentals by identifying properties and verifying that each property has a Transaction Privilege Tax (TPT) number on file with the Arizona Department of Revenue. If properties are found to be without, two opportunities over a 3 month period are communicated via mail. If no response from the property owner a Verified Violation is completed and sent to ADOR, as well as a third letter to the property owner informing them of the violation.

The technology solution that will be used to gain a fuller understanding of short-term rental activity in Scottsdale will also help the city quantify any potential underreporting of rental activity, and consequently any lost revenues.

Initiative 3.1.5

Ongoing - Ongoing

Evaluate whether Scottsdale's ordinances (Vacation Rental, Nuisance Party and Unlawful Gathering, and Noise Ordinances) could be strengthened to eliminate loopholes and improve ability to enforce.

Staff are drafting recommended updates to the Nuisance Party and Unlawful Gathering Ordinance, which includes strengthening noise enforcement, and will present those recommendations to the City Council during the work study session on November 9. It is anticipated that after receiving direction from the Council on these items, the drafts will be updated and included on a future agenda for adoption.

The Police Department has been testing dB(c) (bass) readings in preparation for updates to the ordinances and their.

Initiative 3.1.6

Ongoing - Ongoing

Improve information and resources shared by the city to help inform residents about what the city can and cannot do with short-term rentals and make it easier for people to contact the property managers/hosts when there are problems.

The Office of Communication and Citizen Service is creating an overview article for wide distribution that will update the community on the city's efforts in this area and direct them to the website for additional information and resources.

Initiative 3.1.7

Ongoing - Ongoing

Assist neighborhoods, including homeowners' associations, with information and resources on how to manage short-term rentals.

The Office of Communication and Citizen Service has already hosted two Neighborhood College sessions related to short-term rentals, with a combined total of 78 participants who attended either in-person or virtually. Additional sessions will be planned as needed.

Initiative 3.1.8

Ongoing - Ongoing

Improve education about short-term rental best practices for residents, owners, and hosts.

The Office of Communication and Citizen Service is creating an overview article for wide distribution that will update the community on the city's efforts in this area and direct them to the website for additional information and resources. In addition, guides for renters, landlords and neighborhoods are being created to be provided to each area.

Initiative 3.1.9

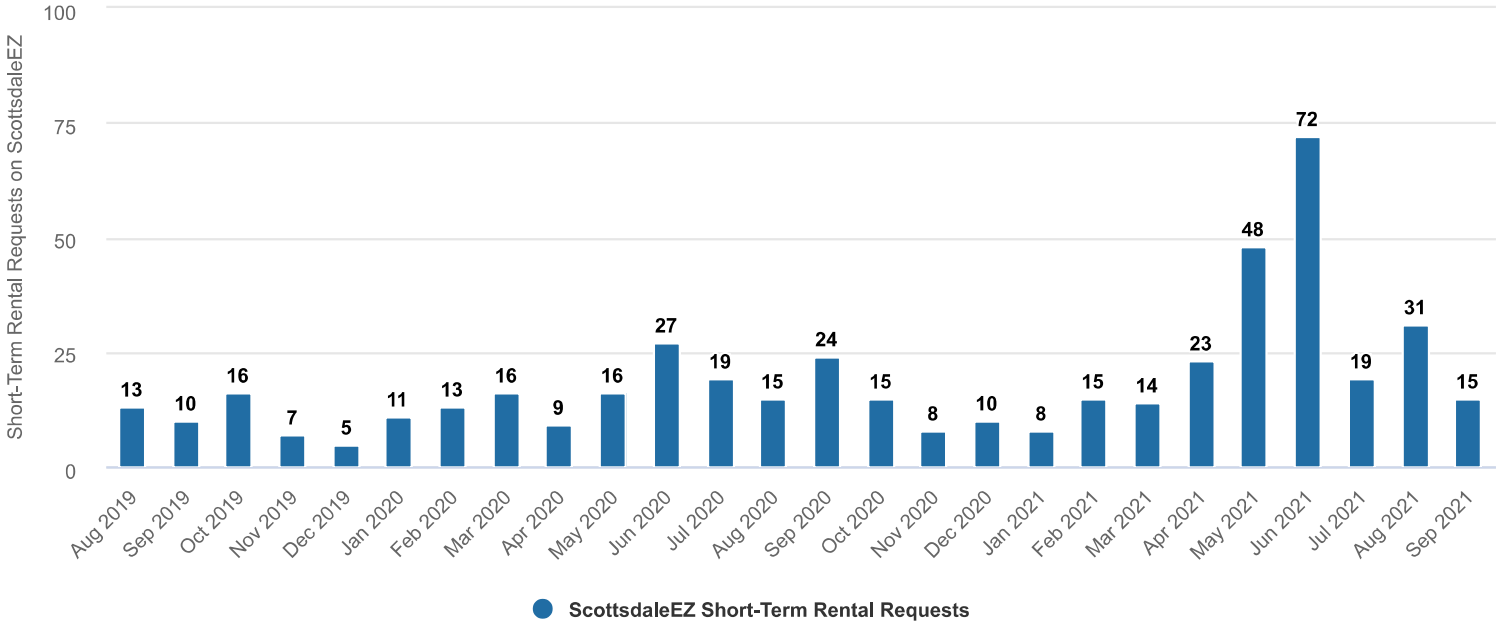
Ongoing - Ongoing

Share information with the State of Arizona about how the City of Scottsdale is using the powers available to cities, and advocate for necessary changes to State Law to return needed short-term rental oversight to the City of Scottsdale.

A letter to be sent on behalf of the City Council is currently under review.

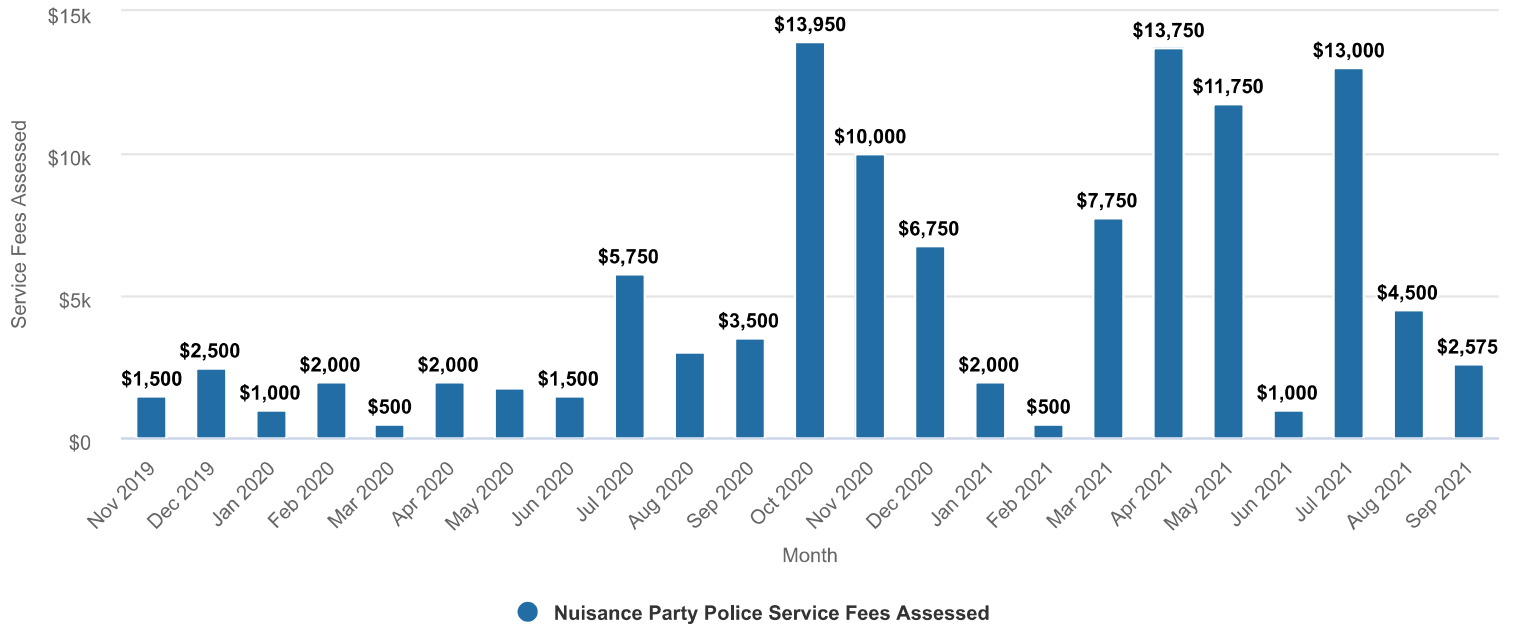
Preparations are also underway to advocate for changes in State Law related to short-term rentals. Staff is in conversations with Arizona League of Cities & Towns, other jurisdictions, the short-term rental industry and legislators about potential changes. Short-term rental regulation capabilities will also be included in the draft Scottsdale Legislative Agenda which will be presented to the City Council for adoption in December.

Short-Term Rental Requests on ScottsdaleEZ



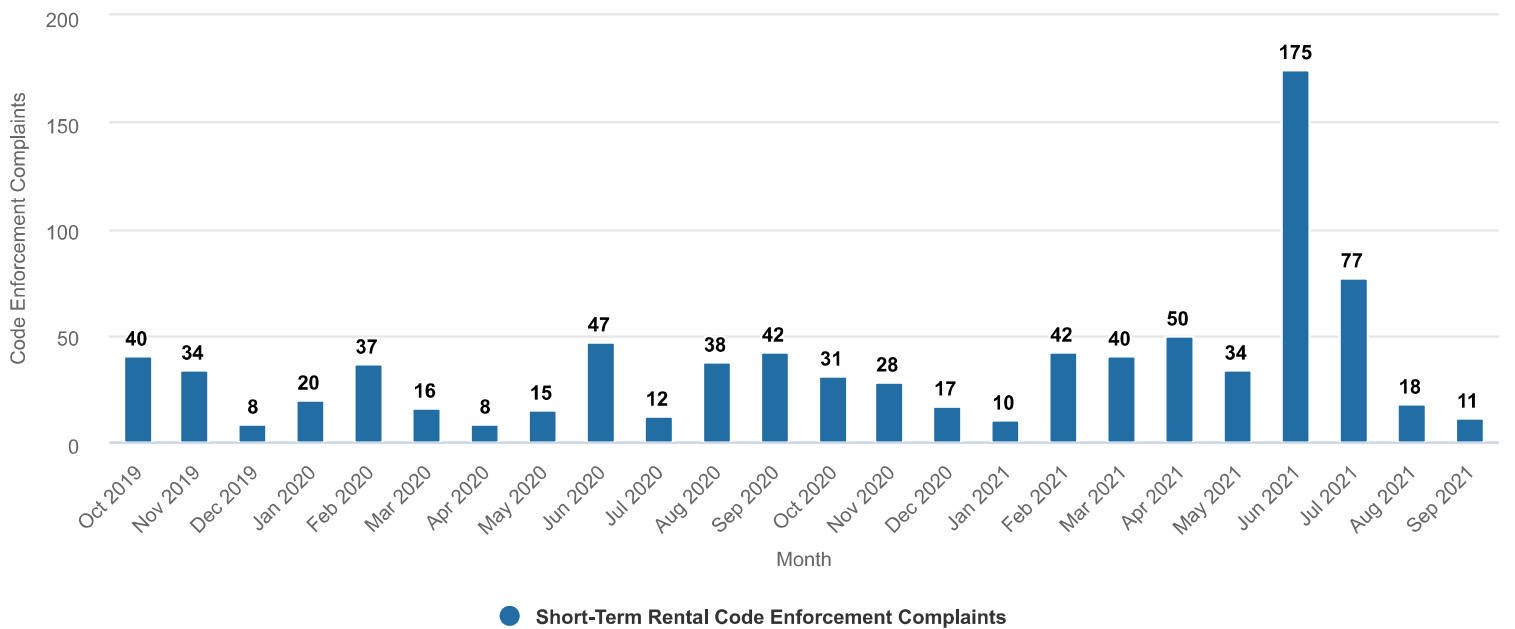
This measure reflects the number of requests made regarding short-term rentals on ScottsdaleEZ. This does not include submissions of or changes to emergency contact information by short-term rental hosts.

Nuisance Party Police Service Fees Assessed



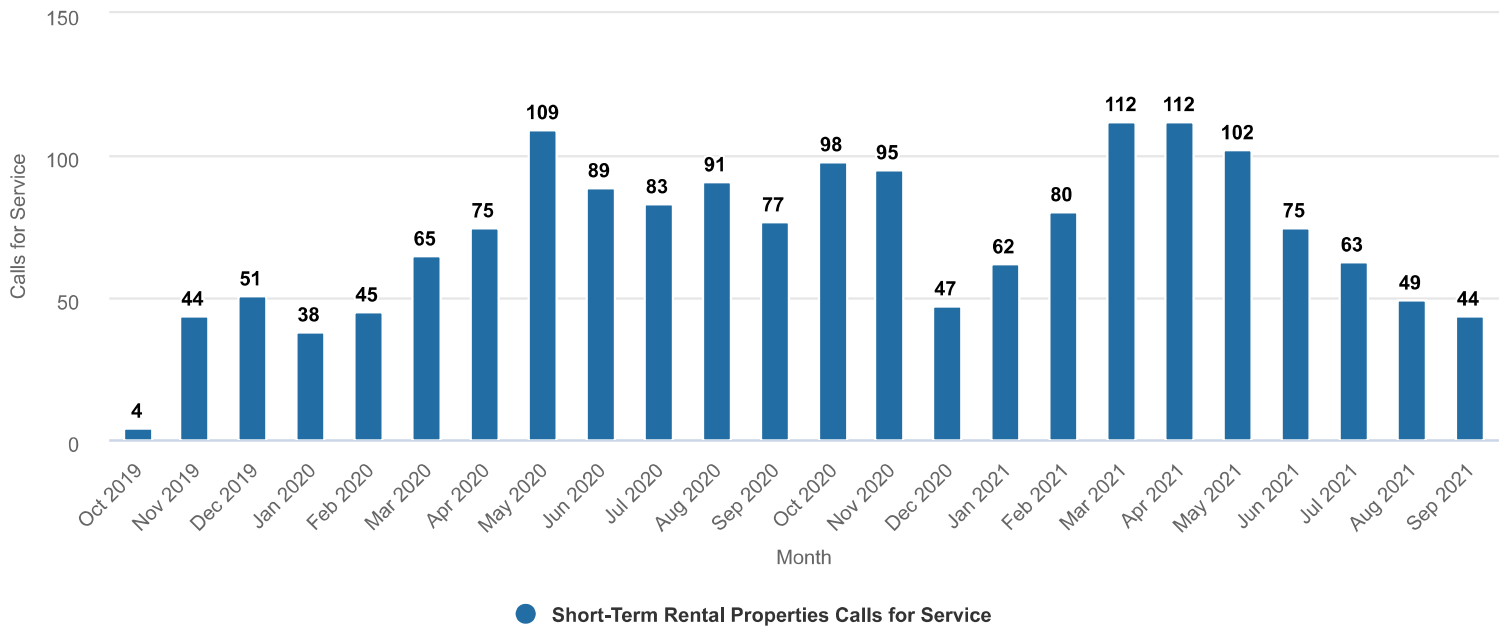
This measure accounts for all police service fees assessed related to nuisance parties, including short-term rental properties as well as other properties. This does not account for fees which were later rescinded or reduced.

Short-Term Rental Code Enforcement Complaints



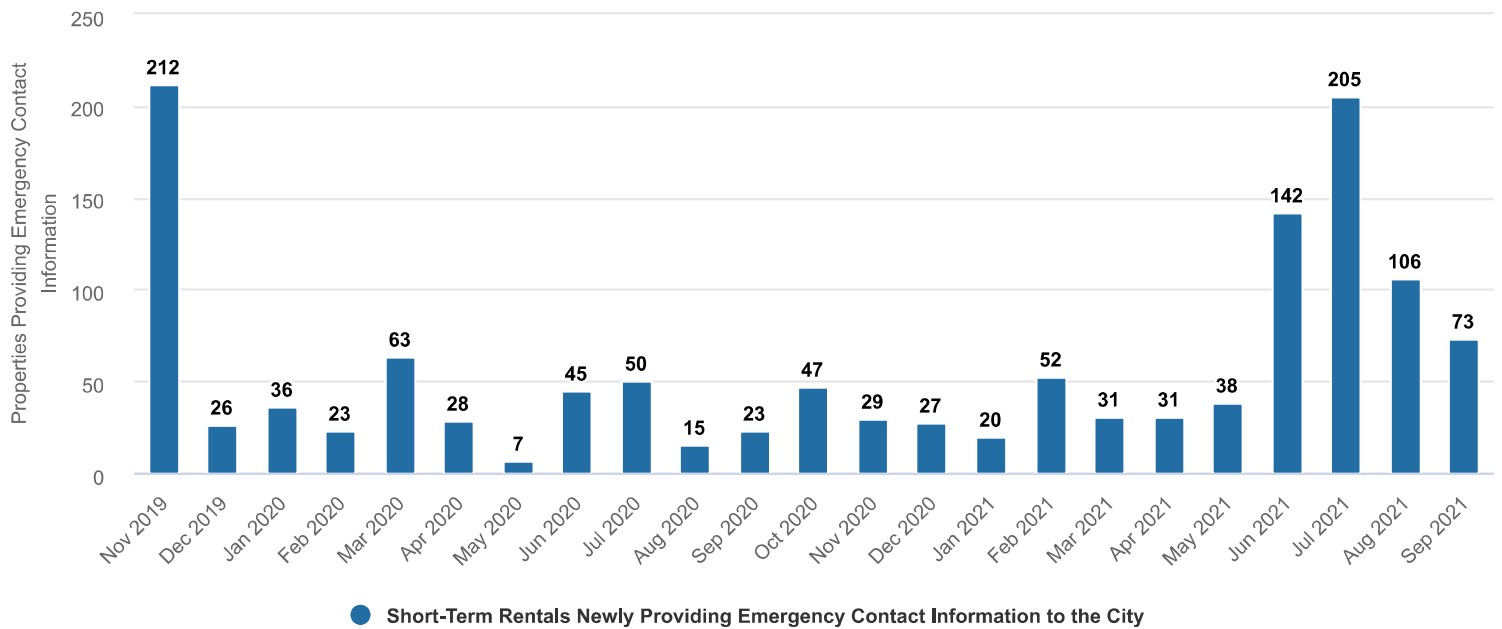
This measure reflects the number of code enforcement complaints made related on vacation rental or short-term rental properties for either; failing to comply with generally applicable laws, or using the property for a "non-residential" use. The sections of the Scottsdale Revised Code relevant to this measure are Sec. 18-151 and Sec. 18-152 only.

Short-Term Rental Properties Police Calls for Service



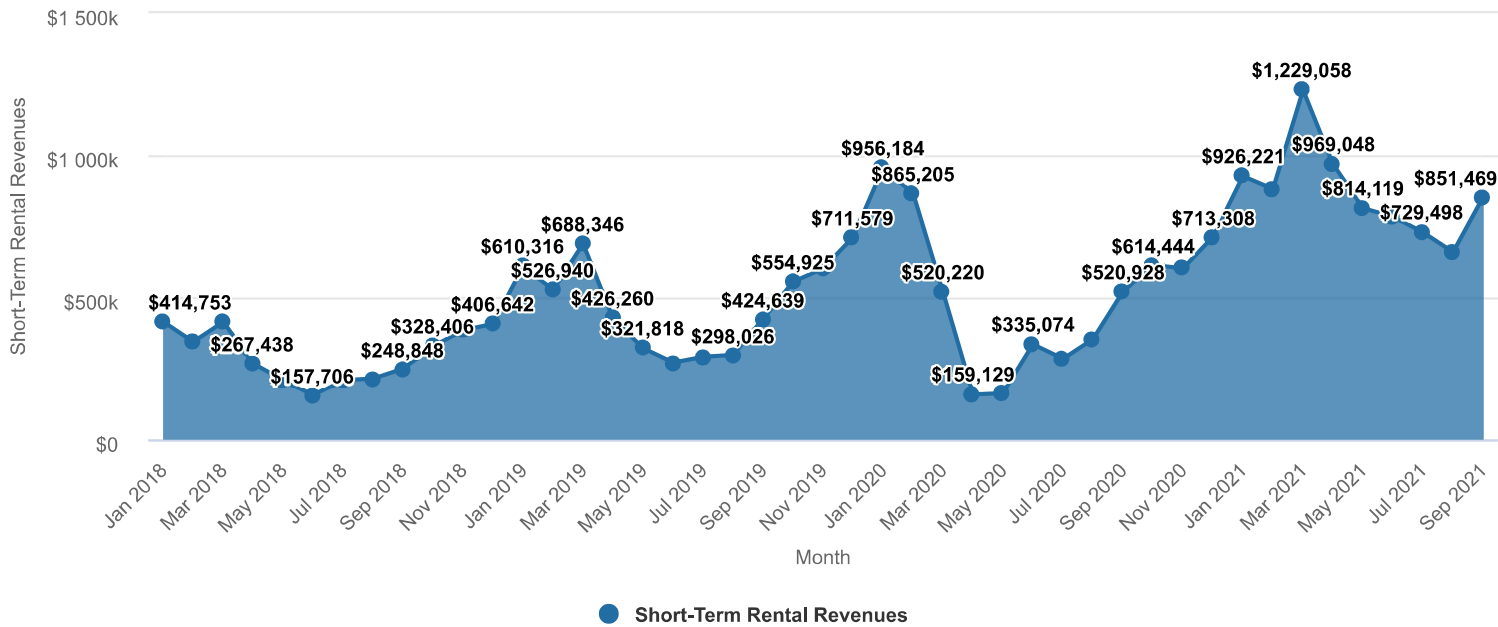
This measure includes Police Department calls for service to locations verified to be operating as short-term rental properties.

Short-Term Rental Properties Providing Emergency Contact Information to the City



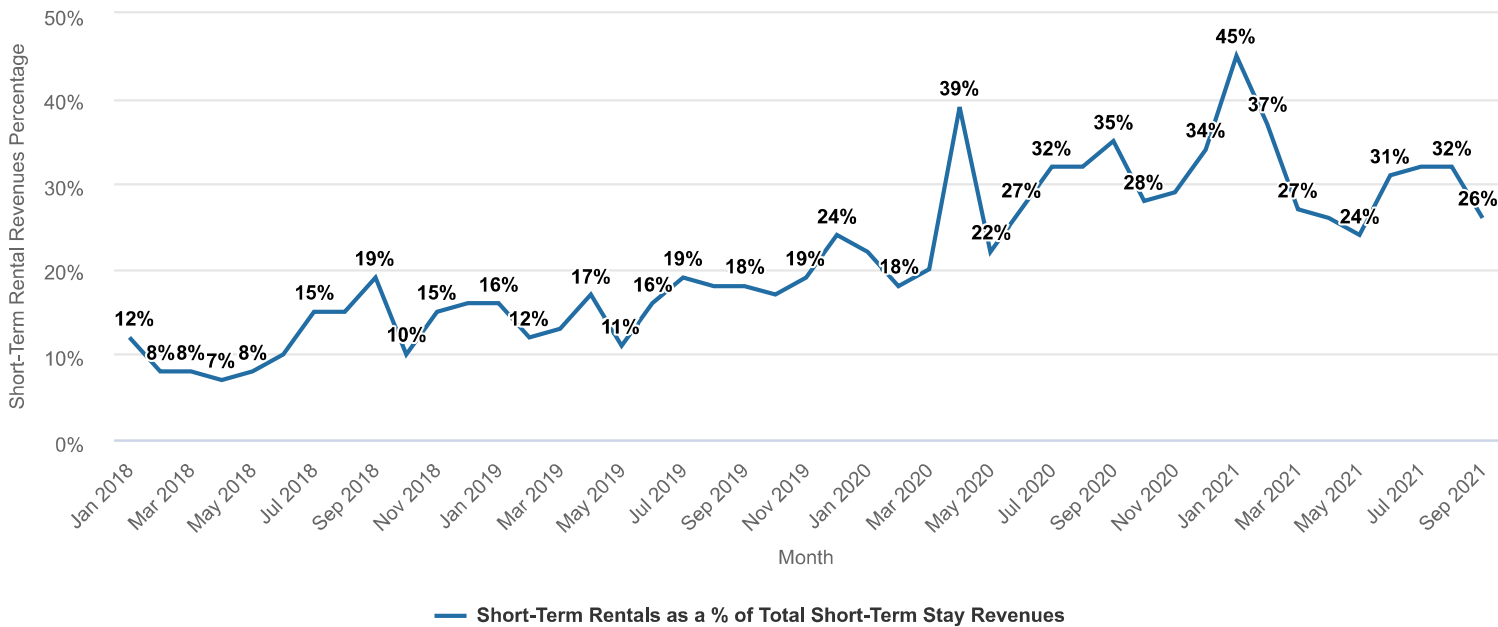
This measure captures the number of short-term rental properties that have newly provided their emergency contact information to the City of Scottsdale each month.

Short-Term Rental Revenues



This measure captures tax revenues collected from short-term rental properties in Scottsdale. This includes both the privilege (sales) tax and the bed (occupancy) tax. 50% of the bed (occupancy) tax is dedicated to destination marketing and the rest is dedicated for tourism-related expenses to be made by the city.

Short-Term Rentals as a % of Total Short-Term Stay Revenues



This measure reflects the percentage of revenues, both the privilege (sales) tax and the bed (occupancy) tax, that short-term rentals are responsible for out of all short-term stays. Short-term stays include lodging at hotels, motels, resorts, etc..

**Short-Term Rental Working Group Final Recommendations
(Accepted by City Council July 1, 2021)**

This list of recommendations has been developed collaboratively with Working Group members. The recommendations are consistent with the Working Group's purpose to identify opportunities for the city to improve monitoring and enforcement of regulations to ensure that Scottsdale is doing everything it can to manage the impacts from short-term rentals.

Recommendations are designed to increase the likelihood that impacts can be prevented and minimized, enforcement is timely when violations occur, residents are informed about how to handle problems, and ordinances reflect the authority granted under state law.

#	Recommendations
1	Improve enforcement against properties who regularly violate the ordinances.
a	Assign sufficient resources to this effort to: <ul style="list-style-type: none"> ▪ identify potential problems before they occur ▪ provide a rapid response ▪ follow-up to ensure resolution ▪ close the loop with the person making the complaint to ensure concerns are addressed
b	Evaluate the need for a Short-Term Rental and Nuisance Party Response Team based on a review of data on calls for service, response times, and the enforcement action needed. This should include focused efforts with increased resources during anticipated high activity times of the year.
c	Consider using a 24/7 hotline to triage enforcement efforts with a developed script to appropriately route incoming complaints and accelerate response.
d	The city should increase communication about enforcement efforts and measure and report progress over time such as a reduction in the number of complaints. In addition, the efforts of the two-person business regulation task force should be evaluated to consider whether this intensive focus on the registration and taxation review process should continue.
2	Work with the short-term rental industry to increase properties providing emergency contacts and improve voluntary compliance and ensure input from the industry is received prior to implementing any recommendations
a	Develop comprehensive list of requests the city will make from online lodging marketplace platforms and meet with industry representatives. <ul style="list-style-type: none"> ▪ Request that the industry notify Scottsdale properties that for each listing an emergency contact and a complaint contact is required, along with other Scottsdale-specific regulations ▪ Discuss ways that the platforms could make owners, hosts and renters aware of Scottsdale's ordinance requirements ▪ Request that the industry take action to remove Scottsdale properties that refuse to comply with and violate Scottsdale ordinances or state laws. ▪ Explore what information the platforms would be willing to share with the city about listings within the city ▪ Provide feedback to platforms on the experiences of Scottsdale residents in providing complaints to the platforms, and monitor platforms response to residents

#	Recommendations
	<ul style="list-style-type: none"> ▪ Maintain regular contact with platforms to address new or continuing concerns and receive updates on their efforts at managing problem properties and increasing properties providing contact information ▪ Express appreciation to the platforms for efforts to crack down on party houses
3	Use technology to identify and increase emergency contacts and compliance from short-term rentals
a	<p>Identify possible solutions that could aid in:</p> <ul style="list-style-type: none"> ▪ Identifying short-term rentals operating in Scottsdale ▪ Increasing the properties with complaint and emergency contacts ▪ Monitoring short-term rental listings to proactively identify potentially problematic properties such as those not including their transaction privilege tax number, advertising occupancies more than six adults and their dependent children standard, and advertising properties as party houses or event rentals ▪ Automating enforcement efforts such as compliance letters and notices ▪ Serving as a 24/7 short-term rental complaint hotline <p>Staff should contact other cities that have used the software to learn about their experience and recommendations, determine how the system will be used and by whom, identify the necessary funding, plan for the implementation, and then procure the technology that best fits Scottsdale's needs.</p>
4	Ensure Scottsdale is collecting all allowable revenue from short-term rentals and analyze whether fines could be increased
a	As properties are identified, compare those with Transaction Privilege Tax licenses with the Arizona Department of Revenue to ensure they are paying taxes.
b	Improve the process for issuing notices of violations and the process for handling appeals for police service fees to limit the number of fees that need to be reduced.
c	Review all fines against state maximums to ensure that fines are set at the maximum amount, for example, create a sliding scale of fines \$750, 1,500, 2,000 and 2,500 (the maximum allowed under state law) for owners and \$250, 500, 1,000 and 2,000 for occupants based on the number of prior violations. Also explore creative solutions that use fines, but also additional measures that will mitigate negative impacts of short-term rentals, such as agreeing to employ noise-detection software in exchange for reduced fines or attending a course on best practices.
5	Evaluate whether Scottsdale's ordinances (Vacation Rental, Nuisance Party and Unlawful Gathering, and Noise Ordinances) could be strengthened to eliminate loopholes and improve ability to enforce
a	Review other cities ordinances to identify possible ways that Scottsdale's ordinances could be strengthened, and review Scottsdale's ordinances compared to Arizona Revised Statutes 9-500.39.B.1 criteria to see if codes could be strengthened within the current authority.
b	Strengthen the city's short-term rental emergency contact provision to require the emergency contact respond in person to a short-term rental within one hour for emergencies to be defined within the ordinance to include nuisance parties and unruly gatherings, this appears to be allowable under A.R.S. 9-500.39B1 and would amend

#	Recommendations
	Scottsdale Revised Code Section 18-150(b), the city's short-term rental complaint and emergency contact provision.
c	Eliminate the police service fee provisions of the city's Nuisance Party and Unruly Gathering Ordinance and replace them with civil sanctions through citations filed in city court to provide for improved enforceability including the possibility of criminal charges against someone defined as a habitual offender. A habitual offender would be defined as any person who commits a violation of the Nuisance Party and Unruly Gathering Ordinance after previously having been found responsible for three or more violations of the Nuisance Party and Unruly Gathering Ordinance within a two-year period, whether by default or by judgment after hearing, and who has not paid the civil sanctions required by the court for those offenses.
d	To address unreasonable noise, define excessive noise within the City's Nuisance Party and Unruly Gathering Ordinance to be "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 the Nuisance Party and Unruly Gathering Ordinance, a reasonable person of normal sensibilities shall include Scottsdale police officers. 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 (XX) dB(C) (whatever an equivalent bass level would be) is considered excessive under the Nuisance Party and Unruly Gathering Ordinance. Consider whether lower noise levels could be mandated during late night, early morning times.
e	There is a disconnect between the Zoning Ordinance occupancy requirements (maximum of six adults and their dependent children) and the city's ability to effectively enforce those requirements. As a result, clarifying occupancy requirements and exploring ways to improve compliance and effectively educate people about the requirements is needed.
f	Consider amending the ordinances to create opportunities that would allow waiver, mitigation, or diversion of fines if an owner agrees to take certain steps such as installing noise monitors or outdoor cameras, take a best practices management class (see Recommendation 8b) or file a safety, operations, and noise mitigation plan with the city for the short-term rental.
g	Explore whether owner information could be required to be posted on-site and all notices sent to the owner.
h	Review all short-term rental complaints to determine if there is a data-informed reason for additional regulations relating to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste and pollution control. This could include a review of laws applicable to hotels but not short-term rentals and evaluate against A.R.S. 9-500.39.B.1 criteria to see if they could be added to the ordinance.
6	Improve information and resources shared by the city to help inform residents about what the city can and cannot do with short-term rentals and make it easier for people to contact the property managers/hosts when there are problems
a	Improve the quality and content of information shared with residents on: <ul style="list-style-type: none"> ▪ How to report complaints directly to the city (including the 24-7 hotline, if developed) ▪ How to report complaints to the online lodging marketplace platforms

#	Recommendations
	<ul style="list-style-type: none"> ▪ Improve the interface with the map and complaint contact information to make it mobile-friendly and easier to use. ▪ Create a how-to guide for residents living near short-term rentals on how to handle problems when they occur ▪ Develop workshops for residents on what to report and how to report violations ▪ Publicize information and workshops to residents and neighborhood groups, including neighborhood watch captains ▪ Put a flyer in the utility bill that explains what the city is doing about short-term rentals ▪ In all communications, work with local media to announce these changes
7	Assist neighborhoods, including homeowners' associations, with information and resources on how to manage short-term rentals
a	Prepare information to share with residents, as well as HOAs, and similar neighborhood groups, including a Neighborhood College class or educational mediation resources.
8	Improve education about short-term rental best practices for residents, owners, and hosts
a	<p>Work with online lodging marketplace platforms, property management companies, and short-term rental owners/hosts who actively manage their properties to:</p> <ul style="list-style-type: none"> ▪ Identify best practices common to well-managed short-term rentals ▪ Prepare information to share with all short-term rental contacts, including frequently asked questions about the Scottsdale ordinances and state laws (e.g. advertising requirement that TPT license number be included, occupancy limits, disorderly conduct, etc.) ▪ Include an acknowledgement of the city's rules as part of the complaint and emergency contact sign-up process ▪ Require owners and hosts to post a city services contact list and summary of laws and ordinances to share with renters listing out such things as occupancy limits, trash and noise ordinance requirements ▪ Share the information to all contacts (short-term rental owners and operators)
9	Share information with the State of Arizona about how the City of Scottsdale is using the powers available to cities, and advocate for necessary changes to State Law to return needed short-term rental oversight to the City of Scottsdale
a	Work with other cities and the online lodging marketplace platforms to come to agreement on needed changes to existing state laws to protect public safety and quality of life, such as those identified in Recommendation 9c, including modifications to the Verified Violations system and develop improved information about short-term rentals and Scottsdale enforcement efforts to clearly state the case for additional oversight at the local level.
b	Request that Working Group members Vice Mayor Janik and Councilmember Milhaven pen a letter to Scottsdale legislators and other state officials that raises awareness of this good faith effort to solve these community concerns on a local level, notes barriers to success due to state law, and attaches applicable research and documentation generated through the Working Group process.
c	Continue to advocate for changes to state laws to give Scottsdale greater oversight in future legislative sessions as a City Council priority. Examples of legislative changes could include the following concepts:

#	Recommendations
	<ul style="list-style-type: none">▪ Gain ability to manage short-term rentals differently than long-term rentals (de-couple)▪ Allow city to impose reasonable licensing or permitting requirements▪ Allow city to provide density and/or separation requirements▪ Allow city to set reasonable density by zones or neighborhoods▪ Create mechanism that caps total percentage of short-term rental's allowed and establishes method to provide better separation in future years▪ Require online lodging marketplace platforms to provide a disclosure of state laws and ordinances, and require acknowledgement by owners, hosts and renters▪ Require short-term rentals to be applicable to public health and safety laws similar to the same laws that apply to hotels
d	A citizen group could be formed to advocate for changes to state laws resulting in greater limits to short-term rentals or returning greater oversight to cities.

ORDINANCE NO. 4527

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SCOTTSDALE, AMENDING ARTICLE I, SECTION 18-2
AND ARTICLE IX, SECTION 18-150 OF CHAPTER 18 OF
THE SCOTTSDALE REVISED CODE

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

Section 1. Chapter 18, Article I, Section 18-2 of the Scottsdale Revised Code is amended and renumbered to conform by adding a new definition as follows:

"Transient" means within the definition of vacation rental or short-term rental any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

Section 2. The City Council finds it is necessary to protect the public health and safety within the City of Scottsdale by requiring designated emergency points of contact respond within one (1) hour upon notification of an emergency by the City to the physical location of a vacation rental or short-term rental as there have been over one thousand eight hundred fifteen (1815) police calls involving vacation rentals and short-term rentals for the period through October 27, 2021.

Section 3. Chapter 18 Article IX, Section 18-150 of the Scottsdale Revised Code is amended as follows:

ARTICLE IX. – VACATION RENTALS.

Sec. 18-150. Contact information required; information updates.

(a) The owner of a vacation rental or short-term rental shall provide the city with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by e-mail at any time of day before offering for rent or renting the vacation rental or short-term rental within the city.

(b) In addition to the information required above, the owner of a vacation rental or short-term rental shall provide to the city the name and contact information of a person designated as an emergency contact.

(c) Any person designated as an emergency contact pursuant to subsection b of this section upon the request of the city in the event of an emergency shall respond in-person within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact.

(e)(d) The owner shall notify the city, in writing, of all changes in the contact information required by this section, not less than ten (10) days prior to the effective date of the change.

(d)(e) The city manager or designee shall develop the necessary forms and/or database necessary to implement this section.

(f) For the purpose of this section "in the event of an emergency" means any time police, fire or other public safety personnel respond to a vacation rental or short-term rental for a call for service including responding to a nuisance party or unlawful gathering.

(g) It shall be a civil offense for any person designated as an emergency contact upon notification by the city to either fail to respond to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact or fail to arrive within one (1) hour to the physical location of the vacation rental or short-term rental for which they are a designated emergency contact. Failure to respond shall be punished by a minimum fine of five hundred (\$500.00) dollars and failure to arrive within one (1) hour shall be punished by a minimum fine of two hundred fifty (\$250.00) dollars.

PASSED AND ADOPTED by the Council of the City of Scottsdale this __ day of _____ 2021.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Ben Lane
City Clerk

David D. Ortega
Mayor

APPROVED AS TO FORM:

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

ORDINANCE NO. 4528

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. Article VIII, Chapter 18 of the Scottsdale Revised Code is amended as follows:

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 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.

~~*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.~~

~~*Police service fee* means the fee as provided in Section 18-126 of this Article to offset the cost of services provided by the Police Department in response to the nuisance party or unlawful gathering.~~

Responsible person means any persons in attendance including any owner, occupant, tenant, or tenant's guest or any sponsor, 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 or trespassing.

~~*Special security assignment* means the police services provided during any call in response to complaints or other information regarding nuisance party or unlawful gatherings.~~

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.

Sec. 18-123. - Nuisance party.

- ~~(a) When any Scottsdale police officer responds to any nuisance party and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the Scottsdale police officer shall issue a written notice to any responsible~~

~~person(s). If the owner is not present the Scottsdale police officer shall also send a copy of the written notice to the owner. The responsible person(s) will be assessed a police service fee for special security assignments relating to nuisance parties as provided in Section 18-126. For second and subsequent violations within one hundred eighty (180) days of the first response, the owner will also be assessed a police service fee for special security assignments relating to nuisance parties as provided in Section 18-126. The police officer or other police employee shall provide the notice of the violation to the responsible person(s) and the owner in any of the following manners:~~

- ~~(1) Personal service to any responsible person(s) being cited at the nuisance party.~~
 - ~~(2) As to the resident(s) of the premise, posting of the notice on the door of the premises of the nuisance party.~~
 - ~~(3) As to the owner, notification of the posting of the notice of the nuisance party shall be mailed to the property owner at the address shown on the Maricopa County property tax assessment records. Notification shall be made by certified mail and regular mail. The return receipt will service as evidence of service.~~
- ~~(b) If, after written notice of the violation as provided in subsection (a), a second or subsequent police response or responses is necessary to the same location or address for a nuisance party within one hundred eighty (180) days of the first response, such response shall be deemed a second response and subject to the police service fee as provided in Section 18-126. If, after written notice of the violation as provided in subsection (a), a third response is necessary to the same location or address for a nuisance party within one hundred eighty (180) days of the second response, such response shall be deemed a third response and subject to the police service fee as provided in Section 18-126.~~
- ~~(c) On any response to a nuisance party, the responsible person(s) or owners may be assessed a fee commensurate with the next level fee for a nuisance party, if any of the following factors are found:~~
- ~~(1) Minor in possession;~~
 - ~~(2) Minor in consumption;~~
 - ~~(3) Public urination or defecation;~~
 - ~~(4) Indecent exposure;~~
 - ~~(5) Public sexual indecency;~~
 - ~~(6) Illegal drugs;~~
 - ~~(7) Illegal dumping or littering;~~
 - ~~(8) Obstruction of public thoroughfares;~~
 - ~~(9) Weapons violations; or~~
 - ~~(10) Felonious conduct.~~

Sec. 18-123. - Measurement criteria.

For the purpose of enforcement of the provisions of this article, if a sound level meter is used, noise level shall be measured on the A or C weighted scale with a sound level meter satisfying at least the applicable requirement for Type 1 sound-level meters as defined in American National Standard S 1.4-1971 or the most recent revisions thereof. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. Prior to measurement, the meter shall be verified, and adjusted to ± 0.3 decibel by means of an acoustical calibrator. The ambient sound level shall be verified and noted.

Sec. 18-124. — Unlawful gatherings.

- (a) ~~When any Scottsdale police officer responds to any unlawful gathering and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the Scottsdale police officer shall issue a written notice to any responsible person(s). The responsible person(s) will be assessed a police service fee for special security assignments relating to unlawful gatherings as prescribed in Section 18-126.~~
- (b) ~~A police service fee may be imposed on any police response to an unlawful gathering. For any first response, the responsible person may be eligible for substance use education class in lieu of the police service fee assessment.~~

Sec. 18-125. — Fees, billing; and appeal.

- (a) ~~The police service fee for special security assignments arising out of nuisance parties and unlawful gatherings shall be progressive depending on the number of repeat unlawful gatherings and provided for in Section 18-126.~~
- (b) ~~The amount of such police service fees charged shall be deemed a joint and several debt to the City of any and all responsible persons and owners, whether they received the benefit of such special security assignment services or not. If the responsible person(s) for the nuisance party or unlawful gathering is a juvenile, then the parents or guardians of that juvenile will also be jointly and severally liable for the costs incurred for police services. Any person owing money due for the police service fee shall be liable in an action brought in the name of the City for recovery of such amount, including reasonable attorney fees.~~
- (c) ~~For a first police response, if a responsible person is the person who owns the property where a nuisance party or unlawful gathering takes place, the owner will not be charged the police service fee unless:~~
 - (1) ~~The owner was present at or had knowledge of the nuisance party or unlawful gathering and took no reasonable action to prevent the nuisance party or unlawful gathering; or~~
 - (2) ~~If the owner had been sent a notice from the City that a nuisance party or unlawful gathering had taken place on the premises, and a subsequent nuisance party or unlawful gathering occurs within one hundred eighty (180) days of the mailing of such notice to the owner; or~~

- ~~(d) The City does not waive its right to seek reimbursement for costs through any other legal remedies or procedures.~~
- ~~(e) The Chief of Police or his designee shall cause appropriate billings for the special security assignment to be made to the responsible person(s), which shall include the name and address of the responsible person(s), the date and time of the incident and the police services performed, and such other information as may be desired.~~
- ~~(f) Any responsible person(s) who wishes to dispute the determination that they are liable for the police service fee may appeal within ten (10) business days of the assessment of the police service fee as indicated by the written notice imposing the fee by filing a request for hearing with the city clerk's office. Sections 18-105, 18-106 and 18-108 shall govern the conduct of such appeals. The hearing officer may waive part or all of a police service fee charged against the owner of the property where a nuisance party or unlawful gathering takes place if the owner provides proof that they did not have an adequate period of time to prevent the nuisance party or unlawful gathering that triggered the fee, or that they have taken reasonable action to prevent the occurrence of future disturbances at the property.~~
- ~~(g) It is the responsibility of the responsible party to pay all fees due pursuant to this article in a timely manner. Fees will be due upon receipt of billing and fees not paid within thirty (30) days of initial billing shall be deemed delinquent.~~
- ~~(h) The Chief of Police may assign collections of fees prescribed under the terms of this article to the City Treasurer's Office or other City department.~~

Sec. 18-126 — Police Service Fee.

- ~~(a) Police service fee for special security assignments related to nuisance parties:~~

~~First response\ \$500.00~~

~~Second response\ \$1,250.00~~

~~Third response and each subsequent response\ \$2,500.00~~

- ~~(b) Police service fee or special security assignments related to unlawful gatherings:~~

~~First response\ \$500.00~~

~~Second response\ \$1,250.00~~

~~Third response and each subsequent response\ \$2,500.00~~

Sec. 18-127. - Unlawful for a responsible person to permit a nuisance party or unlawful gathering; civil penalty.

- ~~(a) It shall be unlawful for a responsible person to permit either a nuisance party or unlawful gathering.~~
- ~~(b) A violation of this section is a civil offense and shall be punished with a minimum fine of \$750 two hundred fifty dollars (\$250.00) for a first offense, and a minimum fine of \$1,500 five hundred dollars (\$500.00) for a second offense, or a minimum fine of one thousand dollars (\$1,000.00) for a third offense or a minimum fine of two thousand dollars (\$2,000) for a fourth or subsequent offenses within a year.~~

Sec. 18-128~~5~~. – Unlawful for an owner to permit a nuisance party or unlawful gathering after notice; civil penalty.

- (a) It shall be unlawful for an owner to intentionally, knowingly or recklessly permit either a nuisance party or unlawful gathering ~~if the owner was previously notified by the city that a nuisance party or unlawful gathering had previously occurred within one hundred eighty (180) days on the same premises.~~
- (b) A violation of this section is a civil offense and shall be punished with a minimum fine of seven hundred fifty dollars (\$750.00) for a first offense, and a minimum fine of fifteen hundred dollars (\$1,500.00) for a second offense, a minimum fine of two thousand dollars (\$2,000.00) for a third offense, a minimum fine of two thousand five hundred dollars (\$2,500.00) for a fourth offense or subsequent offenses within a year.

Sec. 18-126. Mitigation, suspension and/or reduction of fines.

A judge or hearing officer may mitigate, suspend or reduce any fines required by section 18-124 or 18-125 if the owner installs noise mitigation software or security cameras, attends a best practices course on operating a short-term vacation rental or long-term rental, posts conduct rules or completes any other measure the court deems as suitable for preventing future violations of this article.

Sec. 18-127. – Habitual offenders.

- (a) Any person who commits a violation of either section 18-124 or section 18-125 above after having previously been found responsible by a court on four (4) or more separate occasions for committing a civil violation of this article within a twenty four month (24) period, whether by admission, by default, or by judgment after a hearing and who has not paid the civil fines required by the court for those offenses (underlying offenses) shall be deemed a habitual offender and shall be guilty of a class one misdemeanor. A fictitious person shall be punished by a minimum fine of ten thousand dollars (\$10,000.00) and a maximum fine of twenty thousand dollars (\$20,000.00) pursuant to A.R.S. Section 13-305 except that the punishment for a non-fictitious person under this section requires in addition to any other penalties imposed by the court a fine of two thousand five hundred (\$2,500.00).
- (b) The payment of the civil fines due on an underlying offense, when such payments are made after the issuance of a summons and complaint on a charge of being a habitual offender, shall not be a defense to the habitual offender charge.

Sec. 18-128. – Authority to issue civil complaints; enforcement officers.

- (a) The City Manager or designee, a Scottsdale police officer or the City Attorney may issue civil complaints to enforce 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 complaint.

- (c) For purposes of this article, enforcement officer means a Scottsdale police officer or the city manager or designee.

Sec. 18-129. - Authority to Detain Persons.

A peace officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of the Scottsdale Revised Code and to serve a copy of a complaint for an alleged civil or criminal violation of the Scottsdale Revised Code.

Sec. 18-130. Refusing to provide truthful name and date of birth when lawfully detained; penalty.

- (a) It is unlawful for a person, after being advised that the person's refusal to answer is unlawful, to fail or refuse to state the person's true full name and date of birth on request of a peace officer who has lawfully detained the person based on reasonable suspicion that the person has committed a violation of the Scottsdale Revised Code. A person detained under this section shall state the person's true full name and date of birth, but shall not be compelled to answer any other inquiry of a peace officer.
- (b) A person who violates this section is guilty of a class 2 misdemeanor.

Sec. 18-13129. – 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. 18-132 through Sec. 18-149. Reserved.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ____ day of
____ 2021

CITY OF SCOTTSDALE, an Arizona
municipal corporation

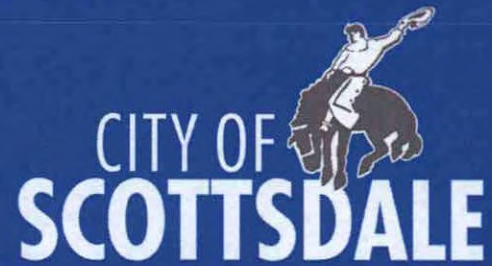
ATTEST:

Ben Lane, City Clerk

David Ortega, Mayor

APPROVED AS TO FORM:

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



Short-Term Rentals Update

City Council Work-Study Session

November 9, 2021

Council Direction

- July 1, 2021 – Council accepted nine recommendations from the Short-Term Rental Working Group and included as a priority in the Organization Strategic Plan
- Staff was directed to act on these recommendations and report back to the City Council on a quarterly basis

<https://www.scottsdaleaz.gov/codes/vacation-short-term-rentals>

Vacation Rental Ordinance

The key changes to the Vacation Rental ordinance include:

- requiring a one-hour response time in the event of an emergency and
- setting a penalty for non-response

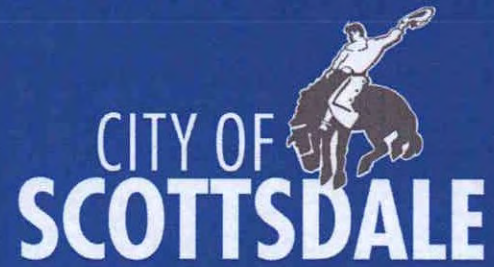
Nuisance Party and Unruly Gathering Ordinance

The key changes to the Nuisance Party ordinance include:

- adding a noise levels and measurement criteria,
- replacing the police service fee and administrative hearing process with a civil citation process,
- increasing minimum fines for hosts and owners,
- allowing for mitigation, suspension or reduction of fines based on best practices, and
- defining habitual offenders.

Additional issues

- Occupancy
- Additional regulations
- Rental of detached casitas or guest houses separate from the main residence



Short-Term Rentals Update

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