

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. 18-1274. - 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. 18-1285. – 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.

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 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).

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. 18-129. – 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.

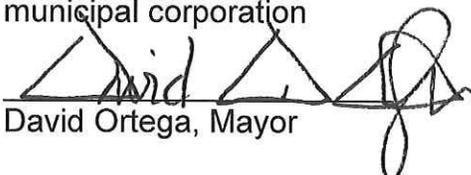
PASSED AND ADOPTED by the Council of the City of Scottsdale this 8th day of December 2021

ATTEST:



Ben Lane, City Clerk

CITY OF SCOTTSDALE, an Arizona
municipal corporation



David Ortega, Mayor

APPROVED AS TO FORM:



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