

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING SECTIONS 23-51, 23-54, 23-55, 23-57, 23-62, 23-65, 23-66, 23-67 AND 23-72 AND ADDING SECTIONS 23-74 AND 23-75 TO THE SCOTTSDALE REVISED CODE RELATING TO PUBLIC SAFETY PLANS

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

Section 1. Sections 23-51 of the Scottsdale Revised Code is hereby amended as follows:

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.

Control means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

- (1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten (10) percent or more of the outstanding voting securities of the applicant, licensee or controlling person, or to control in any manner the election of one (1) or more of the directors of the applicant, licensee or controlling person. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (i) that person, or (ii) by an officer, partner, employee or representative of that person or (iii) by a spouse, parent or child of that person.
- (2) In a publicly-held corporation, in an on-site manager who directs the daily operation of the business, and every additional manager at the same location to whom the on-site manager reports, whether or not the on-site manager or additional manager(s) has any ownership interest in the business.

- (3) In a partnership, if the general partner or a limited partner holds ten (10) percent or more of the voting rights of the partnership.
- (4) In a limited liability company, if a member holds ten (10) percent or more of the voting rights of the company.
- (5) If a creditor of the business or controlling person holds a beneficial interest in ten (10) percent or more of the liabilities of the applicant, licensee or controlling person.
- (6) In an on-site manager of a business who directs the daily operation of the business , whether or not the on-site manager has any ownership interest in the business.

Controlling Person means a person directly or indirectly possessing control of a business.

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 where a Scottsdale Police Officer has probable cause to believe a crime has occurred and the crime is 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.

Significant bodily injury means an injury that causes permanent or temporary substantial disfigurement, permanent or temporary substantial loss or impairment of any body organ or part or a fracture of any body part excluding a fractured nose.

Section 2. Sections 23-54 and 23-55 of the Scottsdale Revised Code are hereby amended as follows:

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.

c. For the purposes of this section, a business that is required to have a public safety plan is a business to which this article is made applicable pursuant to Section 23-52.

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 including line management plan, 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. Locations of any surveillance equipment to include the physical location where surveillance footage is stored (digitally or otherwise), and the average retention time of such surveillance footage;
- k. A written policy/plan for requiring that employees appear in court after receiving a subpoena to appear when the business or a patron is a victim in a criminal matter; and
- l. j. Any additional criteria required by the Chief of Police.

Section 3. Section 23-57 of the Scottsdale Revised Code is hereby amended as follows:

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~~ dangerous instrument or a death ~~or~~ catastrophic bodily injury or a significant 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 a polo shirt with the name of the business, metal security badges, pins or embroidered patches.

Section 4. Sections 23-62 of the Scottsdale Revised Code is hereby amended as follows:

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, the classification of a public safety plan incident, or the revocation of a public safety plan, shall be entitled to the review and appeal procedures provided in Chapter 16, Article I.

Section 5. Sections 23-65, 23-66 and 23-67 of the Scottsdale Revised Code are hereby amended as follows:

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~~ public 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. It shall be unlawful for any employee or controlling person of a business to fail to comply with the provisions of this section. 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 or controlling person 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 by a business or controlling person 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.

Section 6. Section 23-72 of the Scottsdale Revised Code is hereby amended as follows:

Sec. 23-72. - Security officer to patron ratios; supervisory personnel; failure to comply with uniform requirements.

a. 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. Personnel who do not comply with the uniform requirements found in Section 23-57(f) may not be counted as part of the required ratio.

b. Except as otherwise authorized by law, a business required to have a public safety plan pursuant to this article shall not allow its personnel to act as security personnel unless first meeting the uniform requirements of Section 23-57(f).

Section 7. Sections 23-74 and 23-75 of the Scottsdale Revised Code is hereby added as follows:

Sec. 23-74. Failure to preserve evidence of a potential public safety incident

a. All businesses required to have a public safety plan pursuant to this article are required to preserve any and all evidence of a public safety incident for one (1) year. This evidence includes but is not limited to all surveillance footage, photos, video captures, audio/video recordings, and/or logbooks. Except as otherwise provided by law, such evidence shall be provided to the Scottsdale Police Department upon request by the Police Department within twenty four (24) hours or if applicable within the time specified in any court order.

b. Any employee or controlling person who intentionally, knowingly or recklessly fails to comply with the provisions of this section is guilty of 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. The court shall not suspend any part of any fine required by this section.

Sec. 23-75. Line Management.

a. It shall be unlawful for any business required to have a public safety plan pursuant to this article or its employees to do any of the following involving a line of patrons queuing for entry into the business:

1. fail to maintain orderly lines of patrons;
2. allow a line of patrons to obstruct traffic or pedestrians;
3. fail to have security personnel present and engaging in routine line checks once a line has more than fifty (50) people in line; or
4. fail to remove and/or trespass disorderly patrons when authorized by state law to do so.

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

ATTEST:

CITY OF SCOTTSDALE, an Arizona
municipal corporation

Ben Lane
City Clerk

David Ortega
Mayor

APPROVED AS TO FORM:

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