

CITY COUNCIL REPORT



Meeting Date: **May 6, 2024**
 Charter Provision: **Provide for the orderly government and administration of the affairs of the city**
 Objective: **Enact Local Legislation**

ACTION

Nuisance Parties and Vacation Rental Code Amendments. Adopt Ordinance No. 4626 amending Scottsdale Revised Code, Chapter 18, Article VIII concerning nuisance parties and unlawful gatherings, and Ordinance No. 4627 amending Scottsdale Revised Code, Chapter 18, Article IX concerning vacation rentals and short-term rentals.

BACKGROUND

In December 2021, the Scottsdale vacation rental and nuisance party ordinances were amended. It should be noted that the nuisance party ordinance is applicable to all residential occupancies including owner occupied. At the time of the ordinance amendments, the City promised to advocate for changes to state law to return needed vacation/short-term rental oversight to the City of Scottsdale, and to continue to evaluate additional necessary public health and safety regulations and bring forward additional revisions within the confines of state law.

After, SB 1168 passed on July 2022, municipalities were authorized to require vacation and short-term rentals to obtain and maintain a local regulatory permit or license. In October 2022, the City passed Ordinance No. 4566 repealing and replacing Article IX of Chapter 18 of the Scottsdale Revised Code concerning vacation and short-term rentals. Amongst other things, this allowed for the licensing of vacation/short-term rentals.

As of April 2024, Scottsdale has 3,900 current operating vacation/short-term rentals ("STRs") at a given moment and an estimated total 4,923 properties operating throughout the year. While live properties peaked in March 2023 and have been decreasing steadily, the amount of calls for service for nuisance parties have been increasing. Since 2021, nuisance party calls for service have increased by 20% on average each year, with January-March 2024 increasing by 73% over the same time period in 2023. Of these calls 48% are at confirmed STRs. STRs do not constitute 50% of Scottsdale's housing stock and thus are causing a disproportionate number of nuisance parties.

As directed by the City Council on July 11, 2023, staff created a detailed report on crimes and violations committed and calls for service at short-term rentals in the City and a summary of actions

Action Taken See Marked Agenda

taken by adjoining jurisdictions. At the City Council Work Study on November 20, 2023, staff presented the report and potential ordinance changes to address these challenges.

ANALYSIS AND ASSESSMENT

Recent Staff Action

Ordinance No. 4626 and 4627 were drafted by staff after hearing feedback from the City Council in a Work Study Session on November 20, 2023. All the changes are compliant with state law and are necessary to protect the public health and safety. The proposed amendments to the nuisance party ordinance are applicable to all residential occupancies. The full text of the changes are found Attachments 1 and 2.

Policy Implications

Since the Work Study Session, staff has continued to review and update the ordinance to ensure effective implementation after adoption. There are three main changes to the ordinance:

Adding promoters as a responsible party for nuisance parties

Under the current ordinance, promoters using residential properties for nuisance parties or unlawful gatherings are not easily held responsible. By adding both a clear definition and designation as a responsible party, Scottsdale increases its ability to hold bad actors accountable for causing nuisance parties in neighborhoods.

Prohibiting minors from renting STRs

This section will prohibit minor from renting or leasing a STR. Major short term rental hosting platforms already have established this policy. The adoption of this ordinance change will provide consistency and clarify the City's position and allow the City to enforce violations when necessary.

Giving police authority to remove non-residents from a property after a nuisance party is declared.

Currently, the police do not have an easy way to remove non-residents from a nuisance party. This language makes it unlawful for non-residents to stay at a property after a nuisance party is declared for a period of 8 hours.

Significant Issues to be Addressed

The key changes are highlighted below and included in the current draft of Ordinance No. 4626 and 4627.

18-122 Defines "Promoter" and adds them to the list of responsible persons under the ordinance.

Full definition: *Promoter means a person who contracts for or arranges with an owner or other responsible person, to provide any activity or event with or without compensation, and who is responsible for or directly organizes the presentation of the*

activities or events. Promoter does not include a person who contracts for or arranges with an owner or other responsible person to provide or organize a political event on behalf of or against any candidate for public office or in support of or opposition to any ballot measure or a charitable event on behalf of a 501(C)(3) non-profit registered with the United States Internal Revenue Service. For purposes of this chapter, promoter also includes an employee or agent of a promoter.

18-131 This section makes it unlawful for a promoter to advertise, permit or organize a nuisance party or unlawful gathering.

18-132 This section gives Scottsdale police authority to ask non-residents to leave nuisance parties as well as give penalties for those who do not leave after notice.

18-178 This section will prohibit minor from renting or leasing a short term rental.

Community Involvement

92% strongly agree or agree that Scottsdale is moving in the right direction with all three of these proposed ordinance changes. The draft ordinance language was sent out to residents for feedback through an online feedback form, via Polco, to the community on 3/19/24 and closed on 3/31/24. The form received 2,175 responses.

Promoters should be added as a responsible party for nuisance party and unlawful gathering violations.	91% Agreement (73% Strongly Agree or 18% Agree)
It should be unlawful for non-residents to remain on a property after police declare a nuisance party.	88% Agreement (73% Strongly Agree or 15% Agree)
Minors should be prohibited from renting short-term rentals.	96% Agreement (88% Strongly Agree or 8% Agree)

Occupant Load Limit Considerations

Staff will continue to work on how to handle occupant load limits through other means. While the City Council agreed that this is a key issue, during the November 2023 Work Study, it was agreed that enforcement would be an obstacle to adding ordinance language regarding the occupant load limit.

RESOURCE IMPACTS

Staffing, Workload impact

The ordinance adoption gives police more authority and might add a slightly greater enforcement burden. However, the dedicated STR Police unit is now fully staffed and can better accommodate any increased enforcement issues.

Budget Costs

There are no other budget impacts to adopting these ordinance changes. The enforcement of the ordinances is already included in the new STR Police Unit costs.

STAFF CONTACTS (S)

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Luis Santaella, Deputy City Attorney, LSantaella@ScottsdaleAZ.gov

APPROVED BY

Jim Thompson

4/22/24 12:02 MST

Jim Thompson

Date

(480) 312-2811, JThompson@Scottsdaleaz.gov

ATTACHMENTS

1. Ordinance No. 4626
2. Ordinance No. 4627
3. Results from Resident Feedback Form

ORDINANCE NO. 4626

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

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

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

Sec. 18-122. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Unlawful gathering means a party, gathering, or event where spirituous liquor is served to, or is in the possession of, or consumed by, any minor, or where illegal drugs

are in the possession of, or consumed by, any person, regardless of whether it would otherwise qualify as a nuisance party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 18-133. - Other remedies.

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

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

PASSED AND ADOPTED by the Council of the City of Scottsdale this ___ day of _____ 2024.

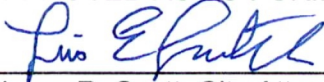
ATTEST:

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. 4627

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, ADDING SECTION 18-178 TO THE SCOTTSDALE REVISED CODE RELATING TO RENTAL OF VACATION RENTALS AND SHORT-TERM RENTALS BY JUVENILES

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

Section 1. Section 18-178 of the Scottsdale Revised Code is hereby added as follows:

Sec. 18-178. Rental of vacation rentals and short-term rentals by juveniles prohibited; penalty.

- (a) It shall be unlawful for a juvenile to rent or lease a vacation rental or short-term rental.
- (b) No parent or guardian shall intentionally, knowingly or recklessly allow his or her juvenile child to rent or lease a vacation rental or short-term rental.
- (c) No vacation rental or short-term rental owner or owner's designee shall intentionally, knowingly or recklessly rent or lease a vacation rental or short-term rental to a juvenile.
- (d) A violation of this section is a civil offense and shall be punished by a minimum fine of one thousand (\$1,000.00) dollars plus court costs and surcharges.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ___ day of _____ 2024.


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



Short Term Rentals - Proposed Amendments

Survey Results
FINAL

04/22/2024

The City of Scottsdale is moving in the right direction with this ordinance change.



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