

ARTICLE II. - SPECIAL NOISE VIOLATIONS

Sec. 19-24. - [Purpose.]

The purpose of this article is to promote the health and general welfare of the citizens and businesses of the city by protecting neighborhoods.

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-25. - Definitions

- (A) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) *"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).
 - (2) *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 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.
 - (3) *Business* means either a corporation, limited liability corporation, 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.
 - (4) *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.
 - (5) *Dwelling* means building, which is designed for residential purposes with the exception of any residential unit located within a hotel, resort, or other transitory lodging development.
 - (6) *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.
 - (7) *Impulse noise* means a noise of short duration, usually less than one (1) second, with an abrupt onset and rapid decay.
 - (8) *Microbar* means a unit of pressure commonly used in acoustics and is equal to one (1) dyne per square centimeter.
 - (9) *Period* means "Period" of a periodic quantity shall mean the smallest increment of time for which the function repeats itself.
 - (10) *Periodic quantity* means oscillating quantity, the values of which recur for equal increments of time.
 - (11) *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.
 - (12)

Residential District means any property zoned Single-family residential district (R1-190, R1-130, R1-70, R1-43, R1-35, R1-18, R1-10, R1-7, R1-5), Two-family residential district (R-2), Multifamily residential district (R-3), Townhouse residential district (R-4), Multiple-family residential district (R-5), Manufactured home district (M-H), or any specific portion of a Planned community district (PCD) or Planned Residential Development District (PRD) with a comparable or underlying zoning district that consists exclusively of any of the aforementioned residential districts. For the purposes of this article, the definition of residential districts specifically excludes, but the exclusion is not limited to, properties or dwellings with the following Zoning districts or designations: Resort district (R-4R), Service residential district (S-R), Downtown district (D) and downtown sub-districts, Planned block development district (PBD), Planned unit development district (PUD).

- (13) *Sound level*. "Sound level" (noise level), in decibels (dB) is the sound measured with the A - weighting and slow response by a sound level meter.
- (14) *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.
- (15) *Unreasonable noise* means noise that a reasonable person of normal sensibilities would find excessive and that can be heard at least one hundred (100) feet from the business.

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-26. - Unreasonable noise created by businesses that serve alcohol or provide live entertainment prohibited.

- (A) It shall be unlawful for a business that serves alcohol or provides live entertainment to create unreasonable noise that through its operations disturbs the peace or quiet of a residential district that contains dwellings.
- (B) For making a determination that noise is unreasonable pursuant to this section, a reasonable person of normal sensibilities shall include Scottsdale police officers or other city employees designated by the City Manager to enforce this section.
- (C) A sound level meter may be used, but is not required, to assist in determining whether noise is unreasonable or not.
- (D) It shall be a rebuttable presumption under this article that noise levels over sixty-eight (68) db(A) are considered unreasonable.
- (E) The following activities are exempt from the provisions of this section:
 - (1) Non-amplified noises resulting from the activities of the patrons of a business.
 - (2) An event being held pursuant to a city issued special events permit provided that the business is operating in accordance with the conditions of that permit.

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-27. - 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-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.

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-28. - Penalties for creating unreasonable noise created by businesses that serve alcohol or provide live entertainment.

- (A) It shall be a civil offense to violate subsection A of section 19-26 above.
- (B) The penalty for a first violation shall be five hundred dollars (\$500.00).
- (C) The penalty for a second violation within one (1) year shall be one thousand five hundred dollars (\$1,500.00).
- (D) The penalty for a third or subsequent violation within one (1) year shall be two thousand five hundred dollars (\$2,500.00).
- (E) The penalty for a business that violates the noise conditions of its city issued special events permit shall be two thousand five hundred dollars (\$2,500.00).

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-29. - Authority to issue civil complaints.

- (A) The City Manager or designee, a Scottsdale police officer or the City Attorney may issue civil complaints to enforce Section 19-26.
- (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.

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-30. - Habitual offenders.

- (A) Any business as defined in this article who commits a violation of subsection A of section 19-26 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 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 and 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).

(Ord. No. 3912, § 2, 9-28-10)

Sec. 19-31. - Remedies non-exclusive.

The remedies provided for in this article are not exclusive and nothing shall preclude the City from pursuing other authorized legal remedies against violators of this article that may include but are not limited to conditional use permit revocation and enforcement of other applicable federal, state, county and city laws.

(Ord. No. 3912, § 2, 9-28-10)

Secs. 19-32—19-34. - Reserved.