

RESOLUTION NO. 2022-XXXX

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED "AMENDMENT CHAPTER 11 OFFENSES, SECTION 11-1-28 OF THE CITY OF GOODYEAR CODE OF ORDINANCES, TO ESTABLISH NEW UNRULY GATHERING REGULATIONS."

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1. DECLARATION OF PUBLIC RECORDS

That a certain document titled "Amending Chapter 11 Offenses, Section 11-1-28 of the City of Goodyear Code of Ordinances, to Establish New Unruly Gathering Regulations," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2. PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 202X-XXXX.

SECTION 3. COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20_____.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

EXHIBIT "A"

AMENDMENT TO CHAPTER 11 OFFENSES, SECTION 11-1-28 OF THE CITY OF GOODYEAR CODE OF ORDINANCES, TO ESTABLISH NEW UNRULY GATHERING REGULATIONS

Pursuant to Ordinance No. 2022-XXXX adopted by the City of Goodyear City Council on _____, 2022, CHAPTER 11, SECTION 11-1-28 of the City of Goodyear Code of Ordinances is replaced in its entirety to read as follows:

SECTION 11-1-28 UNRULY GATHERING

- (A) **Purpose and intent.** The purpose of this section is to deter behavior associated with unruly gatherings and allow the City to obtain reimbursement for expenses related to responses to unruly gatherings which have been determined to be a threat to the peace, health, safety, or welfare of the general public. The City of Goodyear finds and determines that unruly gatherings held on private property may constitute a nuisance which is a threat to the peace, health, safety and welfare of the general public. Police officers have been required to make repeated responses to unruly parties, gatherings or events to abate the nuisance and to disperse uncooperative or unruly participants and to restore the public peace and welfare. Such repeat calls deplete the manpower and resources of the police department and can leave other areas of the City with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike.
- (B) **Definitions.** In the Article, unless the context otherwise requires, the following terms or phrases are defined as follows:
1. "Increased Response" means the response of two or more uniformed officers to the scene of a Unruly Gathering in which eleven (11) or more persons are present and where it becomes necessary to restore the public peace, health, safety and/or general welfare.
 2. "Juvenile" means any person under the age of eighteen (18) years.
 3. "Minor" means any person under the age of twenty-one (21) years.
 4. "Owner" means any owner, as well as any agent of an owner such as a landlord, acting on behalf of the owner, who controls or otherwise regulates the occupancy or use of the property.
 5. "Premises" means any property that is the site of a Unruly Gathering. For residential properties, Premises can mean the dwelling unit, units or other common areas where the Unruly gathering occurs.
 6. "Responsible Person" means any person in attendance at a Unruly Gathering including any Owner, occupant, tenant, or tenant's guest or any sponsor, host or organizer of a social activity or special occasion or Owner that was aware of the social activity or special occasion constituting the Unruly Gathering, even if such person is not in attendance, or any Owner who had been notified that a Unruly Gathering had

previously occurred on the same Premises within one hundred eighty (180) days prior to a subsequent Unruly 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 a Unruly Gathering takes place if the persons in attendance obtained use of the Premises through illegal entry or trespassing. A person need not be present at the time of the party, gathering or event to be deemed responsible.

7. "Unruly Gathering" means a gathering of five (5) or more persons on any private property, including property used to conduct business, which constitutes a threat to the public peace, health, safety or general welfare including, but not limited to: excessive noise (meaning noise witnessed and reasonably evaluated by a police officer and/or by a code enforcement officer as disturbing the peace and quiet enjoyment of people working or living in the vicinity of the Premises), impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.
8. "Unruly Gathering Notice (Notice)" means a document identifying the Premises as the site of a Unruly Gathering in which a citation was issued and advising the Owner, occupants, guests or other persons entering the Premises that any future Unruly Gathering upon the Premises shall have additional consequences.

(C) Unruly Gathering.

1. When a police officer responds to any Unruly Gathering and that police officer determines there is a threat to the public peace, health, safety or general welfare, the police officer may issue a civil citation for Unruly Gathering to any Responsible Person. If the Responsible Person is the Owner and the Owner is not present and was not the sponsor, organizer or host of the event and the Owner had notice that a Unruly Gathering had occurred on the Premises within the prior one hundred eighty (180) days, the Owner shall be charged with a civil citation.
2. A police officer may abate a Unruly Gathering by reasonable means including, but not limited to, citation or arrest of violators under applicable ordinances or state statutes and dispersing any remaining gathered participants. Any participant not a tenant on a lease document who fails to disperse may be deemed a Responsible Person and cited for Unruly Gathering.
3. The police officer or other police employees shall provide a Unruly Gathering Notice to the Responsible Person(s) and/or Owner in any of the following manners:
 - a) By personal service of any Responsible Person(s) being cited at the Unruly Gathering; or,
 - b) By posting of the Notice on the door of the Premises of the Unruly Gathering; or,
 - c) By mailing the Notice to the Owner, at the address shown on the Maricopa County property tax assessment records. Such notification shall be made by certified mail; with the return receipt serving as evidence of service.

4. Upon request, the Owner must provide the names of any and all occupants listed on the leasing documents at any location where the Police Department responds to a Unruly Gathering.

(D) Subsequent Unruly Gathering.

1. Consistent Premises - If, after receiving a Unruly Gathering Notice as provided in §11-1-28(C)3., a second or subsequent police response or responses is/are necessary to the same Premises for a Unruly Gathering within ninety (90) days of the first response, such response(s) shall be deemed a second response and subject to the higher fines as provided in §11-1-28(H). If, after written notice of the violation as provided in §11-1-28(C)3., a third response is necessary to the same Premises for a Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines as provided in §11-1-28(H).
2. Consistent Responsible Person - If, after receiving a Unruly Gathering Notice as provided in §11-1-28(C)3., a second or subsequent police response or responses is necessary to any Premises involving the same Responsible Person for an Unruly Gathering within ninety (90) days of the first response, such response shall be deemed a second response and subject to the higher fines as provided in §11-1-28(H). If, after written notice of the violation as provided in §11-1-28(C)3., a third response is necessary to any Premises involving the same Responsible Person for a Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines as provided in §11-1-28(H).
3. Once a Premises is initially posted as a result of a Unruly Gathering and the conduct causing the gathering to be unruly has ceased, a resumption of unruly behavior on the Premises resulting in another police response shall constitute a new and separate, yet cumulative, Unruly Gathering for purposes of this section.

(E) Posting of Unruly Gathering

1. The Premises at which the Unruly Gathering occurs shall be posted with a Notice stating:
 - a) That an Unruly Gathering has occurred at the Premises;
 - b) The date of the Unruly Gathering;
 - c) That any subsequent Unruly Gathering on the same Premises resulting in a citation, and subsequent conviction thereof, within a ninety (90) day period (or within one hundred and twenty days (120) of a second Unruly Gathering, as defined herein, with or without Increased Response, and within one hundred eighty days (180) of a third Unruly Gathering, as defined herein, with or without an Increased Response) shall result in the Responsible Person(s) liability for the penalties provided in this ordinance;

- d) The right to contest the posting, as provided in subsection (4)(d) of this section; and,
 - e) Contact information at the police department.
 - 2. Posting Requirements. Premises shall be posted with a Unruly Gathering Notice as provided in this section each time an Unruly Gathering occurs. The Owner, occupant or tenant of the Premises, if present, shall be advised as to the location in which such Notice is posted in order to achieve both the security of the Notice and its prominent display. The Unruly Gathering Notice shall be posted in a place visible upon inspection by a police officer during the prescribed period. In the event that the Premises are already posted at the time of a subsequent posting, the ninety (90) day period from the date of the existing posting shall be extended an additional one hundred and twenty (120) days from the date of the subsequent posting.
- (F) **Removal of notice prohibited;** The Owner of the posted Premises shall be responsible for ensuring that the Unruly Gathering Notice is not removed, defaced, or concealed. The removal, defacement, or concealment of a posted Notice is a civil infraction carrying a mandatory penalty of a minimum of two hundred fifty dollars (\$250.00) in addition to any other penalties which may be imposed under this section.
- (G) **Right to contest posting.**
- 1. An Owner, occupant, or tenant of the posted Premises may contest the posting of the Notice by filing a written petition for a civil hearing in the City Municipal Court requesting that the court determine whether justification existed for posting of the notice under the provisions of this section. The petition must be filed within ten (10) days after the posting of the Notice or, if the Notice is given by mail, within fifteen (15) days after the postage date of the mailing of the Notice, and not thereafter. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the written petition and shall notify both the petitioner and the City Attorney of the hearing date. In order to avoid the possibility of conflicting rulings, if more than one (1) petition is filed under this subsection relating to a single posting, for example by multiple lawful occupants of the posted Premises, the court shall set only one (1) hearing and shall consolidate the petitions and notify all petitioners of the hearing date and time. At the hearing, the City has the burden of proving, by a preponderance of evidence, that the posting of the Notice was justified pursuant to the provisions of this section.
 - 2. An Owner of a posted Premises, at any time after the posting or the mailing of the Notice, may petition the City Municipal Court for an order directing the removal of the Notice on the grounds that the Owner has taken reasonable and necessary actions to prevent the occurrence of a subsequent Unruly Gathering at the posted location. The court shall set a time and date for a hearing to be held no later than fifteen (15) days after receipt of the petition and shall notify both the petitioner and the City Attorney of the hearing date. At the hearing, the petitioner has the burden of proving, by a preponderance of evidence, that the petitioner has taken reasonable and necessary actions to prevent the occurrence of a subsequent Unruly Gathering. This petition process is not available to an Owner who was present at the Unruly Gathering and engaged in conduct causing the gathering to be unruly.

(H) **Penalties.**

1. Civil Offense for Non-Owner as the Responsible Person. If the Responsible Person is convicted of a Unruly Gathering, the civil penalty shall be a minimum mandatory fine of one thousand dollars (\$1000) for a first violation. Additionally, if the Responsible Person for a Unruly Gathering has previously been convicted for a Unruly Gathering, regardless of the location of the prior violation in the City of Goodyear, the penalty shall be a minimum mandatory fine of two thousand dollars (\$2,000) for a second violation, and a minimum mandatory fine of two thousand five hundred dollars (\$2,500) for a third or subsequent violation.
2. Civil Offense for Owner as the Responsible Person. If the Responsible Person is an Owner that was not present at the Unruly Gathering, was not aware of the social activity or special occasion constituting the Unruly Gathering, and was not an organizer, host or sponsor of the Unruly Gathering, but had been notified that an Unruly Gathering had previously occurred on the property within one hundred eighty (180) days prior an Unruly Gathering, then the civil penalty shall be a minimum mandatory fine of one thousand dollars (\$1000) for a first violation, a minimum mandatory fine of two thousand dollars (\$2,000) for a second violation, and minimum mandatory fine of two thousand five hundred dollars (\$2,500) for a third or subsequent violation.

- (I) **Enforcement.** The Police Department is authorized to enforce the provisions of this section regardless of whether enforcement is initiated by a complaint from a member of the public or detection by the Police Department without any such complaint. Peace officers shall enforce the provisions of this section using their sound discretion and the consideration of the totality of the circumstances, including but not limited to the use of the Premises (e.g. residential, commercial, etc.)