

ORDINANCE NO. 2902

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 42 OFFENSES AND ABATEMENT OF PUBLIC NUISANCES, ARTICLE III OFFENSES INVOLVING PUBLIC PEACE AND ORDER BY ADDING NEW DIVISION 3 UNRULY GATHERINGS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR PENALTIES.

WHEREAS, the Town Council seeks to adopt this unruly gathering ordinance to address behaviors that threaten the peace, health, safety, and welfare of the general public; and

WHEREAS, the Town Council wishes to promote the safety of individuals attending gatherings held in Gilbert by assuring that responsible person(s) are held responsible for unruly gatherings that jeopardize the peace, health, safety, and welfare of the general public.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the Town of Gilbert, Arizona, as follows:

Section 1.     In General.

The Code of Gilbert, Arizona, CHAPTER 42 OFFENSES AND ABATEMENT OF PUBLIC NUISANCES, ARTICLE III. OFFENSES INVOLVING PUBLIC PEACE AND ORDER is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Division 2. – Alarm Systems  
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~~Secs. 42-90 – 42-105. Reserved.~~

DIVISION 3. – UNRULY GATHERINGS

SEC. 42-90. PURPOSE.

THE TOWN COUNCIL FINDS THAT THE CONTROL OF UNRULY GATHERINGS IS NECESSARY WHEN SUCH ACTIVITY IS A THREAT TO THE PEACE, HEALTH, SAFETY, OR GENERAL WELFARE OF THE PUBLIC. POLICE AND OTHER FIRST RESPONDERS ARE OFTEN REQUIRED AT UNRULY GATHERINGS TO ADDRESS COMPLAINTS OF DISTURBANCES, THE NEED TO DISPERSE UNCOOPERATIVE PARTICIPANTS, THE NEED TO ENFORCE CRIMINAL LAWS AND TOWN

ORDINANCES, AND THE PROVISION OF OTHER SERVICES BY THE TOWN.

SEC. 42-91. DEFINITIONS.

FOR THE PURPOSE OF THIS DIVISION, THE FOLLOWING TERMS SHALL BE DEFINED AS FOLLOWS:

1. *ILLEGAL DRUGS* MEANS A DRUG OR SUBSTANCE THE POSSESSION AND USE OF WHICH IS PROHIBITED UNDER TITLE 13 OF THE ARIZONA REVISED STATUTES. THE TERM DOES NOT INCLUDE ANY DRUG OR SUBSTANCE FOR WHICH A PERSON HAS A VALID PRESCRIPTION ISSUED BY A LICENSED MEDICAL PRACTITIONER AUTHORIZED TO ISSUE SUCH A PRESCRIPTION OR IS OTHERWISE AUTHORIZED BY LAW.
2. *JUVENILE* MEANS ANY PERSON UNDER THE AGE OF 18 YEARS.
3. *MINOR* MEANS ANY PERSON UNDER THE AGE OF 21 YEARS.
4. *OWNER* MEANS ANY PERSON OR LEGAL ENTITY THAT OWNS A PROPERTY OR HAS CHARGE, CARE, POSSESSION, OR CONTROL OF A PROPERTY AS A LEGAL OWNER.
5. *PROPERTY* MEANS THE REAL PROPERTY THAT IS THE SITE OF AN UNRULY GATHERING. FOR RESIDENTIAL PROPERTIES, PROPERTY MEANS THE DWELLING UNIT, UNITS, OR OTHER COMMON AREAS WHERE THE UNRULY GATHERING OCCURS.
6. *RESPONSIBLE PERSON* MEANS ANY PERSON WHO IS (I) AN OWNER, LANDLORD, OR TENANT; OR (II) THE SPONSOR, HOST, OR ORGANIZER OF AN UNLAWFUL GATHERING. IF SUCH PERSON IS A JUVENILE, THE TERM RESPONSIBLE PERSON INCLUDES, IN ADDITION TO THE JUVENILE, THE JUVENILE'S PARENTS OR LEGAL GUARDIANS. RESPONSIBLE PERSON DOES NOT INCLUDE OWNERS, LANDLORDS, OR TENANTS WHERE AN UNRULY GATHERING TAKES PLACE IF THE PERSONS IN ATTENDANCE OBTAINED USE OF THE PROPERTY THROUGH ILLEGAL ENTRY OR TRESPASSING.

7. *UNRULY GATHERING* MEANS A PARTY, GATHERING, OR EVENT ON ANY PUBLIC OR PRIVATE PROPERTY, INCLUDING PROPERTY USED TO CONDUCT BUSINESS, IN A MANNER WHICH CAUSES A DISTURBANCE OF THE REASONABLE ENJOYMENT OF PRIVATE OR PUBLIC PROPERTY BY ANY PERSON OR PERSONS. SUCH DISTURBANCES MAY INCLUDE BUT ARE NOT LIMITED TO: EXCESSIVE NOISE (MEANING NOISE 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 PROPERTY), IMPEDING TRAFFIC, OBSTRUCTION OF SIDEWALKS OR STREETS BY CROWDS OR VEHICLES, DRINKING ALCOHOL IN PUBLIC AREAS, THE USE OR POSSESSION OF ILLEGAL DRUGS, THE POSSESSION OR CONSUMPTION OF ALCOHOL OR MARIJUANA BY MINORS, FIGHTING OR VIOLENCE, SERIOUS DISRUPTIVE BEHAVIOR, DISTURBING THE PEACE, AND/OR LITTERING.

SEC. 42-92. UNRULY GATHERINGS PROHIBITED

(A) IT SHALL BE UNLAWFUL FOR A RESPONSIBLE PERSON TO PERMIT AN UNRULY GATHERING.

(B) IT SHALL BE UNLAWFUL FOR ANY PERSON TO ENGAGE IN ANY CONDUCT CAUSING A GATHERING TO BE UNRULY.

SEC. 42-93. ABATEMENT OF UNRULY GATHERING.

A POLICE OFFICER MAY ABATE AN UNRULY GATHERING BY ANY REASONABLE MEANS INCLUDING, BUT NOT LIMITED TO, CITATION OF VIOLATORS UNDER APPLICABLE ORDINANCES OR STATE STATUTES, AND DISPERSAL OF THE PERSONS ATTENDING THE GATHERING.

SEC. 42-94. RESPONSIBLE PERSON EXCEPTION.

IF A RESPONSIBLE PERSON IS THE OWNER, LANDLORD, OR TENANT OF PROPERTY WHERE AN UNLAWFUL GATHERING TAKES PLACE, SUCH PERSON SHALL NOT BE LIABLE UNDER THIS DIVISION UNLESS:

(A) THE OWNER, LANDLORD, OR TENANT WAS EITHER  
(I) PRESENT AT THE PROPERTY WHILE THE UNLAWFUL GATHERING OCCURRED; OR (II) HAD KNOWLEDGE OF

THE UNLAWFUL GATHERING AND TOOK NO REASONABLE ACTION TO PREVENT UNLAWFUL GATHERING; OR

(B) AN UNLAWFUL GATHERING HAD TAKEN PLACE ON THE PROPERTY WITHIN THE PRIOR 180 DAYS.

SEC. 42-95. PENALTIES; HABITUAL OFFENDER

(A) UNLESS OTHERWISE DESIGNATED, A VIOLATION OF THIS DIVISION IS A CIVIL VIOLATION OF THIS CODE, AND THE COURT SHALL IMPOSE A CIVIL PENALTY OF NOT LESS THAN \$500.00 AND NOT MORE THAN \$2,500.00.

(B) ANY PERSON WHO COMMITS A VIOLATION OF THIS DIVISION AFTER HAVING PREVIOUSLY BEEN FOUND RESPONSIBLE BY A COURT ON ONE OR MORE SEPARATE OCCASIONS FOR COMMITTING A CIVIL VIOLATION OF THIS DIVISION WITHIN AN 18-MONTH PERIOD, WHETHER BY ADMISSION, BY DEFAULT, OR BY JUDGMENT IN COURT SHALL BE DEEMED A HABITUAL OFFENDER AND SHALL BE GUILTY OF A CLASS ONE MISDEMEANOR.

(C) IN ADDITION TO ANY PENALTY IMPOSED, ANY PERSON WHO COMMITS A VIOLATION OF THIS DIVISION IS LIABLE FOR THE EXPENSES OF ANY RESPONSE FROM THE TOWN OF GILBERT THAT RESULTS FROM THE VIOLATION. THE FACT THAT A PERSON IS CONVICTED OR FOUND RESPONSIBLE FOR A VIOLATION OF THIS DIVISION IS PRIMA FACIE EVIDENCE OF LIABILITY UNDER THIS SECTION. THE LIABILITY IMPOSED UNDER THIS SECTION IS IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER LIABILITY THAT MAY BE IMPOSED.

(D) FOR THE PURPOSES OF THIS SECTION, "EXPENSES OF ANY RESPONSE" MEANS REASONABLE COSTS DIRECTLY INCURRED BY THE TOWN OF GILBERT THAT MAKES AN APPROPRIATE RESPONSE TO AN INCIDENT, INCLUDING THE COSTS OF PROVIDING POLICE, FIRE FIGHTING, RESCUE, PUBLIC WORKS, AND EMERGENCY MEDICAL SERVICES AT THE UNRULY GATHERING AND THE SALARIES OF THE PERSONS WHO RESPOND TO THE UNRULY GATHERING BUT EXCLUDING CHARGES ASSESSED BY AN AMBULANCE SERVICE THAT IS REGULATED PURSUANT TO A.R.S. TITLE 36, CHAPTER 21.1, ARTICLE 2(B).

## SEC. 42-96. OTHER REMEDIES.

NOTHING IN THIS DIVISION SHALL BE CONSTRUED AS AFFECTING THE ABILITY TO INITIATE OR CONTINUE CONCURRENT OR SUBSEQUENT CRIMINAL PROSECUTION FOR ANY VIOLATION OF THE

PROVISIONS OF THE TOWN CODE OR STATE LAW ARISING OUT OF THE CIRCUMSTANCES NECESSITATING THE APPLICATION OF THIS DIVISION.

SECS. 42-97—42-105. - RESERVED.

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 3. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Providing for Penalties

A violation of this Ordinance shall be a Class 1 misdemeanor subject to the enforcement and penalty provisions set forth in Section 1-5(c) of the Gilbert Town Code.


PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this 21<sup>st</sup> day of May, 2024, by the following vote:

AYES: ANDERSON, BONGIOVANNI, BUCHLI, KOPROWSKI, PETERSON, TILQUE, TORRESON

NAYS: \_\_\_\_\_ ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this 21<sup>st</sup> day of May, 2024.

  
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Brigitte Peterson, Mayor

ATTEST:

  
Chaveli Herrera, Town Clerk

APPROVED AS TO FORM:

  
Christopher W. Payne, Town Attorney

I, CHAVELI HERRERA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 2902 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF GILBERT ON THIS 21ST DAY OF MAY, 2024, WAS POSTED IN ONE PLACE ON THE 22<sup>ND</sup> DAY OF MAY, 2024.

  
Chaveli Herrera, Town Clerk