

ORDINANCE NO. 08- ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MISSION VIEJO, CALIFORNIA, ADDING CHAPTER 11.23 OF TITLE 11 OF THE MISSION VIEJO MUNICIPAL CODE REGARDING MULTIPLE RESPONSES TO LOUD OR DISRUPTIVE PARTIES, GATHERINGS OR EVENTS.

THE CITY COUNCIL OF THE CITY OF MISSION VIEJO DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

- A. Police officers are often required to respond to complaints regarding loud or disruptive parties, gatherings, or events in order to disperse participants.
- B. These disruptive parties, gatherings, and events may become violent, resulting in assaults, batteries, and the perpetration of crimes on the property, threatening the peace, health, safety, and general welfare of the public.
- C. The necessity of sending police officers to break up loud or disruptive parties, gatherings, and events drains police resources from other areas requiring police protection and unfairly imposes the cost of certain citizens' inappropriate or unlawful behavior on the entire community.
- D. The conditions described in this article create a significant hazard to the safety of the police officers and to the public in general and are hereby declared to be a public nuisance.
- F. The City desires to provide for the recovery of costs incurred by the City as a direct result of multiple responses by police to loud or disruptive parties, gatherings or events.

Section 2. Ordinance: Amendment to Municipal Code.

Chapter 11.23 of Title 11 of the Mission Viejo Municipal Code is hereby added as follows:

“CHAPTER 11.23 MULTIPLE RESPONSES TO LOUD OR DISRUPTIVE PARTIES, GATHERING OR EVENTS.

- 11.23.010 Definitions
- 11.23.020 Issuance of Warning for Initial Response
- 11.23.030 Multiple Responses
- 11.23.040 Appeal
- 11.23.050 Reservation of Legal Options

“11.23.010. Definitions

For the purpose of this article, the following definitions shall apply:

‘Loud or Disruptive’ means conduct that includes, but is not limited to, excessive noise, excessive traffic, obstruction of public streets and/or presence of unruly crowds that have spilled into public streets, public drunkenness or unlawful public consumption of alcohol or alcoholic beverages, assaults, batteries, fights, domestic violence or other disturbances of the peace, vandalism, litter, or any other conduct which constitutes a threat to public health, safety or quiet enjoyment of residential property or the general welfare.

‘Police services fees’ means the actual costs incurred by the City on the following items:

1. The services of police and administrative staff arising from a second or subsequent response to a loud or disruptive party, gathering or event at a particular location within a twelve-hour period.
2. Injuries to police arising from a second or subsequent response to a loud or disruptive party, gathering or event at a particular location within a twelve-hour period.
3. Damage to public property arising from a second or subsequent response by police to a loud or disruptive party, gathering or event at a particular location within a twelve-hour period.

‘Parties, gatherings or events’ means a group of five (5) or more persons who have assembled or are assembling for a social occasion or social activity at a residence or on other private property or rented public property.

‘Person responsible for the event’ or *‘responsible person’* means and includes, but is not limited to:

- (1) the person who owns, rents, leases or otherwise has control of the premises where the loud or disruptive party, gathering, or event occurs; and/or
- (2) the person in charge of the premises; and/or
- (3) the person who organized the event; and/or
- (4) the person who supervised the event.

11.23.020. Issuance of Warning for Initial Response

Police initially responding to a loud or disruptive party, gathering or event on private or public property may issue a written warning to the person(s) responsible for loud party, gathering, or event. Such warning shall contain the substance of the following statement: “If the police are required to respond again to this location due to a loud or disruptive party, gathering, or event within the next twelve hours, then the person(s) responsible for such party, gathering or event shall be assessed a police services fee in accordance with Mission Viejo Municipal Code Chapter 11.23.”

11.23.030. Multiple Responses

(a) If police are required to respond to a loud or disruptive party, gathering or event at a particular location for a second or subsequent time within a twelve hour period after a warning has been issued, then for each such response a police services fee shall be assessed against the person(s) responsible for the loud or disruptive party, gathering or event. Each person responsible for said party, gathering or event shall be jointly and severally liable for the police services fee, provided, however, that if any such person is a minor, then the parents or legal guardians of such minors shall be jointly and severally liable in the minor’s place.

(b) An itemized bill shall be sent to every person assessed a police services fee. In its discretion, the City may delegate preparation of the itemized bill to a public entity designee.

(c) A police services fee shall be paid in full within fifteen (15) days of the billing date unless a written appeal is filed in accordance with 11.23.040.

11.23.040. Appeal

Any person assessed a police services fee may, by filing a written request within fifteen days of the billing date, appeal the amount of such fee to the City Manager. The City Manager shall conduct a hearing on timely-filed appeals, and may affirm or reduce the amount of the fee. No reduction shall be granted unless the appellant establishes either: (i) an accounting error has been committed; or (ii) there are mitigating circumstances warranting leniency. The decision of the City Manager shall be in writing and shall be final. The full amount of any police services fee assessment upheld by the City Manager shall be paid within fifteen days of the City Manager’s decision.

11.23.050. Reservation of Legal Options

(a) The procedures provided for in this Chapter are in addition to any other statute, ordinance or law, whether civil or criminal. This Chapter in no way limits the authority of law enforcement officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Chapter.

(b) The City does not waive its right to seek reimbursement for actual costs through other legal remedies or procedures. Any person owing money shall be liable in an action brought in the name of the City for recovery of such amount, including reasonable attorney's fees.

Section 3. Compliance with California Environmental Quality Act.

The City Council finds that this Ordinance is not subject to the California environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project this City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the State CEQA Guidelines.

Section 4. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 5. Effective Date.

This Ordinance shall become effective thirty (30) days from its adoption.

Section 6. Publication.

The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published within the City of Mission Viejo, pursuant to all legal requirements.

PASSED, APPROVED AND ADOPTED this ____ day of _____,
2008.

Trish Kelley, Mayor

ATTEST:

Karen Hamman, CMC
City Clerk

APPROVED AS TO FORM:

William P. Curley III
City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF MISSION VIEJO)

I, Karen Hamman, CMC, City Clerk of the City of Mission Viejo, do hereby certify that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a regular meeting of the City Council on the ____ day of _____, 2008, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2008, by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAINED: COUNCIL MEMBERS:

Karen Hamman, CMC, City Clerk