

LEGISLATIVE HISTORY

Introduced by: Council Members S. Combs
and Berberich
Date: May 14, 2019
Public Hearing: May 28, 2019
Action: Tabled Indefinitely – Approved
Vote: Unanimous

Yes:	No:
Berberich	
Carrington	
Chaudhry	
L. Combs	
S. Combs	
DeVries	
Fuller	

CITY OF PALMER, ALASKA

Ordinance No. 19-007

An Ordinance of the Palmer City Council Enacting Palmer Municipal Code Chapter 9.39 Regarding Excessive Police Responses

WHEREAS, the city of Palmer has citizens concerned with residences that have an excessive amount of crime and suspicious traffic and activity; and

WHEREAS, these citizens would like an avenue to discourage unlawful activities through a defined penalty system; and

WHEREAS, the city of Palmer police department is dispatched regularly to these problem residences for a variety of unlawful or suspicious activities.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code Chapter 9.39 is hereby enacted to read as follows:

9.39.010 Purpose

This ordinance addresses the issue of excessive police responses to repeat locations. Occasionally, one or more police officers respond multiple times to a property on a call for assistance, a complaint, an emergency, a potential emergency or a reasonable suspicion of unlawful activity. This Ordinance outlines liable parties, fees for excessive police response and appropriate corrective action.

9.39.020 Definitions.

When used in this chapter, the following words and phrases shall have the meanings set forth in this section:

“Dwelling unit” means a structure or portion thereof providing independent and complete cooking, living, sleeping, and toilet facilities for a person or group of persons living as a single housekeeping unit.

"Excessive police response" means for a residential property, each police response in excess of eight to a dwelling unit in a calendar year.

"Mobile home" means a detached single dwelling unit fabricated at a factory and capable of being transported to location of use on its own chassis and wheels, identified by a model number and serial number by its manufacturer, and designed primarily for placement on a non-permanent foundation.

"Mobile home park" means any parcel or adjacent parcels of land in the same ownership which are managed for occupancy by more than two mobile homes. The term does not include tourist facilities for travel trailers or campers.

"Owner" means the record owner of the property as shown in the real property records of the borough.

"Person" means any individual, or any business or non-business association recognized by law, whether or not organized for profit.

"Police response" means one or more police officers that respond to a call for assistance, a complaint, an emergency, a potential emergency, or a reasonable suspicion of unlawful activity witnessed by a police officer, and any response determined by a sergeant or higher ranking police officer to be related to activities on the property premises and reasonably preventable. The term "police response" does not include a response to:

1. Receipt of false information as defined in AS 11.56.800(a)(1), unless the false information was provided by an occupant or owner of the property;
2. A false alarm as defined in AS 11.56.800(a)(2) through (3), unless the false alarm was caused, permitted or allowed by an occupant or owner of the property in violation of AS 11.56.800(a)(2) through (3);
3. A call involving potential child neglect, potential domestic violence as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270;
4. A report of a sexual assault as defined in AS 11.41.410 through 11.41.427;
5. A medical emergency for serious bodily injury or death;
6. A call from the tenant or owner of property for police assistance with:
 - a. Theft or attempted theft from the tenant or owner; or
 - b. A report of the presence or identification of a person under state or federal warrant; or
 - c. An inebriated person preparing to operate a motor vehicle upon leaving the premises.

"Residential property" means an individual parcel, tract or lot shown on the most recent plat of record containing one or more dwelling units, or a mobile home.

9.39.030 Notice to liable persons.

A. The city may notify the owner and tenant of a property in writing when the number of police responses in the current calendar year to a residential unit equals the number of excessive police responses for that type of property.

B. A notice under this section shall be given in a manner reasonably calculated, under all the circumstances, to provide actual notice to the person of the potential liability for the fee. At a minimum, the notice shall be sent by certified mail or by direct delivery, return receipt requested,

to the mailing address of the person as shown on the city's real property tax records. If the mailed notice is returned refused for signature by the recipient, actual notice shall be conclusively presumed on the date refused. If the mailed notice is returned unclaimed or undeliverable, the city shall accomplish notice by another method and attest to the date notice is accomplished by affidavit or in a police report. Notice may be accomplished by any lawful manner.

- C. The notice addressed to an owner and tenant shall:
1. Identify the property that is the subject of the notice by street address, and if the property has multiple units, identify the dwelling unit;
 2. State the number of police responses in the calendar year to date and state additional police responses to the unit or property may result in imposition of fees under this chapter;
 3. State the person shall be liable for a fee for each excessive police response to the property during the calendar year, unless, within 30 days, any person takes appropriate corrective action promptly and gives written notice to the chief of police of the action taken;
 4. State the amount of the fee per excessive police response; and
 5. State the contact information of a representative of the police department to contact concerning the notice.

9.39.040 Corrective Action.

A. An owner or tenant of a property shall have 30 days from the date notice is accomplished, as required under PMC 9.36.030, to promptly take appropriate corrective action. Appropriate corrective action is action reasonably expected to correct the cause of the police responses to the property. Police officers holding the rank of sergeant or higher are authorized to determine whether corrective action is appropriate under the circumstances. The officer's determination shall be in writing and issued within five days of receipt of the person's written notice of the action taken. Should the officer determine the action taken is not appropriate corrective action, the officer shall explain the reasons and the person shall have 10 days from the date of the determination to take appropriate corrective action. The 10-day extension shall be provided only once in a calendar year for each unit receiving excessive police responses. Examples of appropriate corrective action, subject to a police officer's determination whether it is appropriate, may include, without limitation:

1. Written notice to quit under AS 09.45.100 through 09.45.110;
2. Eviction notice served on the tenant or lessee requiring vacation of the premises within 30 days or less;
3. Obtaining a restraining order, if appropriate;
4. Installation or implementation of new or additional security measures; or
5. Action recommended by the police department in writing and implemented to the satisfaction of a police officer the rank of sergeant or higher.

B. Appropriate corrective action does not include:

1. Relocating a tenant or lessee of a unit to a different unit on the same property, unless a police officer the rank of sergeant or higher determines the relocation is appropriate. If a person is relocated, the city may transfer the number of police responses from the former unit to the new unit; or
2. Communicating only orally with the person causing the police responses.

C. A fee may not be imposed for additional police responses to the unit that is the subject of the notice during the 30-day period allowed under subsection (A) of this section if any person takes appropriate corrective action and gives written notice to the police department of the action taken during the 30-day period. There is a conclusive presumption that appropriate corrective action

was taken if there are no additional police responses to the property from the end of the 30-day period until the earlier of:

1. The end of the calendar year; or
2. Ninety calendar days.

9.39.050 Fees for excessive police response.

A. Subject to subsection (B) of this section, the owner of a property and the tenant of a unit shall jointly pay the city a progressive charge for violations of this chapter in accordance with the fee in the current, adopted budget per excessive police response to the dwelling unit during a calendar year.

B. The city shall bill the owner of the property and the tenant of a unit for excessive police responses and they both shall jointly pay those charges within 30 days of a receipt of said bill.

C. A person is exempt from liability for the fee established by subsection (A) of this section if:

1. The person is a federal, state, or local government agency;
2. The property or unit responded to is used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;
3. The city has not provided notice to the person in writing as provided in PMC 9.36.030;
4. Any person has taken appropriate corrective action and given written notice to the police department of the action as required by PMC 9.36.030; or
5. The owner or tenant of the property or unit responded to has entered a current written agreement with the police department.

D. If a property has more than one owner, all owners shall be jointly liable, with the tenant, for any fee imposed under this chapter. Actual notice to one owner creates a rebuttable presumption of actual notice to all other owners.

E. For residential property owned as a condominium, a fee based on excessive police responses to a single dwelling unit shall be assessed against the owner of the dwelling unit, jointly with the tenant.

F. A tenant shall not be liable for the fee if the tenant's conduct did not require the police response and the tenant's right to possession commenced on a date subsequent to the date of the first police response that is counted for purposes of the fee imposed under this chapter.

G. If the unit requiring excessive police responses is a mobile home located in a mobile home park, the fee may not be imposed on the owner or operator of the mobile home park, unless the owner's or operator's conduct required the excessive police response. The fee may be imposed jointly on the owner and tenant of the mobile home.

H. If a sergeant or higher ranking official of the police department determines appropriate corrective action was taken with respect to a specific unit, the count of police responses to the unit shall reset to zero, effective the date of the determination.

I. The fee may be collected in any lawful manner, including bringing an action in court for a personal judgment against any one or more of the persons liable.

J. An owner or tenant liable for a fee under this chapter may bring an action in court against a person whose conduct required the excessive police response to recover the amount of the fee

and related costs. An owner or tenant shall not be granted any extension of time or continuance to pay the fee based on a pending action against a third party.

Section 4. Effective Date. Ordinance No. 19-007 shall take effect upon adoption by the City of Palmer City Council.

Tabled Indefinitely this 27th day of August, 2019.