

**City of Wasilla
Ordinance Serial No. 14-29**

An ordinance of the Wasilla City Council adopting Wasilla Municipal Code 9.36 relating to Excessive Police Responses.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the city code.

Section 2. Adoption of section. WMC 9.36.010, Definitions, is hereby as follows:

9.36.010 Definitions.

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

Calendar day. The remainder of the calendar year beginning from the date previous corrective action was taken.

Commercial property. An individual parcel, tract or lot shown on the most recent plat of record that is not a residential property.

Commercial unit. An area within a commercial property that is readily identifiable by visual inspection as an area used by a single business or commercial enterprise.

Dwelling unit. 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. For a residential property, each police response in excess of 8 (eight) to a dwelling unit in a calendar year. For a commercial property, each police response in excess of 50 (fifty) to a commercial unit in a calendar year.

Mobile home. 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. 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. The record owner of the property as shown in the real property records of the borough.

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

Police response. 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)-(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)-(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—.427;
- (5) A medical emergency for serious bodily injury or death;
- (6) A call from the tenant or owner of commercial property used as a retail store for police assistance with:
 - (a) Theft or attempted theft from the retailer, or
 - (b) A report of the presence or identification of a person under state or federal warrant; or

(7) A call from the tenant or owner of commercial property used as a licensed premises under authorization of the Alcoholic Beverage Control Board, for police assistance with law enforcement matters including:

(a) A minor seeking unlawful admittance or service,

(b) An inebriated person seeking admittance or service,

(c) A report of the presence or identification of a person under state or federal warrant; or

(d) An inebriated person preparing to operate a motor vehicle upon leaving the premises.

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

9.36.020 Fee 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 penalty for violations of this chapter as provided in Chapter 1.20 per excessive police response to the dwelling unit or commercial unit during a calendar year.

(B) A person is exempt from liability for the fee established by subsection (A) 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 Section 9.36.030;

(4) Any person has taken appropriate corrective action and given written notice to police of the action as required by Section 9.36.030; or

(5) The owner or tenant of the commercial property or unit responded to has entered a current written agreement with the Wasilla Police Department.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) 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.

(I) 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.

(J) The city will provide a courtesy notice in writing to the owner or tenant of a commercial property or commercial unit when the total number of police responses exceeds 50 in a calendar year. Notice may be by mail and need not be certified or by direct delivery. Failure to provide notice under this subsection shall not prevent the assessment of fees under this chapter.

9.36.030 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 single dwelling unit or

commercial unit in a property 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 or 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 or commercial 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 Wasilla Police Department 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 Wasilla Police Department to contact concerning the notice.

9.36.040 Appropriate corrective action.

(A) An owner or tenant of a property shall have 30 days from the date notice is accomplished, as required under section 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 A.S. 09.45.100—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 Wasilla 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). If any person takes appropriate corrective action and gives written notice to the Wasilla 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) 90 calendar days.

9.36.050 Lien on property.

(A) A fee imposed under section 9.36.020 is a lien on the property to which there have been an excessive number of police responses.

(B) The lien becomes effective upon the recording of a notice of the lien that:

(1) Describes the property that is the subject of the lien;

(2) States the amount of fees accrued at the time of recording;

(3) States the total amount secured by the lien is calculated at the end of the applicable calendar year; and

(4) States the lien has been recorded pursuant to this section.

(C) When a notice of the lien has been recorded under subsection (B), the lien has priority over all other liens except:

(1) Liens for property taxes, special assessments, and sales and use taxes;

(2) Liens perfected before the recording of the lien under this section; and

(3) Mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this section.

9.36.060 Appeal.

(A) A person determined liable for fees for excessive police responses under this chapter may, within 30 days of receiving a notice of imposition of fees, apply for a hearing on the determination to the police chief or designee.

(B) The application shall be in writing and filed with the chief of police. The hearing shall be held within 15 days of receiving a timely application before the chief of police or designee. The hearing shall be limited to the issue of whether the person is liable for each fee imposed under this chapter, as found by the police department.

(C) Once the written decision is issued, any person aggrieved by the written decision may appeal the decision to the Mayor then the Alaska Superior Court in Palmer and governed by the 600 Series of the Alaska Rules of Appellate Procedure, within 30 calendar days after the date the decision was given to the parties.

Section 3. Amendment of subsection. WMC 1.20.030, Disposition of Scheduled Offenses—Fine Schedule, is hereby amended to add a fine for Excessive responses violations as follows:

Code Section	Description of Offense	Fine
9.36.020 - .060	Excessive police responses	\$500

Section 4. Effective date. This ordinance shall take effect on July 1, 2014.

ADOPTED by the Wasilla City Council on June 23, 2014.


VERNE E. RUPRIGHT, Mayor

ATTEST:



KRISTIE SMITHERS, MMC, City Clerk

[SEAL]






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CITY COUNCIL LEGISLATION STAFF REPORT

Ordinance Serial No. 14-29: An ordinance of the Wasilla City Council adopting Wasilla Municipal Code 9.36 relating to Excessive Police Responses.

Originator: Mayor Verne E. Rupright
 Date: 5/28/2014

Agenda of: 6/9/2014

Route to:	Department Head	Signature	Date
X	Finance Director		4-2-14
X	City Attorney		6-2-14
X	Chief of Police		6-2-14
X	Deputy Administrator		4-2-14
X	City Clerk		6.2.14

Reviewed by Mayor Verne E. Rupright: 

Fiscal Impact: yes or no **Funds Available:** yes or no

Attachments: Ordinance Serial No. 14-29 (8 pages)

Summary Statement: This ordinance adds Chapter 9.36 to the Wasilla City Code of Ordinances, and is of a general and permanent nature adopting rules and regulations to Excessive Police Responses.

The 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.

Staff Recommendation: Introduce and set for public hearing Ordinance Serial No. 14-29.

