

ORDINANCE NO. 1023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA, AMENDING TITLE 7 REGARDING MULTIPLE RESPONSES TO LOUD OR UNRULY PARTIES, GATHERINGS OR OTHER SIMILAR EVENTS

The City Council of the City of Coachella, California does hereby ordain as follows:

SECTION 1. Title 7 of the City of Coachella Municipal Code is hereby amended by adding Chapter 7.05 to read as follows:

“CHAPTER 7.05

MULTIPLE RESPONSES TO LOUD OR UNRULY PARTIES, GATHERINGS OR OTHER SIMILAR EVENTS

- 7.05.010 Declaration of findings and policy.**
 - 7.05.020 Loud or unruly gatherings – Public nuisance.**
 - 7.05.030 Notice of unruly gatherings – Posting, mail.**
 - 7.05.040 Persons liable for subsequent response to a gathering constituting a public nuisance.**
 - 7.05.050 Recovers of Subsequent Response Fee.**
 - 7.05.060 Collection of delinquent costs for a subsequent City response.**
-
- 7.05.010 Declaration of findings and policy.**

It is hereby found and declared that:

A. Due to inadequate supervision, some large gatherings of people, such as parties, frequently become loud and unruly to the point that they constitute a threat to the peace, health, safety, or general welfare of the public as a result of conduct such as one or more of the following: excessive noise, excessive traffic, obstruction of public streets or crowds who have spilled over into public streets, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, and litter.

B. The City of Coachella is required to make multiple responses to such unruly gatherings in order to restore and maintain the peace and protect public safety. Such gatherings are a burden on scarce City resources and can result in police responses to

regular and emergency calls being delayed and police protection to the rest of the City being reduced.

C. In order to discourage the occurrence of repeated loud and unruly gatherings, the persons responsible for the public nuisance created by these gatherings should be fined.

7.05.020 Loud or unruly gatherings – Public nuisance.

It shall be unlawful and a public nuisance to conduct a gathering of ten (10) or more persons on any private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, litter. A gathering constituting a public nuisance may be abated by the City by all reasonable means including, but not limited to, an order requiring the gathering to be disbanded and citation and/or arrest of any law violators under any applicable local laws and state statutes.

7.05.030 Notice of unruly gatherings – Posting, mail.

A. When the City intervenes at a gathering which constitutes a public nuisance under this Chapter, the premises at which such nuisance occurred shall be posted with a Notice substantially in the form attached hereto as Exhibit "A" stating that a public nuisance under this Chapter was caused by a gathering at the premises, the date and time of the police intervention, and that any subsequent or second police intervention with respect to a nuisance under this Chapter at said premises, including a second intervention that same day or night, within sixty (60) days of the first intervention, shall result in the joint and several liability of any guests causing the public nuisance, persons who are residents or in control of the property at which the public nuisance occurred, persons who sponsored the gathering constituting the public nuisance, and owners of the premises as more fully set forth in Sections 7.05.040 – 7.05.060, below. The residents and persons in control of such property, and the sponsors of the event, shall be responsible for ensuring that such Notice is not removed or defaced and shall be liable for a civil penalty of One Hundred Dollars (\$100) in addition to any other penalties which may be due under this Chapter, if such Notice is removed or defaced, provided, however, that the residents of the premises or sponsor of the event, if present, shall be consulted 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 Notice shall remain posted for the entire sixty (60) day period.

B. Notice of the police intervention shall also be mailed to any property owner at the address shown on the City's property tax assessment records and shall advise the property owner that any subsequent gathering resulting in a public nuisance within sixty (60) days on the same premises necessitating City intervention shall result in

liability of the property owner for all penalties associated with such intervention as more particularly set forth below.

EXHIBIT A

IMPORTANT NOTICE REGARDING

PUBLIC NUISANCE

NOTICE IS HEREBY GIVEN THAT, pursuant to Coachella Municipal Code (CMC) Chapter 7.05, on:

Date: _____, 20 ____, at _____ a.m./p.m.

The Coachella Police Department found that a gathering, at the below-listed premises caused a public nuisance as defined by CMC Chapter 7.05 (e.g., disturbance of the peace, threat to public safety, etc.):

Address: _____, Coachella, California.

WARNING

IF THE POLICE RESPOND TO ANOTHER DISTURBANCE CONSTITUTING A NUISANCE (AS DEFINED BY CMC CHAPTER 7.05) AT THE ABOVE PREMISES WITHIN 60 DAYS OF THIS NOTICE, INCLUDING BUT NOT LIMITED TO A DISTURBANCE LATER TODAY OR TONIGHT, A SUBSEQUENT RESPONSE FEE WILL BE IMPOSED UPON:

1. ALL GUESTS CAUSING THE NUISANCE;
- ALL SPONSORS OF THE GATHERING;
3. ALL RESIDENTS OF THE PREMISES;
4. ALL PERSONS IN CONTROL OF THE PREMISES; AND
5. ALL OWNERS OF THE PREMISES THAT RESIDE ON OR ADJACENT TO THE PREMISES, OR ARE PRESENT AT THE PREMISES WHEN THIS NOTICE IS FIRST POSTED.

Property owners who do not reside on or adjacent to the above premises, and who are not present when this Notice is first posted, are also jointly and severally liable for said fee, if the next disturbance occurs after two weeks after this Notice is mailed to said owner.

THIS NOTICE MUST REMAIN POSTED ON THE PREMISES FOR 60 DAYS
\$100 FINE FOR UNAUTHORIZED REMOVAL OF THIS NOTICE

(Name and Signature of the Officer Issuing This Notice)

(Officer's Phone Number)

Date: _____

Case Number: _____

7.05.040 Persons liable for subsequent response to a gathering constituting a public nuisance.

If the City is required to intervene as to a gathering constituting a public nuisance on the same premises more than once in any sixty (60) day period, including a second intervention during the same day or night as the first intervention, the following persons shall be jointly and severally liable for civil penalties as set forth in Section 7.05.050, below, in addition to liability for any injuries to City personnel or damage to City property.

A. The person or persons who own the premises where the gathering constituting a public nuisance took place if any of the following are the case: (1) said owner resides on or adjacent to the premises, (2) said owner was present when the Notice described in Exhibit "A" was first posted, or (3) the Notice described in Exhibit "A" was mailed to said owner and fourteen (14) days have elapsed since the date of said mailing. For purposes of this subsection, where a gathering takes place within the confines of a single unit in a building owned by a housing cooperative, the owner of the property shall be deemed to be the owner of the single unit and not the members of the housing cooperative in general. Where the gathering took place in the common area of a building owned by a housing cooperative, only the members of the cooperative owning units in the building where the gathering took place shall be deemed the owners of the property for purposes of this subsection. Other members of the housing cooperative may still be liable if they fall within the categories of person made liable by section 7.05.040, subsections B., C., or D., below.

B. The person or persons residing on or otherwise in control of the property where such gathering took place.

C. The person or persons who organized or sponsored such gathering.

D. All persons attending such gathering who engaged in any activity resulting in the public nuisance.

E. Nothing in this Section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering, for the conduct of persons who

are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises. Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor, owner, or resident for the purposes of determining whether the event constitutes a public nuisance under this Section.

F. There shall be no liability for civil penalties under this Chapter for a subsequent intervention during the same day or night as the prior intervention, unless a reasonable time has been provided to abate the public nuisance, taking into account the size of the gathering, the time of day, and other relevant factors.

G. There shall be no liability for civil penalties under this Chapter for a second response during the same day or night as the first response when a person who would otherwise be liable under subdivision (A) seeks assistance from the Police Department to abate a public nuisance under this Chapter, and the person cooperates fully with the police while taking reasonable action to abate the public nuisance.

H. If the City is required to intervene at a gathering constituting a public nuisance on the same premises more than once in any sixty (60) day period, excluding a second intervention during the same day or night as the first intervention, the sixty (60) day period shall be extended by another sixty (60) days from the date of the second intervention.

7.05.050 Recovery of subsequent response fee.

A. After given proper notice pursuant to section 7.05.030 and a reasonable opportunity to abate a gathering constituting a public nuisance, a subsequent response fee shall be assessed against all persons liable for the City's intervention. The subsequent response fee shall include:

1. The actual cost to the City of law enforcement services incurred as a result of a subsequent response;

The actual cost of any medical treatment required by a police officer for injuries sustained during a subsequent response; and

3. The cost of repairing or replacing any City equipment or property damaged or destroyed during a subsequent response.

B. Except as provided in subsection (A) of this section, the subsequent response fee shall not exceed One Thousand Dollars (\$1,000.00) for any subsequent response.

C. The remedies set forth in this Chapter shall be in addition to any other penalties imposed by law for particular violations of law committed during the course of an event which is a public nuisance under this Chapter, provided however, that if the only violation of law which constituted the public nuisance under this Chapter is excessive noise, the remedies provided under this Chapter shall be exclusive of any other remedies provided by law to the City for such excessive noise.

D. The City shall bill all persons liable for subsequent response fees by mail by sending a letter in substantially the form attached hereto as Exhibit "B." Payment of the fees shall be due within thirty (30) days of the date the bill is deposited in the mail. If full payment is not received within the required time for payment, the bill will be delinquent, and all persons liable for the fees shall be charged interest at the maximum legal rate from the date the payment period expires and a further civil penalty in the amount of One Hundred Dollars (\$100).

EXHIBIT B

Date:

To:

Dear:

The City of Coachella was required to abate the public nuisance caused by a gathering of 10 or more persons at (location of property), which substantially disrupted the quiet enjoyment of property in a significant segment of the adjacent neighborhood. This is the (second/third/fourth, etc.) such public nuisance at this property within the last 60 days, and thus, a fee of _____ is imposed on you. If you fail to remit this fine to the City of Coachella by (30 days from the date of this notification) you will be liable for an additional \$100 penalty, plus interest. The payment should be remitted to the address listed below. Your liability is based on the fact that you were:

- ☐ An owner of the property to whom was sent prior notice of a public nuisance at the property within the previous 60 days; and/or
- ☐ An owner of the property who resided on or adjacent to the property when the public nuisance took place; and/or
- ☐ An owner of the property who was present when a Notice of a public nuisance was first posted at the property; and/or

- [] A person who resided on or was otherwise in control of the property when the public nuisance took place there; and/or
- [] A person who organized or sponsored the event that created the public nuisance at such property; and/or
- [] A person who attended the event constituting the public nuisance at such property and engaged in the conduct which resulted in the public nuisance.

If you believe that you are not liable you may defend this claim in the civil action which the City of Coachella will file against you upon your failure to remit the fee. You should be aware, however, that if you fail to prevail in that action you will be liable for the additional penalty of \$100 and interest on the total fee.

Sincerely yours,

(Name, title, address and phone number of signatory)

7.05.060 Collection of delinquent costs for a subsequent City response.

The penalties assessed as a result of a subsequent City response to a loud or unruly gathering shall constitute a debt of all persons liable for the penalties in favor of the City and may be collected in any manner authorized by law and are recoverable in a civil action filed by the City in a court of competent jurisdiction. The remedies provided by this Chapter are in addition to all other civil and criminal remedies available to the City with respect to the unlawful conduct constituting the public nuisance which gave rise to the need for the City response under this Chapter.”

SECTION 2. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council hereby finds and determines that it can be seen with certainty that adoption of this Ordinance will not have a significant adverse effect on the environment. Thus, the adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Sections 15061(b)(3) of the CEQA Guidelines.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Coachella hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 4: PUBLICATION

The City Clerk of the City of Coachella, California, is hereby directed to publish this Ordinance in a newspaper of general circulation, published and circulated in the City of Coachella, California, and shall be in full force and effective thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED by the Coachella City Council this 10th day of November, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eduardo Garcia, Mayor

ATTEST:

Isabel Castillon, City Clerk

APPROVED AS TO FORM:

Best Best &Krieger LLP, City Attorney