

**ORDINANCE NO. 6133, AS AMENDED**

**AN ORDINANCE AMENDING FGC CHAPTER 46, ARTICLE IV, BY ENACTING  
DIVISION 6 FEES FOR EXCESSIVE POLICE RESPONSES**

**WHEREAS**, Alaska Statute 29.35.125 provides that municipalities may impose a fee on the owners of residential property for excessive police responses to the property; and

**WHEREAS**, excessive police responses constitute a misuse of the limited law enforcement resources available to the City; and

**WHEREAS**, enacting the excessive police response provisions of this ordinance will give the City additional means to deal with properties that consume excessive City resources; and

**WHEREAS**, the proposed ordinance provides notice provisions, whereby a responsible property owner will be able to take corrective action to avoid the imposition of any fees or other action.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:**

**Section 1.** That FGC Chapter 46, Article IV, is amended by adding a new Division 6. Fees for Excessive Police Responses, as follows [proposed amendments – new text in **bold/underline** font; deleted text in strikethrough font]:

**ARTICLE IV. OFFENSES INVOLVING NUISANCES**

**DIVISION 6. FEES FOR EXCESSIVE POLICE RESPONSES.**

**Sec. 46-230. Definitions.**

The following words, terms, and phrases, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Commercial property means an individual parcel, tract, or lot shown on the most recent plan of record that is not a residential property.**

**Commercial unit means 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 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 each police response in excess of **the limit set in Sec. 46-231** ~~ten to a property in a calendar year.~~

**Lessee shall include a month-to-month tenant.**

*Mobile home* means any vehicle or structure designed and constructed in such a manner as will permit occupancy as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation, or trade, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power.

*Owner* means the record owner of the property as shown in the real property tax records of the Fairbanks North Star Borough.

*Permit* means to allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

*Person* means any natural person, agent, association, firm, partnership, or corporation capable of owning, occupying, or using property in the city.

*Police Chief or Chief* means the Chief of the Fairbanks Police Department or designee assigned to carry out the duties of the Police Chief under this article.

*Police response* means that one or more police officers goes to a property in response 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 and reasonably preventable; however, the term "police response" does not include a response to:

1. Receipt of false information, unless the false information was provided by an occupant or owner of the property;
2. A false alarm, unless the false alarm was caused, permitted, or allowed by an occupant or owner of the property;
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 or abuse as defined in AS 11.41.410 – 455, unless **thean occupant or owner of the property** is a suspect in the crime or allowed the offense to occur and the victim does not reside in the **dwelling unit** residence;

5. An medical emergency for a serious medical **or psychological** condition, serious bodily injury, or death.
6. A call from the lesseetenant or owner of commercial property used as a retail store for police assistance with theft or attempted theft from the retailer.
7. A call from the lesseetenant or owner of commercial property used as a licensed premise under authorization of the Alcohol and Marijuana Control Office for police assistance with:
  - A. An underage person seeking admittance or service;
  - B. An impaired person seeking admittance or service;
  - C. An impaired person preparing to operate a motor vehicle.
8. A call referred to the Emergency Service Patrol.

Property means any real estate, residential or commercial.

~~Property means any residential property, defined as an individual parcel, tract, or lot shown on the most recent plat of record, containing one or more dwelling units or a mobile home including land and that which is affixed, incidental, or appurtenant to land.~~

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

Sec. 46-231. Excessive police responses prohibited.

(a) Any police response in excess of the following is an excessive police response subject to the fees set in Sec. 46-232(a):

- (1) Single-family-dDwelling unit: 10 5 in a calendar year; or
- (2) Commercial unitDuplex, triplex, or fourplex: 15 in a calendar year.
- (3) Property with 5 to 25 dwelling units: 25
- (4) Property with more than 25 dwelling units: 40

(ba) The owner of any property within the city is responsible for the excessive police responses to that property and is liable for the penalties imposed by this division. The lesseetenant of a unit located on any property within the city is responsible for excessive police responses to that unit and is liable for the penalties imposed by this division.

(cb) Each excessive police response will constitute, except where otherwise provided, a separate violation for which a separate fee may be assessed.

**Sec. 46-232. Fee for excessive police responses.**

(a) Subject to subsection (b), the owner of property and the lesseetenant of a unit thereon shall jointly pay the city a fee of \$500.00 per excessive police response to the dwelling unit or commercial unit.

(b) A person is exempt from liability for the fee established by subsection (a) if:

- (1) The owner is a federal, ~~state,~~ or local government agency;
- (2) The property responded to is used exclusively for nonprofit, religious, charitable, cemetery, hospital, or educational purposes;
- (3) The city has not provided notice to the owner or lesseetenant as provided for in Sec. 46-233; or
- (4) Any person has taken appropriate corrective action and ~~has given written notice to the Police Chief of the action as required by~~ under Sec. 46-234.

(c) If a property has more than one owner, all owners of the property shall be jointly liable for any fee imposed under this section. If a unit has more than one lesseetenant, all lesseest tenants of the unit shall be jointly liable for any fee imposed under this section. ~~If a property has more than one owner or more than one tenant, all owners and all tenants shall be jointly liable for any fee imposed under this section.~~

(d) If the property unit requiring excessive police responses is a mobile home located in a mobile home park, the fee will be imposed on the owner of the mobile home and not on the owner or operator of the mobile home park, unless the mobile home park owner's or operator's conduct required the excessive police response.

(e) If the Police Chief determines appropriate corrective action was taken with respect to a specific property, the count of police responses to the property will be reset to zero, effective the date of the determination. After resetting, all provisions in this division ~~chapter~~ referring to a calendar year shall mean remainder of the calendar year beginning from the date previous corrective action was taken.

**Sec. 46-233. Notice to liable persons for excessive police responses.**

(a) When it has been determined by the city that a violation of Sec. 46-231 has occurred, the city shall notify the owner and lesseetenant in writing of the violation, ~~and~~ the notice of violation will contain the following information:

- (1) The name of the owner and lesseetenant, street address, or a legal description sufficient for identification of the property;
- (2) A statement that the number of police responses to the property exceeds the number allowed in Sec. 46-231 ~~ten within the calendar year,~~ along with a

listing of the police responses to the property that have occurred within the calendar year, that there has been a violation under this ~~d~~Division, and that the failure to take appropriate corrective action may result in the imposition of a fee;

- (3) A statement that the owner and lesseetenant are is liable for a fee for each excessive police response to the property during the calendar year unless, within 30 days of the date notice is accomplished, the owner or lesseetenant takes appropriate corrective action as outlined in Sec. 46-234 and ~~provides the Police Chief with written notice;~~
- (4) The amount of the fee per excessive police response; and,
- (5) The name and telephone number of a city representative to contact concerning the notice.

(b) Service of notice of violation must be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the owner of the property and lesseetenant at the address listed in the real property tax records of the borough, or by electronic means if such method gives the owner and lesseetenant actual notice of the violation. If the mailed notice is returned without the owner's or lessee's tenant's signature, actual notice shall be conclusively presumed on the date the mailed notice is returned to the city.

(c) The failure of any person to receive notice of violation will not invalidate or otherwise affect the proceedings under this division.

#### **Sec. 46-234. Corrective action.**

(a) An owner of property will have 30 days from the date notice is accomplished, as required under Sec. 46-233, to consult with the Police Chief and propose take appropriate corrective action ~~and provide written notice to the Police Chief that such action has been taken.~~ Appropriate corrective action is action reasonably expected to correct the cause of the police responses to the property. The Police Chief is authorized to determine whether corrective action is appropriate under the circumstances and to set time limits for the property owner to implement appropriate corrective action. ~~The Police Chief's determination must be in writing and issued within five days of receipt of the person's written notice of the action taken. Should the Police Chief determine the action taken is not appropriate corrective action, the Police Chief must explain the reasons, and the owner shall have ten days from the date of the determination to take appropriate corrective action and submit written notice of the action taken. The ten-day extension will be provided only once in a calendar year for each property receiving excessive police responses.~~

(b) Any owner or lesseetenant who takes appropriate corrective action may not be assessed fees for additional police responses to the property that occur during the time 30-day periods described in subsection (a). ~~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 described in subsection (a) until the earlier of:~~

- ~~(1) The end of the calendar year; or~~
- ~~(2) Ninety days.~~

**Sec. 46-235. Collection; Lien on property.**

(a) A fee imposed under Sec. 46-232 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.

(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.

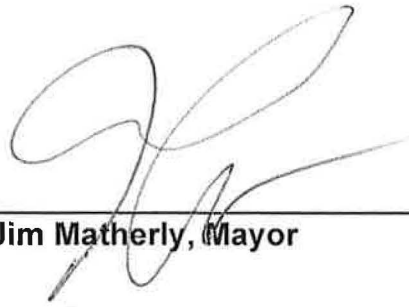
**(d) Excessive police response fees may be collected in any lawful manner, including bringing an action in court for a personal judgment against any person liable for the fee under this division.**

**Sec. 46-236. Appeal rights.**

Any owner determined liable for fees for excessive police responses under this division may, within 30 days of service of notice of violation, apply for a hearing on the determination. The application must be in writing and filed with the Mayor's office. The hearing will be held before the Mayor or designee within fifteen business days of receiving a timely application. The hearing will be limited to the issue of whether the person is liable for each fee imposed under this division, as found by the Police Chief. Within 30 days of the written decision of the Mayor or designee, a person aggrieved by the decision may appeal to the superior court of the Fourth Judicial District in Fairbanks in accordance with the Alaska Rules of Appellate Procedure.

**Section 2.** That the effective date of this Ordinance will be the **1st** day of **September** August 2020.





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Jim Matherly, Mayor

AYES: Gibson, Therrien, Pruhs, Cleworth, Rogers  
NAYS: Kun  
ABSENT: None  
ADOPTED: August 10, 2020

ATTEST:

APPROVED AS TO FORM:



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D. Danyielle Snider, MMC, City Clerk



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Paul J. Ewers, City Attorney