


REQUEST FOR COUNCIL DISCUSSION

Date: 09/20/2010
Item No.: 9 . a

Department Approval

City Manager Approval



Item Description: Consider Adoption of Repeat Nuisance Calls Ordinance

BACKGROUND

City staff (Roseville HRA, Community Development and Police Department) have been working on creating an ordinance that addresses properties that have repeated issues and violations that require the use of city resources. Under this ordinance, the City would be able to impose and collect fees from the owner or occupant or both of property where the City must repeatedly respond to complaints.

Under the ordinance, a “nuisance service call” is defined as response to any violation of city code and certain state statutes. These violations include, but are not limited to public nuisances (including code enforcement violations), prostitution, gambling, controlled substances, firearms, and disorderly conduct. The City can impose a fee when the City has to respond to a violation three or more times within a period of 365 days. Staff would propose that the fine would be \$250 or more based upon the actual cost of the city response, up to \$2,000 for each separate call. In case of non-payment by a property owner, the fees will be placed on the property taxes pursuant to state statutes. In the case of a fee charged to an occupant of a problem property, non-payment will lead the city to pursue a judgment against the person. In addition, if a property has outstanding fees and require a license from the City to operate, the City will not grant the license until the fees are paid.

The ordinance requires that the City gives notice after the second call for service and exempts calls for medical emergencies and calls for domestic incidents. Additionally, owners of rental property may be exempted from a service fees if they commence an eviction proceeding against the tenant and enter into and comply with memorandum of understanding with regard to security with the City. Similarly, large public accommodations, (i.e. bars, hotels, malls) may have fees waived if the property owner enters into and complies with a memorandum of understanding with the City.

The property owner or occupant has the right to appeal the imposition of the fee by requesting a hearing within 10 business days. The hearing will be conducted by a hearing officer appointed by the City Manager.

Staff is supportive of this ordinance as it is another tool in the “tool box” that the City can use to deal with problem areas of the City. By itself, the ordinance will not resolve all of the issues the City faces in certain areas, but it will send a message to property owners and occupants that creating or allowing unlawful activities on their property will not only have them dealing with the criminal justice system but it will also cost them financially.

35 The Roseville HRA reviewed the proposed ordinance at its May 18th meeting and unanimously
36 recommended that the City Council approve the ordinance.

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38 On August 16th, the City Council reviewed the draft and made several changes to the proposed ordinance.
39 In brief, these items included removing reference to certain chapters of the code for which this ordinance
40 will apply to, clarification of the appeal process, additional language exempting victims of nuisance conduct,
41 as well as numerous language changes to better clarify the intent and meaning of the ordinance. A red-line
42 version of the ordinance is attached to this case.

43 **POLICY OBJECTIVE**

44 Adoption of a repeat nuisance ordinance will help implement several major goals identified in the
45 Imagine Roseville 2025 visioning process, namely making “Roseville a desirable place to live, work,
46 and play”, making “Roseville a safe community”, and ensuring that “Roseville housing meets
47 community needs”. The repeat nuisance ordinance is also consistent with previous City Council
48 emphasis and direction with the City’s code enforcement efforts.

49 **FINANCIAL IMPACTS**

50 There will be additional staff time to administer the ordinance that will be incorporated into the normal
51 course of job duties. There will be new revenue coming into the City as a result of this ordinance, but
52 at this point, staff cannot be certain on the amount.

53 **STAFF RECOMMENDATION**

54 Staff recommends approval of the proposed ordinance.

55 **REQUESTED COUNCIL ACTION**

56 Motion to adopt an ordinance to add Chapter 511 establishing a repeat nuisance service call fee and
57 adding a repeat nuisance service call fee to Section 314.05 of the Roseville City Ordinances.

58 -and

59 Motion to approve an Ordinance Summary.

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Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Draft Repeat Nuisance Calls Ordinance
B: Ordinance Summary

City of Roseville
ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 511 ESTABLISHING A REPEAT NUISANCE
SERVICE CALL FEE AND ADDING A REPEAT NUISANCE SERVICE CALL FEE TO
SECTION 314.05.

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Chapter 511 is hereby added to the Roseville City Code:

- 511.01: Purpose and Application**
- 511.02: Definition of Nuisance Conduct**
- 511.03: Repeat Nuisance Service Call Fee**
- 511.04: Notice**
- 511.05: Delinquent Payment and Fee Recovery**
- 511.06: Enforcement**
- 511.07: Right to Appeal**
- 511.08: Legal Remedies Nonexclusive**
- 511.09: Exceptions and Affirmative Defenses**

511.01: PURPOSE AND APPLICATION

The purpose of this Chapter is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which may prevent police, public safety, or other city services from reaching other residents of the City.

It is the intent of the City, by the adoption of this Chapter, to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover cost over and above the cost of providing normal law or code enforcement services and police protection.

This Chapter shall apply to all owners and occupants of private property which is the subject or location of the repeat nuisance service call by the City.

This Chapter shall apply to any repeat nuisance service calls as set forth herein made by a City of Roseville employee, including a police officer, community service officer, firefighter, and/or code enforcement employee.

511.02: DEFINITION OF NUISANCE CONDUCT

For purposes of this Chapter, the term "nuisance conduct" means any activity, conduct or condition occurring within the City that annoys, injures or endangers the reasonable safety,

46 health, morals, comfort or repose of any member of the public, or will tend to alarm, anger or
47 disturb others. Nuisance conduct includes but is not limited to the following:
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- 49 1. Any activity, conduct, or condition defined as a public nuisance under any provision of
50 the City Code or Minnesota State laws;
- 51 2. Any activity, conduct, or condition in violation of any provision contained in Title 4,5,6
52 or 9 of the City Code;
- 53 3. Any conduct, activity or condition constituting a violation of Minnesota state laws
54 prohibiting or regulating prostitution, gambling, controlled substances or use of firearms;
55 and/or
- 56 4. Any conduct, activity, or condition constituting disorderly conduct as defined under
57 Chapter 609 of Minnesota Statutes.
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60 **511.03: REPEAT NUISANCE SERVICE CALL FEE**

61 The City may impose a repeat nuisance service call fee upon the owner or occupant of private
62 property if the City has rendered services or responded to the property on three or more
63 occasions within a period of (365) days in response to or for the abatement of nuisance conduct.
64 The repeat nuisance service call fee shall be as established by the City Fee Schedule in Section
65 314.052 of the City Code.
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68 **511.04: NOTICE**

69 No repeat nuisance service call fee may be imposed against an owner or occupant (or both with
70 the owner and occupant each being responsible for a separate repeat nuisance service call fee) of
71 property without first providing such owner or occupant with written notice of the previous
72 nuisance service calls prior to the latest nuisance service call rendered by the City upon which
73 the fee is imposed. The written notice shall:
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- 75 1. Identify the nuisance conduct that has occurred on the property, and the dates of the
76 nuisance conduct activity or condition;
- 77 2. State that the owner or occupant may be subject to a repeat nuisance service call service
78 fee if a third nuisance call is rendered to the property for any further nuisance conduct;
- 79 3. State that the City has the right to seek other legal remedies or actions for abatement of
80 the nuisance conduct; and
- 81 4. Be served upon such owner and/or occupant by certified mail at the last known address of
82 such person. Service of such notice shall be deemed complete upon mailing.
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85 **511.05: DELINQUENT PAYMENT AND FEE RECOVERY**

86 The repeat nuisance service call fee shall be due within thirty (30) days after a billing statement
87 is mailed by the City to the owner and/or occupant of the property responsible for the payment of
88 the fee at such person's last known address. If the fee is not paid within such 30 day period, it
89 will be deemed delinquent and a ten percent (10%) penalty shall be added to the repeat nuisance
90 service call fee. If the repeat nuisance service call fee becomes delinquent, the City shall have,

91 in addition to all other remedies available at law or in equity for the collection of such fee, the
92 following remedies:

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- 94 1. Seek a monetary judgment and collection thereof from such owner and/or occupant,
95 or
 - 96 2. Assess the property which was the subject of the nuisance conduct pursuant to Minn.
97 Stat. § 429.101.
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99 Failure of a person to pay a repeat nuisance service call fee shall be grounds for the denial of a
100 license which is related to the nuisance conduct for which the repeat nuisance service call fee
101 was imposed.

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104 **511.06: ENFORCEMENT**

105 The City Council authorizes the Police Chief, Fire Chief, or the Community Development
106 Director, or their designees (collectively referred to herein as the “City Enforcement Officials”),
107 to administer and enforce this Chapter.

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110 **511.07: RIGHT TO APPEAL**

111 When the City mails the billing statement by certified mail for the repeat nuisance service call
112 fee, the City will inform the owner and/or occupant of their right to request a hearing.

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114 The owner and/or occupant upon whom the fee is imposed must request a hearing within ten (10)
115 business days of the mailing of the billing statement, excluding the day the statement is mailed.
116 The request for a hearing must be in writing and mailed or hand-delivered to the City Manager’s
117 Office. The hearing will occur within fourteen (14) days of the date of the request. If the owner
118 and/or occupant fails to request a hearing within the time and in the manner required under this
119 Section, the right of such person to a hearing is waived.

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121 The hearing shall be conducted by a hearing officer selected by the City Manager in an informal
122 manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly
123 applied. After considering all evidence submitted, the hearing officer shall make written Findings
124 of Fact and Conclusions regarding the nuisance conduct and the imposition of the repeat
125 nuisance service call fee. The Findings of Fact and Conclusions shall be served upon the owner
126 and/or occupant by certified mail within ten (10) days of the hearing.

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128 If the owner and/or occupant fails to appear at the scheduled hearing, the right of such person to
129 a hearing is waived and the repeat nuisance service call fee shall be payable in accordance with
130 Section 511.05 above. If the hearing officer determines that the repeat nuisance service call fee
131 is warranted, the person or persons responsible for the fee shall pay the fee within ten (10)
132 business days following the date that the written Findings of Fact and Conclusions are mailed. If
133 the repeat nuisance service call fee is not paid within said ten (10) day period, it shall be deemed
134 delinquent and the provisions of Section 511.05 pertaining to delinquent payments shall apply.

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137 **511.08: LEGAL REMEDIES NONEXCLUSIVE**

138 Nothing in this Chapter will be construed to limit the City's other available legal remedies,
139 including criminal, civil, injunctive or others, for any violation of the law which may constitute
140 nuisance conduct.

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143 **511.09: EXCEPTIONS AND AFFIRMATIVE DEFENSES**

144 **MEDICAL EMERGENCIES:** Repeat nuisance service call fees shall not be imposed for any
145 medical-related emergency response except for medical-related emergencies that are violations
146 of Minn. Stat. Section 609.78 Subd. 4 (Misuse of 911).

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148 **DOMESTIC ASSAULT INCIDENTS:** Repeat nuisance service call fees shall not be imposed
149 against the victim for a response to circumstances involving domestic assault incidents or order
150 for protection violations.

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152 **VICTIM OF NUISANCE CONDUCT:** A repeat nuisance service call fee shall not be imposed
153 against the victim of the nuisance conduct for which a response nuisance service call was made.

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155 **RENTAL PROPERTIES:** At the discretion of the City Enforcement Officials, repeat nuisance
156 service call fees may be waived against an owner or occupant of rental property who has:

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- 158 1. Commenced eviction proceedings against the tenant or tenants responsible for the
159 nuisance conduct, conditions or characteristics, or
- 160 2. Entered into and complied with a memorandum of understanding with the City that
161 addresses the underlying causes for the nuisance conduct and provides a course of action
162 to alleviate the nuisance conduct.

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164 **COMMERCIAL BUSINESS PROPERTY:** At the discretion of the City Enforcement Officials,
165 repeat nuisance service call fees may be waived against an owner or occupant of property upon
166 which a commercial business is being operated who has entered into and complied with a
167 memorandum of understanding with the City that addresses the underlying causes for the
168 nuisance conduct and provides a course of action to alleviate the nuisance conduct.

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SECTION 2: The following is hereby added to Section 314.052 of the Roseville City Code:

Fee/Charge Description	City Code	Amount
Third call to property for nuisance conduct within a 365 day period	511	\$250.00
Each call after third call to property for nuisance conduct within a 365 day period	511	\$250.00 plus the cost of enforcement response (which shall be determined by multiplying the staff hourly rate times 1.9 times the number of hours expended in making the call, for all employees, including administrative employees, involved with the response), the total of which fee shall not exceed \$2,000.00 per call.

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SECTION 3: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this _____ day of _____, 20_____.

Ordinance Adding Chapter 511 Establishing a nuisance call fee resulting from nuisance conduct and adding a nuisance service call fee to section 314.05

(SEAL)

CITY OF ROSEVILLE

BY: _____
Craig D. Klausung, Mayor

ATTEST:

William J. Malinen, City Manager

City of Roseville

ORDINANCE SUMMARY NO. _____

**An Ordinance Summary for Amendments
To Title 3 (Business Regulations) and Title 5 (Police Regulations) of the
Roseville City Code**

The following is the official summary of Ordinance No. _____ approved by the City Council of Roseville on September 20, 2010:

The Roseville City Code has been amended that will allow the City to penalize property owners or tenants that have repeat service response calls by the City at their property or location and establishing fees to undertake such service response calls.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary shall also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2180 Hamline Avenue North, and on the Internet web page of the City of Roseville (www.ci.roseville.mn.us).

Attest: _____
William J. Malinen, City Manager