

ORDINANCE NO.
AN ORDINANCE OF THE CITY OF ANAHEIM
AMENDING CHAPTER 6.73 OF TITLE 6 OF THE
ANAHEIM MUNICIPAL CODE PERTAINING TO
PROVISION OF POLICE SERVICES AT LOUD
PARTIES OR OTHER EVENTS.

THE CITY COUNCIL OF THE CITY OF ANAHEIM HEREBY ORDAINS
AS FOLLOWS:

SECTION 1.

That Chapter 6.73 of Title 6 of the Anaheim Municipal Code be, and the same is hereby amended, to read as follows:

6.73.010 DEFINITIONS.

As used in this chapter:

.010 The term "loud and unreasonable noise" means any sound or noise, including, but not limited to, music or speech, which is so loud in volume level and of such duration or character as to willfully disturb the comfort, health, peace, safety, quiet enjoyment or repose of one or more persons of ordinary sensibilities who is (are) not present at the party or similar event which is the source of such sound or noise.

.020 The term "owner" means any person(s), including any firm, association, organization, partnership, trust, business, corporation, company or entity, who owns the premises where the party or similar event occurs and from which the loud and unreasonable noise originates.

.030 The term "party or similar event" means any gathering, event or activity at which one or more persons are present and which occurs on private property.

.040 The term "responsible person" means each and all of the following.

.0401 Any person who is present at and is actually in charge of the premises where the party or similar event occurs and from which the loud and unreasonable noise originates;

.0402 The owner, tenant or other person lawfully occupying the premises where the party or similar event occurs and from which the loud and unreasonable noise originates;

.0403 If the person in charge of the premises from which the loud and unreasonable noise originates is a minor who resides with both parents, then both parents shall be deemed responsible persons;

.0404 If the person in charge of the premises from which the loud and unreasonable noise originates is a minor who resides with one parent or legal guardian, then the parent or legal guardian who resides in, owns, or controls the premises from which the loud and unreasonable noise originates shall be deemed a responsible person.

.050 The term "second or subsequent response" means any and all occasions within a three-month period after the initial response, when one or more police officers are dispatched to the scene of a party or similar event from which loud and unreasonable noise originates at the same location.

6.73.020 NOISE RESTRICTIONS.

It shall be unlawful and constitute a public nuisance for any owner or responsible person to conduct or allow to be conducted any party or similar event from which loud and unreasonable noise originates between the hours of 10:00 p.m. and 7:00 a.m. Continuation of any activity prohibited by this section after written notification by a peace officer as provided in Section 6.73.030 that the activity is disturbing the comfort, health, peace, safety, quiet enjoyment or repose of one or more other persons shall be prima facie evidence of willful intent within the meaning of Section 6.73.010.010.

6.73.030 INITIAL POLICE RESPONSE TO PARTY OR SIMILAR EVENT FROM WHICH LOUD AND UNREASONABLE NOISE ORIGINATES.

.010 When any police officer responds to a complaint of any party or similar event from which loud and unreasonable noise originates, and that police officer determines that the party or similar event violates Section 6.73.020 of this chapter, or that the party or similar event endangers the public peace, health, safety or general welfare, that police officer shall issue a written notice to the responsible person or persons to immediately discontinue the loud and unreasonable noise, or other activity which violates Section 6.73.020, and further give notice that a second or subsequent response to that same location or address within a three-month period may cause the responsible person or persons to be subject to liability for civil fines as set forth in Section 6.73.070. The written notice shall include the following information:

.0101 The name(s) of the responsible person or persons;

.0102 The location or address of the premises where the party or similar event occurred from which loud and unreasonable noise originated;

.0103 The date and time of the response by a peace officer to the premises where the party or similar event occurred from which loud and unreasonable noise originated;

.0104 That the police officer or officers responded to the premises as the result of a public nuisance complaint caused by a party or similar event from which loud and unreasonable noise originated;

.0105 That the activity is disturbing the comfort, health, peace, safety, quiet enjoyment or repose of one or more other persons who is (are) not present at the party or similar event from which loud and unreasonable noise originated.

.0106 That any second or subsequent responses by officers, as the result of a complaint, to a party or similar event at the same premises within a three-month period from which loud and unreasonable noise originates after a written notice is issued pursuant to Section 6.73.030 may cause the responsible person or persons to be subject to civil fines as set forth in Section 6.73.070.

6.73.040 SECOND OR SUBSEQUENT RESPONSES TO PARTY OR SIMILAR EVENT FROM WHICH LOUD AND UNREASONABLE NOISE ORIGINATES — CIVIL FINES.

If, after a written notice is issued pursuant to Section 6.73.030, a second or subsequent response is necessary to the same location or address within a three-month period, all responsible persons may be jointly and severally liable for civil fines as set forth in Section 6.73.070.

6.73.050 NOTICE OF VIOLATION.

.010 The City shall give a notice of a violation of Section 6.73.020 by issuing a citation or notice of violation to the responsible person or persons within a reasonable time following the violation, but not exceeding thirty (30) days. The citation or notice of violation shall be served either by personal service or first class mail on the responsible person or persons. When served by mail, the citation or notice shall be deposited in the mail for delivery by the United States Postal Service, in a sealed envelope, postage prepaid, addressed to such responsible person or persons at their last known address as the same appears in the public records of the City.

.020 Service by personal service shall be deemed to have been completed when served on the responsible person or persons. Service by mail shall be deemed to have been completed at the time of deposit by the City in the mail for delivery by the United States Postal Service.

.030 The citation or notice of violation issued pursuant to this chapter, at a minimum, shall include the following information:

.0301 The name(s) of the responsible person or persons;

.0302 The location or address where the party or similar event occurred from which loud and unreasonable noise originated;

.0303 The date and time of the response by a peace officer to the premises where the party or similar event occurred from which loud and unreasonable noise originated;

.0304 The Code section(s) violated and a brief description of the violation;

.0305 An order prohibiting the continuation or repeated occurrence of the violation;

.0306 The amount of the civil fine imposed and an explanation of how and when to pay the civil fine;

.0307 Notification of the right to appeal the citation, including the time within which the citation may be contested and the place to submit a written appeal; and

.0308 Notification that the City may impose a lien on the subject property, or pursue other lawful means to collect the civil fine, in the event of nonpayment of any civil fines.

6.73.060 VIOLATION — CIVIL FINES.

.010 The following civil fines shall be assessed for violations of Section 6.73.020 following the issuance of written notice pursuant to section 6.73.030:

.0101 A civil fine not exceeding one hundred dollars (\$100.00) for a first violation;

.0102 A civil fine not exceeding two hundred fifty dollars (\$250.00) for a second violation within a three-month period from the date of the first violation;

.0103 A civil fine not exceeding five hundred dollars (\$500.00) for a third violation within a three-month period from the date of the first violation;

.0104 A civil fine not exceeding seven hundred fifty dollars (\$750.00) for a fourth violation within a three-month period from the date of the first violation; and

.0105 A civil fine not exceeding one thousand dollars (\$1,000.00) for a fifth and any subsequent violations within a three-month period from the date of the first violation;

.020 All civil fines imposed under this chapter shall be due and payable to the City of Anaheim within the earlier of thirty (30) days from the issuance of the citation or service of the notice of violation, whichever is earlier.

6.73.070 ADMINISTRATIVE HEARING, APPEAL.

.010 Any responsible person who, pursuant to this chapter, is subject to a civil fine shall have the right to file a request for an administrative hearing to appeal the imposition of the civil fine. Any such request shall be made in writing and shall be filed in the office of the Chief of Police within ten (10) calendar days from the date of service of the citation or notice of violation, whichever is earlier. The written request for an administrative hearing shall be accompanied by an advance deposit of the civil fine. If no such written request is received within the ten-day period, any applicable civil fine shall be due and payable as provided in subsection 6.73.070.020 of this chapter.

.020 If a written request for hearing is received within the ten-day period, the Chief of Police or his or her designee (who shall not have been involved in the underlying incident) shall conduct a hearing within twenty (20) calendar days after receipt of the written request, at a date set by the Chief of Police. Written notice of the hearing shall be mailed to the responsible person who requested the administrative hearing at least ten calendar days in advance of the hearing. The decision of the Chief of Police or his or her designee shall be final, and the civil penalties imposed, if any, shall become immediately due and payable upon the mailing of the notice of the decision.

.030 Any civil fine which has been deposited shall be refunded if it is determined, after an administrative hearing, that the responsible person who requested the administrative hearing was not responsible for the violation(s) or there was no violation(s) as charged in the citation or notice of violation.

.040 Any responsible person aggrieved by a decision of the Chief of Police or his or her designee following an administrative hearing may obtain review of the decision by filing a petition for review with the Orange County Superior Court, Central Justice Center in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4.

6.73.080 COLLECTION OF UNPAID FINES.

.010 The amount of any civil fine imposed pursuant to this chapter shall be deemed a debt owed to the City.

.020 At its discretion, the City may pursue any and all legal and equitable remedies to collect unpaid fines imposed pursuant to this chapter. Pursuit of one remedy does not preclude the pursuit of any other remedy. It is intended that persons causing, maintaining, and/or permitting the violation, and not the taxpayers, bear the financial burden of the City's enforcement efforts. Remedies available to the City to collect unpaid fines and costs include the following, without limitation:

.0201 Referring the delinquent account to a collection agency; and/or

.0202 Authorizing a lien to be recorded on the property for any civil fines imposed against the owner.

.030 The City shall be entitled to recover all costs related to enforcing any violation(s) of this chapter that are recoverable under applicable local, State or Federal law.

6.73.090 CUMMULATIVE REMEDIES.

The remedies provided under this chapter are cumulative, and shall not restrict the City's ability to pursue any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to preclude the imposition of any criminal penalty, nor shall anything in this chapter be deemed to conflict with any penalty or provision under State law, or prohibit any conduct authorized by the State or Federal constitutions.

SECTION 2. SEVERABILITY

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence or word of this ordinance of the Code, hereby adopted, be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance independent of the elimination here from of any such portion as may be declared invalid.

SECTION 3. SAVINGS CLAUSE

Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of _____, 2012, and thereafter passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2012, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM

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