

**TOWNSHIP OF BELLEVILLE
ESSEX COUNTY, NEW JERSEY**

ORDINANCE NO. 31-23

DATE OF INTRODUCTION: 7/11/23 DATE OF ADOPTION: 8/15/23
Legal Advertisement: 7/20/23 Legal Advertisement: 8/24/23

TITLED:

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BELLEVILLE, IN THE COUNTY OF ESSEX AND STATE OF NEW JERSEY, ESTABLISHING A NEW CHAPTER 38 OF THE CODE OF THE TOWNSHIP OF BELLEVILLE ENTITLED NUISANCE PROPERTIES BY REGULATING AND ESTABLISHING PENALTIES FOR THE EXCESSIVE UTILIZATION OF SUCH SERVICES

WHEREAS, residents and businesses share the burden in enabling the Township to provide municipal services; and

WHEREAS, the Township has an obligation to stay within its means and to fairly distribute municipal services among its residents and businesses; and

WHEREAS, certain residents and businesses may from time to time require an excessive share of the Township's municipal services; and

WHEREAS, the excessive use of the Township's municipal services by any particular resident or business unfairly burdens the other residents and businesses of the Township.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Belleville in the County of Essex and State of New Jersey as follows:

Section 1. A new Chapter 38 under General Legislation of the Code of the Township of Belleville entitled Nuisance Properties, is hereby created to provide the following:

CHAPTER 38 - NUISANCE PROPERTIES

ARTICLE 1 – Excessive Utilization of Municipal Services.

§38-1. Findings and Purpose.

- A. The Mayor and Council has reviewed public safety records and consulted with first responders and has determined that public nuisances may exist on and about properties within the Township, resulting in the excessive utilization of municipal services by these properties.
- B. The Mayor and Council has determined that the cost and expense incurred by the Township as a result of providing excessive services to nuisance properties should be paid by the respective owners of these properties, and not paid through general tax funding.
- C. This Section is intended to establish regulations and procedures identifying, and providing for the assessment and payment of the costs and expenses of excessive consumption of municipal services associated with these nuisance properties.

§38-2. Definitions.

As used in this Section, the following items are defined as set forth herein:

DWELLING UNIT

Living accommodations designed and used for occupancy by one person or more only.

EXCESSIVE MUNICIPAL SERVICES

Any qualifying calls made to a property while that property is on probationary nuisance status.

NUISANCE PROPERTY

Properties on which activities occur that result in qualifying calls for municipal services during any 60-consecutive-day period in excess of the number of calls listed on the schedule in §38-5 are considered nuisance properties and are subject to the penalties and procedures as set forth in this Section.

PROBATIONARY NUISANCE STATUS

A designation that applies to properties which, as determined by the Township Manager, have received the requisite number of qualifying calls from the Township within a 60-consecutive-day period. Probationary nuisance status is effective for a 12-month period beginning on the date of the Township Manager's determination. During probationary nuisance status, the property owner is responsible to the Township for user charges from each qualifying call.

QUALIFYING CALLS

Calls resulting from complaints or violations of state or local laws, regulations, or ordinances, including, but not limited to, those concerning:

- A. The sale, service, or consumption of alcoholic beverages.
- B. Disorderly conduct, disturbing the peace, littering, or excessive noise.
- C. Damage to property or injury to a person.
- D. Improperly parking a vehicle, or any motor vehicle violation, on private property.
- E. Possession of a barking, howling, biting, or dangerous animal.
- F. Possession, distribution, or use of a controlled substance.
- G. Prostitution.
- H. Public urination, defecation, or indecent exposure.
- I. Criminal activity.
- J. False Burglar, Fire, Hold-up, Duress, Panic and Robbery Alarm as per Chapter 3, Section 33.3.
- K. Activity specifically determined to be qualifying by the Municipal Judge.

USER FEE

A per-call fee starting at \$500.00 and increasing by \$100.00 per call, for each additional qualifying call made to a nuisance property, as defined herein above, within the twelve-month period following the date a complaint is issued for excessive consumption of municipal services.

§38-3. Designation of Public Officer.

Each Township department, division, agency, or authority, providing municipal services to properties shall designate, either on a permanent or as-needed basis, one or more officials to serve as a public officer to administer and enforce this Section. Officials that may service in this capacity include, but are not limited to: the Township Manager, code enforcement officers; the Construction Code Official or his or her designee; the Chief of Police or his designee; an investigating police officer; the Health Officer, the Zoning Officer; the Property Maintenance Officer; or the Fire Inspector.

§38-4. Reporting of Municipal Services Use.

- A. Each department, division, agency, or authority of the Township, providing municipal services to properties in the Township, must keep and maintain records documenting the following information concerning those properties services:
 - (1) The exact address and Tax Map designation of the subject property.
 - (2) The name and address of property owners and tenants, if known and applicable.
 - (3) The dates of the incident.
 - (4) A full description of the nature of the incident and the violations.
 - (5) The identity of the public employee providing the services.

- B. The department providing the excessive municipal services shall coordinate, as needed, with other municipal agencies and the Police Department.

§38-5. Determination of Excessive Use.

During any 60 consecutive-day period, properties that necessitate qualifying calls for municipal services that exceed the amounts set forth in the following schedule are designated nuisance properties and subject to the penalties and procedures established under this Section.

- A. Residential properties of 1 through 4 dwelling units: 8 qualifying calls.

- B. Multifamily dwelling and hotel/motel uses:
 - (1) Five through 40 dwelling units: 10 qualifying calls.
 - (2) 41 through 80 dwelling units: 15 qualifying calls.
 - (3) 81 through 200 dwelling units: 30 qualifying calls.
 - (4) Over 200 dwelling units: 40 qualifying calls.

- C. Convenience, grocery, liquor and retail stores: 10 qualifying calls.

- D. Restaurants, bars, and adult entertainment establishments: 30 qualifying calls.

- E. All properties not included in the preceding categories: 10 qualifying calls.

§38-6. Notice Requirements; Complaint Procedure.

- A. Whenever the Township Police Chief or his or her designee based on receipt of reports of qualifying calls determines that any property has become a nuisance property based on excessive consumption of municipal services, he or she shall issue a summons and complaint reciting the location of the property and the allegations supporting the officer's finding of excessive use, the potential penalties, and setting forth the time and location of a Municipal Court hearing on the matter.
- B. The complaint shall also provide notice to the property owner:
 - (1) That the property is on probationary nuisance status for the 12 months following the date of the complaint.
 - (2) That during the probationary nuisance status period, each additional qualifying call to the property will be subject to a user fee, which fee shall equal \$500.00 for the first such call and the \$500.00 shall increase by \$100.00 for each subsequent call.
 - (3) Listing the dates and nature of the qualifying calls made to the subject property that give rise to the determination of excessive use.
 - (4) Directing that the offending activities be immediately abated.
- C. The summons and complaint shall be served on the property owners, as identified in the Township's tax records. Service shall be made by regular mail and either certified mail return receipt requested, or overnight delivery service to the last known address of the recipient as it appears in Township records.
- D. If the whereabouts of the property owner are unknown and cannot be ascertained by reasonable diligence, service of the summons and complaint shall be effectuated as follows:
 - (1) One-time publication of the summons and complaint in one of the Township's official newspapers.
 - (2) Conspicuous posting of the summons and complaint on a building or structure located on the subject property.
- E. Should the number of qualifying calls to any property meet or exceed 50% of the number specified in §38-5, the public officer may, but is not required to, so notify the owner thereof.

§38-7. Hearing Procedure; Costs to be Assessed; Violations & Penalties.

- A. A hearing shall be held on the allegations recited in the complaint. The Municipal Court of the Township shall have jurisdiction to hear and determine in a summary manner proceedings for violations of any of the provisions of this Section.

- B. The public officer or officers involved shall present evidence and testify at the hearing and may produce witnesses in support of the allegations recited in the complaint. The property owner and any interested party shall have the right to appear at the hearing and testify, produce witnesses, and be represented by an attorney.
- C. The Municipal Court is charged with determining whether, in a 60-consecutive-day period, the subject property received qualifying calls in excess of those permitted under §38-5. If so, the Municipal Judge shall confirm that the property was on probationary nuisance status from the date of the complaint. If the Municipal Judge also determines that qualifying calls were made to the subject property during the probationary period, that fact shall be so noted in the Municipal Judge's findings. Based on these findings, the Municipal Judge shall enter an order sustaining or dismissing the charges.
- D. The following shall be memorialized in the Municipal Judge's order:
 - (1) A finding of whether or not the subject property was on probationary nuisance status.
 - (2) A determination as to whether or not an excessive number of qualifying calls were made to the subject property during the probationary nuisance status period, in accordance with the schedule herein above.
 - (3) If sustained, an assessment of the reasonable costs of litigation, including, but not limited to, the costs of a court reporter and transcript, and an administrative fee of \$100.00.
 - (4) If sustained, an assessment of a user fee, starting at \$500.00 per call and increasing by \$100.00 per call, for each qualifying call in excess of the permitted number.
- E. Following an affirmative Municipal Court Judgement that a property is on probationary nuisance status, additional qualifying calls to the subject property following the hearing and within a one-year period from the date of the complaint constitute a further violation of this Section and are subject to the aforementioned user fee, starting at \$500.00 per call and the \$500.00 shall increase by \$100.00 for each call thereafter. A summons and complaint shall be filed in the Township of Belleville Municipal Court for each subsequent qualifying call, each being a separate violation, with the per-call penalty to be imposed upon a guilty plea or conviction. Notice of this provision shall be incorporated in the Municipal Judge's order.
- F. The Municipal Judge's order shall be served upon the appropriate parties in the same manner as service of the complaint and notice of hearing; except that, in the event the whereabouts of the property owner cannot be ascertained, then the order shall also be recorded in the Essex County Clerk's office.

§38-8. Assessment of Lien; Penalty Enforcement.

- A. Any fees, costs, or penalties that remain unpaid 60 days from the date of an order issued pursuant to this Section shall be assessed as a lien against the subject property, enforceable and collectible in the same manner as liens for delinquent real property taxes and municipal service charges.
- B. Pursuant to N.J.S.A. 40:52-1.2, municipal licenses, permits, and certificates of occupancy applied for or issued to the subject property may be revoked, suspended, withheld, or denied renewal for failure to comply with and satisfy any payment obligations under an order imposed pursuant to this Section.

BE IT FURTHER ORDAINED, in case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declare unconstitutional or invalid shall be severed from the remainder or any portion thereof.

BE IT FURTHER ORDAINED, this Ordinance shall be read and construed so as to not conflict with any and all other ordinances regulating the maintenance and conditions of properties in the Township. The remedies set forth herein shall be in addition to those set forth elsewhere.


BE IT FURTHER ORDAINED, this Ordinance shall take effect in accordance with the law.

On a motion by Council Member: ROVELL
 Seconded by Council Member: COZZARELLI

INTRODUCTION

Adopted by the Municipal Council of the Township of Belleville, N.J.									
COUNCIL RECORD OF VOTE									
Council Member	YES	NO	N.V.	AB.	Council Member	YES	NO	N.V.	AB.
COZZARELLI	X				ROVELL	X			
DE PEÑA				X	STRUMOLO BURKE	X			
GRAZIANO	X				MAYOR MELHAM	X			
NOTARI	X								
X - Indicates Vote					N.V. - Not Voting			AB - Absent	

I, Alberto Cabrera, Registered Municipal Clerk of the Township of Belleville do hereby certify that the foregoing is a true copy of an Ordinance introduced by the Belleville Township Council at a meeting held on the 11th day of July, 2023.


 Alberto Cabrera, Municipal Clerk


 Steven Martino, Township Attorney

Anthony Iacono
 Manager's Office


On a motion by Council Member: COZZARELLI

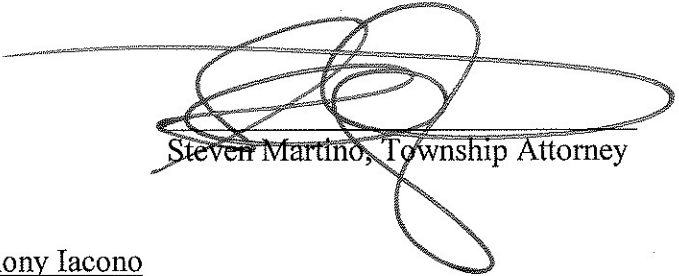
Seconded by Council Member: DE PEÑA

ADOPTION

Adopted by the Municipal Council of the Township of Belleville, N.J.									
COUNCIL RECORD OF VOTE									
Council Member	YES	NO	N.V.	AB.	Council Member	YES	NO	N.V.	AB.
COZZARELLI	X				ROVELL				X
DE PEÑA	X				STRUMOLO BURKE				X
GRAZIANO	X				MAYOR MELHAM	X			
NOTARI				X					
X - Indicates Vote					N.V. - Not Voting			AB - Absent	

I, Alberto Cabrera, Registered Municipal Clerk of the Township of Belleville do hereby certify that the foregoing is a true copy of an Ordinance introduced by the Belleville Township Council at a meeting held on the 15th day of AUGUST, 2023.


Alberto Cabrera, Municipal Clerk


Steven Martino, Township Attorney

Anthony Iacono
Manager's Office