

ORDINANCE O-23-33

AN ORDINANCE OF THE TOWNSHIP OF HOWELL, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 136 OF THE TOWNSHIP CODE ENTITLED “EXCESSIVE CONSUMPTION OF MUNICIPAL SERVICES”

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

NOTE: Sections of Chapter 136 that are to be amended by the within Ordinance for which all *additions* are shown in ***bold italics with underlines***.

SECTION 1. Chapter 136 of the Township Code entitled “Excessive Consumption of Municipal Services” is hereby amended and supplemented as follows:

§136-1. [Unchanged]

§136-2. Definitions.

Excessive Municipal Services

Any qualifying calls *by the* Howell Township Police Department, *Howell Township Fire Department or Howell Township Code Enforcement* made to a property while that property is on probationary nuisance status.

Nuisance Property

Properties on which activities occurred *resulting* in qualifying Howell Township Police Department, *Howell Township Fire Department or Howell Township Code Enforcement* calls for municipal services during any *sixty (60) day* period in excess of the number of calls listed on the schedule in Section 136-5 are considered nuisance properties and are subject to the penalties and procedures as set forth in this Chapter.

Probationary Nuisance Status
[Unchanged]

Qualifying Calls

Calls resulting from Howell Township Police Department, *Howell Township Fire Department or Howell Township Code Enforcement* responses for potential violations of State or local laws, regulations, or ordinances, including but not limited to, those said in the following lists, and others not so identified but specifically determined to be qualifying by the hearing officer. Not included in the following lists are calls from or on behalf of victims who reside at the property which is the subject matter of the call:

A. [Unchanged]

B. [Unchanged]

C. [Unchanged]

D. [Unchanged]

E. [Unchanged]

F. [Unchanged]

G. [Unchanged]

H. [Unchanged]

I. [Unchanged]

J. [Unchanged]

K. *Township Property Maintenance, Housing, Rental, Land Use, Construction, Fire, and Health Codes.*

User Fee

[Unchanged]

§136-3. [Unchanged]

§136-4. [Unchanged]

§136-5. [Unchanged]

§136-6. **Notice requirements; complaint procedure.**

- A. Whenever the public officer determines that any property has become a nuisance property based on excessive consumption of municipal services, he or she shall issue a complaint and summons reciting the location of the property, stating that the property is on

probationary nuisance status, and the allegations supporting a finding of excessive use and a notice of hearing setting forth the *date, time and location of a Municipal Court* hearing on the matter.

B. The complaint shall also provide notice:

- (1) That the property will be 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 of **\$500** per call.
- (3) Listing the dates and the nature of the qualifying calls made to the subject property that gave rise to the determination of excessive use.
- (4) Directing that the offending activities be immediately abated.

C. [Unchanged]

D. [Unchanged]

E. [Unchanged]

F. [Unchanged]

§136-7. Hearing Procedure; cost to be assessed; violations and penalties.

- A. A hearing shall be held on the allegations recited in the complaint. *The Howell Municipal Court shall have jurisdiction to hear and determine in a summary manner proceeding for violations of any of the provisions of this article. 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.*
- B. The *Howell Municipal Court is charged with determining* whether, in a sixty-day period, the subject property received qualifying calls in excess of those permitted under § 136-5. 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, the 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.*

C. The following shall be memorialized in the *Municipal Judge's* order:

- (1) A finding *as to whether* the subject property was on probationary nuisance status.
- (2) A determination *as to whether* an excessive number of qualifying calls were made to the subject property during the probationary nuisance status period.
- (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 administration fee of \$100.
- (4) *If sustained*, an assessment of a user fee of \$500 per call for each qualifying call, in excess of the permitted number. If the qualifying calls involved the same tenant or occupant, this fee may be apportioned between the owner and the tenant/occupant.

D. *Following an affirmative Municipal Court Judgment 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 chapter and are subject to a \$500 per call user fee. A summons and complaint shall be filed in the Howell Municipal Court for each subsequent qualifying call, each being a separate violation, with the \$500 per call user fee the penalty to be imposed upon a guilty plea or conviction. Notice of this provision shall be incorporated in the *Municipal Judge's* order.

E. 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, tenant, or

occupant cannot be ascertained, then the order shall also be recorded in the Monmouth County Clerk's office.

§136-8. [Unchanged]

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

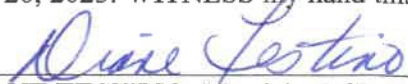
NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Council on first reading at a meeting of the Township Council of the Township of Howell on the **26th day of September 2023**, and will be considered for second and final passage at a meeting of the Township Council to be held on the **24th day of October, 2023**, at 7:00 PM. at the Municipal Building located at 4567 Route 9 North, 2nd Floor, Howell, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

Introduction:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Fischer</i>			X			
<i>Councilman Gasior</i>			X			
<i>Councilman Nadel</i>		X	X			
<i>Deputy Mayor O'Donnell</i>	X		X			
<i>Mayor Berger</i>			X			

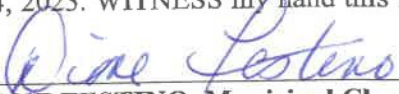
I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held September 26, 2023. WITNESS my hand this 27th day of September 2023.


DIANE FESTINO, Municipal Clerk

Adoption:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Fischer</i>						X
<i>Councilman Gasior</i>		X	X			
<i>Councilman Nadel</i>	X		X			
<i>Deputy Mayor O'Donnell</i>			X			
<i>Mayor Berger</i>						X

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held October 24, 2023. WITNESS my hand this 25th day of October 2023.



DIANE FESTINO, Municipal Clerk

Explanatory Statement:

An ordinance by the Township Council of the Township of Howell amending Chapter 136 to supplement the existing Excessive Consumption of Municipal Services ordinance to include violations regarding property maintenance, housing, rental, land use, construction, fire and health codes. The fee per call is also increased from \$300 to \$500.