



## **Ordinance 650**

### **AN ORDINANCE AMENDING CHAPTER 164 OF THE CODE OF THE TOWN OF ELSMERE CONCERNING FEE'S FOR EXCESSIVE CALLS REQUIRING POLICE SERVICES.**

**Sponsored By:** 5<sup>th</sup> District Councilwoman Joann I. Personti

**First and Second Reading:** July 09, 2020 Council Meeting

**Results:**

**Third and Final Reading:** August 13, 2020 Council Meeting

**Results:**

# Ordinance 650

## AN ORDINANCE AMENDING CHAPTER 164 OF THE CODE OF THE TOWN OF ELSMERE CONCERNING FEE'S FOR EXCESSIVE CALLS REQUIRING POLICE SERVICES.

WHEREAS, the Mayor and Council wish to amend Chapter 164 to include fees for excessive calls requiring police services.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE, AS FOLLOWS:

That Chapter 164 be deleted in its entirety and a new Chapter 164 be inserted as follows:

### § 164-1. Purposes.

It is the intent of the Town's Council by the adoption of this chapter to impose on and collect from the person or persons in charge of or responsible for any nuisance event or activity or permitting any nuisance event or activity that generates extraordinary cost to the Town that cost over and above the cost of providing normal law enforcement services and police protection Town-wide.

### § 164-2. Definitions.

For the purpose of this chapter, the terms defined in this section shall have the meanings ascribed to them:

**LAST KNOWN ADDRESS:** The address shown on the records of the New Castle County Recorder of Deeds Taxation or a more recent address known to the Police Department. In the case of parties not listed in these records, the last known address shall be that address obtained by the Police Department after a reasonable search.

**NUISANCE EVENT:** One requiring special security assignment in order to protect the public peace, health, safety and welfare. A nuisance event includes, but is not limited to, the following: unfounded 911 calls; repeated 911 calls for incidents that are not violations; multiple drug overdoses; loud and boisterous conduct; noises and activities disturbing the peace; congregation of two or more persons in intoxicated conditions or under the influence of drugs or alcohol; fighting or use of obscene or inflammatory language; loud music constituting a nuisance or disturbing the peace; activities causing excessive pedestrian or vehicular traffic and parking problems and congestions; events occurring after 11:00 p.m. to sunrise of the following day which disturb the peace and tranquility of the neighborhood; use and display of narcotics, illegal drugs and controlled substances and paraphernalia for its use; congregating in a tumultuous, noisy or rowdy crowd; and indecent exposure and lewd conduct.

**OWNER:** A person or persons shown to be owner or owners of property on the records of the New Castle County Recorder of Deeds.

**PERSONAL SERVICE:** Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

**POLICE SERVICES FEE:** The fee to be imposed for law enforcement services associated with a special security assignment. Such fee may be either a flat fee of \$1,000 to offset wages of police officers while responding to or remaining at the nuisance event, the pro rata cost of equipment, the cost of repairing Town equipment and property, and the cost of any medical treatment of injured police officers.

**RESPONSIBLE PERSON:** A person who owns the property where the nuisance event takes place, and/or a person in charge of the premises, and/or a person who organized or served as a host of the nuisance event. If the responsible person is a minor, then the parents or guardians of that minor will be considered responsible persons.

**SERVICE BY MAIL:** Depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

**SERVICE OF NOTICE:** By personal service shall constitute the delivery of the warning letter to the responsible person or by mailing it to the last known address of the responsible person.

**SPECIAL SECURITY ASSIGNMENT:** The assignment of police officers, services and/or equipment during a second or subsequent response to the nuisance event after the service of a written notice to the responsible persons that a police services fee may be imposed or costs incurred by the city for any subsequent police response.

### **§ 164-3. Initial police responses to nuisance event.**

When any police officer responds to any nuisance event and determines that there is a threat to the public peace, health, safety or general welfare, the police officer may serve a written notice to the responsible person or persons that any subsequent police response to that same location or address within a 365-day period shall be deemed a special security assignment and that the responsible person or persons may be liable for a police services fee.

**§ 164-4. Subsequent police responses; liability.**

- A. If, after a written notice is served pursuant to this chapter, a subsequent police response or responses are necessary to the same location or address within a 365-day period, then each subsequent response or responses shall be deemed a special security assignment. Responsible persons who had previously received a notice of warning shall be jointly and severally liable for a police services fee for a special security assignment. The fee for a special security assignment shall be \$2,000.
- B. The amount of the police services fee shall be a debt owed to the Town by the responsible person or persons.
- C. The Town reserves its rights to seek reimbursement for actual costs and damages exceeding \$ 2,000 through other legal remedies or procedures.
- D. The police response or responses to a nuisance event may also result in the arrest and/or citation for violations of state or local laws or ordinances.

**§ 164-5. Cost; collection.**

The Chief of Police shall notify the Town Finance Director in writing of the performance of each special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, and the amount of the police services fee. If the police services fee is in excess of \$2,000, the Chief of Police shall provide documentation to support the additional amount. The Finance Director shall thereafter cause appropriate billings to be made and be responsible for the collection of the police services fee.

**§ 164-6. Administrative appeal.**

An administrative appeal of a police services fee may be made to the Chief of Police or designee within 10 days from the date of mailing of the billing. The request for a hearing shall be in writing and addressed to the Chief of Police and shall include a copy of the billing and grounds for the appeal. The Chief of Police or designee may modify the service fee upon a finding that the responsible person or persons had made a good faith effort to remedy the situation or that the nuisance event or special security assignment was not the fault of the person or persons filing the appeal.

First and Second Reading  
July 09, 2020

Third and Final Reading  
August 13, 2020

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Eric Thompson, Mayor

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Brian Hurst, Secretary

Approved as to form:

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Town Solicitor

**SYNOPSIS**  
**ORDINANCE 650**

This Ordinance replaces Chapter 164 of the Code of the Town of Elsmere with this legislation which increases the amount charged to those properties which create or allow situations to occur on their property which create a need for an excessive amount of calls for police services.

**Fiscal Impact**

The fiscal impact of this ordinance is currently unknown.