

# **BOROUGH OF MOUNT POCONO**

MONROE COUNTY, PENNSYLVANIA

## **ORDINANCE NO. \_\_\_\_ OF 2019**

AN ORDINANCE AMENDING CHAPTER 35 OF THE CODE OF THE BOROUGH OF MOUNT POCONO CODE.

It is hereby Ordained by the Borough Council of Borough of Mount Pocono, County of Monroe, Commonwealth of Pennsylvania, that Chapter 35 of the Borough Code of Mount Pocono is amended to add Article II as follows:

### **Chapter 35**

#### **Article II**

#### **COST RECOVERY FOR EXCESSIVE POLICE CALLS AND POLICE CALLS WHICH DO NOT RESULT IN CHARGES**

**§35-XX Findings and Intent.**

**§35-XX Definitions**

**§35-XX Cost Recovery Required for  
Excessive Police Calls**

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#### **§35-XX Findings and Intent.**

A. The Borough Council finds that a number of commercial businesses located within the Borough require a disproportionate amount of police service. The Borough Council further recognizes that the Borough hosts a number of retail businesses and other businesses patronized primarily by individuals who do not live within the Borough. Partly as a result of the number of businesses which serve people who do not live in the Borough, there are an extraordinary number of calls to the police, all of which result in the devotion of police personnel to such calls and, in effect, result in less police service being available for other locations, and for emergencies and other more typical police service duties. Such calls also involve claims where the representatives of the business do not follow through or cooperate with the filing of formal criminal proceedings in connection with the call. Police calls which do not result in the filing of formal criminal proceedings overburden the Borough by causing excessive costs for police protection and have no or little deterrent effect.

B. The Borough police services are provided through a regional police organization, of which the Borough is a member. The Borough pays for its police services on an hourly basis. The Borough Council finds that the hours devoted by our regional police in responded to non-emergency calls to

commercial businesses in the Borough are excessive and reduce the hours available to our regional police for addressing traffic and pedestrian safety issues, emergencies, and other more typical police service duties.

C. The Borough Council desires to create a structure which effectively utilizes the current and future police assets and other resources available to the Borough and to do so by encouraging cooperative action which results, where appropriate, in the filing of appropriate charges, yet discourages police calls which result in ineffective allocation of personnel and other police resources. In order to create such a structure, the Borough Council has developed a cost structure intended to assess the cost of unnecessary police personnel and other resource costs to businesses where either excessive calls are made or excessive calls are made which do not result in appropriate filing of criminal charges.

D. The Borough Council is authorized, under §1203 of the Borough Code, to make and adopt all ordinances, bylaws, rules and regulations for the proper management, care and control of the Borough and the maintenance of peace, good government, safety and welfare of the Borough and its trade, commerce and manufacturers.

E. The Borough Council finds that the regulatory structure envisioned by this ordinance reflects an appropriate balance between the Board's duty and desire to provide effective police services to the Borough community and to make such services available to businesses and other citizens and landowners in a manner which provides for the most effective use of the Borough resources.

F. The purpose of this ordinance is to provide for appropriate cost recovery from businesses which permit, allow, or fail to prevent excessive calls for police service and to businesses which habitually fail to file or support criminal proceedings after making a call for police service, all of which compromise the public health, safety and welfare of the Borough.

**§35-XX Definitions.** For the purpose of this Article II, certain terms, phrases and words are defined as follows:

A. Tense, Gender and Number. Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural singular.

B. General Terms. The words "shall," "will" or "must" are always mandatory; the words "should" or "may" are permissive. The words "used for" includes "designed for," "arranged for," "intended for," "maintained for" or "occupied for." The word "building" includes "structure" and shall be construed as if followed by the phrase "or part thereof." The word "person" includes "individual," "profit or nonprofit organization," "partnership," "company," "incorporated association" or other similar entities.

C. Terms, Phrases and Words Not Defined. When terms, phrases or words are not defined, they shall have their ordinarily accepted meaning or such as the context may imply.

D. Specific Terms. The following words and phrases when used in this Article shall have the meanings given to them in this section unless the context clearly indicates otherwise

“Council” - The Mount Pocono Borough Council.

“Business” - Any individual, sole proprietor, corporation, partnership, limited liability company, and any other type of business entity which engages in business or commercial activities, including the sale of goods, within the Township.

“Calendar Month” - The period which begins on the first day of one of the months as named in the calendar and which ends on the last day of that same month as named in the calendar.

“Criminal Complaint” - A complaint filed in an appropriate court by a witness or complainant to the event which was the cause or subject matter of the police call.

“Manager” - The individual or entity which is responsible for the management of a Business as defined herein, or the person who appears to the general public to have supervisory responsibility for the management of such a business.

“Owner” - The individual or entity which owns a Business as defined herein.

“Police” or “PMRP” - The Pocono Mountain Regional Police Department.

“Police Service Cost” - The costs as established in the provisions which follow.

“Police Call” - A call or request for response made to the Police requiring a response by Police to a Business in connection with an incident or suspected incident or criminal activity.

### **§35-XX Cost Recovery Required for Excessive Police Calls**

A. Every owner and/or manager responsible for the management and regulation of a business is required to pay police service costs for (i) each police call in excess of two (2) within a calendar month and (ii) each police call which does not result in the filing of a criminal complaint by the business in excess of two (2) within three calendar months.

B. For each police call in excess of two (2) within a calendar month, the owner and manager shall be jointly and severally responsible to make payment in an amount to be established from time to time by resolution of Borough Council.

C. For each police call which does not result in the filing of a criminal complaint by the business in excess of two (2) within three calendar months, the owner and manager shall be jointly and severally responsible to make payment in an amount to be established from time to time by resolution of Borough Council.

D. The payment to be assessed by Borough Council shall be based on a reasonable estimate of

the charges incurred by the Borough based upon time spent by the PMRP on the Police Call in question”

**§35-XX Billing**

Police service costs due in accordance with this ordinance shall be billed to the owner and manager by the Borough Secretary through a police service cost invoice and shall be due and payable within thirty (30) days of such billing.

**§35-XX Police Service Cost Invoice**

A. The police service cost invoice shall identify the calendar month, the business, and the date of each call during that calendar month, with an indication of whether that police call resulted in the filing of a criminal complaint.

B. The police service cost invoice shall indicate the number of police calls in that calendar quarter and shall indicate the number of police calls which did not result in the filing of a criminal complaint in excess of two (2) during that calendar quarter and shall indicate the amount of the police service cost to be reimbursed by the business.

**§35-XX Failure to Pay**

Unpaid police service costs may be collected by civil action by the Borough against the owner and/or manager, and/or may be imposed or assessed against the subject property as a municipal lien. In either event, a penalty of ten (10%) percent and interest at the rate of ten (10%) percent per annum shall be added and collected as provided by law for payments not made within thirty (30) days of billing. In the event of civil actions for collection, in addition to penalties and interest, the Borough shall be entitled to collect its attorney fees and costs.

**§35-XX Repealer.**

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**§35-XX Severability.**

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or part of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**§35-XX Interpretation.**

The object of interpretation and construction of this Ordinance and/or the provisions thereof shall be, if possible, to give effect to all of its provisions. Whenever a provision in this Ordinance shall be in conflict with another provision in the same section or another part of this Ordinance or another Ordinance or part thereof, the two (2) shall be construed, if possible, so that the effect may be given to both.

**§35-XX Effective Date.**

This Ordinance shall become effective on the first day of the month following thirty (30) days after enactment of this Ordinance.

**ADOPTION**

ORDINANCE ORDAINED AND ENACTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the  
Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania.

By: \_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Lori Noonan, Secretary

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_  
Mayor