



## **Staff Report**

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DISCUSSION AND DIRECTION REGARDING AN ORDINANCE ADDING CHAPTER 18, ARTICLE VIII, EXTRAORDINARY POLICE SERVICES, TO THE BELMONT MUNICIPAL CODE

Honorable Mayor and Council Members:

### **Summary**

On April 8, 2008 the City Council ranked several potential new ordinances for staff review and presentation to the Council. Priority was given to an ordinance addressing the issue of Extraordinary Police Services.

Following Council direction and consultation with staff, the City Attorney located an ordinance adopted by the City of Ventura, which is reproduced as Attachment A. It is presented with only minor formatting edits from the ordinance actually adopted by Ventura. The ordinance would allow the Police Department to require businesses and individuals that generate an extraordinary number of police calls to engage in an interactive problem solving process with the Police Department by preparing a safety and security plan.

The Ventura-based ordinance does not address:

1. Extraordinary calls by the Belmont-San Carlos Fire Department. This may raise different issues, and would require a separate action by the Belmont Fire Protection District.
2. Police or fire responses to false alarms. These responses are separately, and staff believes adequately, addressed in other ordinances and via a billing system through the Master Fee Schedule;
3. Calls for an alleged violation of the noise ordinance. The Council should discuss whether such calls should be included in whatever threshold may be adopted.

### **Background**

Over the past several years, the Council has been interested in whether the Police Department and the Fire Protection District have devoted a large proportion of their services to a small number of locations. The Police Chief prepared a log of all calls from September 17, 2007 to September 17, 2008, Attachment B hereto. The Fire Chief prepared a summary of the locations that generated seven or more calls from July 1, 2007 to June 30, 2008, Attachment C hereto. The data suggests that police and fire services are utilized across a broad spectrum of properties, both

public and private. The police data indicates that over 600 locations throughout the city generate more than six or more police calls per year.

### Discussion

The Ventura ordinance, Attachment A for reference (and formatted for Belmont), raises a number of issues.

First, there is the threshold question of whether such an ordinance is necessary. Both the Police Chief and Fire Chief have indicated that they already approach businesses and property owners when they detect a pattern of excessive police or fire calls to particular locations. They believe that these efforts have been generally successful in obtaining agreements from the owners to modify their business practices, resulting in a reduction in the frequency of calls. While some businesses still generate a large number of calls, the Police Chief and Fire Chief are concerned about creating incentives that discourage calling the police or fire department to report emergencies, accidents, or crime.

Second, if the Council believes that a Ventura-type ordinance is necessary, staff requests direction as to whether the Fire Protection District should also consider adopting a similar ordinance.

Third, the data indicates that a large proportion of calls are generated by schools, both public and private. Public schools are generally not subject to city regulation. With respect to private schools, staff is concerned that students and administrators not be discouraged from calling for assistance. The Ventura ordinance only addresses calls to private property.

Fourth, given the wide distribution of calls to private properties, the question is how many calls per year should be deemed "extraordinary." The Ventura ordinance sets the number at six or more calls in a 12-month period. The Council should discuss whether this is the appropriate cut-off, given the large number of Belmont properties that would qualify. In addition, the Council should consider whether the City's current ordinance regulating "Disorderly Social Events" (Attachment D) is adequate standing alone, or whether calls for service to such events should count toward any numerical limit in a new ordinance.

Fifth, the Ventura ordinance requires staff to devise a safety and security plan if the property owners fail to do so. Staff does not recommend this provision, as it would result in a tremendous expenditure of time and resources with no clear gain to the City.

Sixth, the Ventura ordinance imposes a fee on the property owner for failure to adopt a safety and security plan. The fee is based on the cost of providing the "extraordinary" police services to the location. However, staff believes that this approach is not consistent with existing case law. Staff recommends that enforcement of the ordinance, if adopted, be limited to administrative fines for

DISCUSSION AND DIRECTION REGARDING  
EXTRAORDINARY POLICE SERVICES

September 23, 2008

Page 3 of 3

failure to submit the safety and security plan.

Prior to the meeting, staff will contact Ventura staff to determine how the ordinance is working, and will provide an update.

**General Plan/Vision Statement**

An ordinance requiring a safety and security plan for properties that generate an extraordinary number of police and/or fire calls is consistent with General Plan provisions to protect the public health, safety, and welfare of Belmont citizens.

**Fiscal Impact**

The staff time in implementing the ordinance would depend largely on its provisions. An ordinance that requires a few dozen safety and security plans, as opposed to several hundred, would be significantly less onerous to implement and enforce. Staff time could be partially offset by administrative penalties assessed to those property owners who do not comply, although this is not expected to generate substantial revenue.

**Recommendation**

Staff recommends that the Council provide direction regarding the Ventura ordinance.

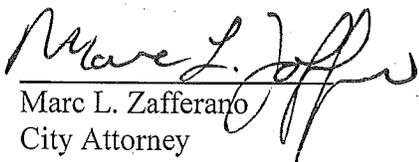
**Alternatives**

1. Continue to provide police and/or fire services without a Ventura-type ordinance.
2. Modify the Ventura ordinance based on Council direction.

**Attachments**

- A. Ventura ordinance, formatted for Belmont
- B. Police log, calls for service from 9-17-07 to 9-17-08
- C. Fire log, calls for service from 7-1-07 to 6-30-08
- D. Belmont Municipal Code, Article VI "Disorderly Social Events"

Respectfully submitted,

  
Marc L. Zafferano  
City Attorney

ATTACHMENT A

Ventura Ordinance,  
Formatted for Belmont

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BELMONT ADDING ARTICLE VIII,  
EXTRAORDINARY POLICE SERVICES, TO CHAPTER 18, POLICE,  
OF THE BELMONT MUNICIPAL CODE

The City Council of the City of Belmont does ordain as follows:

SECTION 1: Chapter 18, Article VIII, consisting of sections 18-75 through 18-80, entitled Extraordinary Police Service Liability, is hereby added to the Belmont Municipal Code read as follows:

ARTICLE VIII. EXTRAORDINARY POLICE SERVICE LIABILITY

- 18-75 Authority and purpose.
- 18-76 Definitions.
- 18-77 Security and safety plan.
- 18-78 Extraordinary police service fee liability.
- 18-79 Payment of fees and penalties.
- 18-80 Appeal.

18-75. Authority.

This chapter is adopted under the City's police power for the purpose of establishing standards and controls for the use of emergency police service by identifying businesses and property owners and occupants who disproportionately utilize scarce emergency police resources at the public expense, often leaving other areas of the city without adequate police protection.

18-76. Definitions.

The following definitions apply to this chapter:

*Emergency response* means the dispatch of one or more uniformed police officers to a private property pursuant to a request for police assistance for a disturbance at the property. A response to a false alarm under Chapter 18, Article IV, a disturbance under the City's noise ordinance, or a domestic violence incident is not an emergency response under this chapter.

*Extraordinary police service* means any of the following:

- 1) The sixth or subsequent emergency response to the same property within a 12-month period; or

- 2) The dispatch of five or more police officers to a single emergency response.

*Occupant* means any individual person or business entity that occupies or controls the property at the time of the emergency response.

*Owner* means any individual person or business entity that has fee title to the property at the time of the emergency response.

#### 18-77. Security and safety plan.

A. Whenever the police department first provides extraordinary police service to a particular property, the Chief of Police may provide the property owner or occupant notice specifying the emergency services provided and requiring the owner or occupant to provide the Chief of Police a written plan for improving the security and safety of the property, or the operation of the business. The plan shall also include a method of and commitment to implement the plan. The plan shall be submitted to the Chief of Police no later than 14 calendar days after receipt of the notice.

B. The Chief of Police shall review the proposed plan and determine if it adequately addresses the public safety and security issues which have led to the emergency responses. If the Chief of Police determines that the plan adequately addresses the public safety and security issues, the Chief of Police shall approve the plan, which shall be immediately implemented.

C. If the Chief of Police determines that the proposed plan does not adequately address the security and safety issues, or if no plan is received, the Chief of Police shall develop a plan to address the security and safety issues. The plan may include any reasonable changes in the design or operation of the property or business, including the requirement for provision of private security at no cost to the City of San Belmont. The Chief of Police shall notify the owner or occupant of the plan, and shall specify a reasonable deadline for compliance.

D. The Chief of Police may delegate and assign his responsibilities and duties under this section to other employees of the police department.

#### 18-78. Extraordinary police service fee liability.

A. The failure of an owner or occupant to abide by the plan approved by the Chief of Police under section 18-77, shall render the owner and occupants of the property jointly and severally liable for the actual cost of providing the extraordinary police service already incurred, or incurred in the future.

B. The actual cost of the extraordinary police service shall be calculated using rates and charges established by the City Council at the time the extraordinary police service is rendered and shall be billed to the owner and occupants of the property.

C. An owner or occupant shall not be liable under this section if that person was not an owner or occupant of the property during the time the extraordinary police service was rendered.

D. An owner or occupant who is an individual person and is the victim of a crime shall not be liable for extraordinary police service related to that crime.

E. Any violation of this chapter is civil, not criminal, and is in addition to any other available remedy provided by law.

#### 18-79. Payment of fees and penalties.

A. All fees and charges levied under section 18-78 are due and payable within one calendar month after presentation. For outstanding delinquent payments, a penalty equaling 25 percent of the levied amount will be assessed on the 30th day following the due date. Thereafter, the delinquent amount will incur an interest penalty of 1 percent per month.

B. The Chief of Police has the authority for good cause shown to waive part or all of the penalties otherwise due under this section.

#### 18-80. Appeal.

All decisions of the Chief of Police under section 18-77 may be appealed. Such appeals shall be determined by the City Manager, or a designee, in writing. No personal appearance before the City Manager is required. In determining the appeal, the City Manager shall give deference to the decisions of the Chief of Police supported by substantial evidence. The City Manager shall decide the appeal in writing within ten days after the matter is submitted by the appellant. No appellant shall be required to implement a security and safety plan while an appeal is pending.

### SECTION 3: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 4: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 5: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\* \* \* \* \*

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

AYES, COUNCILMEMBERS: \_\_\_\_\_

NOES, COUNCILMEMBERS: \_\_\_\_\_

ABSENT, COUNCILMEMBERS: \_\_\_\_\_

ABSTAIN, COUNCILMEMBERS: \_\_\_\_\_

\_\_\_\_\_  
Mayor of the City of Belmont

ATTEST:

\_\_\_\_\_  
Clerk of the City of Belmont

# ATTACHMENT B

Police Log

Calls for Service from 9-17-2007 to 9-17-2008

**BELMONT POLICE DEPARTMENT**

Page 1

**FREQUENTLY RESPONDED TO LOCATIONS**

09/17/2007 - 09/17/2008

09/18/2008

COUNT	ADDRESS	PLACE NAME
789	1 Twin Pines Ln	Belmont PD Admin
393	1400 Alameda De Las Pulgas	Carlmont High School
246	1100 El Camino Real	Safeway Store - Ecr
220	1500 Ralston Av	Notre Dame De Namur University
208	1101 Shoreway Rd	Motel 6
193	100 Old County Rd	One Hundred Block Only
181	2400 Carlmont Dr	Bonnie Brae Terrace
148	Ralston Av/Alameda De Las Pulga	Intersection
147	Ralston Av/Highway 101	Intersection
144	100 El Camino Real	Planet Granite
138	Ralston Av/El Camino Real	Intersection
124	120 Sem Ln	Extended Stay America
118	Highway 101/RALSTON Av	Nb 101 Passed Rls
117	1049 Alameda De Las Pulgas	Carlmont Shopping Center
116	1010 Alameda De Las Pulgas	Sunrise Assisted Living
115	2100 Ralston Av	Safeway Store - Ralston
108	2675 Ralston Av	Ralston Office/Middle School
106	900 Ralston Av	Walgreens Company
103	2239 Village Ct	Kaemper, Paul
101	500 Biddulph Wy	Nesbit School
100	Ralston Av/Hiller St	Intersection
95	1301 Ralston Av	Silverado
93	El Camino Real/Ralston Av	Intersection
92	Ralston Av/Old County Rd	Intersection
90	995 El Camino Real	Belmont Train Depot
89	500 El Camino Real	500 Block Only
88	1000 Alameda De Las Pulgas	Ihm School
82	3651 S El Camino Real	Hillsdale Carwash
80	1110 Alameda De Las Pulgas	Belmont Library
76	Alameda De Las Pulgas/Ralston Av	Intersection
76	1540 Ralston Av	Notre Dame High School
75	1000 Continentals Wy	Most of this is 1000 Block
74	1301 Shoreway Rd	Sequoia Medical Group
72	110 Sem Ln	Belmont Corp Yard
71	400 El Camino Real	7-11 Store
68	2140 Carlmont Dr	Carlmont Gardens Nurse Home
66	1835 Belburn Dr	Barrett Community Center
66	600 Ralston Av	600 Block
64	566 Ralston Av	Apt. Complex mostly Apt #13
64	900 El Camino Real	Vancea Auto Services
63	Ralston Av/South Rd	Intersection
58	El Camino Real/Harbor Bl	Intersection
58	1410 Old County Rd	St James Gate Bar

**BELMONT POLICE DEPARTMENT**

Page 2

**FREQUENTLY RESPONDED TO LOCATIONS**

09/17/2007 - 09/17/2008

09/18/2008

COUNT	ADDRESS	PLACE NAME
55	Ralston Av/Sixth Av	Intersection
54	700 El Camino Real	Belmont Palms Motel
53	2200 Village Ct	Apt. Complex
52	3100 St James Rd	Fox School
51	1060 Continentals Wy	Apt. Complex
51	400 Concourse Dr	Summerfield Suites
50	Ralston Av/Cipriani Bl	East Of Cipriani
50	2525 Buena Vista Av	Cipriani School
50	1300 Ralston Av	Hundred Block
48	550 Island Pk	Belmont Sports Complex
45	800 F St	Apt. Complex
45	2100 Carlmont Dr	Hundred Block
45	300 El Camino Real	Shalazaar Persian Restraunt
45	Old County Rd/Ralston Av	Intersection
44	100 Irene Ct	Apt. Complex
43	800 Ralston Av	Hundred Block
43	400 Yorkshire Wy	Park in the area
42	525 Middle Rd	Central Elementary School
42	470 Ralston Av	Am PM Mini Market Arco Gas
42	2031 Ralston Av	Bank Of America
41	900 Alameda De Las Pulgas	Greek Orthodox Church
41	400 Davey Glen Rd	Apt. Complex
41	Sixth Av/Ralston Av	Intersection
40	Ralston Av/Elmer St	Intersection
40	200 Davey Glen Rd	Apt. Complex
39	El Camino Real/Middle Rd	Intersection
39	1100 Alameda De Las Pulgas	Hundred Block
39	1000 Ralston Av	Hundred Block
38	951 Broadway	Kumar Residence
38	625 Old County Rd	Apt. Complex
37	700 Island Pk	Autobahn Motors
37	554 El Camino Real	Uhaul Belmont
37	560 El Camino Real	Kingsway Motel
37	900 Sixth Av	Belmont Vista Assisted Living Fa
37	390 El Camino Real	Belmont Plaza Dental Care
37	800 El Camino Real	Hundred Block
37	600 Clipper Dr	Hines Bldg. aka Asera Bldg.
36	2101 Carlmont Dr	El Dorado Apts
36	600 Old County Rd	Hundred Block
35	1000 El Camino Real	Hundred Block
35	300 Davey Glen Rd	Hundred Block/Apt. Complex
35	Lyllall Wy/Ralston Av	Intersection
35	Ralston Av/Christian Dr	Intersection
35	1085 Alameda De Las Pulgas	Lundardis

# ATTACHMENT C

Fire Log

Calls for Service from 7-1-2007 to 6-30-2008

**Belmont High Volume Call Adresses**  
**July 1, 2007 - June 30, 2008**

2400	carlmont	bonnie brae	139
1010	alameda	sunrise assisted living	89
1301	ralston	ralston village	71
2140	carlmont	carlmont convelesent	62
1400	alameda	carlmont high school	59
1500	ralston	notre dame de namur	36
900	6th	belmont vista	23
335	quarry	first chance	17
1101	shoreway	motel 6	16
825	old county road	county facility	15
800	f st.	county facility	14
120	sem lane	extended stay motel	12
100	harbor	belmont trailer park	11
550	quarry	county facility	8
1041	hill	belmont convelesent	7

ATTACHMENT D

Belmont Municipal Code  
Article VI "Disorderly Social Events"

**ARTICLE VI. DISORDERLY SOCIAL EVENTS****Sec. 15-90. Certain social gatherings unlawful.**

No person shall suffer, permit, allow or host a social gathering at his or her place of residence where ten (10) or more persons under the age of twenty-one (21) are present and alcoholic beverages are in the possession of, or are being consumed by, any person under the age of twenty-one (21) years.

(Ord. No. 812, § 1, 6-13-89)

**Sec. 15-91. Citable offense; social response fee.**

(a) *Special response fee authorized:* When three (3) or more persons gather together at a premises or place in the city and a police officer at the scene determines that one (1) or more persons are engaged in activities which are causing a threat to the peace, health, safety or general welfare of any member of the public or that such activities in any way constitute an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of any other person, the police shall give notice to one (1) or more of the persons who are engaged in or who are in control of such activities that the activities must immediately cease, and that if a subsequent police response arising out of said activities is required within twelve (12) hours following such notice, a special response fee will be charged to each person identified in subsection (b) below.

(b) *Liability for fee:* Each person responsible for or engaged in activities requiring a response as defined in subsection (a) above will be held jointly and severally liable for payment of the cost included in the special response fee. If any person responsible for or engaged in activities is a minor, the minor's parents or guardians shall also be liable for such fee.

(c) *Calculation of fee:* Said special response fee shall be calculated as the sum total of all costs incurred by the city in connection with each response as defined in subsection (a) above, including but not limited to the costs incurred by the city for employee time, applicable administrative overhead costs, costs incurred to repair any damage caused to city property, and costs incurred relating to any injuries to city personnel. Such fee will not be in excess of one thousand dollars (\$1,000.00) for each single response. The remedies herein set forth are nonexclusive and are in addition to any and all other remedies available to the city as provided by operation of law. The Belmont Police Department shall submit billing documentation to the finance director.

(d) *Recovery of costs:* The costs of such a special assignment shall be a personal obligation of the persons who created, caused, committed or maintained the nuisance. In addition, the costs of such special assignment may be made a lien against the property on which the nuisance was maintained and shall be a personal obligation against the property owner as herein set forth.

(e) *Billing:* When the city has incurred response costs as set forth in this article, the actual cost thereof, plus accrued interest at the rate of ten (10) percent per annum from the date of billing, shall be charged to the person or persons responsible. The person or persons responsible under this article shall be billed by mail, and the bill shall apprise the owner that failure to pay the bill may result in a lien on the property.

(f) *Nonpayment:* When the full amount due to the city for second or subsequent response costs as set forth in this article is not paid by the person or persons responsible therefor within

thirty (30) days of the date of the billing for such costs, the chief of police shall file with the city clerk a sworn or certified statement showing the response costs incurred, the date costs were incurred, and the description of the property to which the response was made. The recordation of such a sworn or certified statement with the county recorder shall constitute a lien on the property. The remedy provided in this subsection shall not constitute an election of remedies by the city.

(g) *Application of section:* This section shall only apply to activities described in subsection (a) above, for which a citation may be issued for a violation of a city ordinance or state statute.

(Ord. No. 812, § 1, 6-13-89)

### **Sec. 15-92. Appeals.**

(a) Any person who has been notified by the city that he or she will be held liable for second or subsequent response costs in accordance with this article may appeal to the city manager. The appeal shall be in writing, shall be signed by the appellant, and shall set forth the facts and reasons upon which the appeal is based. The appeal must be filed with the city clerk within ten (10) days following the date of official written notice to the appellant that he or she will be held liable for such costs.

(b) Upon receipt of an appeal, the city clerk shall cause the matter to be forwarded to the city manager, who will schedule a hearing to hear the appeal.

(c) The appellant shall be notified in writing at least five (5) days in advance of the hearing.

(d) The city manager shall hear the appeal and determine whether to allow the relief being sought or to deny the appeal.

(e) Upon denial of an appeal, the appellant shall have ten (10) days to pay the applicable response costs, or the city may commence proceedings to collect such sums as are due as provided by law and to place a lien upon the affected property.

(Ord. No. 812, § 1, 6-13-89)

### **Sec. 15-93. Nuisance declared.**

It is hereby declared that loud or unruly parties which create a threat to the public peace, health, safety or welfare constitute a public nuisance. No person, firm, corporation, association or other legal entity owning, leasing or occupying real property in the City of Belmont shall create, commit, maintain or permit such a public nuisance to occur on said property.

(Ord. No. 812, § 1, 6-13-89)