

ORDINANCE NO. 2018-358**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, AMENDING CALABASAS MUNICIPAL CODE SECTION 9.28.010 OF CHAPTER 9.28 RELATED TO LOUD, UNNECESSARY AND UNUSUAL NOISE AND ADOPTING A NEW CHAPTER 9.36 RELATED TO UNRULY GATHERINGS.**

WHEREAS, the City of Calabasas (the "City"), pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws that promote the public health, safety and general welfare of its residents; and

WHEREAS, the City Council finds and declares that some parties or other large gatherings of people frequently become loud and unruly to the point that they constitute a threat to the peace, health, safety, or general welfare of the public as a result of conduct such as one or more of the following: excessive noise, excessive traffic, obstruction of public streets or crowds who have spilled over into public streets, obstruction of rights of way by people or vehicles participating in these large gatherings, public intoxication and consumption of illegal substances, the consumption by and provision of alcohol to minors, fights, disturbances of the peace, vandalism, urinating or defecating in public, and litter; and

WHEREAS, the City Council finds and declares that the Los Angeles County Sheriff's Department and City personnel and other law enforcement personnel are called upon to respond, sometimes on multiple occasions, to locations of such loud or unruly gatherings in order to restore and maintain the peace and protect public safety, causing a burden on City resources, causing delays in law enforcement's ability to respond to regular emergency calls, and compromising community safety; and

WHEREAS, the City Council desires to protect the public health, safety, general welfare, and quiet enjoyment of property in the City by the adoption of this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. The City Council hereby finds and determines that it can be seen with certainty that there is no possibility that the adoption of this ordinance amending the City's noise ordinance, and prohibiting loud and unruly gatherings will

have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this ordinance is not subject to the requirements of the California Environmental Quality Act.

SECTION 3. The City Council hereby amends Calabasas Municipal Code Chapter 9.28 to read as follows, with additions denoted by underlined text and deletions denoted by ~~strike-through text~~:

9.28.010 - Loud, unnecessary and unusual noise.

Notwithstanding any other provisions of this ~~chapter and in addition thereto~~ municipal code that regulate noise, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:

- A. The level of noise;
- B. Whether the nature of the noise is usual or unusual;
- C. Whether the origin of the noise is natural or unnatural;
- D. The level and intensity of any background noise;
- E. The proximity of the noise to residential sleeping facilities;
- F. The nature and zoning of the area within which the noise emanates;
- G. The density of the inhabitation of the area within which the noise emanates;
- H. The time of the day or night the noise occurs;
- I. The duration of the noise;
- J. Whether the noise is recurrent, intermittent, or constant; and
- K. Whether the noise is produced by a commercial or noncommercial activity.

SECTION 4. The City Council hereby adds Calabasas Municipal Code Chapter 9.36, to read as follows:

Chapter 9.36 –UNRULY GATHERINGS ON RESIDENTIAL PROPERTY

9.36.010 - Definitions

- A. For purposes of this chapter, the following definitions shall apply:
 - 1. “Loud or unruly gathering” means a gathering of eight (8) or more persons for a social occasion or any other activity at any residential unit or accessory structure on the same parcel as a residential unit during which loud or unruly conduct occurs.
 - 2. “Responsible person” means and includes without limitation:
 - i. Any person(s) who is present at and rents, leases or otherwise is in charge of the residential unit where a loud or unruly

gathering or a gathering that becomes loud and unruly occurs;
or

- ii. Any person(s), including any business, company or entity, who organizes or sponsors a loud or unruly gathering or a gathering that becomes loud and unruly; or
 - iii. Any person(s) who attends or is present at a loud or unruly gathering or a gathering that becomes loud and unruly and engages in loud or unruly conduct.
 - iv. If the responsible person is a juvenile, then the parent(s) or guardian(s) of that juvenile shall also be considered a responsible person.
3. "Residential unit" means any residential "dwelling unit," such as a single-family dwelling or residence, and each unit of all multiple dwelling unit properties that were developed as apartment buildings, duplexes triplexes, fourplexes, cooperatives ("co-ops"), condominiums, or townhomes. A residential unit also includes: (i) any other buildings, structures and improvements on the parcel, as well as balconies, decks, patios, yards, and all other interior and exterior areas; and, (ii) common use or other areas of multiple dwelling unit properties. "Residential Unit" also includes any dwelling unit or other residential structure that has been permitted or used for any transient or short-term commercial use.
 4. "Owner" means any person(s), including any natural person, firm, association, organization, partnership, trust, business, corporation, company or other entity, who owns the residential unit where a loud or unruly gathering occurs. "Owner" also includes but is not limited to: (i) any person who has a possessory or use interest in a residential unit, whether as a lessee, sublessee, licensee, guest, promoter or sponsor, (ii) managers, members, officers, general partners or trustees of an owner; and to, (iii) agents thereof with actual or apparent authority, possession, or control of a residential unit.
 5. "Juvenile" means any person under the age of eighteen (18) years old.
 6. "Minor" means any person under the age of twenty-one (21) years old.

B. As used in this chapter, "loud or unruly conduct" includes, without limitation, any or all of the following:

1. Loud or other noise from any activity, cause or source that results in a violation of Section 9.28.010 of the municipal code, or any successor provision thereof;

2. Obstruction or congestion(whether partial or complete) of public streets, public rights-of-way, or private streets by persons or vehicles;
3. Obstruction or congestion (whether partial or complete) of fire lanes, emergency access streets, driveways, and fire access zones on properties by people or vehicles;
4. Public drunkenness or drinking in public;
5. The service of alcohol to minors;
6. The service of alcoholic beverages without a State license;
7. Possession and/or consumption of alcohol by minors;
8. Assaults, batteries, fights, domestic violence or other disturbances of the peace;
9. Vandalism or destruction of real or personal property;
10. Littering of any trash, debris, ;bottle, cans or other items of personal property on real property, or on any public right-of-way or other public property;
11. Urinating or defecating in public; or
12. Violation of any local, state, or federal law regulating controlled substances or drug paraphernalia, except that conduct authorized by and compliant with California Health and Safety Code section 11362.1 et seq. shall not be a violation of this Chapter; or
13. Trespassing.
14. Public assemblies in violation of State Fire and Building Codes in combination with one or more other instances of conduct described in this subsection;
15. Use or maintenance of any device or equipment allowing for the amplification of sound (including but not limited to voice and music) that violates Section 9.28.010, or any successor provision thereof. This subsection shall not apply to alarm or security systems that are installed at a residential unit.

C. "Loud or unruly conduct" does not include any activity that is protected by Article 1, Section 4 of the California Constitution, protected by the First or Fourteenth Amendments to the United States Constitution, or exclusively regulated by and compliant with the California Alcoholic Beverage Control Act.

9.36.020. Loud or Unruly Gathering—Public Nuisance.

A. It shall be unlawful and constitute a public nuisance for any owner or responsible person to cause or allow a loud or unruly gathering to occur at any residential unit within the City. A loud or unruly gathering may be abated by the city by all reasonable means, including, but not limited to: (i) an order of a peace officer to an owner or responsible person to immediately terminate the occasion or activity; (ii) an order of a peace officer to all non-

resident persons who are engaging in loud or unruly conduct at a gathering to immediately leave the premises; (iii) an order of a peace officer issued under Chapter 9.04; and/or (iv) any other lawful order or abatement method provided for by this Code and applicable law. It shall be unlawful and a violation of this chapter for any person to fail to comply with an order of a peace officer that is issued in connection with a loud or unruly gathering under this section or any other applicable provision of this Code.

- B. Nothing in this section shall be construed to impose liability on an owner, resident of the residential unit, the person in charge of the residential unit, or the organizer or sponsor of the gathering, for the conduct of persons who are present without the express or implied consent of the owner, resident, person in charge of the residential unit or the organizer or sponsor, as long as the owner, resident, person in charge of the residential unit or the organizer or sponsor has taken all available steps necessary to exclude such uninvited persons from the residential unit, such as, prior to the loud or unruly gathering, actively terminating a tenancy as evidenced by a properly served Notice to Quit and/or by an unlawful detainer lawsuit that has been filed with the Los Angeles County Superior Court and served on the defendant(s) prior to the loud or unruly gathering occurring, or filing a police report of a trespasser's presence.

9.36.030 Posting of Notice of Violation Regarding Loud or Unruly Gathering.

- A. A City Code Enforcement Officer or any peace officer responding to a Loud or Unruly Gathering may post, on the front entrance of the Residence at which the Loud or Unruly Gathering occurs, a notice of violation pursuant to the requirements set forth in Section 1.17.040 of this Code
- B. It shall be unlawful for any person to alter, tamper with or deface a posted notice described in Subsection (1) of this Section, or remove it prior to 30 days from the date of the posting.
- C. A copy of the notice posted pursuant to Subsection (1) of this Section and containing a reference to this Chapter 9.36 shall be served on the Owner by personal service or by depositing in the mail for delivery by the United States Postal Service, in a sealed envelope, postage prepaid, addressed to the Owner shown on the County's last equalized property tax assessment roll. Another copy of the notice shall be filed with the City Clerk.

9.36.040 Citation and Other Remedies.

- A. In addition to any other remedies and penalties available under this Code and applicable law, a City Code Enforcement Officer may issue a Citation to the Owner and/or Responsible Person or Persons for a violation of Sections

9.36.020 or 9.36.030, pursuant to the requirements and procedures set forth in Chapter 1.17 of this Code.

- B. As a further alternative and notwithstanding Section 1.17.080 of this Code, a City Code Enforcement Officer may issue a Citation to the Owner and/or Responsible Person or Persons for a violation of Sections 9.36.020 or 9.36.030, without first issuing a Notice of Violation.
- C. Any violation of Sections 9.36.020 or 9.36.030 may be prosecuted as a misdemeanor. In cases where the City Prosecutor elects to criminally prosecute such a violation, the defendant shall be subject to the penalties provided for by this Chapter in addition to the fines, penalties, and maximum term of imprisonment specified in Section 1.16.020 of this code.

9.36.050 Fines and Penalties for Violations.

An Owner and/or Responsible Person issued a Citation for a violation of Sections 9.36.020 or 9.36.030 shall be subject fines and penalties as set by the City Council by resolution.

SECTION 5. 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 Calabasas 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 sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 6. Effective Date:


This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City of Calabasas ordinance.

SECTION 7. Certification:

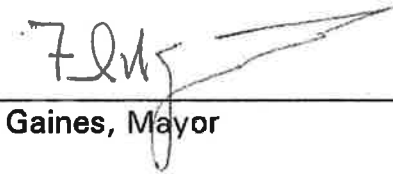
The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED this 24th day of January, 2018.

ATTEST:



Maricela Hernandez, MMC
City Clerk



Fred Gaines, Mayor

APPROVED AS TO FORM:



Dave Fleishman
Colantuono, Highsmith & Whatley PC
Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF CALABASAS)


I, **MARICELA HERNANDEZ, MMC**, City Clerk of the City of Calabasas, California, **DO HEREBY CERTIFY** that the foregoing ordinance, being **Ordinance No. 2018-358** was duly introduced and approved by the City Council of the City of Calabasas at a regular meeting held on the 10th day of January, 2018, and adopted and passed by said Council at a regular meeting held on the 24th day of January, 2018, by the following vote:

AYES: Mayor Gaines, Mayor pro Tem Shapiro, Councilmembers Bozajian, Maurer and Weintraub.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Maricela Hernandez, MMC
City Clerk
City of Calabasas, California