



---

**TO:** Kent Studebaker, Mayor  
Members of the City Council

**FROM:** Don Johnson, Chief  
Police Department

**SUBJECT:** Ordinance 2632 amending the Lake Oswego Code to add Article 34.23 relating to Unruly Gatherings

**DATE:** January 7, 2014

---

**ACTION**

Staff requests that the City Council consider adoption of the proposed Lake Oswego Municipal Code Ordinance 2632, following a Public Hearing, amending the Lake Oswego Municipal Code adding Article 34.23 relating to Unruly Gatherings.

**INTRODUCTION/BACKGROUND**

At the request of the Clackamas Oregon Health Authority, the Clackamas County Drug Abuse Prevention Council, and the Clackamas County Police Chief's Association, cities in Clackamas County have been asked to consider enacting an Ordinance prohibiting the hosting of Unruly Gatherings. The purpose of this initiative is to improve community safety, and to reduce the problems caused in communities as a result of large unruly gatherings, typically involving unlawful consumption of alcohol by minors and underage youth.

**DISCUSSION**

Lake Oswego Police often respond to reports of large parties, typically involving high school or underage college age youth that have raised the concern of neighbors. More often than not, the youth and minors have no adult supervision and are dispensing and consuming alcoholic beverages. The police department's response includes confiscating the alcohol, issuing citations to persons in violation of the law, and dispersing partygoers. While there are already laws and ordinances that deal with alcohol being served to and/or possessed by minors, this Ordinance aims to deal specifically with the community impacts of such acts in an effort to more comprehensively address the issues. The Ordinance has an educational element of the community prior to the issuance of citations, and it specifically addresses the *host* of the unruly gathering (and/or the property owner or parent/guardian)

so as to prevent the recurrence of such conduct. This is accomplished, in part, by holding property owners, hosts or parents/guardians accountable for what their tenants/guests are doing while on or adjacent to their property. The Ordinance outlines steps that property owners can take to avoid sanctions, while still preventing further problems.

Staff was careful to rely on similar ordinances from other areas of the state and ordinances from other states to ensure the proposed ordinance would focus on the purposes stated, and could be fairly enforced. Staff felt it important to make sure an objective definition of Unruly Gathering was in place that clearly enumerates the elements necessary to meet an established threshold. An Unruly Gathering is defined as:

A party or gathering of more than five persons where alcoholic liquor is served or consumed, and where any two or more of the following behaviors occur on the property where the gathering takes place or on an adjacent property:

- a. Any violation of state or City of Lake Oswego laws or ordinances relating to the sale, service, or consumption of alcoholic liquor;
- b. Assault, as defined on ORS 163.160, 163.165, 163.175, or 163.185;
- c. Menacing. As defined in ORS 163.190;
- d. Harassment, as defined in ORS 166.065;
- e. Intimidation, as defined in ORS 166.155 or 166.165;
- f. Disorderly Conduct, as defined in ORS 166.025;
- g. Noise Violations, as prohibited in LOC 34.10.537 or LOC 34.10.539 (1)(g), or (h);
- h. Criminal Mischief, as defined in ORS 164.345, 164.354, or 164.365;
- i. Public urination or defecation as prohibited in LOC 34.06.162; and
- j. Offensive littering, as defined in ORS 164.805, by a person who attended the party or gathering.

The proposed ordinance makes it unlawful for any person to organize or host an unruly gathering, with each violation punishable by a fine of up to \$1,000. A person who hosts or organizes more than one gathering in any twelve-month period must also pay an enforcement fee equaling the city's response costs, including the salaries and benefits of law enforcement and other emergency personnel plus the cost of any resulting damage to city equipment or medical treatment for responders. If the person is a juvenile, the parents or legal guardians are jointly responsible for the enforcement fee. It is an affirmative defense to a charge if the person contacted the police as soon as any of the offenses listed in the preceding paragraph occurred.

The ordinance also makes it illegal to own property where an unruly gathering occurs more than three times in a twelve-month period. Violations are subject to a \$1,000 fine plus payment of a response-cost enforcement fee. The court may waive or reduce the enforcement fee for owners of rental properties under the following circumstances:

- a. On the first occurrence of an unruly gathering, the owner issued a written warning to the tenants that future violations may result in initiation of eviction proceedings;
- b. On the second occurrence, the owner issued a written notice that termination of the rental agreement will be initiated for any future unruly gatherings;
- c. On the third occurrence, the owner initiated eviction proceedings against the responsible tenants; and
- d. Prior to the fourth occurrence, new tenants replaced those who committed the previous violations, and the owner implemented responsible precautions to deter or prevent future violations.

Staff believes that the proposed ordinance, in conjunction with regular and ongoing education, will help protect the safety of the youth population in Lake Oswego, will ensure the neighborhoods maintain a high quality of life, and will reduce the necessity for a police response to unruly gatherings, allowing the police to focus on other community needs and issues.

#### **ALTERNATIVES & FISCAL IMPACT**

Council could adopt the proposed Lake Oswego Municipal Code Ordinance 2632, following a Public Hearing, amending the Lake Oswego Municipal Code adding Article 34.23 relating to Unruly Gatherings. If adopted, the projected costs would be minimal, primarily related to staff time to educate the community.

Council could choose not to adopt Ordinance 2632, as proposed, and instead provide alternative direction to staff.

#### **RECOMMENDATION**

Staff recommends that the City Council adopt Ordinance 2632, amending the Lake Oswego Code to add Article 34.23 relating to Unruly Gatherings.

#### **ATTACHMENTS**

- 1. Ordinance 2632

**ORDINANCE NO. 2632****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO AMENDING THE LAKE OSWEGO CODE TO ADD ARTICLE 34.23 RELATING TO UNRULY GATHERINGS**

WHEREAS the Lake Oswego City Council finds that unruly gatherings, often involving loud noise and unlawful consumption of alcohol by minors, foster a range of criminal conduct; and

WHEREAS the City Council also finds that typical offenses associated with unruly gatherings include obstruction of public streets, assault, menacing, harassment, disorderly conduct, criminal mischief and littering, and that unruly gatherings and associated criminal behavior disturb the peace of nearby residents, pose a danger to persons attending the gathering and to other persons in the vicinity, detract from the livability of the neighborhood and reduce the value of nearby properties; and

WHEREAS the City Council also finds that property owners, by themselves or through their agents, have the ability to prevent unruly gatherings and to deter recurrences; and

WHEREAS the City Council concludes that persons who host or organize unruly gatherings, and owners of property where multiple unruly gatherings occur, should be responsible for the response costs incurred by law enforcement and other emergency responders;

The City of Lake Oswego ordains as follows:

**Section 1.** The Lake Oswego Code is amended to add Article 34.23 as follows:

**ARTICLE 34.23****UNRULY GATHERINGS****34.23.010 Purpose**

The purpose of this Article 34.23 is to prevent the disruption of the peace of the residents of the City of Lake Oswego, the danger posed to persons attending unruly gatherings and other persons in the vicinity, the detraction from the livability of neighborhoods and the devaluation of nearby properties.

**34.23.020 Definitions**

For the purposes of this Article 34.23, the following terms shall mean:

Alcoholic Liquor. An alcoholic beverage containing more than one-half of one percent of alcohol by volume.

Host. To invite or to receive persons to a social gathering on property of which one is an owner, lessee, tenant or licensee.

Juvenile. Any person under eighteen years of age.

Minor. Any person under twenty-one years of age.

Organize. To encourage attendance (at an unruly gathering).

Owner. The person or entity listed as the owner in the county property tax records.

Property.

- a. Any dwelling unit or group of dwelling units at a single street number address, including but not limited to a house, duplex, triplex, apartment(s), condominium(s) or other structure(s) with one or more dwelling units, and hotel or motel room(s);
- b. A hall, meeting room or other structure that serves as a gathering place;
- c. Any private real property adjacent to, and under the same ownership as, the location of a structure described in section (a) or (b) of this definition;
- d. Public right-of-way.

“Property” does not include a restaurant, bar or tavern.

Response Costs. The costs associated with responses by law enforcement, fire and other emergency response providers to unruly gatherings, including but not limited to:

- a. Salaries and benefits of law enforcement, fire or other emergency response personnel for the time spent responding to, remaining at, or otherwise dealing with an unruly gathering, and the administrative costs attributable to such response(s);
- b. The cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured while responding to, remaining at or leaving the scene of an unruly gathering; and
- c. The cost of repairing any city equipment or property damaged, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of an unruly gathering.

Twelve-month Period. The twelve calendar months immediately preceding the calendar month of the most recent violation.

Unruly Gathering. A party or gathering of more than five persons where alcoholic liquor is served or consumed, and where any two or more of the following behaviors occur on the property where the gathering takes place or on adjacent property:

- a. Any violation of state or city of Lake Oswego laws or ordinances relating to the sale, service, possession or consumption of alcoholic liquor;

- b. Assault, as defined in ORS 163.160, 163.165, 163.175 or 163.185;
- c. Menacing, as defined in ORS 163.190;
- d. Harassment, as defined in ORS 166.065;
- e. Intimidation, as defined in ORS 166.155 or 166.165;
- f. Disorderly conduct, as defined in ORS 166.025;
- g. Noise violations, as prohibited in LOC 34.10.537 or LOC 34.10.539(1)(g) or (h);
- h. Criminal mischief, as defined in ORS 164.345, 164.354 or 164.365.
- i. Public urination or defecation, as prohibited in LOC 34.06.162; and
- j. Offensive Littering, as defined in ORS 164.805, by a person who attended the party or gathering.

**34.23.040 Hosting or Organizing Unruly Gatherings.**

1. It is unlawful for any person to organize or host an unruly gathering if the person knows or reasonably should know that it is an unruly gathering.

2. It is an affirmative defense to a citation issued for a violation of subsection (1) of this section that the person who organized or hosted an unruly gathering contacted the police as soon as any of the violations or offenses listed in the definition of “unruly gathering” occurred.

3. Violation of subsection (1) of this section shall be punishable by a fine not to exceed \$1,000. In addition, a person who violates subsection (1) a second time, and any additional time, within a twelve-month period, shall pay an enforcement fee to the City in the amount of the response costs, regardless of whether the violations occurred at the same or a different property.

**34.23.050 Owning Property Where Multiple Unruly Gatherings Occur.**

1. It is unlawful for any person to be an owner of property where an unruly gathering occurs more than three times in a twelve-month period. Violation of this subsection shall be punishable by a fine not to exceed \$1,000. In addition, the owner shall pay an enforcement fee to the City in the amount of the response costs for the fourth and any subsequent occurrence that occurs within a twelve-month period of three other occurrences at the same property.

2. The Municipal Court may, in its discretion, reduce or waive the enforcement fee for a violation of subsection (1) of this section, if the court finds that:

- a. On the first occurrence of an unruly gathering, the owner or owner's agent issued a written warning that future violations may result in initiation of eviction proceedings;
- b. On the second occurrence of an unruly gathering, the owner or owner's agent issued a written notice that termination of the rental agreement will be initiated for the tenant(s) responsible for any future unruly gatherings;
- c. On the third occurrence of an unruly gathering, the owner or owner's agent initiated eviction proceedings against the tenant(s) responsible for the unruly gathering;
- d. Prior to the fourth occurrence of an unruly gathering, new tenants replaced those who committed the previous violations, and the owner or owner's agent implemented reasonable precautions to deter or prevent any additional unruly gatherings.

**34.23.060 Notice to Owners.**

After an unruly gathering occurs at a private property, and after any future occurrence of an unruly gathering at the same property, city staff shall notify the owner(s) of the property. The notice shall be sent by first class mail to the address of the property and to the owner's address as listed in the county property tax records, and shall include a copy of this Article and a description of the owner's potential liability for response costs under section 34.23.050.

**34.23.070 Parental Responsibility.**

If a juvenile violates LOC 34.23.040 (1), the juvenile's parent(s) or legal guardian(s) are jointly and severally responsible for payment of any enforcement fee that is or would be required of the juvenile under LOC 34.23.040(3), regardless of whether the juvenile is prosecuted for the violation.

**34.23.080 Enforcement and Penalties.**

1. Violations of any of the provisions of this Article 34.23 are declared civil violations and shall be enforced pursuant to the provisions of LOC 34.04.101 to 34.04.145. Prosecution of civil violations may be in addition to or in lieu of any other remedies or enforcement measures provided by law or ordinance, including without limitation enforcement by civil action as provided in ORS 30.315.

2. Fines for violations of the provisions of this Article shall be in the amounts specified within this Article and, where not specified, in amounts within the limitation of LOC 34.04.145.

**Section 2.** The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Enacted at the meeting of the City Council of the City of Lake Oswego held on the 7th day of January, 2014.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Kent Studebaker, Mayor

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Catherine Schneider, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
David Powell, City Attorney