

ORDINANCE NO. 1625 N.C. (2d)

**AN ORDINANCE OF THE CITY OF VALLEJO ADDING
CHAPTER 7.90 TO TITLE 7 ESTABLISHING A COST-RECOVERY FEE
FOR MISUSE OF THE 9-1-1
EMERGENCY CALLING SYSTEM**

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. There is hereby added to the Vallejo Municipal Code a new Chapter 7.90 which is to read as follows:

USE OF THE 9-1-1 SYSTEM

Section:

<u>7.90.001</u>	<u>Purpose.</u>
<u>7.90.002</u>	<u>Definitions.</u>
<u>7.90.003</u>	<u>9-1-1 User and Subscriber Duties and Responsibilities.</u>
<u>7.90.004</u>	<u>Administration.</u>
<u>7.90.005</u>	<u>Cost Recovery Fee.</u>
<u>7.90.006</u>	<u>Appeal Process.</u>
<u>7.90.007</u>	<u>Penalty for Late Payments.</u>
<u>7.90.008</u>	<u>Fee for Collection of Delinquent Cost Recovery Payments.</u>

7.90.001 Authority and Purpose

This ordinance is enacted pursuant to the authority of the City Charter and Constitutional ‘home rule’ power. The purpose of this ordinance codified in this chapter is to establish a process and fee to recover City of Vallejo costs resulting from misuse of the 9-1-1 system which result in unnecessary and preventable responses to 9-1-1 “hang-up” calls.

7.90.002 Definitions

“9-1-1 Call” means any telephone call using any form of communications device that results in a completed connection to the Vallejo Police Department Emergency Communications Center.

“9-1-1 Hang-Up Call” means any telephone call made using any telephone instrument or other communications device that results in a completed connection to the Vallejo Police Department Emergency Communications Center where the caller, unless physically unable to do so, either (1) fails to remain on the line and advise a Communications Operator of the nature of the call, or (2) fails to answer a call-back from the Police Department to verify the nature of the call, or (3) fails to permit an operator interrupt if the line is busy on call-back and it is subsequently determined that the caller was not attempting to report a police, fire or medical emergency.

“Telephone subscriber” means any individual, group of individuals, business or businesses that cause or are responsible for the installation, purchase or lease of any form of telephone equipment or other communications device that provides access to the 9-1-1 emergency calling system. The individual or business name and/or address transmitted to the Police Department’s Emergency Communications Center shall be presumed to be that of the telephone subscriber.

“Telephone user” means any person, including the telephone subscriber, who actually places a 9-1-1 call to the Police Department Emergency Communications Center using any telephone instrument or other communications device.

7.90.003 9-1-1 User and Subscriber Duties and Responsibilities

- A. Any telephone user who intentionally, unintentionally or negligently uses any telephone or other communications device to call 9-1-1 shall, unless physically unable to do so, remain on the line until the call is answered by a Police Department Emergency Communications Operator and shall (1) provide information concerning the nature of the police, fire or medical emergency or other reason for placing the 9-1-1 call or (2) confirm that no emergency situation exists.
- B. Any telephone user who intentionally, unintentionally or negligently uses any telephone or other communications device to call 9-1-1 and terminates (hangs-up) the call prior to confirming the nature of the police, fire or medical emergency or confirming that no emergency exists shall, unless physically unable to do so, immediately answer any call-back telephone call from the Police Department Emergency Communications Center and either (1) confirm the nature of the police, fire or medical emergency or (2) confirm that no emergency exists.

- C. All telephone subscribers are responsible for ensuring that the telephone users who use the telephone subscriber's service to call 9-1-1 do so in compliance with A and B above. Telephone users are responsible for the fee assessed under this ordinance as a result of a telephone user's failure to comply with A or B above. However, if the identity of the telephone user may not be ascertained upon police response to the 9-1-1 call and reasonably diligent inquiry, the telephone subscriber shall be presumed to be responsible for the fee. If the user is a minor child, the parent or guardian is responsible for the fee. If the parent or guardian is not ascertained, the subscriber shall be presumed to be responsible for the fee.

7.90.004 Administration

The provisions of this chapter shall be administered and enforced by the Chief of Police or designee. The Chief of Police or designee shall have the authority to implement the provisions of this chapter.

7.90.005 Cost-Recovery Fee

- A. A cost-recovery fee shall be assessed against every telephone user, and if the user is not ascertained, to the phone subscriber for each and every 9-1-1 "hang-up" call received by the Vallejo Police Department Emergency Communications Center where it is subsequently determined that no police, fire or medical emergency existed. The cost recovery fee set forth in this ordinance is in addition to and not in lieu of any criminal sanctions that may be imposed by a court for violation of pertinent sections of the California Penal Code.
- B. The 9-1-1 hang-up fee set forth in this ordinance shall be set by Council resolution and thereafter adjusted on July 1st of each year following enactment of this ordinance based on the annual average percentage increase in the U.S. Dept. of Labor Consumer Price Index. for the preceding calendar year.

7.90.006 Appeal Process

- A. A telephone user or subscriber who has been assessed a fee may appeal that decision.
- B. The initial appeal shall be to the Police Department's Communications Manager. A letter of appeal must be filed with the Communications Manager within fifteen (15) days of the date of the mailing of the fee assessment notification. The initial appeal shall be informal and a written decision shall be prepared. Failure to file a timely appeal shall constitute a waiver of the telephone subscriber's right to appeal, however, the Communications Manager may in his/her sole discretion waive the fifteen (15) day limit if good cause is shown and there is cause to believe that it might encourage substantial cooperation from the telephone subscriber or telephone user. There shall be no right to appeal the decision of the Communications Manager to not waive the fifteen (15) day time limit.
- C. If the telephone user or subscriber is dissatisfied with the decision of the Communications Manager, the appeal shall be considered by the Chief of Police or his/her designee. A copy of the Communications Manager's decision shall be submitted with the appeal requests. The appeal must be filed with the Chief of Police within fifteen (15) days of the mailing of the letter of notification of the Communications Manager's

decision. Failure to file a timely appeal shall constitute a waiver of the telephone user or subscriber's right to appeal. The decision of the Chief of Police shall be final.

7.90.007 Penalty for Late Payments.

If any telephone user or subscriber fails to make timely payment of a cost recovery fee as provided for by this ordinance, a separate late payment penalty may be assessed that user or subscriber in an amount to be established by Council resolution.

7.90.008 Fee for Collection of Delinquent Cost Recovery Payments.

If the City incurs special collection costs in conjunction with the collection of cost recovery fees pursuant to this ordinance, that cost shall be added to the fee and the responsible telephone user or subscriber shall be liable to the City for the collection costs.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Ordinance.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and shall be in full force and effect thirty (30) days from and after its final passage.

SECTION 4. STAFF AND COUNCIL REVIEW. Staff shall review and report on the effectiveness and enforcement of this ordinance and bring it back to Council for its review 90 days prior to the expiration of a two year period from the effective date (by July 22, 2011).

FIRST READ at a regular meeting of the Council of the City of Vallejo held the 15th day of September 2009 and finally passed and adopted at a regular meeting of the Council held the 22ND day of September 2009 by the following vote:

AYES:	Mayor Davis, Vice Mayor Sunga, Councilmembers Bartee, Gomes, Hannigan, Wilson and Schivley
NOES:	None
ABSENT:	None
ABSTENTIONS:	None

//s//
OSBY DAVIS, MAYOR

ATTEST: _____
//s//
SUSAN M. JUSAITIS, INTERIM CITY CLERK