

ORDINANCE 16-O-56 amending Murfreesboro City Code, Chapter 21—
Offenses and Miscellaneous Provisions, creating Section 21-6, Unruly
Gatherings.

WHEREAS, the City Council of the City of Murfreesboro finds that large gatherings where one or more persons are acting irresponsibly frequently become loud, unruly, unsafe, and adversely impact the quality of life of many neighborhoods throughout the City;

WHEREAS, it is determined that such unruly gatherings are detrimental to the public health, safety, and welfare, and are contrary to the public interest.

WHEREAS, the City desires to protect the public against the potential negative health, safety, and welfare impacts associated with loud and unruly gatherings;

WHEREAS, the City Council desires to set off a portion of the cost that is incurred by the public as a result from repeated occurrences of large gatherings that negatively impact the community and further desires to enhance the ability of enforcement officers to abate and deter such disturbances;

WHEREAS, in order to control unnecessary disturbances caused by such unruly gatherings, it is declared to be the policy of the city to prohibit unruly gatherings that create a substantial disturbance of the quiet enjoyment of private or public property.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Section 21-6, Unruly Gatherings, of the Murfreesboro City Code is hereby created as follows:

SECTION 21-6 UNRULY GATHERINGS.

(A) *Definitions.* As used in this section, the following words are defined as follows:

Child has the same meaning as the word is defined by T.C.A. § 37-1-102.

Encouraging Delinquent Acts by a Child means to solicit, aid, abet, or cause a child to violate a federal, state, county, or municipal law; do an act which endangers the health, safety, or welfare of the minor or of another person; or, run or conceal themselves from a person or institution having lawful custody of the child.

Host means, when used as a verb, to organize, invite, receive persons to a social gathering on property of which one has control as owner, lessee, tenant or licensee; and means, when used as a noun, a person who undertakes to accommodate a gathering that is or becomes an Unruly Gathering.

Menacing means communications by word or conduct that the person intends to place another person in fear of imminent serious physical injury.

Offenses Against Persons means any offense contained with Tennessee Code Annotated, Title 39, Chapter 13.

Offenses Against Property means any offense contained with Tennessee Code Annotated, Title 39, Chapter 14.

Offense Against Public Health, Safety and Welfare means any offense contained with Tennessee Code Annotated, Title 39, Chapter 17.

Organize means to encourage or assist in encouraging attendance at a gather that is or becomes an Unruly Gathering by any means of communications.

Organizer means a person who undertakes to organize a gathering that is or becomes an Unruly Gathering.

Owner means the person or entity listed as the owner in the Rutherford County property tax records, including multiple owners.

Property means (i) 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, hotel, or motel room(s); (ii) a hall, meeting room, community room, common area, pool, pool house, or other structure that serves as a gathering place; (iii) any private real property adjacent to, and under the same ownership as, the location of a structure described in this section; and (iv) any public right-of-way or public property adjacent to the location of the property otherwise defined in this section.

Response costs means 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 amount of time spent responding to, remaining at, or otherwise dealing with Unruly Gatherings, 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 and an allocation of the cost of normal maintenance of such equipment.

Unruly gathering means a party or gathering where alcohol is served or consumed, where there is a sufficient number of attendees that an officer reasonable believes the host cannot directly control behavior of attendees, and one 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 federal, state, or municipal laws relating to the sale, service, possession or consumption of alcohol;
- (b) Any Offense Against Persons;
- (c) Offenses Against Property
- (d) Offense Against Public Health, Safety and Welfare
- (e) Menacing;
- (f) Noise disturbances;
- (g) Public urination or defecation;
- (h) Littering;
- (i) Encouraging Delinquent Acts by a Child; or
- (j) Unlawful use or explosion of fireworks

(B) *Unruly Gatherings Prohibited.* No person shall organize or host an Unruly Gathering if the person knows or reasonably should know that a gather of people is or could become an Unruly Gathering.

(C) *Administrative Civil Penalty.*

(1) *First Violation.*

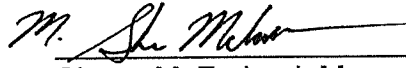
- (a) A person who violates this Section in addition to but separate from any criminal penalties and for remedial purposes only, shall be subject to a penalty of \$250 as an administrative civil penalty for the purposes of partially setting off the response costs incurred by the City for responding to the Unruly Gathering.

- (b) After an Unruly Gathering occurs on a property, City staff will notify the owner of the property, which will include a copy of this ordinance and a description of the owner's potential liability for response costs under Section (C)(2).
- (2) *Second Violations.*
 - (a) If a person is cited for violation of this Section a second time within a twelve-month period, that person shall be subject to an additional penalty of \$500 as an administrative civil penalty for the purposes of partially setting off the enhanced response costs due to repeated Unruly Gatherings.
 - (b) If an Unruly Gathering occurs at the same property for a second time within a twelve-month period after notice is provided the owner under Section (C)(1)(b), the owner of the property shall be subject to an additional penalty of \$500 as an administrative civil penalty for the purposes of partially setting off the enhanced response costs due to repeated Unruly Gatherings. It is the intent that exculpation of the property owner by a tenant for this penalty is prohibited by T.C.A. 68-28-203.
- (3) If a child receives a citation for an Unruly Gathering or is the owner of the property and that child, but for the child's age, would be responsible for payment of the penalty imposed by this Section the person's parent(s) or legal guardian(s) are responsible for the administrative civil penalty.
- (4) Financial liability under this section is joint and several.
- (D) *Appeals.*
 - (1) *Organizers or Hosts.* It is an affirmative defense to a citation issued for a first violation of Section that the person who organizes or hosts a gathering contacted the police as soon as that gathering becomes an Unruly Gathering, upon a finding that such contact occurred, the penalty may be reduced to \$100.
 - (2) *Property Owners.*
 - (a) If a civil administrative penalty is imposed upon a property owner, the property owner may appeal the determination that a violation occurred or amount of the penalty. Appeals are taken before the City Manager who, when determining to what extent, if any, the owner should be responsible for the penalty or penalties assessed, shall consider evidence of the following actions on the part of the property owner to prevent or abate the nuisance, even if unsuccessful:
 - [1] On the first occurrence of an Unruly Gathering, the owner has issued a written warning to the residents of the dwelling unit where the Unruly Gathering occurred that future violations may result in initiation of eviction proceedings.
 - [2] On the second occurrence of an Unruly Gathering at the same dwelling unit, provided the owner has not imposed upon any tenant the administrative civil penalty assessed against the owner, the owner has issued a written notice that termination of the rental agreement will be initiated for the tenant(s) responsible for any future Unruly Gatherings.
 - [3] On the third occurrence of an Unruly Gathering at the same dwelling unit, the owner has initiated eviction proceedings against the tenant(s) responsible for the Unruly Gathering.
 - [4] Prior to the fourth occurrence of an Unruly Gathering, provided that new tenants replaced those who committed the previous violations, the owner implemented reasonable precautions to deter or prevent any additional Unruly Gatherings.
 - (b) In an appeal by an owner of property where ten or more dwelling units are located, if no more than two of the violations have occurred on the property, the City Manager shall consider, in addition to the factors listed in Section (D)(2)(a), whether the owner implemented other measures to prevent or discourage Unruly Gatherings, including, but not limited to, employing a resident manager, providing a local agent who is accessible to tenants at all times for emergencies, hiring on-site

security, and imposing strict behavioral standards in the rental agreement that are enforceable by termination of the tenancy.

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:



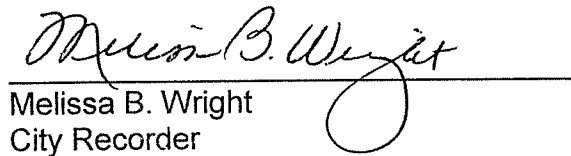
Shane McFarland, Mayor

1st reading November 10, 2016

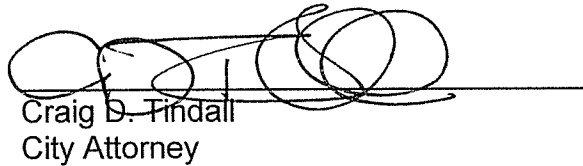
2nd reading November 17, 2016

ATTEST:

APPROVED AS TO FORM:



Melissa B. Wright
City Recorder



Craig D. Tindall
City Attorney

SEAL