

ORDINANCE NO. 2005-03

**AN ORDINANCE ESTABLISHING A
SCHEDULE OF FINES FOR FALSE ALARMS**

WHEREAS, the Oswego Fire Protection District, located in Kendall and Will Counties, is a fire protection district duly organized under the laws of the State of Illinois; and

WHEREAS, the Board of Trustees of the District has express power pursuant to 70 ILCS 705/11, to adopt and enforce fire prevention codes and standards parallel to national standards to promote fire prevention; and

WHEREAS, the Board of Trustees (“the “Board”) of the District also has full power pursuant to 70 ILCS 705/6, to pass all necessary ordinances, and rules and regulations for the proper management and conduct of the business of the Board of Trustees of the District for carrying into effect the objects for which the District was formed; and

WHEREAS, many homes, business establishments and public buildings within the District are equipped with systems, including automatic detection devices and signaling devices that transmit alarms or signals of a fire or medical emergency to the District; and

WHEREAS, a variety of circumstances result in false alarms being transmitted, which results in the expenditures of substantial amounts of money for personnel and equipment sent to respond to such false alarms; and

WHEREAS, the Board desires to create a schedule of fines for false alarms in order that the District may be adequately compensated for the cost of responding to false alarms and to provide incentives to building owners within the District to maintain their private fire alarm systems in good working order and repair, while penalizing those who fail to do so.

NOW, THEREFORE, Be It Ordained by the Board of Trustees of the Oswego Fire Protection District, located in Kendall and Will Counties, as follows:

Section One: Definitions. For the purpose of this section, the following words and phrases shall

have the meanings ascribed to them in this section.

A. **False Alarm.** An alarm signal which indicates the existence of any emergency situation when in fact, no such emergency exists, and shall include any alarm signal generated by any fire protection system by whatever means, but shall not include alarms resulting from any of the following causes:

1. Fire causing damage to structures or contents of a protected premises verified by the Fire District
2. Earthquake causing structural damage to the protected premises
3. Tornado or hurricane winds causing structural damage to the protected premises
4. Flooding to the protected premises due to overflow of natural drainage or other water leaks within the building
5. Lightning causing physical damage to the protected premises
6. Telephone line malfunction verified to the Fire District by an authorized telephone company supervisor within seven days of the occurrence
7. Electrical service interruption verified to the Fire District by the local power company manager within seven days of the occurrence
8. Plumbing or electrical malfunctions unrelated to the fire protection system

B. **User:** The owner of the property from which the False Alarm originates and any individual, partnership, corporation, organization or other entity on the property with permission of the owner.

C. **Intentional False Alarms:** Those False Alarms that are purposely and non-accidentally activated in non-emergency situations without prior notification to the Oswego Fire Protection District located in Kendall and Will Counties.

D. **Improper Installation or Design:** Systems fall under the scope of this definition when new Systems are installed in a negligent or faulty manner, or when a System is designed in a substandard or faulty manner, either of which results in a False Alarm activation in a non-emergency situation.

E. **Improper Maintenance:** Systems fall under the scope of this definition when existing Systems have not been properly maintained by the property owner, which results in a False Alarm activation in a non-emergency situation. This definition includes, but is not limited to, the proper maintenance of all components within any System.

F. **Improper Use:** Systems fall under the scope of this definition when an action of a User

results in a False Alarm activation in a non-emergency situation due to the User's carelessness or negligence.

G. System: Includes all fire alarm systems, sprinkler systems and other automated systems that transmit alarms or signals to the District.

H. Three-month Period: The Three-month Period shall be the 3 calendar months immediately preceding the date of the False Alarm for which the citation was issued.

Section Two: Schedule of Fines: The schedule of fines for False Alarms is as follows:

OSWEGO FIRE PROTECTION DISTRICT
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A. Type of False Alarms Charged: A User shall be cited for each False Alarm if such False Alarm is:

1. an Intentional False Alarm;
2. due to or caused by Improper Installation or Design;
3. due to or caused by Improper Maintenance;
4. due to or caused by Improper Use; or
5. resulting from any test, repair, alteration or addition to a System without prior notification thereof to the Oswego Fire Protection District.

B. Fines: A User shall be fined for False Alarms as follows:

1. Second False Alarm in a Three-month Period: warning letter (no fine) and a copy of this false fire alarm schedule of fines ordinance.
2. Third False Alarm in a Three-month Period: \$150.00 fine in addition to above.
3. Fourth False Alarm in Three-month Period: \$300.00 fine in addition to above.
4. Each additional False Alarm in a Three-month Period after four (4) shall result in a false alarm charge of \$500.00.
5. If the False Alarm is an Intentional Alarm, then an additional fine of \$1,000 shall be added to the fine schedule listed above.

C. Out of Service Alarm: If a System: (i) cannot be restored or returned to normal, or (ii) gives three (3) or more False Alarms within a twelve (12) hour period, the Oswego Fire Protection District reserves the right to place the System out-of-service and may require a fire watch at its discretion. If District personnel are required to serve on fire watch, the offending User(s) must reimburse the

District at the actual cost of personnel and equipment. Any System placed out-of-service under this section must be repaired and placed back in service within the time period specified by the Oswego Fire Protection District.

- D. **Joint and Several Liability:** More than one User may be charged under this Ordinance for a single False Alarm, and the User(s) so charged are jointly and severally liable for any citations and fines due under this Ordinance.

Section Three: That, in addition to the fines set forth in Section Two, if any User refuses to pay or fails to pay within 60 days of notice of the fine, the User will be deemed to have further violated this Ordinance and will incur an additional fine of not less than \$25, nor more than \$500 for each offense plus all legal fees and all costs caused by enforcement. Such fees and costs shall include, but not be limited to, staff costs of inspection or re-inspection, legal fees, and staff cost of enforcement. A separate offense shall be deemed committed for each day on which a violation occurs or continues.

Section Four: Failure to pay any fine which is reduced to judgment will result in a lien filed against the User's property.

Section Five: The Oswego Fire Protection District, located in Kendall and Will Counties, assumes no liability for:

1. Any defects in the operation of a System
2. For failure or neglect to respond appropriately upon receipt of an alarm
3. For failure or neglect of any person in connection with the installation, operation or maintenance of any System
4. The transmission of alarm signals, pre-recorded alarm messages, or the relaying of such signals and messages

Section Six: The Fire Chief and his designees are hereby permitted to waive the fees due under this Ordinance in cases of demonstrated financial hardship, intergovernmental cooperation, or in cases where Systems have been repaired or replaced and are operating properly. Requests for the waiver of fees must be made in writing to the Chief of the Fire Prevention Bureau, who shall make the initial determination as to the validity of the waiver request.

Section Seven: Special consideration shall be given to Users of Systems newly installed should False Alarms, other than Intentional Alarms, occur during the first Three-month period after the User's System service has commenced.

Section Eight: Appeal Procedure. All Users who are assessed fines in accordance with Section Two of this Ordinance or denied a waiver of fine pursuant to Section Six of this Ordinance shall have the right to appeal their fines before the Fire Chief of the District in accordance with the appeal procedure established below:

Step One. All applications for appeal shall be made in writing to the Fire Chief within fifteen (15) calendar days from the date that the fines under this Ordinance are imposed, or they are deemed waived. Upon receipt of an application for appeal, the Fire Chief will schedule a hearing on the User's appeal. Said hearing shall commence no less than fifteen (15) calendar days from the date that the Fire Chief receives the User's application for appeal. All Users making an application for appeal shall be given an opportunity to be heard and may appear with the representative of their choosing. The Fire Chief shall provide the User with a written notice of his decision within five (5) business days from the completion of the appeal.

Step Two. All Users that have completed Step One of this appeal procedure shall have the right to an additional appeal before the Board of Trustees of the District. Said appeal to the Board of Trustees shall be made in writing to the Fire Chief within fifteen (15) calendar days from the date that the Fire Chief renders his decision on Step One of the appeal procedure. All Users making an application for appeal before the Board of Trustees shall be given an opportunity to be heard and may appear with the representative of their choosing. The Board of Trustees may opt to appoint a hearing officer to hear the Step Two appeal. The hearing officer shall report his or her factual findings and any recommendations to the Board of Trustees at its next regular board meeting. The Board of Trustees shall deliberate and make a decision on the Step Two appeal at that meeting, and the Board or its designee shall provide the User with a final written determination on the appeal within five (5) business days of the date of its board meeting.

Section Nine: All fines assessed pursuant to this Ordinance shall be remitted to the Oswego Fire Protection District, and all revenues from such charges shall be deposited in the general fund of the Oswego Fire Protection District.

Section Ten: Nothing in this Ordinance shall authorize the District to refuse to provide any service to any person, business or other entity that has not paid for services previously provided or that owes money for services previously rendered.

Section Eleven: That this Ordinance shall supersede any ordinances or motions or parts of ordinances or motions in conflict with any part herein, and any such ordinances or motions or parts of such ordinances are hereby repealed.

Section Twelve: If any section, paragraph or provisions of this Ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any of the remaining provisions of this Ordinance.

Section Thirteen: That the Secretary of the Oswego Fire Protection District is hereby directed to publish this Ordinance in full at least once in a newspaper published in the District. Publication shall take place at least ten (10) days prior to implementation of this Ordinance. That the provisions of this Ordinance shall be in full force and effect ten (10) days after publication as provided by law.

ADOPTED this 12th day of December, 2005, by the following roll call vote:

AYES: Dick Kuhn, Jim Detzler, Bob Tripp

NAYS: _____

ABSENT: _____

Jim Detzler
President, Board of Trustees
Oswego Fire Protection District, located in
Kendall and Will Counties

ATTEST:

Bob Tripp
Secretary, Board of Trustees
Oswego Fire Protection District

STATE OF ILLINOIS)
)
COUNTY OF KENDALL)

 SS

SECRETARY'S CERTIFICATE

I, _____, the duly qualified and acting Secretary of the Board of Trustees of the Oswego Fire Protection District, located in Kendall and Will Counties, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

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which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 12th Day of December, 2005.

I do further certify that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of December, 2005.

Secretary, Board of Trustees
Oswego Fire Protection District