

ORDINANCE NO. 2023-03

AN ORDINANCE ESTABLISHING A SCHEDULE OF FINES AND FEES FOR FALSE ALARMS

WHEREAS, the Bensenville Fire Protection District No. 2 is a fire protection district duly organized under the laws of the State of Illinois; and

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

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

WHEREAS, many homes and 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 result 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 Bensenville Fire Protection District No. 2 as follows:

- 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 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 premise.
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 natural 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 or communications company supervisor within seven calendar days of the occurrence.
7. Electrical service interruption verified to the Fire District by the local power company manager within seven calendar days of the occurrence.
8. Plumbing, electrical malfunctions, or leaking roofs unrelated to the fire protection system.
9. Beam detector systems.
10. Outside fires designed exclusively for the purposes of cooking.

- 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 Bensenville Fire Protection District No. 2.
- 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 or its designated agent.
- H. Twelve-Month Period: "The Twelve-Month Period" shall be the twelve (12) 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:

BENSENVILLE FIRE PROTECTION DISTRICT No. 2
SCHEDULE OF FINES FOR FALSE ALARMS

- A. Types 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;
 - 5. resulting from any test or repair, alteration, or addition to a System without prior notification thereof to the Bensenville Fire Protection District No. 2.
 - 6. due to any device sending false signals.
 - 7. activation from cooking smoke relating to burnt food.
 - 8. outdoor fires including use of fire pits.
 - 9. activation from steam or vapor from cooking or shower use.
- B. Fines: A User shall be fined for False Alarms as follows:
 - 1. First three (3) False Alarms in a twelve (12) month period: business shall receive a warning letter (no fine)
 - 2. Fourth (4th) through Sixth (6th) False Alarm in a twelve-month period: \$150.00.
 - 3. Seventh (7th) through Tenth (10th) False Alarm in a twelve-month period: \$300.00.

4. Each additional False Alarm in a twelve-month period after the tenth: \$500.00.
 5. If the False Alarm is an Intentional Alarm, then an additional fine of \$1000.00 shall be added to the fine 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 Bensenville Fire Protection District No. 2 reserves the right to place the System out-of-service and may require a fire watch at its discretion. If the 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 specified by the Bensenville Fire Protection District No. 2.
- 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: In addition to the fines set forth in Section Two, if any User refuses to pay or fails to pay within sixty (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 \$50.00, nor more than \$500.00 for each offense plus all legal fees and cost associated with enforcement. Such fees and costs shall include, but not be limited to, staff costs, software, office stationery, legal fees, and administrative costs associated with enforcement. A separate offense shall be deemed committed for each day on which a violation occurs and continues.

Section Four: Failure to pay any fine which is reduced to judgement will result in a lien against User's property or assets.

Section Five: The Bensenville Fire Protection District No. 2 assumes no liability for:

- A. Any defects in the operation of a System.
- B. For failure or neglect to respond appropriately upon receipt of an alarm.
- C. For failure or neglect of any person in connection with the installation, operation, or maintenance of any System.
- D. The transmission of alarm signals, pre-recorded alarm messages, or the relying of such signals and messages.

Section Six: Waivers.

(a) The Fire Chief and his designees are hereby permitted to waive the warnings and/or 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. Special consideration shall be granted to the unintentional alarms of Users of newly installed Systems during the first three months after the service to the System has commenced.

(b) Requests for the waiver of fees must be made in writing to the Fire Marshal or Fire Chief, who shall make the initial determination as to the validity of the waiver request. Any waiver or forbearance under this Paragraph shall not be deemed a waiver by the District to pursue future violations by the user.

Section Seven: Appeal Procedure. All Users who are assessed fines in accordance with Section Two of this Ordinance or denied a waiver of fine pursuant to 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/her 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/her decision on Step One of the appeal procedures. 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/her factual findings and any recommendations to the Board of Trustees at its next regular board meeting. The Board of Trustees shall deliberate and decide 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 Eight: All revenue from the charges assessed pursuant to this Ordinance shall be deposited in the Operating Fund of the Bensenville Fire Protection District No. 2.

Section Nine: Nothing in this Ordinance shall authorize the District to refuse to provide 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 Ten: That this Ordinance shall supersede any ordinances or motions or parts or ordinances or motions in conflict with any part herein, and any such ordinances or motions or parts of such ordinances are hereby repealed.

Section Eleven: 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 Twelve: The Secretary of the Bensenville Fire Protection District No. 2 is hereby directed to publish this Ordinance in full at least once in the 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 (70 ILCS 705/7), or on January 1, 2024, whichever comes later.

ADOPTED this 19th day of July, 2023, by a roll call vote as follows:

AYES: Madura, Eltman, Budnik

NAYS: 2

ABSENT: 2



President, Board of Trustees
Bensenville Fire Protection District #2

ATTEST


Secretary, Board of Trustees
Bensenville Fire Protection District No. 2

STATE OF ILLINOIS)
) ss
COUNTY OF DUPAGE)

SECRETARY'S CERTIFICATE

I, DOUGLAS ELTMAN, the duly qualified and acting Secretary of the Board of Trustees of the Bensenville Fire Protection District No. 2, DuPage and Cook Counties, Illinois, and the keeper of the records thereof, do hereby certify that attached hereto is a true and correct copy of an Ordinance entitled:

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adopted by said Board of Trustees on the 19th day of July, 2023.

I do further certify that a quorum of said Board of Trustees was present at the said meeting, and that the Board complied with all requirements of the Illinois Open Meetings Act. Further, I certify that the Ordinance has not been amended or altered and is in full force and effect as of the date indicated below.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, 2023.



Secretary, Board of Trustees
Bensenville Fire Protection District No. 2

(SEAL)