

INTRODUCED BY COUNCILMEMBER _____

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OFFICE OF THE CITY CLERK
APPROVED AS TO FORM AND LEGALITY
[Signature]
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CITY ATTORNEY 40

ORDINANCE NO. 12526 C.M.S.

ORDINANCE AMENDING THE OAKLAND FIRE CODE, OAKLAND MUNICIPAL CODE, CHAPTER 15.12, TO SET FORTH FINDINGS AND FEE ASSESSMENT PROVISIONS RELATED TO FALSE FIRE ALARMS

WHEREAS, the Oakland Fire Department responds to an average of 2000 commercial and residential false fire alarms annually; and,

WHEREAS, the City Council does herewith find that the transmission of false alarms have a deleterious effect on emergency services such as fire protection and emergency medical services and as such constitute a public nuisance; and,

WHEREAS, certain amendments to the City of Oakland's Fire Code which set forth additional regulations to govern the use of fire alarm systems and provide for collection of service fees and cost recovery of such fees related to excessive responses necessitated by false fire alarms would serve to mitigate the deleterious effects and public nuisance impacts of false fire alarms; and

WHEREAS, the fire prevention bureau is responsible for the enforcement of laws and regulations for the safeguarding of life and property from the hazards of fire and explosion and from conditions hazardous to life and property in the use or occupancy of buildings or premises and their contents:

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section I. Addition of False Fire Alarm Code. The following provisions are added to Oakland Municipal Code, Title 15, Chapter 15.12:

Chapter 15.12. 060 False Fire Alarms – Fire Department

Sections:

- 15.12.060 Purpose**
- 15.12.061 Findings**
- 15.12.062 Definitions**
- 15.12.063 Alarm Standards**
- 15.12.064 Testing alarm**
- 15.12.065 False Alarm Fee Assessment**
- 15.12.066 Fees for Costs to Secure Premises**

15.12.067 False Alarm Appeal Process
15.12.068 Severability

15.12.060 Purpose.

The purpose of this ordinance is to promote the responsible use of fire alarm systems, to set forth additional regulations for the use of fire alarm systems and to provide for service fees and for cost recovery of services fees for violations of this ordinance. Furthermore, the provisions of this chapter are intended to reduce the number of false alarm activations and responses by the Oakland Fire Department.

15.12.061 Findings.

Fire alarm systems that are not properly installed, maintained and/or operated create a nuisance to the peace and safety of the community. Such alarm systems also cause excessive and unnecessary use of fire services in responding to assumed emergencies.

15.12.062 Definitions.

The following definitions shall apply to this chapter:

“Alarm” means the giving, signaling or transmission to any public station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that a fire or emergency situation at or near the place indicated by the person giving, signaling or transmitting such information.

“Alarm User” means any person using an alarm system at such person’s residence or place of business.

“Hearing Officer” means the person appointed by the City Manager or his/her designee to review and rule on false fire alarm appeals.

“Automatic Fire Sprinkler System” means an integrated system of underground and overhead piping designed in accordance with fire protection standards, and which is normally activated by heat from a fire and discharges water over the fire area.

“City” means the City of Oakland, California.

“City Council” means the legislative body of the City.

“City Manager” means the City Manager of the City or his/her designee.

“False Alarm” means the activation of an alarm system necessitating a response by the Oakland Fire Department where a fire or emergency situation does not exist; provided however, that activation of alarms by natural disaster will not be considered false alarms.

“Fire Alarm System” means a system consisting of a control unit and a combination of electrical interconnected devices designed and intended to detect a fire condition and to actuate an alarm or warning of fire in a building or structure by either manual or automatic activation, or both, and includes the systems installed throughout any building or portion thereof.

“Fire Chief” means the Fire Chief of the City, or his/her designee.

“Notice” means written notice, given by personal service upon the address, or given by the United States mail, postage prepaid, addressed to the person to be notified at his last known address. Service of such notice shall be effective upon the completion of personal service, or upon the placing of the same in the custody of the United States Postal Service.

“Person” means any natural person, individual, firm, partnership, unincorporated association, corporation or other entity.

15.12.063 Alarm Standards.

All fire alarm systems and appurtenant equipment installed and used within the City of Oakland shall meet or exceed industry standards and those standards established under the City of Oakland Fire Code.

15.12.064 Testing Alarm.

Persons shall notify the Oakland Fire Department through the Fire Dispatch Communications Center prior to any service, test, repair, maintenance, adjustment, alterations, or installations of automatic fire sprinkler or fire alarm systems, which might activate a false alarm, which would normally result in an emergency response. Any alarm activated where such prior notice has been given shall not constitute a false alarm for the purpose of this chapter.

15.12.065 False Alarm Fee Assessment.

A. Multiple Occurrences Unrelated to Testing. To defray the cost to the City and taxpayers for responding to false fire alarms, alarm users shall be subject to such assessment as may be established by ordinance by the City Council in its Master Fees Schedule for all false alarms, beginning with the second commercial and the third residential false alarm occurrences in any six (6) month period. In addition, repeat offenders shall have the alarm system placed in an Underwriter Laboratory (U.L) approved central station monitoring program.

B. Occurrences Related to Improperly Noticed Testing. To defray the cost to the City and taxpayers for responding to false fire alarms, persons or businesses engaged in servicing, testing repairing, maintaining, adjusting, altering or installing an automatic fire sprinkler system or fire alarm system shall be subject to such assessment as may be established by ordinance by the City Council in its Master fee Schedule for false alarms on any occurrence of a false alarm resulting from the failure to provide notice of testing as required in section 15.12.063 above.

C. Fee Assessment. The fee assessment shall be satisfied by the alarm owner or user or persons or businesses engaged in activities described in sections 15.12.063 and 15.12.064(B) above within fifteen (15) days after receipt of an invoice from the Fire Department. The amount of fee assessment shall be deemed a debt to the City of Oakland. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent fees.

D. Collection and Costs of Collection. The Fire Department will notify alarm users by leaving a notice at the alarm site. The Fire Department will notify persons or businesses in violation of section 15.12.063, above, by registered mail within fifteen (15) days. If such alarm users, persons or businesses fail to remit the fees assessed within fifteen (15) days from the date of the service of notice upon them, which shall be the date of mailing of the invoice, if notice is not accomplished in person, a penalty of twenty-five (25) percent of the amount of the fee set forth in the notice shall be imposed, but not less than five dollars (\$5.00). When imposed, the penalty shall become part of the fee herein required to be paid. In addition to such penalty, the alarm owner shall pay to the City all reasonable costs of collecting such overdue and unpaid fees, including attorney's fees and court costs, and interest at the rate of one and one-half percent per month (eighteen (18) percent per year) on all assessments and penalties from the date the assessment.

E. Collection of Unpaid Fee Assessment by Property Lien. In addition the above remedies, the City may file a property lien in the Office of the Alameda County Recorder to recover any fee assessments charged hereunder that remain unpaid for a period of six (6) months, when the alarm user is also the property owner of the premises at which the false fire alarm(s) resulting in the fee assessments have occurred.

15.12.066 Fees for Costs to Secure Premises.

Alarms users shall pay to the City reasonable costs, as determined and assessed by the Fire Chief, for expenses incurred in securing premises where a fire alarm has been activated, whether or not the activation is a false alarm. Such assessment shall be satisfied by the alarm user within fifteen (15) days after the appropriate chief has given the alarm user notice of the assessment and the grounds therefore. This section shall apply only to instances where the alarm user or owner has failed to reasonably respond to notification that an alarm has been activated on premises owned or under the control of the alarm user and when the City has to incur more than nominal expenses in securing the premises.

15.12.067 False Alarm Appeal Process.

A. Appeal Filing. Any person or business assessed fees hereunder who wishes to appeal the validity of a false alarm determination by the Fire Department must submit a written request for appeal to the City Manager or his/her designee within ten (10) days of having received a notice of the false alarm. The written appeal request must contain sufficient information to determine the events surrounding the Fire Department's response. Failure to contest the determination in the required time period results in a conclusive presumption that the alarm was false.

B. Appeal Review & Costs. A hearing officer designated by the City Manager will review the appeal and provide a decision based on the facts of the case. Appellants shall be responsible for paying the costs of the appeal officer, which are established in the City's Master Fee Schedule, except in instances where the hearing officer finds for the appellant. The hearing officer shall determine the validity of the false fire alarm assessment and issue written findings. Reasons for waiving a false alarm notice shall not include wind, power failure, loose animals, system malfunctions, errors committed by the monitoring service persons or businesses, alarm user or personnel errors.

15.12.068 Severability.

If any section, subsection, sentence, clause or phrase of this new Chapter 15.12.060 is for any reason, held to be invalid, unconstitutional, or unenforceable by a final determination of a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have enacted this chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases might be declared invalid or unenforceable.

Introduction Date: JUL 15 2003

IN COUNCIL, OAKLAND, CALIFORNIA, JUNE JUL 29 2003, 2003


PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, BROOKS, NADEL, REID, WAN, ^{QUAN}~~SALES~~, AND
PRESIDENT DE LA FUENTE — 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California