

**STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK**

**COUNCIL BILL NUMBER: CB2**

**ORDINANCE NUMBER: 2016-2**

**TITLE: AN ORDINANCE AMENDING SECTION 10-222, SUBSECTION (e) OF THE BLACK HAWK MUNICIPAL CODE REGARDING FALSE ALARMS IS REPEALED AND REENACTED TO READ AS FOLLOWS:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. Section 10-222, subsection (e) of the Black Hawk Municipal Code is repealed and reenacted to read as follows:

(e) When the Police or Fire Department, or any other City organization or agency responsible for emergency responses, responds to a signal activated by an alarm device, as defined above, and it appears after proper investigation that a false alarm did occur, then the owner or occupant of the premises to which the response is made, the designated person or company responsible for monitoring, and the person or company responsible for the installation and maintenance of the alarm device, shall each be subject to a false alarm service warning or fee.

(1) False alarms during the first thirty (30) days after the installation of a new alarm device shall result in a warning.

(2) The first five (5) false alarms at a particular location in each calendar year shall result in a warning. The owner, occupant, person or company found responsible for said premises shall be subject to the following presumptive service fee schedule:

A. A service fee of fifty dollars (\$50.00) for the sixth, seventh, eighth, ninth and tenth occurrence thereafter; and

B. A service fee of one hundred dollars (\$100.00) for the eleventh, twelfth, thirteenth, fourteenth and fifteenth occurrence.

C. The service fee shall be payable to the Finance Director and the City may maintain an action for said fee and all costs of collection. The notice of assessment of the service fee shall state that the fee may be appealed to the City Council within ten (10) days of the date of the assessment pursuant to this Subsection (e), provided that the fee is first paid to the City Clerk.

D. Provided, however, the City shall have the discretion, based on the existence of aggravating or mitigating circumstances, to deviate from the presumptive service fee

schedule and instead file an action in the Black Hawk Municipal Court as set forth in Section 10-222(e)(3) below.

(3) For those fire alarms in excess of fifteen alarms in any calendar year, the provisions of this subsection (e)(3) shall apply. Commencing on the sixteenth false alarm and any additional false alarms thereafter, the City shall be authorized to commence an action in the Black Hawk Municipal Court, and shall be authorized to seek the following remedies, which remedies shall be cumulative, and nothing in this Section shall be construed as either prohibiting or limiting the City from pursuing such other remedies or penalties, in an action at law or in equity:

A. A criminal penalty as set forth in Section 1-73 of this Code, but with a minimum penalty of five hundred dollars (\$500.00) for each such alarm; and

B. A mandatory injunction, requiring the installation of a new alarm device based on the proliferation of false alarms as defined herein.

C. Provided, however, the City shall have the discretion, based on the existence of mitigating circumstances, to impose a service fee instead of seeking relief in the Black Hawk Municipal Court.

(4) Upon receipt of a written notice that a service fee is due under this Section 10-222, the owner, occupant, person or company found responsible for the premises or the false alarm may appeal the assessment of the service fee to the City Council. Such appeal shall be written and shall be filed with the City Clerk within ten (10) days of the date of the assessment. The appeal shall state:

a. The name of the appellant;

b. The location of the premises where the false alarm occurred;

c. The dates and circumstances of all false alarms occurring on the same premises within the previous twelve (12) months;

d. The name of the agency within the City assessing the service fee; and

e. The appellant's grounds for believing that the service fee is not due under this Section.

(5) If the service fee is not paid within ten (10) days of the assessment, any appeal shall be denied. If the appeal is upheld by the City Council, the service fee shall be refunded.

(6) The City Council shall have no jurisdiction to review an appeal unless it is timely filed and the service fee timely paid. If an appeal is not timely filed, the City Council shall deny it, stating the reason therein.

(7) The decision of the City Council to deny or grant the relief requested in an appeal shall be final.

(8) Upon a finding of unusual hardship, the City Council may grant a waiver of the future application of this Section to an owner or occupant of a premises or a person or company doing business within the City. Such a waiver shall not be applied retroactively.

(9) All service fees and costs of collecting such fees shall be a debt due and owing the City, which shall be collected in any manner permitted by state law or local ordinance.

(10) In the event the City elects to seek relief in the Black Hawk Municipal Court, the City Council shall not have any jurisdiction over such matter.

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

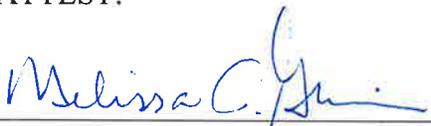
Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 10<sup>th</sup> day of February, 2016.

  
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David D. Spellman, Mayor

ATTEST:

  
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Melissa A. Greiner, City Clerk

