



**VILLAGE OF MAGDALENA
ORDINANCE №. 2020-02**

IMPOSING CIVIL PENALTIES FOR FALSE SECURITY ALARMS

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

WHEREAS, NMSA 1978, Section 3-18-17 provides that municipalities have the authority to define, abate, and impose penalties upon those who create or allow a nuisance to exist; and,

WHEREAS, the Village Marshal’s Office spends excessive time and resources that could otherwise be allocated to actual emergencies by responding to false security alarms.

NOW THEREFORE, BE IT ORDAINED that the Board of Trustees of the Village of Magdalena adopts the following Ordinance establishing civil penalties upon users of security alarms that produce excessive false alarms requiring emergency response.

Section 1. USER RESPONSIBILITIES

Each user of security alarms within the Village has the responsibility to keep alarms in good working order and to coordinate with the alarm provider to ensure that the alarms are working properly.

- A. When testing an alarm, the user shall contact the Marshal’s Office and inform them of the anticipated testing and to confirm that no response is required.
- B. When an alarm sounds accidentally or for no discernable reason, and the alarm user is aware of this fact, the user shall contact the Fire Department and inform them that no response is required.

Section 2. SCHEDULE OF FEES TO BE IMPOSED

- A. Upon a second false alarm that causes initiation of a response during a twelve (12) month period, the user will be assessed a fifty dollar (\$50.00) service fee by the Magdalena Marshal or his or her deputy, in writing.
- B. Upon a third false alarm that causes initiation of an emergency response during a twelve (12) month period, the user will be assessed a seventy-five dollar (\$75.00) service fee by the Magdalena Marshal or his or her deputy, in writing.
- C. Upon a fourth and subsequent false alarm that causes initiation of an emergency response during a twelve (12) month period, the user will be assessed a one hundred twenty-five dollar (\$125.00) service fee by the Magdalena Marshal or his or her deputy, in writing.

Section 3. PAYMENT and DISPOSITION OF ASSESSMENTS

- A. Fees will be payable at Village Hall within thirty (30) days of assessment.
- B. Fees will be deposited into the general fund.

Section 4. APPEAL

- A. An appeal of assessed fees must be filed in writing with the Village Clerk prior to the payment due date, or the assessment is considered final.
- B. The Mayor or his or her designee will review documentation and/or hear argument in an informal setting, and, if by a preponderance of the evidence finds that the alarm was not false, or determines that equity requires a different result, will dismiss the imposition of the fee.
- C. The Mayor will issue the decision to either uphold or dismiss the imposition of the fee, in writing, within thirty (30) days of hearing the appeal.


Section 5. SEVERABILITY

If any section, subsection, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause, word or phrase thereof be held unconstitutional or otherwise invalid.


PASSED, APPROVED, and ADOPTED this 28th day of Sept., 2020.

Approved:


Richard Rumpf, Mayor


Katherine Stout, General Counsel as to
legal sufficiency

Attested:


Carleen Gomez, Deputy Clerk

