

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA

DISCOUNT SLEEP OF OCALA, LLC d/b/a
MATTRESS WAREHOUSE, individually,
and as a Representative of a Class of all
similary situated others, and DALE W.
BIRCH, individually and as a
Representative of a Class of all similarly
situated others,

Case No.: 2014 CA 000426

Plaintiffs,

v.

CITY OF OCALA, FLORIDA, a political
subdivision of the State of Florida,

Defendant.

SECOND AMENDED COMPLAINT

Plaintiffs, Discount Sleep of Ocala, LLC d/b/a Mattress Warehouse, individually, and as a Representative of a Class of all similarly situated others, and Dale W. Birch, individually and as a Class Representative of all similarly situated others (collectively the "Class Representatives"), sue Defendant, City of Ocala, Florida, a political subdivision of the State of Florida (the "City"), and allege as follows:

**Declaratory Judgment Class Action to
Declare "Fire User Fees" Invalid and Establish Common Fund**

1. The Class Representatives file this Second Amended Complaint against the City and allege a declaratory judgment action with supplemental relief to establish a common fund, comprised of all the unlawful taxes paid by the Class Representatives and each Class Member from February 20, 2010, to the fullest extent allowed by law.

Class Representative Allegations

2. Each Class Representative paid and represents those who paid the City Fire User Fees from February 20, 2010.

3. On August 9, 2006, the City enacted Ordinance 5554, which established an Emergency Fire Service Availability Fee effective January 1, 2007. See City of Ocala Ordinance 5554, attached hereto as Exhibit "A."

4. On June 12, 2007, the City enacted Ordinance 5677, renaming the fire fee to a "User Fee" ("Fire User Fees"). See City of Ocala Ordinance 5677, attached hereto as Exhibit "B."

5. On October 8, 2009, the City repealed its Fire User Fees. See City of Ocala Ordinance 6015, attached hereto as Exhibit "C." See also *Discount Sleep of Ocala, LLC, et al v. City of Ocala*, 2016 WL 3364655 (5th DCA - June 17, 2016).

6. Although the City repealed the Fire User Fees, the City continued to charge and collect Fire User Fees after it repealed them.
7. The City then implemented another ordinance attempting to legally impose Fire User Fees. See id. See also City of Ocala Ordinance 2010-43, attached hereto as Exhibit "D."
8. The City is not authorized by the Florida Constitution or general law to levy Fire User Fees, and the City's imposition of Fire User Fees is contrary to Florida's established ad valorem taxation methodology. Thus, the Fire User Fees are unconstitutional illegal taxes.
9. Article VII, Section 1(a) of the Florida Constitution provides that "[n]o tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law." FLA. CONST. art VII, § 1(a).
10. Section 166.021(2)(c), Florida Statutes, is a limit on municipal home rule authority concerning "[a]ny subject expressly preempted to state or county government by the constitution or by general law." FLA. STAT. § 166.021(2)(c) (2013).
11. Article VII, Section 9(a) of the Florida Constitution provides that "[c]ounties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution." FLA. CONST. art VII, § 9(a).
12. The City did not follow the statutory procedure for enacting a special assessment or a tax.
13. The City provides fire protection services to the general public.
14. The City uses ad valorem tax revenue to partially cover the costs of providing fire protection services to the general public.
15. The City charged and continues to charge Fire User Fees to partially cover the costs of providing fire protection services to the general public.
16. The City's fire protection services are part of the general police-power services it provides to the general public with, in part, ad valorem tax revenue.
17. The City charged and continues to charge a monthly Fire User Fees to each of its utility customers as part of each customer's utility bill. See City of Ocala Ordinance 2010-43, attached hereto as Exhibit "D."
18. Nonpayment of any monthly Fire User Fees subjects a City utility customer to severe penalties making the fee involuntary under Florida law.
19. The City has not charged and does not charge Fire User Fees to all property owners within its municipal boundaries. Rather, the City charged and continues to charge Fire User Fees only to its utility customers.
20. The City has not charged and does not charge Fire User Fees to owners of vacant or undeveloped property within the City's boundaries or to property owners within the City's boundaries who cancel their utility service.

21. The general public has used and can continue to use the City's fire protection services regardless of whether or not they are City utility customers.
22. Owners of vacant or undeveloped property within the City's boundaries and property owners within the City's boundaries who have cancelled their utility service have used and can continue to use the City's fire protection services without paying Fire User Fees.
23. The City provided and continues to provide the same type and level of fire protection services to those who pay Fire User Fees and to those who do not pay Fire User Fees.
24. The City has not provided and does not provide different fire protection services to those who pay Fire User Fees compared with those who do not pay Fire User Fees.
25. The City, before providing fire protection services, does not confirm and is not concerned whether a user of such services has paid a Fire User Fee or not.
26. The City has not charged and does not charge Fire User Fees in exchange for using fire protection services. Rather, the City charged and continues to charge its utility customers Fire User Fees regardless of whether they use the City's fire protection services.
27. The City enforced and continues to enforce collection of its Fire User Fees "in the same manor [sic] as that used with all other portions of the bill for utility services." See City of Ocala Ordinance 2010-43, attached hereto as Exhibit "D."
28. The City penalized and continues to penalize those who fail to fully pay their utility bill, including each monthly Fire User Fees, by charging a late fee and, if full payment is still not received, by terminating all utility service.
29. The City referred and continues to refer utility accounts that remain unpaid for 90 days for collections and adds the collections costs, including attorney's fees, to the balance owed.
30. If anyone wants to use the City's utility service or continue using the City's utility service without interruption then they must pay each monthly Fire User Fees.
31. The Class Representatives bring this action pursuant to Florida Rule of Civil Procedure 1.220(b)(2), or alternatively, Florida Rule of Civil Procedure 1.220(b)(3), on their behalves and on the behalves of all similarly situated others.
32. The Class Representatives and each member of the class previously paid or are currently paying Fire User Fees as City utility customers.
33. The relief sought is appropriate to the Class as a whole because the City charged and collected Fire User Fees from each member.
34. Pursuant to Florida Rule of Civil Procedure 1.220, the Class Representatives satisfy the following:
 - A. **Numerosity.** While the exact number of Class Members can be determined only by appropriate discovery from the City, on information and belief, there are at least 22,000 utility customers upon whom the City imposed and imposes unlawful Fire User Fees;
 - B. **Commonality.** There are common questions of law and fact to the claims of each member of the Class and the Class Representatives, which include, but are not limited to, whether the Fire User Fees are unlawful and unconstitutional;

C. **Typicality.** The Class Representatives' claims are typical of the claims of each member of the Class. The City charged or is currently charging each member of the Class the Fire User Fees as a City utility customer. Each Class Member is entitled to a refund of unlawful Fire User Fees to the fullest extent allowed by law; and

D. **Adequacy.** The Class Representatives will fairly and adequately protect and represent the interests of each member of the Class, the Class Representatives' claims are identical to the claims of each member of the Class, and the Class Representatives have no adverse interest to any Class Member. The Class Representatives have a financial interest in this matter because of paying the unlawful Fire User Fees and will litigate vigorously to obtain a successful result for each member of the Class. Class Counsel is experienced in class action litigation and will vigorously pursue the claims of the Class. Class Counsel has successfully defended and prosecuted class action cases and complex litigation cases in State and Federal court. Lead Class Counsel, Derek A. Schroth, is the only lawyer in private practice certified by the Florida Bar as an expert in City, County, and Local Government Law and Business Litigation. Lead Class Counsel is the only the attorney who has recently litigated the issue of purported "Fire User Fees" under Florida law.

35. This action may be maintained pursuant to Florida Rule of Civil Procedure 1.220(b)(2). The City's imposition of unlawful Fire User Fees has an effect on all putative Class Members. The City illegally charged and collected Fire User Fees.

36. This Class may also be maintained pursuant to Florida Rule of Civil Procedure 1.220(b)(3) because questions of law and fact are common to the Class Representatives and other putative Class Members.

37. A class action is superior to other available methods for fair and efficient adjudication of this controversy. The damages suffered by each Class Member are relatively small although not insignificant. The expense and burden of individual litigation makes it virtually impossible for members of the Class to effectively obtain redress individually for the City's wrongful imposition of Fire User Fees.

Declaratory Judgment and Common Fund Allegations

38. Pursuant to Section 86.011, Florida Statutes, this Court may render a Declaratory Judgment on whether the City has the power or right to impose upon its utility customers monthly Fire User Fees.

39. There is an immediate, substantial and actual justiciable controversy between the putative Class Members and the City. The City continues to charge and collect Fire User Fees.

40. The Class Representatives are uncertain and are in doubt as to whether the City has any legal right to charge and not refund the Fire User Fees.

41. The City will not voluntarily stop charging Fire User Fees to Class Members. See Demand for Refund (December 3, 2013) attached hereto as Exhibit "E."

42. The City will also not refund any previously paid Fire User Fees to Class Members. See Demand for Refund (December 3, 2013) attached hereto as Exhibit "E."

43. The Class Representatives allege the City's Fire User Fees are illegal taxes and they are interested in the invalidity of the City's practice of charging Fire User Fees to its utility

customers. All putative Class Members should be made parties to this case because each Class Member has a claim and interest which would be affected by this Court's declaration that the City's practice of charging Fire User Fees to its utility customers is invalid and that the putative Class Members are entitled to a refund.

44. The City claims that its Fire User Fees were properly imposed.

45. Pursuant to Section 86.101, Florida Statutes, this Court should resolve all uncertainties concerning the City's right to charge, collect and not refund the Fire User Fees. The Florida Legislature empowers this Court to "settle and afford relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations and [Chapter 86] is to be liberally administered and construed." FLA. STAT. § 86.101 (2013).

WHEREFORE, the Class Representatives, Discount Sleep of Ocala, LLC d/b/a Mattress Warehouse, individually, and as a Representative of a Class of all similarly situated others, and Dale W. Birch, individually, and as a Representative of a Class of all similarly situated others, respectfully request this honorable Court:

A. Certify, pursuant to Florida Rule of Civil Procedure 1.220(b)(2), or alternatively, Florida Rule of Civil Procedure Rule 1.220(b)(3), a class of all those who paid the City Fire User Fees from February 20, 2010, through the present, appoint the named Plaintiffs to serve as class representatives and appoint Bowen|Schroth as Class Counsel, with Derek A. Schroth, as Lead Class Counsel and James Myers as co-counsel, and order notice to all Class Members of this class action pursuant to Florida law,

B. Declare the City's Fire User Fees and Ordinance 2010-43 void, invalid, illegal and unconstitutional,

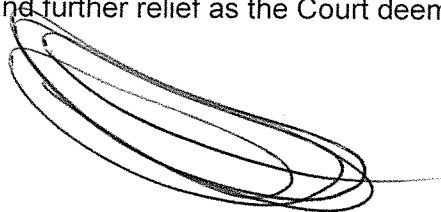
C. Direct the City to establish a common fund comprised of all illegally collected Fire User Fees, to the fullest extent allowed by law, to be distributed to the Class Members less fees and costs,

D. Award attorney's fees with a multiplier to Class Counsel from the common fund pursuant to Florida law,

E. Award costs from the common fund pursuant to Florida law,

F. Award additional compensation to the Class Representatives pursuant to Florida law, and

G. Award such other and further relief as the Court deems proper to render justice.

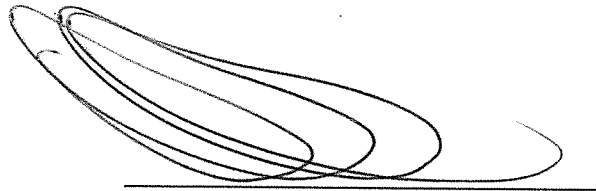


DEREK A. SCHROTH
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing will be provided by e-mail service to George Franjola, Esq., Gilligan, Gooding & Franjola, P.A., at gfranjola@ocalalaw.com, pgilligan@ocalalaw.com, and kpeterston@ocalalaw.com, this 3rd day of October, 2016.

A handwritten signature in black ink, appearing to read 'DEREK A. SCHROTH', written over a horizontal line.

DEREK A. SCHROTH

Ordinance

5554

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING CHAPTER 30, EMERGENCY SERVICES, ADDING AN ARTICLE III, TO BE ENTITLED "EMERGENCY FIRE SERVICE AVAILABILITY FEE"; ADDING SECTIONS TO BE NUMBERED 30-50 THROUGH 30-54; PROVIDING FOR DEFINITIONS; PROVIDING FINDINGS AND BACKGROUND; PROVIDING FOR THE IMPOSITION OF AN EMERGENCY FIRE SERVICE AVAILABILITY FEE; PROVIDING FOR APPLICABLE IMPOSITION DATE, COLLECTION AND BILLING OF FEES, AND FOR FUTURE CITY COUNCIL REVIEW; PROVIDING FOR USE OF REVENUE AND INTERNAL ACCOUNTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That the Code of Ordinances, City of Ocala, Florida, is hereby amended by adding Article III, sections to be numbered 30-50 through 30-54, which sections read as follows:

ARTICLE III. EMERGENCY FIRE SERVICE AVAILABILITY FEE.

Sec. 30-50. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

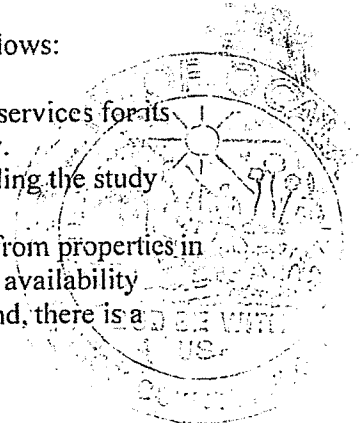
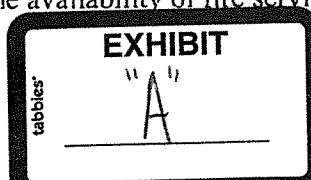
Property means a parcel of real property within the city limits which is assigned a unique Parcel identification number by the Marion County Property Appraiser.

Premise means a physical location where the city provides one or more utility services.

Sec. 30-51. Findings and background.

Findings and background. The city council finds and declares as follows:

- (a) The city is committed to providing adequate emergency fire services for its citizens and to the businesses and property located in the city.
- (b) The city council has considered adequate information, including the study developed by the city's fire service fee consultant.
- (c) The benefits of emergency fire service availability received from properties in the service area are many. First, there is a watch standing, or availability benefit that comes from the availability of fire service. Second, there is a



service benefit that comes from actual calls for service to the property classes within the service area. Third, a benefit of the availability of fire service in the city is the availability of, and potentially reduced cost of fire insurance. The level of fire service provided can have an effect upon fire insurance rates with higher levels of service generally resulting in lower insurance rates. Finally, the ability of the city's fire service personnel to intervene in a fire event can potentially save structures or reduce damage to structures.

- (d) Insufficient funding is available from other General Fund revenue sources to continue providing the level of emergency fire services that the city desires to provide to the citizens and properties located in the city.
- (e) Imposing an emergency fire service availability fee is the most equitable manner of providing the additional funding needed to pay for these services.
- (f) It is the city's plan that the fire service fee will generate a portion of the budgeted operational costs of providing emergency fire services to the city's citizens and properties.
- (g) The fire service fee will be billed to all city properties as a part of the monthly utility bill.

Sec. 30-52. Emergency fire service availability fee imposed.

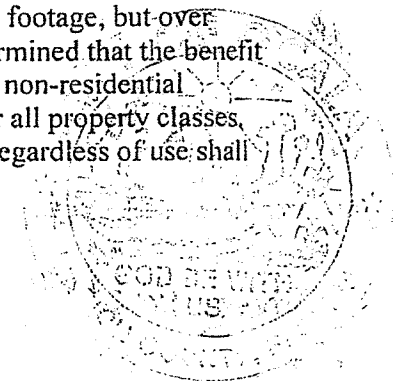
To each residential or non-residential premise located within the city limits there is hereby imposed a monthly fee for emergency fire service availability based on the equitable portion of the cost of providing such services.

Budgeted fire service costs have been projected for the five year period beginning with fiscal year 2007 and the following fee schedule has been developed to recover a portion of the costs for each year in the period FY 2007 through FY 2011.

- (a) Residential fee. All residential properties will pay the same fee per residential unit. This is true whether the property is classified as a single family residence, mobile home, condominium, or a unit of a duplex, apartment complex, etc. The monthly fee for each residential dwelling unit for the residential class is as follows:

<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY2010</u>	<u>FY2011</u>
\$12.00	\$14.30	\$14.30	\$15.20	\$15.20

- (b) Non-residential. Non-residential properties are classified as either Institutional, Governmental, or Commercial/Industrial (C/I). It has been determined that the benefit received from emergency fire services for non-residential property is related to the developed space of each premise, but that the benefit increases not directly proportional to square footage, but over broad ranges of developed space. It has also been determined that the benefit received is not materially different among the different non-residential property classes, consequently the fees are the same for all property classes. The schedule of fees for each non-residential premise regardless of use shall be based upon the following schedule:

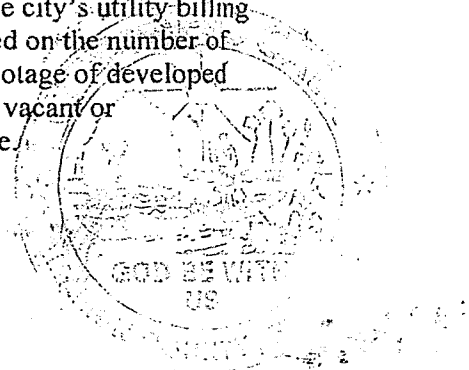


**Fire Services Fee Schedule for Institutional, Governmental and
Commercial/Industrial (C/I) Property**

Sq. Ft. Range	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1 - 2,000	\$ 12.00	\$ 14.30	\$ 14.30	\$ 15.20	\$ 15.20
2,001 - 3,000	\$ 13.70	\$ 16.33	\$ 16.33	\$ 17.36	\$ 17.36
3,001 - 4,000	\$ 19.17	\$ 22.86	\$ 22.86	\$ 24.30	\$ 24.30
4,001 - 5,000	\$ 24.65	\$ 29.39	\$ 29.39	\$ 31.24	\$ 31.24
5,001 - 6,000	\$ 30.13	\$ 35.93	\$ 35.93	\$ 38.19	\$ 38.19
6,001 - 7,000	\$ 35.61	\$ 42.46	\$ 42.46	\$ 45.13	\$ 45.13
7,001 - 8,000	\$ 41.09	\$ 48.99	\$ 48.99	\$ 52.07	\$ 52.07
8,001 - 10,000	\$ 49.33	\$ 58.79	\$ 58.79	\$ 62.49	\$ 62.49
10,001 - 12,000	\$ 60.27	\$ 71.85	\$ 71.85	\$ 76.37	\$ 76.37
12,001 - 14,000	\$ 71.23	\$ 84.92	\$ 84.92	\$ 90.26	\$ 90.26
14,001 - 16,000	\$ 82.18	\$ 97.98	\$ 97.98	\$ 104.15	\$ 104.15
16,001 - 18,000	\$ 93.14	\$ 111.04	\$ 111.04	\$ 118.03	\$ 118.03
18,001 - 20,000	\$ 104.10	\$ 124.11	\$ 124.11	\$ 131.92	\$ 131.92
20,001 - 25,000	\$ 123.28	\$ 146.97	\$ 146.97	\$ 156.22	\$ 156.22
25,001 - 30,000	\$ 150.67	\$ 179.63	\$ 179.63	\$ 190.93	\$ 190.93
30,001 - 35,000	\$ 178.07	\$ 212.29	\$ 212.29	\$ 225.65	\$ 225.65
35,001 - 40,000	\$ 205.46	\$ 244.95	\$ 244.95	\$ 260.37	\$ 260.37
40,001 - 45,000	\$ 232.86	\$ 277.61	\$ 277.61	\$ 295.08	\$ 295.08
45,001 - 50,000	\$ 260.25	\$ 310.27	\$ 310.27	\$ 329.80	\$ 329.80
50,001 - 60,000	\$ 301.35	\$ 359.26	\$ 359.26	\$ 381.87	\$ 381.87
60,001 - 70,000	\$ 356.14	\$ 424.58	\$ 424.58	\$ 451.30	\$ 451.30
70,001 - 80,000	\$ 410.93	\$ 489.90	\$ 489.90	\$ 520.73	\$ 520.73
80,001 - 90,000	\$ 465.72	\$ 555.22	\$ 555.22	\$ 590.16	\$ 590.16
90,001 - 100,000	\$ 520.51	\$ 620.54	\$ 620.54	\$ 659.59	\$ 659.59
100,001 - 120,000	\$ 602.70	\$ 718.52	\$ 718.52	\$ 763.74	\$ 763.74
120,001 - 140,000	\$ 712.28	\$ 849.16	\$ 849.16	\$ 902.60	\$ 902.60
140,001 - 160,000	\$ 821.86	\$ 979.80	\$ 979.80	\$1,041.46	\$1,041.46
160,001 - 180,000	\$ 931.44	\$1,110.44	\$1,110.44	\$1,180.32	\$1,180.32
180,001 - 200,000	\$1,041.03	\$1,241.08	\$1,241.08	\$1,319.19	\$1,319.19
200,001 - 250,000	\$1,232.79	\$1,469.69	\$1,469.69	\$1,562.19	\$1,562.19
250,001 - 300,000	\$1,506.75	\$1,796.29	\$1,796.29	\$1,909.35	\$1,909.35
300,001 <	\$1,643.74	\$1,959.59	\$1,959.59	\$2,082.92	\$2,082.92

Sec. 30-53. Applicability; collection; review.

- (a) The emergency fire services fee imposed by this Article shall be imposed on each developed property within the city limits beginning January 1, 2007. Where a property has multiple premises, as defined by the city's utility billing system, each premise will be assessed a separate fee based on the number of residential units, for residential property, or the square footage of developed space, for non-residential property, as appropriate. Only vacant or undeveloped land will be exempt from the fire service fee.



- (b) The city will include the fire service fee on the utility bills for all developed properties in the city. Collection enforcement will be in the same manor as that used with all other portions of the bill for utility services.
- (c) The emergency fire service fee shall be reviewed by the city council in July of 2011 and, thereafter, at five year intervals, for the purpose of determining the appropriate fee for the following five fiscal years required to recover a portion of the projected cost of providing emergency fire services as determined by the city council. This review will be based on the most current data available.

Sec. 30-54 Use of revenue

The proceeds received by reason of the establishment of this emergency fire service fee shall be used as a portion of the revenues budgeted by the city for providing fire services.

Section 2. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

Valerie J. Forster
Valerie J. Forster
City Clerk

CITY OF OCALA

By: Daniel Owen
Daniel Owen
President, Ocala City Council

Approved / Denied by me as Mayor of the City of Ocala, Florida, on August 9th, 2006.

By: Randall Ewers
Randall Ewers
Mayor

Approved as to form and legality:

Patrick G. Gilligan
Patrick G. Gilligan
City Attorney

Ordinance No. 5554
Introduced: July 25, 2006
Adopted as amended: August 8, 2006
Legal Ad No: 0774074

THIS IS TO CERTIFY THE FOREGOING TO
BE A TRUE AND ACCURATE COPY

Patrick G. Gilligan
CITY CLERK

Ordinance

No. 5677

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING CHAPTER 30, EMERGENCY SERVICES, RENAMING ARTICLE III, "EMERGENCY FIRE SERVICE USER FEE"; AMENDING SECTION 30-50, DEFINITIONS; CLARIFYING THE DEFINITION OF PREMISES; AMENDING SECTION 30-51, FINDINGS AND BACKGROUND; PROVIDING FOR STATUTORY AUTHORITY TO IMPOSE AN EMERGENCY FIRE SERVICE USER FEE AND TO CLARIFY THAT FEE BEING IMPOSED IS A USER FEE; AMENDING SECTION 30-52, BY AMENDING THE TITLE TO READ "EMERGENCY FIRE SERVICE USER FEE IMPOSED"; AMENDING SECTION 30-53 BY DELETING REFERENCE TO CITY'S UTILITY BILLING SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That the Code of Ordinances, City of Ocala, Florida, is hereby amended by amending Article III, title, which title reads as follows:

ARTICLE III. EMERGENCY FIRE SERVICE USER FEE

Section 2. That Section 30-50 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 30-50. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

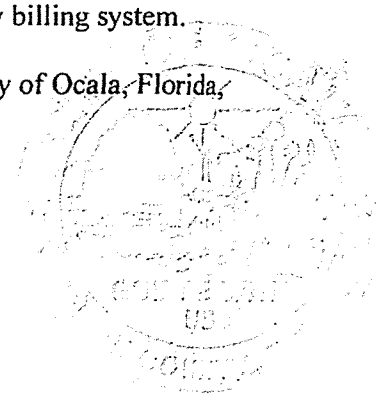
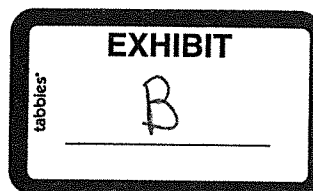
Property means a parcel of real property within the city limits which is assigned a unique Parcel identification number by the Marion County Property Appraiser.

Premise means a physical location where the city provides one or more utility services for which a customer is billed in accordance with the city's utility billing system.

Section 3. That Section 30-51 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 30-51. Findings and background.

The city council finds and declares as follows:



- (a) The city is committed to providing adequate emergency fire services for its citizens and to the businesses and property located in the city.
- (b) The city council has considered adequate information, including the study developed by the city's fire service fee consultant.
- (c) Florida Statute, §166.201 authorizes a municipality to raise funds by the imposition of user fees or charges authorized by ordinance, which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.
- (d) The benefits of emergency fire service received from properties in the service area are many. First, there is a watch standing, or availability benefit that comes from the availability of fire service. Second, there is a service benefit that comes from actual calls for service to the property classes within the service area. Third, a benefit of the availability of fire service in the city is the availability of, and potentially reduced cost of fire insurance. The level of fire service provided can have an effect upon fire insurance rates with higher levels of service generally resulting in lower insurance rates. Finally, the ability of the city's fire service personnel to intervene in a fire event can potentially save structures or reduce damage to structures.
- (e) Insufficient funding is available from other general fund revenue sources to continue providing the level of emergency fire services that the city desires to provide to the citizens and properties located in the city.
- (f) Imposing an emergency fire service user fee is the most equitable manner of providing the additional funding needed to pay for these services.
- (g) It is the city's plan that the fire service fee will generate a portion of the budgeted operational costs of providing emergency fire services to the city's citizens and properties.
- (h) The fire service fee will be billed to all city properties as a part of the monthly utility bill.

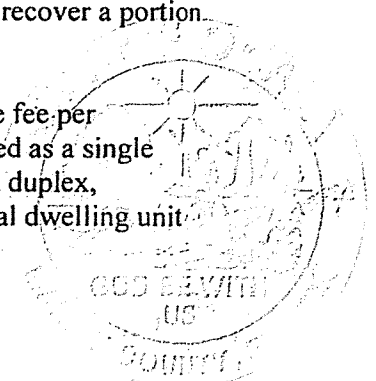
Section 4. That Section 30-52 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

Sec. 30-52. Emergency fire service user fee imposed.

To each residential or non-residential premise located within the city limits there is hereby imposed a monthly fee for emergency fire service based on the equitable portion of the cost of providing such services.

Budgeted fire service costs have been projected for the five-year period beginning with fiscal year 2007 and the following fee schedule has been developed to recover a portion of the costs for each year in the period FY 2007 through FY 2011.

- (a) Residential fee. All residential properties will pay the same fee per residential unit. This is true whether the property is classified as a single family residence, mobile home, condominium, or a unit of a duplex, apartment complex, etc. The monthly fee for each residential dwelling unit for the residential class is as follows:

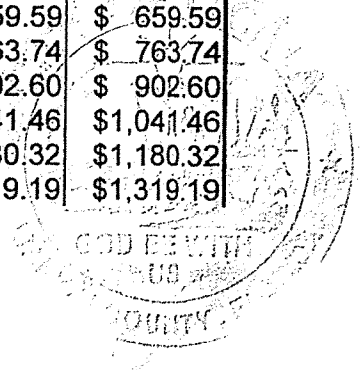


<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY2010</u>	<u>FY2011</u>
\$12.00	\$14.30	\$14.30	\$15.20	\$15.20

- (b) Non-residential. Non-residential properties are classified as either Institutional, Governmental, or Commercial/Industrial (C/I). It has been determined that the benefit received from emergency fire services for non-residential property is related to the developed space of each premise, but that the benefit increases not directly proportional to square footage, but over broad ranges of developed space. It has also been determined that the benefit received is not materially different among the different non-residential property classes, consequently the fees are the same for all property classes. The schedule of fees for each non-residential premise regardless of use shall be based upon the following schedule:

Fire Services Fee Schedule for Institutional, Governmental and Commercial/Industrial (C/I) Property

<u>Sq. Ft. Range</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
1 - 2,000	\$ 12.00	\$ 14.30	\$ 14.30	\$ 15.20	\$ 15.20
2,001 - 3,000	\$ 13.70	\$ 16.33	\$ 16.33	\$ 17.36	\$ 17.36
3,001 - 4,000	\$ 19.17	\$ 22.86	\$ 22.86	\$ 24.30	\$ 24.30
4,001 - 5,000	\$ 24.65	\$ 29.39	\$ 29.39	\$ 31.24	\$ 31.24
5,001 - 6,000	\$ 30.13	\$ 35.93	\$ 35.93	\$ 38.19	\$ 38.19
6,001 - 7,000	\$ 35.61	\$ 42.46	\$ 42.46	\$ 45.13	\$ 45.13
7,001 - 8,000	\$ 41.09	\$ 48.99	\$ 48.99	\$ 52.07	\$ 52.07
8,001 - 10,000	\$ 49.33	\$ 58.79	\$ 58.79	\$ 62.49	\$ 62.49
10,001 - 12,000	\$ 60.27	\$ 71.85	\$ 71.85	\$ 76.37	\$ 76.37
12,001 - 14,000	\$ 71.23	\$ 84.92	\$ 84.92	\$ 90.26	\$ 90.26
14,001 - 16,000	\$ 82.18	\$ 97.98	\$ 97.98	\$ 104.15	\$ 104.15
16,001 - 18,000	\$ 93.14	\$ 111.04	\$ 111.04	\$ 118.03	\$ 118.03
18,001 - 20,000	\$ 104.10	\$ 124.11	\$ 124.11	\$ 131.92	\$ 131.92
20,001 - 25,000	\$ 123.28	\$ 146.97	\$ 146.97	\$ 156.22	\$ 156.22
25,001 - 30,000	\$ 150.67	\$ 179.63	\$ 179.63	\$ 190.93	\$ 190.93
30,001 - 35,000	\$ 178.07	\$ 212.29	\$ 212.29	\$ 225.65	\$ 225.65
35,001 - 40,000	\$ 205.46	\$ 244.95	\$ 244.95	\$ 260.37	\$ 260.37
40,001 - 45,000	\$ 232.86	\$ 277.61	\$ 277.61	\$ 295.08	\$ 295.08
45,001 - 50,000	\$ 260.25	\$ 310.27	\$ 310.27	\$ 329.80	\$ 329.80
50,001 - 60,000	\$ 301.35	\$ 359.26	\$ 359.26	\$ 381.87	\$ 381.87
60,001 - 70,000	\$ 356.14	\$ 424.58	\$ 424.58	\$ 451.30	\$ 451.30
70,001 - 80,000	\$ 410.93	\$ 489.90	\$ 489.90	\$ 520.73	\$ 520.73
80,001 - 90,000	\$ 465.72	\$ 555.22	\$ 555.22	\$ 590.16	\$ 590.16
90,001 - 100,000	\$ 520.51	\$ 620.54	\$ 620.54	\$ 659.59	\$ 659.59
100,001 - 120,000	\$ 602.70	\$ 718.52	\$ 718.52	\$ 763.74	\$ 763.74
120,001 - 140,000	\$ 712.28	\$ 849.16	\$ 849.16	\$ 902.60	\$ 902.60
140,001 - 160,000	\$ 821.86	\$ 979.80	\$ 979.80	\$1,041.46	\$1,041.46
160,001 - 180,000	\$ 931.44	\$1,110.44	\$1,110.44	\$1,180.32	\$1,180.32
180,001 - 200,000	\$1,041.03	\$1,241.08	\$1,241.08	\$1,319.19	\$1,319.19



200,001 - 250,000	\$1,232.79	\$1,469.69	\$1,469.69	\$1,562.19	\$1,562.19
250,001 - 300,000	\$1,506.75	\$1,796.29	\$1,796.29	\$1,909.35	\$1,909.35
300,001 <	\$1,643.74	\$1,959.59	\$1,959.59	\$2,082.92	\$2,082.92

Section 5. That Section 30-53 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

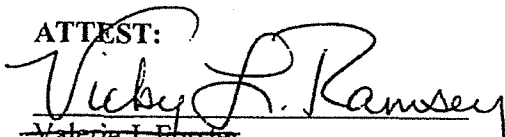
Sec. 30-53. Applicability; collection; review.

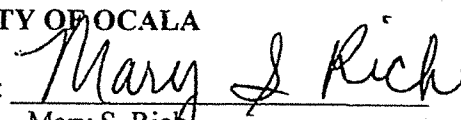
- (a) The emergency fire services fee imposed by this Article shall be imposed on each developed property within the city limits beginning January 1, 2007. Where a property has multiple premises, each premise will be assessed a separate fee based on the number of residential units, for residential property, or the square footage of developed space, for non-residential property, as appropriate. Only vacant or undeveloped land will be exempt from the fire service fee.
- (b) The city will include the fire service fee on the utility bills for all developed properties in the city. Collection enforcement will be in the same manor as that used with all other portions of the bill for utility services.
- (c) The emergency fire service fee shall be reviewed by the city council in July of 2011 and, thereafter, at five year intervals, for the purpose of determining the appropriate fee for the following five fiscal years required to recover a portion of the projected cost of providing emergency fire services as determined by the city council. This review will be based on the most current data available.

Section 6. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

~~Valerie J. Forster~~
~~City Clerk~~ **Vicky L. Ramsey**
 Deputy City Clerk

CITY OF OCALA
 By: 
 Mary S. Rich
 President, Ocala City Council

THIS IS TO CERTIFY THE FOREGOING TO BE A TRUE AND ACCURATE COPY


 CITY CLERK

Approved Denied by me as Mayor of the City of Ocala, Florida, on June 12th, 2007.

By: Randall Ewers
Randall Ewers
Mayor

Approved as to form and legality:

Patrick G. Gilligan
Patrick G. Gilligan
City Attorney

E:\CITY\FIRE\Impact Fee\User Fee Ordinance 04.27.07.doc

Ordinance No. 5677
Introduced: May 15, 2007
Adopted: June 5, 2007
Legal Ad No.: A000323380



Ordinance

No. 6015

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, REPEALING CHAPTER 30, EMERGENCY SERVICES, ARTICLE III, EMERGENCY FIRE SERVICE USER FEE, SECTIONS 30-50 THROUGH 30-54 AND RESERVING SAID SECTIONS FOR FUTURE USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

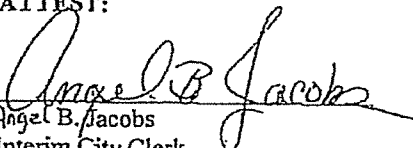
Section 1. That the Code of Ordinances, City of Ocala, Florida, is hereby amended by repealing Chapter 30, Article III, Sections 30-50 through 30-54 and reserving same for future use.

Section 2. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be held unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

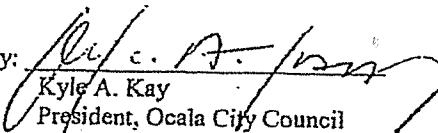
Section 3. All ordinances or parts or ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval on October 1, 2010.

ATTEST:

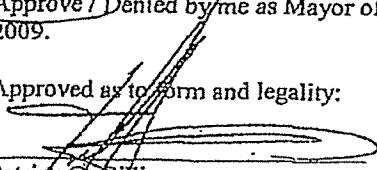

Angel B. Jacobs
Interim City Clerk

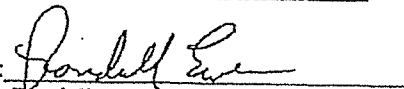
CITY OF OCALA

By: 
Kyle A. Kay
President, Ocala City Council

Approve / Denied by me as Mayor of the City of Ocala, Florida, on October 8th, 2009.

Approved as to form and legality:


Patrick G. Silligan
City Attorney

By: 
Randall Ewers
Mayor

Ordinance No: 6015
Introduced: September 15, 2009
Adopted: October 6, 2009
Legal Ad No: #A000582235

THIS IS TO CERTIFY THE FOREGOING TO BE A TRUE AND ACCURATE COPY.


CITY CLERK

EXHIBIT

C

ORDINANCE 2010-43

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING CHAPTER 30, EMERGENCY SERVICES, REPEALING ORDINANCE NUMBER 6015, ENACTED ON OCTOBER 6, 2009, THAT INTENDED TO REPEAL CHAPTER 30, ARTICLE III, SECTIONS 30-50 THROUGH 30-54 OF THE CODE OF ORDINANCES, ON THE EFFECTIVE DATE OF OCTOBER 1, 2010; THEN AMENDING SECTION 30-50, "DEFINITIONS" BY ADDING A DEFINITION OF FISCAL YEAR; AMENDING SECTION 30-52, "EMERGENCY FIRE SERVICE USER FEE IMPOSED" PROVIDING FOR ANNUAL REVIEW, DETERMINATION AND IMPOSITION BY CITY COUNCIL OF THE UPCOMING FISCAL YEAR RESIDENTIAL FIRE USER FEE RATE AND NON-RESIDENTIAL FIRE USER FEE SCHEDULE BY RESOLUTION; AMENDING SECTION 30-53, "APPLICABILITY; COLLECTION; REVIEW"; PROVIDING FOR A NEW SECTION TITLE OF "APPLICABILITY; REVIEW"; PROVIDING FOR DELETION OF REQUIREMENT OF COUNCIL REVIEW OF USER FEE RATES ON FIVE (5) YEAR INTERVAL BASIS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Ocala, Florida as follows:

Section 1. That Ordinance 6015, enacted on October 6, 2009, that intended to repeal Chapter 30, Article III, Sections 30-50 through 30-54, on the effective date of October 1, 2010, is hereby repealed.

Section 2. That Chapter 30, Article III, Sections 30-50 through 30-59, of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

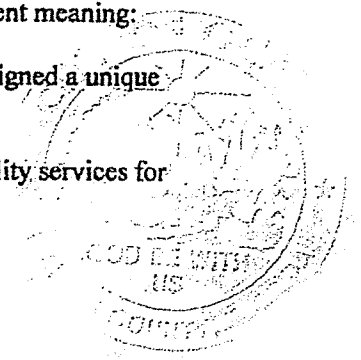
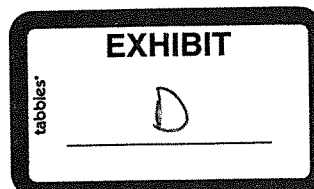
ARTICLE III. EMERGENCY FIRE SERVICE USER FEE

Sec. 30-50. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Property means a parcel of real property within the city limits which is assigned a unique Parcel identification number by the Marion County Property Appraiser.

Premise means a physical location where the city provides one or more utility services for which a customer is billed in accordance with the city's utility billing system.



Fiscal Year means the fiscal year from October 1 of each year to September 30 of the following year.

Sec. 30-51. Findings and background.

The city council finds and declares as follows:

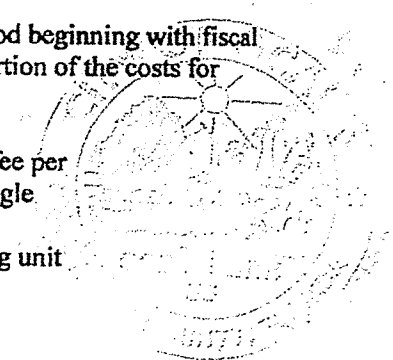
- (a) The city is committed to providing adequate emergency fire services for its citizens and to the businesses and property located in the city.
- (b) The city council has considered adequate information, including the study developed by the city's fire service fee consultant.
- (c) Florida Statute, §166.201 authorizes a municipality to raise funds by the imposition of user fees or charges authorized by ordinance, which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.
- (d) The benefits of emergency fire service received from properties in the service area are many. First, there is a watch standing, or availability benefit that comes from the availability of fire service. Second, there is a service benefit that comes from actual calls for service to the property classes within the service area. Third, a benefit of the availability of fire service in the city is the availability of, and potentially reduced cost of fire insurance. The level of fire service provided can have an effect upon fire insurance rates with higher levels of service generally resulting in lower insurance rates. Finally, the ability of the city's fire service personnel to intervene in a fire event can potentially save structures or reduce damage to structures.
- (e) Insufficient funding is available from other general fund revenue sources to continue providing the level of emergency fire services that the city desires to provide to the citizens and properties located in the city.
- (f) Imposing an emergency fire service user fee is the most equitable manner of providing the additional funding needed to pay for these services.
- (g) It is the city's plan that the fire service fee will generate a portion of the budgeted operational costs of providing emergency fire services to the city's citizens and properties.
- (h) The fire service fee will be billed to all city properties as a part of the monthly utility bill.

Sec. 30-52. Emergency fire service user fee imposed.

To each residential or non-residential premise located within the city limits there is hereby imposed a monthly fee for emergency fire service based on the equitable portion of the cost of providing such services.

Budgeted fire service costs have been projected for the five-year period beginning with fiscal year 2007 and the following fee schedule has been developed to recover a portion of the costs for each year in the period FY 2007 through FY 2011.

- (a) Residential fee. All residential properties will pay the same fee per residential unit. This is true whether the property is classified as a single family residence, mobile home, condominium, or a unit of a duplex, apartment complex, etc. The monthly fee for each residential dwelling unit



for the residential class is as follows:

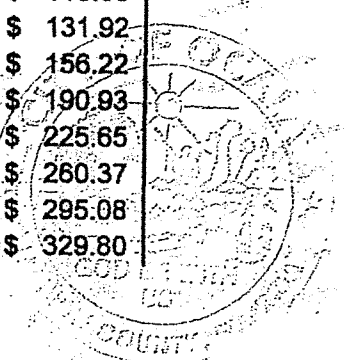
<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY2010</u>
\$12.00	\$14.30	\$14.30	\$14.30

(b) The residential user fee for Fiscal Year 2011 shall be set by city council prior to the beginning of that Fiscal Year (October 1, 2010) by an adopted user fee resolution. Annually thereafter prior to the beginning of the next Fiscal Year city council shall adopt the user fee rate by resolution for the next Fiscal Year. Should city council not adopt a new residential user fee rate for any given Fiscal Year, it shall remain the same rate as that imposed for the previous Fiscal Year.

(c) Non-residential. Non-residential properties are classified as Institutional, Governmental, or Commercial/Industrial (C/I). It has been determined that the benefit received from emergency fire services for non-residential property is related to the developed space of each premise, but that the benefit increases not directly proportional to square footage, but over broad ranges of developed space. It has also been determined that the benefit received is not materially different among the different non-residential property classes, consequently the fees are the same for all property classes. The schedule of fees for each non-residential premise regardless of use shall be based upon the following schedule:

**Fire Services Fee Schedule for Institutional, Governmental and
Commercial/Industrial (C/I) Property**

<u>Sq. Ft. Range</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
1 - 2,000	\$ 12.00	\$ 14.30	\$ 14.30	\$ 15.20	\$ 15.20
2,001 - 3,000	\$ 13.70	\$ 16.33	\$ 16.33	\$ 17.36	\$ 17.36
3,001 - 4,000	\$ 19.17	\$ 22.86	\$ 22.86	\$ 24.30	\$ 24.30
4,001 - 5,000	\$ 24.65	\$ 29.39	\$ 29.39	\$ 31.24	\$ 31.24
5,001 - 6,000	\$ 30.13	\$ 35.93	\$ 35.93	\$ 38.19	\$ 38.19
6,001 - 7,000	\$ 35.61	\$ 42.46	\$ 42.46	\$ 45.13	\$ 45.13
7,001 - 8,000	\$ 41.09	\$ 48.99	\$ 48.99	\$ 52.07	\$ 52.07
8,001 - 10,000	\$ 49.33	\$ 58.79	\$ 58.79	\$ 62.49	\$ 62.49
10,001 - 12,000	\$ 60.27	\$ 71.85	\$ 71.85	\$ 76.37	\$ 76.37
12,001 - 14,000	\$ 71.23	\$ 84.92	\$ 84.92	\$ 90.26	\$ 90.26
14,001 - 16,000	\$ 82.18	\$ 97.98	\$ 97.98	\$ 104.15	\$ 104.15
16,001 - 18,000	\$ 93.14	\$ 111.04	\$ 111.04	\$ 118.03	\$ 118.03
18,001 - 20,000	\$ 104.10	\$ 124.11	\$ 124.11	\$ 131.92	\$ 131.92
20,001 - 25,000	\$ 123.28	\$ 146.97	\$ 146.97	\$ 156.22	\$ 156.22
25,001 - 30,000	\$ 150.67	\$ 179.63	\$ 179.63	\$ 190.93	\$ 190.93
30,001 - 35,000	\$ 178.07	\$ 212.29	\$ 212.29	\$ 225.65	\$ 225.65
35,001 - 40,000	\$ 205.46	\$ 244.95	\$ 244.95	\$ 260.37	\$ 260.37
40,001 - 45,000	\$ 232.86	\$ 277.61	\$ 277.61	\$ 295.08	\$ 295.08
45,001 - 50,000	\$ 260.25	\$ 310.27	\$ 310.27	\$ 329.80	\$ 329.80



50,001	-	60,000	\$ 301.35	\$ 359.26	\$ 359.26	\$ 381.87	\$ 381.87
60,001	-	70,000	\$ 356.14	\$ 424.58	\$ 424.58	\$ 451.30	\$ 451.30
70,001	-	80,000	\$ 410.93	\$ 489.90	\$ 489.90	\$ 520.73	\$ 520.73
80,001	-	90,000	\$ 465.72	\$ 555.22	\$ 555.22	\$ 590.16	\$ 590.16
90,001	-	100,000	\$ 520.51	\$ 620.54	\$ 620.54	\$ 659.59	\$ 659.59
100,001	-	120,000	\$ 602.70	\$ 718.52	\$ 718.52	\$ 763.74	\$ 763.74
120,001	-	140,000	\$ 712.28	\$ 849.16	\$ 849.16	\$ 902.60	\$ 902.60
140,001	-	160,000	\$ 821.86	\$ 979.80	\$ 979.80	\$1,041.46	\$1,041.46
160,001	-	180,000	\$ 931.44	\$1,110.44	\$1,110.44	\$1,180.32	\$1,180.32
180,001	-	200,000	\$1,041.03	\$1,241.08	\$1,241.08	\$1,319.19	\$1,319.19
200,001	-	250,000	\$1,232.79	\$1,469.69	\$1,469.69	\$1,562.19	\$1,562.19
250,001	-	300,000	\$1,506.75	\$1,796.29	\$1,796.29	\$1,909.35	\$1,909.35
300,001	>		\$1,643.74	\$1,959.59	\$1,959.59	\$2,082.92	\$2,082.92

(d) The non-residential user fee schedule for Fiscal Year 2012 shall be set by city council prior to the beginning of that Fiscal Year (October 1, 2011) by an adopted user fee resolution. Annually thereafter prior to the beginning of the next Fiscal Year city council shall adopt the non-residential user fee rate schedule by resolution for the next Fiscal Year. Should city council not adopt a new non-residential user fee rate schedule for any given Fiscal Year, the schedule shall remain the same as that imposed for the previous Fiscal Year.

Sec. 30-53. Applicability; collection.

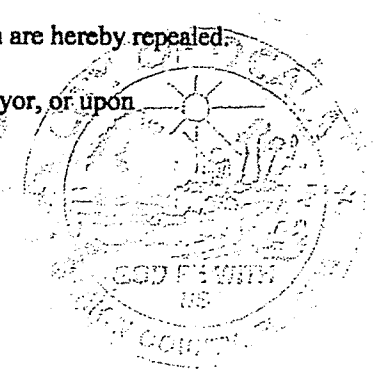
- (a) The emergency fire services fee imposed by this Article shall be imposed on each developed property within the city limits beginning January 1, 2007. Where a property has multiple premises, each premise will be assessed a separate fee based on the number of residential units, for residential property, or the square footage of developed space, for non-residential property, as appropriate. Only vacant or undeveloped land will be exempt from the fire service fee.
- (b) The city will include the fire service fee on the utility bills for all developed properties in the city. Collection enforcement will be in the same manor as that used with all other portions of the bill for utility services.

Sec. 30-54 - 30-59. Reserved.

Section 3. Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.



CITY OF OCALA

By: *Reuben Kent Guinn*
Reuben Kent Guinn
President, Ocala City Council

ATTEST:

By: *Angel B. Jacobs*
Angel B. Jacobs
City Clerk

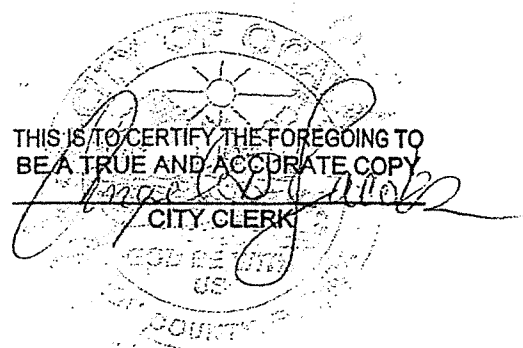
Approved/Denied by me as Mayor of the City of Ocala, Florida, on May 4th, ~~2009~~ ²⁰¹⁰

By: *Randall Ewers*
Randall Ewers
Mayor

Approved as to form and legality:

By: *W. James Gooding III*
~~Patrick B. Gilligan~~ **W. James Gooding III**
~~City Attorney~~ **Assistant City Attorney**

Ordinance No. 2010-43
Introduced: March 30, 2010
Adopted: May 4, 2010
Legal Ad No: SF06151801 - April 2, 2010
Tabled: April 20, 2010





Bowen Radson Schroth, P.A.
Attorneys at Law

Attorneys

Lennon E. Bowen, III
Zachary T. Broome
Katrina H. Dempsey*
Laura L. Lightsey
Todd J. Mazenko
Jason M. Radson**
Derek A. Schroth***

600 Jennings Avenue, Eustis, Florida 32726
Telephone (352) 589-1414
Facsimile (352) 589-1726
www.BRSlegal.com

Florida Registered Paralegals

Chantal C. Bernhard
Tami Brosman Cohen
Amy McCain Hasselbring
Elaine Platt

* Also Admitted to Practice in Pennsylvania and the District of Columbia

** Florida Supreme Court Certified Circuit Civil and County Mediator

*** Board Certified in City, County and Local Government Law

Email Address:

lbowen@brslegal.com

December 3, 2013

Via E-mail pgilligan@ocalalaw.com and U.S. Mail

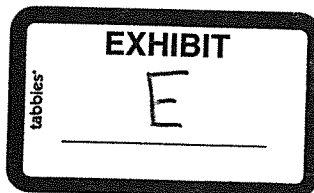
Patrick G. Gilligan
City Attorney for City of Ocala
Gilligan, King & Gooding, P.A.
1531 SE 36th Ave.
Ocala, FL 34471

Re: Public Records Request and Demand for Refund

Dear Mr. Gilligan:

We have the pleasure of representing Discount Sleep of Ocala, LLC d/b/a Mattress Warehouse and a putative class of all other City of Ocala water utility customers who have paid fire user fees as part of their water bill. Pursuant to Florida Statutes Chapter 119 I request from the City of Ocala (hereinafter "City") the following public records:

1. A certified copy of Ordinance 5554, Ordinance 5677, Ordinance 6015, and Ordinance 2010-43.
2. Copies of each water bill sent to our client from the inception date of Ordinance 5554, as codified in Chapter 30, Article III of the City's Code of Ordinances (hereinafter "Ordinance"), through the most recent billing cycle.
3. A certified copy of our client's water bills that cover the following service dates: January 2007, January 2008, January 2009, January 2010, January 2011, January 2012, and January 2013.
4. A certified copy of the City's standard water bill template, as currently used by the City to bill water customers for fire user fees pursuant to the Ordinance and any amendments thereto, and each previous version of the template used for the same purpose from the inception date of the Ordinance through the latest template revision.



5. A certified copy of the City's standard late notice template, as currently used by the City to notify water customers that payment of their water bill is overdue, and each previous version of the template used for the same purpose from the inception date of the Ordinance through the most recent template revision.
6. A certified copy of the City's Council work session minutes dated May 23, 2006.
7. A certified copy of the City's Council meeting minutes dated June 6, 2006.
8. A certified copy of the City's Council meeting minutes dated August 8, 2006.
9. A certified copy of the City's Council work session minutes dated August 9, 2006.
10. A certified copy of the City's Council meeting minutes and work session minutes dated October 6, 2009.
11. A certified copy of the City's Council meeting minutes dated November 16, 2010.
12. A certified copy of the City's Council meeting minutes and work session minutes dated March 15, 2011.

Please let us know the cost for providing these documents. If it would be easier for the City Records Custodian to provide these documents electronically or place them on a CD, either option would also be acceptable.

We also hereby demand that the City rescind the Ordinance, and any amendments thereto, and refund all fire user fees paid by the putative class within 45 days of the date of this letter, otherwise we will file a lawsuit against the City. Alternatively, our client is willing to submit this dispute to pre-suit mediation in an effort to avoid the time and expense of litigation.

Should you have any questions or comments, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lennon E. Bowen, III". The signature is stylized with a large, circular flourish at the end.

Lennon E. Bowen, III