

CODE OF ORDINANCES
City of
ROCHESTER HILLS, MICHIGAN

ARTICLE II. ALARM SYSTEMS

DIVISION 2. FALSE ALARMS

Sec. 42-61. Prohibited.

False alarms are prohibited. Each occurrence shall be considered a separate offense chargeable to the owner or lessee of the alarm system. A person who violated this section shall be guilty of a municipal civil infraction.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-62. Alarm user liability.

Alarm users shall be jointly and severally responsible for violations of this article, including owner(s), co-tenants or lessor(s) and lessee(s). The payment of false alarm response costs, fines, or fees shall not be construed to conflict, contravene, enlarge, or reduce any civil or criminal liability of the person or entity billed for the response costs, except to the extent that such responsibility arises out of this article.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-63. Alarm system contractor liability.

Alarm system contractors are responsible for the proper installation, maintenance, repair, alteration, and/or service of alarm systems. Any violation of this article caused by a contractor's improper installation, maintenance, repair, alteration, and/or service of alarm systems constitutes a violation of this article and shall be subject to the penalty actions set forth against alarm users in this article.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-64. Authority to abate nuisance.

False alarms are deemed to be a public nuisance. In addition to authority to abate the public nuisance provided by city ordinance or city charter and impose penalties as set forth in this article, the sheriff's department, or other public safety personnel responding to a false alarm shall have authority to undertake reasonable measures to deactivate the alarm system, where necessary, in order to stop the audible or visible signal being emitted by the alarm system.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-65. Violations; penalties; fees.

(a) The occurrence of a false alarm shall constitute a violation of this article. To ensure that all alarm systems are properly maintained in good operating order and to minimize

the cost to the city for false alarms, alarm users and alarm system contractors shall be held responsible as provided in this section. Notwithstanding any penalties provided for a violation of this article, and notwithstanding the fact that a prosecution for a violation of this article has or has not been commenced, alarm users shall pay to the city a fee or fine as provided in this section, for each false alarm, and shall also be held responsible as follows:

(1) First false alarm requiring a police response within a calendar year: warning notice pursuant to subsection (g), with no fine or fees.

(2) Second, third, fourth, and fifth false alarm requiring a police response within a calendar year shall be assessed fees as provided in section 54-436.

(3) Subsequent false alarms requiring six or more police responses within a calendar year shall be considered a municipal civil infraction and upon determination of responsibility therefor shall be punishable by a civil fine of not more than \$500.00 and assessed an administrative fee as provided in section 54-436.

(4) Any false alarm that occurs after March 31, 2007, on an alarm system that has not been registered as required by section 42-33 shall be subject to an additional fee as provided in section 54-436.

(5) Where the occurrence of a false alarm is in premises that are leased or otherwise not occupied by the owner, the notice of infraction for the false alarms in subsections (g) and (h) shall be sent to both the owner(s) and the person who occupies the leasehold premises.

(b) *Exceptions.* No fine or fee shall be assessed for an alarm which was activated by criminal activity, attempted criminal activity, or a verified medical emergency for which the alarm was intended.

(c) *Shut-off fee.* Alarm systems equipped with audible signals that are not fitted with a shut-off device shall be subject to deactivation by representatives of the sheriff's department. The alarm user shall be subject to a shut-off fee as provided in section 54-436, in addition to any false alarm fees, which may be associated with the summons of an emergency police response.

(d) *Payment due.* Payment of the false alarm fee shall be paid to the city within 30 days after the city's mailing of an invoice for the fee to the address where the alarm system is located. The amount of the invoice shall constitute a debt in favor of the city and the obligation of the alarm user. The invoice shall also include the following provision: "A person aggrieved by this false alarm determination may submit a letter of appeal to the sheriff's department for review of the determination or penalty being appealed, as provided in section 42-66 of the City Code of Ordinances."

(e) *Failure to pay.* A person or entity liable for the payment of a police response fee who fails to make payment in full to the city within 30 days of the invoice date shall be responsible for a municipal civil infraction, and shall be responsible for fines up to \$500.00, and for full payment of the fee, and for a five percent late payment penalty to reimburse the city for a portion of its administrative costs incurred for pursuing and processing the overdue invoice. This provision shall be tolled in the event that the alarm user appeals pursuant to the appeal provisions of this article, but such payment shall be due to the city within ten business days of the date of the appeal decision.

(f) *City recourse.* When payment of the city's invoice is not timely made, the city shall have the following recourse:

(1) The city may commence a civil action against a person who is liable for the payment of the cost of police response and who fails to make payment in full to the city as required by this article. The city shall be entitled to recover the collection expenses, statutory interest, court costs, and reasonable attorney fees incurred for pursuing the civil action.

(2) False alarms are deemed a public nuisance, and therefore any invoice, including the late payment penalty, which remains unpaid for 90 days from the invoice date, and which is not being reviewed pursuant to the appeal provisions of this article, shall constitute a lien against the premises to which the sheriff's department responded. The mayor or mayor's authorized representative may certify the delinquency to the city assessor and in such case the fee shall be entered upon the next tax roll as a lien against the premises which shall be collected and enforced in the same manner with the same interest and penalties as general property taxes against such premises. An additional \$20.00 fee shall be added and certified to the tax assessing officer for collection.

(3) The city may cite the alarm user for a municipal civil infraction pursuant to subsection (e) of this section.

(g) *First false alarm notice.* For a first false alarm requiring a police response within a calendar year, the sheriff's department alarm compliance officer shall mail a false alarm warning notice to the alarm user at his, her, or its last known address by first class mail following the false alarm occurrence. The notice shall indicate the occurrence of the false alarm and the potential penalties, as set forth in this article, for future false alarm occurrences. The letter shall also include the following provision: "A person aggrieved by this false alarm determination may submit a letter of appeal to the alarm compliance officer, within ten business days, for review of the determination or penalty being appealed, as provided in section 42-67 of the City Code of Ordinances."

(h) *Subsequent false alarms action.* The occurrence of six or more false alarms requiring a police response within a calendar year is deemed to be a public nuisance. After the occurrence of a sixth such false alarm within a calendar year, the city attorney may seek abatement of the nuisance in conjunction with prosecution in the district court for a violation of subsection (a) of this section. In the event that the district court action does not result in an order requiring abatement of the nuisance, the city council may authorize the city attorney to initiate civil proceedings in the Oakland County Circuit Court for court-ordered abatement of the nuisance.

(i) *Presumption as to "alarm user".* For purposes of prosecuting violations of the penal provisions of this section, and for purposes of collecting the fees incurred because of excessive false alarms, "alarm user" is presumed to be that person whose name appears on the most recent assessment roll approved by the board of review, as updated, associated with the real or personal property protected by the alarm system.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-66. Waiver of fee.

(a) *Notice of false alarm.* The sheriff's department alarm compliance officer shall notify the alarm user, in writing, of each instance where a false alarm has been recorded. The alarm user shall have the opportunity within ten business days from the date of mailing or personal delivery to submit a report for the purpose of showing cause as to whether circumstances exist to warrant voiding the false alarm recordation, and shall include all documentation supporting the request. The alarm compliance officer shall review the alarm user's report and/or meet with the alarm user and issue a written determination to the alarm user as to whether or not the false alarm record will be voided.

(b) *Maximum of two waivers.* No more than two false alarms per calendar year shall be waived due to malfunction, maintenance, equipment failure, or user error.

(c) *Waiver.* The alarm compliance officer may waive the false alarm fee under the following circumstances:

(1) *Alarm system malfunction.* The fee may be waived if, prior to submittal of the waiver request, corrective measures to repair an alarm system malfunction causing the false alarm have been instituted, provided the alarm system owner or lessee presents documentation that repair service to correct the malfunction has been performed by an alarm system contractor licensed under the provisions of the Private Security Guard Act of 1968, Public Act No. 330 of 1968 (MCL 338.1051 et seq.), as amended.

(2) *Extenuating circumstances.* The fee may be waived where in the alarm compliance officer's discretion cause is shown that the false alarm was attributable to extenuating circumstances beyond the reasonable control of the alarm system owner or lessee and did not result from neglect, disrepair, lack of maintenance or improper installation.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-67. Appeals.

(a) *Appeals.* In the event the request to waive the false alarm fee or other fee assessed by this article is denied by the alarm compliance officer, the alarm user may appeal the decision by submitting a written notice of appeal to the alarm compliance officer within ten business days of the denial. The alarm compliance officer shall forward the notice of appeal and all supporting documentation along with the sheriff department's file on the waiver request to the alarm appeal panel.

(b) *Alarm appeal panel.* The alarm appeal panel shall be a three-member panel comprised of: one representative appointed by the city council, one representative appointed by the mayor, and one representative of the sheriff's department.

(c) *Decision.* The alarm appeals panel shall review the alarm compliance officer's decision, the alarm user's report and/or meet with the alarm user and issue a written determination to the alarm user as to whether or not the false alarm record will be voided.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-68. Defective alarms; inspection.

(a) An alarm system signaling more than five false alarms within a calendar year shall be inspected and modified to be less susceptible to false alarms. Upon written notice, the owner or alarm user of the building or residence shall have the alarm system inspected and modified, at the owner or user's expense, by a licensed alarm system contractor within ten business days of the date of the notice, and shall forward to the sheriff's department the contractor's report of the probable cause of the false alarms and the measures instituted to eliminate same.

(b) Failure to have an alarm system inspected after the written notice is issued pursuant to subsection (a) shall constitute a municipal civil infraction, punishable as provided by ordinance.

(c) *Exemptions.* Severe weather, power outages, transmission line malfunctions, malicious acts of person(s) not under the control of the alarm user, or any other cause clearly beyond the reasonable control of the alarm user may be considered in determining whether or not enforcement action will be taken against the alarm user as provided for in this article.

(Ord. No. 515, § 1, 12-13-2006)

Sec. 42-69. No liability of city.

The city assumes no liability for any defects in the operation of any security or fire alarm system, for any failure or neglect of any person associated with the installation, operation or maintenance of any alarm system, for any failure or neglect of any alarm user, for the transmission or receipt of alarm signals or any failure or neglect to respond upon receipt of an alarm from any source. In the event that the city finds it necessary to revoke an alarm registration permit or to otherwise provide for the disconnection of any alarm system, the city shall have no liability for such action. No special duty other than that owed to the general public shall be created by virtue of this article or by virtue of the issuance of an alarm registration permit.

(Ord. No. 515, § 1, 12-13-2006)