

11/14/2006

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL SECTIONS 42-26 THROUGH 42-65 OF ARTICLE II, ALARM SYSTEMS, CHAPTER 42, EMERGENCY SERVICES, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, AND ADOPT NEW ARTICLE II, SECTIONS 42-26 THROUGH 42-67 TO REGULATE RESIDENTIAL AND BUSINESS ALARM SYSTEMS, DECREASE THE FREQUENCY OF FALSE ALARMS, REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Article II, Sections 42-26 through 42-65 of Chapter 42 shall be repealed entirely and replaced with the following new Sections 42-26 through 42-67:

ARTICLE II. ALARM SYSTEMS

DIVISION I. GENERALLY

Sec. 42-26. 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:

Alarm system. A detection device or an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention or to which police, firefighters, paramedics and/or other public safety personnel are expected or requested to respond. The term includes any system that can electronically cause an expected response by a law enforcement agency or fire/emergency services agency to a premises by means of the activation of an audible signal, visible signal, electronic notification, or video signal, or any combination of these signals. The term "alarm system" shall include, but shall not be limited to, the following types of devices: "Automatic holdup alarm," "burglar alarm," "local alarm," "intrusion alarm," "holdup alarm," "panic alarm." Alarm systems designed solely to alert or signal persons within the premises in which the alarm system is located shall not be regulated by this article, unless such alarm systems employ an audible signal emitting sounds, or flashing lights or beacons, or "silent" signals to emergency officials or monitoring agencies, designed to signal persons outside the premises.

Alarm system contractor. A person engaged in the installation, maintenance, repair, alteration or servicing of alarm systems or who responds to an alarm system. The term "alarm system contractor" shall not include a business that only sells or manufactures alarm systems unless the business services alarm systems, installs alarm systems, or monitors or responds to alarm systems at the protected premises.

Alarm user. The person, partnership, corporation, company, or other entity who requested the installation of the alarm system, or who has either an ownership interest in the premises, a leasehold interest, or who occupies the premises, or who has dominion and control over the premises, where the alarm system is installed or operating. In the event the premises are owned or occupied by a partnership, corporation, or other entity, each owner, officer, partner, or operator shall be deemed to be an alarm user. For purposes of prosecuting violations of this article, and for purposes of collecting fees incurred for false alarms, the person or entity whose name appears as being associated with the property protected by the alarm system on the most current City tax roll and/or the person whose name appears on the Alarm Registration Permit list on file with the Sheriff's Department, shall be presumed to be the alarm user.

Cost of police response. The amount reasonably calculated by the Sheriff's Department and the Finance Department to recover all or a portion of the actual cost to the City for police response to false alarms and related investigation. The cost of police response may include costs for the use of Sheriff's Department equipment, the expenditure of Sheriff's Department resources, the cost of contracted assistance or services, and the wages and benefits for each Sheriff's Deputy who responds or assists with the response to the false alarm in accordance with lawful and established police response protocol.

False alarm. The activation of an alarm system causing a sound or visual signal through mechanical failure, faulty equipment, malfunction, improper installations, and/or lack of prudent maintenance, or the negligence of the alarm user or of his, her, or its employees, agents, guests, residents, or invitees. False alarms that are intentionally activated shall not constitute a false alarm for purposes of this article, but may be prosecuted as criminal offenses. An alarm triggered by a household or domesticated animal shall constitute a false alarm. A false alarm shall be presumed when an alarm is tested without prior written notice to the City, and when a police investigation reveals no evidence of criminal activity, an illegal entry or an attempt thereof. The term "false alarm" does not include the following:

- (1) Activation by tornado, storm, earthquake, or other violent condition beyond the control of the alarm user;
- (2) False alarms activated by disruption or disturbance of telephone or public utility company facilities;
- (3) Utility pole accidents;
- (4) Testing of the alarm system after prior notification has been received by the Sheriff's Department; or
- (5) Intentional and non-malicious activation of an alarm or emergency response system due to a real or perceived need for police assistance, regardless of whether assistance was actually necessary.

Police response. A response to an alarm by the Sheriff's Department or other law enforcement agency or other public safety personnel.

Sec. 42-27. Purpose.

(a) The prohibition of false alarms and regulation of alarm systems is necessary in order to preserve peace and tranquility in the community and to reduce the frequency and to defray the cost of repeated response to false alarms by law enforcement personnel.

(b) Further, elimination of false alarms will allow public safety personnel to be more available and respond more readily to alarms requiring immediate attention.

(c) To encourage alarm users throughout the city to maintain operational reliability and properly use alarm systems in a manner which will reduce false alarm responses by the Sheriff's Department and other public safety personnel, thereby reducing and preventing the misuse of Sheriff's Department resources at taxpayer expense.

Sec. 42-28. Enforcement.

This article shall be enforceable by the county sheriff and the sheriff's deputies, who shall have authority to issue and serve appearance citations.

Sec. 42-29. License required for alarm system contractor.

Unless licensed pursuant to the Private Security Guard Act of 1968, 1968 PA 330 (MCL 338.1051 et seq.), a person shall not engage in the business of alarm system contractor in the City.

Sec. 42-30. Automatic telephone alarms.

No person shall operate, install or direct the installation of an alarm system that when activated will, by telephone or by mechanical, electronic, or any other means, automatically call, dial or connect to any law enforcement agency, fire department, or any city department, office or official for the purpose of delivering a prerecorded message.

Sec. 42-31. Alarm duration.

(a) *Limit of 15 minutes.* No person shall operate, install or direct the installation of any alarm system that emits an audible or visible signal for a period exceeding 15 minutes.

(b) *For sale systems.* An owner or lessee of an alarm system shall bring alarm systems offered for sale in the City into conformance with this section.

(c) *Alarm shut-off.* Alarm Systems equipped with audible signals, e.g. bells, horns, sirens, shall be fitted with a shut-off device that automatically silences the audible signal within 15 minutes of activation.

Sec. 42-32. Registration of persons to deactivate system.

The owner or lessee of a new alarm system shall immediately upon installation and the owner or lessee of an existing system shall provide notification that the property is served by an alarm system and provide the Sheriff's Department with the name, address and telephone number of one or more persons who can be called upon to deactivate the alarm system at any time. However, it shall not be considered a violation of this article if such persons are not available to deactivate the alarm system when called upon to do so.

Sec. 42-33. Alarm System Permit.

(a) *Registration Permit.* Within ten business days of installation of an alarm system, the alarm user shall register their alarm with the Sheriff's Department.

(b) *Notice of Registration.* All alarm providers shall advise all alarm users with whom they do business that the alarm user must obtain register their alarm system with the Sheriff's Department.

(c) *Registration Renewal.* By January 30th of each year, all alarm users shall renew their alarm user registration permit with the Sheriff's Department.

(d) *Failure to pay fees and penalties owing.* Annual alarm registration permit will not be renewed until any alarm fees or penalties assessed under this article are paid or properly waived by the city as provided herein.

Sec. 42-34. Alarm Reporting.

(a) *Verify alarm.* Alarm system contractors shall attempt to verify an alarm signal, except for duress, hold up or medical emergency alarms. When reporting alarms to the Sheriff's Office or dispatch center, the alarm system contractor shall indicate whether verification was made.

(b) *Alarm cancellations.* The alarm system contractor shall notify the dispatch center of all verified alarm cancellations. No false alarm fees shall be charged for cancelled calls.

DIVISION II. 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.

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.

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.

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.

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 paragraph (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 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 paragraphs (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 5% 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 10 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 paragraph (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 6 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 paragraph (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.

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 10 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.

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 10 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 3 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.

Sec. 42-68. Defective Alarms; Inspection.

(a) An alarm system signaling more than 5 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 10 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 paragraph (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.

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.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefor shall be punishable by a civil fine of

not more than \$500 and such other sanctions and remedies as authorized in the Code of Ordinances of the City of Rochester Hills, Section 1-16(c).

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Rochester Eccentric* on _____.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on Wednesday, _____.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof on Wednesday,
_____.

Jane Leslie, City Clerk
City of Rochester Hills