

CITY OF STERLING HEIGHTS

MACOMB COUNTY, MICHIGAN

ORDINANCE NO. 376

AN ORDINANCE OF THE CITY OF STERLING HEIGHTS TO REGULATE THE ACCURATE FUNCTIONING OF RESIDENTIAL AND BUSINESS ALARM SYSTEMS AND DESIGNED TO DECREASE THE FREQUENCY OF FALSE ALARMS THROUGHOUT THE CITY

THE CITY OF STERLING HEIGHTS ORDAINS:

SECTION 1. Chapter 36 of the Code of Ordinances shall no longer be reserved, and shall instead be added to read as follows:

CHAPTER 36: FALSE ALARMS

36-1. PURPOSE AND INTENT.

When a fire detection system, burglar alarm, or other alarm device is activated, the City's Fire Department and/or Police Department respond to protect the lives and property of the citizens and businesses of the City. This rapid response requires the Fire Department and/or Police Department to place numerous emergency vehicles on the streets, which inherently increases the dangers to members of the Fire and/or Police Departments, and to the citizens of the City. Although the City supports and encourages the use of alarm systems to discover fires and detect intruders, malfunctions of such systems result in increased dangers and unnecessary expense.

Therefore, the purpose of this Chapter is 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 Police Department and Fire Department, thereby reducing and preventing the misuse of police and fire resources at taxpayer expense. Communities throughout the nation have found that the use of a regulatory ordinance designed to first encourage remedial measures, with progressively increased penalties imposed for failure to implement such measures, reduces the overall number of false alarms by significant percentages. Therefore, in order to further public safety and welfare, and to reduce the undue burden incurred by taxpayers for false alarm responses, the City Council hereby enacts this Chapter 36, which shall be known as "The City of Sterling Heights False Alarm Ordinance."

36-2. DEFINITIONS.

(A) For purposes of this chapter, the following definitions shall apply:

- (i) *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 and/or firefighters 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," "personal emergency response alarm," "temperature fire alarm," "manual fire alarm," "fire alarm," "automatic sprinkler," and/or "water flow 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

chapter, 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.

- (ii) *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 some dominion and control over the premises, where the alarm system is installed and 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 the penal provisions of this chapter, 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 recent assessment roll approved by the board of review, as updated, and/or whose name appears in the City's business registration records, shall be presumed to be the alarm user.
- (iii) *Cost of fire response.* The fee established by the annual appropriations ordinance adopted by the City Council which is reasonably calculated by the Fire Department and the Finance Department to recover all or a portion of the actual cost to the City for fire response to false alarms and related investigation. The cost of fire response may include costs for the use of Fire Department equipment, the expenditure of Fire Department resources, the cost of contracted assistance or services, and the wages and benefits for each Fire Department employee who responds or assists with the response to the false alarm in accordance with lawful and established fire safety protocol. The fee may be incrementally increased by the City Council, not to exceed the City's actual cost, for repeat or subsequent violations within a 12-month period of time. The incremental fee for repeat or subsequent violations may be calculated to include the cost of fire response to the first false alarm for which no fee was imposed.
- (iv) *Cost of police response.* The fee established by the annual appropriations ordinance adopted by the City Council which is reasonably calculated by the Police 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 Police Department equipment, the expenditure of Police Department resources, the cost of contracted assistance or services, and the wages and benefits for each Police Department employee who responds or assists with the response to the false alarm in accordance with lawful and established 9-1-1 or related police response protocol. The fee may be incrementally increased by the City Council for repeat or subsequent violations within a 12-month period of time. The incremental fee for repeat or subsequent violations may be calculated to include the cost of police response to the first two false alarms for which no fee was imposed.
- (v) *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 chapter, but may be prosecuted as criminal offenses. An alarm triggered by an 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 Department investigation reveals no evidence of criminal activity, or illegal entry or an attempt thereof, or in the case of a false fire alarm, when a Fire Department investigation reveals no fire or potential fire, or need for medical attention, upon the activation of the alarm system, with the following exceptions:
 - a. Activation by tornadoes, storms, or other violent condition beyond the control of the alarm user;
 - b. False alarms activated by disruption or disturbance of telephone or public utility company facilities;

- c. Utility pole accidents;
- d. Testing of the alarm system after prior notification has been received by the Police Department and/or Fire Department; or
- e. Intentional and non-malicious activation of an alarm or emergency response system due to a real or perceived need for fire, police, or medical assistance, regardless of whether fire, police, or medical assistance was actually necessary.
- f. This ordinance and the definition of “false alarm” are intended to facilitate the more efficient use of police and fire resources for true emergencies and for people who genuinely believe they need police or fire assistance. The focus of this ordinance is on mechanical failure, faulty equipment, improper installations, and the negligence of alarm users. The ordinance is not intended to discourage or otherwise inhibit the use of alarms or 9-1-1 systems to seek emergency assistance. Therefore, this ordinance shall always be construed in a manner that serves to prompt residents and businesses to correct mechanical and operational alarm system deficiencies, but which does not discourage residents and businesses from seeking emergency help.

36-3. LIABILITY.

Alarm users shall be jointly and severally responsible for violations of this chapter. 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 chapter.

36-4. VIOLATIONS; PENALTIES.

(A) The occurrence of a false alarm shall constitute a violation of this chapter. 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 shall be held responsible as provided in this section. Notwithstanding any penalties provided for convictions for violation of this chapter, and notwithstanding the fact that a prosecution for violation of this chapter 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:

(i) First false alarm requiring a police and/or fire response within a 12-month period of time: Warning Notice pursuant to Paragraph (F), no fine or fees.

(ii) Second false alarm requiring a police response only (*i.e.*, burglar alarms) within a 12-month period of time: Progressive Warning Notice pursuant to Paragraph (G), no fine or fees.

(iii) Second, third, and fourth false alarm requiring a fire response (*i.e.*, fire alarms) within a 12-month period of time: Assessment of a portion or all of the cost of fire response, as established by the annual appropriations ordinance.

(iv) Third, fourth, and fifth false alarm requiring a police response only (*i.e.*, burglar alarms) within a 12-month period of time: Assessment of a portion or all of the cost of police response, as established by the annual appropriations ordinance.

(v) Fifth or subsequent false alarm requiring a fire response, or sixth or subsequent false alarm requiring a police response, within a 12-month period of time: Misdemeanor punishable by a fine of up to \$500.00, up to 90 days in jail, or both, and mandatory restitution to the City for the cost of police response and/or the cost of fire response.

(B) The City Treasurer shall administer the invoicing for assessment of the false alarm fees established by this chapter. The City Treasurer shall promptly prepare and deliver, to the alarm

user who is deemed liable pursuant to section 36-3 for the payment of the cost of the police and/or fire response, a detailed invoice by first class mail or personal service. 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 City Manager for review of the determination or penalty being appealed, as provided in Section 36-5 of the City Code of Ordinances."

(C) An alarm user who is liable for the payment of the cost of police response and/or the cost of fire response shall make payment in full to the City Treasurer within 30 days of the invoice date.

(D) A person or entity liable for the payment of the cost of police response and/or the cost of fire response who fails to make payment in full to the City Treasurer within 30 days of the invoice date shall be responsible for a municipal civil infraction, and shall be responsible for fines as set forth in Chapter 1 of the City Code, and for full payment of the cost of police response and/or the cost of fire response, and for a late payment penalty established by the annual appropriations ordinance, 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 chapter, but such payment shall be due to the City Treasurer within 10 days of the date of the appeal decision.

(E) When payment of the City Treasurer's invoice is not timely made, the City shall have the following recourse:

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

(ii) 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 chapter, shall constitute a lien against the premises to which the Police Department and/or Fire Department responded. The City Manager 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 in the same manner with the same interest and penalties as special assessments against such premises, including the tax roll penalty set forth in the annual appropriations ordinance.

a. *Exception.* When the premises to which the Police Department and/or Fire Department responded are not owned by the alarm user responsible for the alarm system which generated a false alarm (*i.e.*, leaseholders), the invoice shall not constitute a lien against the premises, nor shall it be entered upon the tax roll as set forth in paragraph (F). Instead, the individual or entity shall be cited for a municipal civil infraction as set forth in paragraph (D). The individual(s), or the owner(s) and operator(s) of entities, who fails to respond to a municipal civil infraction citation shall be ordered to show cause why he/she/they should not be held in contempt of court for failure to respond or otherwise appear for court. Such show cause proceedings shall be conducted in accordance with the applicable Rules of Court promulgated by the Michigan Supreme Court.

(iii) The City Treasurer may cite the alarm user for a municipal civil infraction pursuant to paragraph (D) of this section.

(F) For a first false alarm requiring a police and/or fire response within a 12-month period of time, the City Treasurer 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 Chapter, 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 City

Manager, within 20 days, for review of the determination or penalty being appealed, as provided in Section 36-5 of the City Code of Ordinances."

(G) For a second false alarm requiring a police response only (*i.e.*, burglar alarms) within a 12-month period of time, the City Treasurer shall mail a second 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 letter shall indicate the occurrence of a second false alarm within a 12-month period of time and shall emphasize the potential penalties, as set forth in this Chapter, for failure to correct the problem which has resulted in two 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 City Manager, within 20 days, for review of the determination or penalty being appealed, as provided in Section 36-5 of the City Code of Ordinances."

(H) The occurrence of six or more false alarms requiring a police response only (*i.e.*, burglar alarms) within a 12-month period is deemed to be a public nuisance. After the occurrence of a sixth such false alarm within a 12-month period, the City Attorney is authorized to seek abatement of the nuisance in conjunction with a misdemeanor prosecution in the district court for a violation of Paragraph A(viii). 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 Macomb County Circuit Court for court-ordered abatement of the nuisance.

(I) The occurrence of six or more false alarms requiring a fire response (*i.e.*, fire alarms) within a 12-month period is deemed to be a public nuisance. After the occurrence of a sixth such false alarm within a 12-month period, the City Attorney is authorized to seek abatement of the nuisance in conjunction with a misdemeanor prosecution in the district court for a violation of Paragraph A(viii). 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 Macomb County Circuit Court for court-ordered abatement of the nuisance and recovery of the expenses, statutory interest, court costs, and reasonable attorney fees incurred for pursuing the civil action.

36-5. APPEAL.

(A) Alarm users or persons otherwise aggrieved by receipt of a warning letter for the occurrence of a false alarm, or by a false alarm determination that results in the imposition of a fee for the cost of police response and/or the cost of fire response, may submit a letter of appeal to the City Manager for review of the determination of a false alarm occurrence. Such appeal letters must be submitted within 20 days of the date of the warning letter or fee invoice. Persons or entities who are cited for a municipal civil infraction or charged with a misdemeanor may not avail themselves of this appeal provision, but may instead defend against the charge in the district court if desired. The fees prescribed by the City Council may not be appealed or modified by appeal; only the actual determination of a false alarm occurrence may be appealed pursuant to this section. The following appeal process shall be afforded upon receipt of an appeal letter:

(i) Upon receipt of an appeal letter, the City Manager shall forward a copy of the letter (and supporting documentation provided with the letter, if any) to the Police Chief and the Fire Chief for review.

(ii) The Police Chief and Fire Chief shall independently review the letter and, within 30 days, advise the City Manager in writing whether, after reasonable investigation, the appeal should be granted. In order to recommend that an appeal be granted, the independent review must result in the conclusion that the original false alarm determination was clearly erroneous. To reach such a conclusion, irrefutable evidence must support the finding that the occurrence did not fit the definition of "false alarm" set forth in this chapter.

(iii) In the event that the Police Chief and the Fire Chief both agree that the appeal has no merit, or that the appeal should be granted, such unanimous decision shall be final. In the event that the Police Chief and Fire Chief disagree about the merit of the appeal, and thereby render opposing recommendations, the City Manager shall decide the matter based upon his or her review of the conclusions of the Police Chief and Fire Chief, subject to the standards set forth in subparagraph (ii). The City Manager's decision shall be rendered in writing no later than 60

days from the date the appeal was received by the City, unless the City Manager issues a written notice that the review is subject to extraordinary circumstances that require up to an additional 30 days in order to complete the review. The City Manager's decision shall be final, and if fees must be paid by the alarm user pursuant to Section 36-4, such fees shall be paid within 10 days of the date the City Manager forwards the final decision to the appellant via first class mail or personal service.

(iv) If an appeal is granted, the result shall be that the determination of a false alarm shall be overturned, and the alarm occurrence shall not be counted with future false alarm occurrences for purposes of the progressive penalties in Section 36-4(A). If the appeal is denied, the result shall be that the determination of a false alarm shall stand, and the false alarm occurrence may be counted with future false alarm occurrences for purposes of the progressive penalties in Section 36-4(A).

(v) False alarm determinations may not be appealed after a subsequent false alarm occurrence is determined by the Police Department and/or the Fire Department to have occurred, nor may they be appealed upon the passage of 12 months from the date of the occurrence.

36-6. DEFECTIVE ALARMS; INSPECTION.

(A) An alarm system signaling more than five (5) false alarms within a 12-month period of time shall be inspected and modified to be more false alarm resistant. 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 fourteen (14) days of the date of the notice, and shall forward to the Police Department and/or Fire 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 misdemeanor, punishable as provided in Chapter 1.

SECTION 2. Section 1-9(C) of Chapter 1 of the Code of Ordinances shall be amended to insert the following new provision within the list of municipal civil infractions, in numerical order:

<i>Chapter</i>	<i>Title</i>	<i>Section</i>
	 (all preceding language to remain intact). . . .
36	False Alarms	36-4(D)
	 (all subsequent language to remain intact). . . .

SECTION 3. All other provisions of the Code of Ordinances not specifically amended shall remain in full force and effect.

SECTION 4. Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby revised as cited in Section 1 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

SECTION 5. This ordinance shall become effective immediately upon publication of a notice of adoption.

This ordinance was introduced at a Regular meeting of the City Council of the City of Sterling Heights on the 15th day of February, 2005, and was duly adopted at a meeting of the City Council of the City of Sterling Heights on the 15th day of March, 2005.

BY ORDER OF CITY COUNCIL

INTRODUCED: 02/15/05
ADOPTED: 03/15/05
PUBLISHED: 03/20/05
EFFECTIVE: 03/20/05