



CITY of NOVI CITY COUNCIL

Agenda Item 3
May 23, 2011

SUBJECT: Consideration of adoption of Ordinance No. 11-23.27, to amend Chapter 22, "Offenses," Article II, "Offenses Against Public Administration," Section 22-96, to amend the standards for the regulation of alarm systems to clarify that residential burglar alarms are subject to the excessive false alarm penalties. **FIRST READING**

SUBMITTING DEPARTMENT:

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The City Council recently adopted Ordinance No. 11-23.26, which amended Chapter 22, Offenses, of the City Code to add fire alarms to the existing false alarm provisions of the Code. Before that adoption, the affected provisions imposed a penalty for excessive false alarms, starting with the third false alarm in a calendar year, for essentially any alarm **other than** fire alarms—i.e., including residential burglar alarms.

However, as a result of the placement of language intended to limit the false fire alarm penalties to "commercial, business, office, retail, manufacturing, or other non-residential" alarms, the ordinance can be read as no longer allowing charges for excessive false residential burglar alarms. The police department regularly responds to residential burglar alarms, and a number of homes within the City go beyond the two "free" false alarms in a calendar year, thereby incurring a penalty. Because it is no longer clear that the ordinance would allow that long-standing practice, the proposed ordinance amendment makes clear that such penalties still apply.

RECOMMENDED ACTION: Approve FIRST READING of Ordinance No. 11-23.27, to amend Chapter 22, "Offenses," Article II, "Offenses Against Public Administration," Section 22-96, to amend the standards for the regulation of alarm systems to clarify that residential burglar alarms are subject to the excessive false alarm penalties

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 11-23.27

AN ORDINANCE TO AMEND CHAPTER 22, "OFFENSES," ARTICLE II, "OFFENSES AGAINST PUBLIC ADMINISTRATION," SECTION 22-96, TO AMEND THE STANDARDS FOR THE REGULATION OF ALARM SYSTEMS TO CLARIFY THAT RESIDENTIAL BURGLAR ALARMS ARE SUBJECT TO THE EXCESSIVE FALSE ALARM PENALTIES.

The City of Novi Ordains:

PART I.

Chapter 22, "Offenses", Article II, "Offenses Against Public Administration," Sections 22-34 through 22-36 are hereby amended to read as follow:

Sec. 22-34. Regulation of alarm systems--Definitions.

As used in sections 22-34 through 22-39:

- (1) *Alarm system* means 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 or fire personnel are expected to respond.
- (2) *Alarm system contractor* means a person, firm, company, partnership, or corporation engaged in the installation, maintenance, alteration, or servicing of alarm systems, or who responds to an alarm system. "Alarm system contractor" shall not include a business which 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.
- (3) *False alarm* means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employee or agent. False alarm shall include activations where there is no evidence of illegal entry or attempt thereof, activations where there is no evidence of smoke, fire, other temperature or humidity related cause; activations caused by system malfunctions, activations caused by mistake or error, and activations caused by persons working on an alarm system where the police or fire department has not been previously notified.

Sec. 22-35. Same--Registration of customers served by alarm system contractor for which police or fire department response may be requested.

(a) It shall be the responsibility of alarm system contractors and the owners of property protected by alarm systems to provide the Novi Police or Fire Department with the name, address, telephone number and any other pertinent information, including the name and telephone number of persons to contact to reset or disable the alarm system, as to each alarm system within the City of Novi for which police or fire response may be requested in the event of an alarm activation, no later than date of commencement of operation of the system. For systems made operable prior to the adoption of these provisions, said information shall be provided within thirty (30) days after the adoption of these provisions.

(b) The director of public safety shall be authorized to promulgate a standardized form for such registration information and to promulgated rules and regulations governing the procedure for such registration.

Sec. 22-36. Same--Penalty for excessive false alarms.

(a) Violations of Section 22-34 through 22-36 shall be a municipal civil infraction. Notwithstanding the fact that a prosecution for violation of this section has or has not been commenced, in order to defray the cost of responding to false alarms, the owner, lessee, or user of (i) any commercial, business, office, retail, manufacturing, or other non-residential property protected by any alarm system, or (ii) the owner of residential property protected by an entry or burglar alarm system (but not a fire alarm), or (iii) any property outside of the City- protected by any alarm system shall pay to the city the following fees:

- (1) First false alarm in the calendar year resulting in response by police or fire department . . . No charge.
- (2) Second false alarm in the calendar year resulting in response by police or fire department . . . No charge.
- (3) Third false alarm in the calendar year resulting in response by police or fire department. Provided, that if the owner, lessee or user can demonstrate to the police or fire department that repair work was performed on the alarm system by an alarm system contractor after the second false alarm and before the third false alarm, there shall be no charge . . . \$50.00.
- (4) Fourth false alarm in the calendar year resulting in response by police or fire department . . . 75.00.
- (5) Fifth false alarm in the calendar year resulting in response by police or fire department . . . 100.00.

(6) Sixth false alarm in the calendar year resulting in response by police or fire department . . . 190.00.

(7) Seventh false alarm in the calendar year resulting in response by police or fire department . . . 190.00.

(8) No charges shall be imposed for a false alarm that occurs prior to the transmitting of notice of the next previous false alarm.

(b) For the purpose of computation of fees, responses to alarms will be based upon the calendar year, January 1 through December 31.

(c) The city shall notify the owner, lessee, or user of ~~the property any commercial, business, office, retail, manufacturing or other non-residential property, any property outside of the City, protected by an alarm system~~ in writing by first class mail of the occurrence of a false alarm, and of the imposition of fees pursuant to subsection (a) above. The notice shall provide that the person may contest the classification of the activation as a false alarm, or, as provided below, may provide information regarding the circumstances of the false alarm demonstrating that it would be inequitable to impose the charges. Such an appeal shall be filed by forwarding to the director of public safety a written request to contest such matter within twenty (20) days of the date of such notice. Upon receipt of such a request, the director of public safety, or his designee, shall schedule a hearing on the matter within thirty (30) days, and notify the person by first class mail of the time and place of the hearing. Upon conclusion of the hearing the director of public safety, or his designee, shall make a written determination of one (1) or more of the following:

(1) That the city acted reasonably in characterizing the activation as a false alarm, and that the charges shall be assessed as provided above.

(2) That the city did not act reasonably in characterizing the activation as a false alarm, and that the charges shall not be assessed.

(3) That, although the city acted reasonably in characterizing the activation as a false alarm, the circumstances surrounding the activation, such as a motor vehicle/utility pole accident, storm conditions, power outage, independent malicious act of a third party, or similar circumstances beyond the control of the owner, lessee or user, justify a reduction of the charges. In such case, the chief, or his designee, shall reduce the charges in whole or in part, as is so determined.

(d) A late fee of ten dollars (\$10.00) will be assessed to fines not paid within thirty (30) days for first through fourth false activations. A late fee of twenty-five dollars (\$25.00) will be assessed to fines not paid within thirty (30) days for fifth and subsequent false activations. For each additional thirty-day period that the above required fees are not paid, an additional fee of ten dollars (\$10.00) will be assessed.

(e) The charges for responding to false alarms shall be paid to the City within thirty (30) days of service of invoice. Failure to pay charges in accordance with this section shall be a violation subject to additional penalties in accordance with Section 1-11 of the City Code. Unpaid charges

may become a lien on premises served. In the event a lien has been placed on the premises, whenever such charge against any such premises shall be delinquent for six (6) months, the city official in charge of the collection thereof shall certify annually, on March first of each year, to the tax assessing officer of the city the fact of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected, and the lien therefor enforced, in the same manner as general city taxes against such premises are collected and the lien therefor enforced.

(f) Following four (4) false alarms from a burglar alarm system during a calendar year, the police department may refuse to respond to further burglar alarms from such system until that alarm system has been inspected and certified by a licensed alarm systems contractor as being properly installed, operated and maintained. The police department shall not take any action pursuant to this subsection until ten (10) days after the party responsible for maintaining the alarm system has been served with notice of intent to take action pursuant to this section. Notification may be made by personal service to the person responsible for the alarm system, or upon his/her agent or employee, or upon a resident or the guest of a resident of the protected property or by mailing by first class mail to the address on file with the police department or, if none, to the address of the protected property. If, at the expiration of the ten (10) days, documentation of inspection and certification has not been delivered to the police department, the director of public safety may direct that no further response will be made to an activation from the burglar alarm system.

Part II.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2011.

DAVID B. LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

Ayes:

Nays:

Abstentions:

Absent:

CERTIFICATION OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the Novi City Council, held on the ____ day of _____, 2011.

MARYANNE CORNELIUS – CITY CLERK

Adopted:
Published:
Effective:

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