

ORDINANCE 17-639

CITY COMMISSION
CITY OF WALKER
KENT COUNTY, MICHIGAN

Commissioner Parent, seconded by Commissioner Howland, moved the adoption of the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 35, SECTIONS 35-1 THROUGH 35-8, INCLUSIVE, OF THE CODE OF THE CITY OF WALKER ENTITLED "FALSE ALARMS"

THE CITY OF WALKER ORDAINS:

Section 1. Amendment of Code. That Chapter 35, Section 35-1 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-1. - Findings; public nuisance.

The city commission hereby determines that false alarms place unnecessary and unreasonable demands on the time and resources of the city police department and fire department and that danger to police and fire personnel and citizens is increased by emergency response to false alarms. Accordingly, more than two false alarms during a 365-day period, as defined in this chapter, is deemed excessive and is hereby declared to be a public nuisance.

Section 2. Amendment of Code. That Chapter 35, Section 35-2 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-2. - Definitions.

The following terms, when used in this chapter, shall have the meaning set forth in this section:

Alarm business means the business of any individual, partnership, corporation or other entity selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed any alarm system in or on any building, structure or facility.

Alarm system means any device or piece of equipment, or any assembly of equipment and devices, designed or arranged to signal visibly, audibly, electronically, or mechanically (or by any combination of these methods) the presence of a hazard to which the city police or fire departments are expected to respond.

Alarm user means any person whether owner, occupant or tenant, upon whose premises an alarm system is maintained or operated within the city except for alarm systems on motor vehicles. However, if an alarm system on a motor vehicle is connected to an alarm system at a building, structure or facility, the person using such a system is an alarm user. A person who uses self-contained alarm systems (i.e., a system that signals or alerts other authorized persons who are in the building, structure or facility of a hazard or emergency) is not an alarm user. However, such a

person is an alarm user if such a system employs an audible signal emitting sounds, flashing light or beacon, or any combination thereof, designed to signal persons outside the premises, and which is disturbing to the peace and quiet of the surrounding area.

Enforcing authority means the city police department or the city fire department which responds or would be expected to respond to the activation of an alarm system within the city.

False alarm means the activation of an alarm system which elicits a response by police or fire personnel, or both, where an emergency situation does not in fact exist. By way of example, a false alarm includes, without limitation, the activation of an alarm system due to mechanical failure, malfunction of an alarm system, the improper installation or testing of an alarm system or the negligent operation or maintenance of an alarm system. A false alarm does not include activation of an alarm caused by violent conditions of nature, interruption of electrical or telephone service to the alarm user, visible signs of attempted break-ins, or false activation by a third party outside the control of the alarm user. For purposes of this definition, a "third party outside the control of the alarm user" does not include an employee, agent, licensee, or invitee of the alarm user or an independent contractor working for the alarm user (including the alarm user's alarm business).

Person means any individual, partnership, corporation, limited liability company, unincorporated association, or other group of persons.

Section 3. Amendment of Code. That Chapter 35, Section 35-3 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-3. - Prohibitions.

- (a) No alarm user shall maintain, use, or allow the use of an alarm system which signals repeated false alarms as set forth in this chapter.
- (b) No person, firm or corporation shall use, install, or direct to be installed, any entry alarm system that emits a sound alarm for a period longer than 15 minutes from the time of the initial sounding of the device.

Section 4. Amendment of Code. That Chapter 35, Section 35-4 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-4. - False alarms; fees.

- (a) Except as otherwise provided in this subsection, buildings having more than one occupant who utilize separate entrances for access to their individual units shall have separate alarm systems for each unit. Different businesses within the same building or with the same street address shall be considered separate establishments. If a business has more than one building located at a single street address, then each such building shall be considered a separate establishment for purposes of this section. This section shall not be construed to require the installation of alarm systems, but only to require separate systems for separate units when installed. This subsection shall not apply, however, to fire alarm systems that are not required to be installed by the city's building code.
- (b) If the enforcing authority records two false alarms at one establishment within a 365-day period, the enforcing authority may notify the alarm user or the alarm user and the alarm business providing service or inspection to the user of the violation and offer an opportunity

to meet with the enforcing authority within 15 calendar days of the notice or submit a written report to the enforcing authority within 15 calendar days of the notice. At the meeting or in the written report, if applicable, the alarm user or its agent will be afforded an opportunity to describe the actions taken or to be taken to discover the cause of the false alarms and specify the time within which the necessary work will be completed. Any such notice shall advise that if there is a third (or any subsequent) false alarm at that establishment within the original 365-day period, the alarm user shall be responsible to pay a fee charged in accordance with the schedule adopted by resolution of the city commission and of the alarm user's right to appeal as set forth herein. Failure of the enforcing authority to send or the alarm user to receive a notice of violation does not nullify any provisions of this chapter.

- (c) The alarm user may request that an alarm incident not be considered a false alarm as defined in section 35-2 within 15 calendar days of the notice of violation. Such a request shall be in writing and shall set forth the grounds for request. The enforcing authority shall determine whether the alarm incident at issue shall be considered a false alarm and notify the alarm user in writing of its decision in a timely manner. The alarm user may appeal such determination pursuant to section 35-5.
- (d) Upon a third or any subsequent false alarm within a 365-day period, the enforcing authority shall send the alarm user a notice of violation and shall bill the alarm user the fee set forth in the city commission resolution establishing the fee schedule. The notice of violation described above that is sent by the enforcing authority after a third false alarm shall also advise that if there are any subsequent false alarms received from the same establishment within the original 365-day period from the first alarm, future responses will result in a service fee billing in accordance with the schedule adopted by resolution of the city commission. The alarm user shall pay the fee for a third or any subsequent false alarm within the 365-day period within 30 days of billing.
- (e) If the alarm user fails to pay the city's fees within 30 days after billing by the enforcing authority, the city may bring an action in a court of competent jurisdiction and may take other lawful action to collect the fees. Notice of the billing and the user's failure to pay shall be given to the city clerk.
- (f) Notwithstanding any other provision of this chapter, an alarm user shall not be assessed a fee for a false alarm if measures to correct alarm system malfunctions have been instituted within 72 hours after the false alarm and, within 30 days of the date of false alarm, the alarm user presents to the enforcing authority adequate documentation of repair service having been performed by a licensed alarm business to remedy a malfunction, including a report by such alarm business of the probable cause of the false alarm and the measures instituted to eliminate future false alarms.
- (g) Notwithstanding any other provision of this chapter, an alarm user shall not be assessed a fee for a false alarm within 30 days from the date of complete installation of a new alarm system. In order to qualify for this subsection, the alarm user must provide adequate documentation of the installation date to the enforcing authority.
- (h) Notwithstanding any other provision of this chapter, multiple alarm activations occurring within a 24-hour period will not constitute a second or subsequent event provided the user or representative responds or addresses the initial activation in a timely manner.

- (i) The schedule of false alarm fees shall be adopted by resolution of the city commission and may be amended from time to time. The fees shall not exceed the city's direct and indirect costs of responding to false alarms, administering the system of recording and classifying false alarms, and collecting and accounting for the false alarm fees.

Section 5. Amendment of Code. That Chapter 35, Section 35-5 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-5. - Appeals.

Appeals of any false alarm determination under this chapter shall be by written notice of appeal, stating the grounds for the appeal, filed with the chief of the enforcing authority within 15 calendar days of the later of: (1) the notice of violation or (2) the enforcing authority's determination (if requested) pursuant to section 35-4(c). Appeals shall be heard by the City Commission within 30 days after the filing of the appeal.

Section 6. Amendment of Code. That Chapter 35, Section 35-6 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-6. - Penalties.

Notwithstanding any service or other fees required to be paid by an alarm user under this chapter, any person violating any of the provisions of this chapter is responsible for a municipal civil infraction and subject to payment of a fine of not less than \$100.00, plus costs and other authorized sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by section 1-11(c)(2) of this Code.

Section 7. Amendment of Code. That Chapter 35, Section 35-7 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-7. - Conflict with other city ordinances.

In case of conflict between the provisions of this chapter and any other provision of the City Code, the provisions of this chapter shall control.

Section 8. Amendment of Code. That Chapter 35, Section 35-8 of the Code of Ordinances, City of Walker, Michigan, is amended to read as follows:

Sec. 35-8. - Response to alarms.

This chapter does not constitute a guarantee or obligation by the city to respond to or answer an alarm.

Section 9. Effective Date. This Ordinance will become effective upon its publication in a newspaper in general circulation within the City of Walker as provided by law.

YEAS: 6

NAYS: 0

ABSENT: Commissioner Deschaine

ORDINANCE NO. 17-639 ADOPTED.

Mark E. Huizenga, Mayor

Sarah J. Bydalek, Clerk

I, Sarah Bydalek, the Clerk of the City of Walker hereby attests that the foregoing is a true and accurate copy of an ordinance adopted by the City Commission of the City of Walker at a regularly scheduled meeting held on October 23, 2017, which meeting was held in accordance with state law.

Sarah J. Bydalek, Clerk

First Reading: October 9, 2017

Second Reading: October 23, 2017

Publication Date: November 5, 2017

Effective Date: November 6, 2017