

Chapter 6.02

Repeat Nuisance Calls For Service

Section 1. Purpose. The purpose of this Ordinance is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this Ordinance to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover that cost over and above the cost of providing normal law or code enforcement services and police protection City wide.

Section 2. Scope and Application. This Ordinance shall apply to all owners and occupants, of private property, which is the subject or location of the repeat nuisance service call by the City. This Ordinance shall apply to any repeat nuisance service calls as set forth herein made by a Howard Lake Police Officer or Community Service Officer.

Section 3. Definition of Nuisance Call or Similar Conduct. The term Nuisance Service Call shall mean any activity, conduct, or condition occurring upon private property within the City which: (i) unreasonable annoys, injures or endangers the safety, health, morals, comfort or repose of any member of the public; (ii) or will tend to, alarm, anger or disturb others to provoke breach of the peace, to which the City is required to respond, including, but not limited to the following:

- A. Any activity, conduct, or condition deemed as a public nuisance under any provision of the City Code; or
- B. Any conduct, activity or condition constituting a violation of Minnesota State Laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; or
- C. Any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of Minnesota Statutes; or
- D. Any subsequent violation of City Ordinance Chapter 4.03, Subdivision 9, following the property owner's failure to initiate eviction proceedings against the property renter(s) when lawfully demanded as required in City Ordinance Chapter 4.03 Subdivision 10.
- E. Response to Alarm Calls at Commercial or Residential properties as outlined herein. Note that Alarm Calls are considered a separate category of Nuisance Service Call and the number of Alarm Calls is to be considered independently. Alarm Calls and other Nuisance Service Calls are not to be considered cumulatively.
- F. Calls for Fire Department Service where no actual emergency exists.

Section 4. Regulation of Alarm Systems

Subdivision 1. Scope and Purpose: This chapter provides regulation for the use of fire, burglary and safety alarms, establishes users fees and establishes a system of administration. The purpose of this chapter is to protect the public safety services of the City from misuse of public alarms, and to provide for the maximum possible service to public safety alarm users.

Subdivision 2. Definitions

- A. "Public Safety Personnel" means duly authorized City employees or employee.
- B. "Alarm User" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility wherein an alarm system is maintained.
- C. "Public safety communication center" means the City's facility used to receive emergency requests for service and general information from the public to be dispatched to respective public safety units.
- D. "Alarm System" means and includes any alarm installation designed to be used for the prevention of detection of burglary, robbery or fire on the premises, which contains the alarm installation. Automobile alarm devices shall not be considered an alarm under the terms of this chapter.
- E. "False Alarm" means an alarm system eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through malfunction, improper installation or the inadvertence of the owner or lessee of the alarm system or of his/her employees or agents. False alarms do not include alarms caused by climactic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Subdivision 3. Alarm User Fees

- A. A public safety alarm system which reports more than three (3) false alarms to the City in a single calendar year and which has received notice of such violations will cause the alarm user to be charged a user fee per false alarm in excess of three (3) false alarms in a calendar year for false notifications. The City Council will set the Fee amount by resolution.
- B. Any alarm user, which is required by the City to pay a user fee as a result of a false alarm, may make a written appeal of the false alarm charge to the Chief of Police within ten (10) days of notice by the City of the false alarm charge. Following review and determination by the Chief of Police, such decision may be appealed to the City Administrator, within ten (10) days of the Chief's written decision, who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm fee.

Subdivision 4. Payment of Fees

- A. Payment of user fees provided for under this section must be paid to the City Clerk within 30 days from the date of notice by the City to the alarm user. Failure to pay the fee within 30 days notice will cause the alarm user to be considered delinquent and subject to a penalty of a full 10 percent of the fee.
- B. All delinquent charges for user fees computed as provided in paragraph A above, shall be forwarded to the City Clerk who shall prepare an assessment roll each year of the delinquent amounts against the respective properties serviced, which assessment roll shall be delivered to the City Council for adoption.

Subdivision 5. Alarm Report: When an alarm user has incurred five (5) alarms or more within one (1) calendar year, the user shall submit a written report to the Chief of Police and Fire Chief, when appropriate, within ten (10) days after being charged a fee for their fifth false alarm, describing actions taken or to be taken to discover and eliminate the cause of the false alarms. Failure to submit the written report required by this chapter will be considered a violation of this ordinance.

Subdivision 6. Enforcement and Penalties: Failure or omission to comply with Section 4, Subdivision 5 of this ordinance, will constitute a misdemeanor violation.

Section 5. Repeat Nuisance Service Call Fee. The City may impose a repeat nuisance service call fee upon the owner or occupant of private property if the City has rendered services or responded to the property on four or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct, activity, or condition of the same or similar kind. The repeat nuisance service call fee under this Ordinance shall be an amount as set forth and duly adopted by City Council resolution. The repeat nuisance fee schedule shall include a separate fee scale for response to alarm calls. All repeat nuisance service call fees imposed and charged against the owner or occupant under this Ordinance shall be deemed delinquent thirty (30) days after the City's mailing a billing statement therefore. Delinquent payments are subject to a ten percent late penalty of the amount due.

Section 6. Notice. No repeat nuisance service call fee or alarm fee, may be imposed against an owner or occupant of property without first providing the owner or occupant with written notice of the prior nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed. The written notice shall:

- A. State the nuisance conduct, activity or condition that is or has occurred or is maintained or permitted on the property, the dates of the nuisance conduct, activity or condition;
- B. State that the owner or occupant may be subject to a repeat nuisance call service fee if another service call is rendered to the property for nuisance conduct, activity, or condition of the same or similar kind, in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance or compliance with the law; and

- C. Be served personally or by U.S. Mail upon the owner or occupant at the last known address.

Section 7. Right to Appeal Nuisance Service Call Fee (Excluding Alarm Fees). Upon the imposition of a repeat nuisance service call fee, the City shall inform the owner or occupant of his/her right to a hearing on the alleged repeat nuisance service calls. The owner or occupant upon whom the fee is imposed may request a hearing by serving upon the Chief of Police within fourteen (14) business days of the mailing of the fee invoice, inclusive of the day the invoice is mailed, a written request for a hearing. The hearing shall be heard by the Hearing Officer within thirty (30) days of the date of the owner's or occupant's request for a hearing.

The hearing shall be conducted in an informal manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall not be strictly applied. The hearing need not be transcribed, but may be transcribed at the sole expense of the party who requests the transcription. After considering all evidence submitted, the Hearing Officer shall make written findings of fact and conclusions on the issue of whether the City responded to or rendered services for repeat nuisance calls to the same location on three or more occasions within a 365 day period. The findings and conclusions shall be served upon the owner or occupant by U.S. Mail within five (5) days of the conclusion of the hearing.

An owner or occupant's right to a hearing shall be deemed waived if the owner or occupant fails to serve a written request for a hearing as required herein or fails to appear at the scheduled hearing date. Upon waiver of the right to hearing, or upon the Hearing Officer's written findings of fact and conclusions that the repeat nuisance call service fee is warranted hereunder, the owner or occupant shall immediately pay the fee imposed.

If an owner fails to pay a service fee as lawfully required under this section, the City Council may, at their discretion, assess the fee against the property taxes due on the parcel.

Section 8. Administrative Rules: The Chief of Police shall promulgate such rules as may be necessary for the implementation of this chapter and the administration thereof.

Section 9. Confidentiality:

- A. All information submitted in compliance with this chapter shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.
- B. Subject to the requirements of confidentiality, the Chief of Police and/or Fire Chief may develop and maintain statistics for the purpose of ongoing alarm system evaluations.

Section 10. Legal Remedies Nonexclusive. Nothing in this Ordinance shall be construed to limit the City's other available legal remedies for any violation of the law, which may constitute a nuisance service call hereunder, including criminal, civil, injunctive, or others.

Nothing in this Ordinance shall be construed to require that formal charges must be brought in order for conduct, or an activity or condition, to qualify as a nuisance violation.

ADOPTED by the Howard Lake City Council this 18th day of June, 2019.