

# Town of Milton

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## ORDINANCE NO. 2012- 07

### **AN ORDINANCE TO AMEND THE TOWN CODE TO CREATE A NEW CHAPTER GOVERNING FALSE ALARMS OF SECURITY SYSTEMS AND PROTECTIVE SERVICES.**

**WHEREAS**, Section 29(a)(1) of the Town Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

**WHEREAS**, Volume 76, Chapter 179 of the Laws of Delaware created "Subchapter II: False Alarms" in Chapter 12, Title 24 of the Delaware Code and provided that any municipality has the option of incorporating those provisions from the Delaware Code into its false alarm ordinance; and

**WHEREAS**, Section 29(a)(23) of the Town Charter of the Town of Milton vests power in the Town Council to provide for the punishment of a violation of any Ordinance of the Town by fine or imprisonment, or both, not exceeding One Thousand Dollars (\$1,000.00) or sixty (60) days, or both;

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Town Council of the Town of Milton, a majority thereof concurring, that the following new Chapter hereby is incorporated into the Town Code in its appropriate numerical place as follows:

### **Chapter 119**

### **FALSE ALARMS OF SECURITY SYSTEMS AND PROTECTIVE SERVICES**

#### **§ 119-1. Purpose.**

- A. The purpose of this chapter is to encourage security system users and security businesses to properly use and maintain the operational effectiveness of security systems in order to improve the reliability of security systems and reduce or eliminate false alarms.
- B. This chapter governs security systems intended to summon law enforcement response, requires registration by security system users, establishes a system of administration, and provides for the enforcement of penalties for violations of this chapter.

#### **§ 119-2. Definitions.**

- A. The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Alarm" means a security system signal that is created by the activation of a security system.

- (2) "Arming station" means a device that allows control of a security system.
- (3) "Automatic voice dialer" means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law-enforcement authority, public safety or emergency services agency requesting dispatch.
- (4) "Cancellation" means the process where response to a security system dispatch request is terminated when a security business for the security system site notifies the responding law-enforcement agency, prior to arrival at the security system site, that there is not an existing situation at the security system site requiring law-enforcement authority response.
- (5) "Conversion" means the transaction or process by which a security business begins the servicing and/or monitoring of a previously unmonitored security system or a security system previously serviced and/or monitored by another security business.
- (6) "Duress alarm" means a silent security system signal generated by the entry of a designated code into an arming station in order to signal that the security system user is being forced to turn off the system and requires law-enforcement response.
- (7) "False alarm" means a security system dispatch request to a law-enforcement authority, when no emergency of actual or threatened criminal activity requiring immediate response exists. This definition includes signals activated by negligence, accident, mechanical failure, and electrical failure; signals activated intentionally in nonemergency situations; and signals for which the actual cause is unknown. There is a rebuttable presumption that an alarm is false if personnel responding from a law-enforcement authority do not discover any evidence of unauthorized entry, criminal activity, or other emergency after following normal police procedures in investigating the incident. An alarm is not false if the security system user proves that:
- a. An individual activated the alarm based on a reasonable belief that an emergency or actual or threatened criminal activity requiring immediate response existed;
  - b. The security system was activated by a violent condition of nature, including but not limited to tornadoes, floods, earthquakes and lightning, or by an electrical surge that caused physical damage to the system, as evidenced by testimony of a licensed security system contractor who has conducted an on-site inspection and personally observed the damage to the system;
  - c. If the security system user experienced a power outage, causing the alarm to activate upon restoration of power, as evidenced by written documentation provided by the power provider; or,
  - d. Where there has been a cancellation as defined in paragraph (4) of this section.
- (8) "Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
- (9) "Law-enforcement authority" means any authorized representative of the Town of Milton Police Department.

(10) "Local security system" means any security system, which is not monitored, that annunciates an alarm only at the security system site.

(11) "Monitoring" means the process by which a security business receives signals from a security system and relays a security system dispatch request for the purpose of summoning law enforcement to the security system site.

(12) "Monitoring station" means an office or entity whereby a security business conducts monitoring of security systems for purposes of dispatch and notification. A monitoring station shall provide a toll-free, 24-hour telephone number for use by a responding law-enforcement agency.

(13) "Panic alarm" means an audible security system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law-enforcement response.

(14) "Person" means an individual, corporation, partnership, association, organization, or similar entity.

(15) "Responder" means an individual capable of reaching the security system site within 30 minutes and having access to the security system site, the code to the security system, and the authority to approve repairs to the security system.

(16) "Security business" means the sale of a security system where the vendor installs the device, or the monitoring or service of a security system on protected premises.

(17) "Security system" means sensor-based devices designed to detect or signal the intrusion on or unauthorized use of equipment, residence, structure or leasehold. This section shall not include any electronic software programs designed to protect computational devices, electronic article surveillance equipment or money dye systems.

(18) "Security system administrator" means a person or persons designated by the state with authority to administer, control and review false alarm reduction efforts and administer the provisions of this section.

(19) "Security system dispatch request" means a notification to a law-enforcement authority that a security system, either manual or automatic, has been activated at a particular security system site.

(20) "Security system registration" means authorization granted by the security system administrator to a security system user to operate a security system.

(21) "Security system site" means a single fixed premises or location served by a security system or systems. Each unit, if served by a separate security system in a multi-unit building or complex, shall be considered a separate security system site.

(22) "Security system user" means any person or entity, which has contracted for monitoring, repair, installation or maintenance services from a security business for a security system, or which owns or operates a security system which is not monitored, maintained or repaired under contract.

(23) "Takeover" means the transaction or process by which a security system user takes over control of an existing security system, which was previously controlled by another security system user.

(24) "Verify" means at least two attempts by a security business, or its representative, to contact the security system site and/or security system user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether a security system signal is valid before requesting law-enforcement dispatch, in an attempt to avoid an unnecessary security system dispatch request.

(25) "Zones" means division of devices into which a security system is divided to indicate the general location from which a security system signal is transmitted.

### **§ 119-3. Registration.**

A. A security system user shall not operate, or cause to be operated, a security system at its security system site without obtaining a valid security system registration. A separate security system registration is required for each security system site.

B. The security system registration application form must be submitted to the security system administrator within 30 days after the security system at a particular site has been activated or within 30 days after a security system takeover. Failure to submit a timely application will result in a nonregistered security system. Use of a nonregistered security system shall be a violation of this chapter.

C. Each security system application must include the following information:

(1) The name, complete address (including apartment/suite number) and telephone numbers of the person who will be the registration holder and be responsible for the proper maintenance and operation of the security system;

(2) The name and complete address of the security system site, the classification of the security system site as either residential (includes apartment, condominium, mobile home, etc.) or commercial, and the name, address and telephone number of the person responsible for that security system site;

(3) For each security system located at the security system site, the classification of the security system (i.e. burglary, holdup, duress, panic alarms, etc.) and for each classification whether such alarm is audible or silent;

(4) The mailing address, if different from the address of the security system site;

(5) Any dangerous or special conditions present at the security system site;

(6) The names and addresses of at least 2 individuals who are able to, and have agreed to:

a. Receive notification of a security system activation at any time and who can respond to the security system site and, upon request, gain access to the security system site and deactivate the security system if necessary; or,

b. Receive notification of a security system activation at any time and who has access to the security system user for purposes of deactivating the security system, if necessary.

(7) Type of business conducted at a commercial security system site;

(8) Signed certification from the security system user stating the following:

a. The date of installation, conversion or takeover of the security system, whichever is applicable;

b. The name, address and telephone number of the security system inspection company or companies performing the security system installation; conversion or takeover and of the security system installation company responsible for providing repair service to the security system;

c. The name, address and telephone number of the monitoring company if different from the security system installation company;

d. That a set of written operating instructions for the security system, including written guidelines on how to avoid false alarms, has been left with the applicant by the security system installation company; and,

e. That the alarm installation company has trained the applicant in proper use of the security system, including instructions on how to avoid false alarms.

(9) Acknowledgment that any delay in law-enforcement authority response time may be influenced by factors including, but not limited to priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.

D. Any false statement of material fact made by an applicant for the purpose of obtaining a security system registration shall be sufficient cause for refusal to issue a registration.

E. A security system registration shall not be transferable to another person or security system site. A security system user shall inform the security system administrator of any change that alters any of the information listed on the security system registration application within 5 days of such change.

#### **§ 119-4. Duties of the security system user.**

A. A security system user shall maintain the security system site and the security system in a manner that will minimize or eliminate false alarms.

B. A security system user shall maintain at each security system site a set of written operating instructions for each security system.

C. A security system user that is using a security business for monitoring shall provide that security business at least 2 different telephone numbers to verify an alarm.

D. A security system user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of a security system site will sound for no longer than 10 minutes after being activated.

- E. A security system user shall not use an automatic voice dialer.
- F. Violations of subsections (a), (b), (c) and (d) of this section shall result in an assessment of a civil penalty against the security system user in the amount of \$50. A violation of subsection E of this section shall result in the assessment of a civil penalty against the security system user in the amount of \$100.

**§ 119-5. Duties of security businesses.**

- A. A security business shall provide written and oral instructions to each of its security system users for every security system site on the proper use and operation of its security systems. Such instructions shall specifically include all instructions necessary to turn the security system on and off and instructions on the avoidance of false alarms.
- B. A security business shall be responsible for the prevention of false alarms during installations, servicing, repairs and maintenance of security systems.
- C. A security business shall ensure that battery backup power is installed during new installations of security systems.
- D. A security business shall not use an automatic voice dialer.
- E. A security business providing monitoring services shall attempt to verify an activated alarm signal by contacting at least 2 different telephone numbers provided by a security system user who has authority to cancel the dispatch before a security system dispatch request is made, unless the security system administrator has waived the 2-call dispatch requirement. This subsection shall not apply to duress and holdup alarms.
- F. A security business that issues security system dispatch requests must maintain for a period of at 1 year from the date of a security system dispatch request, records relating to security system dispatch requests. Records must include name, address and telephone number of the security system user, the security system zone or zones activated, the time of a security system dispatch request and evidence of its efforts to verify. These records shall immediately be made available to the security system administrator or any police officer at any time during normal business hours.
- G. A security business providing monitoring services shall provide the relevant police department or departments with a toll-free telephone number for contacting monitoring station dispatchers and for obtaining information as provided in subsection F of this section.
- H. A security business shall not make a security system dispatch request if monitoring equipment indicates a security system malfunction.
- I. All security businesses shall have an office located in the State of Delaware with an operational telephone that shall be answered during regular business hours.
- J. After completion of the installation of a security system, an employee of the security business responsible for installing the security system shall review with the security system user a false alarm prevention checklist approved by the security system administrator.

**K. A security business responsible for monitoring a security system at a registered security system site shall not make a security system dispatch request to a law-enforcement authority in response to a burglar alarm signal, excluding panic, duress and holdup signals, during the first 7 days following a security system installation. The security system administrator may grant a security system user's request for an exemption from this waiting period based upon a determination that special circumstances substantiate the need for the exemption.**

**L. A security business responsible for monitoring a security system at a registered security system site shall:**

**(1) Report alarm signals by using telephone numbers designated by the security system administrator;**

**(2) Communicate security system dispatch requests to law-enforcement;**

**(3) Communicate cancellations to the law-enforcement authority;**

**(4) Ensure that all security system users of security systems equipped with a duress, holdup or panic alarm are given adequate training as to the proper use of the duress, holdup or panic alarm;**

**(5) Communicate any available information (north, south, front, back, floor, etc.) about the location on all alarm signals related to the security system dispatch request;**

**(6) Communicate the type of alarm activation (silent or audible, interior or perimeter);**

**(7) Provide a security system user registration number when requesting law-enforcement dispatch;**

**(8) After a security system dispatch request, promptly advise the law-enforcement authority if the monitoring company knows that the security system user or the responder is on the way to the security system site;**

**(9) Attempt to contact the security system user within 24 hours via mail, fax, telephone, or other electronic means when an security system dispatch is made; and,**

**(10) Upon the effective date of this section, monitoring companies must maintain for a period of at least 1 year from the date of the security system dispatch request, records relating to security system dispatch requests. Records must include the name, address and telephone number of the security system user, the security system zones or zones activated, the time of security system dispatch request and evidence of an attempt to verify. The security system administrator may request copies of such records for individually named security system users. If the request is made within 60 days of a security system dispatch request, the monitoring company shall furnish requested records within 3 business days of receiving the request. If the records are requested between 60 days to 1 year after security system dispatch request, the monitoring company shall furnish the requested records within 30 days of receiving the request.**

**(11) A security system installation company and/or monitoring company that purchases security system accounts from another person shall notify the security system administrator of**

such purchase and provide details as may be reasonably requested by the security system administrator.

**§ 119-6. Duties and authority of the security system administrator.**

A. All security system administrators shall have an office located in the State of Delaware with an operational telephone that shall be answered during regular business hours.

B. The Department of Safety and Homeland Security, or its designee, shall:

(1) Designate a manner, form and telephone number for the communication of security system dispatch requests; and

(2) Establish a procedure to accept cancellation of security dispatch requests, which shall be used by the security system administrator to enforce the provisions of this section.

C. The security system administrator shall establish a procedure to record such information on security system dispatch requests necessary to permit the security system administrator to maintain records, including, but not limited to, the information listed below:

(1) Identification of the registration number for the security system site;

(2) Identification of the security system site;

(3) Date and time security system dispatch request was received, including the name of the monitoring company and the monitoring operator name or number;

(4) Date and time of law-enforcement authority arrival at the security system site;

(5) Zone and zone description, if available;

(6) Weather conditions;

(7) Name of security system user's representative at the security system site, if any;

(8) Identification of the responsible security system installation company or monitoring company;

(9) If the law-enforcement authority was unable to locate the address of the security system site; and,

(10) Cause of the alarm signal, if known.

D. The security system administrator shall establish a procedure for the notification of a false alarm to the security system user. The notice shall include the following information:

(1) The date and time of law-enforcement authority response to the false alarm;

(2) A statement urging the security system user to ensure that the security system is properly operated, inspected and serviced in order to avoid false alarms and resulting fines.



- E. The security system administrator may require a conference with a security system user and the security system installation company and/or monitoring company responsible for the repair or monitoring of the security system to review the circumstances of each false alarm.
- F. The security system administrator may require a security system user to remove a holdup alarm that is a single action, nonrecessed button, if a false holdup alarm has occurred.

**§ 119-7. False alarms.**

No security system user shall cause, allow or permit the security system to give 3 false alarms at a security system site within a calendar year.

**§ 119-8. Penalties.**

security system user in violation of § 119-7 shall be subject to a civil penalty as follows:

- A. Fourth false alarm: \$50 civil penalty;
- B. Fifth false alarm: \$75 civil penalty;
- C. Sixth false alarm: \$100 civil penalty;
- D. Seventh and any false alarm thereafter within a calendar year: \$250 civil penalty for each offense.

**§ 119-9. Civil penalties and appeals.**

- A. Summons and notice of violation. -- A summons for payment of a violation of this chapter may be executed by mailing such summons to the security system user at the address where the security system is located.
- B. Payment. -- Persons electing to pay a civil penalty shall make payments to the Town.
- C. Procedure to contest a violation. -- A security system user receiving a summons pursuant to this chapter may request a hearing to contest the violation by notifying, in writing, the Town within 30 days of the date of the mailing of the summons. Upon receipt of a timely request for a hearing, an administrative hearing shall be scheduled pursuant to regulations set forth by the Department of Safety and Homeland Security and the security system user shall be notified of the hearing date by first class mail. The hearing may be informal and shall be held in accordance with the regulations of the Department of Safety and Homeland Security. Costs for such hearing shall not be assessed against the prevailing party.
- D. Appeal of administrative hearing. -- Either party may elect to appeal an administrative decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal. An appeal to the Justice of the Peace Court shall be the final right of appeal.
- E. Failure to pay and successfully contest the violation. -- If the security system user fails to pay the civil penalty, to respond to the summons within the time specified on the summons, and/or to successfully contest the civil penalty, the Town may employ the procedures for the collection of these civil penalties established by the Department of Safety and Homeland Security, or its

designee, and may enforce the civil penalty by civil action in the Justice of the Peace Court, including seeking judgment and execution on a judgment against the security system user.

**§ 119-10. Confidentiality.**

In the interest of public safety, all information contained in and gathered through the security system registration applications shall be confidential information.

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Effective Date: This Ordinance shall go into effect subject to appropriations by the State of Delaware or to the establishment of a contract for services between the State of Delaware and a third party vendor to administer the provisions of "Subchapter II: False Alarms" in Chapter 12, Title 24 of the Delaware Code.

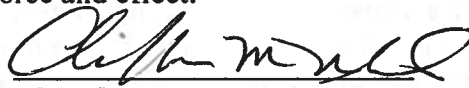
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**SYNOPSIS**

This Ordinance implements Subchapter II, Chapter 12, Title 24 of the Delaware Code by requiring registration by security system users, establishing a system of administration, and providing for the enforcement of penalties for violations. The purpose of this chapter is to encourage security system users and security businesses to properly use and maintain the operational effectiveness of security systems in order to improve the reliability of security systems and reduce or eliminate false alarms.

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I, **CLIFFORD M. NEWLANDS**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 6th day of August, 2012, at which a quorum was present and voting throughout and that the same is still in full force and effect.

  
MAYOR



