


MEMORANDUM

TO: Supervisor Chris Burdick and the
Town Board of the Town of Bedford
Mr. Abe Zambrano, Comptroller

FROM: Eric L. Gordon, Esq. 
Susan E. Fine, Esq.

RE: Local Law Amending Chapter 29 – Alarm Systems

DATE: August 29, 2019

Keane & Beane, P.C. was asked to review Chapter 29 of its laws regarding Alarm Systems in order to ensure that all outstanding permit and false alarm charges and fees can be collected, and to ensure compliance with due process requirements. Due process requires that before an individual is deprived of liberty or property, that the individual be provided timely notice and an opportunity to be heard. Based on case law relating to enforcement of charges and fees for false alarms, we are recommending a two-tier review process: first an initial appeal to the Alarm Administrator, and then a second appeal before a newly-created Alarm Appeals Board (the Town Board), to ensure that alarm users' due process rights are protected.

The following amendments to Chapter 29 are proposed to provide the Town with an efficient system for collecting fees and charges and to ensure that due process rights are not violated and a copy of the draft Local Law is attached:

Chapter 29, Section 2 – Definitions:

- Add the term "Alarm Administrator." In the current law, the terms Licensing Authority and Alarm Administrator are used interchangeably. To avoid confusion, we suggest using only the term Alarm Administrator, and deleting the term "Licensing Authority". The revised Local Law will state that the Alarm Administrator is to be designated by the Town Board.
- Add the term "Alarm Appeals Board." In order to satisfy due process requirements, we are recommending adding an alarm appeals board to review determinations made by the Alarm Administrator.
- Add the term "Alarm User" to clarify who is subject to fees and charges permits and for false alarms.

Chapter 29, Section 5 – Licenses and Permits Required:

- Amends subsection “A” to clarify that Westchester County alarm license is required for any business or person engaging in the business of installing and/or servicing any police or fire alarm device.
- Add new subsection “C” to make it clear that once an annual alarm permit expires, the Alarm User is no longer authorized to maintain an alarm device without renewing the alarm permit.

Chapter 29, Section 6 – Applications for permits.

- The amendment clarifies that the Town issues permits to persons or entities seeking to install alarms in their homes or businesses, but does not issue licenses for businesses and persons engaged in the installation of fire alarms.

Chapter 29, Section 7 – Permit Fees

- The amendments clarify that there is only a fee charged to the property owner or lessee seeking to install an alarm. There is no fee charged by the Town for businesses and persons engaged in the installation of fire alarms because the Town does not issue licenses to such businesses or persons.
- We are proposing deleting the provisions relating to when alarm permits are issued and when they need to be renewed as these are procedural issues that may vary depending on individual factors and do not need to be included in the Local Law.

Chapter 29, Section 9 – False Alarms

- Add a requirement for the Alarm Administrator to provide written notice to Alarm Users of the occurrence of false alarms and charges for false alarms.
- Inserts the correct Building Code reference for the installation of key boxes.

Chapter 29, Section 10 – Alarm Administrator

- As noted above, we suggest changing the term Licensing Authority to Alarm Administrator. We have also suggested that Alarm Administrator be permitted to designate someone to carry out the functions of the position.

Chapter 29, Section 13 – Duties of Town Clerk and Alarm Administrator

- This section was revised to make it clear that either the Town Clerk or the Alarm Administrator has the authority to receive fees or charges.

Chapter 29, Section 17 – Appeals

- We are proposing adding this new section in order to provide an initial formal process for challenging any charges and fees imposed under this chapter. The section provides that initial appeals must be made in writing to the Alarm Administrator. It sets a 30-day deadline for the initial appeal and mandates that no further appeal may be taken if appeal is not first made to the Alarm Administrator. It also sets a 20-day deadline for any subsequent appeal to the Alarm Appeals Board.

Chapter 29, Section 18 – Alarm Appeals Board

- We are proposing adding this new section to ensure sufficient due process protections are in place so that enforcement of fees and charges may not be challenged as unconstitutional. The section sets forth that the Town Board will serve as the Alarm Appeals Board and will hear appeals no more often than once monthly. It further provides for review of any decision issued by the Alarm Appeals Board through the use of a CPLR Article 78 proceeding.

Chapter 29, Section 19 - Enforcement

- We are suggesting adding Subsection 29-19.A to make it clear that the Town has the authority to impose penalties for violations in addition to charges and fees. Penalties can only be imposed by the Town Justice Court after issuance of a violation notice.
- Subsection 29-19.B states that the provisions of the amended law apply to fees and charges outstanding at the time the Local Law goes into effect.

Chapter 29, Section 20 - Tax Lien for unpaid fees, charges and penalties.

- This section provides that the Town may enforce the provisions of this chapter by adding unpaid fees and charges as a lien against the property where the alarm is located. Doing so is a method of collecting unpaid fees and charges that requires perhaps the least expenditure of the Town's resources, as compared to prosecuting violations in court or seeking to collect outstanding fees and charges through other legal processes.

We are recommending that the Town Board approve the Local Law revising Chapter 29 following the public hearing on September 3, 2019. Please do not hesitate to contact me if you have any questions.

Encl.

LOCAL LAW NO. ____ OF 2019

TOWN BOARD OF THE TOWN OF BEDFORD
PROPOSED LOCAL LAW AMENDING CHAPTER 29
OF THE CODE OF THE TOWN OF BEDFORD

A LOCAL LAW to
amend Chapter 29 of the
Code of the Town of
Bedford concerning
Alarm Systems

BE IT ENACTED by the Town Board of the Town of Bedford as follows:

Section 1.

Chapter 29 of the Code of the Town of Bedford entitled "Alarm Systems" is amended as follows (amended text is underlined and in red and deleted text is marked -----):

§ 29-1 Legislative intent.

The Town of Bedford recognizes the need to regulate the installation and use of emergency alarm systems designed to require Police Department or Fire Department response, investigation and safeguarding of property at the location of an event reported by such a signal. It is the intent of this chapter to reduce in number false alarms and to encourage the use and proper maintenance of reliable emergency signal systems.

§ 29-2 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ALARM ADMINISTRATOR

The authority designated by the Town Board for issuing permits and licenses under this Chapter and for making determinations regarding violations of this Chapter.

ALARM APPEALS BOARD

The Town of Bedford Town Board shall function as the Alarm Appeals Board and shall be responsible for hearing appeals from determinations of the Alarm Administrator.

ALARM LICENSE

The written authorization of the license authority granted to any person to engage in the business of installing and/or servicing police and fire alarm devices in the Town of Bedford.

ALARM LICENSEE

Any business, firm, corporation or other commercial entity which is in the business of owning, operating, maintaining, installing, leasing or selling a police or fire alarm device or devices, which business, firm, corporation or other commercial entity is, as owner, operator, provider of maintenance service, installer, lessor or seller of said device, devices or system of devices, subject to the license requirements of this chapter.

ALARM PERMIT

The written authorization of the license authority granted to any person, business, firm, corporation or other commercial entity to install or cause to be installed in his or her place of residence or business any police or fire alarm device, devices or system of police or fire alarm devices.

ALARM USER

Includes each person, business or entity owning, leasing or otherwise having control over the premises where an alarm device is used or installed.

CENTRAL ALARM STATION

Any facility operated by a private firm that owns or leases a system of police or fire alarm devices, which facility is manned by operators who receive, record or validate alarm signals and relay information about such validated signals to the Police Department or Fire Department when appropriate.

FALSE ALARM

Any signal actuated by a police or fire alarm device, devices or system of police or fire alarm devices which is not the result of a natural disaster, act of God, a criminal act, fire or other emergency requiring police or fire response. The term "false alarm" shall include human error and equipment malfunction causing the alarm to be activated, except when the owner or lessee of such equipment has telephoned or otherwise informed the Police Department of a possible false alarm to shortly ensue, resulting from equipment servicing, opening and/or closing the establishment or residence, or similar activity.

KEY BOX

A secure tamper-proof device with a lock operable only by a Fire Department master key and containing building entry keys and other keys that may be required for access in an emergency; must be of a type approved by the Code Enforcement Official.

~~LICENSING AUTHORITY~~

~~The Town of Bedford Alarm Administrator.~~

POLICE OR FIRE ALARM DEVICE

Any device which, when actuated by a criminal act, fire or other emergency, transmits a prerecorded message or other signal by telephone, radio, central alarm station or audible or visible signal designed to cause any person within audible or visible range to notify the Police Department or Fire Department, requiring their respective emergency

response.

§ 29-3 Automatic telephone-dialing device.

It shall be a violation of this chapter for any automatic telephone-dialing device to be directly connected to the emergency telephone lines of the Police Department or Fire Department. Any such automatic telephone-dialing device may be connected to a central alarm station, other answering service or to the Police Department on the specified telephone line only.

§ 29-4 Direct connections restricted.

It shall be a violation of this chapter for any alarm devices other than a police or fire alarm device to be connected to the Police Department or Fire Department. Any such other alarm devices may be connected to a central alarm station or other answering service for notification to appropriate repair service.

§ 29-5 Licenses and permits required.

- A. Alarm license required. A Westchester County alarm license is required for any business or person to engage in the business of installing and/or servicing any police or fire alarm device. It shall be a violation of this chapter for any business or person to engage in the business of installing and/or servicing any police or fire alarm device without having obtained an ~~alarm business license or alarm agent~~ the required license.
- B. Alarm permit required. It shall be a violation of this chapter for any owner or lessee of any police or fire alarm device to install or cause to be installed the same in his or her place of residence or business without having obtained an owner's alarm permit.
- C. It shall be a violation of this chapter for any owner or lessee of any police or fire alarm device to maintain such installed device after the expiration of the alarm permit.

§ 29-6 Applications for license and permits.

- A. ~~All applications for an alarm license and alarm permit, or any renewal thereof, shall be submitted to the licensing authority~~ alarm administrator or Town Comptroller ~~on a form to be supplied by the licensing authority.~~

AB.—Alarm permit. Said application shall include a description of the police or fire alarm device, devices or system of police or fire alarm devices installed or to be installed. All applications and renewals having a history of one or more false alarms during the previous 12 months thereof shall require certification that a maintenance inspection by a licensed alarm agent has been conducted within the previous 12 months. Renewal applications having a history of zero false alarms during the previous 12 months shall be exempt from certification of maintenance inspection.

B. ~~Alarm license. A Westchester County alarm license is required.~~

§ 29-7 License and permit fees.

A. ~~Alarm license. A Westchester County alarm license is required.~~

B. ~~Alarm permit.~~ The initial permit fee and renewal fee for an alarm permit shall be set forth in the Town of Bedford Schedule of fees. ~~Any permit issued shall become valid on the first day of the month of issue of any given year and shall expire 12 months thereafter. Permits may be renewed each year, provided that such application for~~

renewal is made on or before the expiration of the current permit. If renewal is made subsequent to 60 days after the due date, the license fee shall be as set forth in the Town of Bedford Schedule of Fees for the balance of the twelve-month period.

§ 29-8 Installation and maintenance.

Under no circumstances shall the cost of any police or fire alarm device, devices or system of police or fire alarm devices, including any connections to the Police Department or Fire Department, and the maintenance of same be charged to the Town or Fire Department. The owner or lessee shall be responsible for the service of his or her equipment and for correcting any malfunction of same that may occur. If the location of the Police Department or Fire Department should be changed, the Town shall not be held responsible for any expense incurred by the owner or lessee of such police or fire alarm device, devices or system of police or fire alarm devices for moving or reconnecting to the relocated Police Department or Fire Department. Direct connection to the fire district fire alarm lines shall be as regulated by the Fire Commissioners of each district.

§ 29-9 False alarms.

- A. The Alarm Administrator of the Town of Bedford shall cause to be kept an up-to-date and accurate log of all false alarms occurring in the Town and shall provide the Alarm User written notice of any false alarm at the address set forth on the Alarm Permit application. Any owner or lessee of property having a police or fire alarm device, devices or system of police or fire devices on his or its premises shall pay to the Town a charge for each and every false alarm occurring on his or its premises as set forth in the Town of Bedford Schedule of Fees.
- B. In addition to the above charges, should more than six false alarms occur at any one location while under the control of the same owner, the licensing authority alarm administrator may order the owner or lessee of same to disconnect or dismantle or otherwise remove from the Police Department or Fire Department and/or central alarm station any police or fire alarm device, devices or system of police or fire alarm devices causing such false alarms at no expense to the Town, and any refusal by the owner or lessee to do the same shall be deemed a violation of this chapter, subject to the penalties of this chapter. The designation of a false alarm will be as determined by the Fire Department and reported to the Police Department.
- C. Upon the third false alarm occurring at any one location during any one calendar year while under the control of the same owner, the licensing authority alarm administrator may order the owner or lessee to provide certification that a maintenance inspection by a licensed alarm agent has been conducted to correct any and all deficiencies causing such false alarms.
- D. In addition to the above charges and remedies, any fire alarm system having three false alarms within one calendar year while under control of the same owner shall be required to install a key box. This will provide Fire Department personnel with a safer and proper means of access to the building. The owner must contact the Town of Bedford Building Department for the installation of the key box as provided in Chapter 59, § 59-16.G-8A of this Code.

§ 29-10 Powers of licensing authority Alarm Administrator.

The licensing authority alarm administrator, or his or her designee, is hereby authorized to

grant revocable alarm licenses and alarm permits, pursuant to rules and regulations promulgated by the Town of Bedford or its duly authorized representative. Such licenses and permits may be revoked for good cause shown. The ~~licensing authority~~ alarm administrator, or his or her designee, is authorized to prescribe the location and the manner of installation of private and regular business telephone lines into the Police Department or Fire Department from a central alarm station for the express purpose of providing direct telephone communication between a central alarm station and the Police Department or Fire Department for use in reporting emergencies. The ~~licensing authority~~ alarm administrator, or his or her designee, is further authorized to prescribe the location and the manner of installation of all cabinets, accessories, connections and equipment of an approved direct alarm system where the visible and audible signals therefrom may be readily seen and heard by police or fire personnel. The ~~licensing authority~~ alarm administrator shall administer and enforce the provisions of this chapter and any rules and regulations promulgated by the Town Board in accordance with the provisions of this chapter.

§ 29-11 Rules and regulations.

The Town Board or its duly authorized representative is hereby empowered to promulgate reasonable rules, regulations and standards that may be necessary for the purpose of assuring the proper implementation of the provisions of this chapter. Said rules and regulations shall be set forth in writing, and copies shall be available for applicants.

§ 29-12 Collection and disposition of fees and charges.

All police and fire alarm license and permit fees and false alarm charges shall be collected by the ~~licensing authority~~ alarm administrator.

§ 29-13 Duties of Town Clerk and ~~Alarm Administrator~~ licensing authority.

It shall be the duty of the Town Clerk and/or Alarm Administrator to receive fees, and charges and to keep a record thereof.

§ 29-14 Exceptions.

None of the provisions of this chapter shall apply to a police alarm device, devices or system of devices installed in a motor vehicle or trailer or to employees of a public utility company engaged in the business of providing communications services or facilities.

§ 29-15 Liability of Town.

The Town of Bedford shall take every reasonable precaution to assure that emergency alarm signals and prerecorded alarm messages received by the Town are given appropriate and immediate attention. Nevertheless, the Town shall not be liable for any defects in operation of emergency alarm systems, for any failure to respond appropriately on any emergency alarm signal, or for the transmission of alarm signals or messages or the relaying of such signals or messages. In the event that the Town finds it necessary to order the disconnection or removal of a defective automatic or signaling device, the Town shall incur no liability therefrom.

§ 29-16 Penalties for offenses.

In addition to the charges and fees set forth in this chapter. ~~Any~~ person, business, firm, corporation or other commercial entity who does not pay any fee or charge established in this chapter or who violates any provisions of this chapter shall also be subject to a fine not in excess of \$250 or imprisonment for 15 days, or both, for each offense. A separate offense shall be deemed committed upon each day during which a violation occurs or is committed.

§ 29-17 Appeals.

- A. Any Alarm User who wishes to contest any charges or fees under this Chapter (hereinafter "Appellant") must do so in writing to the alarm administrator within 30 days after the date of the notice of such charge. The appeal must include any defense to the charge and supporting evidence, including but not limited to evidence that a false alarm did not occur or that the charge imposed was not calculated correctly and should be modified. The alarm administrator shall consider all information submitted, shall afford each appellant contesting a charge an opportunity for a hearing, if so requested and, after any such hearing has been held or waived, shall reaffirm, rescind, or modify the charge and notify the appellant of his/her decision in writing.
- B. Within 20 days after the date of any such written decision, the appellant may file an appeal in writing with the Alarm Appeals Board. No such appeal may be taken if the charge is not first contested with the alarm administrator as provided in Section 29-17(A).

§ 29-18 Alarm Appeals Board

- A. The Town Board shall comprise and serve as the Alarm Appeals Board, having the powers and duties granted to it under this chapter.
- B. The Alarm Appeals Board shall consider appeals from determinations of the alarm administrator as herein provided. Upon receipt of a timely appeal taken, the Alarm Appeals Board shall notify the appellant and the alarm administrator of the date and time when a hearing will be held on the appeal, unless the appellant shall waive his right to a hearing in which case the appeal shall be considered on the basis of submitted information. Such notice shall be given not less than ten (10) days in advance of the scheduled hearing. Notices to an appellant shall be given by certified mail, return receipt requested. The Alarm Appeals Board may adopt such rules and procedures for the prosecution of appeals and conduct of hearings as shall be proper and appropriate.
- C. On the basis of all evidence and information properly submitted or introduced, the Alarm Appeals Board shall either affirm the action of the alarm administrator if it finds such action to have been properly taken, or it shall rescind or modify such action if it finds that it was not properly taken or that the interests of justice so require. Decisions of the Alarm Appeals Board shall be provided in writing.
- D. Review of any decision of the Alarm Appeals Board shall be taken though an Article 78 proceeding within four months of the issuance of such decision.
- E. Hearings of the Alarm Appeals Board shall be held not more often than once each month at a time and place determined by the Alarm Appeals Board.

§ 29-19 Enforcement

- A. The Town may institute civil or other proceedings to enforce the provisions of this chapter and the rules, regulations and orders promulgated hereunder.
- B. The provisions for enforcement of this Chapter relating to the collection of fees, fines and penalties shall apply to all outstanding fees, fines and penalties currently due and owing as the effective date of this Local Law so long as appropriate notice is provided pursuant to Section .

§ 29-20 Tax Lien for unpaid fees and charges.

If any charges or fees provided for under this chapter are not paid within 30 days after notice is provided, and no further appeals have been filed, the Town may, in addition to or in lieu of other remedies, add such unpaid charges or fees as a lien against the property on which such alarm system is located and recover same as a property tax levy for the property on which such alarm system is located, to be collected, bear interest, and be enforced as provided by law for other property taxes.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 29 of the Code of the Town of Bedford is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.\

Section 3. Numbering for Codification

It is the intention of the Town of Bedford and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Bedford; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State. The provisions of this chapter with respect to the collection of