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## **Chapter 8.02 - BURGLAR ALARM SYSTEMS\***

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### **Editor's note—**

Ord. No. 12969, §§ 3, 4, repealed and reenacted Chapter 8.02 in its entirety to read as herein set out. Formerly, Chapter 8.02, §§ 8.02.000—8.02.140 pertained to similar subject matter, and derived from prior code, § 5-21.00; Ord. No. 12501, adopted 2003, and Ord. No. 12509, adopted 2003.

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### **8.02.000 - Purpose.**

The City regulates security alarm businesses to assure that responses to false alarms do not diminish the availability of police services to the general public, and to assure that residents who cannot afford or choose to not operate security alarm systems are not penalized for their condition or choice.

The intent of this Chapter is to encourage alarm businesses and alarm users to maintain the operational viability of security alarm systems, and to significantly reduce or eliminate false alarm dispatch requests made to the Oakland Police Department.

The purpose of this Chapter is to provide for and promote the health, safety and welfare of the general public; not to protect individuals, or create (or otherwise establish or designate) any particular class or group of persons who will or should be especially benefited by the terms of this Chapter. This Chapter does not impose or create duties on the part of the City or any of its departments. The obligation of complying with the requirements of this Chapter, and any liability for failing to do so, is placed solely upon the parties responsible for owning, operating, monitoring, installing or maintaining security alarm systems.

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*(Ord. No. 12969, § 4, 7-28-2009)*

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### **8.02.010 - Definitions.**

"Alarm Administrator" means a person or persons designated by the Oakland Chief of Police to administer the City's security alarm program to issue citations and levy fees pursuant to this Chapter.

"Alarm Appeals Officer" means a person or persons designated by the Oakland Chief of Police to provide impartial judgment and determine whether fees that have been levied for false alarms are justified when a person appeals the assessment of those fees.

"Alarm business" means the business by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing, or monitoring an alarm system in an alarm site. Alarm businesses do not include persons doing installation or repair work solely on premises they own, lease, or rent where such work is performed without compensation of any kind (i.e., "do-it-yourselfers".)

"Alarm dispatch request" means communication to the police has been initiated by an alarm business (via police dispatch) indicating a security alarm system has been activated at a particular alarm site and Police Department response is requested to that alarm site.

"Alarm installation company" means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving, or installing an alarm system at an alarm site.

"Alarm response manager (ARM)" means a person designated by an alarm business or installation company to act as a primary point of contact for the jurisdiction's Alarm Administrator.

"Alarm site" means a single fixed premises or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate alarm site.

"Alarm system" means a device or series of interconnected devices, including but not limited to, systems interconnected with hard wiring or radio frequency signals, which are designed to emit and/or transmit a remote or local audible, visual or electronic signal indicating that an intrusion may either be in progress or being attempted at the alarm site. Alarm system does not include an alarm installed in a vehicle or someone's person unless the vehicle or the personal alarm is permanently located at a site.

"Alarm user" means any person, firm, partnership, corporation, or other entity who (which) uses an alarm system at a particular alarm site.

"Automatic voice dialer" means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message (when activated or if self activated) over a telephone line, radio or other communication system, to the police department.

"Duress alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a crisis requesting a police response.

"False alarm" means response to an alarm dispatch request where the responding police officer finds no reasonable evidence of the commission or attempted commission of a crime, or determines the alarm activation is the result of mechanical failure, improper installation or maintenance, or alarm user negligence.

"Hold up alarm." See "Robbery alarm."

"Notice of non-compliance" is a formal notification by the alarm administrator to the alarm business of any violations of this Chapter.

"Oakland security alarm business license" is a license required to provide installation and/or monitoring services to alarm users in the City issued by the Police Department to an alarm business or installation company.

"OPD" means the City of Oakland Police Department.

"Panic alarm." See "Duress alarm."

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

"Robbery alarm" or "hold-up alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery is in progress or has just occurred.

"Subscriber" means an alarm user who is a customer of an alarm business.

"Unmonitored alarm system" means an alarm system that is not actively monitored by an alarm business and whose function it is to evoke police response solely by means of a generally audible and/or visible signal.

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*(Ord. No. 13015, § 3, 5-18-2010; Ord. No. 12969, § 4, 7-28-2009)*

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## **8.02.020 - Alarm registration and permits.**

**A.**

Police response to private alarm sites in the City is a privilege available only to those alarm users who have a current City alarm permit.

**B.**

No alarm business providing monitoring service to security alarm sites in the City shall activate alarm monitoring service or initiate alarm dispatch requests relative to any alarm site in the City that is not properly registered in accordance with this Chapter.

**C.**

Alarm permits are valid for one year.

**D.**

Alarm permits are issued to a person or persons ("alarm user") having bona fide ownership or control of an alarm site (i.e., home owner, business owner, renter, leaseholder, etc.) specifically for that alarm site or address. Alarm permits remain in the name(s) of the alarm user of record until a change of ownership or control of the alarm site occurs.

**E.**

Alarm permits are valid only to the alarm site and alarm user; alarm permits are not transferable. No refund of a permit or permit renewal fee will be made. A new alarm site permit must be obtained whenever there is a change of ownership or control of an alarm site.

**F.**

The initial permit application shall be given to the alarm user by the alarm installation company at the time of alarm installation. The application and fees shall be submitted by the alarm installation company to the alarm administrator (or designee) within 30 days of the installation date.

**G.**

Registration information is determined by the alarm administrator and shall include, but not be limited to, the following:

**1.**

Name and address of the alarm user (i.e., the person financially responsible for operation of the alarm system being registered).

**2.**

Home, business, and cellular telephone number(s) of the alarm user.

**3.**

Name, address, and telephone number of the alarm business providing monitoring service to the system.

**4.**

Alternate telephone number for verification (i.e., secondary cell phone or other telephone designated by the alarm user).

**5.**

Signature of the alarm user verifying that the information on the permit is factual, and agreement to pay the fees associated with false alarms.

H.

Upon receipt of a completed application and fees, the alarm administrator (or designee) shall issue a security alarm permit number to the alarm user.

I.

The security alarm permit number assigned to an alarm user remains the same for as long as the alarm user continuously maintains registration for the alarm site.

J.

The alarm permit may be renewed under the following conditions:

1.

The alarm site has no past-due fees.

2.

The alarm user either updates his/her registration information or verifies that the current registration information is still correct.

3.

The appropriate annual permit fee is paid.

K.

The fee for a new alarm permit shall be collected by the alarm installation company and an alarm permit renewal fee shall be collected by the alarm administrator.

L.

Renewal information and fees are submitted to the alarm administrator (or designee) on or before the initial permit anniversary date each year.

M.

The rates for security alarm permit fees are listed in the City master fee schedule.

N.

Any fee required to be paid by an alarm user under the provisions of this Chapter shall be deemed a debt owed by the alarm user to the City until it has been paid to the City.

O.

Any fee required to be collected by an alarm business under the provisions of this Chapter shall be deemed a debt owed to the City by the business required to collect and remit such fee, if the alarm business has failed to take reasonable steps to collect the fee.

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*(Ord. No. 13015, § 3, 5-18-2010; Ord. No. 12969, § 4, 7-28-2009)*

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### **8.02.030 - Alarm system standards.**

A.

It shall be unlawful for any person to install or sell an alarm system which upon activation emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes. This action shall not apply to sirens mounted inside a building which cannot be clearly heard from outside the building.

B.

Operating an audible alarm system that does not shut off (by manual or automatic operation) within 15 minutes from the time of activation is unlawful. If the alarm system has an automatic shutoff with a rearming phase, the rearming phase must be able to distinguish between an open and a closed circuit, and if the circuit is broken the system shall not rearm.

C.

No automatic voice dialing device shall be used to initiate an alarm dispatch request.

D.

All alarm systems shall have a standby backup power supply that will automatically power the operation of the alarm system for a minimum of four hours, should any interruption occur in power to the alarm system. The transfer of power from the primary source to the backup source must occur in a manner which does not activate the alarm.

E.

Alarm businesses shall not install a device for activating duress, hold-up, or panic alarms in commercial sites that have a single action, non-recessed button.

*(Ord. No. 12969, § 4, 7-28-2009)*

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#### **8.02.040 - Alarm users responsibilities.**

**A.**

Each alarm user is annually responsible for:

1.  
Registering the alarm system by obtaining an alarm permit;
2.  
Paying the permit fee; and
3.  
Providing current registration information.

**B.**

Alarm users who operate an alarm without a permit shall be charged a non-compliance remediation fee (listed in the master fee schedule.)

**C.**

Each alarm user is responsible for assuring that the alarm system is used properly and in accordance with the manufacturer's directions and the law. Inherent in this responsibility is:

1.  
Assuring that all persons with access to the alarm system are properly trained on correct use of the system and are authorized to cancel accidental activations, and
2.  
Assuring that procedures and practices are followed that minimize the risk of false alarms.

**D.**

Each alarm user is responsible for keeping the alarm system properly maintained and in good working order.

**E.**

Each alarm user is financially responsible for paying service fees when police respond to false alarms from the alarm site (see Section 8.02.080).

**F.**

Each alarm user is responsible for providing the Police Department with access to the structure or premises, within 45 minutes of the alarm dispatch request so that the alarm may be verified. Access may be granted by the alarm user or designated responder.

**G.**

Failure to meet the responsibilities listed in this Section may lead to revocation of an alarm permit and loss of the privileges associated with that permit.

*(Ord. No. 13015, § 3, 5-18-2010; Ord. No. 12969, § 4, 7-28-2009)*

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#### **8.02.050 - Alarm business responsibilities.**

The duties of the alarm business shall be to:

**A.**

Designate one individual as the Alarm Response Manager (ARM) for the business. The individual designated as the ARM must be knowledgeable of the provisions of this Chapter and respond to requests from the Alarm Administrator. The name, contact number, and e-mail address of the ARM shall be provided to the Alarm Administrator.

**B.**

Provide the alarm administrator (or designee) with an electronic data file and hard copy file with name, complete address and account number of each new alarm user in the City no later than the last day of each month.

**C.**

Notify the alarm administrator by the 15th day of each month of all their alarm users within the City that have discontinued their alarm service with the business in the previous month. For each discontinued alarm user that is not listed on the notification, the alarm business shall pay a fee as set forth in the master fee schedule. Fees shall be waived when the alarm business provides credible evidence that it has a valid contract with the respective alarm user, or that the alarm user discontinued service without formal termination.

**D.**

Comply with California licensing requirements, and maintain a valid copy of the State of California Department of Consumer Affairs alarm company and/or alarm company employee permit with the alarm administrator.

**E.**

Ensure that installation of all new alarm components adhere to manufacturer's installation guidelines.

**F.**

Install alarm systems and alarm system components appropriate for the location; be available to maintain the system in good working order, and take reasonable measures to prevent the occurrence of false alarms.

**G.**

Submit an alarm permit form, the correct fee and required documentation on behalf of the alarm user to the alarm administrator (or designee) within 30 days of the installation date of a new alarm system. Alarm businesses and alarm installation companies shall hold fee revenues received from customers in trust for the City.

**H.**

Provide alarm users with alarm ordinance and false alarm fee information, with each new installation.

**I.**

Provide accurate and complete instruction to the alarm user on the proper use of its alarm system. Specific emphasis shall be placed on the avoidance of false alarms. Each business that sells alarm systems, whether or not it is an alarm business as defined in this Chapter, is similarly responsible for instructing the buyer of the alarm system on the proper use of their system.

**J.**

Institute quality control procedures to track and prevent the occurrence of false alarms for the first 30 calendar days after installing a new alarm system.

**K.**

Obtain written documentation (with newly installed alarm systems) from alarm users that they have been trained to operate the new system.

**L.**

Provide group training to commercial users for installations, including false alarm prevention.

**M.**

Not sell or transfer an alarm contract during the warranty period, without transfer of the existing warranty or insuring the warranty remains in force for the warranty period.

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*(Ord. No. 13015, § 3, 5-18-2010; Ord. No. 12969, § 4, 7-28-2009)*

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#### **8.02.055 - Security alarm business licensing of alarm businesses and alarm installation companies.**

Security alarm business licenses are independent and only affect police response to alarm requests. Alarm businesses and installation companies are also required to possess a valid City business permit and tax license in accordance with Chapters 5.02 and 5.04. The requirements imposed by this Section are in addition to the business license fee and all other fees levied by the City. The issuance of a security alarm business license does not create a contract between the City and an alarm business or alarm installation company, nor does it create any duty or obligation, either expressed or implied, on the Police Department to respond to any alarm activation.

**A.**

Every alarm business and alarm installation company shall obtain an Oakland Security Alarm Business License from the Police Department. Only alarm businesses and installation companies in complete compliance with the provisions of this Chapter will be issued a license. There is no fee to obtain this license.

**B.**

The alarm installation company shall provide the name, address and phone number of any alarm business they are using to monitor their alarm sites within the City, and alarm businesses shall do the same for alarm installation companies that use their monitoring services within the City.

**C.**

The Police Department may not respond to any alarm dispatch request from any alarm business that does not possess a current, valid Oakland security alarm business license issued pursuant to this Section.

**D.**

The Alarm Administrator shall notify all known alarm users subscribing to an unlicensed alarm business that the company is unlicensed and the Police Department will no longer respond to the user's alarms.

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*(Ord. No. 12969, § 4, 7-28-2009)*

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#### **8.02.060 - Administration.**

**A.**

The Alarm Administrator reserves the right to conduct an evaluation and analysis of the effectiveness of this Chapter and identify and implement system improvements as warranted.

**B.**

Alarm business and alarm user proprietary information furnished and secured pursuant to the ordinance codified in this Chapter shall be confidential and shall not be subject to public inspection. It is hereby declared that this information is critical to the safety and security of the alarm user and law enforcement personnel, and that the public interest served by not disclosing said information to the public significantly outweighs the public interest served by disclosing said information.

**C.**

The alarm administrator shall consider an alarm business in non-compliance failure when the business has failed to comply with the provisions of this Chapter.

**D.**

When an alarm business is deemed to be in noncompliance by the alarm administrator, the alarm administrator shall send the alarm business a "notice of noncompliance" with the following information:

**1.**

The Section(s) of the ordinance from which this Chapter derives to which the alarm business has failed to comply.

**a.**

The specific remedy for the compliance failure;

b.

The date by which the alarm business must come into compliance; and

c.

The specific action that will be taken by the department, including the date action shall be taken.

2.

Unless otherwise specified in this Chapter, the notice of noncompliance shall give the alarm business 30 days to come into compliance with the specified Section(s).

3.

Failure to come into compliance, within the time specified in the notice of noncompliance, will immediately invoke any applicable fees or penalties.

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(Ord. No. 12969, § 4, 7-28-2009)

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#### **8.02.070 - Alarm dispatch requests.**

A.

Alarm dispatch requests shall be made only after the alarm business has attempted to make two calls to different phone numbers where the alarm user or their designee can be reached to verify whether police or medical personnel response is needed.

B.

Alarm dispatch requests may include, but are not limited to, the following information:

1.

Alarm site permit number.

2.

Location of the alarm activation.

3.

Type of alarm activation.

C.

Alarm dispatch requests made to the police department must accurately indicate the type of alarm activation that is the proximate cause for the alarm dispatch request.

D.

Any person who violates the provisions of this Section is subject to cost recovery fees for the improper activation of the security alarm system.

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(Ord. No. 12969, § 4, 7-28-2009)

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#### **8.02.071 - Alarm dispatch cancellation requests.**

A.

An alarm dispatch request may be canceled only by the alarm business initiating the request prior to the point the responding police officer reports arrival at the alarm site.

B.

Alarm dispatch requests may be canceled in accordance with the procedures established by OPD.

C.

Alarm dispatch requests canceled prior to the police officer's arrival on scene are not subject to false alarm service fees.

Dispatch requests and subsequent police response to a robbery alarm (as defined in this Chapter) may not be canceled by the alarm user. In every case, at least one officer shall respond to affirm that the alarm user is not under duress of any kind.

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(Ord. No. 12969, § 4, 7-28-2009)

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**8.02.080 - Appropriating public police services for private purposes subject to cost recovery fees.**

- A.** Causing police to engage in a false alarm response constitutes an appropriation of public police services for private purposes and is subject to a cost recovery fee.
- B.** The alarm user is responsible for payment of his permit and cost recovery fees.
- C.** When, in the opinion of the responding police officer(s), an alarm dispatch request can be reasonably associated with an actual or attempted criminal offense at the involved alarm site, the alarm is valid and the response is considered a basic police service not subject to cost recovery fees.
- 1.** The following actions constitute use of an alarm system that improperly appropriates police services for private purposes and are subject to cost recovery fees:
- 2.** Activating an alarm system with the intent to report:
- a.** Suspicious circumstances;
- b.** Any non-criminal incident; or
- c.** A need for fire, medical or other non-police services; or
- D.** When, in the opinion of the responding police officer(s), an alarm dispatch request can be reasonably attributed to an earthquake, hurricane, tornado or other unusually violent act of nature, a cost recovery fee shall be not assessed.
- E.** When, in the opinion of the responding police officer(s), an alarm dispatch request cannot be reasonably attributed to the conditions described in Subsections C. or D. of this Section, the incident is a false alarm and the police officer response is considered an appropriation of public police services for private purposes that is subject to cost recovery.
- F.** When the responding officer(s) is (are) unable to determine if an alarm is valid or false because of inaccessibility of the alarm site, the response is presumed to be a false alarm response, and is subject to cost recovery fees (see Section 8.02.010).
- G.** The cost recovery fees for appropriating public police services for private purposes are listed in the City master fee schedule.
- H.** Cost recovery fees are assessed based on the response requested. For example, an alarm dispatch request reporting a robbery alarm is subject to the false alarm penalty fee applicable to robbery false alarm responses, even if the alarm activation should properly have been reported as a burglary alarm.
- I.** All fees are due and payable upon receipt of invoice.

(Ord. No. 12969, § 4, 7-28-2009)

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## **8.02.090 - Appeals.**

Cost recovery fees may be appealed to the alarm appeals officer, as follows:

**A.**

The appeal process is initiated by the alarm user sending a letter to the alarm appeals officer requesting that the cost recovery fee be waived (an appeal conference,) specifying the reasons for the appeal, and submitting the scheduled appeal fee. This letter and appeal fee must be received by the alarm appeals officer within 30 calendar days after mailing of the initial invoice to the alarm user.

**B.**

Service fees may be appealed only on the grounds that the incident cited as the basis for the service fee was, in fact, not a false alarm response. The alarm user must (in his or her letter requesting an appeal) describe detailed, credible evidence in his/her possession that supports the contention that the involved incident was a valid alarm, as described in Subsections 8.02.080 C. or D.

**C.**

The alarm appeals officer may reject requests for appeals that are not supported by detailed, credible evidence of criminal activity or for one of the listed reasons in the City false alarm appeal guideline form by the appellant. Notice of rejection of a request for this initial appeal shall be sent to the appellant in writing within ten working days following receipt of the appeal request by the alarm appeals officer.

**D.**

Whenever the first appeal is denied, the alarm user may then file a second written appeal requesting an in-person hearing.

**1.**

This request must be received within 30 calendar days from the mailing of the denial of the first level of appeal.

**2.**

All hearings shall be heard by an appeals officer appointed by the Chief of Police.

**3.**

The alarm administrator shall serve as the City's representative in these hearings.

**E.**

The filing of a request for an appeal conference with an alarm appeals officer sets aside the pending service fee or related service suspension/revocation in appeal until the alarm appeals officer either rejects the appeal request, as described in Subsection A. of this Section, or renders a final decision.

**F.**

The alarm appeals officer, on receipt of a request for a hearing, shall conduct an appeal conference within 30 working days after receiving the appeal request. The alarm administrator may also contact the appellant and offer a resolution or modification of the cost recovery fees prior to the scheduled hearing.

**G.**

At the conference, the alarm administrator shall present evidence on the City's behalf supporting the case that the applicable cost recovery fees are based on police response to an actual false alarm. The alarm appeals officer shall consider this evidence and any information presented by any interested person(s).

**1.**

Because false alarm responses are based on the professional judgment of the responding police officer using the facts known to the officer at the time of the incident, the burden of proof in appeals is on the appellant.

2.

The appellant must establish with credible evidence that facts known to, but not considered by the police officer, existed at the time of the incident, that would have lead a reasonable police officer to the conclusion that the incident involved was a valid alarm, as described in Subsections 8.02.080 C. or D.

3.

The alarm appeals officer shall make his/her decision based on the presence of such facts and conclusions.

H.

The alarm appeals officer shall render a decision and notify the appellant and the alarm administrator thereof in writing within 20 working days after the appeal conference is held. The alarm appeals officer may:

1.

Affirm,

2.

Waive (in whole or in part),

3.

Cancel, or

4.

Modify

the penalty fees or actions that are the subject of the appeal.

I.

If the alarm appeals officer affirms or modifies the amount of a service fee due, that amount becomes immediately due and payable.

J.

Appeal decisions are reviewed and approved by the City Administrator prior to becoming official. The official decision of the alarm appeals officer is final, and no further appeals or remedies are available.

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(Ord. No. 12969, § 4, 7-28-2009)

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### **8.02.100 - Scope of police duty—Immunities preserved.**

A.

The issuance of an alarm permit does not create a contract between the City and any alarm user, alarm business, or alarm installation company, nor does it create any duty or obligation, either expressed or implied, on the police department to respond to any alarm activation.

B.

Any and all liability and/or consequential damage or loss resulting from the failure of the police department to respond to an alarm dispatch request is hereby disclaimed and governmental immunity as provided by law if fully retained.

By applying for an alarm permit, the alarm user acknowledges that police response to alarm activation is influenced by the availability of officers, priority of current calls for service, traffic and/or weather conditions, and staffing levels.

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(Ord. No. 12969, § 4, 7-28-2009)

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#### **8.02.110 - Severability.**

If any section, subsection, clause sentence, or phrase of the ordinance codified in this Chapter is for any reasons held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this Chapter. The City Council hereby declares that it would have passed the ordinance codified in this Chapter, any section, subsection, sentence, clause or phrase thereof without said sections, subsections, sentences, clauses, or phrases.

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*(Ord. No. 12969, § 4, 7-28-2009)*

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