

EXHIBIT "A"

ALARM ORDINANCE

ARTICLE II. AUTOMATED ALARM PROTECTIVE DEVICES FOR BURGLARY*

***State law references:** Burglar alarm systems, V.T.C.A., Local Government Code § 214.191--214.197.

Sec. 22-31. Authority.

This article is adopted pursuant to the provisions of V.T.C.A., Local Government Code §§ 214.191--214.197, Municipal Regulation of Burglar Alarm Systems.
(Code 1966, § 2 3/4-1)

Sec. 22-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm site means a location or premises served by an alarm system.

Alarm system means a device or system that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon, emergency personnel of the city, including but not limited to, local alarms. For purposes of this article, the term "alarm system" shall not include:

- (1) An alarm installed on a motor vehicle, unless the vehicle is used for a habitation at a permanent site;
- (2) Any device or system designed solely to detect or give notice of fire, smoke or water flow;
- (3) An alarm system designed solely to alert the occupants of a building or residence which will not emit a signal either audible or visible from the outside of the building or residence; or
- (4) An alarm system installed upon premises occupied by the United States government, the state or any governmental entity.

Alarm systems company means any person that sells, installs, services, monitors, or responds to alarm systems.

Alarm user means a person who owns or controls the premises upon which an alarm system is located.

Appeal hearing official means the city administrator or his designee.

Applicant means the person who seeks to be the permit holder.

Automatic dialing device means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

Central station means that part of an alarm systems company which intercepts signals indicating the activation of an alarm system and which relays this information by live voice to the police department.

Chief means the chief of police of the city or his designated representative.

False alarm means the activation of an alarm system which is not the result of an emergency or threat of emergency for which the alarm was designed to give notice and for which the responding police officer finds no evidence of any criminal activity. The term "false alarm" shall include activation of an alarm system through mechanical or electrical failure, malfunction,

improper installation or the negligence of the owner or lessee of an alarm system or of their employees or agents. The term "false alarm" shall not include activations which result from any of the following:

(1) Alarms caused by an attempted illegal entry of which there is visible evidence, illegal entry or other demonstrable criminal activity.

(2) Alarms followed by an immediate call to the police department from the alarm systems company canceling the alarm giving the proper code number, such call having been made prior to the arrival of the responding emergency personnel at the property on which the alarm system causing the response is located.

Finance director means the finance director of the city or his designated representative.

Hold-up alarm means any device activated by human action as a result of burglary or attempted burglary at or of the alarm site.

Local alarm means any alarm emitting audible signals in, at or on the alarm site when activated and which signals may be heard by persons other than the inhabitants of the premises upon which the alarm system is located.

Permit means a certificate of authorization issued to the applicant authorizing the operation of the alarm system for which the permit is issued.

Permit holder means the individual, corporation, partnership or other legal entity to whom an alarm system permit is issued.

Telephone answering service means any business, other than an alarm systems company, which intercepts signals indicating the activation of an alarm system and which relays this information by live voice to the police department.

Thirty-minute shutoff means an automatic device associated with a local alarm system which automatically causes the alarm to shut off and discontinue the emission of an audible signal after a period of time not to exceed 30 minutes of continuous operation.

(Code 1966, § 2 3/4-2)

Cross references: Definitions generally, § 1-2.

Sec. 22-33. Permit required.

(a) It shall be unlawful for any person to operate, cause to be operated or permit the operation of an alarm system upon property or premises under his control unless a current permit has been issued by the city for such system. This section shall not be applicable to an alarm systems company which sells, installs, monitors or services an alarm system installed and designed to protect property under the control of a person other than the alarm systems company. Any person who operates, causes to be operated, or allows the operation of an alarm system without a valid permit shall be subject to prosecution and response fees.

(b) A response, if any, made by the police department upon proper notification by an alarm systems company or citizen shall be subject to the policies and procedures of the police department governing, but not limited to, the priorities for police response.

(c) An applicant may apply for a separate permit for each alarm system, or may obtain a single permit for all alarm systems that are located on a single premises under the applicant's ownership or control; except that separate permits must be obtained to authorize the operation of both burglar and holdup alarm systems on any one premise.

(d) The issuance of a permit authorizing the use of an alarm system is not intended nor shall it create a contract, either express or implied, creating a duty or guarantee of response. Any and all

liability and consequential damages resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained.

(e) The police department will respond only once to an alarm that has no permit on file with the city according to the provisions contained in this article, except that the police department will respond to hold-up alarms even if no permit is on file. After the initial response, the alarm system owner will be given notice of the requirement for an alarm system permit. Such notice shall be sent via first class mailing of the U.S. Postal Service to the physical address of the alarm site or to the address as indicated by the alarm systems company. The notice shall contain a statement that outlines the requirement for a permit, the procedures for obtaining a permit and a permit application.

(Code 1966, § 2 3/4-3; Ord. No. 1769-06, § 1, 10-12-2006)

Sec. 22-34. Permit application.

(a) Application for a permit authorizing the operation of an alarm system shall be made by a person having control over the property on which the alarm system is to be installed and operated. Such application shall be made in writing to the city on a form designated for that purpose. On such application, the applicant shall set forth:

- (1) The name, address, and telephone number of the permit holder.
- (2) Copies of the assumed-name registration if the alarm site will be operated under an assumed name; the partnership registration, if any, and the names and addresses of all general partners if the permit holder is to be a partnership; or the corporate charter with the names and addresses of officers and registered agents or the certificate of authorization from the secretary of state if the permit holder is to be a corporation.
- (3) The street address of the property on which the alarm system is to be installed and operated.
- (4) Any business name used for the premises on which the alarm system is to be installed and operated.
- (5) Whether the alarm system is a local alarm and whether it is designated to give notice of a burglary, robbery, or another life-threatening emergency.
- (6) The name of the person or alarm system company who will install the alarm system.
- (7) In addition to the permit holder:
 - a. The names, date of birth, and local telephone numbers of two persons, or the name and local telephone number of an alarm systems company which are able to and have agreed to:
 1. Receive notification at any time;
 2. Come to the alarm site within one-half hour after receiving a request from a member of the police department to do so; and
 3. Grant access to the alarm site and to deactivate the alarm system if such becomes necessary;or
 - b. The name and local telephone number of an alarm system company which is able and has agreed to receive calls at any time and to give the police department the names of persons listed with that company as set out as follows if:
 1. The permit holder has given the alarm system company the names and local telephone numbers of two persons who are able and have agreed to receive notification at any time; to come to the alarm site within one-half hour after receiving a request from a member of the police department to do so; and to grant access to the alarm site and to deactivate the alarm system if necessary; and

2. The permit holder has authorized the alarm system company to provide the names listed with that company to the police department whenever that department has requested that information in order to obtain assistance after an alarm has been activated.

(8) Whether all charges incurred under this article and owed to the city by the applicant have been paid.

(9) Any other pertinent information required by the police department which is necessary for the enforcement of this article.

(b) Such application shall be signed by the person making the application for the permit acknowledging he has read the application, affirming the correctness and accuracy of the information given on the application.

(Code 1966, § 2 3/4-4)

Sec. 22-35. Denial or revocation of permit.

(a) The finance director shall deny or revoke an alarm permit, as applicable, if he determines that:

(1) There is a false statement of a material matter in the application for a permit;

(2) The permit holder has violated a provision of this article;

(3) The permit holder has failed to make payment of a fee assessed under section 22-42 within 30 days of receiving notice to do so; or

(4) More than ten false alarms have been activated at any alarm site within a 12-month period.

(b) Within ten days of receipt of an application for a permit required by this article, the finance director shall grant such application and issue the permit required by this article or such application shall be deemed denied.

(c) A person commits an offense if he operates an alarm system during the period in which his alarm permit is revoked.

(d) The finance director shall provide at least 30 days' notice to the permittee prior to revocation.

(e) When revocation of the permit is final, all permit fees shall be forfeited.

(Code 1966, § 2 3/4-5)

Sec. 22-36. Permit fee and term.

(a) Each applicant for a permit issued pursuant to this article shall pay a nonrefundable application fee as set forth in appendix A. A residential permit shall mean a permit for an alarm system designated for the protection of a single-family residential dwelling.

(b) Each permit issued pursuant to this article shall be valid for a 12-month period from the date of issuance as stated on the permit unless such permit shall be earlier suspended or revoked pursuant to the provisions of this article. If the permit holder relinquishes control of the alarm site before the expiration of 12 months, then the permit extinguishes on the date of the relinquishment.

(c) An alarm permit cannot be transferred to another person.

(d) The permit holder shall keep the alarm permit at the alarm site and shall produce such permit for inspection upon the request of any member of the police department empowered to make such inspection.

(Code 1966, § 2 3/4-6; Ord. No. 1769-06, § 2, 10-12-2006)

Sec. 22-37. Duties of permit holder.

- (a) The permit holder shall ensure that he or any person listed on the application under section 22-34 is able to:
- (1) Receive notification at any time;
 - (2) Come to the alarm site within one-half hour after receiving a request from a member of the police department to do so; and
 - (3) Grant access to the alarm site and to deactivate the alarm system if such becomes necessary.
- (b) The permit holder shall train all persons who may activate the alarm system in the proper operation of the alarm system.
- (c) The permit holder will be responsible for all fees associated with the permit or the operation of the alarm system.
- (d) The permit holder shall ensure that the alarm system is repaired within 72 hours of the time notification that such system is malfunctioning or causing potential excessive alarms is given in writing on a form designated by the city to him or to his employee or his agent by an employee of the city designated to give such notices.
- (e) The permit holder may cause such system to be deactivated rather than having such system repaired. If he does, such system shall not be reactivated until it has been repaired.
- (f) Whenever a person listed on the application or listed on an amendment to the application is unable or unwilling to perform the duties set out in section 22-34, the permit holder shall file an amendment to the permit application listing a person or company who is able and will perform those duties so that at all times the application on file with the city designates at least two persons or an alarm system company who are able and willing to perform such duties.
- (g) Maintain the alarm system in a manner that will minimize false alarm notifications.
(Code 1966, § 2 3/4-7)

Sec. 22-38. Duty to provide access to alarm site.

Any person who is notified by any member of the police department of the activation of an alarm system, requested to respond, and who is able to give access to the alarm site shall come to the alarm site within one-half hour of the time such person is notified of such activation and shall provide the police department any necessary access or assistance.
(Code 1966, § 2 3/4-8)

Sec. 22-39. Duty of alarm systems company.

- (a) Any alarm systems company which installs an alarm system within the city shall provide the city the following information on a form designated by the city:
- (1) The street address where such system is installed;
 - (2) The name, address, and telephone number of the person contracting for its services;
 - (3) The type of alarm system; and
 - (4) The permit number for the alarm site and the name of the permit holder.
- (b) Such form shall be submitted to the city not earlier than 20 days prior to the date of installation of such system and not later than 48 hours after such system is installed. The city shall protect such information as confidential information and its use shall be restricted to legitimate law enforcement purposes and to enforcement of this article.
- (c) Whenever an alarm system company agrees with any person to maintain or service any alarm system, such company shall:

- (1) Ensure that personnel of such company who are able to render effective assistance arrive at such alarm site within one-half hour of a request by a member of the police department for assistance if such alarm system company has agreed with any person to respond to such alarm system;
 - (2) Ensure that sufficient personnel of such company are available to provide service and to repair any alarm system such company has agreed to maintain or service within 72 hours after notification that such system is in need of repair is received from the permit holder or as provided for by its contract with the permit holder or by law; and
 - (3) Keep a written record of the date and time of repair and a description of the specific repair which was performed on any alarm system when such repair was made in response to notification by the permit holder at the office of the alarm systems company.
 - (d) Such written records shall be maintained for at least two years from the date of repair and shall be available for inspection and duplication by any employee of the city designated by the city administrator to inspect such records when such an employee of the city makes demand at the office of the alarm systems company during regular business hours.
- (Code 1966, § 2 3/4-9)

Sec. 22-40. Duty of central station or answering service.

Any alarm systems company which operates a central station and any telephone answering service shall:

- (1) Have sufficient personnel trained in the procedures to be followed in receiving and relaying notice of the activation of any alarm system on duty at all times to ensure that emergency messages or alarm signals received by such company can be relayed immediately to the police department. Notification to the police department of the activation of an alarm system shall include:
 - a. The street address of the alarm site, including the particular suite or apartment number, if applicable;
 - b. The name of the permit holder and the permit number;
 - c. The type of alarm activated; and
 - d. The name and local telephone number of the person to notify, if so authorized by the permit holder;
- (2) Notify the permit holder or his designees of the activation of the alarm system within 24 hours of the time the alarm was activated, not to include weekends and holidays, by telephone or by placing written notice in the mail, addressed to the permit holder. If there is no permit holder, then notice shall be given to the person contracting with the alarm systems company;
- (3) Keep a written record of the date and time each notification of the activation an alarm system is received and the date, time, and method by which the permit holder, his designees, or the person contracting with the alarm systems company were notified. Such records shall be retained for at least two years and shall be made available for inspection by any employee of the city designated by the city administrator to inspect such records when such city employee makes request at the office of the alarm systems company or telephone answering service during regular business hours;
- (4) Test or cause to be tested all equipment used by the central station or telephones answering service relation to the receipt of notifications of the activation of any alarm system and the equipment used in relaying those notifications to the police department at least one time in every 12-month period and, where a test result is unsatisfactory, correct or cause to be corrected within

a reasonable period of time not to exceed seven days from the date of testing the cause of the unsatisfactory test result;

(5) Produce evidence of the results of tests conducted pursuant to subsection (d) of this section upon request of an employee of the city designated by the city administrator to inspect such evidence. The requirements of this subsection shall be satisfied if such results are made available at the central station or telephone answering service on the next regular business day after request is made; and

(6) Not provide answering service for any alarm systems company which is not licensed by the state. A violation under this subsection shall only be enforceable according to state law and the remedies, policies and procedures provided for therein.

(Code 1966, § 2 3/4-10)

Sec. 22-41. Alarm system requirements.

No person shall install, cause to be installed or permit to be installed any alarm system unless the requirements of this section are met:

(1) Any local alarm system shall have a 30-minute shutoff and must not make a sound similar to that of a siren or any emergency vehicle or similar to that of a civil defense warning system.

(2) No hold-up alarm shall include a money-clip, pressure pad or similar device which can cause activation inadvertently; and any hold-up alarm shall be designated so that it may be activated only by intentional and deliberate human action.

(3) No local alarm shall be activated by a hold-up alarm.

(4) No person shall use or permit the use of any telephone device or telephone attachment which automatically selects any telephone line leading into the communication center of the police department or any number leading into the offices of the city and then transmits a prerecorded message or signal.

(5) No person shall use or permit the use of any system which gives notification of the activation of an alarm system directly to the police department by any means other than live human voice.

(6) The chief may set reasonable standards and procedures to be followed by any alarm systems company or telephone answering service when giving notice to the police department of activation of an alarm system. Such standards and procedures shall be set out in writing and made available to any alarm systems company or telephone answering service requesting it.

(Code 1966, § 2 3/4-11)

Sec. 22-42. Fees and charges.

(a) The city council finds and determines that the actual expense incurred by the police department in connection with each false alarm response equals or exceeds the sum of \$50.00. A city response, if any, upon proper notification of an alarm system shall not incur a fee except as provided by subsection (b) of this section.

(b) Each response by the police department to a false alarm, including without limitation a burglar or hold-up alarm, after the first five at the same alarm site during the preceding 12-month period, or each response to a non-permitted hold-up alarm after the first, shall result in a charge as set forth in appendix A to the permit holder of the property on which the alarm system is installed.

(c) Where it is determined by the responding police officer that a false alarm activation has occurred, written notice of such determination shall be given to the permit holder. Such notice

shall be sufficient if deposited for mailing with the United States Postal Service enclosed in an envelope bearing first class postage and addressed to the permit holder at the address of the alarm site location as indicated by the most recent permit application. The notice shall include a statement advising the permit holder of the procedure for disputing the false alarm determination. (Code 1966, § 2 3/4-12; Ord. No. 1769-06, § 3, 10-12-2006)

Sec. 22-43. Appeal from service fee, denial or revocation of permit.

(a) Any permit holder assessed a fee under section 22-42 may appeal the decision of the finance director to the appeal hearing official within ten days of receipt of notice of assessment of such fee and in the same manner for other appeals provided for in this article.

(b) If the finance director refuses to issue or renew a permit, or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to appeal such action, such notice to include:

(1) The specific dates on which there have been false alarm notification from such alarm system, if revocation is based upon section 22-35(a)(4);

(2) The amount of any fees assessed under section 22-42 that are due and owing and the date such fees were incurred, if revocation is based upon section 22-35(a)(3);

(3) That a hearing may be held before the appeal hearing official to determine whether the permit for such alarm system should remain revoked or be reinstated or the application for the permit for such alarm system should be issued or renewed or remain denied;

(4) That the applicant or permit holder may appear in person and/or be represented by counsel, may present testimony and may cross examine all witnesses;

(5) The applicant or permit holder may appeal the decision of the finance director to the appeal hearing official by filing with the city administrator a written request for a hearing, setting forth the reasons for the appeal, within ten days after receipt of the notice from the finance director.

The filing of a request for an appeal hearing with the city administrator stays an action of the finance director in revoking a permit until the appeal hearing official makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the finance director is final;

(6) The appeal hearing official shall set a time and place for the hearing, which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The appeal hearing official shall serve as hearing officer at an appeal and consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right of cross examination. The appeal hearing official shall make his decision on the basis of a preponderance of the evidence within 15 days after the request for an appeal hearing is filed. The time for hearing an appeal may be extended by agreement of the parties. The appeal hearing official shall affirm, reverse, or modify the action of the finance director. The decision of the appeal hearing official is final as to administrative remedies with the city.

(Code 1966, § 2 3/4-13)

Sec. 22-44. Damage to telephone/alarm system cable.

It shall be a violation of this article to cut or damage any telephone or other cable if the result is to prevent or disrupt the transmission of any alarm system or signal or to thereby cause a nonvalid alarm or nonvalid holdup alarm.

(Code 1966, § 2 3/4-14)

Sec. 22-45. Violations; penalty; corporations, partnerships and associations.

(a) A person commits an offense if he violates by commission or omission any provision of this article that imposes upon him a duty or responsibility.

(b) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this article to hold a corporation, partnership or other association criminally responsible for acts or omissions performed by an agent acting on behalf of the corporation, partnership, or other association, and within the scope of his employment.

(c) Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any provision of this article shall be fined as provided in section 1-13.

(d) Each holder of an alarm permit and each person having control over property on which an alarm system is installed has an affirmative duty to comply with all provisions of this article, and it shall not be a defense to prosecution of such a person that he was acting without culpable mental state.

(Code 1966, § 2 3/4-15)

Sec. 22-46. No duty.

Permit requirements and regulations set forth in this article in no way constitute an endorsement of any business or the concept of alarm systems as a positive aid to law enforcement and do not obligate city emergency personnel to respond in any manner to any notification as a result of a summons based on an alarm system. The fact of a emergency personnel response to one or more alarm system notifications in no way is to be construed as the policy of the city or the intent of this article. The establishment of such policy by this article is expressly denied.

(Code 1966, § 2 3/4-16)

TABLE INSET:

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| | | | |
| CHAPTER 22--EMERGENCY SERVICES | | | |
| | | | |
| 22-36 | Residential permit fee..... | 20.00 | |
| | Nonresidential permit fee..... | 30.00 | |
| | Hold-up alarm permit fee..... | 30.00 | |
| | Hold-up alarm permit fee shall be waived if applicant has valid current residential or nonresidential permit. | | |
| 22-42 | False alarm fee, after first five false alarms..... | 50.00 | |
| | False alarm fee, after the first non-permitted hold-up false alarm..... | 50.00 | |

(Ord. No. 1769-06, § 4, 10-12-2006)