

ORD# 5729

AN ORDINANCE TO AMEND CHAPTER 28, ARTICLE VI, OF THE CODE OF ORDINANCES OF THE CITY OF MEMPHIS TO ESTABLISH REGULATIONS FOR FALSE ALARMS

WHEREAS, the citizens of Memphis have a continued interest in public safety and the most efficient use of law enforcement; and

WHEREAS, City Council desires to modernize the current ordinance and strengthen the requirements for the operation of alarm systems; and

WHEREAS, false alarms are an undue burden on Police and Fire personnel, monopolizing and diverting resources from citizens in need; and

WHEREAS, more than 99.2% of coded alarms were false and public safety response to false alarms averaged 31 minutes in 2016; and

WHEREAS, responding to a growing number of false alarms places citizens and public safety officers at risk; and

WHEREAS, the Administration of the City of Memphis supports efforts to reduce false alarms through education, alarm operator accountability, and alarm user awareness; and

WHEREAS, City Council finds it necessary for the health, safety and welfare of citizens to make changes in policy and fees based upon the continued issue of false alarms.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 28, Article VI, Police Emergency Alarm System is hereby amended to delete the current language and insert the following:

Chapter 28, Article VI shall now be known as the Police and Fire Emergency Alarm Systems

DIVISION 1. GENERALLY

Section 28-126 Purpose and Definitions (9-16-1)

(1) Purpose

- (a) The purpose of this chapter is to encourage alarm users and alarm systems contractors to maintain operational reliability, properly use alarm systems and to reduce or eliminate false alarm dispatch requests.
- (b) This chapter governs systems intended to summon police and fire emergency response and it sets forth the requirements for permits, establishes fees, provides for penalties for violations, establishes a system of administration and sets conditions for suspension or loss of permits.

#22

- (c) The licensure requirements contained in this chapter shall only apply to those individuals and entities who are not required to be licensed by the state alarm contractor's licensing law, T.C.A. § 62-32-301 et seq.
- (d) The issuance of an alarm permit authorizing the use of an alarm system shall not create any duty or liability on the part of the city or guarantee any police or fire department or other response from the city. Nothing in this article shall be construed to waive the city's governmental immunity from suit or from liability.

(2) Definitions.

Alarm agent means any person employed by a licensed alarm systems contractor whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing or monitoring of an alarm system. This definition shall only include persons who work for an alarm systems contractor as defined in this section. The owners, managers, corporate officers and partners of all alarm systems contractors are classified as alarm agents. Further, any person who is not an alarm agent, who, as an employee of a licensed alarm systems contractor or a contractor for the alarm systems contractor, has access to confidential information of an alarm user or to monitor radio equipment, shall be considered an alarm agent.

Alarm dispatch request means a notification to the police or fire division by an alarm systems contractor that an alarm, either manual or automatic, has been activated at a particular alarm site.

Alarm site means a single premises or location where an alarm system is installed and capable of being operated. Each tenancy, served by a separate alarm system in a building or complex, shall be considered a separate alarm site requiring separate permits.

Alarm system means a device or equipment designed to emit or transmit an alarm signal. "Alarm system" does not include an alarm installed on a vehicle unless the vehicle is permanently located at a site or will cause emergency services to be dispatched.

Alarm Systems Contractor or Contractor means any person, a firm, company, partnership, association or corporation, which sells, or attempts to sell, installs services or monitors alarm systems, signal devices, fire/life safety systems, alarms, burglar alarms, security cameras used to detect burglary, breaking and/or entering, intrusion, shoplifting, pilferage or theft. This definition shall not include persons who sell alarm systems strictly in an over-the-counter capacity in an established location or businesses where the alarm system is owned, operated and monitored by the same entity or proprietary alarm divisions of a company where the alarm user is also an employee of the alarm service provider.

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

Commercial alarm user means an alarm user required to register as Business with the Tennessee Department of Revenue or the City of Memphis.

Conversion means the transaction or process by which one alarm systems contractor begins the monitoring of an alarm system previously monitored by another alarm systems contractor.

Designated qualifying agent means any individual licensed by the board whose qualifications have been demonstrated to the metro alarm review board for overseeing and supervising alarm systems contractor operations of any classification or combination of classifications covered under this chapter.

Director means the director of police or fire services of the city.

Duress means a silent alarm system generated by activation at a key pad or device intended to signal a crisis situation requiring police response.

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation or through the negligence of the owner or user of the alarm system, which activation results in a response by a law enforcement agency.

False Alarm Prevention class means a class operated or designated by the Metro Alarm Office for the purpose of educating alarm users about the problems created by false alarm dispatches and in the responsible use of their alarm system.

False automatic fire alarm means the activation of any Fire Alarm System, which results in a response by the fire department caused by mechanical failure, malfunction, improper installation, lack of proper maintenance or any other response that is not activated by smoke, heat, fire or emergency condition for which the fire department personnel are unable to determine the apparent cause of the alarm activation. As required by Tenn. Code Anno. §62-32-321, no alarm shall be considered "false" if it is caused by a violent act of nature." Additionally, if an alarm is considered a false report as defined by Tenn. Code Ann. § 39-16-502 the alarm owner will not be cited under this Ordinance for a false alarm.

Fire alarm system means an alarm or monitoring system that is intended to respond to or detect fire, heat, smoke or other byproducts of combustion.

Holdup alarm means a silent or audible alarm signal generated by the manual activation of a device at a commercial property intended to signal a robbery in progress.

Keypad means a device that allows control of an alarm system by the manual entering of a coded sequence of numbers or letters. Each keypad with a separate physical address is considered a separate alarm and each keypad is required to be permitted.

Malicious fire false alarm means the intentional false reporting to the fire division of an emergency condition, or the intentional setting off of an alarm system which will cause another person to report the signal to the fire division. However, this definition is not to include the testing of an alarm system by a licensed alarm systems contractor alarm business under guidelines established by the metro alarm administrator.

Malicious police false alarm means the intentional false reporting to the police of a police emergency condition, or the intentional setting off of an alarm system which will cause another person to report the signal to the police. However, this definition is not to include the testing of an alarm system by a licensed alarm systems contractor under guidelines established by the metro alarm administrator.

Metro Alarm Administrator means the administrator of the alarm office.

Metro Alarm Office means the office of the city having the responsibility to administer the permitting and oversight of alarm systems, alarm system contractors and alarm agents subject to the authority of this chapter and chapters 2-28 through 2-33 and the regulations and procedures established by the metro alarm review board.

Metro Alarm Review Board. The metro alarm review board shall consist of 6 members as follows: the Metro Alarm Administrator; a dispatcher or other person designated by the Police Director; a person designated by the Memphis Fire Director; a resident of the City who shall be appointed by the Mayor subject to approval by City Council; and two licensed alarm contractors who shall be appointed by the Mayor subject to approval by City Council.

Metro Alarm Review Board Dispute Committee. The Metro Alarm Review Board Dispute Committee shall consist of five (5) members, consisting of the Metro Alarm Administrator and four persons designated by the Metro Alarm Review Board.

Monitoring means the process by which an alarm systems contractor receives signals from alarm systems and relays an alarm dispatch to the city for the purpose of summoning police response to the alarm site.

Multi-Unit Alarm System means an alarm system covering multiple individual units or alarm sites. Each alarm site within a multi-unit alarm system must have a separate alarm permit.

Non-permitted alarm system means an alarm system for which no valid alarm permit is in existence.

Notice means written notice of false alarm by U.S. mail addressed to the person to be notified at his or her last known address.

Officer means a city police officer.

Panic alarm means a silent alarm signal generated by the manual activation of a device in a residence intended to signal a crisis requiring police response.

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

Police emergency alarm system means an assembly of equipment or devices which is designed, arranged or used for the detection of a hazardous condition or an unauthorized entry or attempted entry into a building, structure or facility, or for alerting persons of a hazardous condition or the commission of an unlawful act within a building, structure or facility, and which emits a sound, or transmits a signal or message when activated, to which annunciation a law enforcement agency or other service agency may be summoned to respond, but shall exclude a proprietary system.

Proprietary system means an alarm system emitting alarm or supervisory signals from within a control center, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes any signal visible or audible outside the protected premises, it thereby becomes a police emergency alarm system as defined in this section.

Remote visual inspection means a visual inspection of the premises protected by the Burglar Alarm System which is accomplished through the use of a video camera or other similar device to capture real time visual images of the premises to the Alarm System User, Alarm Company

Operator, Private Guard Responder, or person or entity authorized by the Alarm System User. The visual images must be sufficiently discernable to permit the viewer to confirm that an unauthorized entry, attempted unauthorized entry, or other crime has occurred at the premises protected by the Burglar Alarm System

Residential alarm user means an alarm user that uses an alarm on private property and is not considered a commercial alarm user.

Signature means the act of signing one's name or making a mark in lieu thereof; the name of a person written with his or her own hand to signify that the writing which precedes is in accordance with his or her wishes or intentions; or an electronic marking or signature made to serve as an indication of the party's execution or authentication of the document and intent to be bound by it.

Signed Certification means the act of a handwritten signature certifying receipt or an electronic signature certifying receipt.

Verify means, to contact the alarm site by telephonic or other electronic means in order to verify as required by Section 28-128(5) the validity of the alarm before requesting a police dispatch.

Section 28-127 System Types (9-16-2)

- (a) No automatic telephone dialing devices of any kind shall be permitted to dial directly to the 911. No business or person shall cause a programmed tape, digital, or other recorded message to be sent to the alarm dispatch center, nor shall any business or person cause a programmed tape, digital, other recorded message to be sent to any person or place to call for police emergency services. Police communications cannot receive calls from automated dialers.
- (b) Alarm systems contractors shall not program alarm systems so that they are capable of sending one plus duress alarms without the prior written approval of the alarm administrator's office.
- (c) Alarm systems contractors shall not install devices for activating a hold-up alarm which is single action, non-recessed button.

DIVISION 2. INDIVIDUAL USERS/OPERATORS

Section 28-128 Alarm User Permits; Responsibilities (9-16-3)

- (1) *Required.*
 - (a) No alarm user shall operate, or cause to be operated, an alarm system unless a valid alarm permit has been issued by the Metro alarm office.
 - (b) It is the responsibility of the alarm user to obtain a permit for each alarm system.
 - (c) Alarm permits must be renewed each year on or before July 1 of each calendar year by the alarm user when the alarm systems contractor provides an alarm or monitoring service to an alarm user.

- (d) All duties and responsibilities for the use of and/or operation of a non-permitted alarm system operation at an alarm site and the obligation to pay all fines, penalties and other amounts authorized in this article in connection with such system shall be imposed on the alarm user.
- (e) A separate alarm permit is required for each alarm site. Multi-Unit facilities must have a valid alarm permit for each unit. An alarm system may not be operated, used, installed or monitored to protect more than one alarm site.
- (f) If a licensed alarm systems contractor uses an alarm system to protect its own premises, it shall obtain a permit for such system as required in this section.
- (g) Upon submission of a completed permit form and the permit fee, the Metro alarm office shall have discretion to issue an alarm permit to an applicant unless the applicant has:
 - 1. Failed to provide proof of requisite Alarm System requirements;
 - 2. Failed to pay a fine assessed under this section;
 - 3. Had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected to the satisfaction of the Metro Alarm Administrator.

If the Metro Alarm Administrator denies an application for a permit, the individual seeking the license may file an appeal with the Metro Alarm Board.

- (h) The issuance of an alarm permit authorizing the use of an alarm system shall not create any duty or liability on the part of the city or guarantee any police or fire department or other response from the city. Nothing in this article shall be construed to waive the city's governmental immunity from suit or from liability.

(2) Application Information

- (a) Except as otherwise set out here below, each permit application or request must include the following information:
 - 1. The name, address, and telephone numbers of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this section;
 - 2. The name, address, and telephone numbers of the alarm systems contractor providing alarm or monitoring services to the alarm permit holder;
 - 3. The classification of the alarm site as residential, commercial, medical, or government owned facility;
 - 4. If the alarm is housed at an individual facility or the alarm system is housed at a multi-unit facility, whichever is applicable;
 - 5. Signed certification from the alarm user and the alarm systems contractor stating:
 - a. The date of installation;

- b. The name, address, telephone number, Tennessee Alarm Contractor's License number and Tennessee Qualifying Alarm Agent's license number for the alarm systems contractor performing the alarm system installation, and responsible for providing repair service to the alarm system. If the alarm systems contractor is not required to be licensed under the Tennessee Alarm Contractor's Licensing Law, all provisions in sections 9-16-7 of this chapter shall be met by the alarm systems contractor in addition to all other provisions under this chapter and chapters 2-28 through 2-33 prior to an alarm user permit being issued;
 - c. The name, address, telephone number, state alarm contractor's license number and the state qualifying alarm agent's license number for the monitoring company or central station if different from the alarm systems contractor performing the responsibilities listed in this section. If the monitoring company is not required to be licensed under the state alarm contractor's licensing law, all revisions in sections 9-16-7 of this chapter shall be met by the monitoring company in addition to all other provisions under this chapter and chapters 2-28 through 2-33;
 - d. A list containing the names, addresses and telephone numbers of at least two persons and at least one of those individuals must have keys and keypad numbers for the residential alarm site;
 - e. That a set of written operating instructions for the alarm system;
 - f. That the alarm systems contractor has trained the applicant, including instructions on how to avoid false alarms and the penalties, fines and consequences for false alarms under this chapter have been provided to the alarm user;
 - g. A certificate from an alarm systems contractor duly licensed under the state alarm contractor's licensing board signed by the designated qualifying agent stating that the alarm system has been tested. If the alarm systems contractor is not required to be licensed under state alarm contractor's licensing board, then all provisions in sections 9-16-7 of this chapter in addition to all other provisions under this chapter and chapters 2-28 through 2-33 shall be met by both the alarm systems contractor and the designated qualifying agent; and
 - h. Entities identified as proprietary under definition in section 9-16-1 are exempt and provide only that information as required by the metro alarm administrator; and
6. Classification of the alarm site as being equipped with duress alarm, panic alarm, hold up alarm, or remote visual inspection if applicable.
- (b) Any false statement of a material matter made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue or renew a permit.

- (c) An alarm permit cannot be transferred to another person or another address, except as provided for in 19-16-3(6)(b). An alarm user shall inform the alarm administrator of any change that alters any information listed on the permit application within five business days.

(3) Fees

- (a) All fees, fines and penalties owed by an applicant must be paid before a permit may be issued or renewed. Payments will not be accepted on current fees, fines and penalties until past due fees, fines and penalties are paid in full. The permit fee shall be issued by the Metro Alarm Administrator, or alarm administrator's designee, upon the following conditions

1. There shall be a \$30.00 permit fee for the first year for residential customers. There shall be a \$60.00 permit fee for the first year for commercial customers.
2. There shall be an annual renewal fee of \$10.00 for residential customers and \$25.00 for commercial customers. Renewal fees become delinquent after July 30 of each calendar year. Fees paid after July 30 will include a delinquent fee of \$30.00 for residential customers and \$60.00 for commercial customers.
3. It is the responsibility of the alarm user to renew the permit for each active alarm or monitoring system.

- (4) The Metro Alarm Administrator may deny the renewal of permits based if the permit holder has outstanding fees, fines or penalties which have been incurred as a result of the use of the system have not been paid. If an applicant has false alarm citations pending in the administrative process or a court system, then a permit may be issued or renewed at the discretion of the Metro Alarm Administrator.

- (5) Commercial Alarm Users: The following provisions are applicable to commercial alarm users who have at least six false alarms from July 1 to June 30 of any year.

- (a) Commercial Alarm users may be required to show proof an alarm system with the ability to confirm validity of the alarm prior to police dispatch.
- (b) A Commercial Alarm System must confirm an unauthorized entry or attempted unauthorized entry upon the premises, building or structure protected by alarm system.
- (c) In-Person Confirmation: Confirmation may be made by the Alarm System User, other person at or near the scene of the activation, Private Guard Responder. An in-person confirmation shall include an observation of or inspection of the premises.
- (d) Digital Verification: On-Site Digital Verification may be made by an alarm systems contractor or alarm user verifying the validity of alarm through digital surveillance. The images must confirm unauthorized entry or attempted unauthorized entry.

(6) Multi-Unit Alarm Systems

- (a) *Alarm systems in multi-unit dwelling contracted for by individual tenant.* If an alarm system is installed by an individual tenant in an apartment complex unit, the tenant

may provide the name of a representative of the apartment owner or property manager who can grant access to the apartment to the alarm business which is providing any services to the alarm user pertaining to the alarm system.

A tenant of a multi-unit dwelling shall not operate an alarm system in a residential unit before an alarm permit has been issued by the alarm administrator. The fees for this permit and the renewal of this permit shall be the same as the fees and renewal for a residential alarm site.

For the purpose of enforcing this section against an individual residential unit, the tenant is responsible for false alarm dispatches emitted from the alarm system in the tenant's residential unit.

- (b) *Alarm systems in multi-unit dwelling within residential units contracted by owner or property manager.* If the owner or property manager of a multi-unit dwelling provides alarm systems in each residential unit as an amenity, then the owner or property manager of the multi-unit dwelling shall not operate an alarm system in each residential unit before an alarm permit has been issued by the alarm administrator. The permits are transferable from tenant to tenant at the same alarm site. Each living unit within the multi-unit dwelling shall be considered one alarm site and be required to be permitted. The fees for this permit and the renewal of this permit shall be the same as the fees and renewal for a residential alarm site.

All units shall be required to be permitted if the alarm system is active, regardless of the unit's occupancy status.

For purposes of assessing fines and enforcing this section, the master alarm permit holder is responsible for payment of fines for false alarm dispatches emitted from the alarm systems in residential units.

- (c) *Alarm systems in multi-unit facility contracted for by individual alarm user.* If an alarm system is installed by an individual alarm user, the individual alarm user may provide the name of a representative of the multi-unit facility or property manager who can grant access to the unit to the alarm business which is providing any services to the individual alarm user pertaining to the alarm system.

An individual alarm user in a multi-unit facility shall not operate an alarm system in the multi-unit facility before an alarm permit has been issued by the alarm. The fees for this permit and the renewal of this permit shall be the same as the fees and renewal for a commercial alarm site

For the purpose of enforcing this section against an individual alarm user, the individual alarm user is responsible for false alarm dispatches emitted from the individual's alarm system.

- (d) *Alarm Systems in multi-unit facility contracted by the owner or property manager.* If the owner or property manager of a multi-unit facility provides alarm systems in each unit as an amenity, then the owner or property manager of the multi-unit facility shall be required to obtain a permit, or apply for a permit for each unit and show proof of a permit prior to activating the alarm system. The permits are transferable from

tenant to tenant at the same alarm site. However, if the owner or property manager requires individual tenants to apply for and obtain permits, the permit shall not be transferable. Regardless, each unit within the multi-unit facility shall be considered one alarm site and be required to be permitted. The fees for this permit and the renewal of this permit shall be the same as the fees and renewal for a commercial alarm site

All units shall be required to be permitted if the alarm system is active, regardless of the unit's occupancy status.

For purposes of assessing fines and enforcing this section, the master alarm permit holder is responsible for payment of fines for false alarm dispatches emitted from the alarm systems in multi-unit facilities.

(7) Permit duration and renewal.

(a) A permit shall expire at midnight on June 30 of each calendar year. The permit must be renewed annually, for a fee of \$10.00 for residential users and \$25.00 for commercial users by the Metro Alarm Administrator. The alarm administrator may notify the alarm user of the need to renew prior to the expiration of the permit. It is the responsibility of the alarm user to renew the permit prior to the expiration date. Failure to renew will be classified as use of a non-permitted alarm system and penalties shall be assessed without waiver; except, if the alarm system is installed after January 1, but before July 1 of each calendar year, and the permit fee was paid, the alarm site will not be subject to an annual renewal fee until the following July 1, provided the alarm site has not exceeded its false alarm threshold two (2) false alarms.

(b) Fees paid after July 30 will include a delinquent fee of \$30.00 for residential customers and \$60.00 for commercial customers.

(c) If an alarm user does not have a proper permit, the alarm user will be charged an additional \$20 for administrative costs associated with false alarms.

(8) Proper alarm systems operation and maintenance. An alarm user shall:

(a) Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm dispatches;

(b) Make every reasonable effort to respond or cause a representative to respond to the alarm system's location within a reasonable amount of time when notified by the city or the alarm company to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises;

(c) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report; and

(d) Adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of the alarm system will sound for no longer than 15 minutes after being activated. This shall provision shall not apply to duress, hold up, panic or glass break signals.

- (e) The alarm user or permit holder shall cause a properly sized and easy to locate address of the alarm company to be placed at the alarm site as determined by the metro alarm administrator.

Section 28-129 Contents Confidential (9-16-4)

The information contained in an alarm user permit application required by this section and other information received by the alarm administrator through correspondence or communications with an alarm user shall be securely maintained and restricted to inspection only by the alarm administrator or certain officers or city employees specifically assigned the responsibility for handling and processing alarm user permits in the course of official duties or as otherwise required by law. The register of business subject to a verified response shall remain confidential.

DIVISION 3. FALSE ALARMS

Section 28-130 False alarms fees and Penalties; dispatch records; appeals (9-16-5)

- (1) Fines.

- (a) An alarm user shall be subject to fines, warnings, civil penalties, and suspension or revocation of permit after the first false alarm dispatch from July 1 to June 30 based upon the following schedule:

No. of False Alarm Dispatches for Police for permitted alarms	Action Taken	Fine	Fees
1	Written Notice	No Fine	No Fees
2-6	Written Notice	\$50.00	Cost of service
7 or more	Written Notice, potential revocation of permit, ordinance and/or board summons, future alarms may be considered false in nature and may require additional confirmation prior to response.	\$50.00	Cost of service + court costs and fines
No. of Unintentional Dispatches for Fire	Action Taken	Fine	Fees
1	Written Notice	No Fine	No Fees

2 or more	Written Notice and/or board summons.	\$50.00	Cost of service + court costs and fines
No. Hold Up Alarms for permitted systems	Action Taken	Fine	Fees
1	Written Notice	No Fine	No Fees
2 or more	Written Notice	\$50.00	Cost of service + additional resource service cost

¹ Cost of Service and additional resource service cost (Section 28-130 i and j)

- (b) Any false or unintentional alarm from an unpermitted alarm shall result a fee of \$20 (for additional administrative costs) plus the permit fee and cost of service
- (c) Any individual or entity which receives notice of a false alarm may dispute the false alarm by filing with the Metro Alarm Office, within 30 business days of the notification of the false alarm, a Notice of Dispute. The Metro Alarm Administrator will review any such Notice of Dispute. If the Metro Alarm Administrator denies the dispute the matter may be appealed to the Metro Alarm Board Dispute Committee within five (5) business days of the administrative decision. Adjudication of disputes before the Metro Alarm Board Dispute Committee shall be governed by 9-16-10, 9-16-12 and 9-16-13. A failure to timely file a Notice of Dispute shall constitute an admission of the facts contained in the false alarm notice.
- (d) Disputes for Commercial alarms verified by In-Person Confirmation that result in a false disposition, must be notarized statement by the individual that verified the incident.
- (e) Failure to comply with fines, penalties within 60 days of issuance may result in mandatory revocation of permit, online mandatory class approved by Metro Alarm Office and review by the Metro Alarm Office. Failure to complete online mandatory class may result in a \$150 penalty.
- (f) Failure to comply with the above conditions may result in alarm user being summoned before the Metro Alarm Board Dispute Committee or into city court, or other court of competent jurisdiction, by issuance of a mandatory summons issued by authorized officers.
- (g) Any owner, user or operator of any alarm system found to have violated this section two times or more in any permit period, which runs from shall also be liable for a service fee to the city for the actual cost of any response by law enforcement or emergency personnel, and for the actual cost to the city for any interruption of public services or closure of public facilities reasonably necessitated by response to such

false alarm, in an amount up to the maximum allowed by state law. Additionally, any owner, user or operator of any alarm system will also be responsible for the administrative fees associated with the enforcement of this Ordinance.

- (h) Except for fire or mechanically-activated water flow alarm devices and alarm systems owned and operated by any governmental entity or subdivision, upon a finding that an owner, user or operator has violated this section six times in any permit year which runs from July 1 to June 30, said owner, user or operator shall further be prohibited from operating the alarm system at issue in such a manner as to be the sole basis for a request for response by law enforcement personnel for the remainder of the permit year from the date of such finding.
- (i) The Metro Alarm Office shall collect the fines and civil penalties for false alarms in accordance with this section. Failure to comply with any of the action prescribed by this section within the time period required by the alarm office shall be considered an ordinance violation and the alarm user shall be subject to additional civil penalties.
- (j) The Memphis Police Director shall submit to the Metro Alarm Office an amount commensurate to the cost of officers answering false alarms for approval by resolution no less than three (3) months prior to the end of the fiscal year in every even numbered year. The Memphis Fire Director shall submit to the Metro Alarm Office an amount commensurate to the cost of the fire department answering false alarms for approval by resolution no less than three (3) months prior to the end of the fiscal year in every even numbered year.
- (k) The Metro Alarm Administrator shall submit the amounts set forth in subsection (h) & (i) along with the administrative costs associated with enforcement of this Ordinance for approval by resolution on or before the second council meeting in May of each year.

(2) Non-Permitted Alarm System

- (a) Any person operating a non-permitted alarm system (whether revoked or suspended) will be subject to a false alarm penalty in addition to any other fines. Persons operating an alarm system that was never permitted shall receive written notice and will have ten business days after such violation to apply for a permit. The metro alarm office shall send a certified letter to users that have not applied within the ten days notifying alarm user that a false alarm fine and service fees will be levied if application is not complete a total of 30 days after the original violation. In addition, alarm user will further be prohibited from operating the alarm system at issue in such a manner as to be the sole basis for a request by law enforcement personnel until application has been submitted and all fees and fines have been paid.
- (b) Any subsequent false alarm calls to a non-permitted alarm system shall also be liable for a service fee to the city for the actual cost of any response by law enforcement or emergency personnel, and for the actual cost to the city for any interruption of public services or closure of public facilities reasonably necessitated by response to such false

alarm, along with the administrative costs associated with enforcement of this Ordinance and in an amount up to the maximum allowed by state law and a fee of \$20 for the failure to have a permit.

(3) Reports

All alarm installation companies providing services in the city shall, prior to activation, send the alarm office application for permit. In addition, alarm monitoring firms shall provide after the fifth day of the end of each month, a list of any and all locations where alarm monitoring services are provided. Such list shall remain confidential to the extent allowed by law.

DIVISION 4. ALARM SYSTEMS CONTRACTOR NOT LICENSED BY STATE

Section 28-131 Alarm System Standards (9-16-6)

- (a) Alarm systems contractors which perform monitoring services must maintain for a period of at least one year following request for police dispatch to an alarm site, records relating to the dispatch. Those records are to be maintained July 1, 00:00 to June 30, 23:59. Records must include the name, address, and phone number of the alarm user, the alarm system zone(s), or point(s) activated, (if applicable), the time of the request for law enforcement dispatch and evidence that an attempt to verify was made to the alarm site prior to the request for law enforcement dispatch, where applicable. The alarm administrator may request copies of such records for individually named alarm users.

Section 28-132 Licensing Procedures and qualifications (9-16-7)

- (a) Any person engaging in an alarm systems contractor or installing, servicing, or monitoring alarm systems in the city not required to be licensed under the state alarm contractor's licensing law shall be approved by the Metro Alarm Administrator.
- (b) An alarm systems contractor which is not required to be licensed under the Tennessee Alarm Contractor's Licensing Act, shall:
 - i. Have a regular place of business at a permanent fixed location;
 - ii. Have a business license or license for the city and county in which the business is located;
 - iii. Complete a background check for all alarm system contractors and employees;
 - iv. Provide proof that all alarm systems contractors and employees with access to records, diagrams, plans or other sensitive information pertaining to monitored, installed or proposed alarm systems are at least 18 years of age
- (d) No person shall do business under this chapter unless the business entity has been approved by the Alarm Administrator and meets the requirements of this section.
- (e) Insurance. No approval shall be issued under this chapter and chapters 2-28 through 2-33 unless the alarm systems contractor files with the Metro Alarm Review Board evidence of insurance as follows:

A policy of liability insurance providing the following minimum coverage:

- i. \$100,000.00 because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or the principal insured's agents operating in the course and scope of such agent's employment;
- ii. \$100,000.00 because of injury to or destruction of property in the course and scope of such agent's agency.

Every business/company shall at all times maintain on file with the Alarm Administrator certificates of insurance as required by this chapter and chapters 2-28 through 2-33, and upon failure to do so, the approval of such business/company shall be suspended and not reinstated until the insurance certificates are filed.

Section 28-133 Revocation, Appeal and Reinstatement (9-16-8) previously in 9-16-11 and 9-16-12

(a) Revocation, suspension or loss of alarm permit.

- (1) A person commits an offense if he or she operates an alarm system during the period in which his or her alarm permit is suspended or revoked.
- (2) Unless there is separate indication that there is a crime in progress, the respective law enforcement office may refuse police response to an alarm dispatch request at an alarm site for which the alarm permit is revoked.

(b) Appeal from denial, suspension or revocation of permit.

- a. If the Alarm Administrator denies the issuance or renewal of a permit, or suspends or revokes a permit, he or she shall send written notice of his or her action and a statement of the right to appeal, by certified mail, return receipt requested, to the applicant or alarm user.
- b. The applicant or alarm user may appeal the decision of the Alarm Administrator by filing a written request for a review setting forth the reasons for the appeal within 20 days after receipt of the notice from the alarm administrator. An alarm systems contractor may submit the request for review on behalf of an alarm user.
- c. Filing of a request for appeal shall stay the action by the Alarm Administrator suspending or revoking a permit until a review has been completed. If a request for appeal is not made within the 20-day period, the action of the alarm administrator is final.
- d. The appeal shall be heard by the Metro Alarm Board Dispute Committee. The decision of the Metro Alarm Administrator shall be overturned only upon a showing that the decision was arbitrary and capricious. Additionally, the Metro Alarm Board Dispute Committee may impose other conditions it deems appropriate for the issuance of the permit.

(c) Reinstatement of permit. A person whose alarm permit has been revoked may be issued new permit if the person:

- (1) Pays, or otherwise resolves all fees, fines and penalties;
- (2) Submits a certificate from an alarm systems contractor designated qualifying agent licensed under the provisions of this chapter, or the applicable statutes of the state, stating that the alarm system has been inspected, repaired or upgraded to meet current industry standards; and
- (3) Satisfies any other conditions or requirements set by the Metro Alarm Board.

DIVISION 5. ADMINISTRATION

Section 28-134 General Rules (9-16-9) previously 9-16-12

- (d) *Establishment of office of Metro Alarm Administrator.* There is established the office of alarm administrator, under the supervision of the city treasurer, to oversee the installation, service, maintenance and use of alarm security systems in the city of Memphis, who shall oversee operations. The office shall be operated as a self-funding unit and permitting revenue received by such office are to be used exclusively for the continued operation of the office. The office is to maintain a reserve of \$100,000.00 plus 10 percent of the previous year's operating expenses. The Metro Alarm office may reimburse the City Attorney's office for \$25,000.00 for resources used to defend matters under this ordinance. Any surplus revenue will be divided pro rata between the Memphis Police and Fire Department based on the percentage of fees collected from alarm system users.
- (e) *Metro alarm administrator.* The metro alarm administrator shall act as executive director, and his or her appointment shall be by the mayor of the city. The metro alarm administrator may adopt regulations, in accordance with this subtitle, Article VI, Police Emergency Alarm System to
- (1) Establish the form and content of the registrations and permits required by this subtitle;
 - (2) Establish the procedures that regulate the request for police response to an alarm location;
 - (3) Establish policies and procedures to ensure that alarm monitoring companies are verifying alarms; calling notification lists; and notifying the alarm dispatch center of alarm cancellations;
 - (4) Oversee the creation and implementation of an alarm user awareness class.
 - (5) Enforce the criteria for revocation of any registration or permit required by this subtitle;
 - (6) Enforce the criteria for reinstatement of a registration or permit required by this subtitle after revocation;
 - (7) File suit in any court of competent jurisdiction for the collection of all outstanding fees, fines and penalties; and,

(8) Further the Metro Alarm Administrative Office's ability to carry out and enforce the provisions of this subtitle.

(f) *Metro Alarm Review Board.* The metro alarm review board shall consist of 6 members as follows: the Metro Alarm Administrator, a dispatcher or other person designated by the Police Director; a person designated by the Memphis Fire Director; a resident of the City who shall be appointed by the Mayor subject to approval by City Council; and two licensed alarm contractors who shall be appointed by the Mayor subject to approval by City Council. The appointed members shall serve for a term of two years, and shall serve no more than two consecutive terms. The chair of the Metro Alarms Review Board shall be voted on by the members. The Metro Alarm Review Board shall meet no less than twice a year.

(g) *Metro Alarm Review Board Dispute Committee.* The Metro Alarm Review Board Dispute Committee shall consist of five (5) members designated by the Metro Alarms Review Board. The Dispute Committee shall hear all appeals from alarm users asserting an alarm should not be considered a false alarm. The burden shall be on the alarm user to demonstrate why the alarm was not false and why the alarm user should not be charged the fines, fees and penalties assessed herein. If an alarm user is dissatisfied with the decision of the Dispute Committee the alarm user may file an appeal in Chancery Court of Shelby County, TN in accordance administrative act.

DIVISION 6. ENFORCEMENT

Section 28-135 Malicious False Alarm declared violation and city misdemeanor (9-16-10) previously 9-16-13)

Any person who shall cause a malicious false alarm to be reported shall be guilty of a violation, punishable as provided in section 1-24-1 of this code, or section 1-4 of the Code of Shelby County, whichever is applicable.

Section 28-136 Exceptions (9-16-11) previously 9-16-14

- A. Sections 9-16-1 and 9-16-7 shall not apply to any governmental entity with regard to payment of a fee or a penalty or the revocation of a permit which provides, maintains and services police emergency alarm reporting systems for its own protection when acting in a governmental capacity as opposed to a proprietary function. These governmental entities shall be required to secure permits and renew such as required so that their alarm devices will be recorded by the police services division.
- B. When law enforcement services are requested to respond to the governmental entities, all directives of this chapter shall be in force. This is not to exempt private businesses which provide, maintain or service governmental entities with such alarm systems. This exception is to include electronic surveillance program systems used by the law enforcement agencies.

Section 28-136 911 calls in non-emergency situations prohibited; penalty. (9-16-13) previously 9-16-16

A 911 call for a communication that is for some purpose other than to report an emergency or an event that the person placing the call reasonably believes to be an emergency is a Class C misdemeanor, subject to a \$50.00 fine.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Kemp Conrad,
Chair of Memphis City Council

THE FOREGOING ORDINANCE
5729 PASSED
1st Reading 7-10-2019
2nd Reading 8-16-2019
3rd Reading 8-20-2019
Approved _____
Chairman of Council
Date Signed: 9-3-19
APPROVED: _____
Mayor, City of Memphis
Date Signed: 9/5/19
I hereby certify that the foregoing is a true copy and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.
Valerie C. Sipes
Comptroller