

ORDINANCE NO.

AN ORDINANCE AMENDING THE WALNUT CREEK MUNICIPAL CODE
RELATING TO PREMISE SECURITY ALARMS

The City Council of the City of Walnut Creek does ordain as follows:

Section 1.

Chapter 9 of Title 3 of the Walnut Creek Municipal Code is hereby amended to read as follows:

Chapter 9. Premise Security Alarm Systems

Sec. 3-9.01. Purpose.

The purpose of this ordinance is to encourage alarm users and alarm businesses to maintain the operational reliability and proper use of alarm systems and to reduce or eliminate false alarm dispatch requests. False alarm dispatches pose a safety hazard to the police officers and the general public and divert police officers from other useful duties. This ordinance governs systems intended to summon a police response. It requires permits, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for suspension or loss of permits.

Sec. 3-9.02. Definitions.

(a) **Alarm Administrator** means a person or persons designated by the Chief of Police to administer, control and review alarm applications, permits and alarm dispatch requests.

(b) **Alarm Business** means the business, by an individual, partnership, corporation or other entity of selling, leasing, servicing, repairing altering, replacing, moving, installing or monitoring an alarm system in an alarm site.

(c) **Alarm Dispatch Request** means a notification to the police by the alarm business that an alarm, either manual or automatic has been activated at a particular alarm site.

(d) **Alarm Review Board** shall consist of the Captain of Operations of the Walnut Creek Police Department. The Board may be expanded to include such other persons as may be appointed from time to time by the Chief of Police.

(e) **Alarm Site** means a single premise or location served by an alarm system. Each tenancy, if served by a separate alarm system in a multi-tenant building shall be considered a separate alarm site.

(f) **Alarm System** means any assembly of equipment and devices designed to signal the presence of a potential hazard relayed by an alarm answering service to any other audible or silent alarm device to which the police are expected to respond. Fire and medical alarm systems and alarm systems, which monitor temperature, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premise or an attempted burglary, or robbery at a premise are specifically excluded from regulation under this Chapter.

(g) **Alarm User** means any person, firm, partnership, corporation or other entity that uses an alarm system at its alarm site.

(h) **Chief** means the Chief of Police of Walnut Creek.

(i) **Conversion** means the transaction or process by which one alarm business begins monitoring of an alarm system previously monitored by another alarm business.

(j) **Duress Alarm** means a silent alarm signal generated by the manual activations of a device intended to signal a crises situation requiring police response.

(l) **False Alarm** means an alarm dispatch request to the police department when the responding officer finds no evidence of a criminal offense or attempted criminal offense. An alarm dispatch request that is canceled by the alarm business or the alarm user prior to the time the responding officer reaches the alarm site shall not be considered a false alarm dispatch.

(l) **Holdup Alarm** means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

(m) **Intrusion Alarm** means an alarm system signaling an entry or attempted entry into the area protected by the system.

(n) **Keypad** means a device that allows control of an alarm system by the manual entering of a coded sequence of numbers or letters.

(o) **Monitoring** means the process by which an alarm business receives signals from alarm systems and relays an alarm dispatch request to the city for the purpose of summoning police response to the alarm site.

(p) **Takeover** means the transaction or process by which an alarm user takes over control of an existing alarm system, which was previously controlled by another alarm user.

(q) **Verify** means an attempt, by the alarm business, or its representative, to contact the alarm site by telephone or other electronic means, whether or not actual contact with a person is made, before requesting a police dispatch, in an attempt to avoid an unnecessary alarm dispatch request.

Sec. 3-9.03. Permit Required.

(a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit issued by the alarm administrator. A separate permit is required for each alarm site. The annual fee for a permit or permit renewal for a non-residential alarm site is \$25.00. There is no charge for a permit or permit renewal for a residential alarm site. The initial permit application must be submitted to the alarm administrator within 15 days after the alarm installation or alarm takeover.

(b) Upon receipt of a completed application form, the alarm administrator shall issue an alarm permit to an applicant unless the applicant has failed to pay any applicable permit fees and any fines assessed or had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

(c) Each permit application must include 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 imposed under this Chapter, and the name, address and telephone number of the alarm business monitoring the alarm system. The Chief may require such other information as he feels necessary to accomplish the purposes of this Chapter.

(d) An alarm permit cannot be transferred to another person. An alarm user shall inform the alarm administrator of any change that alters any information listed on the permit application within 5 business days.

(e) All fees owed by an applicant must be paid before a permit may be issued or renewed.

(f) All information furnished with an application shall be confidential.

(g) The fee established by this section may from time to time be amended by a resolution adopted by the City Council.

Sec. 3-9.04. Permit Duration and Renewal.

A permit shall expire one year from the date of issuance, and must be renewed annually by submitting an updated application and if applicable a permit renewal fee to the alarm administrator. The alarm administrator shall notify each alarm user of the need to renew 30 days prior to the expiration of their permit. It is the responsibility of the alarm user to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a non-permitted alarm system and citations and penalties may be assessed.

Sec 3-9.05. Alarm System Maintenance and Operation.

(a) Each alarm user shall:

(1) maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm dispatches.

(2) make every reasonable effort to respond or cause a representative to respond to the alarm system's location within one hour when notified by the city to provide access to the premises.

(3) not manually activates an alarm for any reason other than an occurrence of an event the alarm System was intended to report.

(b) Each alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than ten minutes after being activated.

(c) Each alarm user shall have a properly licensed alarm business inspect his alarm system after three false alarm dispatches in a one-year period.

Sec. 3-9.06. Monitoring Procedures.

An alarm business performing monitoring services shall:

(a) not request dispatch for police response during the first week after installation of an alarm system, but rather use that week to train the alarm user on proper use of the alarm system.

(b) attempt to verify every alarm signal, except duress or hold up alarm activation before requesting a police response to an alarm signal.

(c) communicate verified cancellations of alarm dispatch requests to the city in a manner and form determined by the alarm administrator.

(d) ensure that all alarm users of alarm systems equipped with duress alarms are given adequate training as to the proper use of the duress alarm.

(e) utilize the procedure the alarm administrator shall develop to accept verified cancellation of alarm dispatch requests.

Sec. 3-9.07. System Performance Reviews.

If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the alarm administrator may require a conference with an alarm user and the alarm business responsible for the repair of the alarm system to review the circumstances of each false alarm.

Sec. 3-9.08. Administrative Fines.

(a) An alarm user or the master permit holder for an apartment complex shall be subject to warnings, fines and suspensions or revocation of permit depending on the number of false alarm dispatches emitted from an alarm system within a 12-month period based upon the following schedule:

<u>Number of False Alarm Dispatches</u>	<u>Action Taken</u>	<u>Fines</u>
1	Written Notice & Warning Letter #1	0
2	Written Notice & Warning Letter #2	0
3	Written Notice & Hearing Letter	\$25
4	Fourth False Dispatch	\$50
5	Fifth False Dispatch	\$75
6 and over	Continued False Dispatch (per dispatch) & possible suspension or revocation	\$100

(b) In addition any person operating an alarm system without a valid permit (whether revoked, suspended or never acquired) will be subject to a \$25.00 fine for each false alarm dispatch, in addition to any other fines. The alarm administrator may waive this additional fine for a non-permitted system if the alarm user applies for a permit within ten days after such violation.

(c) Alarm dispatch requests caused by actual criminal offense or with evidence of a criminal attempt shall not be counted as a false alarm dispatch.

(d) The alarm administrator may reinstate a suspended permit upon receipt of acceptable evidence that the cause has been addressed and appropriate corrective action has been taken as outlined in Section 3-9.11.

(e) The fines established by this section may from time to time be amended by a resolution adopted by the City Council.

Sec. 3-9.09. Appeals from Fines.

(a) An alarm user may appeal imposition of a fine to the Alarm Review Board by filing a written request for hearing with the City Clerk setting for the reasons for the appeal within ten (10) days after issuance of the notice of the fine or the date indicated on the notice, whichever is later. The filing of a timely request for an appeal hearing with the Alarm Review Board stays the assessment of the fine until the Alarm Review Board makes a final decision.

(b) The Board shall make its decision on the basis of the preponderance of evidence presented at the hearing including, but not limited to, evidence that a false alarm dispatch was caused by a defective part that has been repaired or replaced or that an alarm dispatch request was caused by a criminal offense. The Board shall affirm, reverse or modify the imposition of the fine. The decision of the Board is final. The Board shall notify the party seeking review as to the decision, the time in which the fine, if any, must be paid, and the opportunity for judicial review within 20 days of service of the decision as provided in Government Code section 53069.4(b).

Sec. 3-9.10. Revocation or Suspension of Permit.

(a) The alarm administrator may suspend or revoke an alarm permit after notice and an opportunity for a hearing, or refuse to issue a permit for any of the following grounds:

(1) there is a false statement of material matter in the application for a permit,
(2) the permit holder has failed to make timely payment of a fee assessed under Section 3-9.08.

(3) the permit holder has exceed five false dispatches in a 12 month period.

(b) No person shall operate an alarm system during the period in which the alarm permit is suspended or revoked.

(c) If the alarm permit is reinstated, the alarm administrator may revoke the alarm permit if it is determined that two additional false alarm dispatches occur within 60 days after the reinstatement date.

Sec. 3-9.11. Appeal from the Denial, Suspension or Revocation of a 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 action and a statement of the right to an appeal, by certified mail, return receipt requested, to both the applicant or alarm user and the alarm business. The applicant or alarm user may appeal the decision of the alarm administrator to the Alarm Review Board by filing a written request for a review with the City Clerk setting for the reasons for the appeal within ten days from the date of the notice from the alarm administrator, or the date on the notice, which ever is later. An alarm business may submit the request for review on behalf of an alarm user. A timely appeal shall stay the action of the alarm administrator.

(b) The Alarm Review Board shall notify the person appealing of the time, date and place of the hearing. The board shall make its decision on the basis of a preponderance of the evidence presented at the hearing including, but not limited to, certification that alarm users have been retrained, that a defective part has been repaired or replaced, or that the cause of the false alarm has been otherwise determined and corrected. The decision of the Board is final.

Sec. 3-9.12. Reinstatement of Permit.

A person whose alarm permit has been revoked may be issued a new permit if the person submits an updated application and pays the \$25.00 permit fee, and, pays, or otherwise resolves, all citations and fines, and submits a certification from an alarm business satisfactory to the alarm administrator that the site has been inspected and repaired if necessary by the alarm business.

Sec. 3-9.13. Administrative Fines for other Violations.

Any person who violates by commission or omission any provision of this Chapter for which a fine is not otherwise specified, may be fined as provided in Chapter 7 of Title 1 of this Code.

Sec. 3-9. 14. Directory Duties.

Nothing in this Chapter shall abrogate the provisions of Section 1-3.14 of this Code, or create a duty to respond to any alarm.

Section 2.

All residential alarm sites in existence on the effective date of this ordinance shall obtain the permit required by this ordinance within __ days following the effective date of this ordinance. All non-residential alarm sites in existence on the effective date of this ordinance shall obtain the permit required by this ordinance within __ days following the effective date of this ordinance.

Section 3.

This ordinance shall take effect on the 31st day following its adoption.