

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUSTIN, CALIFORNIA, REPEALING ORDINANCE NOS. 633, 663, 825, 830, 875, AND 1029; AND ADDING CHAPTER 9 TO ARTICLE 6 OF THE TUSTIN CITY CODE REGARDING REGULATION OF BURGLARY AND ROBBERY ALARM SYSTEMS

The City Council of the City of Tustin, California, does hereby ordain as follows:

SECTION 1. PURPOSE

The purpose of this ordinance is to set forth regulations governing the installation, operation, and maintenance of residential and commercial burglary and robbery alarm systems within the City and to require permits therefore, and to establish authority to impose fees for permits, excessive false alarms, and responses to non-permitted alarms. Over the past ten years, unnecessary calls for police service due to false residential and commercial burglary and robbery alarms have steadily risen to the point that responding to such calls places a significant burden on the City's emergency response resources. While these alarms serve as a deterrent to crime, the amount of time and public funds the City spends responding to thousands of residential and commercial false alarms every year diminishes emergency response resources. Responding to the ever increasing amount of false alarm calls within the City consumes police officer time, wastes fuel, increases the risk of traffic collisions, and lowers overall emergency response times. The enactment of a more effective ordinance governing false alarm activations and responses will enable the City to ensure that the Police Department recovers costs associated with providing emergency response services to residential and commercial false alarm calls.

SECTION 2. REPEAL OF EXISTING ALARM ORDINANCES

Ordinance Nos. 633, 663, 825, 830, 875, and 1029 are hereby repealed in their entirety.

SECTION 3. Chapter 9 is hereby added to Article 6 of the Tustin City Code regarding regulation of residential and commercial burglary and robbery alarm systems, which shall read as follows:

ARTICLE 6: PUBLIC WELFARE

CHAPTER 9

BURGLARY AND ROBBERY ALARM SYSTEMS

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6900 FINDINGS

The City Council of the City of Tustin finds and determines that the need to regulate the installation, operation, and maintenance of residential and commercial burglary and robbery alarm systems is of paramount importance for the proper protection of the public health, safety, and general welfare. California Business and Professions Code Section 7592.8 authorizes local authorities of any City or County, within the exercise of their police power, to enact ordinances governing false alarm activations and responses. The purpose of this chapter is to establish standards and controls to reduce the incidents of false burglary and robbery alarm calls responded to by the Police Department. The fees collected by this chapter will be used to offset the costs associated with the Police Department's responses to burglary and robbery alarms.

6901 DEFINITIONS

For purposes of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended.

- (1) "Alarm agent" means any person who is employed by an alarm business, whether directly or indirectly, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, altering, replacing, moving, installing, or monitoring on any building, place, or premises any alarm system.
- (2) "Alarm business" means any person, firm, or corporation engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing, or monitoring any alarm system or causing to be sold, maintained, serviced, repaired, altered, replaced, moved, installed, or monitored an alarm system in or on any building, place, or premises.
- (3) "Alarm system" means any electronic device designed for the detection of an unauthorized entry on premises, or for alerting others of the commission of an unlawful act, or both, and when actuated, emits a sound or transmits a signal to indicate that an emergency exists, and to which police are expected to respond.
- (4) "Alarm user" means a person contracting with an alarm business for the leasing, servicing, or maintaining of an alarm system, or who owns, uses, or maintains a proprietor alarm.
- (5) "Audible alarm" means a device designed to emit an audible sound to alert others of an unauthorized entry onto property, an unauthorized entry into a structure, or the commission of a robbery.
- (6) "City," "Chief of Police", and "Police" mean the City of Tustin, the Tustin Chief of Police, and the Tustin Police Department.
- (7) "False alarm" means an alarm signal which causes response by the Police Department where an emergency situation does not exist. "Response" means arrival at the location of the alarm. "False alarm" does not include an alarm signal activated by earthquake, extraordinary weather conditions, or other act of God.
- (8) "Proprietor alarm" means an alarm which is not serviced by an alarm business.

- (9) "Silent alarm" means that type of alarm system which, when activated, sounds a bell or buzzer, or turns on a light at a pre-designated place other than the location where the alarm has been installed.

6902 EXEMPTIONS -- SPECIAL ALARM SYSTEMS

The provisions of this chapter shall not be applicable to:

- (1) Audible alarms affixed to automobiles, unless the vehicle alarm is connected to a central monitoring system;
- (2) Fire or smoke sensor alarm systems or detectors when such systems are not used as, or in lieu of, intrusion detection devices or alarm systems;
- (3) Emergency medical crisis alarms when such systems are not used as, or in lieu of, intrusion detection devices or alarm systems.

6903 PRE-EXISTING SYSTEMS / 90-DAYS TO OBTAIN PERMIT

The provisions of this chapter shall be applicable to all alarm systems, as defined in Section 6901(3) and not specifically exempted by Section 6902, within the City. All owners of alarm systems installed and operating prior to the adoption of this ordinance shall have ninety (90) days from the effective date of this ordinance to obtain an alarm user permit pursuant to Section 6911.

6904 AUTOMATIC SHUTOFF

All audible alarm systems, excluding fire alarms that emit sound to indicate the functioning of an automatic fire sprinkler system, shall include a device that will limit the generation of the audible sound of the system to not longer than fifteen (15) minutes after activation when the alarm system is protecting a residential structure, and fifteen (15) minutes when the alarm is protecting a commercial or industrial structure. Such systems shall include an automatic resetting device, which shall cause the system to be re-armed upon automatic shutoff. Any alarm system which causes an audible sound for a period in excess of fifteen (15) minutes is declared to be a public nuisance, which may be the subject of prosecution under Article 5, Chapter 5, Section 5500 *et seq.* of this code.

6905 ALARM SYSTEMS TERMINATING AT POLICE DEPARTMENT

No alarm system shall be installed which, when activated, causes an alarm or signal to be sent directly to the Police Department or any facility thereof, or any City building, unless and until written permission therefore is received from the Chief of Police. The Chief of Police is authorized to limit the number of such devices terminating

into the Police Department if he/she determines that any such device or devices would interfere with the normal functions of the Police Department.

6906 AUTOMATIC CALLING DEVICES

No person other than an authorized agent of the Police Department shall use, maintain, operate, or attempt to use or operate, or cause to be used or operated, any alarm system or other device or combination of devices that is arranged, adjusted, or programmed so that it will upon activation, either mechanically, electronically, or by other automatic means, initiate, call, and deliver a recorded message to any telephone number assigned to the City or its Police Department, or to any radio frequency used thereby.

6907 USE OF PANIC BUTTON

A burglary or robbery panic button shall only be activated when there is an immediate threat to life or property. It shall be unlawful to activate such panic button to merely summon the Police, or in lieu of dialing 911.

6908 INSTRUCTION AS TO OPERATION OF ALARM SYSTEMS

It shall be the responsibility of the alarm business to instruct the alarm user in the proper use and operation of the alarm system, whether silent or audible, as frequently as necessary, especially in those factors which can cause false alarms. The alarm business shall instruct the alarm user that activating an alarm in the absence of an emergency is a criminal offense under Section 148.3 of the California Penal Code. Prior to activation of an alarm system, the alarm business shall inform the alarm user that an alarm user permit issued by the City is required and shall supply the alarm user with a City alarm user permit application. The alarm user permit application shall be made available to the alarm business by the Police Department at no cost.

6909 ADMINISTRATION

The provisions of this chapter shall be administered and enforced by the Chief of Police, or his or her designee(s). The Chief of Police shall have the power to interpret this chapter and to issue guidelines, as necessary, to assist in enforcement.

6910 ALARM USER PERMIT

(a)(1) No person shall install or cause to be installed, use, or maintain an alarm system on premises owned or in the possession or control of such person within the City without first having obtained an alarm user permit from the City in accordance with this section. The application for an alarm user permit shall be submitted on a form prescribed by the Police Department and shall include, at minimum, the following information:

- (A) The address of the premises where the alarm system is to be located;
- (B) The name, address, and telephone number of the alarm user applicant;
- (C) The name, address, and telephone number of a second person who may be contacted in case of an emergency;
- (D) The name, address, and telephone number of the person or alarm business who will render service or repairs to the alarm system during any hour of the day or night.
- (E) The name, address, telephone number, alarm license number and city business license number of the installing alarm company.

(2) The alarm user permit application shall be accompanied by a nonrefundable fee in such amount as established by resolution of the City Council.

(b) A separate alarm user permit shall be required for each premises of address on which an alarm system is used or installed. Alarm system permits shall not be transferable. A new alarm user permit shall be required whenever there is a change in a business name, ownership, or location. With regard to an alarm system installed at a residence, a new alarm user permit shall be required whenever there is a change in ownership. For any change in occupants of a residence with an alarm system, the holder of the alarm user permit shall update the notification list as submitted to the City in his or her application to include the name(s) and telephone number(s) of the new occupants.

(c) If requested by the Police Department, the person(s) listed on the notification list in the alarm user permit application shall be required to be present at the alarm location within forty-five (45) minutes after being advised that the Police Department has received any signal or message of an alarm activation at that location.

6911 ALARM USER PERMIT--APPROVAL--DENIAL

(a) Approval

Upon finding the requested alarm user permit application conforms to the provisions of this chapter and other applicable provisions of the Tustin City Code and contains all the information requested in the application form, the Chief of Police shall issue the alarm user permit. The applicant shall pay an alarm user permit fee as established by resolution of the City Council.

(b) Denial

The Chief of Police shall deny the alarm user permit application if he or she determines any of the following:

- (1) The requested alarm user permit is in conflict with any provision of the Tustin City Code;
- (2) The applicant, or his/her employee(s) or agent(s), has knowingly made a false, misleading, or fraudulent statement of a material fact in the application for a permit.
- (3) The applicant has failed to pay the alarm user permit or application fee required by this chapter;
- (4) The applicant has had a similar permit revoked pursuant to Section 6915 herein within the past year and has failed to show material change in the circumstances justifying the revocation since the date of revocation.

(c) Any such denial is final unless the applicant appeals the decision to the City Manager in the manner specified in this chapter.

6912 ALARM BUSINESS REGISTRATION

No person shall engage in, conduct, or carry on an alarm business within the City, nor shall any person provide alarm system installation, maintenance, and/or monitoring services within the City, without first: (i) obtaining a City business license, and (ii) applying for and receiving a state alarm company operator license therefore, in accordance with the provisions of Chapter 11.5 of Division 3 of the California Business and Professions Code (commencing with Section 7512) and filing a copy of such license with the Chief of Police. In the event its license is suspended, revoked, or otherwise rendered invalid by the state issuing authority, the alarm business shall notify the Chief of Police in writing of such state action within five (5) days thereof. Each alarm business owner providing alarm system services within the City is required to provide the Chief of Police with the name, address, and telephone number of each new alarm system subscriber within the City prior to the activation of the new alarm system. Such notification shall also include the name, address, and telephone number of each new subscriber when any existing alarm system operating within the City has been sold or transferred to another subscriber.

6913 TERM OF PERMIT

Alarm user permits are issued for a one (1) calendar year period from January 1 to December 31, or from the date after January 1 that the application is submitted and approved to December 31 of the same year. The application fee shall not be prorated based on the date of application. All alarm user permits expire and must be renewed

annually. The alarm user permit renewal fee shall be in an amount as established by resolution of the City Council.

6914 FALSE ALARM RESPONSE FEES

(a) In addition to the alarm user permit fee, a permitted alarm user may become liable to the City for the costs of the Police Department responding to an excessive false alarm emitted by his or her alarm system. For purposes of this section, "excessive false alarm" means every false burglary alarm occurring after three (3) false burglary alarms have been received from any one (1) protected premises or from any one (1) permitted alarm system within any consecutive three hundred sixty-five (365) day period. Responses to excessive false burglary alarms are subject to false burglary alarm response fees. The false burglary alarm fees shall be in an amount as established by resolution of the City Council. A higher fee may be established by resolution of the City Council for each additional false burglary alarm during any consecutive three hundred sixty-five (365) day period.

(b) A false robbery alarm ("211 Alarm") response fee shall be paid to the City for every manually activated false robbery alarm call. The false robbery alarm fees shall be in an amount as established by resolution of the City Council. A higher fee may be established by resolution of the City Council for each additional manually activated false robbery alarm during any consecutive three hundred sixty-five (365) day period.

(c) Any burglary alarm which causes more than ten (10) false alarms, or any manually activated robbery alarm which causes more than four (4) false alarms, may be declared a public nuisance, and will be subject to revocation of permit as specified in section 6915 of this chapter. False alarms responded to beyond ten (10) for burglary and four (4) for robbery will continue to be billed at the rates established by resolution of the City Council, and the Police Department will no longer be required to respond to alarms at said address once the Police Department has sent a letter, return receipt requested, to the owner or occupant of the subject premises advising of the cessation of such service and the reasons therefore.

(d) A response to a non-permitted burglary or robbery alarm, whether false or valid, shall result in the assessment of a non-permitted alarm fee. If an alarm user permit is applied for within thirty (30) days of the response to a non-permitted burglary or robbery alarm, the non-permitted alarm fee shall be waived. However, if an alarm user permit is not applied for within thirty (30) days of the response, each additional response to a non-permitted location, whether false or valid, shall result in the assessment of a higher fee, as established by resolution of the City Council. Should a non-permitted false burglary alarm frequency reach more than ten (10), or a non-permitted false robbery alarm reach more than four (4), in any three hundred sixty-five (365) day period, the alarm user shall be notified by certified mail that the Police Department will no longer respond to alarm calls at that location.

(e) All fees established and/or levied by this section shall be paid to the City within thirty (30) days from the date of the invoice mailed to the holder of the alarm user permit or the owner of the subject premises upon which the alarm system is located if no permit has been issued for the alarm system, and become delinquent thereafter.

(f) All delinquent unpaid fees shall accrue interest at five percent (5%) per annum.

(g) The amount of any permit fee or reimbursement for excessive false alarms accrued plus interest shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent alarm user permit fee or excessive false alarm prevention fee, plus accrued interest.

6915 REVOCATION OF ALARM USER PERMIT

(a) Any alarm user permit may be revoked at any time at the discretion of the Chief of Police whenever:

- (1) The alarm user is in violation of any of the provisions of this chapter;
- (2) The alarm system activates ten (10) or more burglary or four (4) or more manually activated robbery false alarms within any consecutive three hundred sixty-five (365) day period;
- (3) The alarm user, or his/her employee(s) or agent(s), has knowingly made any false, misleading, or fraudulent statement of a material fact to the Police Department in the permit application or renewal process;
- (4) Immediately following an alarm activation, the alarm user or his designated representative fails to respond in person to the subject premises within forty-five (45) minutes to a request for access to the protected premises, upon request to do so by a police officer or a public safety dispatcher who deems a response is necessary to insure the security of the premises or persons where the alarm system is installed.

(b) If the Chief of Police determines that grounds exist to revoke the alarm user permit, the permittee shall be served with written notice of the intent to revoke the alarm user permit and a detailed explanation of the reasons for the intended revocation. The permittee shall have fifteen (15) days from the date of issuance of the notice of intent to revoke to respond and present evidence to the Chief of Police that he or she has corrected any deficiencies in the equipment or operation of the alarm system or that he or she has paid those fees owed to the City under this chapter. Within five (5) days

of the date on which such evidence is presented, the Chief of Police shall notify the permittee of his or her decision. Absent any evidentiary showing by the permittee, the Chief of Police shall issue an order of revocation. The order of revocation shall be effective immediately if personally served on the permittee, or seventy-two (72) hours after the order has been sent by certified mail addressed to the permittee at his or her last known address.

(c) Upon revocation of an alarm user permit, the Police Department shall not respond to alarms from the alarm system(s) if the revocation was a result of excessive false alarms or defective equipment. The City may charge for responses based on the fees set forth in this chapter.

6916 APPEAL

(a) Any person aggrieved by a decision of the Chief of Police to deny an application for a permit, to deny an application to renew a permit, to revoke a permit, or to require reimbursement for excessive false alarms, shall have the right to appeal the decision to the City Manager.

(b) A written statement setting forth fully the grounds of such appeal shall be filed with the City Clerk within fifteen (15) days after notice of the decision of the Chief of Police has been delivered to such person or mailed via certified mail to his or her last known address.

(c) Where an appeal has been timely filed with the City Clerk, an order of revocation shall be stayed pending a determination thereon by the City Manager. The permittee shall be allowed to continue to use the alarm system until the appeal process has been exhausted, unless the Chief of Police determines that the continued use of the alarm system interferes with the safe and efficient operation of the Police Department. The order of revocation shall be effective from its initial date of issuance if the City Manager upholds the revocation decision.

6917 WAIVER OF HEARING

Failure to timely file a letter of appeal with the City Clerk within fifteen (15) days of the Chief of Police's decision shall constitute a waiver of the appellant's rights to an appeal hearing. The City Manager may nonetheless grant such a hearing at his or her sole discretion.

6918 APPEAL--HEARING AND DECISION

Within fifteen (15) days of the timely filing of a written appeal with the City Clerk, the City Manager shall set a time and place for hearing on the appeal, which shall be within thirty (30) days after the appeal is filed or such longer period as may be agreed to by the parties. The City Manager shall promptly give written notice to the appellant of the time and place for the hearing at his last known address at least ten (10) days prior

to the date of the hearing. At the hearing on the decision of the Chief of Police, the City Manager shall give the appealing party, and any other interested party, a reasonable opportunity to be heard in order to show cause as to why the determination of the Chief of Police should not be upheld. In all cases, the burden of proof shall be upon the appellant to show that there is not substantial evidence to support the decision of the Chief of Police. In conducting the hearing, the City Manager shall not be limited by the technical rules of evidence. The City Manager shall render a written decision on the appeal within ten (10) days following the close of the hearing, and failure to do so shall constitute a denial of the appeal. The decision by the City Manager on appeal shall be final.

6919 RE-ISSUANCE OF ALARM USER PERMIT

(a) After revocation of an alarm user permit, no new or renewal user permit shall be issued for the premises until written proof of correction is provided to the Chief of Police and the alarm system is determined, in the sole discretion of the Chief of Police, to be in an acceptable working order. Acceptance and approval of the written proof of correction shall be the responsibility of the Chief of Police. If a reissued permit is revoked, no new alarm user permit may be issued for the same premises until a new or remodeled alarm system is installed, which meets all standards required in this chapter.

(b) An additional fee as set forth by resolution of the City Council shall be required prior to the reissuing of an alarm user permit after the original permit has been revoked.

6920 ENFORCEMENT

The criminal conviction of any person for violation of the provisions of this chapter shall not release such person from paying the permit fee or reimbursement for excessive false alarms due and unpaid at the time of such conviction, nor shall payment of any permit fee or reimbursement for excessive false alarms prevent criminal prosecution for violation of any of the provisions of this chapter. All remedies shall be cumulative and the use of one or more remedies by the City shall not preclude the use of any other remedy for the purpose of enforcing the provisions of this chapter.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason determined to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Tustin hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

PASSED AND ADOPTED by the City Council of the City of Tustin, at a regular meeting on the ____day of _____, 2005.

LOU BONE
Mayor

PAMELA STOKER
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF TUSTIN)

I, Pamela Stoker, City Clerk of the City of Tustin, California hereby certify that the foregoing is a full, true and correct copy of the Ordinance introduced at a regular meeting of the City Council of the City of Tustin duly held on _____, of which meeting all of the members of said City Council had due notice and at which a majority thereof were present; and was finally passed and adopted not less than five days thereafter on _____, by the following vote:

COUNCILMEMBER AYES: _____
COUNCILMEMBER NOES: _____
COUNCILMEMBER ABSTAINED: _____
COUNCILMEMBER ABSENT: _____

PAMELA STOKER,
City Clerk