

**AN ORDINANCE AMENDING CHAPTER 18, ARTICLE II OF THE CODE OF THE CITY OF JOHNS CREEK RELATING TO FALSE ALARMS; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Johns Creek (“City”) has heretofore adopted an ordinance for False Alarms, codified as Chapter 18, Article II, Division 2, Sec. 18-40 through Sec. 18-46 of The Code of the City of Johns Creek (the “Code”); and

**WHEREAS**, the City desires to enact a false alarm ordinance which is consistent with those enacted and to be enacted in surrounding jurisdictions participating in the ChatComm Emergency Communications (911) Center; and

**WHEREAS**, the Mayor and City Council have determined that it is appropriate to amend Chapter 18 of the City Code to include updated and comprehensive provisions relating to false alarm management in the City to: (1) minimize risks to public safety caused by false alarms diverting limited public safety resources away from real emergencies; and (2) promote the public safety by making alarm users in the City directly responsible for preventing false alarms;

**THEREFORE**, the Council of the City of Johns Creek hereby ordains that Chapter 18, Article II, Division 2 of the Code is hereby amended by deleting the current provisions contained in Sec. 18-40 through Sec. 18-46 of the Code in their entirety, and substituting in lieu thereof the following:

**“Division 2. False Alarms**

**Sec. 18-40. Purpose and Intent.**

(a) The purpose of this ordinance is to encourage alarm Owners and Alarm Businesses to properly use and maintain the operational effectiveness of Alarm Systems in order to improve the reliability of Alarm Systems and reduce or eliminate False Alarms. The City of Johns Creek finds that excessive False Alarms unduly burden the Johns Creek Police and Fire Departments and waste limited public safety resources.

(b) This Ordinance governs Alarm Systems intended to summon a Public Safety Department and requires registration, provides for the assessment of civil penalties for excessive False Alarms, provides procedures for repeat offenders, provides for the severability of the parts hereof if declared invalid, and provides an effective date.

**Sec. 18-41. Definitions.**

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

*Adopted Code(s)* means the code(s) adopted by the City or otherwise by operation of law (including The Code of the City of Johns Creek, Georgia, the State Minimum Standard Codes, the Rules and Regulations for the State Minimum Fire Safety Standards (see O.C.G.A. § 25-2-1, et seq.) and the state accessibility code for buildings and facilities), and, in the absence of an Adopted Code, the National Fire Protection Association National Fire Alarm Code 72 (NFPA 72) and the National Fire Protection Association Life Safety Code 101 (NFPA 101). In the event provisions of the codes conflict, and provisions within such codes regarding interpretation and conflicts do not resolve such conflict, then

those provisions which are deemed as the strictest by the Fire Chief or Police Chief, as applicable, shall take precedence and be enforced.

*Alarm Activation Report* means a document issued by the Enforcement Official indicating that the activation was deemed to be the result of either a valid incident or a False Alarm.

*Alarm Administrator* means a person or persons, including a third party contractor, designated by the City to administer, control and review False Alarm reduction efforts and to administer the provisions of this Ordinance.

*Alarm Business/Company* means any individual, partnership, corporation or other entity that is appropriately licensed in the State of Georgia and installs, causes to be installed, permits to be installed, alters, maintains, repairs, replaces or services (including Runner Services) any Alarm System.

*Alarm Initiating Device* means a device that is designed to respond either manually or automatically to smoke, fire, or activation of a fire suppression system.

*Alarm Permit* means a permit issued by the City to allow the operation of an Alarm System within the City.

*Alarm Signal* means a detectable signal, whether audible, visual, and/or silent, generated by an Alarm System, to which a Public Safety Department is requested to respond.

*Alarm System* means any single device or assembly of equipment designed to signal the occurrence of a fire, illegal or unauthorized entry or other activity requiring immediate attention and to which a Public Safety Department will be requested to respond, but does not include alarms installed in motor vehicles, domestic violence alarms, or alarms designed to elicit a medical response. *Alarm System* also includes a system or portion of a combination system consisting of components and circuits arranged to monitor and/or exterior annunciate the status of an Alarm Signal or supervisory signal-initiating devices and to initiate the appropriate response to those Alarm Signals.

*Alarm User* means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an Alarm System, or on whose Premises, whether owned or leased, an Alarm System is maintained for the protection of such Premises.

*Alarm User Awareness Class* means a class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

*Automatic Voice Dialer* means any electrical, electronic, mechanical, or other device capable of being programmed to send a pre-recorded voice message, when activated, over a telephone line, radio or other communication system, to the Emergency Communications System requesting Public Safety Department dispatch.

*Cancellation* means the process by which a response is terminated when the Alarm Company (designated by the Alarm User) notifies the Emergency Communications Center that there is not an existing situation at the alarm site requiring Public Safety Department response after an alarm dispatch request. If cancellation occurs prior to the respective Public Safety Department arriving at the scene, this is not a False Alarm for the purpose of civil penalty, and no penalty will be assessed.

*City* means the City of Johns Creek, Georgia.

*City Council* means the governing body of the City consisting of the Mayor and members of Council.

*Emergency Communications Center* means the ChatComm Emergency Communications (911) Center.

*Enforcement Official* means the Fire Chief (*Fire Department Enforcement Official*) or the Police Chief, or their respective designated representatives.

*False Alarm* means the activation of an Alarm System to summon a Public Safety Department which occurs as a result of mechanical or electronic failure, malfunction, improper installation, or the negligence of the Alarm User, his/her employees or agents, unless the request for response was cancelled by the Alarm User or his/her agent before a Public Safety Department arrives at the alarm location. An alarm is false within the meaning of this ordinance when, upon inspection by a Public Safety Department, evidence indicates that no fire, medical emergency, unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the Premises which would have activated a properly functioning Alarm System. Notwithstanding the foregoing, a False Alarm shall not include an alarm which can reasonably be determined to have been caused or activated by violent conditions of nature, nor does it include other extraordinary circumstances not reasonably subject to control by the Alarm User. In addition, an alarm activated during an Alarm System testing procedure shall not be considered a False Alarm if the Alarm User first notifies and receives permission from the Alarm User's Alarm Company, or designee, to test the Alarm System. *False Fire Alarm* means a False Alarm to summon the Fire Department. *False Alarm* shall not include the activation of an Alarm System that is not a Monitored System.

*Fire Chief* means the Fire Chief of the City of Johns Creek, Georgia.

*Fire Department* means the City of Johns Creek Fire-Rescue Department.

*Fire Watch* means a person or persons approved by the Fire Department Enforcement Official who is assigned to the Premises for the purpose of protecting the occupants from fire or similar emergencies. A Fire Watch may involve at least some special action beyond normal staffing, such as assigning an additional security guard(s) to walk the Premises, who has been specially trained in fire prevention and in the use of fire extinguishers, in notifying the Fire Department, in sounding the fire Alarm System located on the Premises.

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

*KNOX Rapid Entry System or KNOX System* means a secure access program developed for Owners and fire departments, which has been approved by the Fire Department Enforcement Official, that provides immediate entry into buildings and other secured property without causing forced entry damage or delay.

*Monitored System* means an Alarm System which is monitored by a remote monitoring facility which receives signals from the Alarm System and notifies emergency response forces.

*Owner* means any person who owns the Premises in which an Alarm System is installed or the person or persons who lease, operate, occupy or manage the Premises.

*Permit Year* means a twelve (12) month period beginning on the day and month on which an Alarm Permit is issued; provided however, in circumstances where no Alarm Permit has been issued, *Permit Year* shall mean calendar year.

*Police Chief* means the Chief of Police of the City of Johns Creek, Georgia.

*Police Department* means the City of Johns Creek Police Department.

*Premises* means any building, structure or combination of buildings, including structures which serve as dwelling units such as single-family or multi-family, or any other area within a building, structure or combination thereof which is used for any purpose, wherein an Alarm System is installed.

*Public Safety Department(s)* means the Police Department and the Fire Department individually or collectively, as the context indicates.

*Qualified Alarm Technician* means any person who inspects, installs, repairs or performs maintenance on Alarm Systems and has successfully completed training consistent with alarm industry standards. A *Qualified Fire Alarm Technician* shall be: a) factory trained and certified; b) National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II certified; or c) licensed or certified by state or local authority.

*Record of Completion* means the completion of a form equivalent to the record of completion form included in the National Fire Protection Association's National Fire Alarm Code (NFPA 72).

*Report of Service/Repair* means appropriate documentation in a format acceptable to the Enforcement Official that verifies proper repairs or maintenance have been performed by both the Alarm Business and the Owner.

*Runner Service* means the service provided by a runner at the protected Premises, including resetting and silencing of all equipment transmitting alarm or supervisory signals to an off-Premises location.

*Serve* shall mean hand-delivery of written notification by a representative of the City to the Owner or authorized representative who responded to the Premises. In the event the Owner or authorized representative fails to respond to the Premises within thirty (30) minutes, *Serve* shall mean placing the form or other matter in the United States mail, postage prepaid, addressed to the Owner or authorized representative and/or placing a copy of an Alarm Activation Report affixed to the main entrance door of the Premises.

*SIA Control Panel Standard CP-01* means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for Alarm System control panels and their associated arming and disarming devices to reduce False Alarms. Control panels built and tested to this standard by nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

*Verify* means an attempt by the monitoring company, or its representative, to contact the alarm site and/or Alarm User by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an Alarm Signal is valid before requesting Public Safety Department dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this ordinance, telephone verification shall require, at a minimum, that a second call be made to a

different number if the first attempt fails to reach an Alarm User who can properly identify himself/herself to attempt to determine whether an Alarm Signal is valid before requesting Public Safety Department dispatch.

**Sec. 18-42. Alarm Permits.**

(a) *Permit required.* Effective June 1, 2013, no Alarm System shall be used unless the Alarm User first obtains a permit for such Alarm System from the City. There may be a permit fee in an amount as set by resolution of the City Council for the Alarm Permit. Each Alarm System shall be assigned a unique number, and the Alarm User shall provide the Alarm Permit number to the Alarm Company to facilitate Public Safety Department dispatch.

(b) *Registration.* Each Alarm User has the duty to obtain and complete an Alarm Permit registration application on a form provided by the City in accordance with Adopted Codes. The registration form shall include the following information:

- (1) The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager or person in possession of the Premises wherein the Alarm System is installed;
- (2) The name, address and telephone number of a minimum of two (2) persons who can be notified in the event of the activation of the Alarm System, who shall be capable of responding to the Premises within thirty (30) minutes, and who are authorized to enter the Premises to ascertain the status thereof;
- (3) The name, address and telephone number of the Alarm Business which has contracted to service the Alarm System and proof of proper state licensing/registration, if required. Proof of proper state licensing may be a valid state licensing number;
- (4) The date the registration is signed or the Alarm System is placed in operation for any reason; and
- (5) Any other documentation that is required by Adopted Codes.

(c) *Non-transferability; new registration required.* Alarm Permits are not transferable. Upon transfer of the possession of Premises at which an Alarm System is maintained, the new Alarm User shall register for an Alarm Permit within fifteen (15) days of obtaining possession of the Premises.

(d) *Reporting updated information.* When information required on the Alarm Permit registration application changes, the Alarm User shall provide correct information to the City within fifteen (15) days of the change. The Owner shall be required to update registration information whenever there is a change in the Alarm Business/Company responsible for maintaining, servicing, and/or monitoring the Alarm System. In addition, each year after the issuance of an Alarm Permit, Alarm Permit holders will receive, from the City, a form requesting updated information. The Alarm Permit holder shall complete and return this form to the City within fifteen (15) days.

(e) *Multiple Alarm Systems.* If an Alarm User has one (1) or more Alarm Systems protecting two (2) or more separate structures having different addresses and/or tenants, a separate Alarm Permit shall be required for each structure and/or tenant.

(f) *Exception to Registration.* An Alarm System that is not a Monitored System shall not be subject to the requirements of this Section 18-42.

**Sec. 18-43. Duties of the Alarm User/Owner.**

An Alarm User or Owner shall be required to:

- (a) Register and obtain an Alarm Permit;
- (b) Maintain the Premises and the Alarm System in a method that will reduce or eliminate False Alarms;
- (c) Respond or cause a representative to respond to the Alarm System's location within thirty (30) minutes upon notification of the need to deactivate a malfunctioning Alarm System, to provide right of entry to the Premises, or to provide alternative security for the Premises;
- (d) Ensure that an Alarm System is not manually activated by the Alarm User or any other person for any reason other than an occurrence of an event that the Alarm System was intended to report;
- (e) Upon obtaining an Alarm Permit number, provide that number to the Alarm Company;
- (f) Obtain a new Alarm Permit if there is a change of address or ownership of a business or residence or if there is updated information.
- (g) *KNOX Rapid Entry System:*
  - (1) All new and existing commercial occupancies having automatic fire Alarm Systems shall have approved KNOX systems installed in a location approved by the Fire Department.
  - (2) The KNOX System box shall contain all keys for all locked areas of the building as required by the Fire Department. Keys shall include, but not be limited to, all areas of the building, automatic fire Alarm Systems, pull station re-setting tools, all elevators and elevator machine rooms and sprinkler systems riser rooms.
  - (3) All vehicle access gates utilized on roads utilized by Public Safety Departments by commercial occupancies shall be provided with a KNOX key switch system.
  - (4) The Fire Department shall be notified immediately of changes of locks and/or keys for the building to allow for the placement of new keys in the KNOX System box.
  - (5) All new and existing commercial occupancies having automatic fire Alarm Systems shall comply with the provisions of this Sec. 18-43, subparagraph (g) no later than the last day of the sixth month following the effective date of this ordinance.

**Sec.18-44. Inspection, Testing and Maintenance.**

- (a) The Owner shall ensure that all Alarm Systems are inspected and tested at least once per year in accordance with Adopted Codes.
- (b) The Owner shall ensure that all Alarm Systems are periodically maintained per manufacturer specifications and Adopted Codes.

**Sec. 18-45. Fire Alarm System Certification.**

All newly installed or re-certified commercial fire Alarm Systems shall be approved by the Fire Department Enforcement Official. The certification shall indicate that the fire Alarm System is in compliance with Adopted Codes. The certification shall be signed by a Qualified Fire Alarm Technician.

**Sec. 18-46. Duties of an Alarm Company.**

An Alarm Company shall be required to:

- (a) Obtain and maintain required state and local license(s) and/or permits;
- (b) Notify the City Alarm Administrator of the existence of an Alarm System prior to the Alarm System being put into operation;
- (c) Provide the Owner with notice of the existence of this ordinance, a registration form and a copy of the Alarm System operation instructions in accordance with Adopted Codes, and the manufacturer's instructions;
- (d) Maintain current contact information, including Alarm User permit numbers, which shall be provided to the Emergency Communications Center at the time of a request for Public Safety Department response;
- (e) Ninety (90) days after the effective date of this ordinance, Alarm Companies shall use control panels meeting Security Industry Association (SIA) Control Panel Standard CP-01 on all new installations;
- (f) Prior to activation of the Alarm System, the Alarm Company must provide verbal and written instructions explaining the proper operation of the Alarm System to the Alarm User and provide written information on how to obtain service from the Alarm Company;
- (g) An Alarm Company performing services for a Monitored System shall:
  - (1) Verify, by calling the alarm Premises and/or Alarm User by telephone, whether an Alarm Signal is valid before requesting dispatch. Telephone verification shall require, at a minimum, that a second call be made to a different number, if the first attempt fails to reach an Alarm User who can properly identify himself/herself to attempt to determine whether an Alarm Signal is valid, EXCEPT in the case of a fire, panic or Holdup Alarm, or in cases where a crime-in-progress has been verified by video and/or audible means.
  - (2) Communicate a cancellation to the Emergency Communications Center as soon as possible following a determination that response is unnecessary.
  - (3) Communicate any available information about the location of the alarm.
- (h) All newly installed or re-certified commercial Alarm Systems shall be approved by the Alarm Administrator. The certification shall indicate that the Alarm System is in compliance with Adopted Codes. The certification shall be signed by a Qualified Alarm Technician.

**Sec. 18-47. Prohibited Acts.**

(a) It shall be unlawful to activate an Alarm System for the purpose of summoning a Public Safety Department when no fire, medical emergency, burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the Premises, or otherwise to cause a False Alarm.

(b) It shall be unlawful to install, maintain, or use an audible Alarm System which can sound continually for more than twenty (20) minutes.

(c) It shall be unlawful to install, maintain, or use an Automatic Voice Dialer that reports, or causes to be reported, any recorded message to the Emergency Communications Center or the Police Department.

(d) An Alarm Company shall provide the Alarm Permit number for the Alarm System that produced the Alarm Signal at the time the Alarm Company notifies the Emergency Communications Center of an Alarm Signal to facilitate dispatch.

**Sec. 18-48. Enforcement of Provisions.**

(a) *Alarm Activation Report.* The officer or member of the Public Safety Department who responded to said Premises shall serve the Owner or authorized representative with an Alarm Activation Report either in person or by affixing the report to the main entrance if no Owner or authorized representative is on the scene. The Alarm Activation Report will include the findings of the responding Public Safety Department official as to the validity of the alarm activation.

(b) *Excessive False Alarm to Summon Police Department.* It is hereby found and determined that three (3) or more False Alarms to summon the Police Department within a Permit Year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for each False Alarm to summon the Police Department within a Permit Year shall be assessed against an Alarm User as follows:

(1)	First and second False Alarm	No Charge
(2)	Third through fifth False Alarm	\$ 50.00
(3)	Sixth False Alarm	\$100.00
(4)	Seventh False Alarm	\$150.00
(5)	Eighth False Alarm	\$250.00
(6)	Ninth False Alarm	\$350.00
(7)	Tenth and over False Alarm	\$500.00
(8)	Failure to register	\$100.00

(c) *Excessive False Alarms to Summon the Fire Department*

(1) Civil penalties shall be assessed against an Alarm User when a Report of Service/Repair has been returned to the Fire Department Enforcement Official, but the False Fire Alarms to summon the Fire Department continue. Civil penalties for each False Fire Alarm within a Permit Year shall be assessed against an Alarm User as follows:

(i)	First False Fire Alarm	No Charge
(ii)	Second through ninth False Fire Alarm	\$250.00
(iii)	Tenth and over False Fire Alarm	\$500.00
(iv)	Failure to register	\$100.00



- (2) In the event the Premises are equipped with a fire Alarm System with over one hundred (100) Alarm Initiating Devices, the Enforcement Official may waive one (1) False Fire Alarm per Permit Year.

(d) *False Fire Alarms.* In the event the activation of a fire Alarm System is deemed by the Enforcement Official to be a False Fire Alarm, the Owner shall be Served with a Fire Alarm Activation Report by an officer or member of the Fire Department, indicating that the activation was deemed to be the result of a False Fire Alarm.

- (1) Service of a Fire Alarm Activation Report shall require the Owner to return a completed Report of Service/Repair within fifteen (15) days of receipt of the Fire Alarm Activation Report, which shall be stated on the Report, to verify, to the reasonable satisfaction of the Enforcement Official, that:

- (i) the fire Alarm System has actually been examined by a Qualified Fire Alarm Technician; and
- (ii) a bona fide attempt has been made to identify and correct any defect of design, installation or operation of the fire Alarm System which was identifiable as the cause of the False Fire Alarm.

- (2) Failure to return a Report of Service/Repair within said fifteen (15) day period, which is reasonably satisfactory to the Enforcement Official, shall result in a civil penalty being assessed against the Owner of the fire Alarm System in the amount of \$250.00.

(e) *Other civil penalties.* Violations of other provisions of this ordinance shall be enforced through the assessment of civil penalty(ies) in the amount of \$100.00 when the amount of a civil penalty is not otherwise expressly provided for herein.

(f) *Payment of civil penalties.* Civil penalties shall be paid within (30) days from the date of the invoice from the City/Alarm Administrator.

(g) *Cause of Verified response.* The failure of an Alarm User to make payment of any civil penalties assessed under this ordinance within thirty (30) days from the date of the invoice will be cause for the Police Department to respond only to alarm calls at that location when the Alarm System has been verifiably set off due to an actual emergency. All other calls to that location will be responded to normally by the Police Department. All Alarm Signals will be responded to pursuant to this ordinance after the Alarm User's payment has been received.

(h) *Noncriminal (civil) violation.* A violation of any of the provisions of this ordinance shall be civil in nature and shall not constitute a misdemeanor or criminal infraction.

(i) *Fire Watch.* The Fire Department Enforcement Official has the authority to order a Fire Watch in accordance with Adopted Codes, due to repetitive False Fire Alarms, until corrective action is taken, for any of the following reasons:

- (1) Failure to meet all requirements or pay the civil penalties provided for in this ordinance within fifteen (15) days after notice is mailed to the Owner;
- (2) Failure of the Owner to provide a written Report of Service/Repair required by this

ordinance;

- (3) Occurrence of a fourth False Fire Alarm within a Permit Year at a Premises pursuant to this ordinance as a result of the failure of the Owner to take corrective action to eliminate the cause of the False Fire Alarm; or
- (4) The failure of a person notified pursuant to Sec. 18-43(c) of this ordinance to appear within thirty (30) minutes of notification occurs four (4) or more times within a Permit Year.

(j) *Notice to disconnect or deactivate fire Alarm System.* Written notices to disconnect or deactivate a fire Alarm System where applicable law does not require an alarm be operative shall be mailed by certified mail, return receipt requested to the Owner, and shall specify the date on which the Owner shall be required to disconnect or deactivate the fire Alarm System. This date shall be at least fifteen (15) days after the notice is mailed to the Owner. The Owner may appeal the order of the Fire Department Enforcement Official pursuant to Sec. 18-51.

- (1) Each building affected because the Alarm Signal from the fire Alarm System has been disconnected or deactivated shall be required to establish a Fire Watch until the fire Alarm System has been returned to service. The Fire Watch shall meet the requirements set forth by the Fire Department. Duties of the Fire Watch may include notifying the Fire Department and building occupants of an emergency, preventing a fire from occurring, or extinguishing small fires.

- (2) The Owner is responsible for paying all costs associated with establishing a Fire Watch.

(k) The Fire Department Enforcement Official shall have the authority to direct the Owner of the Premises to silence an activated fire Alarm System, have corrective action taken and thereafter reset it.

**Sec. 18-49. Reconnection of Fire Alarm Systems.**

(a) A fire Alarm System may be reactivated upon a finding by the Fire Department Enforcement Official that the Owner of the Premises has taken corrective action to remedy the cause of the False Fire Alarms at the Premises.

(b) The Fire Department Enforcement Official shall have the right to inspect the fire Alarm System and test it prior to approving a new order to reconnect or reactivate the Alarm System.

(c) The Fire Department Enforcement Official shall not approve a new order to reconnect or reactivate a fire Alarm System if the Owner has failed to pay any fee or civil penalty pursuant to this ordinance.

**Sec. 18-50. Alarm User Awareness Class.**

(a) *Alarm User Awareness Class.* The City may create and implement an Alarm User Awareness Class and may request the assistance of the area Alarm Companies to assist in developing and implementing the class. The class shall inform Alarm Users of the problems created by False Alarms and instruct Alarm Users how to help reduce False Alarms.

(b) *Alarm User Awareness Class in lieu of payment.* An Alarm User may have the option of attending an Alarm User Awareness Class in lieu of paying one (1) prescribed civil penalty.

**Sec. 18-51. Appeals.**

(a) *Appeals process.* Assessments of civil penalties and other enforcement decisions made under this ordinance may be appealed by filing a written notice of appeal with the Police Chief or the Fire Chief, as applicable, within ten (10) days after the date of notification of the assessment of civil penalties or other enforcement decisions. The written notice of appeal shall contain the cause for the appeal and any other pertinent information relevant to the case. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decisions. The Police Chief and Fire Chief shall each respectively designate a hearing officer from the Police Department and the Fire Department to hear appeals related to their agency. The respective hearing officer shall render a decision within five (5) business days and give written notification of his/her decision. The hearing officer's decision may be appealed to the respective Chief by filing a written notice of appeal within ten (10) days of the decision of the hearing officer. The respective Chief shall have the final decision in this matter. The hearing officer's decision and the decision of the respective Chief are subject to review by the courts having jurisdiction by proceedings in the nature of writ of certiorari.

(b) *Appeal standard.* The hearing officer shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

(c) *Appeal of order to disconnect or deactivate.* An Owner to whom a notice to disconnect or deactivate a Fire Alarm System was mailed pursuant to Sec. 18-48(j) shall be entitled to appeal the order to the Fire Department hearing officer. An appeal must be in writing, stating the reasons why the order to disconnect or deactivate should be withdrawn. The appeals shall be made within fifteen (15) days after notice to disconnect is mailed to the Owner. The Fire Department hearing officer or his designee shall review the facts and circumstances and shall determine whether the Owner has shown good cause why the order should be withdrawn. If the hearing officer affirms the order to disconnect or deactivate a fire Alarm System, the Owner shall have fifteen (15) days after the written decision is mailed to the Owner to comply with the order. The appeal of an order to disconnect or deactivate shall suspend the effective date of the order until the appeal has been acted upon by the hearing officer.

(d) *Responsibility for Fees/Costs.* In the event the appeal is not upheld, the Owner or fire Alarm Business shall also be responsible for any fee assessed to reimburse the City for any costs incurred by the hearing officer in enforcing this Ordinance.

**Sec. 18-52. Confidentiality, Immunity and Severability.**

(a) *Confidentiality.* To the extent allowed by law, information contained and gathered through the Alarm System registration process will be held in confidence by the City.

(b) *Governmental immunity.* Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either express or implied, 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. By applying for an Alarm System registration, the Alarm User acknowledges that the Police Department and Fire Department response may be influenced by various factors, including, without limitation, the availability of responding units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

(c) *Severability.* The provisions of this ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.”

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

This Ordinance shall take effect on May 1, 2013.

**APPROVED AND ADOPTED** this the 11<sup>th</sup> day of February, 2013.

Approved:

\_\_\_\_\_  
Michael Bodker, Mayor

Attest:

Approved as to Form and Content:

\_\_\_\_\_  
Joan C. Jones, City Clerk

\_\_\_\_\_  
William F. Riley, City Attorney

(Seal)