

ORDINANCE NO. 227

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERNALILLO, NEW MEXICO A MUNICIPAL CORPORATION, THAT:

§ 1. SHORT TITLE.

This ordinance shall be known and cited as the "Town of Bernalillo Alarm Ordinance".

§ 2 PURPOSE.

The purpose of this ordinance is to:

(A) Regulate the activity and responsibility of persons who:

(1) Install or use alarm devices or alarm systems; or

(2) Engage in the business of selling, leasing, installing, servicing, or maintaining alarm system devices or alarm systems;

(B) Set information requirements for alarm system businesses;

(C) Encourage improvement in the reliability of alarm devices and alarm systems; and

(D) Eliminate undue burden on the public facilities and ensure that the Police Department and other personnel are not unduly diverted from normal activities in response to false alarms.

§ 3 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*ALARM SYSTEM.* Any device which is to detect fire, unauthorized entry, or medical emergency; and which emits a sound or transmits a signal or message when actuated, and causes notification to be made directly or indirectly to the Police Department. For the purpose of this definition, an *ALARM SYSTEM* shall not include:

(1) Devices which are not designed or used to register alarms that are audible, visible, or perceptible outside of a protected area; or

(2) A device installed in a motor vehicle.

*ALARM SYSTEM BUSINESS.* The business of any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, monitoring, installing any alarm system, or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, monitored or installed in any building structure or facility.

*ALARM USER.* Any person in control of any building, structure, facility, or portion

thereof, where an alarm system is utilized.

*ALARM USER PERMIT.* An annual permit issued by the Town allowing the operation of an alarm system within the Town.

*AUTOMATIC DIALING DEVICE.* An alarm system which automatically sends a prerecorded voice or coded signal indicating the existence of an emergency situation that the alarm system is designed to detect.

*CENTRAL STATION.* That part of the alarm business which intercepts signal activation of an alarm device and relays this information by live voice to the Police Department.

*DEPARTMENT.* The Police Department.

*DIRECT LINE.* A telephone line direct to the Police Department that is for use only to report emergency signals on a person-to-person basis.

*ENHANCED 911 TRUNK LINE.* A telephone line leading directly into the Communication Center of the Police Department that is for the purpose of handling emergency calls on a person-to-person basis covering the service area within the Department's jurisdiction.

*FALSE ALARM.* The activation of any alarm system, which was not the result of any emergency or threat of emergency of the kind for which the alarm system was designed to give notice. In determining whether an alarm is a false alarm, all circumstances shall be considered, including no evidence of criminal activity, fire, smoke, carbon monoxide, heat or other threat of emergency of the kind for which the alarm system was designed to give notice.

*PERMIT HOLDER.* The alarm user to whom an alarm user permit is issued.

*PERSON.* Any individual, firm, partnership, association, corporation, company or organization of any kind.

#### § 4 ALARM USER PERMITS.

(A) *Permit required.* It shall be a violation of this chapter for any person to operate an alarm system without a valid alarm user permit.

(B) *Existing systems.* No person shall operate or permit the operation of an alarm system which was installed prior to the effective date of this ordinance unless a permit is obtained within 180 days of the effective date of this ordinance.

(C) *New systems.* After the effective date of this ordinance, the person in control of the property on which the alarm system is to be installed shall obtain an alarm user permit within 30 days of the installation.

(D) *Separate systems.* Each single dwelling unit or business with a separate alarm system shall require a separate alarm user permit.

(E) *Fee.* There shall be a \$10 fee for a timely acquired alarm system permit. This fee will be an annual fee from the original date of the alarm system permit. There shall be a \$25 fee imposed on those persons who obtain a permit after the times specified in this section.

## § 5 ALARM USER PERMIT APPLICATION.

Application for an alarm user permit for the operation of an alarm system shall be made by the person having control of the property to be protected. Such application shall be made to the Department on a form designated by the Town. The applicant shall set forth:

- (A) The name, address and telephone number, including cell number, if any, of each person in control of the property or premises.
- (B) The street address of the premises on which the alarm system is to be installed.
- (C) Any business name used.
- (D) The type of alarm system and the primary purpose of the system.
- (E) The names and telephone numbers of one or more persons who are able and who, if contacted at any time, will come to the alarm site within 45 minutes after receiving a request from a member of the Department and access the site to reset the alarm system if necessary. In the event that the applicant cannot furnish names and phone numbers of persons to come to the alarm site, the applicant will be responsible to respond.
- (F) Information on applications may be changed and applications may be transferred if necessary; however, no refunds will be made.

## § 6 ALARM SYSTEM BUSINESS.

(A) *Alarm installation.*

(1) Any person whose business it is to repair or install an alarm system must possess a valid license issued by the Construction Industries Division of the Regulation and Licensing Department of the State of New Mexico and a business registration issued by the city.

(2) Upon request, said license and registration must be presented to the Chief of Police, a law or his designated representative.

(B) *Alarm service.* Any alarm system business which operates a central station and any answering service shall:

(1) Have sufficient personnel trained in the procedures to be followed in receiving and relaying notice of the activation of an alarm and on duty at all times to ensure that emergency messages or alarm signals received by such businesses can be relayed immediately to the Department.

(2) Notify the person in control of the property of the activation of any alarm within 24 hours of the time the alarm was activated telephone or by placing such notice in the mail.

(3) Keep a written record of an alarm activation, maintained for at least 12 months, and this record shall be made available to the Chief of Police or his designated representative at the office of the alarm system business during regular business hours.

(4) Any alarm system business personnel conducting business at the alarm system location shall have on their person a photo identification from the business.

## § 7 AUTOMATIC DIALING SERVICE.

No automatic dialing service shall be interconnected to any Enhanced 911 trunk line to the Department.

## § 8 EMERGENCY ACTIVATION.

No person shall intentionally activate an alarm system for any purpose other than an emergency or threat of an emergency; provided, however, it shall be an affirmative defense to prosecution under this section that the alarm system was sounded solely for the purpose of testing the alarm and the person who tested the alarm took reasonable precautions to avoid any request being made to the Department to respond to such alarm.

## § 9 USER FEE.

The Department may respond to the first three non-emergency activations or false alarms of permitted alarm systems without charge. However, the following fees shall be charged the permit holder for each response by the Department in excess of three non-emergency or false alarm activations within a 12-month period starting from its permit date. All user fee charges for permitted or non-permitted alarm systems will be due within 30 calendar days from date of notice.

### (A) *Permitted alarm systems.*

- (1) \$25 for each response in excess of three false alarms but not more than six.
- (2) \$40 for each response in excess of six false alarms.
- (3) If the Department determines that an alarm activation is not a false alarm, then no fee will be charged and the response will not be considered a request to a non-emergency situation.
- (4) The permit holder shall be given written notice of any fees chargeable under this section.
- (5) There shall be no fees imposed for a false alarm occurring within 30 days after the third activation provided that the false alarms were caused by the mechanical defect and the alarm user is making a good faith effort to repair the defect.
- (6) If the permit holder fails to pay for fees for false alarms, the Department may not respond to any subsequent alarm activations.

### (B) *Non-permitted alarm systems.*

- (1) If an alarm system is installed and the alarm user does not apply for an alarm user permit within the time specified, the Department shall impose a \$25 fee for each false alarm response. Ten dollars of the initial fee shall be used to initiate an application permit for that property. If the property owner does not comply with the requirements of the application process within a ten-day period, each subsequent false alarm activation response at that property shall be charged a \$40 fee.
- (2) If an alarm system is installed and the alarm user does not apply for an alarm user permit and fails to pay for fees for false alarms, the Department may not respond to any subsequent alarm activations.
- (C) The Chief of Police may waive any user fee when it is established that the permit holder has taken significant steps to minimize or stop false alarms.

§ 10 VIOLATIONS.

(A) If the Department has probable cause to believe that a permit holder has made fraudulent, misrepresentative, or false statements in the application for an alarm user permit or in response to an investigation of a non-emergency response, misdemeanor charges may be brought and penalties may be assessed as set forth in the penalty provision herein.

(B) If the Department has probable cause to believe that a person has deliberately activated an alarm system to falsify an emergency situation, misdemeanor charges may be brought and penalties may be assessed as set forth in the penalty provision herein.

§ 11 ADMINISTRATION; APPLICABILITY.

(A) The Chief of Police shall adopt such rules and regulations as necessary for the safe and equitable administration of this ordinance. The issuance of the alarm user permit does not constitute a waiver of any requirement or provision contained in any ordinance of the city, state or federal law.

(B) The Chief of Police shall include in the rules and regulations a provision for the review or appeal of the enforcement of any provision of this ordinance. All applications or notices required under this ordinance shall set out the time and manner in which an alarm user may request review or undertake an appeal.

(C) Possession of an alarm user permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response by a member of the Department. Any and all liability and consequential damage resulting from the failure to respond is hereby disclaimed and governmental immunity as provided by law is retained.

§ 12 PENALTY.

The enforcement provisions of this ordinance are exclusive and only the violations set out in § 10 are subject to penalties as misdemeanor violations. Every person convicted of a violation of § 10 shall be guilty of a petty misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment not to exceed 90 days. Each violation shall constitute a separate offense and shall be punishable as such.

PASSED, APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF

\_\_\_\_\_,  
2006.

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MAYOR PATRICIA A. CHÁVEZ

ATTEST:

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Town Clerk, Ida Fierro

(SEAL)

