

**ORDINANCE NO. 2018-03-024**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF CHAPTER 10, ENTITLED "ALARMS," BY AMENDING ARTICLE II, "EMERGENCY REPORTING EQUIPMENT AND PROCEDURES," BY AMENDING PORTIONS OF SECTIONS 10-20, 10-21, 10-23 THROUGH 10-25, 10-27, 10-29, 10-31, 10-33 THROUGH 10-35, AND 10-40 THROUGH 10-43 AS PROVIDED HEREIN BELOW; REPEALING ALL CONFLICTING ORDINANCES; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS,** the City of McKinney, Texas, (the "City") is a Home-Rule City possessing the full power of local self-governance pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

**WHEREAS,** the City of McKinney possesses, pursuant to Chapter 214 of the Texas Local Government Code, as amended, the authority to regulate and permit burglar alarm systems in the City; and

**WHEREAS,** in 2007, the City Council adopted an ordinance, after providing notice and holding hearings as required under Chapter 214, regarding alarm systems whereby an alarm at a location without a permit would not be responded to by the City; and

**WHEREAS,** the City Council hereby finds that there has been and continues to be a large number of non-permitted alarm systems and false alarms within the City; and

**WHEREAS,** false alarms are a financial burden on all the citizens and a drain of City resources; and

**WHEREAS,** the City Council deems it prudent to amend certain provisions of Article II, "Emergency Reporting Equipment and Procedures," of Chapter 10 of the Code of Ordinances of the City of McKinney, Texas, ("McKinney Code") to effectively address; and

**WHEREAS,** the City Council of the City of McKinney, Texas, finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of McKinney, Texas, to amend certain provisions of Article II entitled "Alarms" of Chapter 10 of the McKinney Code as provided herein below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

**Section 1. Findings**

All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if set forth in their entirety.

**Section 2. Amendment to Section 10-20**

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, "Emergency Reporting Equipment and Procedures," by amending Section

10-20, "Definitions," in its entirety and replacing said section with a new Section 10-20, also entitled "Definitions" to read as follows:

"Sec. 10-20. – Definitions

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

*Alarm administrator* means a person designated by the governing authority to administer, control and review false alarm reduction efforts and administer the provisions of this article.

*Alarm dispatch* request means a notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

*Alarm installation* company means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site. This definition shall also include individuals or firms that install and service the alarm systems that will be used in their private or proprietary facilities. This does not include persons doing installation or repair work where such work is performed without compensation of any kind (i.e., do-it-yourselfers).

*Alarm permit* means authorization granted by the alarm administrator to an alarm user to operate an alarm system.

*Alarm site* means a single fixed premise or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multiunit building or complex, shall be considered a separate alarm site.

*Alarm system* means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response, including local alarm systems. An alarm system does not include:

- (a) An alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site; or
- (b) An alarm designed to alert only the inhabitants of the premises, which does not transmit information in order to summon law enforcement response.

*Alarm user* means any person who has contracted for monitoring, repair, installation or maintenance service from an alarm installation company or monitoring company for an alarm system, or who owns or operates an alarm system which is not monitored, maintained or repaired under contract.

*Alarm user awareness* means instruction 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.

*Appeal process* means the process that a permit holder aggrieved by a decision must make by filing a formal request in writing to the Chief of Police requesting a change in, or confirmation of, that decision made regarding an alarm issue.

*Arming station* means a device that allows control of an alarm system.

*Automatic voice dialer/automatic alarm notification* means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system to a law enforcement, public safety or emergency services agency requesting dispatch.

*Burglar alarm notification* means the notification intended to summon police, which is initiated or triggered manually or by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

*Cancellation (Fire)* means the process where response is terminated when a single-family residence owner, with proper authentication, notifies the responding fire agency that there is not an existing situation at the alarm site requiring fire agency response after an alarm dispatch request.

*Cancellation (Police)* means the process where response is terminated when a monitoring company (designated by the alarm user) for the alarm site notifies the responding law enforcement agency that there is not an existing situation at the alarm site requiring law enforcement agency response after an alarm dispatch request.

*Certificate of compliance* means a written certification from an alarm installation company stating that the alarm system has been inspected and repaired (if necessary) and/or additional training has been conducted by the alarm installation company or law enforcement agency.

*Chief* means the chief of police or their designated representative.

*City manager* means the city manager of the city or their authorized representative and shall not be a police officer or a firefighter of the city.

*Duress alarm* means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

*False alarm notification* means when a response is made by the public safety agency within 45 minutes of the alarm dispatch request and the responding personnel finds from an inspection of the interior and/or exterior of the alarm site no evidence of a

criminal offense, attempted criminal offense or fire or medical emergency.

*Fire alarm notification* means the notification intended to summon the fire department, which is initiated or triggered manually or by an alarm system designed to a stimulus characteristic of a fire or water flow.

*Fire authority* means the city fire department.

*Holdup/robbery alarm* means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress or immediately after it has occurred.

*Law enforcement authority* means the city police department.

*License* means a license issued by the state department of public safety private security bureau to an alarm installation company and monitoring company to sell, install, monitor, repair, or replace alarm systems.

*Local alarm* means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.

*Medical authority* means city medical services.

*Monitoring* means the process by which a monitoring company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning law enforcement to the alarm site.

*Monitoring company* means a person in the business of providing monitoring services.

*Offense* means operating an alarm system without a valid permit, which shall include a revoked permit.

*Occupancy Code* means the occupancy classifications as defined by the International Fire Code (IFC).

*Panic alarm* means an audible alarm generated by the deliberate activation of a panic device.

*Permit holder* means the person designated in the application who is responsible for responding to alarms and giving access to the site and who is responsible for proper maintenance and operation of the alarm system and payment of fees.

*Person* means an individual, corporation, partnership, association, organization or any legal entity.

*Public Safety authority* means city police or fire department.

*Responder* means an individual capable of reaching the alarm site within 45 minutes and having access to the alarm site, the code to the alarm system and the authority to approve repairs to the alarm system.

*Verify* means an attempt by the monitoring company or its representative to contact the alarm site and/ or alarm user by telephone, whether or not actual contact with the person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch following the alarm verification and notification procedure.”

Section 3. Amendment to Section 10-21

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-21, “Permit required; application; transferability; false statements,” in its entirety and replacing said section with a new Section 10-21, also entitled “Permit required; application; transferability; false statements,” to read as follows:

“Sec. 10-21. – Permit required; application; transferability; false statements

- (a) A person commits an offense if he operates, or causes to be operated an alarm system without a valid alarm permit issued by the chief. An alarm permit is not valid if it has been denied or revoked, has not been renewed or has expired.
- (b) The chief shall refuse police response to any burglary alarm dispatch request from an alarm site where there is not a valid, unexpired or unrevoked alarm permit, unless a report to 911 or to the police department by a person other than an alarm installation company or monitoring company.
- (c) Upon receipt of the required administrative fee and completed application form, the chief shall issue an alarm permit unless:
  - (1) There is cause to believe the equipment responsible for initiating an alarm will not be maintained and operated in accordance with this article;
  - (2) The applicant will not comply with any provision of this article; or
  - (3) A previous alarm permit was revoked or suspended after six or more false alarms during the preceding 12-month period.
- (d) Each alarm permit application must contain the following information and be complete, true and accurate in its entirety:
  - (1) Name, address and telephone number of the person who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
  - (2) Classification of the alarm site as either residential or commercial, including, where the alarm site is an

apartment, the building number and the apartment number, if so numbered;

- (3) The purpose of the alarm system for each alarm system located at the alarm site, i.e., unauthorized intrusion, burglary, robbery, panic/duress, fire, medical;
  - (4) The name and telephone number of the alarm system monitoring company that has agreed to receive calls for the permitted alarm system, if applicable;
  - (5) At least one name and telephone number of contacts (responders) that are able to respond to the alarm premise within 45 minutes with a key or means of access to the location if needed by law enforcement; and
  - (6) Other information required by the chief that is necessary for the enforcement of this article.
- (e) An alarm permit is nontransferable. However, the individual designated to respond to an alarm may be changed. A permit holder shall inform the chief in writing of any changes that alter information listed on the permit application, within two business days from the change. No fee will be assessed for such changes.
- (f) All application fees owed by an applicant must be paid before an alarm permit may be issued.
- (g) No application fee shall be required for an alarm permit obtained for an alarm system at a dwelling when the alarm site is determined by the chief to be occupied by a low-income family. In making such a determination, the chief shall consult applicable National Low-Income Housing Coalition (NLIHC) standards of at or below 30 percent of the area median income as set forth on their website:
- ([http://www.nlihc.org/detail/article.cfm?article\\_id=2746&id=36](http://www.nlihc.org/detail/article.cfm?article_id=2746&id=36)) and may require the applicant to furnish appropriate documentation regarding household income.
- (h) No alarm permit shall be required for city, state, county and federal government entities.
- (i) Any false statement or misrepresentation of a material fact made by an applicant or person for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant an alarm permit, suspension of an alarm permit or revocation of an alarm permit by the law enforcement authority."

#### Section 4. Amendment to Section 10-23

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section

10-23, "Permit fee," in its entirety and replacing said section with a new Section 10-23, also entitled "Permit fee," to read as follows:

"Sec. 10-23. – Permit fee

An annual non-refundable application fee of \$50.00 for a residential permit and \$100.00 for a commercial permit is required for issuance of an alarm permit. Alarm permits will expire one year from the date of issuance. It is the permit holder's responsibility to renew the alarm permit within ten days of the expiration date."

Section 5. Amendment to Section 10-24

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-24, "Penalties related to false alarms and noncompliance," in its entirety and replacing said section with a new Section 10-24, also entitled "Penalties related to false alarms and noncompliance," to read as follows:

"Sec. 10-24. – Penalties related to false alarms and noncompliance.

- (a) If, within a 12-month permit period, six or more burglar false alarm notifications are emitted from an alarm site, the chief shall revoke or refuse to renew the permit of the alarm site.
- (b) The chief shall assess the permit holder a fee for each robbery false alarm notification emitted from the alarm site. If, within a 12-month permit period, the fee for each robbery false alarm after three robbery false alarms shall be \$75.00; after seven robbery false alarms the fee shall be \$100.00.
- (c) The chief shall assess the permit holder a fee for each panic/duress false alarm notification emitted from the alarm site. If, within a 12-month permit period, the fee for each panic/duress false alarm after three panic/duress false alarms shall be \$75.00; after seven panic/duress false alarms the fee shall be \$100.00.
- (d) The chief shall assess the permit holder a fee for each fire/medical false alarm notification emitted from the alarm site. If, within a 12-month permit period in Group A, B, E, F, H, I, M, U, R1, R2 and S occupancy code, the fee for each fire/medical false alarm after three fire/medical false alarms shall be \$250.00; after seven fire/medical false alarms the fee shall be \$500.00.
- (e) The chief shall assess the permit holder a fee for each fire false alarm notification emitted from the alarm site. If, within a 12-month permit period in Group R3 occupancy code, the fee for each fire false alarm after three fire false alarms shall be \$25.00; after seven fire false alarms the fee shall be \$50.00.
- (f) The permit holder will be exempt from any fee charged for a false alarm notification which is later shown to have been, in the chief's sole determination, justified or which was due to a

natural or manmade catastrophe or other situation specifically exempted by the chief.

- (g) An alarm user shall pay a fee of \$75.00 for failure to provide a responder within 45 minutes when requested by a member of the public safety authority.”

#### Section 6. Amendment to Section 10-25

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-25, “Alarm system operation and maintenance,” in its entirety and replacing said section with a new Section 10-25, also entitled “Alarm system operation and maintenance,” to read as follows:

“Sec. 10-25 – Alarm system operation and maintenance

A permit holder shall:

- (a) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system;
- (b) Maintain the alarm system in a manner that will minimize false alarm notifications;
- (c) Respond and/or have a designated responder to respond within 45 minutes after requested by the law enforcement authority to repair or deactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises;
- (d) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report;
- (e) Notify the public safety authority prior to activation of an alarm for maintenance purposes; and
- (f) Adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound no longer than 10 minutes after being activated.”

#### Section 7. Amendment to Section 10-27

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-27, “Monitoring procedures,” in its entirety and replacing said section with a new Section 10-27, also entitled “Monitoring procedures,” to read as follows:

“Sec. 10-27. – Monitoring procedures

Any monitoring company engaged in the business of monitoring alarm systems in the city shall:



- (a) Report alarm signals only using telephone numbers designated by the chief;
- (b) Before requesting police response to a burglar alarm signal, attempt to verify every alarm signal with the owner/occupant of the alarm site at least twice unless secondary information is received that increases the potential validity of the burglar alarm. Secondary information may include, but is not limited to:
  - (1) Alarm monitors that provide further information that a crime is in progress or the burglary alarm dispatch request is valid (audio, video, etc.);
  - (2) Witness reports that a crime has occurred or is in progress that corroborates the burglary alarm dispatch request, e.g., a citizen, monitoring company personnel or a private guard;
  - (3) Multiple activations of different devices or zones at the same location, during the same incident, for example both the window alarm and a motion detector are activated inside the alarm site;
  - (4) Any other events or circumstances that indicate, in the chief's sole opinion, that the burglary alarm dispatch request may be valid;
- (a) When reporting an alarm signal to the public safety authority, provide the alarm permit number and address of the alarm site from which the alarm notification originated;
- (b) Provide to the law enforcement agency, concurrently with reporting the alarm dispatch request, information indicating compliance with subsection (2) of this section; and specifically, information indicating any failure by the monitoring Company to verify the alarm signal after at least two attempts; and upon receipt of such information, the police shall respond; and
- (c) Communicate alarm notifications to the city in a manner determined by the chief."

#### Section 8. Amendment to Section 10-29

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-29, "Alarm reset," in its entirety and replacing said section with a new Section 10-29, also entitled "Alarm reset," to read as follows:

"Sec. 10-29. – Alarm reset

- (a) A permit holder of an alarm system that utilizes a local alarm to summon law enforcement response, shall adjust the mechanism or cause the mechanism to be adjusted so that, upon activation, the local alarm will not transmit another alarm signal without first being manually reset.

- (b) A permit holder of an alarm system that utilizes a local alarm to summon fire/medical response shall not be reset prior to fire/medical personnel arrival."

Section 9. Amendment to Section 10-31

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-31, "Grounds for denial of a permit or revocation," in its entirety and replacing said section with a new Section 10-31, also entitled "Grounds for denial of a permit or revocation," to read as follows:

"Sec. 10-31. – Grounds for denial of a permit or revocation

(a) *Grounds for denial of an alarm permit*

- (1) The chief shall issue an alarm permit to the applicant unless one or more of the following conditions are present:
  - a. The applicant fails to provide all of the information requested on the application or submits an incomplete application;
  - b. The applicant gives false, misleading or untrue information of material fact on the application;
  - c. The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, this article or the city building, zoning or health codes; or
  - d. The applicant has failed to pay the application fee assessed pursuant to this article that is due and owing.
- (2) Denial of an alarm permit shall be effected by written denial, setting forth the grounds for denial and mailed to the applicant by depositing the notice in the United States mail, addressed to the applicant with postage pre-paid certified receipt.

(b) *Grounds for revocation of an alarm permit.*

- (1) The chief shall revoke an alarm permit if he determines that:
  - a. The permit holder or his/her designated agent has given false, misleading or untrue information of material fact in any record or report required by this article;
  - b. The permit holder fails to maintain the alarm system in accordance with the requirements of this article;

- c. The operation of the alarm system by the permit holder has demonstrated a history of unreliability, as set forth in subsection (c) of this section; or
    - d. There have been six or more false alarms during the preceding 12-month period.
  - (2) A person commits an offense if he operates an alarm system during the period in which his/her alarm permit has been revoked.
- (c) *Grounds for non-renewal of an alarm permit*
- (1) The alarm system has a history of unreliability and the applicant has failed to make alterations or corrections to the system to reasonably assure abatement of false alarms. Any alarm system generating six or more false burglar alarm notifications within a 12-month period shall be presumed unreliable; and the alarm permit shall be revoked or suspended, upon the permit holder receiving notification of revocation or suspension from the city; until the permit holder has completed the requirements as listed in section 10-32.
  - (2) Revocation or suspension of an alarm permit shall be effected by written denial, setting forth the grounds for denial and mailed to the applicant by depositing the notice in the United States mail, addressed to the applicant with postage pre-paid certified receipt.
  - (3) A person commits an offense if he/she operates an alarm system during the period in which his/her alarm permit has not been renewed."

#### Section 10. Amendment to Section 10-32

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-32, "Reinstatement of a permit," in its entirety and replacing said section with a new Section 10-32, also entitled "Reinstatement of a permit," to read as follows:

"Sec. 10-32. – Reinstatement of a permit.

- (a) In the event a person's alarm permit has been revoked, the person may have the permit reinstated if the person:
  - (1) Submits an updated application and pays a \$100.00 permit reinstatement fee in accordance with this article;
  - (2) Attends an alarm awareness class; and
  - (3) Presents a certificate of compliance.
- (b) An alarm permit that has been reinstated shall;
  - (1) Expire on the same date it was originally set to expire, one year from the date the alarm permit was issued;

- (2) Reset false burglar alarm count to zero.

#### Section 11. Amendment to Section 10-33

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-33, "Appeal from penalty fee, denial, or revocation of a permit," in its entirety and replacing said section with a new Section 10-33, also entitled "Appeal from penalty fee, denial, or revocation of a permit," to read as follows:

"Sec. 10-33. – Appeal from penalty fee, denial, or revocation of a permit.

- (a) Any applicant, permit holder, alarm installation company or monitoring company aggrieved by a decision to assess a penalty fee, denial or revocation may appeal the decision to the Chief of Police in writing, setting forth the reasons for the appeal within thirty days.
  - (1) The filing of a request for an appeal stays the action of assessing a penalty until the Chief of Police makes a decision.
  - (2) If the chief of police denies the appeal, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal.
  - (3) If a request for an appeal is not made within thirty days, the penalty fee, denial or revocation becomes final.
- (b) The applicant, permit holder, alarm installation company or monitoring company may appeal the Chief's decision to the City Manager by filing a written request for a hearing, setting forth the reasons for the appeal within ten days of notification of the Chief's determination.
  - (1) The filing stays the action of assessing a penalty until the City Manager makes a final decision.
  - (2) The City Manager shall send to the applicant, permit holder, alarm installation company or monitoring company by certified mail, return receipt requested, written notice of his determination.
  - (3) If a request for an appeal is not made within ten days of the Chief's notification of determination, the decision of the Chief becomes final.

#### Section 12. Amendment to Section 10-34

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-34, "Notification," in its entirety and replacing said section with a new Section 10-34, also entitled "Notification," to read as follows:

"Sec. 10-34. – Notification

The permit holder shall be notified in writing after each false alarm. The notification shall include: notice that the alarm user can attend alarm user awareness class to waive one false alarm violation, the fact that a permit may be revoked or not renewed after the sixth false alarm and a description of the appeal procedure available to the permit holder.

The permit holder and the alarm installation company or monitoring company will be notified in writing before an alarm permit is to be revoked or suspended. A notice of alarm permit suspension may be combined with a false alarm notice. This notice of alarm permit revocation or suspension will also include a description of the appeals procedure available to the permit holder and the alarm installation company or monitoring company.”

#### Section 13. Amendment to Section 10-35

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-35, “Suspension of response,” in its entirety and replacing said section with a new Section 10-35, also entitled “Suspension of response,” to read as follows:

“Sec. 10-35. – Suspension of response.

- (a) The chief may suspend law enforcement response to a burglar alarm site if it is determined that:
  - (1) There is not a valid alarm permit for the alarm site;
  - (2) The alarm permit for the site has expired; or
  - (3) The alarm permit was revoked.
- (b) A person commits an offense if he operates an alarm system without a valid permit and is subject to enforcement and penalties.”

#### Section 14. Amendment to Section 10-40

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-40, “System performance reviews and appeals,” in its entirety and replacing said section with a new Section 10-40, also entitled “System performance reviews and appeals,” to read as follows:

“Sec. 10-40. – System performance reviews and appeals.

- (a) If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation, the chief may require a conference with a permit holder to review circumstances of each alarm notification.
- (b) If there is reason to believe that a false alarm is the result of circumstances beyond the reasonable control of the permit holder, the permit holder or the permit holder's representative may provide proof of such circumstances to the chief to avoid false alarm fees, revocation or non-renewal of the alarm permit.

- (c) If the chief determines that an alarm is the result of circumstances within the reasonable control of the permit holder, and there have been more than six false alarms, the chief may revoke the alarm permit. The permit holder or the permit holder's representative may appeal the chief's decision as set out in the appeal process in section 10-33."

#### Section 15. Amendment to Section 10-41

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-41, "Violations; penalty," in its entirety and replacing said section with a new Section 10-41, also entitled "Violations; penalty" to read as follows:  
"Sec. 10-41. – Violations; penalty.

- (a) An alarm installation company, a monitoring company, an alarm permit holder or a person in control of an alarm system commits an offense if he violates any provision of this article.
- (b) Unless otherwise specifically set forth herein, allegation and evidence of culpable mental state are not required for the proof of an offense of this article.
- (c) A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation committed, continued or permitted, and each offense is punishable by a fine not to exceed five hundred dollars (\$500.00) as follows:
  - (1) A minimum fine of \$200.00 for the first conviction; and
  - (2) A minimum fine of \$250.00 for the second through fifth conviction; and
  - (3) A minimum fine of \$400.00 for each conviction after the fifth conviction.
- (d) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this article to hold a corporation, partnership or other association criminally responsible for acts or omissions performed by an agent acting on behalf of the corporation, partnership or other association, and within the scope of their employment."

#### Section 16. Amendment to Section 10-42

From and after the effective date of this Ordinance, Chapter 10, entitled "Alarms," is hereby amended through the amendment of Article II, entitled "Emergency Reporting Equipment and Procedures," by deleting Section 10-42, "Confidentiality," in its entirety and replacing said section with a new Section 10-42, also entitled "Confidentiality," to read as follows:

"Sec. 10-42. – Confidentiality

In the interest of public safety, subject to the provisions of V.T.C.A., Government Code Ch. 552, information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests and applications for appeals shall be held in confidence by all employees or representatives of the city with access to such information. This information shall not be subject to

public inspection. Public interest is served by not disclosing said information to the public and clearly outweighs the public interest served by disclosing said information.”

#### Section 17. Amendment to Section 10-43

From and after the effective date of this Ordinance, Chapter 10, entitled “Alarms,” is hereby amended through the amendment of Article II, entitled “Emergency Reporting Equipment and Procedures,” by deleting Section 10-43, “Government immunity,” in its entirety and replacing said section with a new Section 10-43, also entitled “Government immunity,” to read as follows:

##### “Sec. 10-43. – Government Immunity

The issuance of an alarm permit and/or the provisions set forth in this article are not intended to, nor do they create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage 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 permit, the alarm user acknowledges that law enforcement or fire department response may be influenced by factors such as: the availability of police or fire units, priority of calls, weather conditions, traffic conditions, emergency conditions and staffing levels.”

#### Section 18. Repealer Clause

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

#### Section 19. Severability Clause

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

#### Section 20. Reservation of Rights

All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

#### Section 21. Immunity

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage

that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

Section 22. Injunctions

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of McKinney.

Section 23. Penalty

Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the penalty provisions set forth in Chapter 126 of the McKinney Code of Ordinances; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 24. Publication of The Caption

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council's adoption hereof as provided by law.

Section 25. Effective Date

This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

**DULY PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 20<sup>th</sup> DAY OF MARCH, 2018.**

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

\_\_\_\_\_  
SANDY HART, TRMC, MMC  
City Secretary  
DENISE VICE, TRMC  
Deputy City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney