

Alarm Systems Ordinance

Effective March 12, 2003, the Albuquerque City Council approved a new alarm systems ordinance. For your convenience we have provided a copy of that ordinance below. For further information contact:

Albuquerque Police Department
False Alarm Reduction Unit
400 Roma NW
Albuquerque, New Mexico 87102
(505) 768-2059

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. F/S O-02-35 (2) ENACTMENT NO. _____

SPONSORED BY: Sally Mayer

ORDINANCE

REPEALING SECTIONS 9-3-1 THROUGH 9-3-99 R.O.A. 1994; ENACTING THE ALBUQUERQUE ALARM SYSTEM ORDINANCE; REQUIRING PERMITTING, ESTABLISHING FEES, PROVIDING ENFORCEMENT PROCEDURES AND ESTABLISHING CRIMINAL PENALTIES.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Sections 9-3-1 through 9-3-99 R.O.A. 1994 are hereby repealed.

Section 2. New Sections 9-3-1 through 9-3-99 are hereby added, with the new sections to read as follows:

§ 9-3-1 FINDINGS.

The City Council finds and declares that:

- (A) There is increasing use of private emergency Alarm Systems by citizens of this city;
- (B) Over 95 percent of alarms generated by private Alarm Systems are listed as False Alarms by responding authorities;
- (C) The Albuquerque Police Department spends more than 50,000 hours annually, equivalent to 27 full-time sworn officers or about \$3 million per year responding to False Alarms;
- (D) Police and Fire Department responses to False Alarms provide an extra public safety service that benefits only those individuals who own Alarm Systems;
- (E) Alarm Users and the general public are harmed by excessive numbers of False Alarms, because excessive False Alarms divert Public Safety Officers from other potentially critical duties and constitute a nuisance that must be abated;
- (F) Fees to reimburse the City for the costs of responding to excessive false alarms are justified because these false alarms divert limited public safety resources;
- (G) The Fire Department recognizes the value of fire and medical alarms and will respond accordingly to investigate, suppress fire propagation, address life safety issues, and provide medical treatment to fulfill the needs of the public; however, these services are not used effectively when fire personnel must respond to locations with excessive numbers of False Alarms;

(H) Businesses with excessive false fire alarms are subject to reinspection of their fire suppression, fire Alarm System and facilities by the Fire Marshal's Office;

(I) Certain records are necessary to locate the persons in control of a property when the police have been notified by an alarm of an actual burglary or other emergency and need access to the property or when an audible Alarm System is malfunctioning so as to cause a nuisance to the neighbors and other persons in the proximity of the alarm;

(J) Fees and fines may not be sufficient inducement for Alarm System Installation and Repair Businesses and Alarm System Monitoring Businesses to comply with this Ordinance; therefore, Alarm System Installation and Repair Businesses and Alarm System Monitoring Businesses that engage in a pattern of violations under this Ordinance should be subject to suspension and revocation of their Alarm Business Permits; and

§ 9-3-2 SHORT TITLE.

This Ordinance shall be known as and may be cited as the "Albuquerque Alarm System Ordinance."

§ 9-3-3 PURPOSE.

(A) The purpose of this Ordinance is to establish criteria governing the installation, use and maintenance of Alarm Systems within the city of Albuquerque in order to reduce or eliminate the False Alarms that consume public safety resources. Nothing in this Ordinance is intended to discourage proper use of Alarm Systems.

(B) This Ordinance governs systems that summon public safety agency response, requires permitting, establishes fees, provides for penalties for violations and establishes a system of administration.

§ 9-3-4 DEFINITIONS.

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

ALARM BUSINESS PERMIT. An annual permit issued by the City of Albuquerque to each Alarm System Installation and Repair Business and each Alarm System Monitoring Business.

ALARM SITE. A single fixed commercial or private premises or location served by an Alarm System. Each tenancy, if served by a separate Alarm System in a multi-tenant building or complex, shall be considered a separate Alarm Site.

ALARM SYSTEM. Any mechanical, electrical or electronic device designed to detect an unauthorized entry or emergency situation on real property which emits sound off the premises or transmits an electronic signal off the premises.

ALARM SYSTEM INSTALLATION AND REPAIR BUSINESS. Any individual, partnership, corporation, agent, or other entity engaged in leasing, maintaining, servicing, repairing, altering, replacing, installing or inspecting any Alarm System, or in causing any Alarm System to be leased, maintained, serviced, repaired, altered, replaced, or installed in any building, structure, or facility. The foregoing sentence includes, but is not limited to, any person or entity that derives any pecuniary benefit from any contract for the installation of any Alarm System, including but not limited to any person or entity that sells a contract for the installation or monitoring of an Alarm System.

ALARM SYSTEM MONITORING BUSINESS. Any person or entity that intercepts signals indicating the activation of an Alarm System and relays this information to the Police or Fire Department.

ALARM USER. Any person, firm, partnership, corporation or other entity who uses or is in control of an Alarm Site. In the case of a rental property, the renter is considered the Alarm User.

ALARM USER PERMIT. An annual permit issued by the City of Albuquerque authorizing the operation of an Alarm System within the city.

AUTOMATIC VOICE DIALER. 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 agency.

BACKGROUND INVESTIGATION. A reasonable investigation or inquiry into an individual's previous history, including but not limited to their criminal record and other information, that will at the minimum reveal whether the person conducting the investigation has made a reasonable assessment of the likelihood of danger to the alarm owner posed by the Alarm System Installation and Repair Business personnel.

BUSINESS PERMIT HOLDER. Any Alarm System Installation and Repair Business or Alarm System Monitoring Business that has received an annual Alarm Business Permit under this Ordinance.

CANCELLATION. The process by which an Alarm System Monitoring Business verifies that a false dispatch has occurred and that there is not an existing situation at the Alarm Site requiring public safety response.

CONTACT PERSON. Person designated by the Alarm User who has the ability and the authority to allow access to the Alarm Site and the Alarm System.

DURESS\HOLD-UP ALARM. An Alarm System designed to be activated by a person to indicate an immediate life-threatening situation is present.

FALSE ALARM. The activation of any Alarm System resulting in notification of the Police or Fire Department, for which the responding Public Safety Officer finds 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.

FALSE ALARM REDUCTION UNIT. Organizational entity within the City of Albuquerque established for purposes of implementation and enforcement of the Albuquerque Alarm System Ordinance.

HEARING OFFICER. A person designated by the Mayor to act as an impartial adjudicator at hearings related to the enforcement of this Ordinance.

INTRUSION/BURGLAR ALARM. An Alarm System designed to detect a breach of the exterior of or unauthorized movement in an Alarm Site.

MAYOR. The Mayor of the City of Albuquerque or his or her designated representative.

MONITORED ALARM SYSTEM. An Alarm System that results in sending a signal to an Alarm System Monitoring Business.

PERMIT HOLDER. Any Alarm User who has received an annual Alarm User Permit under this Ordinance.

PLACE OF BUSINESS. Place of Business shall have the same meaning that term has under the Business Registration Ordinance.

PUBLIC SAFETY OFFICER. Sworn members of the Albuquerque Police Department or Albuquerque Fire Department.

VERIFY. An attempt by the Alarm System Monitoring Business to contact the Alarm Site by telephone before requesting public safety dispatch, in order to avoid an unnecessary alarm dispatch.

§ 9-3-5 ALARM USER PERMIT; FEE; TRANSFERABILITY; FALSE STATEMENTS.

A) No Alarm User shall operate, or cause to be operated, an Alarm System without a valid Alarm User Permit for the Alarm Site issued by the False Alarm Reduction Unit as required in § 9-3-1 et seq.

(B) 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 Public Safety Officer. 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. Without limitation of the foregoing, by applying for an Alarm User Permit, the Alarm User acknowledges that public safety response may be based on factors such as availability of public safety units, priority of calls, weather conditions, traffic conditions, emergency conditions or staffing levels.

(C) A fee of \$25.00 shall be charged for the issuance and each annual renewal of each Alarm User Permit.

1. No refund of a permit or permit renewal fee will be made.
2. The Mayor shall waive the Alarm User Permit fee for low-income individuals. In making such determination, the Mayor shall require the applicant to furnish appropriate documentation establishing eligibility for the waiver including: an EBT card issued by the State of New Mexico for Food Stamps, either the annual letter of statement of benefits or monthly benefit card for Supplemental Security Income, an EBT card issued by the State of New Mexico for the Temporary Assistance for Needy Families program, or a Medicaid health benefit card. The aforementioned documentation shall be maintained on file by the False Alarm Reduction Unit.

(D) A permit cannot be transferred to another person or Alarm Site.

(E) A separate Alarm User Permit is required for each Alarm Site.

(F) The initial annual Alarm User Permit application form and permit fee must be submitted to the False Alarm Reduction Unit within sixty (60) days after installation of the Alarm System. In lieu of a documented date of installation, the first recorded activation of the Alarm System shall be considered the installation date. An Alarm User who operates an Alarm System without an Alarm User Permit shall be subject to the penalty provisions in § 9-3-99 of this Ordinance.

(G) Each Alarm User Permit application must include the following information:

1. The name, address, home, work and cellular telephone numbers and e-mail address if available of the person in control of the Alarm Site.
2. The street address of the Alarm Site.
3. Classification of the Alarm Site as either residential or commercial.
4. Classification of the Alarm Site as either owner-occupied or leased. If leased, identification of the owner of the Alarm Site including name, address and phone number. If the Alarm Site is an apartment, the application shall also include the name and telephone number of the apartment manager.
5. Any business name used for the Alarm Site.
6. The type of Alarm System or systems and the purpose for which they are designed (i.e. intrusion, hold-up, fire, or any category identified by the False Alarm Reduction Unit).
7. The names and telephone numbers of two Contact Persons who, if notified, at any time will come to the Alarm Site within 30 minutes after receiving a request from a member of the Police or Fire Department. These persons shall grant access to the Alarm Site and deactivate the Alarm System if necessary.
8. Name and Alarm Business Permit number of the Alarm System Monitoring Business, if applicable.
9. For the initial application following installation of a new Alarm System, name and Alarm Business Permit number of the company that installed the Alarm System, if not installed by the homeowner.

(H) Whenever any information on the Alarm User Permit application changes, the Permit Holder shall notify the False Alarm Reduction Unit within 30 days of such change.

(I) Any false statement of a material fact made by an applicant for the purpose of obtaining an Alarm User Permit or failure to provide required information shall be subject to the penalties in § 9-3-99.

(J) To the extent allowed by law, the False Alarm Reduction Unit shall treat all information on such application as proprietary and confidential information; provided, however, nothing in this Ordinance shall prohibit the use of such information for legitimate public safety purposes and for enforcement of this Ordinance.

(K) The False Alarm Reduction Unit shall assign an alarm permit for each Alarm Site in a federal, state, county, public school and other political subdivision facility for tracking purposes and to allow the City of Albuquerque to cooperate with these agencies to address any recurring False Alarm problems. Neither permit fees, service fees nor fines shall be required of such agencies.

§ 9-3-6 DUTIES OF ALARM USERS.

(A) An Alarm User, whether at a business or residence, shall be responsible for:

1. Complying with all permit and other requirements specified in other sections of the Albuquerque Alarm System Ordinance, as well as other applicable City Ordinances and state and federal laws;
2. Instructing all persons who are authorized to place the device or system into operation in the appropriate method of operation, advising them of the provisions of this Ordinance, and emphasizing the importance of avoiding False Alarms. The absence of instruction does not provide a defense to any person or entity;
3. Maintaining the Alarm Site and the Alarm System in a manner that will reasonably eliminate False Alarms;
4. Responding or causing a representative to respond within 30 minutes when requested by city officials to provide access to an Alarm Site where an alarm signal is being emitted, to deactivate a malfunctioning Alarm System or to provide alternative security for the Alarm Site;
5. Providing that no person shall manually activate an alarm for any reason other than the emergency that the Alarm System is intended to report other than testing pursuant to § 9-3-12;
6. Notifying the Alarm System Monitoring Business prior to activation of an alarm for maintenance, test or instruction purposes;
7. Adjusting the mechanism or causing the mechanism to be adjusted so that an intrusion alarm signal audible on the exterior of an Alarm Site will sound for no longer than fifteen minutes after being activated, but may be reactivated by a reset. Alarm Systems installed prior to five days after the effective date of this Ordinance shall be exempt from this provision; and
8. Paying all fees and fines under this Ordinance within 90 days of the date assessed.

(B) An Alarm User shall not use an Automatic Voice Dialer.

§ 9-3-7 ALARM BUSINESS PERMIT; FEE; TRANSFERABILITY; FALSE STATEMENTS.

(A) Every Alarm System Installation and Repair Business and Alarm System Monitoring Business must have an Alarm Business Permit issued by the False Alarm Reduction Unit and comply with the business registration Ordinance. Every Alarm System Installation and Repair Business must have appropriate licensing from the State of New Mexico. No Alarm System Installation and Repair Business nor Alarm System Monitoring Business shall install, repair, lease, or monitor an Alarm System without a valid Alarm Business Permit.

(B) Possession of an Alarm Business Permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response by a Public Safety Officer to an Alarm Site for any reason. 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.

(C) A fee of \$150.00 shall be charged for the issuance and each annual renewal of each Alarm Business Permit. No refund of a permit or permit renewal fee will be made.

(D) An Alarm Business Permit cannot be transferred.

(E) A separate Alarm Business Permit is required for each Alarm System Installation and Repair Business and for each Alarm System Monitoring Business.

(F) An Alarm System Installation and Repair Business or Alarm System Monitoring Business that installs, repairs, leases or monitors an Alarm System without a valid Alarm Business Permit shall be subject to the regulations and penalty provisions of this Ordinance.

(G) When applying for an initial Alarm Business Permit, an Alarm System Monitoring Business at the minimum shall provide a list of the names, mailing addresses and phone numbers of Alarm Users and addresses of all of the Alarm Sites in Albuquerque monitored by that Alarm System Monitoring Business.

(H) Whenever any information on the Alarm Business Permit application changes, the Permit Holder shall notify the False Alarm Reduction Unit within 30 days of such change.

(I) Any false statement of a material fact made by an applicant for the purpose of obtaining an Alarm Business Permit or failure to provide required information shall be subject to the penalties in § 9-3-99.

(J) To the extent allowed by law, the False Alarm Reduction Unit shall treat all information on the Alarm Business Permit application, including but not limited to the lists of Alarm Users monitored by Alarm System Monitoring Businesses, as proprietary and confidential trade secret information; provided, however, nothing in this Ordinance shall prohibit the use of such information for legitimate public safety purposes and for enforcement of this Ordinance.

(K) Alarm Business Permits shall be renewed only upon payment of all outstanding fees and fines assessed against the Business Permit Holder under the Albuquerque Alarm System Ordinance.

§ 9-3-8 DUTIES OF ALARM SYSTEM INSTALLATION AND REPAIR BUSINESSES.

(A) Alarm System Installation and Repair Businesses shall comply with all City Ordinances and state and federal laws.

(B) Alarm System Installation and Repair Businesses must deliver to the City a copy of all licenses required by the State of New Mexico. The False Alarm Reduction Unit will retain on file a copy of the required licenses.

(C) Alarm System Installation and Repair Businesses that install Alarm Systems shall provide each Alarm User with the False Alarm Reduction Unit information sheet when a new Alarm System is installed, including the Alarm Business Permit number and any other information required on the Alarm User Permit application.

(D) Each Alarm System Installation and Repair Business shall provide a monthly report to the False Alarm Reduction Unit by the twenty-fifth day of the month listing all new Alarm Systems installed the previous month. Each report shall include at the minimum the name, mailing address and phone number of the Alarm User and the address of the Alarm Site. The False Alarm Reduction Unit shall treat all information in such monthly reports as proprietary and confidential trade secret information; provided, however, nothing in this Ordinance shall prohibit the use of such information for legitimate public safety purposes. A late fee of \$10.00 per day for each monthly report that is overdue shall be assessed to any Alarm System Installation and Repair Business that fails to provide this report by this deadline.

(E) Whenever the owner or operator of the Alarm System Installation and Repair Business changes, the new owner or operator shall notify the False Alarm Reduction Unit of the new owner's or operator's name, address and telephone number. A fine of \$300.00 shall be assessed to any Alarm System Installation and Repair Business that fails to comply with this requirement within 30 days of such change.

(F) An Alarm System Installation and Repair Business shall not install an Alarm System with an Automatic Voice Dialer.

(G) Alarm System Installation and Repair Businesses shall keep a written record of the date of repair and a description of the specific repair which was performed on any Alarm System when such repair was made. Such written records shall be maintained for at least 12 months and shall be made available in digital or printed format for inspection and duplication upon request by the Mayor at the office of the Alarm System Installation and Repair Business during regular business hours.

(H) If an alarm installation and repair business repairs an Alarm System within 10 days after a False Alarm, the Alarm System Installation and Repair Business may transmit the repair invoice or other written record of the repair to the False Alarm Reduction Unit, in which instance the False Alarm Reduction Unit shall delete the False Alarm from the Alarm User's record. There shall be no more than six repair deletions allowed per Alarm User Permit year under this section.

(I) All Alarm System Installation and Repair Business personnel responding to alarms, repairing, or installing Alarm Systems shall wear a picture identification card issued by the Alarm System Installation and Repair Business on their outer garments, which identifies the individual and the Alarm System Installation and Repair Business. The foregoing sentence includes, but is not limited to, any person or entity that derives any pecuniary benefit from any contract for the installation of any Alarm System, including but not limited to any person or entity that sells a contract for the installation or monitoring of an Alarm System. This identification card shall be in a standard form approved by the False Alarm Reduction Unit. This identification card shall be issued by the Alarm System Installation and Repair Business after a Background Investigation has been conducted on that individual. No identification card shall be issued if the applicant has been convicted of a felony. In addition to other sanctions provided by this Ordinance, each

Alarm System Installation and Repair Business shall pay a fine of \$300.00 for each and every installation conducted in whole or in part by an employee who lacks the required Background Investigation or identification card.

§ 9-3-9 DUTIES OF ALARM SYSTEM MONITORING BUSINESSES.

(A) Alarm System Monitoring Businesses shall comply with all City Ordinances and state and federal laws.

(B) All Alarm System Monitoring Businesses shall keep a written record of the date and time each notification of the activation of an Alarm System is received and the date, time and method by which the person in control of the property or his designated employee was notified. Such records shall be retained for at least 12 months and shall be provided in digital or printed format upon request by the Mayor.

(C) An Alarm System Monitoring Business that reports an alarm to the Albuquerque Police or Fire Department without a valid Alarm Business Permit shall be assessed a fine of \$250.00 per occurrence by the False Alarm Reduction Unit.

(D) Alarm System Monitoring Businesses shall provide a monthly report to the False Alarm Reduction Unit by the twenty-fifth day of the month listing all new Alarm Systems, which the Alarm System Monitoring Business contracted to monitor during the previous month. Each report shall include at the minimum the name, address and phone number of the Alarm User and the address of the Alarm Site. The False Alarm Reduction Unit shall treat all information in such monthly reports as proprietary and confidential trade secret information; provided, however, nothing in this Ordinance shall prohibit the use of such information for legitimate public safety purposes. A late fee of \$10.00 per day for each monthly report that is overdue shall be assessed to any Alarm System Monitoring Business that fails to provide this report by this deadline.

(E) Whenever the owner or operator of the Alarm System Monitoring Business changes, the new owner or operator shall notify the False Alarm Reduction Unit of the name, address and phone number. A fine of \$300.00 shall be assessed to any Alarm System Monitoring Business that fails to comply with this requirement.

(F) An Alarm System Monitoring Business shall:

1. Attempt to Verify every alarm signal, except a Duress/Holdup Alarm or fire alarm, immediately before requesting a law enforcement response to an Alarm System signal;
2. Communicate Cancellations of alarm dispatch requests to the Police or Fire Department immediately upon verification of a False Alarm;
3. Establish a procedure for accepting Cancellation of alarms by Alarm Users;
4. Communicate alarm dispatch requests to the Police or Fire Department;
5. Communicate any available information (north, south, front, back, floor, zone, etc.) to help identify the location of the intrusion or other emergency;
6. Provide the Police or Fire telephone operator with the Alarm Business Permit number of the Alarm System Monitoring Business when an alarm is reported;
7. Communicate type of alarm activation (silent or audible, interior or perimeter); and
8. Make every possible effort to contact the Alarm User or his Contact Persons when an alarm dispatch request is made to facilitate access to the Alarm Site and/or deactivation of the alarm.

(G) A fine of \$300.00 per incident shall be assessed to an Alarm System Monitoring Business that fails to establish procedures for accepting Cancellations from Alarm Users and for promptly conveying Cancellation notification to the Albuquerque Police or Fire Department or for failure to perform any of the duties in this section.

§ 9-3-10 DUTIES OF POLICE AND FIRE DEPARTMENTS.

The Albuquerque Police and Fire Departments shall respond to alarm notifications according to department protocol.

§ 9-3-11 DUTIES OF FALSE ALARM REDUCTION UNIT.

(A) The False Alarm Reduction Unit shall:

1. Be the primary agency responsible for implementation and enforcement of the Albuquerque Alarm System Ordinance;

2. Develop such forms, notifications, and systems as are necessary to implement the Albuquerque Alarm System Ordinance;
3. Send the initial billing for all permits and annual renewals of same, as well as False Alarm service fees and applicable fines.
4. Send a notice of each False Alarm to the address of the Alarm Site.
5. Coordinate between the Alarm System industry, Albuquerque Police Department and Albuquerque Fire Department to reduce the number of False Alarms and improve responses to true emergencies;

(B) If there is reason to believe that an Alarm System is not being used or maintained in a manner that ensures proper operation and suppresses False Alarms, the Mayor may require a conference with an Alarm User and the Alarm System business responsible for the repair of the Alarm System to review the circumstances of each False Alarm.

(C) If the False Alarm Reduction Unit identifies an Alarm System Installation and Repair Business that is operating in Albuquerque without a license from the Construction Industries Division of the New Mexico Regulation and Licensing Department or without a valid Albuquerque business registration, the False Alarm Reduction Unit shall report that business to the authorized state or local enforcement authority.

§ 9-3-12 NONEMERGENCY ACTIVATION.

No person shall intentionally activate an Alarm System for any purpose other than an emergency or threat of emergency of the kind for which the Alarm System was designed to give notice. Activation of an Alarm System for maintenance, testing, and instruction purposes is exempted from this provision, provided that the Alarm User notifies the Alarm System Monitoring Business of the test immediately prior to testing.

§ 9-3-13 EXCESSIVE FALSE ALARMS, SERVICE FEES.

(A) A permitted Alarm User will not be assessed a service fee for the first three False Alarm responses within a permit year, except as provided in subsection (E) of this section.

(B) An Alarm User shall pay a service fee of \$150.00 for each false Intrusion/Burglar Alarm, Duress/Hold-Up Alarm, or manually activated emergency assistance alarm notification emitted from an Alarm System that is in excess of three False Alarms in a permit year; \$300.00 for each false fire, smoke, carbon monoxide or heat alarm notification emitted from an Alarm System in a business in excess of three False Alarms within a permit year; and \$150.00 for each false fire, smoke, carbon monoxide or heat alarm notification emitted from an Alarm System in a residence in excess of three False Alarms within a permit year.

(C) If multiple alarms are caused by a single technical malfunction in a single Alarm System for a period up to 72 hours, the Alarm User shall be assessed a service fee for no more than one False Alarm per day (24-hour period) up to 72 hours. After 72 hours, the Alarm User shall be assessed a service fee for each additional False Alarm activation.

(D) For fire, smoke, carbon monoxide or heat False Alarms in excess of two False Alarms in a permit year, commercial Alarm Users shall be referred by the False Alarm Reduction Unit to the Albuquerque Fire Department Fire Marshal's Office for inspection pursuant to § 14-2-1 et seq., ROA 1994, Fire Code of the city, as amended.

(E) If Cancellation from the Alarm System Monitoring Business occurs prior to Public Safety Officers arriving at the Alarm Site, this is not a False Alarm for the purpose of service fees and no service fees will be assessed; however, no Cancellation shall be permitted for calls that are dispatched priority one.

(F) After ten False Alarms in a permit year, because the Alarm User has not taken the necessary steps to address the cause of the False Alarms, the Alarm User will be assessed a fine of \$500.00 for each additional False Alarm in excess of ten.

(G) The Alarm User shall be given written notice of any fees and fines chargeable under this section. Such fees and fines shall be paid to the False Alarm Reduction Unit within 30 calendar days of the date of the notice of fees and fines due, unless the Alarm User requests a hearing pursuant to § 9-3-14, in which event the payment of the fees shall be suspended pending the decision of the Hearing Officer.

§ 9-3-14 APPEALS, HEARINGS.

(A) Any person or entity that receives a notice of a False Alarm or a notice of fees or fines due under this Ordinance may appeal by filing a notice of appeal with the False Alarm Reduction Unit supervisor. The notice of appeal must be received by the False Alarm Reduction Unit within 30 days from receipt of the notice by the person or entity or within 33 days of the date the notice was mailed by the False Alarm Reduction Unit, whichever comes first.

(B) If the False Alarm Reduction Unit supervisor denies the appeal, the False Alarm Reduction Unit supervisor shall send written notice of the denial and a statement of the right to appeal to a Hearing Officer.

(C) The decision of the False Alarm Reduction Unit supervisor may be appealed to an administrative Hearing Officer. A filing fee of \$50.00 shall accompany the notice of appeal. The filing fee shall be refunded if the Hearing Officer finds in favor of the appellant. The failure of an appellant to appear at the appeal hearing shall extinguish the appeal. The Hearing Officer shall issue a written decision within 30 days of the hearing.

§ 9-3-15 SUSPENSION AND REVOCATION OF ALARM BUSINESS PERMITS.

(A) Any Alarm Business Permit Holder may be subject to an enforcement action for suspension or revocation of an Alarm Business Permit for the following violations:

1. Failure to perform any duty including but not limited to failure to provide any list or other information required under this Ordinance for a period of 90 days from the due date.
2. Failure to pay any fine or fee within 90 days from the due date.
3. Submission of any intentionally fraudulent information under this Ordinance.
4. Any pattern of noncompliance that indicates an inability, unwillingness, or bad faith refusal to perform the duties required under this Ordinance.

(B) If the False Alarm Reduction Unit supervisor determines that any Alarm Business Permit Holder has violated this section, the False Alarm Reduction Unit supervisor shall send a notice of intent to revoke the Alarm Business Permit. After the Alarm Business Permit Holder receives the notice of intent to revoke the Alarm Business Permit, the holder may admit fault and surrender the Alarm Business Permit within 30 days or demand a hearing. The demand for hearing shall be in writing and mailed to the False Alarm Reduction Unit supervisor within 30 days of receipt of the notice of intent to revoke. A filing fee of \$50.00 shall accompany the notice of demand for hearing. The filing fee shall be refunded if the Hearing Officer finds in favor of the appellant.

(C) Upon receipt of a notice of demand for hearing, the False Alarm Reduction Unit supervisor shall promptly schedule a hearing before an administrative Hearing Officer who shall hold a hearing within 60 days from the date of the receipt of the notice of demand.

(D) The Hearing Officer shall conduct a hearing and issue a written decision within 30 days of the date of the hearing. The Hearing Officer may:

1. Suspend the Alarm Business Permit for a reasonable period of time not less than 30 days nor more than 120 days,
2. Permanently revoke the Alarm Business Permit, or
3. Find in favor of the Alarm Business Permit Holder

§ 9-3-16 DEDICATION OF REVENUES, CREATION OF FALSE ALARM ENFORCEMENT AND EDUCATION FUND.

There is hereby created a False Alarm Enforcement and Education Fund. Except for hearing filing fees under § 9-3-14 and False Alarm service fees under § 9-3-13, all permit fees and fines shall be deposited into the False Alarm Enforcement and Education Fund. Monies deposited into the False Alarm Enforcement and Education Fund are dedicated exclusively to enforcement of the Albuquerque Alarm System Ordinance including but not limited to the costs of operating the False Alarm Reduction Unit and legal costs for enforcement, as well as public education programs on Alarm Systems. Monies remaining in this fund at the end of the fiscal year in excess of \$100,000 shall be placed in a separate account in the Capital Acquisition Fund (Fund 305) to be used exclusively for capital outlays for public safety vehicles and equipment. The transfer of these funds shall be made in each fiscal year following the assessment of the fines and fees. In this capital account, fines and fees related to fire alarms shall be used exclusively to purchase Fire Department vehicles and equipment; fines and fees related to police alarms shall be used exclusively to purchase Police Department vehicles and equipment.

§ 9-3-99 PENALTY.

Any person or entity charged with conducting any activity addressed by this Ordinance without a permit shall be guilty of a petty misdemeanor and shall be subject to the provisions set forth in § 1-1-99 ROA 1994. Each and every day such violation is committed shall constitute a separate offense.

Nothing in this penalty section shall preclude the City from seeking any equitable relief including but not limited to an injunction. In the event any person or entity defaults on any obligation to pay a fee or fine under this Ordinance, the City may collect such unpaid amounts by any method provided by law including but not limited to attachment and foreclosure of a lien on the Alarm Site.”

Section 3. COMPILATION. Sections 1 and 2 of this Ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico 1994.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.

Section 5. GRACE PERIOD. Upon the effective date of this Ordinance, Alarm Users shall have a grace period of 90 days to procure an Alarm User Permit. During this time, no fine for operation of an Alarm System without an Alarm User Permit shall be charged, providing that, after this grace period expires, Alarm Users shall be subject to the penalties provided in § 9-3-5 of this Ordinance. Upon the effective date of this Ordinance, Alarm System Installation and Repair Businesses and Alarm System Monitoring Businesses shall have a grace period of 90 days to procure an Alarm Business Permit. During this time, no fine for operation of an Alarm System Installation and Repair Business or Alarm System Monitoring Business without a valid Alarm Business Permit shall be charged.

Section 6. SEVERABILITY. If any clause, sentence, paragraph, or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the persons or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.