

## ARTICLE 5. ALARM DEVICES AND SYSTEMS

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### § 4.5.1 SHORT TITLE

This Article may be cited as the “Alarm Ordinance.”

### § 4.5.2 PURPOSES

The purposes of this Article are to:

- (A) Regulate the activity and responsibility of persons who:
  - (1) Install or use alarm devices or alarm systems;
  - (2) Engage in the business of selling, leasing, installing, servicing, or maintaining alarm devices or alarm systems; or
  - (3) Engage in the business of providing services incidental to alarm devices or alarm systems such as telephone alarm relay services, telephone answering services, fire, burglar or protective services incidental to or in response to a device or alarm system which affects the public.
- (B) Set standards for alarm devices and alarm systems.
- (C) Encourage improvement in the reliability of alarm devices and alarm systems;

and

- (D) Eliminate undue burden on public services and facilities and assure that fire, police, and other personnel are not unduly diverted from normal activities in response to false alarms.

This Article shall not regulate any private alarm device or alarm system that will not be seen or heard or that will not be communicated or transmitted directly or indirectly, to the fire department, police, or the general public.

### § 4.5.3 DEFINITIONS

**ALARM COMPANY** means any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, monitoring, installing any alarm system, or causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, monitored, or installed in or on any building, structure, or facility.



**ALARM COMPANY PERMIT** means a permit issued by the Village to any alarm company doing business within the Village.

**ALARM SYSTEM** means any mechanical or electrical device designed primarily for the detection of an unauthorized entry into a building, structure, or facility, or for alerting others of a medical or fire emergency situation or of the commission of a robbery within a building, structure, or both, or to signal the presence of a hazard requiring urgent attention and to which police or fire personnel are expected to respond and which emits a sound or transmits a signal or message when activated, which causes notification to be made directly or indirectly to the fire department. The representation in the ordinary course of business by a person selling or leasing a device that the device is sold or leased for the purpose of such detection shall create a presumption that the device is an alarm system. For the purpose of this definition, an “alarm system” shall not include:

- (1) A device installed on a motor vehicle;
- (2) Devices which are not designed or used to register alarms that are audible, visible, or perceptible outside of the protected building, structure, or facilities; or devices installed in buildings, structures, or facilities controlled by the state or its agencies, institutions, or political subdivisions.

**ALARM SYSTEM MONITORING BUSINESS** means a person, firm, partnership, or corporation providing the service of receiving on a continuous basis, through employees, emergency signals from alarm systems, and thereafter immediately relaying the message to any designated emergency responding agency.

**ALARM USER** means any person in control of any building, structure, facility, or portion thereof, where an alarm system is utilized.

**AUTOMATIC DIALING DEVICE** means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

**CENTRAL STATION** means that part of an alarm business that intercepts signals indicating the activation of an alarm device and that relays this information to the fire department or police. A central station is not an answering service.

**DIRECT LINE** means a telephone line leading directly from a central station to the communication center of the fire department or police for use only to report emergency signals on a person-to-person basis.

**FALSE ALARM** means the activation of any alarm system that was not the result of an emergency or threat of emergency of the kind for which the alarm system was designed to give notice. The responding agency shall determine whether an alarm is false.

**HEARING OFFICER** means the Mayor of the Village or a person designated by the Mayor to act as an impartial arbitrator at hearings related to the enforcement of this Article. The Mayor may designate the Village Judge to be hearing officer.

**INTERCONNECT** means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes standard telephones for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.



**LOCAL ALARM SYSTEM** means a signaling system which, when activated, causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed.

**POLICE OR POLICE DEPARTMENT** means Bernalillo County Sheriff's Department deputies assigned to the Village or any successors to those deputies.

**PRIMARY TRUNKLINE** means a telephone line leading directly into the communications center of the fire department that is for the purpose of handling emergency calls on a person-to-person basis, and that is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the fire department's jurisdiction. The "911" emergency number is a primary trunkline.

**RESPONDING AGENCY** means police, fire, medical, or any authorized emergency responder.

#### **§ 4.5.4 ALARM USER PERMITS**

(A) It shall be a violation of this Article for any person to operate an alarm system without a valid alarm user permit issued by the Village. The fine assessed per § 4.5.13(A) of this Article shall be \$100 per violation.

(B) Within thirty (30) days of the installation of an alarm system, the person in control of the property on which the alarm system is installed shall obtain an alarm user permit by filing an application as provided in § 4.5.5. In lieu of a documented date of installation, the first recorded activation of the 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 provision of § 4.5.13 of this Article.

#### **§ 4.5.5 ALARM USER PERMIT APPLICATION**

(A) Application for an alarm user permit for the operation of an alarm system shall be made by the person having control over the premises on which the alarm system has been or is to be installed and operated. Such application shall be in writing to the fire department on a form designated by the Village for that purpose. On the application, the applicant shall set forth:

- (1) The name, address, and telephone number of each person in control of the property or premises;
- (2) The street address of the premises on which the alarm system is to be installed and operated;
- (3) Any business name used for the premises on which the alarm system is to be installed and operated;
- (4) The type of alarm system or systems and the purpose for which they are designed;
- (5) The names and telephone numbers of two (2) persons who are able and who, if contacted, at any time will come to the alarm site within forty-five (45) minutes after receiving a request from a member of the fire department or police and grant access to the alarm site and deactivate the alarm system if such becomes necessary; and
- (6) The names of the company or companies installing or servicing such alarm, if any.



**(B)** Reporting service information. Each holder of an alarm user permit shall immediately notify the fire department and alarm company in writing of any and all changes in the information on file with the Village regarding each permit. Failure to do so may constitute grounds for revocation of the permit.

**(C)** The Clerk shall issue a permit to the applicant unless he or she finds that any statement made in the application was incomplete or false.

**(D)** The Village shall treat all information on the application as confidential except that it may be used for legitimate law enforcement purposes including enforcement of this Article.

**(E)** Whenever a person listed on the application or listed on an amendment to the application is unable or unwilling to perform the duties set out in § 4.5.5(A)(5), the permit holder shall file an amendment to the permit application listing a replacement so that at all times the application on file designates at least two (2) persons who are able and willing to perform such duties.

#### **§ 4.5.6 FEE FOR PERMIT**

A one-time, non-refundable fee of ten dollars (\$10.00) is required for each permit.

#### **§ 4.5.7 RESPONSIBILITIES OF ALARM COMPANIES**

**(A)** Any alarm business that conducts any business in the Village must possess a valid license issued by the construction industries division of the regulation and licensing department of the state of New Mexico and an Alarm Company Permit issued by the Village. Upon request, the license and the permit must be presented to police or fire department officers, the Mayor or a designee. The fire chief shall issue or renew the Alarm Company Permits upon application pursuant to such regulations as the fire chief may promulgate. All Alarm Company Permit applications must include information concerning employees to allow employee investigation required by § 4.5.7(D). The fee for initial or renewal permits shall be \$25.00. Alarm Company Permits shall be renewed each year or without renewal shall expire.

**(B)** Whenever an alarm system business agrees with any person to maintain or service any alarm system, the business shall:

**(1)** Ensure that the personnel of said business who are able to render effective assistance will be at such alarm site within seventy-two (72) hours of a request by the member of the fire department for assistance if such alarm system business has agreed to respond to such alarm system, and ensure that employees do not have any felony convictions.

**(2)** Keep a written record of the date and time of repair and a description of the specific repair which was performed on any alarm system when made in response to notification by the person in control of the property or a member of the fire department. Such written records shall be maintained for at least twelve (12) months and shall be made available for inspection and duplication upon request by the Mayor or the fire department at the office of the alarm company during regular business hours.

**(C)** Any alarm company which operates a central station answering service shall:

**(1)** Have sufficient personnel trained in the procedures to be followed in receiving and relaying notice of the activation of any alarm on duty at all times to ensure



that emergency messages or alarm signals received by such business can be relayed immediately to the fire department;

**(2)** Notify by telephone or by mail the person in control of the property or a designee of the activation of the alarm system within twenty-four (24) hours of the time the alarm was activated. In the case of a local alarm where the alarm system business was not notified of such activation, the alarm company shall be exempt from the requirements of this subsection; and

**(3)** Submit the name, address, telephone number of the business providing monitoring services, if other than a licensed alarm company.

**(D)** All alarm company personnel responding to alarms or repairing or installing alarm systems shall have an identification card issued by the City of Albuquerque on their outer garments, which designates the alarm company the person represents. Sales and administrative personnel do not need identification.

**(E)** All alarm companies 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 a designee was notified. Such records shall be retained for at least twelve (12) months and shall be made available for inspection and duplication upon request by the Mayor or the fire department or any other designated emergency responding agency at the office of the alarm company or telephone answering service during regular business hours.

#### **§ 4.5.8 AUTOMATIC DIALING DEVICES**

**(A)** No automatic dialing device shall be interconnected to a primary trunkline. No automatic dialing device shall be interconnected or programmed to any telephone number or numbers of the fire department or any other department or division of the Village.

**(B)** Automatic Dialing Devices – Intermediary Services.

**(1)** Persons owning or leasing an automatic dialing service device may have the device interconnected to a telephone line transmitting directly to:

**(a)** A central station; or

**(b)** A telephone answering service.

**(2)** The relaying of messages by intermediate service to the police or fire department shall be over a primary trunkline, except that central stations may relay messages over a direct line by live voice.

**(3)** Automatic dialing devices may also be interconnected to one or more telephone numbers available to the owner or lessee of the devices, or their designees at another location.

**(4)** No automatic dialing device shall be interconnected to other fire department offices, other Village offices or telephone company operators.

**(5)** Such devices shall be disconnected by the owner or lessee.

**(6)** The sending of automatic recorded messages is prohibited. Upon receiving an automatic recorded message over the telephone line, the fire department will attempt to notify the party concerned of the violation of this Section.



### § 4.5.9 NON-EMERGENCY 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, except to test the alarm if reasonable precautions are taken to prevent transmission to the fire or police department.

### § 4.5.10 USER FEES

The Village will respond to proper notification of activation of an alarm system without charge except that the following fees shall be charged to the permit holder for each response by the Village to notification of activation of an alarm system in excess of two (2) false alarms from the same alarm system within a one-year period:

- (A) Twenty five dollars (\$25.00) for each response to a false alarm in excess of two (2) responses but not more than five (5) responses within any one-year period; and
- (B) Fifty dollars (\$50.00) for each response to a false alarm in excess of five (5) responses within any one year period.
- (C) For the purpose of determining the fees set out above, the burden shall be on the permit holder to prove that the activation of the alarm system was not a false alarm.
- (D) The Village Clerk shall give the permit holder written notice of any fees chargeable under this section. Such fees shall be paid to the Village Clerk within thirty (30) calendar days of the date of the notice of fees due, unless the permit holder requests a hearing.
- (E) There shall be no fee imposed for a false alarm occurring within sixty (60) days of the completion of installation of any alarm system.
- (F) The police and fire departments shall report all responses to alarm systems, both false and otherwise, to the Village Clerk at least weekly, reporting the name and address of the person or entity holding the alarm user permit.

### § 4.5.11 VIOLATIONS, SUSPENSIONS AND REVOCATIONS

- (A) If the Mayor has probable cause to believe that a permit holder has:
  - (1) violated any provision of this Article; or
  - (2) made fraudulent, misrepresentative, or false statements in the application for an alarm user permit, the Mayor shall give the permit holder written notice by certified or registered mail of a hearing to be held within thirty (30) calendar days before the hearing officer to determine whether or not the permit should be suspended or revoked. This notice must contain a statement of facts upon which the Mayor has acted.
- (B) Any alarm user permit may be suspended or revoked if the permit holder has been found, following notice and hearing, to have violated any provision of this Article or made any fraudulent, misrepresentative, or false statements in the application for an alarm user permit.
- (C) Any person whose alarm user's permit has been revoked shall not be permitted to apply for another alarm user's permit for one year after the filing of a written statement by the hearing officer revoking the permit, unless the hearing officer deems that proper corrective measures have been taken.



### § 4.5.12 HEARINGS

(A) Upon receipt of a notice of fees due, as set forth in § 4.5.10 of this Article, the alarm user may request a hearing before the hearing officer to show cause why the alarm user should not be charged the fees specified in the notice. Such requests must be filed in writing with the Clerk within thirty (30) calendar days of the notice of fees due. The alarm user shall be given written notice by certified or registered mail of the hearing at least ten (10) calendar days before the hearing.

(B) An applicant may request a hearing before the hearing officer to show cause why the applicant should be issued an alarm user permit pursuant to § 4.5.5. Such requests must be filed in writing with the Clerk within thirty (30) calendar days of the notice to the applicant that the alarm user permit will not be issued. The applicant shall be given written notice by certified or registered mail of the hearing at least ten (10) days before the hearing.

(C) All hearings shall be open to the public and shall be held only after notice is given to the applicant, permit holder or alarm user as provided in this section. Notice of the hearing shall be posted at the Village hall at least seventy-two (72) hours prior to the time of the hearing.

(D) Conduct of hearing:

- (1) The hearing shall be conducted by a hearing officer.
- (2) Formal rules of evidence shall not apply.
- (3) Cross-examination is permitted at the discretion of the hearing officer.
- (4) The hearing officer may hear testimony from any expert witness.
- (5) After calling the meeting to order, the hearing officer shall outline the procedure to be followed at the hearing.

(6) The hearing may be recessed or adjourned to another time or place at the discretion of the hearing officer.

(E) The decision of the hearing officer is the final step in the administrative procedures. Once the final decision is rendered all administrative remedies shall be considered to have been exhausted.

### § 4.5.13 PENALTY

(A) Any person or entity charged with conducting any activity addressed by the Article without a permit shall be guilty of a misdemeanor and shall be subject to the provisions of Chapter 7, Article 4 of the Codified Ordinance. Each and every day such violation is committed shall constitute a separate offense.

(B) Nothing in this Penalty Section shall preclude the Village 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 Article, the Village may collect such unpaid amounts by any method provided by law including but limited to attachment and foreclosure of a lien on the alarm site.

### § 4.5.14 ADMINISTRATION

The Mayor shall adopt such rules and regulations as necessary for the safe and equitable administration of this Article. The issuance of an alarm user permit does not constitute a waiver of any requirement or provision contained in any Ordinance of the Village or state or federal law.



**Ordinance and State Law References regarding Chapter 4, Article 5 (f/k/a Chapter 2):**

Ordinance #106, adopted October 14, 1992;

Ordinance #109, adopted April 14, 1993 repealing Ordinance #106;

Ordinance #134, Codification enacted February 14, 1996 codified ORD #108 as Chapter 2, and modified language;

Ordinance #180, adopted September 10, 2003 replacing Ordinance No. 108.

