ORDINANCE NO. 18181

AN ORDINANCE introduced by Mayor James A. McClinton, relating to the licensing of alarm businesses and amending City of Topeka Code Chapter 30 and Chapter 30, Article II, Division 2 and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code Chapter 30, Article II, Division 2, Section 30-69, is hereby amended by the addition of the following language:

**Alarm Business**

The license fee for persons engaged in the alarm business shall be as follows:

a. For businesses that sell, provide, alter, install, lease, maintain, repair, replace, move, or service alarm systems or which cause any of these activities to take place, the initial application fee shall be three hundred dollars ($300.00), and the annual renewal fee shall be one hundred dollars ($100.00).

b. For agents and employees of alarm businesses that actually perform the work of altering, installing, leasing, maintaining, repairing, replacing, moving, or servicing an alarm system or which causes any of these activities to take place, the initial application fee shall be thirty dollars ($30.00), and the annual renewal fee shall be twenty-five dollars ($25.00).

c. For companies and their employees engaged solely and exclusively as an alarm monitoring business, the initial application fee and annual renewal fee shall be twenty-five dollars ($25.00).
d. Each applicant for a license under this section shall be individually responsible for license fees and shall pay such fees as a condition to license processing. Licenses shall expire twelve (12) months from the initial date of application.

Section 2. That City of Topeka Code Chapter 30 is hereby amended by the addition of the following language:

Article XII   Alarm business

Division 1. Generally.

Section 2. Definitions.

As used in this Article, the following words shall have the following meanings:

Adequate insurance shall mean insurance covering the alarm business and its agents and employees with coverage limits that meet or exceed the limits set forth in Topeka City Code § 30-422.

Alarm business means any business operated by a person who engages in the activity of selling, providing, altering, installing, leasing, maintaining, repairing, replacing, moving, or servicing an alarm system or which causes any of these activities to take place. Such term shall also include alarm servicing companies who engage in the activity of monitoring alarm systems.

Alarm system means an assembly of equipment or devices or a single device arranged to signal the presence of a hazard requiring urgent attention and to which law enforcement, fire or emergency medical personnel are expected to respond; provided, however, that this term includes externally audible and/or visual on-premises alarm systems but does not include smoke detectors and other alarms designated to merely give
internal on-premises notification of an alarm condition.

Chief administrative officer means the chief administrative officer of the City of
Topeka appointed pursuant to City of Topeka Code § A2-31.

Chief of police means the chief of police of the city or a designated representative.

City means the City of Topeka, Kansas.

Conviction shall mean a guilty finding or adjudication as a juvenile offender of a
criminal offense prohibited by federal, state or local law, and shall include expunged
convictions, diversions or deferred prosecutions.

External audible and/or visual on-premises alarm system means an alarm system
designed to emit audible and/or visual signals at or on the premises upon which the alarm
system is installed and which causes notification of such alarm system activation to be
made to the Shawnee County Consolidated Emergency Communications Center.

Monitor means the person or business who shall be responsible for determining that
an alarm system located within the city has been activated and who notifies the Shawnee
County Consolidated Emergency Communications Center of the alarm activation.

Person means any person, firm, partnership, association, corporation, company or
organization of any kind.

User means any person who has a functioning alarm system on premises under the
person's control.

Division 2. License.

Section 3. License required.

a. It is unlawful for any person to engage in the operation of an alarm business
within the city without having first obtained a license to operate such a business from the chief of police.

b. It is unlawful for any person to engage in altering, installing, maintaining, repairing, replacing, moving, or servicing an alarm system within the city limits, or causing the same to take place without having been certified for the particular classification of system involved.

c. Persons operating such alarm businesses or engaged in selling, providing, altering, installing, maintaining, repairing, replacing, moving, or servicing alarm systems on the effective date of this section shall make application for a license within sixty (60) days of the effective date of this section and may continue to operate such businesses until their request for a license is finally acted upon.

Section 4. Certifications—Persons engaged in installation or repair of alarm systems.

a. Persons engaged in altering, installing, maintaining, repairing, replacing, moving, or servicing alarm systems as a condition of obtaining a license, shall be certified by the National Burglar and Fire Alarm Association for the particular classification of the system involved.

b. If an applicant is not yet certified at the time they apply for a license, the chief may issue a provisional license conditioned upon that person’s successful completion of certification requirements within one (1) year of the date the provisional license is issued. Persons working with a provisional license shall work under the direct supervision of a certified person until the provisional licensee becomes certified.
Section 5. License application—Form and content.

Any person or entity engaging in the alarm business in the city shall make an application on a form provided therefore to the police chief. The application shall be verified, accompanied by the required application fee and contain as a minimum the following information:

1. Date of application;

2. Name, date of birth, address and telephone number of the application;

3. A list of all felony convictions or misdemeanor convictions within the last ten (10) years involving theft or destruction of property of any person required to be named on the application;

4. A statement that the applicant and all agents, representatives and employees of the applicant will at all times comply with all laws of the United States and state, ordinances of the city and resolutions of Shawnee County in the operation of the alarm business;

5. A copy of such person's certification as required by this division if such person is also engaged in the business of altering, installing, maintaining, repairing, replacing, moving, or servicing alarm systems, or a statement stating the person intends to become certified within the next year, in which case the chief may issue a provisional license; and

6. Evidence of adequate insurance.

Business License Applications shall also include the following information:

7. Name, address and telephone number of the business and type of business.
organization (individual, partnership or corporation). If an individual, the name, date of birth, race, sex, address and telephone number, if a partnership, the names, dates of birth, race, sex, addresses and telephone numbers of all partners; if a corporation, the names, dates of birth, race, sex, addresses and telephone numbers of the officers and the state of incorporation:

8. If the business is located outside Shawnee County, the name, address and telephone number of the person responsible for repair and maintenance of the alarm systems located within Shawnee County; and

9. A statement that service for the alarm systems leased or installed by the alarm business will be offered on a twenty-four (24) hour, seven (7) day a week basis.

Section 6. License fee.

Each application for an alarm business license, whether new application, renewal, or as a result of revocation shall be accompanied by the annual fee specified in § 30-69, which shall not be refundable.

Section 7. Investigation of application--Issuance of license--Posting license--License nontransferable--Term--Renewal.

a. Upon receipt of an application for a license and payment of the required fee, the chief of police shall investigate the applicant and issue or deny the license or issue a temporary license within fifteen (15) business days. If the applicant is licensed by another government agency for the purposes of alarm monitoring and that government agency conducted a criminal background check of the applicant, the chief may accept the results of that background check without further investigation. If a temporary license is issued, the
chief shall make a final decision to issue or deny the license within sixty (60) days of the filing of the application. The license shall be issued if the application is satisfactorily completed, no owner, manager, partner, director or officer of the business has ever been convicted of a felony or a misdemeanor conviction within the last ten (10) years involving theft or destruction of property, the business has adequate insurance, and the chief finds the applicant's character and reputation is satisfactory to handle the responsibilities of the license. The chief may deny the license for false statements on the application.

b. Upon issuance, the license shall be displayed and available for inspection on the business premises of the licensee. Alarm installers shall carry their license with them while servicing or installing alarm systems.

c. No license issued hereunder shall be transferable and any such licenses shall be issued for a period of twelve (12) months from date of application. Renewal of such license shall be accomplished in the same manner as issuance of the initial license.

Section 8. Required operational practices.

Each alarm business licensed hereunder will conduct its operations in compliance with the following standards and practices:

a. If an alarm system, or any of its component parts operates at fifty (50) or more volts, the installation must be in accordance with Chapter 26 of this code.

b. When an alarm business leases or installs an alarm system, it shall offer service either directly or through an agent for that alarm system on a twenty-four (24) hour, seven (7) day a week basis for the purposes of repairing or servicing the system to correct any malfunctions that may occur. This information shall be provided in writing at the time of
the lease or installation. The alarm business shall have a person responsible for repair and
maintenance of alarm systems that are located within Shawnee County.

c. When an alarm business leases or installs an alarm system, the alarm user
shall be provided written instructions on how to operate the system and any user
maintenance that may be required. These instructions shall be clear, concise and in
language the alarm user can read and understand.

d. When an alarm business leases or installs an alarm system for which the
alarm user elects to have law enforcement personnel respond, it shall be responsibility
of the alarm business to:

1. Provide the alarm user, at the time of lease or installation of the alarm
system, a written copy of the city of Topeka's false alarm penalties and procedures.
The alarm user shall acknowledge the penalty procedures. The alarm business shall
forward to the police chief a copy of these procedures signed by the alarm user
acknowledging that such user understands how to operate the alarm system and
the billing system for false alarms as set forth in Chapter 62 of this code, and any
amendments thereto;

2. An alarm monitoring company, at the time of an alarm, shall attempt to
contact the user by telephone to verify that the alarm is valid; and

3. An alarm monitoring company, when contacting the Shawnee County
Consolidated Emergency Communications Center regarding an alarm, shall provide
the alarm user's name and address and type of alarm activation.

f. The provisions of subsections (d)(2) and (3), shall be applicable to alarm
systems that are monitored by alarm businesses on the effective date of this ordinance.

Section 9. Revocation or Suspension of license.

a. The police chief, after notice and a hearing, may revoke or suspend an alarm business license issued hereunder if, after investigation, the police chief determines that the licensee, or if the licensee is an organization, any of its officers, directors, partners, associates or employees has:

1. Made any false statement or given any false information in connection with an application for a license or a renewal or a reinstatement thereof;

2. Violated any provision hereof;

3. Committed any act which would be grounds for denial of an application for a license;

4. Failed to report to the chief of police within five (5) business days, any charge, arrest, judgment, conviction, sentencing or diversion for a criminal act set forth in division 2 that constitutes a reason for denial of a license.

b. If the police chief revokes an alarm business license under the provisions of this section, the following procedure will apply:

1. The police chief shall send to the licensee by certified mail, return receipt requested, written notice of the revocation, which shall include:

   A. Reason for revocation;

   B. Effective time and date of revocation;

   C. A statement regarding any action which may be taken so the license may be reinstated;
D. The date by which the licensee must surrender the license to
the police chief; and

E. A statement of the right to reconsideration of, and appeal from,
the revocation and the procedure to be followed.

2. The licensee may request reconsideration of the revocation by the
police chief by filing a written request for a hearing within ten (10) days after receipt
of the notice of revocation. The filing of the request for hearing shall stay the action
of the police chief in revoking the license until the chief administrative officer makes
a final decision.

3. If a request for hearing is not made within the ten (10) days, the
action of the police chief shall be final.

4. The chief administrative officer shall serve as hearing officer on a
reconsideration of a notice of revocation under this section and shall consider
evidence presented by any interested person. The chief administrative officer shall
make a decision on the basis of a preponderance of the credible evidence
presented at the hearing, which shall be recorded.

5. The chief administrative officer shall render a decision within ten (10)
days of the hearing and that decision shall affirm, reverse or modify the action of the
police chief. The chief administrative officer shall send to the licensee by certified
mail, return receipt requested, written notice of the decision with a copy to the police
chief. This written notice shall include:

A. If the action of the police chief is affirmed--the reason for such
and date by which the licensee must surrender the license to the police chief:

B. If the action of the police chief is reversed--the reason for the reversal;

C. If the action of the police chief is modified--the reason for the modification decision and the extent of the modification;

D. The right of the licensee to appeal the decision of the hearing officer to the governing body of the city.

6. In the event a licensee desires to appeal the decision of the chief administrative officer to the governing body of the city, notice of such appeal shall be filed with the city clerk within ten (10) days of the issuance of the chief administrative officer's opinion. Upon receipt of such notice, the city clerk shall notify the chief administrative officer who shall prepare the record of the hearing to include the transcript and exhibits and forward said record to the city clerk within ten (10) days. The governing body of the city shall review the record so presented and either affirm or reverse the action of the chief administrative officer. All such appeals to the governing body shall be on the record.

c. If a license is revoked under this section, the licensee may be issued a new license if the reason for revocation is removed, the police chief is notified in writing of such removal, and the former licensee follows the procedure set forth herein for applying for an original license.

Section 10. Confidentiality of information.

All information submitted in compliance with this article shall be held in strictest
confidence; shall be deemed a public record exempt from disclosure; and shall be kept so
the contents thereof shall not be known except to persons responsible for administration
and enforcement of this chapter. Nothing herein, however, shall prevent the use of such
information for law enforcement purposes.

Section 11. **Rules and regulations.**

For the purpose of clarity and uniformity in the reporting of alarm conditions to the
Shawnee County Consolidated Emergency Communications Center by central stations,
and to aid administration of this Chapter, the police chief shall establish such rules and
regulations, as he deems reasonably necessary.

Section 12. **Penalty.**

Every person who violates any of the provisions of this chapter shall be guilty of a
misdemeanor and shall be punished by a fine of not more than five hundred dollars
($500.00). Each day any violation of this chapter continues shall constitute a separate
offense.

Section 13. **Severability.**

If any section, subsection, subdivision, division, paragraph, sentence, clause or
phrase in this article or any part thereof, is for any reason held to be unconstitutional or
invalid or ineffective by any court of competent jurisdiction, such decision shall not effect
the validity or effectiveness of the remaining portions of this chapter or any part thereof.

Section 14. This Ordinance shall take effect and be in force from and after its
passage, approval and publication in the official city newspaper.
PASSED and APPROVED by the City Council

MAR 02 2004

James A. McClinton, Mayor

APPROVED AS TO FORM AND LEGALITY
DATE 3/1/04 BY
TO BE CODIFIED
NOT TO BE CODIFIED

Iris E. Walker, City Clerk