

Ordinance No. 605-15

**Council Member Kelley
(by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing the Director of Finance to employ one or more professional consultants to create and administer a permitting and billing program for unnecessary police and fire alarms, for a period of two years, with two one-year options to renew, exercisable by the Director of Finance.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of Finance is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to create and administer a permitting and billing program for unnecessary police and fire alarms, for a period of two years, with two one-year options to renew, exercisable by the Director of Finance.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Finance from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Finance for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved and certified by the Director of Finance.

Section 2. That the cost of contract or contracts authorized shall be paid from any and all funds approved by the Director of Finance.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

CM:nl
5-11-15

FOR: Director Dumas

Ordinance No. 1059-14

Council Members Keane and Zone

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 670A.01 through 670A.10 relating to emergency police alarms and to repeal Sections 670A.01 through 670A.07 and 670A.99, as amended by various ordinances.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of the City of Cleveland, Ohio, 1976 are hereby supplemented by enacting new Sections 670A.01 through 670A.10 to read, respectively, as follows:

Chapter 670A Emergency Police Alarms

Section 670A.01 Purpose

The purpose of this article is to protect police emergency services of the city from misuse and to encourage alarm users and alarm businesses to maintain the operational reliability and the proper use of alarm systems by limiting unnecessary police emergency responses.

Section 670A.02 Definitions

(a) “Alarm business” means the business by any individual, partnership corporation, company, firm or other entity, including any of its successors and assigns, of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or monitored any alarm system in or on any building, structure or facility in the city, including residential structures or premises. Alarm business includes an entity, its successors and assigns, other than the alarm business, that is responsible for monitoring an alarm system for the alarm business and that alerts the alarm business and the Division of Police of an alarm system activation.

(b) “Alarm site” means the specific property or area of the premises upon or within which an alarm system is located or is to be installed.

(c) “Residential property” means any building or structure and its premises used as a domicile or residence.

(d) “Business property” means any building, structure or facility and its premises used by a business, firm, partnership, association, corporation, organization or other entity and that is not used as a domicile or residence.

(e) “Alarm system” means a device or combination of devices designed for the detection of an unauthorized entry, an unlawful act, or an emergency on a premises, and which device when activated gives a signal, either visual, audible or both, or transmits or causes to be transmitted a signal that would reasonably be expected to summon police or fire service of the city. Alarm system includes systems that transmit the signal or notification directly to the Division of Police. Alarm system does not include:

- (1) such device installed on a motor vehicle;
- (2) any device or system designed solely to detect or give notice of fire or smoke;
- (3) an alarm designed to alert only inhabitants of a premises that does not have a local alarm; and

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(4) an alarm system or device installed upon premises occupied by the United States Government, the State of Ohio, or any other governmental entity that is specifically exempted from local control by state or federal law.

(d) “Alarm user” means the person, firm, partnership, association, corporation, organization or other or entity of any kind who is in control of the building, structure or facility where the alarm system is maintained.

(f) “False alarm” means any alarm system activation or signal that alerts the Division of Police which is not the result of an actual or threatened emergency requiring their immediate response. False alarms include negligently or accidentally activated alarms or signals; alarms or signals which are the result of faulty, malfunctioning, or improperly installed or maintained equipment; and signals which are purposely activated to summon police or emergency services in non-emergency situations. Alarm activation caused by an act of God, not including thunderstorms or lightning, shall not be considered a false alarm. Multiple occurrences due to equipment malfunction within a 24-hour period of activity constituting false alarms may be considered one false alarm for the purposes of this chapter.

(g) “Enhanced verification” means at least two (2) calls made by the alarm business to the alarm site or the alarm user by telephone or other electronic means, to determine if an activated alarm is valid before the alarm business requests response from the Division of Police to the alarm site.

(h) “Cancellation” means notifying the Division of Police, after an alarm dispatch request to respond to an activated alarm system, that police response is not required and that the alarm business is terminating such request. If cancellation occurs prior to police arrival at the alarm site, a false alarm has not occurred for the purposes of this chapter.

(i) “Registration year” means the twelve (12) month period beginning March 31st to the following March 31st of each calendar year.

(j) “Unique Identifying Number” or “UIN” means the registration number issued to an alarm business upon completed registration with the city.

(k) “Division of Police” means the Division of Police of the Department of Public Safety of the city.

(l) “Commissioner” means the Commissioner of Assessments and Licenses of the city.

(m) “Person” means any individual, partnership, corporation or other legal entity.

Section 670A.03 Alarm Business Registration Required; Fee; Penalty

(a) Every alarm business shall register with the Commissioner using forms designated by the Commissioner for that purpose. The forms shall include:

- (1) the name, address, telephone number and email address of the alarm business, and whether the business is an individual, partnership or corporation;
- (2) a description of the alarm systems and devices and alarm related services offered for sale or lease to the public; and

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- (3) a complete list of all the alarm business' current alarm systems within city limits, including alarm user's name, business or organization, mailing address, alarm site and date of activation (the "alarm system installation list"); alarm business shall update the alarm system installation list with any new alarm system installation within 45 days of activation, which update shall include the information required above.

- (b) Every alarm business shall submit with its registration a statement that all alarm equipment used in installation of any alarm system meets the applicable standards of the Underwriters Laboratories of the United States, Factory Mutual or the National Fire Protection Association or other recognized industry standard.

- (c) Registration shall be accompanied by a certificate of insurance in an amount as approved by the Director of Law.

- (d) Alarm business registration is non-transferrable.

- (e) (1) Registration Fee for Alarm Systems Installations per Residential Property. The alarm business shall pay a registration fee of Ten Dollars (\$10.00) per alarm system installation at any residential property on the initial alarm system installation list. Thereafter, the alarm business shall be charged a fee of Ten Dollars (\$10.00) per alarm system installation at a residential property for any newly installed alarm system updated to the list.

- (2) Registration Fee for Alarm Systems Installations per Business Property. The alarm business shall pay a registration fee of Twenty-Five Dollars (\$25.00) per alarm system installation at any business property on the alarm system installation list. Thereafter, the alarm business shall be charged a fee of Twenty-Five Dollars (\$25.00) per alarm system installation at any business property for any newly installed alarm system updated to the list.

- (f) Every alarm business shall re-register with the Commissioner no later than March 31st of each calendar year. Re-registration shall include an updated alarm system installation list. There is no fee for re-registration; however, the fees set forth in division (e) (1) and (2) of this section apply for any newly installed alarm system added to the alarm system installation list since the previous registration date.

- (g) No alarm business shall fail to register, re-register or update the alarm system installation list pursuant to this section. Any alarm business that fails to register, re-register or update the alarm system installation list shall be assessed either (1) Fifty Dollars (\$50.00) per alarm system installation at a residential property on the alarm system installation list and per alarm system installation at a residential property that should be added to such list; or (2) Sixty-Five Dollars (\$65.00) per alarm system installation at any business property on the alarm system installation list and per alarm system installation at a business property that should be added to such list.

- (h) Any alarm business that fails to register pursuant to this section, but that requests police response related to an alarm system operated by that alarm business, shall be assessed a civil penalty of Two-Hundred and Fifty Dollars (\$250.00) for each police response request in addition to any other penalty imposed under this chapter.

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Section 670A.04 Receipt and Use of UIN; Penalty

- (a) Upon completed registration and payment of the fee under section 670A.03, every alarm business shall receive a Unique Identifying Number (UIN) which shall be used by the alarm business when calling the Division of Police to report alarm activation.
- (b) Every alarm business is required to use the UIN in addition to the alarm site address when requesting a police response. Any alarm business that fails to provide a UIN to police dispatch or the 911 call taker when requesting police response shall be assessed a civil penalty of Fifty Dollars (\$50.00.)

Section 670A.05 Alarm Business Procedure; Penalty

- (a) Every alarm business shall give each alarm user a written instruction manual and training on proper operation and use of the alarm system. Every alarm business shall monitor the installed alarm system and alarm user for repeat alarm activation, to determine the cause, correct faulty equipment and train or re-train the alarm user.
- (b) Every alarm business representative shall wear identification on their outermost garment bearing the representative's name and picture, and the name of the alarm business for which the representative is working.
- (c) Every alarm business shall use enhanced verification prior to requesting that police respond to an alarm activation.
- (d) Any alarm business that violates division (c) of this section shall be fined a civil penalty of One Hundred Dollars (\$100.00) for failure to use enhanced verification. Each violation is a separate and chargeable offense.

Section 670A.06 Alarm Dispatch Records

The Division of Police shall record and keep such information as necessary to maintain accurate records of notifications of all alarm system activations to which the police respond. Such information shall include, but is not limited to:

- (a) the alarm business and its UIN number;
- (b) address of the alarm site;
- (c) date and time of notification;
- (d) weather conditions;
- (e) area of alarm site premises;
- (f) name of alarm user;
- (g) cause of alarm (criminal offense, weather, false alarm, fire, etc.)

Section 670A.07 Confidentiality

Because of the threat to public safety and the risk that such information could be used for criminal action, and to protect the privacy of those persons affected by any provision of this chapter, all records kept by the city pursuant to this chapter shall be used solely for the purpose of law enforcement, judicial proceedings and the administration of this chapter and shall not be released except under direction of the Director of Law.

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Section 670A.08 False Alarm Notifications; Service Fees

- (a) Every alarm business shall be responsible for multiple false alarms sent by an alarm system located on any alarm site or premises provided in its alarm system installation list. False alarm service fees shall be imposed based on the number of false alarms sent from one alarm site within a registration year.
- (b) False Alarms – Alarm Systems on Residential Property.
- (1) On the first and second false alarms within a registration year, no fee shall be imposed; however, Director of Public Safety shall send written notice to the alarm business and alarm user advising of the number of false alarms recorded for that alarm user to date and the schedule of fees if three or more false alarms occur during the remainder of the registration year. Notice is deemed properly delivered by delivering it personally or mailing it to the alarm business' address on its registration and by delivering it personally or mailing it to the alarm site address listed on the registration.
 - (2) On the third and fourth false alarms within a registration year, a fee of \$50.00 shall be imposed for each false alarm.
 - (3) On the fifth, sixth and seventh false alarms within a registration year, a fee of \$100 shall be imposed for each false alarm.
 - (4) On the eighth, ninth and tenth false alarm within a registration year, a fee of \$250 shall be imposed for each false alarm.
 - (5) For each alarm after the tenth false alarm within a registration year, a fee of \$500 shall be imposed for each false alarm.
- (c) False Alarms – Alarms Systems on Business Property.
- (1) On the first and second false alarms within a registration year, no fee shall be imposed; however, Director of Public Safety shall send written notice to the alarm business and alarm user advising of the number of false alarms recorded for that alarm user to date and the schedule of fees if three or more false alarms occur during the remainder of the registration year. Notice is deemed properly delivered by delivering it personally or mailing it to the alarm business' address on its registration and by delivering it personally or mailing it to the alarm site address listed on the registration.
 - (2) On the third and subsequent false alarms within a registration year, a fee of One Hundred Thirty Dollars (\$130.00) shall be imposed for each false alarm.
- (d) Payment of any fee assessed under this section shall be made within thirty (30) days of the date of the notice of fee assessment, unless the alarm business has appealed the assessment pursuant to section 670A.09.

Section 670A.09 Appeals

- (a) Any alarm business who has been assessed service fees pursuant to section 670A.09 may request, in writing and within thirty (30) days of the date of the notice of fee assessment, a hearing before the Chief of Police or his or her designee for the purpose

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of presenting evidence that false alarms did not occur, or that the alarm business was incorrectly assessed. After the Division of Police has established a prima facie case supporting the fee assessment, the burden of proof shall shift to the alarm business appealing the assessment. The rules of evidence shall not be strictly applied.

If the Chief of Police or his or her designee determines, by a preponderance of the evidence, that a false alarm or alarms did not occur, or that the alarm business was incorrectly assessed, then the charges shall be voided; otherwise, the fees shall be due and payable within ten (10) days of the date of the determination.

(b) Any alarm business subject to an adverse finding by the Chief of Police or his or her designee pursuant to division (a) may appeal the finding to the Board of Building Standards and Building Appeals (the "Board"). The notice of appeal shall be in writing and shall be filed with the Board within ten (10) days of the finding of the Chief of Police or his or her designee. Upon scheduling of a Board hearing on the matter, the Board shall notify the appropriate member of council in whose ward the false alarms have occurred. The Board shall approve, modify or annul the finding from which the appeal is taken; the decision of the Board shall be final. Failure to pay any fees ultimately assessed may result in future administrative action, including but not limited to, revocation of alarm business registration.

Section 670A.10 Reports

(a) The Commissioner shall notify and update as necessary the Division of Police of all registered alarm businesses and their UINs, the alarm system installation lists of every registered alarm business, as well as any other pertinent information necessary for the Division to keep records pursuant to Section 670A.06

(b) The Director of Public Safety shall file a report with the Clerk of Council by May 15th of each year which report shall indicate the number of false alarms that occurred in the immediately previous registration year, the alarm sites of such false alarms, and the name of the alarm business that operates such alarm system, and the amount of money reimbursed to the City pursuant to this chapter.

Section 2. That Sections 670A.01, 670A.04, through 670A.07 and 670A.99, as amended by Ordinance No. 1585-90, passed January 7, 1991, Section 670A.02, as amended by Ordinance No. 2393-02, passed February 3, 2003, and Section 670A.03, as amended by Ordinance No. 220-11, passed March 28, 2011, are hereby repealed.

Section 3. The effective date of this ordinance shall be March 31, 2015.

Section 4. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

MJK:rns
8/20/14

Ordinance No. 1275-15

AN EMERGENCY ORDINANCE

To repeal various sections of Chapter 403 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances and to supplement the codified ordinances by enacting new sections 403.02, 403.10, 403.12 and 403.99 relating to enforcement, compliance and penalty in the traffic code.

Council Member Kelley

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 403.02 as amended by Ordinance No. 835-03, passed June 10, 2003,

Section 403.10, as amended by Ordinance No. 1684-76, passed June 29, 1976,

Section 403.12, as amended by Ordinance No. 91-96, passed March 18, 1996, and

Section 403.99, as amended by Ordinance No. 1659-12, passed April 15, 2013

are repealed.

Section 2. That the Codified Ordinances of Cleveland, Ohio, 1976 are supplemented by enacting new Sections 403.02, 403.10, 403.12 and 403.99 to read as follows:

Section 403.02 Compliance with Lawful Order of Police Officer; Fleeing

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of division (a) of this section is a misdemeanor of the first degree.

(3) Except as provided in divisions (c)(4) and (c)(5) of this section, a violation of division (b) of this section is a misdemeanor of the first degree.

(4) Except as provided in division (c)(5) of this section, a violation of division (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.

(5) A. A violation of division (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.
2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

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B. If a police officer pursues an offender who is violating division (b) of this section and division (c)(5)A. of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of division (b) of this section, shall consider, along with the factors set forth in RC 2929.12 and 2929.13 that are required to be considered, all of the following:

1. The duration of the pursuit;
2. The distance of the pursuit;
3. The rate of speed at which the offender operated the motor vehicle during the pursuit;
4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;
5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
7. Whether the offender committed a moving violation during the pursuit;
8. The number of moving violations the offender committed during the pursuit;
9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

(d) In addition to any other sanction imposed for a violation of division (a) of this section or a misdemeanor violation of division (b) of this section, the court shall impose a class five (5) suspension from the range specified in RC 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section or under RC 2921.331 or any other substantially equivalent municipal ordinance, in addition to any other sanction imposed for the offense, the court shall impose a class one (1) suspension as described in RC 4510.02(A)(1). The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in RC 4510.021. No judge shall suspend any portion of the suspension under a class one (1) suspension of an offender's license, permit, or privilege required by this division.

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

(1) "Moving violation" has the same meaning as in RC 2743.70.

(2) "Police officer" has the same meaning as in RC 4511.01.
(RC 2921.331(A) - (C), (E), (F))

Section 403.10 Road Workers, Motor Vehicles and Equipment Excepted

(a) The provisions of this Traffic Code, except for Section 433.01, do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic-control devices, but apply to those persons and vehicles when traveling to or from that work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and any other markings as are required by law and the lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of RC 4511.22, 4511.25, 4511.26, 4511.27, 4511.28, 4511.30, 4511.31, 4511.33, 4511.35, 4511.66, 4513.02 and 5577.01 to 5577.09, and any substantially equivalent section of this Traffic Code or these Codified Ordinances.

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(c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of RC 4511.22, 4511.25, 4511.26, 4511.27, 4511.28, 4511.30, 4511.31, 4511.33, 4511.35, 4511.66 or 4513.02 or 5577.01 to 5577.09, or any substantially equivalent section of this Traffic Code or these Codified Ordinances.

(2) This section does not exempt the driver of a vehicle that is engaged in the transport of highway maintenance equipment from criminal liability for a violation of RC 5577.01 to 5577.09, or any substantially equivalent section of this Traffic Code or these Codified Ordinances.
(RC 4511.04)

Section 403.12 Freeway Use Prohibited by Pedestrians, Bicycles and Animals

(a) No person, unless otherwise directed by a police officer, shall:

(1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance.

(2) Occupy any space within the limits of the right-of-way of a freeway, with an animal-drawn vehicle, a ridden or led animal, herded animals, a pushcart, a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use, a bicycle with motor attached, a motor-driven cycle with a motor which produces not to exceed five (5) brake horsepower, an agricultural tractor or farm machinery, except in the performance of public works or official duties.

(b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one (1) year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(RC 4511.051)

Section 403.99 General Traffic Code Penalty; Misdemeanor Penalties

(a) *General Traffic Code Penalty.* Whoever violates any provision of this traffic code for which no penalty otherwise is provided in the section violated is guilty of one (1) of the following:

(1) Except as otherwise provided in division (a)(2) or (a)(3) of this section, a minor misdemeanor;

(2) If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) predicate motor vehicle or traffic offense, a misdemeanor of the fourth degree;

(3) If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to two (2) or more predicate motor vehicle or traffic offenses, a misdemeanor of the third degree.
(RC 4511.99)

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(b) *Misdemeanor Penalties.* Whoever is convicted of or pleads guilty to a violation of this traffic code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

Misdemeanor Classification	Maximum Imprisonment Term	Maximum Fine
1st degree	180 days	\$1,000.00
2nd degree	90 days	\$750.00
3rd degree	60 days	\$500.00
4th degree	30 days	\$250.00
Minor	None	\$150.00

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KJK:rms
10-19-15