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MEMORANDUM

To: Mayor and City Council
From: Billy Grogan, Chief of Police
Thru: Warren Hutmacher, City Manager
Date: January 14, 2013
Subject: **Alarm Ordinance**

ITEM DESCRIPTION

Currently, the City of Dunwoody does not have an alarm ordinance which regulates the registration of residential and commercial alarms as well as assessing fines for excessive false alarms.

BACKGROUND

The alarm ordinance was presented to the Council on several occasions in August. After some discussion, the Council asked staff for additional information prior to making a decision about the structure of the ordinance. The additional information requested was presented to the City Council at the December 10th meeting.

Based on the input from Council, the ordinance being submitted has one change requested by Council and one additional change. At the request of Council, an alarm user who is fined will have 60 days to pay their fine rather than 30 days. In addition, an item was added in Sec. 24-184, which requires each alarm company to provide our Alarm Administrator with an electronic list of all of their customers in Dunwoody within 60 days of the passage of the ordinance.

Below is a summary of the major points of the ordinance:

- All alarm users must register their alarmed locations
- Commercial alarmed locations must pay an annual \$25 registration fee
- Adopting false alarm fee schedule
- Alarm companies must use Enhanced Call Verification
- No police response to alarm call if there are unpaid fines
- Outsourcing the registration and management of the ordinance

The City of Sandy Springs has adopted an ordinance very similar to the one being considered and the City of Johns Creek is currently reviewing the adoption of a similar ordinance there.

RECOMMENDED ACTION

At this time, staff recommends the City Council approve the alarm ordinance, the contracting with a private company to manage the program and the adoption of the registration, fine and fee schedule.

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY OF DUNWOODY CODE BY ADOPTING REGUALTIONS GOVERNING FALSE ALARMS IN THE CITY OF DUNWOODY.

WHEREAS, the City of Dunwoody is charged with preserving the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody Police Department responds often to automatic burglar and fire alarms on private buildings; and

WHEREAS, whenever an alarm is triggered improperly, and is a False Alarm, the City unnecessarily expends resources to respond to a non-existing incident; and

WHEREAS, the Mayor and City Council finds that false alarms are a nuisance to the citizens of this City and a drain on the resources of first responders; and

WHEREAS, it is the intent of the Mayor and Council to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for excessive false alarms that unduly burden the Dunwoody Police Department’s limited resources.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA hereby Ordain as follows:

Section 1: That Chapter 24 of the City of Dunwoody Code (“Offenses and Miscellaneous Provisions”) is hereby revised by addition of new Article VII, entitled “False Alarms” to read in its entirety as follows:

Article VII: False Alarms

Sec. 24-180. Purpose.

- (a) The purpose of this ordinance is to encourage alarm owners and alarm businesses to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms and nuisance alarms. The City of Dunwoody finds that excessive false alarms unduly burden the Dunwoody Police Department and wastes limited public safety resources.
- (b) This Ordinance governs alarm systems intended to summon police personnel, and requires registration, assessment of fees for excessive false alarms and nuisance alarms, provides procedures for repeat offenders, provides for the severability of the parts hereof if declared invalid, and provides an effective date.

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Sec. 24-181. Definitions.

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

Alarm Activation Report means a document issued by the Enforcement Official indicating that the activation was deemed to be the result of valid incident, a nuisance alarm, or a false alarm.

Alarm Administrator means a person or persons designated by the City of Dunwoody to administer, control and review false alarm reduction efforts and administers the provisions of this Ordinance. Said Alarm Administrator may be a vendor contracted by the City to administer the provisions of this Ordinance.

Alarm Business / Company means any individual, partnership, corporation or other entity that is appropriately licensed in the state/jurisdiction and installs, causes to be installed, permits to be installed, alters, maintains, repairs, replaces or services any Alarm System.

Alarm permit means a permit issued by the City of Dunwoody allowing the operation of an alarm system within the City of Dunwoody.

Alarm signal means a detectable signal; audible or visual; and/or silent generated by an alarm system, to which the Dunwoody Police Department is requested to respond.

Alarm system means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other activity requiring immediate attention and to which a Dunwoody Police Department will be requested to respond, but does not include alarms installed in motor vehicles, domestic violence alarm, or alarms designed to elicit a medical response.

Alarm user means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

Alarm user awareness class means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.

Automatic Voice Dialer means any electrical, electronic, mechanical, or other device capable of being programmed to send a pre-recorded voice message, when activated, over a telephone line, radio or other communication system, to the Emergency Communications System requesting police dispatch.

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Cancellation means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Emergency Communications Center that there is not an existing situation at the alarm site requiring public safety response after an alarm dispatch request. If cancellation occurs prior to the Dunwoody Police Department arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.

Emergency Communications Center means the ChatComm Emergency Communications (911) Center.

False alarm means the activation of an alarm system to summon police personnel which occurs as a result of mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, unless the request for response was cancelled by the alarm user or his/her agent before the Dunwoody Police Department arrives at the alarm location. An alarm is false within the meaning of this Article when, upon inspection by the Dunwoody Police Department, evidence indicates that no unauthorized entry, robbery, or other such crime was committed, occurred or attempted in or on the premises, which would have activated a properly functioning alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm, which can reasonably be determined to have been caused or activated by violent conditions of nature, nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies and receives permission from the user's alarm company, or designee, to test the system.

Fee means the assessment of a monetary charge payable to the City of Dunwoody authorized pursuant to this Ordinance and separate Resolution, to defray the expenses of responding to a false alarm.

Holdup alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Local Alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote monitoring facility, whether installed by an alarm company or user.

Monitored System means the process by which an alarm business receives signals from an alarm system and notifies emergency forces.

Owner means any person who owns the Premises in which an alarm system is installed or the person or persons who lease, operate, occupy or manage the Premises.

Premises means any building, structure or combination of buildings and structures which serve as dwelling units such as single-family, multi-family or any other area within a building, structure or combination thereof which is used for any purpose,

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wherein an alarm system is installed.

Permit year means a 12-month period beginning on the day and month on which an alarm permit is issued.

SIA Control Panel Standard CP-01 means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction".

Verify means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether a burglar alarm signal is valid before requesting the Dunwoody Police for dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this ordinance, telephone verification shall require, at a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch.

Sec. 24-182. Alarm Permits.

(a) **Permit required.** Effective July 1, 2013, no alarm system shall be used unless the alarm user first obtains a permit for such alarm system from the City of Dunwoody. There will be a fee charged for the permit. The permit fee shall be set by the City Council of Dunwoody by separate resolution. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.

(b) **Registration.** Each alarm user has the duty to obtain and complete a permit application on a form provided by the City of Dunwoody in accordance with adopted codes. The Registration form shall include the following information:

(1) The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager or person in possession of the premises wherein the alarm system is installed;

(2) The name, address and telephone number of a minimum of two (2) persons who can be notified, in the event of the activation of the alarm system, who shall be capable of responding to the premises within

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thirty (30) minutes, and who are authorized to enter the premises to ascertain the status thereof;

- (3) The name, address and telephone number of the alarm business which has contracted to service the alarm system and proof of proper state licensing/registration, if required. Proof of proper state licensing may be a valid state licensing number.
 - (4) The date the Registration is signed or the alarm system is placed in operation for any reason; and
 - (5) Any other documentation that is required by adopted codes.
- (c) **Non-transferability; new registration required.** Alarm permits are not transferable. Upon transfer of the possession of premises at which an alarm system is maintained, the new alarm user shall register for an alarm permit within 15 days of obtaining possession of the property.
- (d) **Reporting updated information.** When information required on the alarm permit application changes, the alarm user shall provide correct information to the City of Dunwoody within 15 days of the change. The Owner shall be required to update registration information whenever there is a change in the alarm company/business responsible for maintaining, servicing, and/or monitoring the alarm system. In addition, each year after the issuance of the permit, permit holders will receive, from the City, a form requesting updated information. The permit holder shall complete and return this form to the City within 15 days.
- (e) **Multiple alarm systems.** If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

Sec. 24-183. Duties of the Alarm User/Owner

An alarm user/owner shall be required to:

- (a) Register and obtain an alarm permit.
- (b) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms;
- (c) Respond or cause a representative to respond to the alarm system's location within thirty (30) minutes upon notification of the need to deactivate a malfunctioning alarm system; to provide right of entry to the premises, or to provide alternative security for the premises;

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- (d) Ensure that an alarm is not manually activated by the alarm user or any other person for any reason other than an occurrence of an event that the alarm system was intended to report.
- (e) Upon obtaining a permit number, provide that number to the alarm company;
- (f) Obtain a new permit if there is a change of address or ownership of a business or residence or if there is updated information.

Sec. 24-184. Duties of the Alarm Company.

An alarm company shall be required to:

- (a) Obtain and maintain required state and local license(s) and/or permits;
- (b) Notify the City of Dunwoody Alarm Administrator of the existence of an alarm system prior to the alarm system being put into operation.
- (c) Provide the owner with notice of the existence of this ordinance, a registration form and a copy of the alarm system operation instructions in accordance with adopted codes, and the manufacturer's instructions.
- (d) Maintain current contact information, including user permit numbers, which shall be provided to the Emergency Communications Center at the time of a request for public safety response;
- (e) Ninety (90) days after the effective date of this Ordinance alarm companies will be required to use control panels meeting Security Industry Association (SIA) Control Panel Standard CP-01 on all new installations;
- (f) Prior to activation of the alarm system, the alarm company must provide verbal and written instructions explaining the proper operation of the alarm system to the alarm user and provide written information on how to obtain service from the alarm company;
- (g) An alarm company performing monitoring services shall:
 - (1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, EXCEPT in the case of a Panic or Robbery-in-progress alarm, or in cases where a crime-in-progress has been verified by video and/or audible means. The numbers dialed shall be provided to the Emergency Communications Center call taker.

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- (2) Communicate a cancellation to the Emergency Communications Center as soon as possible following a determination that response is unnecessary.
- (3) Communicate any available information about the location of the alarm.
- (4) Provide an electronic list quarterly of all monitored alarm systems in the City of Dunwoody in a format designated by the Alarm Administrator.
- (5) Provide an electronic list of all monitored alarm systems in the City of Dunwoody in a format designated by the Alarm Administrator within 60 days of the passage of this ordinance.

Sec. 24-185. Prohibited Acts.

- (a) It shall be unlawful to activate an alarm system for the purpose of summoning police personnel when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.
- (b) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than 10 minutes.
- (c) It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Emergency Communications Center or the Dunwoody Police Department.
- (d) An alarm company shall provide the permit number for the alarm system that produced the alarm signal at the time the alarm company notifies the Emergency Communications Center of an alarm signal to facilitate dispatch.

Sec. 24-186. Enforcement of Provisions

- (a) The police officer who responds to said Premises shall serve the owner or authorized representative with an Alarm Activation Report either in person or by affixing the report to the main entrance if no owner or authorized representative is on the scene. The Alarm Activation Report will include the findings of the responding officer as to the validity of the alarm activation.
- (b) **Excessive false alarms.** It is hereby found and determined that three or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for false alarms within a permit year may be assessed against an alarm user by separate Resolution.

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- (c) **Other civil penalties.** Violations of other provisions of this ordinance will be enforced through the assessment of civil penalties set by separate Resolution.
- (d) **Payment of civil penalties.** Civil penalties shall be paid within (60) days from the date of the invoice.
- (e) **Cause of Verified Response.** The failure of an alarm user to make payment of any civil penalties assessed under this ordinance within 60 days from the date of the invoice will be cause for the Dunwoody Police Department to only respond to alarm calls at that location when the alarm has been verifiably set off due to an actual crime. Verified response does not include response to panic, fire or hold up alarms. All 9-1-1 and other calls to that location will be responded to normally by the Dunwoody Police Department. All alarms will be responded to normally once the alarm user's payment has been received.
- (f) **Noncriminal (Civil) violation.** A violation of any of the provisions of this ordinance shall be civil in nature and shall not constitute a misdemeanor or infraction.
- (g) Anyone convicted of falsifying reports as required under this Ordinance is subject to maximum penalty as established by state or local law.

Sec. 24-187. Alarm User Awareness Class.

- (a) **Alarm User Awareness Class.** The City of Dunwoody may create and implement an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms.
- (b) **Alarm User Awareness Class in lieu of payment.** An alarm user may have the option of attending an Alarm User Awareness Class in lieu of paying one prescribed civil penalty.

Sec. 24-188. Appeals.

- (a) **Appeals process.** Assessments of civil penalties and other enforcement decisions made under this ordinance may be appealed by filing a written notice of appeal with the Chief of Police within ten (10) days after the date of notification of the assessment of civil penalties or other enforcement decisions. The written notice of appeal shall contain the cause for the appeal and any other pertinent information relevant to the case. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decisions. The Chief of Police shall designate a hearing officer from the Dunwoody Police to hear the appeal. The hearing officer shall render a decision within five (5) business days and give written notification of his/her decision. The hearing

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officer's decision may be appealed to the Chief of Police by filing a written notice of appeal within ten (10) days of the decision of the hearing officer. The Chief of Police shall have the final decision in this matter. The hearing officer's decision and the decision of the Chief are subject to review by the courts by proceedings in the nature of a Petition for Writ of Certiorari pursuant to Georgia Law.

- (b) **Appeal standard.** The hearing officer shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

Sec. 24-189. Confidentiality, Immunity and Severability.

- (a) **CONFIDENTIALITY.**

To the extent allowed by law, information contained and gathered through the alarm registration process will be held in confidence by the City of Dunwoody.

- (b) **GOVERNMENT IMMUNITY**

Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the Dunwoody Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

- (c) **SEVERABILITY**

The provisions of this Ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

Section 2: This Ordinance shall be effective on July 1, 2013 and its provisions appropriately incorporated into the Code of the City of Dunwoody, Georgia. This Ordinance repeals any and all conflicting ordinances and amendments.

#L.1.

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Approved:

Michael G. Davis, Mayor

Attest:

Approved as to Form:

Sharon Lowery, City Clerk

City Attorney

(Seal)