



MEMORANDUM

LEGISLATIVE REFERENCE BUREAU

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To: Ald. Robert Puente
From: Richard Withers
Date: April 11, 2011
Subject: File # 101025 – Regulation of Private Alarm Systems Memorandum 2

This memorandum provides a description of changes to Substitute 1 of the ordinance in File # 101025 based upon advice and recommendation received from the City Attorney's Office. These changes appear in Proposed Substitute A. Information previously provided in Memorandum 1, dated March 23, 2011, has been updated beginning on page 3.

Changes made in Proposed Substitute A include:

1. Elimination of the sentence in the definition of "Alarm business" (s. 105-75-2-a) that includes the phrase "holders in due course of an alarm system contract." The language appears in the current definition, but does not add anything meaningful and may be vague and confusing.
2. Typographical edits in the definition of "Alarm monitoring service" (s.105-75-2-c).
3. Changing "fire or police department" to "a city agency" wherever the phrase appears. This provides consistency. See ss. 105-75-2-h, 105-75-14-b-3 and 105-75-15-a.
4. Removing the phrase, "by signaling the occurrence" in s. 105-75-2-j. This language is redundant.
5. Removing the phrase "that holds a private first responder service license" in s.105-75-2-m.
6. Replacing the phrase "an attempted or actual crime has occurred" and similar language wherever it appears with the phrase, "a cause for alarm" or similar language. Sections 105-75-2-m, 105-75-8-d-4, 105-75-11-d-1, 105-75-13-a, 105-75-14-c-4 and 105-75-14-c-5.
7. Removing requirements that private first responder services provide prompt dispatch and eliminating the related penalties formerly in s. 105-75-15. The revised draft in s. 105-75-3-b-8-g now requires an applicant to state in the plan of operation whether prompt dispatch is guaranteed.
8. The penalties provisions of s. 105-75-15 have been revised and simplified to read:

15. PENALTIES. a. No alarm user shall cause or permit a city agency to be notified of a false alarm. If after a city agency is notified of 2 false alarms within a calendar year, the alarm user shall be subject to a forfeiture of not less than \$50 nor more than \$100 for the first false alarm thereafter. Subsequent false alarms shall be subject to a forfeiture of not less than \$100 nor more than \$250.

b. No alarm business shall cause or permit a city agency to be notified of a non-verified alarm. An alarm business shall be subject to a forfeiture of not less than \$50 nor more than \$100 for the first non-verified alarm. Subsequent notification of non-verified alarms at the same site within 2 years of the first offense shall subject the alarm business to a forfeiture of not less than \$100 nor more than \$250.

c. Any violation of sub. 11-b or c is subject to a forfeiture of not less than \$100 nor more than \$200 for a first offense and not less than \$200 nor more than \$400 for each subsequent offense occurring at a single site or caused by a single alarm or sensor within 5 years of any prior offense.

d. Except as otherwise provided in this section, any person violating any provision of this section shall upon conviction forfeit not less than 100 nor more than \$500, together with the costs of prosecution.

9. The revised draft also includes a requirement in s. 105-3-b-8-h that an applicant's plan of operation state whether the applicant will accept process of papers or notices by first class mail.

10. Making a minor grammatical change in ss.105-75-11-d-2 with insertion of "shall be" before the word "submitted."

11. Clarifying s. 105-75-14-b-2 so that the provision reads "...written information, prepared or approved by the city clerk, that reads...."

12. Eliminating forfeiture language in s. 105-75-14-b-3 and replacing it with a reference to forfeiture provisions in sub. 15.

13. Eliminating the phrase, "in accordance with manufacturer specifications", at the end of s. 105-75-14-c-1.

The following is a revised summary of the proposed substitute ordinance:

The proposed substitute ordinance codifies and implements recommendations of the Task Force contained in its final report to the Common Council (File #091421, placed on file on July 27, 2010).

The recommendations of the Task Force fall into the following 5 primary areas:

- Sales of Alarm Systems;
- Alarm System Installations;
- First Responder Services;

Verified Response, False Alarms and Prohibited Alarm Systems; and
General Licensing Provisions.

A majority of the Task Force recommendations require implementation through ordinance changes. Some recommendations, however, may be appropriately implemented by the private alarm business industry and by changes in the practices and procedures of City departments.

The recommendations of the Task Force and the related ordinance changes provided in the proposed substitute are:

A. Sales of Alarm Systems

1. Require Separate License for Businesses to Conduct Sales.

The Task Force recommended that businesses that sell alarms obtain a separate sales license in addition to the primary alarm business license. The Task Force noted that the most frequent complaints about alarm businesses involved sales practices. Current ordinances that ‘bundle’ alarm services under one license made it difficult to address problems with sales practices without adversely affecting the other services provided to homeowners including leasing, maintenance and monitoring of alarm systems.

Ordinance Changes

The proposed ordinance requires a separate additional license for an alarm business that engages in sales activities and for an alarm business that provides private first responder service.

2. Require Businesses to Register Salespersons under Sales License.

The Task Force recommended that alarm businesses holding licenses permitting sales should register sales personnel with the City Clerk, and should provide a true and correct electronic copy of the ID badge issued to each employee.

Ordinance Changes

The proposed ordinance requires the registration of all salespersons by licensed alarm businesses. Registration is accomplished by providing the information and an electronic photo of sales personnel to the City Clerk.

3. Establish Minimum Training Requirements for Salespersons.

The Task Force recommended that businesses selling alarm systems should certify that a minimum of 14 hours of training has been provided to any sales personnel being registered under the sales license; sales personnel who have not received at least 14 hours of training may conduct sales activities but only accompanied by fully trained and registered personnel.

Ordinance Changes

The ordinance provides that sales are to be conducted by trained salespersons. Training must be provided within the first 2 weeks after first engaging in sales activities. During the period prior to completion of training, untrained sales personnel must be accompanied by trained personnel.

4. Require Salespersons to Display Photo Identification.

The Task Force recommended that, when engaged in alarm sales activities, all sales personnel should clearly display a badge with photograph and information including the name of the alarm business and contact information.

Ordinance Changes

The proposed ordinance requires all sales personnel to display photo-identification badges that include the names of the sales persons, the names of the alarm sales businesses, and the names of the primary alarm businesses, if different.

5. Require Certain Contract Provisions Made Clearer.

The Task Force recommended that key provisions of the contract should be printed either in bold or in 10-point font size. These key provisions should include full disclosure of the costs of installation and the costs of monitoring, the period for which any servicing, monitoring or related activities will be effective, the rights of the alarm system purchaser, subscriber or user to rescind the contract, and contact information for the purchaser, subscriber or user to request correction of a problem from the contracting alarm business.

Ordinance changes

The proposed ordinance requires contract language to be clear with key provisions in bold or 10-point font. Representatives of the alarm business industry advised that full disclosure of costs and other contract terms are made in contract documents to comply with consumer protection requirements.

6. Require Creation and Distribution of Customer Rights' Brochure.

The Task Force recommended that contracts provided to the customer should also include copies of a brochure created by the City Clerk's Office. This brochure will be available online on the City Clerk's web site and should be printed by the alarm company to provide to customers at the time of sale. The brochure should clearly note that the Police Department does not respond to non-verified alarms.

Ordinance Changes

The proposed ordinance requires that a brochure prepared by the City Clerk or approved by the City Clerk accompany sales documents for sales within the City. Contracts are required to include information about the penalties for false alarms.

7. Require Clear Disclosure of Certain Subcontractors to Customers.

Additional information should be included in documents provided to prospective alarm users and subscribers identifying monitoring or first responder subcontracting agencies, if any.

Ordinance Changes

The proposed ordinance does not address this specific issue due to the administrative problems relating to identifying changes in subcontractor services. Different alarm businesses will have different processes for notifying customers of subcontracted services. Industry representatives advised that it is good business practice to keep customers informed of the identity of subcontractors in the provision of monitoring and first responder services.

B. Alarm System Installations

1. Establish New Electrical License Type.

The Task Force recommended that a new electrical license type should be created within s. 222-11-1 of the Milwaukee Code of Ordinances specifically for individuals engaged in the installation of private alarm systems identified as burglar or security alarms separate from fire alarms or other low-voltage systems.

Ordinance Changes

The proposed ordinance creates 3 new categories of low-voltage licenses consistent with industry standards and requiring certification by the Electronic Security Association-National Training School (NTS) or its equivalent. An initial license fee of \$228 is established with a reduced fee of \$114 for a second and third low-voltage license that is applied for and held concurrently.

2. Consider New System Activation Waiting Periods.

The Task Force considered, but did not recommend, a waiting period for full activation of a new system. Task force members noted it is a common practice for established companies, except where system users expressly request immediate activation, to provide a testing period of 7 to 10 days for newly installed systems prior to full activation of a system.

Ordinance Changes

The proposed ordinance does not address this issue.

3. Require Disclosure of Alarm Company on Installation Permits.

The Task Force recommended that permits for installation through the Department of Neighborhood Services should include information on the license number of the alarm company which is installing the alarm and the alarm company which will monitor the alarm, if different.

Ordinance Changes

The proposed ordinance does not address this issue. The Department of Neighborhood Services permit process will require information identifying licensed alarm installers.

4. Create Cross Reference in the Milwaukee Code of Ordinances.

The Task Force recommended that a cross reference should be established in ch. 105, MCO, to the electrical code provisions contained in ch. 222 in order to highlight installation requirements.

Ordinance Changes

The proposed ordinance includes the recommended cross-reference.

C. Monitoring Companies and First Responders.

1. Require City License for Private First Responder Businesses.

The Task Force recommended that first responder companies be licensed by the City if the primary responsibility of the company is to respond to alarms. Current ordinance language exempts private first responders and responder services from licensing.

Ordinance Changes

The proposed ordinance removes the licensing exemption for private first responder services and requires separate licensing.

2. Require Persons Responding to Hold State License.

The Task Force recommended that a private first responder business should be required to ensure that persons responding to alarms should be licensed by the state as security guards.

Ordinance Changes

The proposed ordinance requires that persons engaged in activities that include responding to the site of an activated alarm must have a valid permit issued by the State of Wisconsin as a "Security Person."

3. Clarify 30-Minute Response Time Regulation.

The Task Force recommended that the required response time of 30 minutes should be a separate requirement in the Code, rather than merely contained in the definition of "prompt service."

Ordinance Changes

The proposed ordinance clarifies the definition of "prompt dispatch" and requires an applicant to state in the plan of operation where "prompt dispatch" is guaranteed.

D. Verified Response and False Alarms (alarms which are incorrectly verified)

1. Amend Ordinance to Provide for Changes in Technology.

The Task Force recommended that ordinances should be amended to reflect advances in technology relating to video monitoring and other technological changes. It is further recommended that the ordinance address those situations in which video monitoring may be permitted.

Ordinance Changes

The proposed ordinance provides an exception to first responder verification for video and audio alarm detection if recordings are maintained and available to the police and if the police department has direct contact with the person reporting the incident.

2. Urge Police Department to Allocate Resources for Service of Citations.

The Task Force recommended that the Police Department dedicate sufficient funds for service of process of out-of-area companies.

Ordinance Changes

The proposed ordinance provides that an applicant include a statement in the plan of operation whether it agrees to accept process or notices by first class mail. A new state law authorizes municipal courts to serve process by first class mail, but procedures for doing so have not been presently implemented.

3. Increase Frequency of Police Communication with Violators.

The Task Force recommended that the Police Department should maintain contact with alarm companies, as problems occur within company operations. Contact with companies should be documented by the Police Department.

Ordinance Changes

The proposed ordinance does not address this recommendation as the Police Department has agreed that maintaining contact as problems arise is a good practice.

4. Increase Penalties for Certain Regulation Violations.

The Task Force recommended that penalties for non-verified and false alarms should be increased, including graduated penalties for multiple violations within a certain period of time.

Ordinance changes

The proposed ordinance includes penalty increases and graduated penalties.

5. Establish New Code Provisions Relating to Prohibited Systems.

The Task Force recommended that ordinances prohibit various systems involving immediate automated calls to City agencies or similar requests for service.

Ordinance Changes

The proposed ordinance prohibits a variety of automated systems including panic alerts and medical alerts that automatically initiate a call for service.

E. General Licensing Provisions.

1. Require Disclosure of Multiple Business Contact Persons.

The Task Force recommended that applications for alarm business licenses include more detailed contact information identifying persons---in addition to the applicant or applying agent---who may be available for immediate contact by City officials and who are in a position to resolve any problems that may arise in the operation of private alarm systems.

Ordinance Changes

The proposed ordinance includes new requirements for contact information in the application process and requires notification to the City Clerk of changes in contact information.

2. Allow Businesses to Voluntarily Accept Service of Process.

The Task Force recommended that new and renewal applicants indicate whether the alarm company is willing to accept service of process for the purposes of establishing the ability to issue citations via mail.

Ordinance Changes

The proposed ordinance includes this requirement that an applicant state whether service of process or notice will be accepted by first class mail.

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