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Date	Ver.	Action By	Action	Result	Tally
9/23/2003	0	COMMON COUNCIL	ASSIGNED TO		
9/24/2003		LICENSES COMMITTEE	REFERRED TO		
9/25/2003	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
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10/23/2003	1	MAYOR	SIGNED		
10/30/2003	1	CITY CLERK	PUBLISHED		

030823

SUBSTITUTE 1

ALD. BOHL

A substitute ordinance relative to private alarm system permits.

81-2 rc
105-75-2-b am
105-75-3 rc
105-75-4 rc
105-75-5 rn
105-75-5 cr
105-75-6 rn
105-75-6 cr
105-75-7 rn
105-75-7 cr
105-75-8 rn
105-75-8 cr

105-75-9 rn
105-75-10 cr

This ordinance establishes a modified procedure for the issuance, denial, renewal, nonrenewal, or revocation of alarm business licenses. It follows closely the procedure already in place for the issuance, denial, renewal, nonrenewal or revocation of alcohol beverage licenses. It also includes holders in due course of alarm system contracts among those entities defined as alarm businesses. In addition, it makes the following changes to the fees, terms and conditions for alarm business licenses:

1. It increases the length of the license from one year to 2.
2. It increases the fee for the license from \$87 to \$200.
3. It establishes a requirement that, in the event a corporation changes its officers or agents, that the corporation file a new application with the City.
4. It establishes a \$50 late fee for those requesting license renewals less than 45 days prior to the date on which their licenses expire.
5. In those cases where a license is not issued, it increases the portion of the license fee returned to the applicant from \$48 to \$100.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 81-2 of the code is repealed and recreated to read:

- 81-2. Alarm Business License.** 1. Each regular alarm business license shall be issued for a 2-year period expiring on December 31 in odd-numbered years.
2. The fee for each license shall be \$200.
 3. License renewal applications shall be filed at least 45 days prior to the date on which the license expires. There shall be an additional fee for the filing of a late renewal application of \$50.
 4. If an applicant is not granted a license, a portion of the license fee shall, upon written request, be returned to the applicant in the amount of \$100.
 5. The fee to file an application for change of officers, directors or agents for a corporation shall be \$25.

(See 105-75.)

Part. 2. Section 105-75-2-b of the code is amended to read:

105-75. Private Alarm Systems and Regulations.

2. DEFINITIONS.

b. "Alarm business" means any person engaged in selling, leasing, renting, installing, monitoring, servicing, altering, moving or causing any alarm system to be sold, leased, rented, installed, monitored, serviced or altered in or on any building, place of business, structure, residence or other facility. >>Included in this definition are holders in due course of alarm system contracts<<. Excluded from this definition are sellers of alarm systems from a fixed location who do not visit the site where the alarm system is to be installed, or design the system for the location, or install, monitor, service or alter any existing alarm system.

Part 3. Section 105-75-3 and 4 of the code is repealed and recreated to read:

- 3. LICENSE REQUIRED.** a. No alarm business shall engage in business without first applying for and receiving an alarm business license.
- b. Application for an alarm business license shall be filed with the city clerk on a form provided therefore. The application shall be signed by the applicant, if an individual, or by a duly authorized

agent or officer of a corporation or limited liability corporation, and sworn to by the applicant. The application shall require:

b-1. The name and home address of the applicant.

b-2. The name of the alarm business.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and home address of each of its officers, directors and designated managers, if any. The application shall be verified by an officer of the corporation. If one or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

b-4. If the applicant is a partnership, the application shall set forth the name and home address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and home addresses of all officers and be verified by an officer of the club, association or organization.

b-6. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

b-7. The date of birth of the applicant.

b-8. A list of services offered by the alarm business.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

b-10. All applicants not maintaining a place of business in the state of Wisconsin shall continuously maintain in this state a registered office and a registered agent for service of process, notice or demand required and permitted by law to be served on foreign corporations, the address of such office and the name and address of such agent to be filed with the city clerk.

c. Post office box numbers shall not be acceptable for addresses required on applications.

d. All applicants shall be fingerprinted. If the applicant is a corporation, the agent, and all officers and directors as well as stockholders owning 20% or more of the stock of the corporation shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted. This requirement shall not apply to a person already licensed by the city when that person is renewing the license. The fingerprinting requirement shall also not apply to the officers and directors of nonprofit corporations which apply for a license, except that the fingerprinting requirement shall apply to the agent of such corporations. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for purposes of verification.

4. CHANGES TO BE REPORTED. a. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 5 days after the change occurs.

b. Whenever an alarm business changes any of its corporate officers, directors or agents, the corporation shall file the appropriate application and pay the fee required by ch. 81. This application shall in all respects be treated as a new application subject to all the requirements of this subsection.

Part 4. Section 105-75-5 to 9 of the code is renumbered 105-75-11 to 15.

Part 5. Section 105-75-5 to 10 of the code is created to read:

5. FEE. All applications shall be accompanied by the fee specified in ch. 81.

6. ISSUANCE. a. Applications shall be referred to the chief of police who shall cause an

investigation to be made and report their findings to the licensing committee. If no objection is filed to an application, the license shall be forwarded to the common council for approval. If an objection is filed to an application, the license shall be forwarded to the licensing committee for its recommendation as to whether or not a license should be issued.

b. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements.

e-2. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

e-3. Any other factors which reasonably relate to the public health, safety and welfare.

f. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

7. RENEWAL AND NON-RENEWAL.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application for renewal to the chief of police for review. If the chief of police files no information with the city clerk that could form the basis of an objection, the license shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 30 days prior to the date on which the license expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee of the

common council for its recommendation.

b. Procedure for Non-Renewal.

b-1. If there is a possibility that the committee will not renew a license, a motion shall be entertained to hold the application in committee and instruct the city clerk to provide written notice to the applicant, unless proper notice has already been sent, in which case the hearing shall proceed.

b-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-2-a. The date, time and place of the hearing.

b-2-b. A statement of the common council's intention not to renew the license in the event any objections to renewal are found to be true.

b-2-c. A statement of the reasons for non-renewal.

b-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 9.

d. Disqualification. Whenever any license is denied renewal, it shall be entered on the record by the city clerk and no license granted under s. 105-75 shall be granted to the same applicant for a period of 12 months following the date of non-renewal.

e. Surrender. When any license is surrendered in lieu of a pending non-renewal proceeding, no other license granted under s. 105-75 shall be granted to the same person for a period of 12 months following the date of its surrender.

8. REVOCATION.

a. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing.

b. Revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate ordinances that are grounds for revocation of a permit, the city clerk shall issue notice to the licensee of the licensing committee's intention to hear the matter. The notice shall be served upon the licensee so that the licensee has at least 10 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of revocation of the license exists and the reasons for possible revocation.

c-3. A statement that an opportunity will be given to respond to and challenge any reason for revocation and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation.

e. If the licensee appears before the committee at the time designated in the notice and denies the charges contained in the complaint, an evidentiary hearing in connection with the revocation shall be

conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complainants and the licensee in connection with the revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub 9.

9. HEARING PROCEDURE. a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal or revocation of a license pursuant to this subsection. The chair of the committee shall be the presiding officer.

b. Committee Hearing Procedure.

b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by attorney.

c. Record. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

d. Grounds for Non-Renewal or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the licensed activity, by the licensee or by any employee of the licensee.

d-3. Failure of the alarm company to keep adequate records as to the locations where alarm systems are installed as well as the name, home or billing address, and telephone numbers of the purchaser or subscriber or alarm systems or service.

d-4. Relaying excess false alarms from customers' premises to the fire or police department.

d-5. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed or revoked. All non-renewals and revocations shall be effective upon service of notice of the non-renewal or revocation upon the licensee or person in charge of the premises at the time of service.

f. Council Action.

f-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

f-2. If the committee recommends that the license not be renewed or be revoked, then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

f-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the

question is scheduled before the common council.

f-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by certified mail and also notify the city attorney that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be revoked or not renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

f-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending non-renewal or revocation with the committee's report and recommendation, the city clerk shall give notice of each non-renewal or revocation to the person whose license is not renewed or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

10. REQUEST TO SURRENDER A LICENSE. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal or revocation, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

APPROVED AS TO FORM

Legislative Reference Bureau
Date:_____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney
Date:_____

LRB03403-2

jro
09/25/03