

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING ARTICLE V, "POLICE ALARMS," OF CHAPTER 14, "LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS," OF THE TOWN CODE

WHEREAS, the Town's existing police alarm ordinance is codified at Town Code Sections 14.50.010 through 14.50.240 and currently regulates commercial properties only; and

WHEREAS, the police alarm ordinance currently provides for penalties for properties without a police alarm permit or properties with more than two false alarms in a six-month period and the ability to place properties with more than five false alarms in a calendar year in a "no response status;" and

WHEREAS, staff recommends amending the police alarm ordinance to include residential properties;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I.

Sections 14.50.010 through 14.50.240 of Article V, "Police Alarms," of Chapter 14, "Licenses and Miscellaneous Business Regulations," of the Town Code are amended to read as follows:

DIVISION 1. GENERALLY

Sec. 14.50.010. Findings and purpose.

The Town Council hereby finds as follows:

- (1) The public is making increasing use of police alarms, and the Police are therefore being called to respond to such alarms with increasing frequency.
- (2) More than ninety (90) percent of the alarms received and responded to turn out to be false.
- (3) False alarms not only impose a financial burden on the Town, but also, by demanding fast Police response, cause substantial risk both to Police personnel and the public.
- (4) It is therefore necessary to regulate the use of police alarm systems in the Town and to establish residential and commercial annual alarm permits, service charges, and penalties to be assessed in the event of repeated false alarms.

Sec. 14.50.015. Definitions.

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

Alarm permit. Documentation that a residential or commercial establishment has filed the appropriate form and paid applicable fees to the Town of Los Gatos to operate an alarm system at a specified location. Alarm permits are non-transferable.

Calendar year. January 1 through December 31 of the current year.

False alarm. Activation of a police alarm system, to which personnel of the Police Department respond, in circumstances where no Police emergency exists; provided, that such activation shall not be deemed a false alarm if the owner thereof establishes, by a preponderance of evidence, that the alarm was activated by matters entirely beyond the owner's control, including but not limited to acts of God or utility failures.

Notice. A written notice, given by personal service, or by the United States mail, postage prepaid, addressed to the person to be notified at the person's last known address. Service of such notice shall be effective upon the completion of personal service, or upon the placing of the notice into the custody of the United States Postal Service.

Owner. The person who owns or controls a police alarm system, including but not limited to a lessee, tenant, or other agent of the legal owner of the premises wherein the alarm system is installed, provided that such agent had actual control of and responsibility for the operation of the premises at the time of any false alarm.

Police alarm system. Any mechanical or electrical device which is designated or used for the detection or warning of unauthorized entry into a building, structure, or facility, or for alerting others of the commission of an unlawful act within a building, structure, or facility, or both, and which emits a sound or transmits a signal or message when activated. Police alarm systems include but are not limited to direct-dial telephone devices, audible alarms, and proprietor alarms. Devices which are not designated or used to register alarms perceptible from outside of the protected building, structure, or facility are excluded from this definition, as are auxiliary devices installed to protect the telephone system from damage or disruption by the use of an alarm system.

Police emergency. The unauthorized violent breaking, and/or entering, damaging or burglary of a building, structure, vehicle, or other facility, or the commission of a violent act likely to produce immediate bodily harm, or an attempt or serious threat of any of the acts described herein.

Premises. Those buildings, structures, vehicles or other facilities protected by a police alarm system and shall not include smaller or discrete subdivisions within such buildings, structures or facilities.

Secs. 14.50.020—14.50.075. Reserved.

DIVISION 2. OUTSIDE ALARMS

Sec. 14.50.080. Requirements.

- (a) *Notices required to be posted.* Every person maintaining an outside audible alarm shall post a notice containing the names and telephone numbers of the persons to be notified in order to render repairs and service or secure the premises during any hour of the day or night if the alarm is activated. Such notice shall be posted near the alarm in such a position as to be legible from the ground level adjacent to the building where the alarm is located.
- (b) *Siren sounds prohibited.* It shall be unlawful for any person to install or use a police alarm system which upon activation emits a sound similar to sirens in use on public emergency vehicles or for public disaster warning purposes.
- (c) *Timing devices.* All local exterior bells, gongs, noise-making devices or pulsating lights shall have a timing device that will silence or turn off such devices or lights within ten (10) minutes following initial activation.

Sec. 14.50.085. Investigation.

One (1) of the law enforcement officers responding to each alarm shall attempt to ascertain by investigation whether such alarm was a false alarm. If the investigation indicates to the investigating officer that the alarm was a false alarm, the officer shall forward a report of this investigation to the Chief of Police or designee setting forth the findings.

Sec. 14.50.090. Notice to owner and review.

- (a) Upon receipt of the report of a false alarm, the Chief of Police or designee shall review the report and may overrule, affirm, or modify the findings of the officer as can be determined from the facts and this article. If the Chief or designee determines that a false alarm occurred as defined by this article, the Chief will cause a written notice to be served upon the owner of the alarm system. The notice will state the following:
 - (1) A false alarm was apparently made from the described property and the circumstance involved in the false alarm; and
 - (2) The suggested steps that should be taken to prevent future false alarms; and
 - (3) A warning that if two (2) or more false alarms occur on the premises within a six-month period within a calendar year, a higher penalty will apply in accordance with the Town's administrative fine and penalty schedule and be assessed by the Town against the owner; and

- (4) A statement that the owner may file a written response to the notice with the Chief within thirty (30) days of the date of the notice for the Chief or designee to consider in mitigation of the determination that a false alarm occurred, and a warning that the filing of a response is a necessary prerequisite to any current or future contention that the alarm was not false in either a judicial or administrative proceeding; and
 - (5) If the false alarm will subject the owner to an assessment pursuant to section 14.50.225, a statement of the charge to be assessed and the basis for the charge.
- (b) The owner may respond in writing to the notice from the Chief within thirty (30) days of the notice. If such a response is filed, the Chief or designee will review the response and may conduct additional investigation as appropriate to determine whether a false alarm as defined in this article occurred. The determination of the Chief or designee following such a review shall be final, unless the determination of a false alarm would subject the owner to a false alarm assessment under section 14.50.225 because it would be the third or more false alarm within a six-month period within a calendar year, in which case, the appeal rights under section 14.50.105 apply. If no response, or appeal if applicable, is timely filed, the original determination shall be final.

Sec. 14.50.095. Notice of right to appeal.

In any case where the false alarm will subject the owner to an assessment pursuant to section 14.50.225, the written decision of the Chief of Police will state that the owner may appeal the decision to the Town Manager by filing a notice of appeal with the Town Manager pursuant to section 14.50.100, and a warning that the filing of an appeal is a necessary prerequisite to any current or future contention that the alarm was not false in either a

Sec. 14.50.100. Appeals.

Any person who has filed a response to the Chief of Police and has received an adverse decision regarding a second or more false alarm within a six-month period within a calendar year or a notice of a "no response status" pursuant to section 14.50.110 may appeal by filing a written notice of appeal with the Town Manager within fifteen (15) days after service of the notice of Chief's decision. The written notice of appeal shall specify the grounds for the appeal, and the stated grounds shall constitute the scope of review for the appeal. Filing of a notice of appeal shall stay an assessment until the appeal has been heard by the Town Manager. The appeal shall be set for hearing within thirty (30) days from the filing of the notice of appeal.

The Town Manager may overrule, affirm, or modify the decision of the Chief of Police regarding the false alarm or assessment amount, and the decision of the Town Manager shall be final and conclusive.

Sec. 14.50.105. Payment.

Within thirty (30) days of the service of the notice of assessment described in section 14.50.095, the owner of the subject alarm shall remit to the tax and license collector the full amount of the service charge.

Sec. 14.50.110. No response status.

After the Police Department has recorded more than five (5) false alarms within the calendar year, and after the responsible party of the location has been notified by first class mail that false alarms have occurred, the Chief of Police may authorize that the site be placed on a "no response status." The effective date of any no response status shall be twenty (20) days from the date of the notification, subject to an appeal filed pursuant to section 14.50.100. Once established, a no response status shall remain in effect until the Chief of Police is satisfied that adequate measures have been taken to eliminate the occurrence of false alarms, in which event the no response status shall be provisionally stayed for a maximum period of twelve (12) months. The occurrence of any additional false alarms during that provisional stay shall result in an immediate and non-appealable reinstatement of the no response status. When completed, without additional false alarms, the provisional stay shall terminate. A responsible party whose alarm system has been placed on no response status may appeal that decision as prescribed in section 14.50.100.

Secs. 14.50.115—14.50.155. Reserved.***DIVISION 3. AUTOMATIC CALLS*****Sec. 14.50.160. Prohibited without prior written consent.**

- (a) No person, except a public utility engaged in the business of providing communications services and facilities shall use or operate, attempt to use or operate, or cause to be used or operated, or arrange, adjust, program or otherwise provide or install any device or combination of devices that will, upon activation either mechanically, electronically or by other automatic means, initiate an intrastate call and deliver a recorded message to any telephone number without the prior written consent of such subscriber.
- (b) The term telephone number includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by means of a rotary or other system to connect with the subscriber to such primary number when the primary telephone number is in use.

Sec. 14.50.165. Registration.

Owners of police alarm systems which operate in the manner described in section 14.50.160 shall register them with the Chief of Police or designee and shall provide the following information:

- (1) Name of alarm system owner.
- (2) Business name, if any.
- (3) Address where alarm system is located.
- (4) Billing address.
- (5) Alternate responsible parties
- (6) Such other pertinent information as is required by the Chief of Police.

Secs. 14.50.170—14.50.220. Reserved.

DIVISION 4. FALSE ALARMS**Sec. 14.50.225. Charges.**

There is hereby imposed a service charge upon every owner who reports, causes to be, or permits to be reported two (2) or more false alarms within a six-month period within a calendar year. Such service charge shall be set by the Town Council by resolution. A separate penalty shall be imposed for each false alarm beyond two (2) within a six-month period within a calendar year.

If the Police Department responds to an alarm at any residence or business operating in the Town of Los Gatos without a permit pursuant to subsection 14.050.240(a), such residence or business shall be charged two times the annual permit fee. The fee is payable within thirty (30) days to the Town of Los Gatos. If the alarm additionally was determined to be false, the business shall also incur one (1) false alarm violation pursuant to section 14.050.225.

Sec. 14.50.230. Exemptions.

For thirty (30) days after completion of an installation, new installations shall be exempt from this division.

Sec. 14.50.235. Collection.

If any person fails to pay the charges assessed pursuant to the provisions of this article, the Town may institute an action in any court of competent jurisdiction to collect any charges which may be due and payable in the same manner as any other debts owing to the town and

placed on a "no response status" until all past due debts are received. Alternatively, the Town may seek restitution of applicable fees via collection services, through an outside vendor.

DIVISION 5. ALARM PERMIT REQUIREMENT

Sec. 14.50.240. Alarm permit process.

- (a) *Permits.* No residential or commercial building owner or operator shall operate or cause to be operated any alarm system within the Town of Los Gatos without a permit. Alarm system permits are not transferable.
- (b) *Exemptions.* The provisions of this chapter are not applicable to, motor vehicles or facilities of the Town of Los Gatos.
- (c) *Obtaining alarm system virtual permits and renewal.* Application for an alarm system *virtual* permit and renewal required under this chapter shall be issued by the Chief of Police or designee virtual permit fees are collected at the time of application and will not be pro-rated. The alarm system permit must be renewed annually by the last business day in December for the next calendar year. Such permit and renewal fees shall be established by council resolution.
- (d) *Contents of the online permitting process.* The completed online application for an alarm system permit or renewal form shall state the name, address and telephone number of the applicant, the address and telephone number of the applicant's property serviced by any alarm system, as well as the name and address of at least three (3) responsible parties who can render service to the alarm system at any hour of the day or night and such other information as the Chief of Police or designee may deem appropriate.
- (g) *Reporting Changes.* Any alarm residence or business registered with the Police Department shall immediately report in writing to the Police Chief or designee any change in the address or ownership of the residence or business, name of the business, if applicable, address of the manager of operations or responsible party list.

SECTION II. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Article and shall not affect the validity of the remaining portions of this Article. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION III. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION IV. Publication.

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

SECTION V. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 20 , and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of _____ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA