

A BILL FOR AN ORDINANCE
TO AMEND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED,
BY ESTABLISHING A NEW ARTICLE RELATING TO ALARM SYSTEMS

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 22, Kauai County Code 1987, as amended, is hereby amended by establishing a new Article to be appropriately designated, and to read as follows:

“ARTICLE ____ ALARM SYSTEMS

- Sec. 22-____.1 Purpose and Intent
- Sec. 22-____.2 Definitions.
- Sec. 22-____.3 Alarm User Permits Required.
- Sec. 22-____.4 Multiple Alarm Systems.
- Sec. 22-____.5 Response to Alarm -- Determination of False Alarm.
- Sec. 22-____.6 Review of False Alarm Determinations.
- Sec. 22-____.7 Service Charge Assessment for False Alarms.
- Sec. 22-____.8 Service Charges And Fees.
- Sec. 22-____.9 Failure to Obtain Permit for Alarm System – Service Charge.
- Sec. 22-____.10 Deposit of Fees, Charges, and Fines in Special Account.
- Sec. 22-____.11 Annual Report.
- Sec. 22-____.12 Government Immunity.

Section. 22-____.1 Purpose and Intent.

The vast majority of emergency alarms to which members of the police department respond are false alarms. Such alarms are often the result of improper maintenance, faulty equipment, or improper or careless use of an alarm system. In the interest of protecting health, life, and property, and preserving the order and security of the County and its inhabitants by using law enforcement resources effectively and efficiently, the number of false alarms from business and residential premises must be reduced. The purpose of this chapter is to reduce the danger and annoyance associated with false alarms and to encourage business and residential owners to use and maintain their alarm systems properly.

As used in this article, unless the context requires otherwise:

“Activation” of an alarm system means the emission of an audible or silent alarm or signal generated by an alarm system, including the transmission of a message by means of an automatic telephone dialer.

“Alarm system” means any single device or assembly of equipment designed to signal the occurrence of an emergency, including illegal entry or other activity requiring immediate attention, to which the police department is expected to respond or does respond, and that emits an audible alarm or transmits a signal or message, including a telephonic message, when activated. The term does not include alarms installed in motor vehicles or fire alarms.

“Alarm system coordinator” means a subordinate designated by the Chief of Police to administer this article.

“Alarm user” means any person owning or leasing an alarm system, or on whose premises an alarm system is maintained.

“Chief of Police” means the Chief of Police of the Kaua’i Police Department.

“Common cause” means a common technical difficulty or malfunction which causes an alarm system to generate a series of false alarms.

“Emergency” means (1) an unauthorized entry or attempted unauthorized entry into a building, place, or premises, excluding any motor vehicle; or (2) the commission of a crime.

“Emergency service” means any law enforcement, fire, or medical service.

“False alarm” means any alarm activation that is communicated to an emergency service but that is not in response to an actual or threatened criminal act or violation.

“Notice” means written notice, served personally or mailed, addressed to the person to be notified at the person’s last known address. Service of such notice shall be deemed affected upon completion of personal service or upon deposit of such notice in the United States mail.

“Permit Holder” means the holder of a permit issued under Section 2.

“Person” means an individual, corporation, partnership, trust, limited liability company, association, organization, or similar entity, but excludes any agency of the United States, the State of Hawai‘i, or the County of Kaua‘i.

“Police department” means the Kaua‘i Police Department.

“Service charge” means a charge assessed to a Permit Holder to offset the County’s cost of responding to a False Alarm as set forth in this code.

Section 22-____.3 Alarm User Permits Required.

(a) Permit Required: No person shall use an alarm system which is designed to elicit, either directly or indirectly, a police response, without first obtaining a permit for such alarm system from the Alarm System Coordinator.

(b) Permit Issuance: The permit shall be requested on an application prescribed by the Chief of Police, or designee. An Alarm User shall obtain the application from the Alarm System Coordinator, provide the information requested on the application, and file the application, together with the applicable fee, with the Alarm System Coordinator. Upon receipt of a completed application and the fee prescribed in subsection (e), the Alarm System Coordinator shall issue a Permit to the Alarm User. Permits shall be valid for one year from the date of issue and shall be renewable on an annual basis. It shall be the duty of the Permit Holder to renew the permit annually prior to expiration of the Permit. The Permit Holder shall complete a renewal form as prescribed by the Alarm System Coordinator and return it, together with the renewal fee, to the Alarm System Coordinator, who shall renew the Permit upon receipt of the application and renewal fee. If the Permit Holder fails to renew the Permit prior to its expiration, the Permit Holder must apply for a new Permit and pay the fee for a new Permit.

(c) Transfer of Possession of Premises; Non-Transferability of Permit: When possession of the premises with an alarm system is transferred, the person obtaining possession of the premises shall apply for a Permit within 30 days of obtaining possession of the premises. Alarm User permits are not transferable.

(d) Reporting Updated Information: Whenever the contact information provided by the applicant on the Permit application changes, the correct information shall be provided by the Permit Holder to the Alarm System Coordinator within 30 days of the change. Failure to provide correct information to the Alarm System Coordinator within 30 days of the change may result in revocation of the permit.

(e) Fees: The fee for a Permit shall be \$25. The fee for Permit renewal shall be \$10.

(f) Confidentiality: Completed applications and permits shall be for recordkeeping purposes only and shall be held confidential to the extent provided for by State and/or Federal law.

Section 22-____.4 Multiple Alarm Systems.

If an Alarm User has one or more alarm systems protecting two or more separate structures having different addresses, a separate Permit shall be required for each such structure.

Section 22-____.5 Response to Alarm – Determination of False Alarm.

(a) Police Response: Whenever an alarm system is activated which results in a response by the Police Department, the responding police officer shall inspect the area and determine whether an actual or threatened criminal act or violation existed at the time of the system's activation, and if not, determine whether the alarm was a false alarm.

(b) Notification: If the police officer at the scene of the activated alarm system determines the alarm to be false, the police officer shall make a report of the False Alarm. The Permit Holder or, if there is no Permit, the owner of the premises as appearing in the tax rolls of the County, shall be notified in writing, by the Alarm System Coordinator, of each False Alarm determination. Notice shall be made personally, by mail, or by posting in a prominent location at the premises where the False Alarm occurred.

Section. 22-____.6 Review of False Alarm Determinations.

(a) The Alarm System Coordinator shall, upon request from a Permit Holder, review the determination by a responding Police Officer that an alarm was false. The review shall be conducted by the Alarm System Coordinator only if the Permit Holder requests the review in writing within 10 days of the date on which the false alarm determination was mailed to or received by the Permit Holder. The written request for review of a false alarm determination shall include the following information:

- (1) The Permit Holder's name and mailing address;
- (2) Address of the premises at which the alarm system is installed;
- (3) The date of the alarm being contested;

- (4) The permit number for the alarm system; and
- (5) The basis for the request for review.

(b) The Alarm System Coordinator shall make a determination on the Permit Holder's request for review and shall, within seven days thereafter, mail written notice of the Coordinator's determination to the Permit Holder at the address supplied in the request for review.

Section 22-____.7 Service Charge Assessment for False Alarms.

(a) A charge assessed pursuant to this section shall be considered an obligation owed by the Permit Holder to the County of Kaua'i and shall be payable within 30 days from the date of receipt of the assessment notice.

(b) (1) A Permit Holder who installs a new Alarm System or reinstalls an alarm system shall not be subject to a False Alarm determination for a period of 30 days from the date of issuance of the Permit. An alarm user who obtains a Permit for an alarm system already in operation on the effective date of ordinance shall not be subject to a False alarm determination for the 30-day period immediately following issuance of the Permit.

(c) A series of false alarms generated by an alarm system, for which a permit has been issued under this article, as a result of a Common Cause within any 48-hour period shall be considered a single occurrence of a False Alarm, provided that:

(1) Repairs to the Alarm System to eliminate the Common Cause are made before the Alarm System generates additional false alarms after the 48-hour period;

(2) The Alarm User provides documentation of the repairs to the Alarm System Coordinator; and

(3) No additional false alarms are generated as a result of the Common Cause within the 30-day period immediately following the completion of repairs.

(d) A service charge shall not be assessed for the first or second false alarms activated from any premises within a 12-month period immediately following issuance of a new permit. The third false alarm and all false alarms thereafter activated from any premises shall cause the Permit Holder to be assessed a service charge of \$150 per occurrence.

Section 22-____.8 Service Charges and Fees.

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| New Permit Fee | \$25 |
| Renewal Fee | \$10 |
| Service Charge – 1 st and 2 nd False Alarm | \$0 |
| Service Charge – 3 rd False Alarm (and subsequent) | \$150 |
| Operation of a Non-Registered Alarm System | \$100 |

Section 22-____.9 Failure to Obtain Permit for Alarm System – Service Charge.

Persons operating an alarm system without obtaining a permit shall be assessed a service charge of \$100 for each false alarm incident.

Section 22-____.10 Deposit of Fees, Charges, and Fines in Special Account.

All moneys collected from fees, charges and fines required by this article shall be deposited in a special account in the general fund and shall be used for the administration and enforcement of this Article.

Section 22-____.11 Annual Report.

No later than 30 days following the first and second anniversary of the effective date of this ordinance, the Chief of Police shall submit to the Council and the County Clerk a report of the Police Department's activities under this Article, which shall include at least the following:

- (a) A breakdown of general fund and special account resources assigned to or expended on the administration of this article;
- (b) An accounting of the number of permits issued;
- (c) An accounting of the number of false alarms by category (first, second, third, etc.; residential or commercial, etc.);
- (d) An accounting of the number of false alarm determinations appealed and reviewed, and the disposition of those reviews;
- (e) An accounting of the permit fees received;
- (f) An accounting of the service charges assessed and paid; and
- (g) An accounting of the number of violations/citations for failure to obtain a required permit.

Section 22-____.12 Government Immunity.

The following language shall be included on all Permit application and renewal forms:

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 Permit, the Permit Holder acknowledges that law enforcement 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.”

SECTION 2. If any provision of this ordinance or the application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 3. This Ordinance shall take effect six (6) months after its approval.

INTRODUCED BY: /s/ MEL RAPOZO
(By Request)

DATE OF INTRODUCTION:

May 9, 2012

Līhu‘e, Kaua‘i, Hawai‘i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2435, Draft 2, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on August 8, 2012, by the following vote:

| | |
|--|------------|
| FOR ADOPTION: Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL - 7, |
| AGAINST ADOPTION: None | TOTAL - 0, |
| EXCUSED & NOT VOTING: None | TOTAL - 0. |

Lihu'e, Hawaii
August 8, 2012


Ricky Watanabe
County Clerk, County of Kauai

ATTEST:


Jay Furfaro
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

August 13, 2012

Approved this 21st day of

August, 2012.


Bernard P. Carvalho Jr.
Mayor
County of Kauai