ORDINANCE NO.4760-1111

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA AMENDING TITLE V, CHAPTER 6, OF THE PRESCOTT CITY CODE BY REPEALING TITLE V, CHAPTER 6, AND ADOPTING A NEW TITLE V, CHAPTER 6, *ALARM SYSTEMS*, THEREOF

RECITALS:

WHEREAS, numerous false alarms occur annually as a result of negligent installation, maintenance, or operation of the alarm system; and

WHEREAS, the time spent by the Police Department personnel in responding to alarms, when no such response is actually required, is substantial, costly and wasteful; and

WHEREAS, the Council of the City of Prescott finds it necessary to control or discourage false alarms within the City so that all available Police Department resources can be maximized to protect the peace, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT Title V, Chapter 6, *Installation of Police Alarm Equipment and Prohibition of Telephone Alarm Systems*, of the Prescott City Code is hereby repealed.

SECTION 2. THAT a new Title V, Chapter 6, *Alarm Systems*, of the Prescott City Code is hereby adopted as follows:

ALARM SYSTEMS

SECTIONS:

5-6-1: PURPOSE
5-6-2: DEFINITIONS
5-6-3: EXEMPTIONS
5-6-4: LIABILITY
5-6-5: ALARM USER RESPONSIBILITIES
5-6-6: FALSE ALARMS
5-6-7: APPEAL PROCEDURE
5-6-8: CONFIDENTIALITY
5-6-9: ASSESSMENTS AND PENALTIES
5-6-10: PAYMENT OF FEES AND ASSESSMENTS
5-6-11: SEVERABILITY

5-6-1: PURPOSE:

This Chapter is intended to regulate the activities and responsibilities of those persons who purchase, own, lease or rent alarm systems and those persons who own or monitor alarm systems. It is further intended to encourage the improvement in reliability of these systems and to insure that public safety personnel will not be unduly endangered, diverted from responding to actual emergency activity or other required duties as a result of responding to false alarms. This ordinance specifically encompasses all alarm systems monitoring a structure, including but not limited to burglar alarms and robbery and panic alarms, both audible and inaudible.

5-6-2: DEFINITIONS:

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

A. "Act of nature." An unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight.

B. "Alarm" or "alarm system." Any mechanical, electrical or other device or assembly of equipment designed or arranged to signal the occurrence of an illegal entry, criminal activity or other activity requiring urgent attention and to which Police Department personnel are needed or expected to respond.

C. "Alarm coordinator" or "coordinator." Police Department employee designated by the Chief of Police to represent the City of Prescott in administration of this chapter.

D. "Alarm user." Any person who is responsible for the premises where an alarm system is located except as provided for herein.

E. "Audible alarm." A device which, when activated, generates an audible sound on or in the premises.

F. "Burglar Alarm." Any alarm system, which is activated automatically upon entry into buildings or onto premises, and is designed to alert Police Department personnel of unauthorized entry.

G. "City." The City of Prescott, Arizona, or it's authorized employees or agents.

H. "False alarm." Any activation of an alarm eliciting a response by Police Department personnel when a situation requiring a response does not in fact exist. It does not include activation for testing purposes when the appropriate public safety personnel have been given advance notice of such testing. It also

does not include activation caused by Police Department personnel. A false alarm may be caused by any one or more of the following:

i. Mechanical failure or malfunction.

ii. Improper installation or maintenance.

iii. Accidental or negligent acts of an alarm user or of a person under his control or direction.

iv. Intentional activation of an alarm when no criminal or other emergency condition exists. (Routine testing and installation conducted by the operator or technician that may include audible sounding of an alerting device shall not be construed to be a false alarm under this Chapter so long as advance notice is given to the Police Department and it does not sound for longer than five minutes during such test.)

v. Any other cause not related to an actual or attempted criminal act; provided, however, that any alarm caused by a severe act of Nature, or by malicious acts of persons not under the direction or control of the alarm user shall not be considered a false alarm.

I. "Proprietary alarm system." An alarm system for which response is provided solely by the user or his own security force, and which does not emit an outside audible alarm.

J. "Robbery or panic alarm." Any alarm system which is designed for the detection of a robbery or the commission of an unlawful act within the premises protected by an alarm system, and which may be intentionally activated by a person, generates an inaudible signal to the monitoring station and may or may not generate an audible sound at the premises, and is designed to alert or cause to be alerted Police Department personnel to an emergency situation occurring to or against an individual or premises.

5-6-3: EXEMPTIONS:

The provisions of this Chapter are not applicable to:

A. Fire alarm systems.

B. Audible alarms affixed to a motor vehicle, watercraft, or aircraft.

C. Proprietary alarm systems.

D. Independent, stand-alone alarm systems installed or placed by or at the direction of the City of Prescott Police Department for law enforcement purposes.

E. Governmental agencies.

F. Alarm or alarm signals caused by the testing, repair or malfunction of telephone equipment lines or electrical utility equipment or lines that are not reasonably subjected to control by the alarm user.

5-6-4: LIABILITY:

A. A person or entity who violates any provision of this Chapter shall be liable to the City for all losses and costs incurred by the City, and/or recoveries from or claims against the City for any damages to person or property which occur as a result of a violation of this Chapter.

B. By adopting the provisions as set forth in this Chapter, the City of Prescott, its officers, employees and agents shall not assume any greater duty or obligation to an alarm user than that which is owed to the public in general by the City, its officers, employees and agents.

5-6-5: ALARM USER RESPONSIBILITIES:

The following are the duties and responsibilities of all alarm users operating alarm systems in the City of Prescott:

A. In the event that an alarm user or responsible party cannot be contacted by the Police Department, or does not arrive at the scene of an alarm the Police Department shall have no further obligation to remain on scene or to otherwise secure the premises at which the alarm is activated.

B. To inform persons who are authorized to monitor an alarm users system the need to contact a responsible party at two separate phone numbers to verify the validity of the alarm.

5-6-6: FALSE ALARMS:

A. In order to reimburse the City of Prescott for Police Department response, an alarm user shall be assessed in accordance with Section 5-6-9 for each and every false alarm response after there have been two prior false alarm responses by the Police Department.

B. Upon receipt of the first and second false alarm (within a year of the first false alarm) the alarm coordinator shall notify the alarm user in writing to the user's address that a false alarm occurred and forward them a copy of the alarm ordinance specifying the assessment schedule and a false alarm prevention pamphlet.

5-6-7: APPEAL PROCEDURE:

A. The alarm user may, within twenty (20) days of the date of the mailing notice of assessment, appeal to the Police Chief (hereinafter "Chief") by filing a petition in writing with the Chief or his designee.

i. The petition shall contain specific defenses to the assessment. Affirmative defenses to a false alarm service fee assessment may include evidence that a false alarm was caused by an act of nature, action of the Telephone Company, telephone line outage, power outage lasting longer than the life of a fully charged battery, and other extraordinary circumstances not reasonably subject to control by the alarm user.

ii. Any petition submitted pursuant to paragraph A.i of this section shall be received by the Chief or his designee within the time specified. If the petition is not timely submitted, any petitioner shall be deemed to have waived the right to any further review or hearing as provided herein and the initial assessment shall be final.

B. If a petition is timely submitted pursuant to paragraph i of this section, the Chief or his designee shall review the defenses, if any, set forth in the petition.

i. If it is determined that a valid defense to the initial determination of false alarm assessment has been set forth, a notice will be sent to the alarm user that no assessment will be made for that particular alarm activation. The notice shall specifically set forth the findings and conclusions of the Chief or his designee with respect to the review of the initial assessment.

ii. If the Chief or his designee determines that a defense to the initial notice of assessment has not been set forth, a notice of decision shall be sent by mail to the alarm user that he will be assessed pursuant to the appropriate section. The notice of decision shall contain the specific findings and conclusions of the Chief or his designee with respect to the review of the initial assessment.

5-6-8: CONFIDENTIALITY:

To the full extent permitted by law, personal identifiers such as date of births, social security numbers, unlisted phone numbers, etc., shall be confidential and shall not be subject to public inspection.

5-6-9: ASSESSMENTS AND PENALTIES:

A. Any person who violates any provision of this Chapter shall be guilty of a civil violation and shall be subject to the provisions of Section 1-3-2 of the Prescott City Code for each day that the violation continues.

B. The following assessments shall be levied against the alarm user for each response by the Prescott Police Department to a false alarm within a twelve month period. These assessments are in addition to any other assessments or penalties which may be levied.

(i)	Civil Penalty initial assessment for first 2 false alarms:	$ 0
(ii)	Civil Penalty assessment for third false alarm:	$100
(iii)	Civil Penalty assessment for fourth false alarm:	$200
(iv)	Civil Penalty assessment for fifth false alarm:	$300
(v)	Civil Penalty assessment for sixth false alarm:	$400
(vi)	Civil Penalty assessment for seventh and subsequent false alarms will continue to increase at $100 per false alarm	

C. Any unpaid balance of an assessment as listed under 5-6-9 shall be subject to a charge of EIGHTEEN percent (18%) per year.

5-6-10: PAYMENT OF FEES AND ASSESSMENTS:

Except as provided for herein, any and all fees and assessments provided for by this Chapter shall be paid to and received by the City of Prescott within thirty (30) days from the date a bill is deposited in the regular first class U.S. Mail with postage fully paid and addressed to the user.

5-6-11 SEVERABILITY:

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause of phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof."

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 10th day of May, 2011.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

APPROVED AS TO FORM:

GARY D. KIDD, City Attorney