

ORDINANCE NO. 2010-12-07-20

AN ORDINANCE DELETING CHAPTER 5, SECTION 8, OF THE CODE OF ORDINANCES OF THE CITY OF ELGIN, TEXAS IN IT'S ENTIRETY AND REPLACING IT WITH A NEW SECTION 8, REQUIRING LICENSE ALARM SYSTEMS, ESTABLISHING MINIMUM REQUIREMENTS FOR ALARM EQUIPMENT, ESTABLISHING ALARM SYSTEM PROCEDURES, PROVIDING FOR PUBLICATION, PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING A PENALTY CLAUSE.

I.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

II.

That Chapter 5, Section 8, Code of Ordinances, City of Elgin, Texas, is hereby deleted in it's entirety and replaced with a new Section 8, to read as follows:

Section 1: Definitions.

In this Chapter the following words and terms shall have the following meanings ascribed to them unless the context indicates otherwise:

"Alarm Administrator" means a person designated by the Chief of Police to administer, control and review false alarm reduction efforts and administer the provisions of this Chapter.

"Alarm Installation Company" means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing alarm systems in an alarm site.

"Alarm notification" means a notification intended to summon the police or fire department, which is designed to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion or fire.

"Alarm permit" means authorization granted by the Alarm Administrator to an alarm user to operate an alarm system.

"Alarm site" means a single premise or location (one street address) served by an alarm system.

"Alarm system" means any assembly of equipment or devices arranged to signal the presence of a hazard requiring urgent attention and to which police or fire department personnel are expected to respond. The term "alarm system" includes the terms "automatic holdup alarm system," "burglar alarm system," "holdup alarm system," "manual holdup alarm system" and "fire alarm system" and also includes any audible sirens that can be heard by a person off the alarm site.

"Alarm unit" means a unit established to register, track, bill, analyze and coordinate all activities associated with alarm systems, users and companies.

"Alarm Unit Coordinator" means a Coordinator assigned to oversee the alarm unit.

"Alarm user" means the owner, agent or person in control of the property on which an alarm system is maintained.

"Automatic alarm notification" means an alarm notification sent over telephone lines, by direct connection or otherwise, a pre-recorded voice message, or coded signal indicating the existence of the emergency situation that the alarm system was/is designed to detect.

"Automatic Dialer" means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch.

"Automatic holdup alarm system" means an alarm system in which the signal transmission is initiated by the action of a robber.

"Building" means any structure or enclosure intended for use as a habitation or for some purpose of trade, manufacture, ornament, or use.

"Central station" means an office to which remote and supervisory signaling devices are connected, where operators supervise the circuits and relay alarm notifications to the municipality for the purpose of summoning law enforcement to the alarm site.

"Disconnect" means to render an alarm disabled so as to prevent any direct or indirect notification to the police department by a silent or local alarm.

"Emergency services" means police, fire, and emergency medical services.

"Expired permit" means an invalid permit due to an expiration of the term of the permit period defined herein.

"False alarms" includes alarms resulting from operator error, improper installation or maintenance, activation by animals, or other internal or external initiators. See "false alarm notification."

"False alarm notification" means a direct or indirect alarm notification to the police, fire, or emergency medical services when responding personnel find no evidence of actual or attempted robbery, burglary, personal hostage, fire, medical, or any other emergency at the alarm site.

"Holdup alarm system" means an alarm system signaling a robbery or attempted robbery.

"Local alarm" means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.

"Manual holdup alarm system" means any alarm system in which the signal transmission is initiated by a direct action of the person attacked or by an observer of the attack.

"Monitored system" means an alarm system, which a signal is sent to a central station to activate emergency services.

"Panic alarm" means an alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

"Permit holder" means any person to whom an alarm system permit is issued.

"Person" means an individual, corporation, partnership, association, organization or similar entity.

"Relaying intermediary" means any person who reports the activation of an alarm to the police department for compensation.

Section 2: Applicability.

A. This Chapter shall apply to any person who operates or causes to be operated an alarm system at any alarm site.

B. Registration fees shall not apply to alarm systems operated by local, state, federal governmental entities, or home/business owners 65 years of age or older.

Section 3: Permit requirement; application; issuance.

A. It is unlawful for an alarm system user to cause or permit the installation, maintenance or operation of an alarm system at an alarm site unless a permit has been issued by the City for the alarm system.

B. An alarm system permit is necessary for each alarm site. A permit may cover one or more alarm systems at an alarm site.

C. An application for an alarm system permit shall be made by the alarm system user on a form prescribed by the City and within 3 workdays of the activation of the alarm system. The application form shall include:

1. The name, address and telephone number of the alarm system user;
2. The street address of the alarm site;
3. The type of property to be protected (i.e., commercial, residential or industrial) and the type of alarm system to be installed at the site;
4. Any business name or title used for the alarm site;
5. Name, address and telephone number of the alarm protective service or person who will install and service the alarm system;
6. Names and telephone numbers of at least two people who are able to and have agreed to receive notification, and respond within 30 minutes, at any time from the police or fire department in order to deactivate the alarm system if it becomes necessary; and
7. Any other pertinent information required by the police or fire department which is necessary for the enforcement of this Chapter.

D. Except as otherwise provided in Section 11, the City shall issue a permit to the alarm system user upon submission of a complete application and payment of the appropriate fee.

E. The owner or property manager of an apartment complex shall obtain a master alarm permit if an alarm system is operated in:

1. A residential unit on the premises, whether the alarm system is furnished by the owner or property manager or contracted for by an individual tenant; or
2. A non-residential area of the apartment complex, including a common tenant area, office, storage, or equipment area.
3. The City will treat information on applications for permits for alarm systems designed to detect criminal activity as confidential in accordance with applicable laws.

F. Any permit issued pursuant to this Chapter is applicable only to the permit holder and is not transferable. A business that changes its name will retain the same permit, provided that the permit holder and alarm site remain the same. Any business that changes its name must notify the Elgin Police Department, in writing, within ten days of the change and must update the alarm permit application. The Chief of Police or his

designee shall notify each permit holder that his permit must be renewed at least forty-five (45) days prior to its date of expiration by mailing a written notice to each such permit holder at the address listed on the permit application.

G. Each permit issued to an alarm system user shall remain in effect for one (1) year and will expire on the last day of month permit issued or until one of the following occurs within the year:

1. Control of the alarm site is transferred from the permit holder to another person or the location of the alarm site is changed.
2. The permit holder voluntarily discontinues services provided by a particular alarm protective service or disconnects the alarm system.
3. The permit is revoked by the City pursuant to Section 11.

H. No permit shall be issued or renewed if service fees assessed under Section 8 remain unpaid. No burglar alarm system permit will be terminated for non-renewal without 30 days notice by the City to the permit holder.

I. The permit holder shall not be required to pay a permit fee for renewal of a permit if the premises for which the permit is applicable have not had a false alarm notification during the preceding twelve (12) months.

Section 4: Operation and maintenance of alarm systems.

A. A permit holder shall:

1. Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system;
2. Maintain the alarm system in a manner that will minimize false alarm notifications;
3. Not ask an Alarm Installation or Monitoring Company to install automatic voice dialers and shall not use Automatic Voice Dialers.
4. Respond or cause a representative to respond within one hour when notified by the City to repair or deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises; Subsection 3. C.6. requires a representative to respond within 30 minutes.
5. Not manually activate an alarm system for any reason other than the occurrence of an event that the alarm system was intended to report;
6. Utilize "relaying intermediaries" for residential alarm systems of all classification types; and
7. Utilize "relaying intermediaries" for commercial alarm systems of all classification types except holdup alarms.

B. A permit holder of a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than 15 minutes after being activated.

Section 5: Policies and Procedures.

- A. The Chief of Police shall institute policies and procedures in the form of operational orders to implement this Chapter.
- B. The Chief of Police shall publish or make available on the City's website pertinent excerpts from this Chapter and any relative policy statements that may be issued concerning the "standards" for the operation of alarm systems subject to this Chapter.

Section 6: Police Response.

- A. The response, if any, made to a signal from a permitted alarm system shall be subject to the policies and procedures of the police department and will be in accordance with the priorities set for police response.
- B. The issuance of a permit authorizing the use of an alarm system is not intended to nor shall it create a contract, either express or implied, nor does it create a duty or guarantee of response by the Elgin Police Department. Any and all liability and consequential damages resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained.

Section 7: Fees.

- A. A permit holder, including the holder of a master alarm permit, shall pay to the police department:
 - 1. The permit fee;
 - 2. A late payment fee, if the person fails to pay the permit fee by its due date; and
 - 3. False alarm service fee assessed under Section 8.
- B. The fees assessed under this Section are established as follows:
 - 1. Residential: \$25.00.
 - 2. Commercial: \$50.00.

Section 8: False alarm notifications and service fees.

- A. The holder of an alarm permit shall pay a service fee, as provided for in the fee schedule found in Subsection E., for each false alarm notification that is in excess of

three false alarms within any 12-month period determined from the date of alarm registration. Persons operating an alarm without a permit shall be charged for false alarms at the same rate as permit holders.

B. Service fees are required to be paid within 30 days of the post mark on the invoice for such fees. Fees not paid with established time will be subject to additional late charges as found in Subsection E.

C. For any alarm notification for which a service fee is assessed, the Chief of Police, or their designee, has the authority to investigate the circumstances of the alarm, and may waive the payment of the fee. If the responding police or fire officer determines that an alarm notification was caused by an emergency, that notification shall not be considered in determining when a service fee will be assessed.

D. An alarm notification shall not be considered in determining when a service fee will be assessed if the owner can demonstrate that the alarm notification was the result of severe weather affecting either the alarm system or the telephone lines delivering such notification or a power outage lasting for more than four hours.

E. Service fees.

TABLE INSET:

Number of False Alarms	Fees
1--3	\$ 0.00
4--5	50.00
6--7	75.00
8 and above	100.00

TABLE INSET:

Days Past Due	Fees
1--15	\$ 25.00
16--30	50.00
30--45	75.00
46--60	100.00

Section 9: Exceptions.

The registration fee may be waived for local, state and federal governmental agencies, educational institutions, and home/business owners 65 years of age or older, churches

and non-profits. The listed agencies are subject to any and all service fees associated with false alarms.

Section 10: Denial; revocation of permit.

A. The Alarm Unit Coordinator may deny issuance or revoke an alarm system permit if the Coordinator determines that:

1. There is a false statement of a material matter on the application for a permit;
2. The permit holder has violated any section of this Chapter;
3. The permit holder causes or permits any intentional activation of an alarm system for the purpose of testing the response by the police or fire department;
4. The permit holder has failed to make timely payment of a service fee assessed under Section 8; or
5. The number of false alarms at any one alarm site exceeds ten during any 12-month period.
6. An applicant has had an alarm site revoked, and the violation causing the revocation has not been corrected.

B. If the Coordinator revokes a permit, the Alarm Administrator will send to the permit holder by certified mail, return receipt requested, written notice of the action and a statement of the right to an appeal.

C. It is unlawful for an alarm system user to operate an alarm system during a period in which the permit for the system is revoked.

Section 11: Appeal of service fee or revocation of permit.

A. A permit holder may present evidence to the Chief of Police that the activation of an alarm system was not a false alarm.

1. A permit holder may appeal the assessment of a false alarm service fee by filing with the Chief of Police a written request for a hearing setting forth the reasons for the appeal within ten days after the assessment of the service fee.
2. The filing of an appeal with the Chief of Police stays the assessment of the service fee until the Chief of Police makes a final decision.
3. If an appeal is not made within the ten-day period, the assessment is final.
4. The burden shall be on the permit holder to prove that the activation of the alarm system was not a false alarm.
5. If the Chief of Police determines that the activation was not a false alarm, any response by the police or fire department to the activation will not be assessed fees.

B. A permit holder may appeal the revocation of a permit to the Chief of Police.

1. Permit holder may appeal by filing with the Chief of Police a written request for a hearing, setting forth the reasons for the appeal, within ten days after receipt of notice of the revocation from the Alarm Unit Coordinator.
2. The filing of an appeal with the Chief of Police stays the revocation until the Chief of Police makes a final decision.
3. If an appeal is not made within the ten-day period, the revocation is final.

C. The Chief of Police or his or her designee will serve as Hearing Officer at an appeal hearing.

1. Formal rules of evidence do not apply, and the Hearing Officer will make a decision on the basis of a preponderance of the evidence presented at the hearing.
2. The Hearing Officer will render a decision within 30 days after the request for an appeal hearing is filed.
3. The Hearing Officer will affirm, reverse or modify the action forming the basis for the appeal.
4. The decision of the Hearing Officer is final as to administrative remedies with the City.

Section 12: Reinstatement of permit.

A permit may be reinstated by the Alarm Unit Coordinator when the revoked permit holder pays the application fee and any outstanding service fees and shows:

1. That the fees required under this Chapter have been paid; and
2. The alarm system is operated in accordance with the requirements of this Chapter.

Section 13: Penalty.

A. Any person who operates an alarm system in violation of this section shall be subject to a fine of not less than TWO HUNDRED DOLLARS (\$200.00) and not more than FIVE HUNDRED DOLLARS (\$500.00). Each day of such operation shall constitute a separate violation and will be filed with Elgin Municipal Court.

B. Any person who operates, causes to be operated, or allows to be operated an alarm system without a valid permit shall be charged a fee as set forth in the false notification section herein for each notification of activation. This is in addition to any criminal penalty imposed for violation of this Chapter. This fee may be applied to an original alarm permit application for first time offenders.

C. It shall be a class C misdemeanor for any person to knowingly cause any category of false alarm notification to be activated, or such incident may be investigated if applicable as a violation of Texas Penal Code § 42.06, "False Alarm or Report," a class A misdemeanor or State jail felony depending upon circumstances.

D. The fee imposed for false alarms shall not exceed the amount set forth herein in the case of false alarm notification based on the type and category of alarm signaled.

III.

- A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.
- B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.
- C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this ordinance and the subject matter thereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act.

READ, PASSED, and ADOPTED on this the 20th day of the month of July, 2010.

CITY OF ELGIN, TEXAS

ATTEST:

Marc Holm, Mayor

Shirley Garvel, City Secretary