

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KYLE, TEXAS, BY AMENDING CHAPTER 20, ARTICLE IV, SECTIONS 20-162 THROUGH 20-176, ENTITLED ALARM SYSTEMS OF SAID CODE; PROVIDING FOR DEFINITIONS; ESTABLISHING REGULATIONS OF ALARM OPERATIONS; REQUIRING REGISTRATION; PROVIDING FOR PENALTIES; PROVIDING FOR APPEALS TO CITY MANAGER; ESTABLISHING FEES; ESTABLISHING DUTIES OF ALARM COMPANIES; PROVIDING PUBLIC NOTICE PURSUANT TO THE TEXAS OPEN MEETINGS ACT; ESTABLISHING THAT THIS ARTICLE SHALL GOVERN OVER PREVIOUSLY ADOPTED ORDINANCES AND RESOLUTIONS IN CONFLICT WITH SAID ARTICLE; PROVIDING FOR SEVERABILITY; FOR AN EFFECTIVE DATE; AND MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

RECITALS

WHEREAS, alarm systems are used to summon emergency responders to possible emergencies and criminal activity; and

WHEREAS, such alarms systems are helpful in preventing crime; and

WHEREAS, it is recognized that false alarms can place an unnecessary burden on emergency services; thus reducing availability to actual emergencies; and

WHEREAS, the City Council finds and determines that it is necessary to amend the regulations of alarm systems in order to protect the public health, safety, and welfare;

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

Section 1. Findings. The above foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Incorporation. The following Sec. 20-162 through 20-176 are hereby considered additions and amendments to the previously approved Alarm System Ordinance, No. 467, approved by the Kyle City Council on July 19, 2005. All other provisions of Ordinance No. 467, Section 20 of the City Code of Ordinances, shall remain in effect.

Sec. 20-162. - Purpose and scope.

- (a) The purpose of this article is to protect the emergency services of the city police department from misuse and to provide standards and regulations applicable to security alarm systems, alarm agents and alarm users as defined in this article.

- (b) This article governs security alarm systems in operation within the corporate limits of the city, requires permits, establishes fee schedules, provides for revocation of permits, provides penalties for violations, prohibits certain interconnections and automatic dialing practices and establishes a system of administration.

Sec. 20-163. - Definitions.

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

Alarm administrator. ~~See Chief of Police.~~ The person, department, or company assigned or contracted to perform alarm administration services at the direction of the Chief of Police.

Alarm notification means a notification intended to summon the police, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion. (Recorded messages to any police station are prohibited herein.)

Alarm site means the specific property served by an alarm system that is under the control of one owner, tenant or lessor.

Alarm system business means any person or entity that sells, installs, services, monitors, or responds to any alarm systems.

Alarm system holder means any person who owns, leases, or has control of a property or structure equipped with an alarm system.

Burglar alarm system (herein referred to as "alarm systems" or "alarm" unless otherwise indicated) means a device or system that transmits a signal intended to summon police of a municipality. The term includes an alarm that emits an audible signal on the exterior of a structure.

- (1) The term "burglar alarm system" is categorized as the following types or combinations of types of systems:
 - a. Residential burglar alarm;
 - b. Residential medical emergency alarm;
 - c. Residential duress alarm; or
 - d. Commercial burglar alarm.
- (2) The term "burglar alarm system" does not include the following:
 - a. An alarm system installed in a motor vehicle, unless the vehicle is used for habitation at a permanent site;
 - b. An alarm system designed to alert only the inhabitants of the premises that does not have a local alarm;
 - c. An alarm system installed upon premises occupied by the United States government, or the state government when they occupy property owned by the state;
 - d. An alarm system designed solely to detect or give notice of fire or smoke; and

e. Any communications device not designed solely for alarm notification.

Chief of Police means the Chief of Police for the city, his assistant chief or any representative designated by departmental operational order ~~as alarm administrator.~~

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the alarm system user or any other activation to which a police officer responds and finds no evidence of an emergency for which the alarm system was designed to give notice.

False alarm does not mean:

- (1) An activation of an alarm system which is caused by hurricanes, tornadoes, earthquakes, or other acts of God, or when a crime has occurred or other need for a response by an emergency response agency was warranted.
- (2) An activation of an alarm system which is caused by war or terrorist attack.

~~*False alarm notification* means an alarm notification to the police department, to which a police officer responds within 30 minutes of the alarm notification, and the responding officer or a subsequent investigation finds no evidence of unauthorized intrusion, an attempted unauthorized intrusion, robbery, attempted robbery or other illegal activity for which the alarm was intended to report.~~

Holdup alarm system means an alarm system signaling a robbery, attempted robbery, kidnapping or hostage situation.

Interconnect means to connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone line to transmit a message upon the activation of the alarm system.

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.

Medical alarm means an alarm system signaling the occurrence of a medical or medical related occurrence.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Permit holder means any person to whom an alarm system permit has been issued.

Police or police department means the police department of the city or any authorized agents thereof.

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

Robbery alarm systems (herein referred to as "alarm systems" or "alarm" unless otherwise indicated) means any electrical, mechanical, or electronic device or assembly of equipment that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon, by direct or indirect means, the aid of the police services of the city in response to a robbery. Such systems are categorized as to the following types or combinations of types:

- (1) Commercial holdup alarm; or
- (2) Manual holdup alarm indicating presence of robbery suspect.

Sec. 20-164. - Penalty.

- (a) Any person who shall violate any of the provisions of this division, except section 20-169, or fail to comply therewith, or with any requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed more than \$500.00 but not less than \$50.00 upon first conviction, and not less \$100.00 upon second and subsequent convictions. Each day the violation exists shall constitute a separate offense.
- (b) 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 as a violation of V.T.C.A., Penal Code § 42.06, false alarm or report, depending on the circumstances.

Sec. 20-165. - Operation and maintenance.

- (a) An alarm system holder shall:
 - (1) Maintain the premises equipped with 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) Respond or cause a representative to respond within one hour when notified by the city to repair or inactive a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises;
 - (4) Not manually activate an alarm system for any reason other than occurrence of an event that the alarm system was intended to report;
 - (5) Utilize relaying intermediaries for residential alarm systems of all classification types; and
 - (6) Utilize relaying intermediaries for commercial alarm systems of all classification types except holdup alarms.
 - (7) Repair or inactivate a malfunctioning alarm system within 15 calendar days. A permit holder may present extenuating circumstances regarding additional time required to repair or inactivate a system at any administrative hearing under this chapter;
- (b) An alarm system holder 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.

Sec. 20-166. - Policies and procedures.

- (a) The Chief of Police may institute policies and procedures in the form of operational orders to implement this division.

- (b) An alarm system holder will be provided copies of these standards and all changes thereto upon request.

Sec. 20-167. - Police response.

- (a) The response, if any, made to a signal from an 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 policies and procedures for use of an alarm system are not intended to nor shall they create a contract, either express or implied, nor do they create a duty or guarantee of response by the city 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.

Sec. 20-168. - Violations.

- (a) No person shall operate, cause to be operated or allow the operation of an alarm system:
 - (1) Without being in compliance with the procedures and provision of this division;
 - (2) That automatically dials the 911 emergency communications system; or
 - (3) Without due regard in maintaining such a system in a manner that minimizes false alarm notifications.
- (b) No person shall knowingly cause a false alarm to be activated.

Sec. 20-169. - False alarm notifications; penalty.

- (a) It shall be unlawful for any person who owns, leases, or is in control of a property or structure equipped with an alarm system to permit or fail to prevent the occurrence of more than three false alarm notifications within any consecutive 12-month period.
- (b) For any false alarm notification for which a fine is assessed, the Chief of Police has the authority to investigate the circumstances of the alarm, and may waive the payment of the fine.
- (c) The fine for a violation(s) of this section shall be ~~as follows in accordance with the City's Fee Ordinance:~~
 - ~~(1) If the property or structure has had more than three but fewer than six other false alarm notifications in the preceding 12-month period, the fine is \$50.00.~~
 - ~~(2) If the property or structure has had more than five but fewer than eight other false alarm notifications in the preceding 12-month period, the fine is \$75.00;~~
 - ~~(3) If the property or structure has had eight or more other false alarm notifications in the preceding 12-month period, the fine is \$100.00.~~

- (d) Before a penalty may be imposed on a person who owns or is in control of an apartment complex, condominium, or other multiunit housing facility, the person shall be notified of the date of the false alarm notification; the address of the apartment complex, condominium, or other multiunit housing facility where the false alarm notification occurred; and the identification of the individual unit within the apartment, condominium, or other multiunit housing facility where the false alarm notification occurred.
- (e) All fines under this section shall be set herein and such fees shall only be utilized to offset costs associated with the implementation, enforcement, personnel training, and general administration of this division by the police department.
- (f) Allegations and evidence of culpable mental state are not required for proof of a violation of this section.

Sec. 20-170. - Security alarm user permits, Registration Required.

- (a) Every security or alarm system user shall obtain an alarm system permit for each alarm system in use from the alarm coordinator's office prior to arming any such alarm device.
- (b) An alarm system permit is required 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. The application form will include at a minimum the following information:
 - (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 one or more persons who are able to and have agreed to receive notification at any time from the police department in order to deactivate the alarm system if it becomes necessary; and
 - (7) Any other pertinent information required by the police department which is necessary for the enforcement of this article.
- (d) The city shall issue a permit to the alarm system user upon submission of a complete application and payment of the appropriate fee, unless any statement made on the application is determined to be materially false.
- (e) The city will treat information on alarm system permit applications for alarm systems designed to detect criminal activity as confidential.
- (f) Any permit issued pursuant to this article is applicable only to the permit holder and is not transferable. A business that changes its name may retain the same permit, provided that the

permit holder and alarm site remain the same. Any business that changes its name must notify the alarm coordinator, in writing, within 30 calendar days of the change and must provide the city an updated alarm system permit application.

- (g) Each permit issued to an alarm system user is valid for one year or until one of the following occurs, whichever comes first:
 - (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; or
 - (3) The permit is revoked by the city pursuant to section 20-171.
- (h) The annual fee for a permit issued pursuant to this article shall be established by the city council. No permit shall be issued or renewed if service fees assessed under section 20-169, the City's Fee Ordinance, or other applicable section remain unpaid. No burglar alarm system permit will be terminated for nonrenewal without 30 days written notice by the city to the permittee. The fee for permits shall be designated in the City's Fee Ordinance.
- (i) The following permit exceptions shall apply:
 - (1) Financial institutions are mandated by provisions of the Bank Protection Act of 1968 to maintain an active alarm system on the premises at all times and are not subject to permit revocation. They are, however, required to obtain an alarm user's permit and are subject to all other provisions contained in this article.
 - (2) Governmental users of alarm systems such as schools, local, state and federal agencies, etc., are required to obtain an alarm user's permit, but are exempt from payment of permit fees. They are, however, subject to all other provisions contained in this article.
 - (3) Residential alarm users of alarm systems over 65 years of age are required to obtain an alarm user's permit, but are exempt from payment of permit fees upon presenting documentation of age. Such users are, however, subject to all other provisions contained in this article.
- (j) The alarm administrator may, but it not required to notify all alarm permit holders, in writing, of the impending expiration/renewal date no earlier than 60 days, and no later than 30 days prior to the date of expiration. Failure to obtain a valid security alarm permit initially, or upon expiration of an existing permit, shall constitute a violation.
- (k) 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 system.
- (l) It is unlawful for an alarm protective service to install, maintain or operate an alarm system at an alarm site unless a permit has been issued by the city for the system.

Sec. 20-171. - Same—Revocation.

- (a) In addition to any penalties which may be imposed for the violation of certain provisions of this article, the city may, through the Chief of Police or his designee, pursuant to the

provisions of this section, immediately revoke the permit of an alarm system user on any of the following grounds:

- (1) Fraud or willful and knowing misrepresentation or false statement made in application for the alarm system permit;
 - (2) Failure of the alarm system user to modify the alarm system to transmit only one alarm signal and not transmit subsequent alarm signals without first being manually reset at the alarm site;
 - (3) Failure by the alarm system user, upon being notified that his alarm system has been activated, to immediately send himself or his designee to the location where such alarm is installed; provided, however, that the alarm system user or designee may authorize the police department to abandon the premises after cursory inspection by the police department indicates no illegal activity is occurring or has occurred;
 - (4) Failure to pay alarm system permit fees set out in Fee Ordinance;
 - (5) The permit holder has violated any section of this article;
 - (6) The number of false alarms at any one alarm site exceeds 15 during any 12-month period;
 - (7) The permit holder causes or permits any intentional activation of an alarm system for the purpose of testing the response by the police; or
 - (8) The permit holder has failed to make timely payment of a service fee assessed as outlined in the Fee Ordinance.
- (b) If the Chief of Police or his designee, revokes an alarm system permit, a written notice of the revocation shall be sent to the permit holder by certified mail, return receipt requested, and instructions on the permit holders right to 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.

Sec. 20-172. - Alarm systems in apartment complexes.

- (a) If the individual tenant, owner or property manager of an apartment complex installs an alarm system or has an alarm system monitored in the tenant's residential unit on the premises, the tenant must provide to the alarm company monitoring the alarm system the name of a representative of the owner or property manager of the apartment complex who has keys to the tenant's residential unit.
- (b) Each tenant shall obtain a permit from the Chief of Police before operating or causing the operation of the alarm system.
- (c) For purposes of assessing service fees and enforcing this article against an individual residential unit, the tenant is responsible for payment of service fees for false alarm notification emitted from the alarm system in the tenant's residential unit.
- (d) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm system operated in a non-residential area of the apartment complex, including, but not limited to, common tenant areas and office, storage, and equipment areas.

Sec. 20-173. - Testing of equipment.

No person shall conduct any test of a security system designed to evoke an emergency response from the police department without first notifying the public safety communications center of his intention to conduct a test and obtaining permission from the operator.

Sec. 20-174. - Appeal from service fee or revocation of permit.

- (a) An alarm system permit holder may appeal the assessment of an excessive false alarm service fee to the City Manager or his designee by filing with the City Manager a written request for a hearing setting forth the reasons for the appeal within ten days after the assessment of the service fee. The filing of an appeal with the City Manager stays the assessment of the service fee until the City Manager makes a final decision. If an appeal is not made within the ten-day period, the assessment is final.
- (b) An alarm system permit holder may appeal the revocation of a permit to the City Manager or his designee by filing with the City Manager 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 Chief of Police. The filing of an appeal with the City Manager stays the revocation until the City Manager makes a final decision. If an appeal is not made within the ten-day period, the revocation is final.
- (c) The City Manager, or his designee, will serve as hearing officer at an appeal hearing. 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. The hearing officer will render a decision within 30 days after the request for an appeal hearing is filed. The hearing officer will affirm, reverse or modify the action forming the basis for the appeal. The decision of the hearing officer is final as to administrative remedies with the city.

Sec. 20-175. - Permit duration and renewal.

An alarm system permit expires one year from the date of issuance and must be renewed annually by submitting an updated application and a permit renewal fee to the Chief of Police. It is the responsibility of the permit holder to submit an application prior to the permit expiration date. All service fees and late fees assessed under this article must be paid prior to renewal of the permit.

Sec. 20-176. - Duties of alarm system company.

Any alarm company engaged in the business of monitoring alarm systems shall:

- (a) On the installation or activation of an alarm system, distribute to the occupant of the alarm system location the following information:
 - 1. A copy of this article;
 - 2. Information on how to prevent false alarms; and

3. Information on how to operate the alarm system.
- (b) Report alarm signals only by using telephone numbers designated by the Chief of Police;
 - (c) Before requesting police response to an alarm signal, attempt to verify every alarm signal, except a duress or robbery alarm activation, by a telephone call to the alarm site;
 - (d) Communicate alarm notifications to the city in a manner and form determined by the Chief of Police; and
 - (e) On an annual basis provide to the Chief of Police or his designee, a report which contains the name, address, telephone number, and date of activation of all current subscribers within the city.

Section 3. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect 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 declared to be severable.

Section 4. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in the manner required by the Tex. Loc. Gov't. Code and the city charter.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on first reading this the ____ day of July, 2016.

FINALLY PASSED AND APPROVED on this the ____ day of _____, 2016.

THE CITY OF KYLE, TEXAS

R. Todd Webster, Mayor

ATTEST:

Jennifer A. Vetrano, City Secretary