



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** O-3

**Date:** July 26, 2006

**Subject:** Request that the City Council consider adopting an ordinance amending the Tyler City Code provisions relating to burglary alarms.

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**Item Reference:** Texas Local Gov't Chapter 214, Subchapter F.; Tyler City Code Chapter 4, Article V.

State law, at Texas Local Government Code Chapter 214, Subchapter F., contains provisions governing municipal regulation of burglar alarms. The Tyler burglar alarm regulations are located in Tyler City Code Chapter 4, Article V.

**Recommended Changes to Tyler Burglary Alarm Ordinance**

**City Code Section 4-83**

Section 4-83 currently makes it unlawful to operate any burglary or robbery alarm system without an alarm user permit. Section 4-83 currently provides that the Alarm Coordinator may terminate an alarm user permit for non-renewal upon thirty (30) days notice, and that all past due fines must be paid prior to renewal. The term “**fines**” is changed to “**fees**” in order to be consistent throughout the burglary alarm ordinance.

**City Code Section 4-86.**

Presently, City Code Section 4-86.b. provides that any alarm user which has six (6) false alarms within a one-year period is subject to fees and possible permit suspension. The one-year period currently begins to run on the date that the alarm permit is obtained, and then on a year-to-year basis thereafter.

The following changes are recommended to Section 4-86:

**Alarm permit period.** In order to conform the permit to the termination schedule established in the City’s computer system and to reflect current practice, it is recommended that the one-year period continue to start on the date that the alarm permit is obtained, but that the permit continue until the end of year and subsequent one-year periods shall coincide with calendar years from then on.

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**Number of false alarms for suspension.** The State law has been amended so that revocation of an alarm permit occurs after eight (8) false alarms during a one-year period, regardless of whether or not false alarm fees are paid. The ordinance is amended to state this specifically.

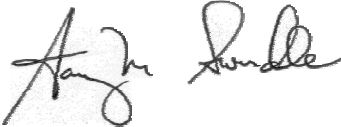
**False Alarm fee/permit suspension.** At present, a \$50.00 false alarm fee is charged upon the 6<sup>th</sup> false alarm, and for each additional false alarm, occurring in the one-year period. Suspension can occur if the false alarm fee is not paid. However, State law has been amended so that revocation of an alarm permit can occur after eight (8) false alarms during a one-year period, regardless of the payment of false alarm fees. The Tyler Code is amended so that the current false alarm fee and suspension regulations can occur upon the sixth false alarm in a one-year period, allowing payment of a \$50.00 false alarm fee to prevent permit **suspension**. However, upon the eighth (or more) false alarm during the one-year period, the alarm user shall be subject to both the \$50.00 false alarm fee and permit **revocation**, regardless of whether the false alarm fees are paid or not.

The remaining changes are of a “clean-up” nature.

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached ordinance amending provisions relating to burglary alarms.

**Drafted/Recommended By:**  
**Department Leader**

  
**Gary Swindle**

**Edited/Submitted By:**  
**City Manager**

**ORDINANCE NO. O-2006-69**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, CHAPTER 4, "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE V., "BURGLARY AND ROBBERY ALARMS", AMENDING THE TIME PERIOD FOR ALARM PERMITS, AMENDING BURGLARY ALARM USER PERMIT SUSPENSION AND PENALTY FEE PROVISIONS, AND ADOPTING PERMIT REVOCATION PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety and welfare; and

**WHEREAS**, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

**WHEREAS**, Texas Local Government Code Chapter 214, Subchapter F. contains provisions governing municipal regulation of burglar alarm systems; and

**WHEREAS**, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

**WHEREAS**, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

**WHEREAS**, Tyler City Code Chapter 4, Article V., contains regulations relating to burglary and fire alarms; and

**WHEREAS**, Texas Local Government Code Section 214.193(b) provides that the one-year period requirement for alarm permits does not affect the authority of a municipality to make a permit valid for a period of less than one year if necessary to conform the permit to the termination schedule established by the municipality for permits; and

**WHEREAS**, it is important to amend the time period for alarm permits to reflect current Tyler Police Department practice; and

**WHEREAS**, it is important to amend the provisions related to permit suspension and penalty fees for false alarms; and

**WHEREAS**, it is important to adopt provisions related to permit revocation;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER:**

**PART 1:** That Tyler City Code Chapter 4, “Offenses and Miscellaneous Provisions”, Article V., “Burglary and Robbery Alarms”, is hereby amended by amending Section 4-83.a to read as follows:

**Sec. 4-83. Alarm user permits required.**

a. It is unlawful to operate any burglary or robbery alarm system as defined herein without obtaining and maintaining an alarm user permit. The alarm user must apply for a permit within five (5) days of installation. An alarm user permit is obtained from the Police Department and entitles the holder to operate all burglary and robbery alarm systems at a specified location. A user that maintains alarm systems at more than one (1) location shall purchase an alarm user permit and a *thirty-dollar (\$30.00)* fee for each shall be filed with the Coordinator. Such application shall include a certification bearing the signature of the alarm business and alarm user representative that the training required by Sec. 4-82 has been provided. Each permit shall be for a two-year period, shall be physically upon the premises using the alarm system, and shall be available for inspection. Two-year renewal permits may be acquired by filing a renewal application with the Coordinator on or prior to the first (1st) day of the anniversary month that that the last permit was obtained. The user shall acknowledge in the renewal application that all information in the original application is current, or if not current, the applicant shall update all incorrect entries. The Coordinator may terminate an alarm user permit for non-renewal upon thirty (30) days notice. All past due fees must be paid prior to renewal. Failure to renew the permit prior to expiration will require a *thirty-dollar (30.00)* renewal fee for the renewal application. (Ord. No. 0-98-52; 6/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2006-69; 6/26/06)

**PART 2:** That Tyler City Code Chapter 4, “Offenses and Miscellaneous Provisions”, Article V., “Burglary and Robbery Alarms”, is hereby amended by amending Section 4-86 to read as follows:

**Sec. 4-86. False alarms; permit suspension and revocation; false alarm fees.**

a. All alarms received by the police are characterized as described in this section. The following alarms are legitimate alarms (not false alarms) and are not chargeable to the alarm user:

1. Alarm activated as a result of weather (lightning, high winds, etc.)
2. Alarm activated due to power outage or surge.
3. Alarm properly canceled prior to officer's arrival.
4. Alarm activated as a result of police radio interference.

b. The following situations are considered to be "false alarms" and are chargeable to the alarm user if response is made by the City within thirty (30) minutes of the alarm notification and determination is made from an inspection of the interior or exterior of the premises that the alarm was false:

1. Business alarms accidentally activated by an employee, owner, or cleaning crew; and residential alarms accidentally activated by homeowner, occupant, or person who legally entered the residence.
2. Alarm activated as a result of an animal.
3. Alarm activated due to heating or air conditioning blower turning on.
4. Alarm activated due to falling stock. (Boxes, ladders, etc.)
5. Alarm activated as a result of a malfunction in the system.
6. Alarm activated as a result of a citizen entering an unlocked business or residence.

c. Any alarm user which has six (6) or more false alarms within a one-year period is subject to false alarm fees. Failure to pay such false alarm fee(s) may subject the alarm user to possible alarm user permit suspension as set forth herein. Any alarm user which has eight (8) or more false alarms within the one-year period is subject to false alarm fees and possible permit revocation as provided herein. The one-year period begins to run on the date that the alarm permit is obtained, and continues until the end of the calendar year. Subsequent one-year periods shall coincide with calendar years.

d. Upon notice of six (6) or more false alarms within a one-year period for any alarm user:

1. The Coordinator shall notify the alarm user and the alarm business providing service or inspection to the user of such fact. The notice shall also state that the user must either request a hearing before the Police Chief or designee within ten (10) days of receipt of the notice or pay a fifty dollar (\$50.00) false alarm fee, otherwise the alarm user permit shall be suspended. Upon notice of eight (8) or more false alarms within a one-year period, the same procedure set forth in this section shall be followed, except that the notice set forth in this subsection shall state that the alarm user permit is subject to revocation.

2. If a hearing is requested, written notice of the time and place of the hearing is served on the user by the Coordinator by certified mail at least five (5) days prior to the hearing date, which date shall not be less than ten (10) days after the filing of the request for hearing. Notice by regular mail is provided to the alarm business that installed or provided the alarm device.

3. At the hearing, the alarm user may present written and oral evidence, subject to the right of cross-examination. If it is determined that six (6) false alarms have occurred in a one-year period, written findings to that effect are issued and a *fifty dollar (\$50.00)* false alarm fee for the sixth false alarm, and for each additional individual false alarm above six, shall be assessed. Failure to pay the false alarm fee(s) may result in suspension of the alarm user permit. If it is determined at the hearing that the alarm user has had at least eight (8) false alarms in a one-year period, written findings to that effect are issued and the permit may be revoked, regardless of whether the false alarm fees are paid.

4. An alarm user shall immediately discontinue use of the alarm system upon being notified of the suspension or revocation of a permit. It is unlawful for an alarm user to continue use of an alarm system after notice of suspension or revocation of the permit

5. The alarm business shall discontinue monitoring the suspended or revoked alarm within three (3) days after receipt of notice. It is unlawful for an alarm business, after notice, to continue dispatching police to a suspended or revoked alarm.

6. The Coordinator may refuse to permit any alarm system that has a history of unreliability.

7. Any additional false alarm occurring within the one-year period is treated in the same manner as above involving suspension or revocation and the payment of a false alarm fee.

(a) Upon the sixth (6th) false alarm in the one-year period \$50.00.

(b) For any additional false alarms above six (6) in the one-year period \$50.00.

8. All administrative actions may be appealed in accordance with Chapter 1, Article IV. of this Code. (Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2006-69; 6/26/06)

**PART 3:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 4:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be July 28, 2006.

**PASSED AND APPROVED** this 26<sup>th</sup> day of July, A. D., 2006.

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JOSEPH O. SEEBER, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

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CASSANDRA BRAGER, CITY CLERK

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CITY ATTORNEY