

**ORDINANCE NO. O-2009-129**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 4, "OFFENSES AND MISCELLANEOUS PROVISIONS", ARTICLE V., "BURGLARY AND ROBBERY ALARMS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY UPDATING THE BURGLARY ALARM 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**, Tyler City Code Chapter 4, Article V., contains regulations relating to burglary and robbery alarms; and

**WHEREAS**, it is important to update the burglary alarm provisions suspension to conform more closely to State law;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER:**

**PART 1.** That Chapter 4, "Offenses and Miscellaneous Provisions", Article V. "Burglary and Robbery Alarms", is hereby amended to read as follows:

**ARTICLE V. BURGLARY AND ROBBERY ALARMS**

**Sec. 4-80. Purpose and scope.**

- a. The purpose of this Article is to:
  1. Encourage the proper operation and maintenance of alarm systems by alarm users and alarm businesses in order to improve the reliability of alarm systems and to reduce or eliminate false alarms.
  2. Govern alarm systems intended to summon law enforcement response by the provision of registration requirements, fees, penalties for violations, a system of administration, and conditions for suspension of police response or revocation of registration.

b. This Article applies only to alarm systems that are intended to summon police and which:

1. send an alarm signal or alarm message directly to the Police Department;  
or

2. send an alarm signal or alarm message to a location where the signals or messages are continuously monitored and an alarm message is relayed to the Police Department;  
or

3. emit an audible signal on the exterior of a structure.

c. This Article shall not apply to alarm systems such as those:

1. installed in a vehicle, unless the vehicle is used for habitation at a permanent site.

2. designed to alert only the inhabitants within a premises.

3. installed by businesses which provide independent security for their own property.

(Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2009-129; 12/9/09)

**Sec. 4-81. Definitions.**

For the purposes of this Article, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates otherwise:

*Alarm business* means the full or part-time business by an individual, partnership, corporation, or other entity of selling, leasing, providing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system in or on any building, structure or facility, or causing such to be done.

*Alarm dispatch* request means notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

*Alarm registration* (or permit) means authorization granted by the Burglar Alarm Coordinator to an alarm user to operate an alarm system.

*Alarm Response Manager* (ARM) means a person designated by an alarm business to handle alarm issues for the business and act as the primary point of contact for the jurisdiction's Burglar Alarm Coordinator.

*Alarm site* means a single fixed premise or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate alarm site.

*Alarm system* means any device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response, including local alarm systems. Alarm system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

*Alarm user* means the person, firm, partnership, association, corporation, company or organization in control of any building, structure or facility wherein an alarm system is maintained whether by contract or not by contract, including the occupants of apartments, townhouses, and similar dwellings.

*Arming station* means a device from which the alarm system is turned on (armed) and off (disarmed).

*Audio verification* means the transfer of sounds from the protected premises to the monitoring alarm business, as a result of activation of one or more devices, to confirm or deny the validity of the alarm signal.

*Automatic dialing device* means an alarm system which automatically sends over regular telephone lines or other means an alarm message or signal.

*Burglar Alarm Coordinator (or Coordinator, or BAC)* means any individual designated by the Police Chief to administer the provisions of this Article.

*Cancellation* means the process where response is terminated when a monitoring alarm business (designated by the alarm user) for the alarm site notifies the responding law enforcement agency that there is not an existing situation at the alarm site requiring law enforcement agency response after an alarm dispatch request.

*Conversion* means the transaction or process by which one alarm business begins the servicing and/or monitoring of a previously unmonitored alarm system or an alarm system previously serviced and/or monitored by another alarm business.

*Duress alarm* means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

*False alarm* means an alarm dispatch request to a law enforcement agency the responding law enforcement officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site. However, the term does not include an alarm dispatch request where the signal was caused by violent

conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business or alarm user.

*Holdup (or robbery) alarm* means a silent alarm signal generated by the manual activation of a device intended to signal a robbery, or attempted robbery, in progress or immediately after it has occurred.

*License* means a license issued by the Texas Department of Public Safety Private Security Board to an alarm business to sell, install, monitor, repair, or replace alarm systems.

*Local alarm system* means any alarm system which is not monitored that annunciates an alarm only at the alarm site.

*Monitoring* means the process by which an alarm business receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning law enforcement to the alarm site.

*Other electronic means* is the real-time audio/video surveillance of an alarm site by a monitoring alarm business, by means of devices that permit either the direct, live listening in or viewing of an alarm site or portions thereof.

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

*Responder* means an individual capable of reaching and having access to the alarm site, the code to the alarm system, and the authority to approve repairs to the alarm system.

*Revocation of a permit* means the termination of police response to alarms at a specified alarm site as a result of eight or more false alarms within a one-year period, regardless of whether the false alarm fees are paid.

*Suspension of a permit* means the termination of police response to alarms at a specified alarm site as a result of non-payment of false alarm fees applied to the sixth false alarm (or any false alarm that follows) within a one-year period.

*Takeover* means the transaction or process by which an alarm user takes over control of an existing alarm system, which was previously controlled by another alarm user.

*Unregistered alarm site (or unregistered alarm user)* means a site (or user) that is not in compliance with a jurisdiction's registration requirements as defined in this Article.

*Video verification* means the transfer of video images to the monitoring alarm business reflecting conditions existing at the protected premise at the time an alarm was activated through the use of video technology.

*Zones* means the capability of an alarm system to separate and report incidents or alarms by area. (Example: Zone 1 – front door contact; Zone 2 – front entry motion detector.)

(Ord. 0-98- 27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2009-129; 12/9/09)

**Sec. 4-82. Alarm business responsibilities.**

a. Each alarm business selling, leasing or furnishing to any user an alarm system which is subject to this Article shall, prior to alarm activation, furnish the user with:

1. A copy of this Article along with explanation regarding required permit fees and possible penalties;
2. The Tyler Police Department application form with instruction to obtain an alarm user's permit;
3. Written and oral guidelines to all proposed users explaining the proper use and operation of the alarm system, specifically including all instruction necessary to turn the alarm system on and off, and how to avoid false alarms; and
4. Call reference numbers to obtain service for the alarm system at any time.

b. Each alarm business shall maintain a license to operate under the direction of the Texas Department of Public Safety Private Security Board, and shall provide verification of the license to the Tyler Police Department Alarm Coordinator. Each installing and monitoring alarm business must designate one individual as its Alarm Response Manager (ARM) who will manage alarm-related issues and act as the point of contact to the person appointed as Coordinator by the Chief of Police. The Alarm Response Manager must have knowledge of the general provisions of this Article, and shall also have knowledge and authority with the alarm business to deal with false alarm issues and respond to requests from the Coordinator. Each alarm business shall provide to the Coordinator the name, address, and phone number of its Alarm Response Manager. If an alarm business has persons, authorized to sell, install, or service alarm systems locally in the jurisdiction governed by this Article, then the names of those persons shall be provided to the Coordinator. (Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98)

c. A monitoring alarm business shall:

1. Report alarm signals for dispatch by calling Tyler Police Communications using #903-531-1000;
2. Verify every alarm signal, except a duress or holdup alarm activation, before initiating an alarm dispatch request;
3. Ensure that all alarm users of alarm systems equipped with a duress, holdup, or panic alarm are given adequate training as to the proper use of the alarm(s);

4. Communicate any available information (north, south, front, back, floor, etc.) about the location on all signals related to the alarm dispatch request;

5. Communicate the nature of the alarm (i.e. burglary, robbery, panic, duress, silent, audible, interior or perimeter);

6. After an alarm dispatch request, promptly advise the law enforcement agency if the monitoring alarm business knows that the alarm user or the responder is on the way to the alarm site; and

7. Attempt to contact the alarm user or responder within 24 hours via mail, fax, telephone or other electronic means when an alarm dispatch request is made.

d. An alarm business that purchases alarm system accounts from another person shall notify the Alarm Coordinator of such purchase and provide details as may be reasonably requested by the Alarm Coordinator.

e. Alarm businesses shall assist alarm users in beginning the initial registration process, particularly to ensure that the registration application and permit fee is submitted to the Alarm Coordinator within ten (10) days of activation of an alarm system. (Ord. No. 0-2009-129; 12/9/09)

#### **Sec. 4-83. Alarm users 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 ten (10) days of installation. An alarm user permit is obtained through the Tyler Police Department and entitles the holder to operate all alarm systems described herein at a single alarm site. A separate application and permit is required for each alarm site. Application for registration 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 issued shall be for a two-year period with the issue date being the first day of the month in which the application was submitted. The permit shall be physically upon the premises using the alarm system, and shall be available for inspection. An alarm registration shall expire two years from the date of issuance, and must be renewed by submitting an updated renewal application. Two-year renewal permits may be acquired by filing a renewal application along with a *thirty-dollar (\$30.00)* renewal fee with the Coordinator on or prior to the first (1st) day of the anniversary month that the last permit was obtained. The Alarm Coordinator shall send notification for renewal approximately thirty (30) days prior to the registration expiration date. It is the responsibility of the alarm user to submit an application prior to the registration expiration date. 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 and fines must be paid prior to renewal. Failure to renew a permit with continued use of an alarm system shall constitute an unlawful use of an unregistered alarm site by an alarm user, which is subject to citation and the assessment of penalties. (Ord. No. 0-98-52;

6/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2006-69; 7/26/06) (Ord. No. 0-2009-103, 9/23/09) (Ord. No. 0-2009-129; 12/9/09)

b. No changes...

c. No changes... (Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98)

d. The fee for an initial alarm permit or for a renewal permit is set forth below and shall be paid by the alarm user. No refund of a registration or renewal registration fee will be made.

1. Initial registration - \$30.00
2. Renewal registration - \$30.00

e. Upon receipt of a completed alarm registration application form and the alarm registration fee, the Burglar Alarm Coordinator shall register the applicant unless the applicant has:

1. Failed to pay a fee or fine assessed under Section 4-86; or
2. Had an alarm registration for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

f. Each alarm registration application must include the following information:

1. The name, complete address (including apartment/suite number), and telephone numbers of the person who will be the registration holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees or fines assessed under this Article;
2. The classification of the alarm site as either residential (includes apartment, condo, mobile home, etc.) or commercial;
3. Mailing address, if different from the address of the alarm site;
4. Any dangerous or special conditions present at the alarm site;
5. Names and telephone numbers of at least two individuals who are able and have agreed to: (a) receive notification of an alarm system activation at any time; (b) respond to the alarm site within (30) thirty minutes at any time; and (c) upon request can grant access to the alarm site and deactivate the alarm system if necessary;
6. The name, address, and telephone number of the alarm business performing the alarm system installation, conversion, or takeover; and,

7. The name, address, and telephone number of the monitoring alarm business.

g. An alarm registration cannot be transferred to another user or alarm site. An alarm user shall inform the Alarm Coordinator of any change that alters any of the information listed on the alarm registration application within five (5) days of such change. (Ord. No. 0-2009-129, 12/9/09)

**Sec. 4-84. Alarm user responsibilities.**

a. An alarm user shall apply for and maintain a current permit for the alarm system as required in Section 4-83.

b. An alarm user shall keep the alarm site and the alarm system in a manner that will minimize or eliminate false alarms.

c. An alarm user shall make every reasonable effort to have a responder to the alarm site within thirty (30) minutes when requested by the law enforcement agency in order to:

1. Deactivate the alarm system; and
2. Provide access to the alarm site; and/or
3. Provide alternative security for the alarm site.

d. An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than ten (10) minutes after being activated.

e. An alarm user shall maintain at each alarm site a set of written operating instructions for each alarm system. (Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2009-129; 12/9/09)

**Sec. 4-85. Alarm systems and automatic dialing devices; prohibited ownership and activities.**

a. It is unlawful to own, operate or maintain an automatic dialing device designed to dial a telephone number assigned to or received by the Police Department or Fire Department.

b. The Texas National Guard organization is exempted from this section. (Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2009-129; 12/9/09)

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

a. The following situations describe alarms that are not chargeable as false alarms 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 describe "false alarms" that 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 Alarm Coordinator shall notify the alarm user in writing 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 *seventy-five dollar (\$75.00)* 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. (Ord. 0-2009-103, 9/23/09)

2. If a hearing is requested, written notice of the time and place of 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. The Alarm Coordinator shall stay the action requiring payment of any fee until the Police Chief has completed a review. At the scheduled hearing, the alarm user may present written and oral evidence, subject to the right of cross-examination. The Chief of Police may waive all, or a part, or none of the false alarm fees based on the evidence. After the hearing, the Police Chief will issue written results to the Alarm Coordinator who will then reactivate the payment processing, making any required adjustments to the original outstanding balance. All administrative actions may be appealed in accordance with Chapter 1, Article IV. of this Code.

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 *seventy-five dollar (\$75.00)* false alarm fee for the sixth false alarm, and for each additional individual false alarm above six, shall be assessed in accordance with sub-section 7(b) of this section. 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. (Ord. 0-2009-103, 9/23/09)

4. No changes...

5. No changes...

6. No changes...

7. No changes...

(a) No changes...

(b) No changes... (Ord. 0-2009-103, 9/23/09)

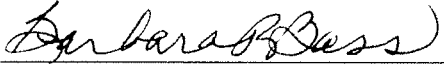
(Ord. 0-98-27, 3/25/98) (Ord. No. 0-98-52, 6/24/98) (Ord. No. 0-2006-69; 7/26/06) (Ord. No. 0-2009-103, 9/23/2009) (Ord. No. 0-2009-129; 12/9/09)

**Secs. 4-87 through 4-89 Reserved.**

**PART 2:** 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 3.** 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 December 11, 2009.

**PASSED AND APPROVED** this 9<sup>th</sup> day of December, A. D., 2009.

  
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BARBARA BASS, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

  
\_\_\_\_\_  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

  
\_\_\_\_\_  
GARY C LANDERS, CITY ATTORNEY

