

CITY OF HEATH
ORDINANCE NO. 080916E

AN ORDINANCE OF THE CITY OF HEATH, TEXAS, AMENDING THE HEATH CODE OF ORDINANCES, TITLE IX, CHAPTER 95, "ALARM SYSTEMS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR REVOCATION OR DENIAL OF PERMIT AND FOR APPEALS THEREFROM; PROVIDING FOR FALSE ALARM NOTIFICATION; ESTABLISHING AN ADMINISTRATIVE PENALTY; ESTABLISHING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500); PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

Section 1. That the City of Heath Code of Ordinances, is hereby amended in Title IX, Chapter 95, "Alarm Systems," to read as follows:

"Section 95.01 DEFINITIONS

- (A) **ALARM SYSTEM** means a device or system that emits, transmits, or relays a signal that is intended to notify the public safety department of an unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, an attempt to take a person hostage, the presence of smoke, heat fire or trapped persons, and, is intended to summon, or that would reasonably be expected to summon, public safety services of the City, including, but not limited to, local alarms. Alarm systems does not include:
1. An alarm installed on a vehicle unless the vehicle is permanently located at a site,
or
 2. An alarm designed to alert only the inhabitants of the premises located at the site;
or
- (B) **ALARM NOTIFICATION** means a notification intended to summon police/fire services, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of fire, emergency or unauthorized intrusion.
- (C) **ALARM SITE** means a single premise or location (one street address) served by an alarm system or systems that are under the control of one owner.
- (D) **BROADCAST ALARM** means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.
- (E) **DIRECTOR** means the Director of Public Safety of the City or his/her authorized representative.
- (F) **FIRE ALARM** means any system or device that is permitted and installed to meet the minimum standards of the adopted Fire Code and Code of Ordinances and appropriate state requirements and designed as an automatic communication device giving early warning of smoke, heat, fire, suppression system activation, and trouble, including the notification of a U.L. listed approved central station.
- (G) **FIRE MARSHAL** means the fire marshal of the City or his/her authorized representative.
- (H) **PERMIT HOLDER OR PERSON IN CONTROL** means the person designated as such in the application for an alarm permit or the person that is responsible for responding to alarms and giving access to the site and who is responsible for proper maintenance and operation of the alarm system and payment of fees. Such person must be at least eighteen (18) years of age.
- (I) **PERSON** means an individual, corporation, partnership, association, organization, or similar entity.

Section 95.02 PROPER ALARM SYSTEM OPERATION AND MAINTENANCE

- (A) A permit holder or person in control of an alarm system shall:
 - (1) Maintain the premises containing the alarm system in a manner that assures proper operation of the alarm system;
 - (2) Maintain the alarm system in a manner that will minimize false alarm notification;
 - (3) Respond to or cause a representative to respond within a reasonable period of time, which period shall be designated by the City, when requested by the City to repair or inactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises;
 - (4) Not manually activate an alarm for any reason other than the occurrence of an event that the alarm system was intended to report; and
 - (5) Notify the department of public safety prior to activating a security or fire alarm for maintenance purposes.
 - (6) Notify the department of public safety U.L. listed central station prior to any fire drills or tests that may or may not cause the activation of a fire alarm system.
- (B) A permit holder or person in control of a security or fire alarm system shall not utilize any alarm system which causes an audible signal to be emitted continuously or intermittently for more than fifteen (15) minutes for a security alarm and thirty (30) minutes for a fire alarm, after being activated or which emits a subsequent alarm without being reset which would constitute a nuisance and a violation of this ordinance.
- (C) A permit holder or person in control of an alarm system shall not allow alarm signals to be reported through a relaying intermediary that does not comply with the requirements of this Chapter and any other Chapter of this code, any rules and regulations promulgated by the Director or Fire Marshal, or, for a security/fire alarm system, that is not licensed by the Texas Board of Private Investigator or Private Security Agencies.
- (D) A permit holder or person in control of a security/fire alarm system shall maintain a complete set of written operation instructions for each alarm system at each alarm site. Special codes, combinations, or passwords must not be included in these instructions.

Section 95.03 DIRECT ALARM REPORTING: AUTOMATIC ALARM NOTIFICATION PROHIBITED

An alarm system which transmits automatic alarm notification directly to the communication center of the police department is prohibited, except for such systems currently in place on date of adoption hereof and to the original permit holder hereunder, or as authorized in Section 95.05 hereof.

Section 95.04 PROTECTION OF FINANCIAL INSTITUTIONS

- (A) A financial institution that is required to have a security/fire alarm system pursuant to the provisions of the Bank Protection Act of 1968 (12 U.S.C., Section 1882) may install, with the permission of the Director, a signal line directly to the police department for the purpose of reporting burglaries and robberies. In such an arrangement, all other requirements of this chapter must be met. The financial institution shall execute a letter of agreement with the City permitting the installation of all necessary equipment of an indicator panel monitored in the communications division of the police department. The installation must be accomplished at the institution's expense.
- (B) The financial institution shall pay an annual fee to be determined for each indicator. The Director shall have the right, at reasonable times and upon oral notice, to inspect the alarm system at the alarm site and require necessary repairs or improvements. If the Director finds the alarm system continually fails to operate properly, or to be operated

improperly, he may terminate the privilege to have equipment and indicators in the communications center of the police department and require prompt removal of the equipment at the expense of the financial institution.

- (C) The financial institution, at its own expense, shall make arrangements to provide service for the alarm system on a 24-hour basis, seven days a week. In no event shall the City become liable for charges for repairs or maintenance.
- (D) The financial institution may cancel its agreement with the City at any time by giving the City written notice through the Director, and at its own expense, remove its own equipment and indicators from the monitor panel in the communications center.
- (E) The Director may require any change, modernization, or consolidation of alarm signaling equipment that he/she deems advisable. In no event shall the City become liable for charges for these changes.
- (F) Instead of a direct line, a financial institution may report burglaries and robberies by transmission through an alarm reporting service using special equipment designated by the Director.

(G) **Section 95.05 ALARM SYSTEM PERMITS**

(A) **Permit Required.** A person commits an offense if he/she operates or causes to be operated, an alarm system without an alarm system permit issued by the **Chief. A separate permit is required** for each street address and each system. A non-refundable fee shall be charged for each residential application and each commercial /industrial application in accordance with the fee schedule adopted in conjunction with the annual budget.

(B) Form of Application.

1. Application for the licenses required by the provisions of this Chapter shall be filed with the Director in the form provided by the Director. If the applicant is an individual, the application shall be subscribed and sworn to by such person. If the applicant is an individual and does not reside, operate any business or is not employed within the State, or in the event the applicant is a firm or partnership and no owner or general partner resides, operates a business or is employed within the State, then the application must also be subscribed and sworn to by the individual having the authority and responsibility for the management and operations of the alarm business within the State. If the applicant is a corporation, the application shall be subscribed and sworn to by at least one principal corporate officer. If the applicant is a corporation and none of its principal corporate officers are responsible for the management and operations of the alarm business within the State, the application shall also be subscribed and sworn to by the individual having the authority and responsibility for the management and operations of the alarm business within the State.
2. If the applicant is a corporation, the application shall specify the Manager of the given location on the application.
3. If the applicant is a partnership, the application shall specify the location of the applicant's principal place of business and the names, business addresses, and residence addresses of each partner.
4. The application shall include the following information for each individual required to subscribe and swear to it:
 - (a) The individual's full name, business address and residence address;
 - (b) The individual's residence and business telephone number;

- (c) The individual's date and place of birth;
 - (d) The individual's drivers license number.
5. Each permit application must contain the following information:
- (a) The address of the location of the alarm system site;
 - (b) A description by brand and general type of alarm system stating the manner in which the alarm will be given, and if the alarm is to be transmitted to a central office, the name, address and telephone number of the operation of the central office;
 - (c) Any information required by the Director which is necessary for the enforcement of this Chapter.
- (D) Permit issuance or denial. Upon receipt of a completed application form, the Director shall issue an alarm system permit to an applicant unless the applicant:
- 1. Has had an alarm system permit for the alarm site revoked and the violation causing the revocation has not been corrected;
 - 2. Has made a false statement of a material matter;
 - 3. Committed any act, which, if committed by the licensee, would be grounds for the revocation of a license under this Chapter; or
 - 4. While unlicensed, knowingly and willfully committed, or aided and abetted in commission, of any act for which a licensee is required by this Chapter.
- (E) Transfer and Amendments. An alarm system permit cannot be transferred to another person at the same location. A permit holder shall inform the Director of any change that alters any information listed on the permit application within two (2) business days. No fee will be assessed for such changes.
- (F) Fees Paid. All fees owed by an applicant must be paid before a permit may be issued or renewed.
- (G) Permit Renewal. A permit for an alarm system is valid for one year. A permit will be revoked for non-renewal upon thirty (30) days written notice from the Director to the permit holder.

Section 95.06 REVOCATION OF ALARM SYSTEM PERMITS

- (A) The Director shall revoke an alarm system permit if he/she determines that:
- 1. There is a false statement of a material matter in the application for permit;
 - 2. The permit holder has violated any provision of this Chapter;
- (B) A person commits an offense if he/she operates an alarm system during the period in which his alarm permit is revoked.

Section 95.07 APPEALS

- (A) If the Director refuses to issue a permit, or revokes a permit, he/she shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his/her action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the Director to the City Manager by filing with the City Manager a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt of notice from the Director. The filing of a request for an appeal hearing with the City Manager stays an action of the Director in revoking a permit until the City Manager or his/her designated representative make a final decision. If a request for an appeal hearing is not made within the ten day period, the action of the Director is final.
- (B) The City Manager or his/her representative shall serve as Hearing Officer at an appeal and consider evidence by an interested person. The formal rules of

evidence do not apply at an appeal hearing and the Hearing Officer shall make his decision at the basis of preponderance of the evidence presented at the hearing. The Hearing Officer must render a decision within thirty (30) days after the request for an appeal hearing is filed. The Hearing Officer shall affirm, reverse, or modify the action of the Director. The decision of the Hearing Officer is final as to administrative remedies with the City.

Section 95.08 FALSE ALARM NOTIFICATION

- (A) Accept as otherwise provided, each false alarm notification emitted from any alarm system after the third false alarm for security alarms and after the third false alarm response for fire alarms within a calendar year shall constitute a violation of this ordinance. With respect to a federal, local, or state government entity, a violation of this ordinance shall occur after the third false alarm within any calendar year for security purposes and after three (3) false alarms within any calendar year for fire purposes. Each false alarm notification in violation of the subsection that occurs within the City's extraterritorial jurisdiction shall constitute a public nuisance in accordance with Section 217.042 of the Texas Local Government Code.
- (B) If a person notifies the Director and applies for an alarm system permit before a new alarm system is put into service, false alarm notification during the first thirty (30) days after the system is put into service will not be counted in determining when a violation exists.
- (C) If the responding officer determines that an alarm notification was caused by smoke or fire, unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, or an attempt to take a person hostage, that notification will not be counted as a false alarm.
- (D) A false alarm system notification will not be counted in determining when a violation exists if the permit holder can prove to the satisfaction of the City that the alarm notification was the result of a severe weather condition that caused physical damage to the alarm site, or the result of the malfunction of the telephone lines for the transmission of alarm signals, proof of the latter being documented upon the telephone company work orders or time stamped records from the alarm company showing the period of interrupted service.
- (E) Except as otherwise provided in subsections (A)(B)(C) and (D) above, the holder of a security/fire alarm permit shall pay an administrative penalty in accordance with the fee schedule as adopted in conjunction with the annual budget.
- (F) Failure to pay the penalty for violation of subsection (E) above, within the allotted time frame as established by the City, shall constitute a separate offense.

Section 95.09 VIOLATION; PENALTY

- (A) A person commits an offense if he/she violates by commission or omission any provision of this Chapter that imposes upon him/her a duty or responsibility.
- (B) A person who violates a provision of this Chapter is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, or permitted, and each violation is punishable by a fine in accordance with the general provisions of the Code of Ordinances.

In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this Chapter to hold a corporation, partnership, or other association criminally responsible for acts or omissions performed by an agent acting in behalf of the

corporation, partnership, or other association, and within the scope of his/her employment.


Section 95.10 EXCEPTIONS

- (A) This Chapter shall not apply to alarm systems operated by local, state, federal governmental and public or private school entities.
- (B) A fire alarm notification will not be counted in determining a violation when the Director determines that the event occurred due to an honest mistake of a reasonable person under the circumstances then existing.
- (C) The criminal act of malicious false alarm as defined as in the Fire Code and Texas Penal Code will not be applied in determining a violation of this ordinance and shall be prosecuted as prescribed by law."

Section 2. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of the ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

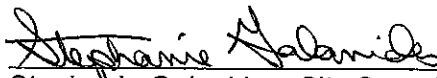
Section 3. This ordinance shall become effective upon passage and publication in accordance with the laws of the State of Texas and the Charter of the City of Heath..

Passed and Approved this 26th day of September 2008.



John Ratchiffe, Mayor

ATTEST:



Stephanie Galanides, City Secretary



APPROVED AS TO FORM:

Pete Eckert, City Attorney