

ORDINANCE NO. 0-1120

AN ORDINANCE ADOPTING PROVISIONS RELATING TO BURGLAR ALARM ORDINANCES IN THE CITY LIMITS OF THE CITY OF FATE; ENACTING BURGLAR ALARM REGULATIONS INCLUDING DEFINITIONS, PROVIDING PERMIT REQUIRED, PROVIDING FOR APPLICATION ISSUANCE; PERMIT DURATION AND RENEWAL; PROVIDING FOR PROPER ALARM SYSTEM OPERATION AND MAINTENANCE; PROVIDING MANUAL RESET REQUIRED; PROVIDING FOR REPORTING ALARM SIGNALS; PROVIDING FOR ALARM REPORTING AND MONITORING REQUIREMENTS; PROVIDING FOR RECORD KEEPING AND DUTIES OF AN ALARM COMPANY; PROVIDING THAT AUTOMATIC DIALING PROHIBITED; PROVIDING FOR ALARM SYSTEM OPERATING INSTRUCTIONS REQUIRED; PROVIDING ALARM DISPATCH RECORDS TO BE KEPT; PROVIDING FOR SYSTEM PERFORMANCE REVIEWS; PROVIDING FOR REVOCATION OF ALARM PERMIT; PROVIDING FOR APPEAL OF DENIAL OR REVOCATION OF A PERMIT; PROVIDING FOR FORFEITURE OF APPLICATION FEE UPON REVOCATION OF PERMIT; PROVIDING FOR REAPPLICATION FOR PERMIT AFTER REVOCATION; PROVIDING FOR CONFIDENTIALITY OF INFORMATION; PROVIDING FOR EXEMPTION OF CERTAIN GOVERNMENT BODIES; PROVIDING FOR PENALTY FOR FALSE ALARM NOTIFICATION AND OTHER PENALTIES; PROVIDING FOR IMPLEMENTATION OF CHAPTER AND ESTABLISHING AN EFFECTIVE DATE; REPEALING ALL INCONSISTENT PROVISIONS AND PROVIDING FOR PARTIAL INVALIDITY.

WHEREAS, the City Council of the City of Fate has determined that there is a need for regulation of burglar systems; and

WHEREAS, the City Council of the City of Fate has determined that there is a need to reduce false alarms from burglar alarm systems; and

WHEREAS, the City Council of the City of Fate has found that the following regulations will promote the health, safety and welfare of the citizens and persons within the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS AS FOLLOWS:

SECTION 1. That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2. The following regulations for burglar alarms be and are hereby adopted by the City of Fate and are hereinafter effective within the city limits of the City of Fate:

Sec. 1. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Burglar alarm system means a device or system that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon, emergency personnel of the city, including, but not limited to, local alarms. Alarm system does not include:

- (1) An alarm installed on a motor vehicle;
- (2) Any device or system designed solely to detect or give notice of fire, smoke, or water flow; or
- (3) An alarm system designed solely to alert the occupants of a building or residence which will not emit a signal either audible or visible from outside the building or residence.

Burglar alarm notification means a communication intended to summon emergency personnel, which is designed either to be initiated purposely or by the person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion. *Burglar alarm permit holder* means a person who has received an alarm system permit, as required by this chapter.

Burglar alarm site means a single premises or location (one street address) served by an alarm system or systems. An alarm site will include a multiunit dwelling where the owner of such dwelling provides or makes available an alarm system for his tenants. For purposes of the issuance of a permit, such multiunit dwellings shall be considered one (1) property requiring only one permit.

Burglar alarm system user means a person who owns or controls the premises upon which an alarm system is located.

Chief means the chief of police of the City of Fate or designee or department head of the department contracted with to provide police services to the City of Fate.

Emergency personnel means police personnel or fire personnel of the City of Fate or contracted by the City of Fate.

False alarm notification means the activation of an alarm system that results in notification to city emergency personnel and response by emergency personnel at a time when the responding personnel find no evidence of unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, or any other violation that the alarm system was intended to report.

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

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

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

Police Chief means the police chief or designee.

Special trunk line means a telephone line leading into the communications center of the police or fire department that is for the primary purpose of receiving alarm notifications.

Sec. 2. Permit required; application; issuance.

(a) No person shall operate, cause to be operated, or permit the operation of a burglar alarm system unless a valid permit has been issued by the City of Fate for such system. This requirement is applicable to the person in control of the property, which the burglar alarm system is designed to protect. The burglar alarm location must possess a valid permit for the police department to respond to a burglar alarm.

(b) A burglar alarm system user or his agent shall obtain a permit for each burglar alarm site.

(c) Upon receipt of a completed application form, the chief shall issue a burglar alarm permit to the applicant unless the applicant has failed to pay a service fee assessed under this chapter or has had an alarm permit for the alarm site revoked, and the violation causing the revocation has not been corrected.

(d) Each permit application must contain the following information:

(1) Name, address, and telephone numbers of the person who will be the permit holder and be responsible for the proper maintenance and operation of the burglar alarm system and payment of fees assessed under this chapter;

(2) The street address of the property on which the alarm system is to be installed and operated;

(3) Classification of the burglar alarm site as either residential or commercial;

(4) Any business name or title used for the premises on which the alarm system is to be installed;

(5) The name, address, and telephone numbers of one other person to respond to an alarm in the event the permit holder is unavailable;

(6) Any other information required by the chief which is necessary for the enforcement of this chapter; and

(7) Name, address, and telephone number of alarm monitoring company, if any.

(e) Any false statement of a material matter made by the applicant for the purpose of obtaining a burglar alarm permit shall be sufficient cause for refusal to issue a permit or for revocation of a permit already issued.

(f) A burglar alarm permit cannot be transferred to another person. A permit holder shall inform the chief of any change that alters information listed on the permit application within five (5) days of the occurrence of the change.

(g) All fees owed by an applicant must be paid before a permit may be issued or renewed.

(h) Permit fees.

(1) The fee for a permit issued pursuant to this chapter shall be twenty-five dollars (\$25.00) for the initial year for each alarm site and \$10 for the renewal fee each year. Senior Citizens (65 years or older) shall be ten dollars (\$10.00) for both the permit issued and the renewal fee.

(2) If a site has a burglar and fire alarm, the combined fee shall not exceed \$25 for the initial year and \$10 for the renewal fee each year. Senior Citizens shall not exceed \$10.00.

(i) No person shall operate or cause to be operated, or permit the operation of an alarm system during the period in which an alarm permit is under revocation.

Sec. 3. Permit duration and renewal. A permit is valid, unless revoked, from the date of issuance for one (1) year, upon receipt of the annual fee. A permit will be automatically renewed for a one-year period, unless revoked, upon receipt of the annual fee, unless canceled by the permit holder.

Sec. 4. Proper alarm system operation and maintenance.

(a) A permit holder or burglar alarm system user shall:

(1) Maintain the premises containing a burglar alarm system in a manner that ensures proper operation of the alarm system;

(2) Maintain the burglar alarm system in a manner that will minimize false alarm notifications;

(3) Repair or inactivate a malfunctioning alarm system within fifteen (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;

(4) Not manually activate a burglar alarm for any reason other than an occurrence of an event that the burglar alarm system was intended to report; and

(5) Safeguard the burglar alarm system controls in order to prevent others from manually activating the alarm for any reason other than an occurrence of an event that the burglar alarm system was intended to report.

(b) A person in control of a burglar alarm system shall adjust the mechanism or cause the mechanism to be adjusted so that a burglar alarm signal will sound for no longer than fifteen (15) minutes after being activated.

Sec. 5. Manual reset required. A permit holder or person in control of a burglar alarm system which has an automatic resetting device, and which system causes three (3) or more alarm within a twenty-four-hour period, shall manually reset the system.

Sec. 6. Reporting of alarm signals. A permit holder or person in control of a burglar alarm system shall not allow burglar alarm signals to be reported through a relaying intermediary that does not comply with the requirements of this chapter and any rules and regulations promulgated by the chief, or is not licensed by the appropriate state agency.

Sec. 7. Burglar alarm reporting and monitoring requirements. A person who is engaged in the business of relaying alarm notifications to the city shall:

(1) Make notification by a human operator only after attempting to call the permit holder or person in control of premises a minimum of two times utilizing different phone numbers prior to reporting the alarm response to the police department.

(2) Report alarm only on special trunk lines designated by the chief;

(3) Communicate alarm notifications to the city in a manner and form designated by the chief.

Sec. 8. Record-keeping and duties of alarm company.

(a) *Record-keeping.*

(1) A person engaged in the business of selling, leasing, installing, or otherwise distributing burglar alarm systems shall maintain records at its place of business which will show the names and addresses of persons to whom an alarm system was sold, leased, installed, or otherwise distributed, as well as the date of such transactions.

(2) Said burglar alarm businesses or persons shall make said records available during regular business hours to the chief or his designee for inspection. The express purpose of this section is to assure that alarm system users are in compliance with this chapter, and not to regulate in any manner any person engaged in the alarm business.

(b) *Duties of alarm company.*

(1) On the installation or activation of a burglar alarm system, a burglar alarm system company shall distribute to the occupant the burglar alarm system location information summarizing:

a. The applicable state law and municipal ordinance relating to false alarm including this chapter and the potential for penalties and revocation or suspension of a permit;

b. How to prevent false alarm; and

c. How to operate the alarm system.

(2) An alarm system company shall notify the the City of Fate in which the alarm system is located of an installation or activation of an alarm system not later than the thirtieth day after the date of the installation or activation. The alarm system company shall provide to the municipality:

a. The alarm system company name;

b. The alarm system company license number;

c. The name of the occupant of the alarm system location;

d. The address of the alarm system location; and

- e. The date of installation or activation.

Sec. 9. Automatic dialing prohibited. No person shall operate or cause to be operated any automatic dialing device which, when activated, uses a telephone device or attachment to automatically select a telephone line leading into the police department or the city and then transmit any prerecorded message or signal.

Sec. 10. Alarm system operating instructions.

A permit holder or person in control of an alarm system shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations, or passwords need not be included in these instructions.

Sec. 11. Alarm dispatch records.

(a) Emergency personnel responding to a dispatch resulting from an alarm system notification shall record such information as necessary to permit the police chief to maintain records, including, but not limited to, the following information:

- (1) Identification of the permit holder;
- (2) Identification of the alarm site;
- (3) Time dispatched, arrived, and cleared;
- (4) date and time of day;
- (5) Weather conditions; and
- (6) Name of permit holder's representative on the premises, if any.

(b) Responding personnel shall indicate on the dispatch record whether the notification was caused by a false alarm.

Sec. 12. System performance reviews.

If there is reason to believe that an alarm system is not being used or maintained in the manner that ensures proper operation and suppresses false alarm, the chief may require a conference with an alarm permit holder and the individual or association responsible for maintenance of the alarm system to review circumstances of each false alarm. Notice of the conference will be mailed to the permit holder at least ten (10) days prior to the date of the conference.

Sec. 13. Revocation of alarm permit.

The police chief may revoke an alarm permit if he determines that:

- (1) There is any violation of this chapter;
- (2) There is a false statement of a material matter in the application for a permit.

(3) A burglar alarm system has generated in excess of twelve (12) false alarm during any twelve-month period;

(4) The permit holder has failed to make payment of any fees assessed under this chapter within thirty (30) days of the assessment; or

(5) Failure to attend the hearing as provided in section 14 titled "Appeal of denial or revocation of permit;"

(6) Failure to attend the conference as provided in section 12 titled "System performance reviews."

Sec. 14. Appeal of denial or revocation of a permit.

(a) If the police chief refuses to issue or renew a permit, or revokes a permit, applicant or permit holder shall be notified of the action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief to the city manager or designee by written request for a hearing setting forth the reason for the appeal, within ten (10) days after receipt of the notice of the police chief. The filing of a request for a hearing with the city manager or designee stays the action of the police chief as to the denial of a permit or the revocation of a permit until the city manager or designee makes a final decision. If a request for a hearing is not made within the ten day period, the action of the chief is final.

(b) The city manager or designee shall serve as hearing officer at the hearing, and consider evidence by any interested person. The formal rules of evidence do not apply at the hearing; the hearing officer shall make a decision on the basis of a preponderance of the evidence present within thirty (30) days after the request for a hearing is filed. The hearing officer shall affirm, reverse, or modify the action of the chief. The decision of the hearing officer is final as to administrative remedies within the city.

(c) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this chapter to hold a corporation, partnership, or other associations criminally responsible for acts or omissions performed by an agent acting in behalf of the corporation, partnership, or other association, within the scope of this employment.

Sec. 15. Forfeiture of application fee upon revocation of permit. When the revocation of a permit is final, all permit fees shall be forfeited.

Sec. 16 Reapplication for permit after revocation.

(a) Should an alarm system user or his agent, after final permit revocation, desire to reapply for a permit, he shall be required to submit a new permit application, including the required permit fees.

(b) The applicant shall also submit satisfactory proof of compliance with the chapter.

Sec. 17. Confidentiality of information. All information provided by a permit holder pursuant to this chapter shall be confidential to the extent possible under state or federal law and shall be utilized solely by the City of Fate; provided that said information shall be available to the permit holder.

Sec. 18. Exemption of certain government bodies. The United States government, the State of Texas, or any county government or school district situated within the corporate city limits of the City of Fate shall comply with the requirements of this chapter; provided however, that they shall be exempt from the payment of fees.

Sec. 19. Penalty for false alarm notification; other penalties.

(a) Except as provided in subsection (b), the holder of an alarm permit shall pay a penalty not to exceed fifty dollars (\$50.00) for each false alarm notification emitted from an alarm site that is in excess of three (3) but no more than five (5); seventy-five dollars (\$75.00) for more than five (5) but less than eight (8); one hundred dollars (\$100.00) for eight (8) or more false alarm notifications during any twelve (12) months.

(b) If a person notifies the police chief and applies for an alarm permit before the installation of a new alarm system, no service fee will be assessed during the first fifteen (15) days after installation, and false alarm notifications during that period will not be counted in determining when a service fee will be assessed.

(c) Except as provided for in subsections (a) and (b) above, any person in violation of any provision of this chapter shall be subject to a fine not to exceed five hundred dollars (\$500.00). Each day shall constitute a separate offense.

Sec. 20. Implementation of chapter. Beginning sixty days (60) days after adoption and publication, this ordinance shall apply to all burglar alarm systems in the city.

SECTION 3. All other ordinances or parts of ordinances in conflict herewith repealed to the extent that they are in conflict.

SECTION 4. That if any of the provisions of this Ordinance shall be held void or unconstitutional, it is hereby provided that all other part of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5. This Ordinance will take effect upon its passage and publication in accordance with the law.

PASSED AND APPROVED THE 18th DAY OF May, 2009

APPROVED:

Original signed by

Mayor, William Broderick

ATTEST:

APPROVED AS TO FORM:

Original signed by
City Secretary, Eddie Sturgal

City Attorney