

ORDINANCE NO. 1791

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROVIDING DEFINITIONS; REQUIRING A PERMIT OF ALARM SYSTEM USERS; PROVIDING SERVICE CHARGES FOR FALSE ALARMS; PROVIDING FOR SUSPENSION OF A PERMIT; REGULATING ALARM REPORTING AND OPERATION; PROVIDING FOR PROTECTION OF FINANCIAL INSTITUTIONS; PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. DEFINITIONS

(1) ALARM SYSTEM - An electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or radio signal or otherwise, a pre-recorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion. Alarm system does not include:

- (a) An alarm installed on a vehicle unless installed at a permanent site;
- (b) An alarm designed to alert only the inhabitants of a premises; nor
- (c) An alarm installed upon premises occupied by the City.

(2) ALARM SITE means a premises or location served by an alarm system.

(3) 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 and has as its purpose the summoning of aid from a City department.

(4) FIRE ALARM NOTIFICATION means a notification to the Fire Department intended to summon fire-fighting forces by an alarm system designed to react to any of the visual or physical characteristics of fire.

(5) FALSE FIRE ALARM NOTIFICATION means a fire alarm notification to the Fire Department when there is no evidence of a fire having occurred or of a need for Fire Department services.

00170

(6) EMERGENCY MEDICAL ASSISTANCE ALARM NOTIFICATION means a notification intended to summon emergency medical assistance from the city.

(7) FALSE EMERGENCY MEDICAL ASSISTANCE ALARM NOTIFICATION means an emergency medical assistance alarm notification to the Fire Department when there is no evidence of need for emergency medical assistance.

(8) BURGLAR ALARM NOTIFICATION is a notification intended to summon the police, which is initiated or triggered manually or by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

(9) FALSE BURGLAR ALARM NOTIFICATION means a burglar alarm notification to the Police when there is no evidence of unauthorized intrusion or attempted unauthorized intrusion.

(10) ROBBERY ALARM NOTIFICATION is a notification intended to summon the police when a robbery occurs by means of an alarm system designed to be purposely activated by a human.

(11) FALSE ROBBERY ALARM NOTIFICATION means a robbery alarm notification to the Police Department when there is no evidence of a robbery having occurred or of a need for Police Department services.

(12) DIRECTOR means the Director of Public Safety, or his authorized representative.

(13) PERSON means an individual, corporation, partnership, association, organization, or similar entity.

(14) LICENSED PERSON shall mean any person issued a permit by the Texas Board of Private Investigator and Private Security Agencies to install alarm systems under the requirements set forth by the Private Investigators and Private Securities Act.

SECTION 2. PERMIT REQUIRED; APPLICATION; TRANSFERABILITY;
FALSE STATEMENTS

(1) A person commits an offense if he operates or causes to be operated an alarm system, regardless if owned or rented, without first obtaining a permit from the Director. A separate permit is required for each type of alarm notification capable of being emitted from each alarm site.

(2) Any person with an alarm system on the effective date of this ordinance must apply for a permit within 60 days after the effective date.

(3) Upon receipt of the required fee and completed application form, the Director shall issue a permit unless there is cause to believe the equipment responsible for initiating an alarm will not be maintained and operated in accordance with this ordinance or the applicant will not comply with each provision of this ordinance.

(4) Each permit application must contain the name, address, and telephone number of the individual or alarm user representative who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees or charges levied under this ordinance.

(5) An alarm permit cannot be transferred to another person. However, the individual designated to respond to an alarm or relay an alarm may be changed. A permit holder shall inform the Director of any change that alters information listed on the permit application. No fee will be assessed for such changes.

(6) Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant, or suspension of, a permit.

(7) Alarm systems shall not be installed, repaired, altered or adjusted except by a licensed person.

SECTION 3. OTHER TYPES OF ALARMS.

(1) A person shall not install or maintain an alarm system except for the purpose of eliciting responses to burglaries, robberies, fires, or requests for emergency medical assistance.

(2) If innovations in alarm systems or other types of alarm devices adversely affect emergency services of the city, the Director may promulgate rules and regulations in order to protect the City's emergency services.

SECTION 4. FEE FOR PERMIT; DURATION; RENEWAL.

(1) A non-refundable fee of \$12.00 per year is required for each permit or renewal of a permit. A permit is issued for one year and must be renewed each year thereafter by payment of the permit fee. It is the responsibility of the permit holder to pay the renewal fee prior to the expiration date. The Director has the prerogative of determining the first expiration date, however. This initial period shall be no less than one nor more than two years from the date of issuance of the permit.

(2) In the event a permit is withdrawn, a \$12.00 fee will be charged to reinstate the permit. This reinstatement fee shall not create a new expiration date unless the original date has expired.

SECTION 5. SERVICE CHARGE.

(1) If within any 12 month period, three false burglar alarm notifications are emitted from an alarm site, the Director shall assess the permit holder in control of that alarm site a fee of

(0172

\$50.00 for each subsequent false burglar alarm notification emitted from the site within the 12 months following the third false notification.

(2) If within any 12 month period, three false fire alarm notifications are emitted from an alarm site, the Director shall assess the permit holder in control of that alarm site a fee of \$100.00 for each subsequent false fire alarm notification emitted from the site within the 12 months following the third false notification.

(3) The Director shall assess the permit holder of a robbery alarm a fee of \$50.00 for each false robbery alarm notification emitted from the alarm site.

(4) The Director shall assess the permit holder of an emergency medical assistance alarm a fee of \$50.00 for each false emergency medical assistance alarm notification emitted from the alarm site.

(5) A permit holder shall pay a fee assessed under this section within 30 days after receipt of notice that it has been assessed.

(6) Failure to pay assessed fees shall cause the holder's permit to be withdrawn and the system to be disconnected. Further alarms from an alarm system without a valid permit shall be considered false alarms and will not be responded to by City emergency services. Additional alarms may cause charges to be filed according to the Texas Penal Code.

(7) Alarm systems may be reissued a permit when proof of repairs have been presented to the Director or his representative.

(8) The permit holder will be exempt from any fee charged for a false alarm notification which is later shown to have been justified or which was due to an act of God. The burden of proof shall be on the permit holder.

SECTION 6. REPORTING OF ALARM SIGNALS.

(1) A permit holder shall not report his alarm signals through a relaying intermediary that does not meet the requirements of this chapter and any rules and regulations promulgated by the Director or is not licensed by the Texas Board of Private Investigators and Private Security Agencies.

SECTION 7. PROPER ALARM SYSTEM OPERATION AND MAINTENANCE.

(1) A permit holder shall:

(a) Cause an adjustment to be made to the sensory mechanism of his alarm system in order to suppress false

00173

indications, and

(b) Maintain premises containing an alarm system in a manner that insures proper operation of the alarm system.

(2) A person in control of a local alarm shall:

(a) Cause an adjustment to be made to the mechanism so that an alarm signal will sound for no longer than 30 minutes after being activated; or

(b) Provide personnel within 30 minutes after being notified by the City, to reset the alarm system and provide access to the premises; and

(c) Display in a prominent exterior location an identification notice provided by the Director. It shall be the permit holder's responsibility to furnish up-to-date information concerning persons to be notified in case of emergencies.

SECTION 8. MANUAL RESET REQUIRED.

(1) A person in control of a local alarm or an alarm system that causes an alarm notification to be sent directly to the City shall adjust or cause the adjustment of the mechanism so that upon activation the system will transmit only one alarm signal and will not transmit another alarm signal without first being manually reset.

(2) The message transmitted shall be intelligible and in a format approved by the Director or his representative and will be given twice. The duration of the message shall not exceed 30 seconds.

SECTION 9. INSPECTION.

(1) Upon reasonable notification, the Director, the Police Chief, Fire Chief, or their designated representative may inspect an alarm site and alarm system of a permit holder.

SECTION 10. SUSPENSION OF PERMIT; OFFENSE TO OPERATE.

(1) The Director may suspend or refuse to renew an alarm system permit for any violation of this ordinance.

(2) The Director shall suspend or refuse to renew an alarm permit if an alarm system generates an excessive number of false alarm notifications.

(3) A suspension may be lifted or permit renewed upon a sufficient showing that the conditions which caused the action have been corrected and if the Director determines that the alarm system is likely to be maintained and operated in a responsible manner in accordance with the provisions of this ordinance.

00174

(4) A person commits an offense if he operates an alarm system during a period of suspension or after the Director refuses to renew his permit.

SECTION 11. APPEAL FROM DENIAL OR SUSPENSION OF A PERMIT.

(1) If the Director refuses to issue or renew a permit, or suspends a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his 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 10 days after receipt of the notice from the Director. The filing of a request for an appeal hearing with the City Manager stays an action of the Director in suspending a permit until the City Manager or his designated representative makes a final decision. If a request for an appeal is not made within the 10-day period, the action of the Director is final.

(2) The City Manager or his representative shall serve as hearing officer at an appeal hearing and consider evidence offered by any interested person. The formal rules of evidence do not apply at an appeal hearing; the hearing officer shall make his decision on the basis of a preponderance of the evidence presented at the hearing. The City Council shall affirm, reverse, or modify the action of the hearing officer by a majority vote; failure to reach a majority decision on a motion shall leave the hearing officer's decision unchanged.

SECTION 12. INDIRECT ALARM REPORTING.

(1) A person who is engaged in the business of relaying alarm notifications to the City shall:

- (a) Send notification of an alarm to the City by a human operator;
- (b) Keep his business premises locked and secured at all times;
- (c) Allow an inspection of his business premises by the Police Chief, Fire Chief, or Director at any time;
- (d) Report alarms only over a special telephone number, or numbers, designated by the Director; and
- (e) Furnish the name, address, and telephone number of an alarm company licensed by the Texas Board of Private Investigators and Private Security Agencies, responsible on a 24-hour, 7-day a week basis, for correcting any malfunction that may occur.

SECTION 13. DIRECT ALARM REPORTING.

(1) A permit holder whose alarm system transmits automatic alarm notifications, other than alarm notifications from financial institutions, directly to the City over the normal telephone system shall:

(a) Transmit in the form and content specified by the Director;

(b) Transmit over special telephone lines designed for such use;

(c) Design his system so that it will notify the permit holder, or his designated agent identified on the permit application, when an alarm is transmitted to the City;

(d) Furnish the Director upon request with satisfactory copies of the alarm operation procedures, maintenance procedures, and up-to-date circuit diagram of the components of the alarm system; and

(e) Furnish the name, address, and telephone number of an alarm company licensed by the Texas Board of Private Investigators and Private Security Agencies, responsible on a 24-hour, 7-day a week basis, for correcting any malfunction that may occur.

SECTION 14. PROTECTION OF FINANCIAL INSTITUTIONS.

(1) A financial institution required to have an 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 Chief of Police, a signal line directly to the Police Department for the purpose of reporting burglaries and robberies. If such an arrangement is made, all other requirements of this ordinance must be met. The financial institution shall execute a letter of agreement with the City permitting the installation of all necessary equipment on an indicator panel monitored in the Communications Division of the Police Department. The installation must be accomplished at the institution's expense.

(2) The Police Chief 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 Police Chief finds that the alarm system continually fails to operate or be operated to his satisfaction, he may terminate the privilege to have equipment and indicators in the Communications Center of the Police Department and require prompt removal of same at the expense of the financial institution.

(3) The financial institution, at its expense, shall make arrangements to provide service for the alarm system at the instance of the financial institution or the Chief of Police on a

24-hour basis, seven days a week. In no event shall the City become liable for service charges for repairs and maintenance of any such signaling device.

(4) The financial institution may cancel its agreement with the City at any time by giving the City written notice through the Chief of Police, whereupon such institution, at its expense shall have its equipment and indicators promptly removed from the monitor panel in the Communications Center.

(5) The Director has the right to require any change, modernization, or consolidation of alarm signaling equipment that he deems advisable. In no event shall the City become liable for charges for such changes.

(6) Instead of a direct line, a financial institution may instead choose to report burglaries and robberies by transmission through an alarm reporting service using a telephone number designated by the Director.

SECTION 15. VIOLATION; CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS.

(1) A person commits an offense if he violates by commission or omission any provision of this ordinance that imposes upon him a duty or responsibility.

(2) In addition to prohibiting or requiring certain conduct on individuals, it is the intent of this ordinance to hold a corporation, partnership, or other association criminally responsible for acts or omission performed by an agent acting in behalf of the corporation, partnership, or other association, and within the scope of his employment.

SECTION 16. PUNISHMENT.

(1) That a person who violates a provision of this ordinance 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 offense is punishable by a fine not to exceed \$200.00.

SECTION 17. SEVERABILITY.

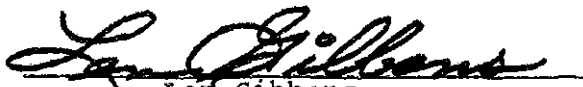
(1) If any section, paragraph, subdivision, clause or phrase of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of any provision thereof other than the part so decided to be invalid or unconstitutional.

SECTION 18. EMERGENCY.

(1) The fact that the City of Mesquite, Texas, does not have an ordinance regulating alarm systems within the City creates an

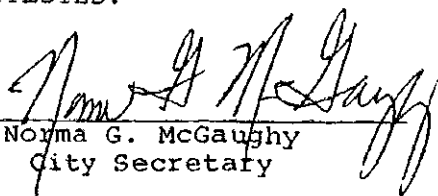
urgency and an emergency and in the preservation of public health, safety and welfare, requires that this ordinance shall take effect immediately and after its passage and the publication of the caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite, Texas on this the 21st day of June, 1982.



Len Gibbens
Mayor

ATTESTED:



Norma G. McGaughy
City Secretary

APPROVED AS TO FORM:

Elland Archer
City Attorney

