

ORDINANCE NO. 2651

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING ORDINANCE NO. 2622 BY PROVIDING DEFINITIONS; REQUIRING A PERMIT OF ALARM SYSTEM USERS; PROVIDING SERVICE FEES FOR FALSE ALARMS; PROVIDING FOR SUSPENSION OF A PERMIT; REGULATING ALARM REPORTING AND OPERATION; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2000.00) FOR EACH OFFENSE AND PROVIDING FOR A SEVERABILITY CLAUSE.

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

DIVISION 1. DEFINITIONS.SECTION 1.

(1) **POLICE ALARM SYSTEM** - A device or system that emits, transmits or relays a signal intended to summon, or that would reasonably be expected to summon, emergency services of the City of Mesquite. Alarm System shall include, but not be limited to, local alarms, cable television alarm systems, and other alarms designed or intended to initiate a response by the Police Department to a possible burglary, robbery, or other criminal incident. Police 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;

(2) **POLICE 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 the Police Department.

(3) **FIRE ALARM SYSTEM** is a system that is a combination of approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal that would summon or cause to be summoned a Fire Department response in the event of fire or system activation. A Fire Alarm System shall meet the requirements of the adopted Uniform Fire Code, Article 5.43-2 of the Insurance Code and Fire Alarm Rules of the State of Texas and other nationally recognized standards.

(4) **FIRE LOCAL ALARM** means an alarm system that emits an automatic or manually caused signal at an alarm site and has as its purpose the summoning of aid from the Fire Department.

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

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

(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.

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(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.

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

(13) **ISSUING AUTHORITY** shall mean the Chief of Police or his representative when referring to Burglary or Robbery Alarms, and the Chief of Fire when referring to Fire or Emergency Medical Assistance Alarms.

(14) **ALARM SIGNAL** is an audible or visual signal, or both, indicating the existence of an emergency fire condition. Audible devices may be bells, horns, chimes, speakers or similar devices.

(15) **FIRE ALARM CONTROL PANEL** is a collection of circuits which supervise the field wiring, monitors initiating devices and causes visual, audible and or auxiliary devices to be energized whenever an abnormal or emergency condition exists.

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

(17) **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 the need for Fire Department services. System malfunctions will be considered as false alarm notifications.

(18) **RESIDENTIAL** shall mean all single family dwellings or duplexes.

(19) **COMMERCIAL** shall mean all types of occupancies other than residential, as defined above.

SECTION 2. Exemptions

(1) All residential occupancies, as defined in Section 1, are exempted from Fire Alarm Permits.

(2) Governmental agencies are not exempt from permit requirements. Governmental agencies are exempted, however, from Permit Fees and Service Fees.

DIVISION 2. BURGLARY AND ROBBERY ALARMS.

SECTION 1. PERMIT REQUIRED, APPLICATION, TRANSFERABILITY, FALSE STATEMENTS.

(1) A person commits an offense if he operates or causes to be operated, a Police Alarm System, regardless of ownership, without first obtaining a permit from the Issuing Authority.

(2) Any person with an operational 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 Issuing Authority 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 for the payment of fees or charges levied under this ordinance.

(5) Each permit application must contain the name, address, and telephone number of the person or persons to be notified should the alarm system be activated.

(6) A multi-family complex with several alarm sites at individual apartments or units will be required to obtain only one permit for all the alarm sites within the complex. However, false alarm service fees will be based on the number of false alarms at each individual unit and will be assessed to the permit holder.

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

(8) 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.

SECTION 2. OTHER TYPES OF ALARMS.

(1) A person shall not install or maintain a Police Alarm System except for the purpose of eliciting responses to burglaries or robberies.

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

SECTION 3. FEE FOR PERMIT, DURATION, RENEWAL.

A non-refundable fee of \$12.00 is required for the issuance of a permit. A new fee and

permit will be required upon a change in ownership or change in occupancy of the property.

SECTION 4. SERVICE FEE - BURGLARY, ROBBERY.

(1) If, within a calendar year, three false alarm notifications, of any type, are emitted from an alarm site, the Issuing Authority shall assess the person in control of that alarm site a fee for each subsequent false alarm notification emitted from the alarm site within that calendar year. The service fees for false alarm notifications required by the provisions of this section are established as follows:

Number of False Alarms	Service Fee Per Occurrence
1 - 3	none
4 - 7	\$ 50.00
8 or more	\$100.00

(2) The number of false alarm notifications emitted from an alarm site shall include all types of police alarms, including but not limited to burglary and robbery alarms.

(3) Failure to pay assessed fees shall cause the permit to be suspended. Further alarms from an alarm system shall constitute an offense.

(4) A person commits an offense if he allows an alarm notification to be emitted from an alarm site that does not have a valid permit.

(5) A permit may be reissued when proof of repairs have been presented to the Issuing Authority.

(6) A permit holder shall pay any fee assessed under this section within 30 days after receipt of notice of assessment.

(7) A permit holder will be exempt from any fee charged for a false alarm notification which is later shown to have not been a false alarm. The burden of proof shall be on the permit holder.

(8) The on-scene police supervisor will make the determination as to whether or not an alarm notification is false. In the absence of an on-scene supervisor, the Police Officer assigned to respond to an alarm site will make that determination.

SECTION 5. REPORTING OF ALARM SIGNALS.

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 Issuing Authority or is not licensed by the Texas Board of Private Investigators and Private Security Agencies.

SECTION 6. 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 indication of force so that the alarm system will not be activated due to flashes of light, vehicular noise, electrical power fluctuations or other forces unrelated to an actual emergency.

(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 15 minutes after being activated; and

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

SECTION 7. MANUAL RESET REQUIRED.

(1) A person in control of a local alarm or an alarm system that causes a police alarm notification to be sent directly to the City of Mesquite, 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 Issuing Authority or his representative and will be given twice. The duration of the message shall not exceed 30 seconds.

SECTION 8. INSPECTION.

Upon reasonable notification, the Issuing Authority may inspect an alarm site and alarm system of a permit holder.

SECTION 9. SUSPENSION OF PERMIT; OFFENSE TO OPERATE.

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

(2) A permit holder having more than ten (10) false alarms, within a calendar year, may have his permit suspended by the Issuing Authority until the permit holder can satisfactorily demonstrate that the alarm system will be properly operated.

(3) The suspension of a permit at a multi-family site will be based on ten (10) false alarms at any individual unit.

(4) 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 Issuing Authority determines that the alarm system is likely to be maintained and operated in a responsible manner, in accordance with the provisions of this ordinance.

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

(6) Upon suspension of the alarm use permit, a reinstatement service fee of One Hundred Dollars (\$100.00) will be paid by the permit holder to the City of Mesquite.

SECTION 10. INDIRECT ALARM REPORTING.

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

- (1) Send notification of an alarm to the City by a human operator;
- (2) Report alarms only over a special telephone number, or numbers, designated by the Issuing Authority; and
- (3) 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 11. DIRECT ALARM REPORTING.

A permit holder whose alarm system transmits automatic alarm notifications directly to the City over the normal telephone system shall:

- (1) Transmit in the form and content specified by the Issuing Authority;
- (2) Transmit over special telephone lines designated for such use;
- (3) 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;
- (4) Furnish the Issuing Authority, 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
- (5) Furnish the name, address, and telephone number of the alarm company or the person, responsible for correcting any malfunction that may occur.

DIVISION 3. FIRE AND EMERGENCY MEDICAL ALARMS.

SECTION 1. PERMIT REQUIRED, APPLICATION, TRANSFERABILITY, FALSE STATEMENTS.

- (1) A person commits an offense if he operates or causes to be operated, a Fire Alarm System, regardless of ownership, without first obtaining a permit from the Issuing Authority. Exception: a permit is not required for an Emergency Medical Alarm System. Emergency Medical Alarm Systems must be registered with the Fire Department. (2) Any person with an operational alarm system on the effective date of this ordinance must apply for a permit or register Emergency Medical Alarm Systems, within 60 days after the effective date.

(3) Upon receipt of the required fee and completed application form, the Issuing Authority 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 of the alarm system and for the payment of fees or charges levied under this ordinance; and the name, address and telephone number of the certified company who will maintain, service and test the operation of the alarm system. Any change in the maintenance company shall be reported to the Issuing Authority within 10 days of such change.

(5) Each permit application must contain the name, address, and telephone number of the person or persons to be notified should the alarm system be activated.

(6) 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 Issuing Authority of any change that alters information listed on the permit application. No fee will be assessed for such changes.

(7) 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 subject to a penalty.

(8) Occupancies with more than one Fire Alarm Control Panel will be required to obtain one permit for each Fire Alarm Control Panel located within the alarm site.

SECTION 2. OTHER TYPES OF ALARMS

If innovations in alarm systems or other types of alarm devices adversely affect emergency services in the City, the Issuing Authority may promulgate rules and regulations in order to protect the City of Mesquite's emergency services.

SECTION 3. FEE FOR PERMIT, DURATION, RENEWAL.

A non-refundable fee of \$12.00 is required for the issuance of a permit. A new fee and permit will be required upon a change in ownership or change in occupancy of the property.

SECTION 4. SERVICE FEE.

(1) If, within a calendar year, three false alarm notifications, of any type, are emitted from an alarm site, the Issuing Authority shall assess the person in control of that alarm site, a fee for each subsequent false alarm notification emitted from the alarm site within that calendar year. The service fees for false alarm notifications required by the provisions of this section are established as follows:

Number of False Alarms	Service Fee Per Occurrence
1 - 3	none
4 - 7	\$150.00
8 or more	\$300.00

- (2) Failure to pay assessed fees, or continued false alarms shall constitute an offense.
- (3) A person commits an offense if he allows an alarm notification to be emitted from an alarm site that does not have a valid permit.
- (4) A permit holder shall pay a fee assessed under this section within 30 days after receipt of notice that it has been assessed.
- (5) A permit holder will be exempt from any fee charged for a false alarm notification which is later shown to have not been a false alarm. The burden of proof shall be on the permit holder.
- (6) The Fire Department Officer in charge of responding personnel will make the determination as to whether or not an alarm notification is false.

SECTION 5. REPORTING OF ALARM SIGNALS.

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 Issuing Authority or is not approved by the Fire Marshal's Office of the State of Texas as a Fire Alarm Monitoring Company.

SECTION 6. PROPER ALARM SYSTEM OPERATION AND MAINTENANCE.

(1) Fire Alarm Systems shall be maintained according to this ordinance, the adopted Fire Code and other nationally recognized standards.

(2) A Permit Holder Shall:

(a) Insure the system is installed in such a manner that inclement weather will not cause false alarms.

(b) Insure the system is installed in such a manner that pressure changes in water mains or pipes will not cause false alarms.

(c) Insure the system is installed in such a manner that electrical power failure or fluctuations will not cause false alarms.

(d) Insure the system is maintained and repaired only by personnel licensed and certified by the State Fire Marshal's Office for Fire Alarm Systems.

(e) Maintain the premises containing an alarm system, and the alarm system in a manner that insures proper operation of the system at all times.

(f) Provide trained personnel within 30 minutes after being notified by the City of Mesquite to reset the alarm system and to provide access to the premises.

(g) Notify the Issuing Authority whenever any required Fire Alarm System is placed temporarily out of service. Fire Department permits are required prior to any work done on Fire Alarm Systems.

(h) Notify a licensed, certified fire alarm company within 24 hours, or immediately upon request, if the system needs maintenance for any reason so the necessary repairs can be made.

(i) Furnish up-to-date information to the Fire Department concerning persons to be notified in case of emergency;

(j) Furnish the Issuing Authority, upon request, with satisfactory copies of the alarm operation procedures, maintenance records, tests, and up-to-date circuit diagrams of the components of the alarm system;

(k) Furnish the name, address, and telephone number of the certified alarm company, licensed by the State Fire Marshal's Office, responsible on a 24-hour, 7-day a week basis, for correcting any malfunction that may occur.

SECTION 7. INSPECTION AND TESTING.

(1) The Issuing Authority, or his representative may inspect and or cause the alarm system to be tested at any time during normal business hours.

(2) A test of the Fire Alarm System shall be conducted by a certified Fire alarm company within the fourth quarter of each calendar year. A copy of the test is to be hand delivered to the Fire Marshal's Office within 30 days of the test date.

SECTION 8. INDIRECT ALARM REPORTING.

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

(1) Send notification of an alarm to the City by human operator;

(2) Report alarms only over a special telephone number, or numbers, designated by the Issuing Authority; and

(3) Furnish the name, address, and telephone number of a certified fire alarm company licensed by the State Fire Marshal's Office, responsible on a 24-hour, 7-day a week basis, for correcting any malfunction that may occur.

SECTION 9. DIRECT DIAL REPORTING.

(1) Tape Dialers are not an approved method of transmitting fire alarms.

(2) Only Digital Communicators, U.L. approved for Fire Alarm Systems, shall be allowed to transmit fire alarms through an approved monitoring company.

DIVISION 4. VIOLATIONS, PUNISHMENT, SEVERABILITY.

SECTION 1. ADMINISTRATIVE HEARING.

(1) The permit holder may request a hearing on assessed service fees by notification to the clerk of the Municipal Court within ten (10) days of the date of the fee assessment.

A hearing shall be held within thirty (30) days, upon request but may be continued by the hearing officer for good cause upon request by either party or upon the hearing officers own motion.

(2) For the purpose of providing hearings herein, the Mesquite Municipal Court Judge and such alternate Judges as may be authorized, by the governing body, shall act as hearing officers.

(3) Hearings shall be informal. Evidence as admitted in administrative hearings, generally, shall be admissible.

(4) Absent question of Constitutional deprivations, the finding of the hearing officer shall be final.

SECTION 2. APPEAL FROM DENIAL OR SUSPENSION OF A PERMIT.

(1) If the Issuing Authority 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 appeal. The applicant or permit holder may appeal the decision of the Issuing Authority 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 Issuing Authority. The filing of a request for an appeal hearing with the City Manager stays an action of the Issuing Authority from suspending a permit until the City Manager or his designated representative makes a final decision. If a request for appeal is not made within the 10-day period, the action of the Issuing Authority 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 evidence presented at the hearing. The City Council may 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 3. 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 4. PUNISHMENT.

Any person, firm, corporation or partnership violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction in the Municipal Court of the City of Mesquite, Texas, shall be subject to a fine not to exceed the sum of Two Thousand Dollars (\$2000.00) for each offense, and each and every day or portion of a day such violation continues shall constitute a separate offense.

SECTION 5. SEVERABILITY.

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.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 18th day of December, 1989.




George A. Venner, Sr.
Mayor

ATTEST:


Lynn Prugel
City Secretary

APPROVED:


B. J. Smith
City Attorney

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