

ORDINANCE NO. 4440

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY ADDING, DELETING AND REPLACING CERTAIN DEFINITIONS IN SECTION 8-441, BY DELETING SECTIONS 8-461 THROUGH 8-471, AND 8-516 THROUGH 8-518 IN THEIR ENTIRETY AND BY ADDING NEW SECTIONS 8-461 THROUGH 8-471, AND 8-516 THROUGH 8-518 THEREBY UPDATING POLICE ALARM SYSTEM REGULATIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

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

SECTION 1. That Chapter 8 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by adding, deleting and replacing the following definitions in Section 8-441, to read as follows, in all other aspects said Section 8-441 to remain in full force and effect:

1. Chapter 8, Article VII, Division 1, Section 8-441 shall be amended by adding the following definitions:

Alarm permit or *permit* means a certificate, license, permit or other form of permission that authorizes a person to use a police alarm system or a fire alarm system.

Alarm systems monitor means a person who acts as an alarm system company under V.T.C.A, Occupations Code §1702.105, as amended and/or replaced.

Permit holder means the person who has been issued a permit.

Person means an individual, corporation, general or limited partnership, limited liability company, unincorporated business, organization, association or any other business entity of any kind.

2. Chapter 8, Article VII, Division 1, Section 8-441 shall be amended by deleting the current definition of "*alarm site*" and replacing such definition with the following definition:

Alarm site means a premises or location served by a fire alarm system, fire local alarm, police alarm system or police local alarm.

3. Chapter 8, Article VII, Division 1, Section 8-441 shall be amended by deleting the current definition of "*false burglar alarm notification*" and replacing such definition with the following definition:

False burglar alarm means a burglar alarm notification of possible criminal activity reported to the City's Police Department:

- (1) that is based solely on electronic information remotely received by an alarm systems monitor;
 - (2) that is uncorroborated by eyewitnesses, video or photographic evidence that an emergency exists; and
 - (3) concerning which the City's Police Department has verified that no emergency exists after an on-site inspection of the location from which the burglar alarm notification originated.
4. Chapter 8, Article VII, Division 1, Section 8-441 shall be amended by deleting the current definition of "*police alarm system*" and replacing such definition with the following definition:

Police alarm system means a device or system that transmits a signal intended to summon the City's Police Department in response to a burglary or robbery. The term includes, but is not limited to, an alarm that emits an audible signal on the exterior of a structure. The term shall not include an alarm installed on a vehicle, unless the vehicle is used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises.

5. Chapter 8, Article VII, Division 1, Section 8-441 shall be amended by deleting the current definition of "*residential*" and replacing such definition with the following definition:

Residential means a dwelling or location where individual(s) reside and shall include, without limitation, single family homes, duplexes and occupied apartments or other occupied residential units located in a multiunit housing facility.

SECTION 2. That Chapter 8 of the Code of the City of Mesquite, Texas, as amended, is hereby further amended by deleting Sections 8-461 through 8-471, and 8-516 through 8-518 in their entirety and adding new Sections 8-461 through 8-471, and 8-516 through 8-518 to read as follows:

DIVISION 2. BURGLARY AND ROBBERY ALARMS

Sec. 8-461. Permit required, application, transferability, false statements.

- (a) A person shall not use or operate a police alarm system in the City or cause or permit a police alarm system to be used or operated in the City, regardless of whether the person owns the police alarm system, without first obtaining a permit from the issuing authority.

- (b) A person commits an offense if the person uses or operates a police alarm system or causes or permits a police alarm system to be used or operated in the City without a permit.
- (c) Upon receipt of the required fee and completed application form, the issuing authority or the issuing authority's designee shall issue a permit for a police alarm system unless there is reasonable cause to believe the equipment responsible for initiating an alarm signal will not be maintained or operated in accordance with Division 2 of this article or the applicant will not comply with each provision of Division 2 of this article.
- (d) Each permit application must contain the name, address and telephone number of the person who will use or operate the police alarm system listed on the application. Such person shall be the permit holder and will be the person responsible for the proper maintenance and operation of such police alarm system and for the payment of fines, penalties and fees assessed under Division 2 of this article. Each permit application must also contain the name, address and telephone number of the individual(s) to be notified should the police alarm system be activated. A permit application for a commercial premise shall contain the names and phone numbers (home or cell and business) of two individuals that when notified by the City's Police Department will come to the alarm site within 30 minutes, if requested, to terminate the alarm signal and secure the property. Application for a permit under the provisions of Division 2 of this article constitutes a grant or approval to the City to deactivate a police alarm system that sounds an alarm signal for longer than 30 minutes after being notified.
- (e) A separate permit is required for each alarm site served by a police alarm system or police local alarm.
- (f) Each occupied apartment or individual residential unit located in a multiunit housing facility in which a police alarm system is used or operated shall be a separate alarm site and shall require a separate permit. Upon compliance with Division 2 of this article, the permit for a police alarm system at an alarm site that is an occupied apartment or individual residential unit located in a multiunit housing facility shall be issued to the occupant of the apartment or individual residential unit. An individual occupying an apartment or individual residential unit of a multiunit housing facility served by a police alarm system shall be required to obtain a permit regardless of whether the police alarm system is provided by the multiunit housing facility or was installed by or at the direction of the occupant.
- (g) The owner or property manager of a multiunit housing facility shall obtain a permit for a police alarm system in a non-residential area of a multiunit housing facility including, but not limited to, common tenant areas, office areas, storage areas and equipment areas.
- (h) An alarm permit cannot be transferred to another person. However, the individual(s) designated to respond to an alarm signal or the alarm systems monitor may be changed. A permit holder shall inform the issuing authority in writing of any change that alters information listed on the permit application within five days of the date the change. No fee will be assessed for such changes.

- (i) 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 a permit or for revocation of a permit.
- (j) The issuing authority or the issuing authority's designee shall have the authority to enforce the provisions of this article.

Sec. 8-462. Other types of alarms.

- (a) A person shall not install or maintain a police alarm system except for the purpose of eliciting responses to burglaries or robberies.
- (b) If innovations in police 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's emergency services.

Sec. 8-463. Fee for permit, duration, renewal.

- (a) A non-refundable fee of \$10.00 is required for the issuance of a permit. The permit is valid for a one-year period from date of issuance and must be renewed every year thereafter. The renewal fee shall be \$10.00. Permit and renewal fees shall be used for the purposes set forth in §214.204 of the Texas Local Government Code, as amended and/or replaced.
- (b) It is the responsibility of the permit holder to renew a permit and pay the renewal permit fee prior to the expiration of the permit. A renewal permit shall be valid for a one-year period following the date of renewal.
- (c) All outstanding penalties for false burglar alarms at an alarm site must be paid before a permit will be renewed.
- (d) A new fee and permit will be required upon a change in ownership or change in occupancy of the alarm site. The new permit will be valid for a one-year period from date of issuance and must be renewed every year thereafter.
- (e) The issuing authority or the issuing authority's designee may terminate a permit for non-renewal provided the permit holder has been given at least 30 days' prior written notice that the permit will be terminated.
- (f) The issuing authority or the issuing authority's designee may refuse to renew the permit of a police alarm system that has had eight or more false burglar alarms during the preceding 12-month period.
- (g) The use or operation of a police alarm system in the City during a period when the permit for such police alarm system has been terminated for non-renewal in accordance with Section 8-463(e) shall be an offense under Section 8-461(b).

Sec. 8-464. False alarms.

- (a) The issuing authority or the issuing authority's designee will not consider a burglar alarm notification to be false unless:
 - (1) The City's Police Department responds to the burglar alarm notification within a reasonable time. For purposes of this provision, 30 minutes shall be deemed a reasonable time provided, however, a longer response time may be reasonable given the weather, time, traffic, road conditions and other circumstances that exist as of the time and date of the response; and
 - (2) The police officer responding to the burglar alarm notification inspects the interior or exterior of the premises and determines from such inspection that the burglar alarm notification by an alarm systems monitor was a false burglar alarm.
- (b) Except as provided by Sections 8-464(c) and 8-464(d), a permit holder who uses a police alarm system at an alarm site in the City to report a false burglar alarm by an alarm systems monitor shall pay a penalty to the City if at least three other false burglar alarms have occurred at that alarm site during the preceding 12-month period. The amount of the penalty for the report of a false burglar alarm shall be the following:
 - (1) \$50.00, if the alarm site has had more than three but fewer than six other false burglar alarms in the preceding 12-month period;
 - (2) \$75.00, if the alarm site has had more than five but fewer than eight other false burglar alarms in the preceding 12-month period; or
 - (3) \$100.00, if the alarm site has had eight or more other false burglar alarms in the preceding 12-month period.
- (c) The City will not impose a penalty authorized by Section 8-464(b) above if reasonable visual proof of possible criminal activity recorded by an alarm systems monitor is provided to the City before the inspection of the premises by the City's Police Department.
- (d) The penalties set forth in Section 8-464 apply to the signaling of a false burglar alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:
 - (1) the date of the signaling of the false alarm;
 - (2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and

- (3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.
- (e) The City may assess a penalty of \$250.00 to a person who uses a police alarm system at an alarm site in the City without a permit for each false burglar alarm at such alarm site reported by an alarm system monitor, provided, however, the City will not assess a penalty under this Section 8-464(e) if a citation has been issued to the person under Section 8-461(b) in connection with the same false burglar alarm. If a penalty is assessed pursuant to this Section 8-464(e), such person shall pay the penalty to the City as more fully set forth in Section 8-464(g).
- (f) The number of false burglar alarms reported by an alarm system monitor from an alarm site shall include all types of police alarm systems, including but not limited to burglary and robbery alarms.
- (g) Each person assessed a penalty under this section shall pay the penalty to the City within 30 calendar days after receipt of the notice of assessment.
- (h) The City will not impose a penalty under this section on a person licensed under V.T.C.A., Occupations Code, Chapter 1702, as amended and/or replaced, for the reporting of a false burglar alarm.
- (i) The City Council finds and determines that the free false alarm responses permitted by Division 2 of this article and the false alarm penalties set forth in Division 2 of this article are fair and equitable.

Sec. 8-465. Reporting of alarm signals.

A permit holder or, if there is no permit issued for an alarm site, the person who owns, leases, possesses, resides at or manages all or any part of an alarm site, shall not report alarm signals through a relaying intermediary that does not meet the requirements of this article 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.

Sec. 8-466. Proper police alarm system operation and maintenance.

- (a) A permit holder or, if there is no permit issued for an alarm site, the person who owns, leases, possesses, resides at or manages all or any part of an alarm site, under Division 2 of this article shall:
 - (1) Cause an adjustment to be made to the sensory mechanism of the police alarm system at such alarm site in order to suppress false indication of force so that the police alarm system will not be activated due to flashes of light, vehicular noise, electrical power fluctuations or other forces unrelated to an actual emergency; and
 - (2) Maintain the premises containing a police alarm system in a manner that insures proper operation of the police alarm system.

- (b) A permit holder or, if there is no permit issued for an alarm site, the person who owns, leases, possesses, resides at or manages all or any part of an alarm site where a police local alarm or a police alarm system is located shall:
 - (1) 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
 - (2) Provide personnel, within 30 minutes after being notified by the City, to reset the police alarm system and provide access to the premises.

Sec. 8-467. Manual reset required.

- (a) A permit holder, or if there is no permit issued for an alarm site, the person who owns, leases, possesses, resides at or manages all or any part of an alarm site where a police local alarm or a police alarm system is located that causes a burglar 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.
- (b) The message transmitted shall be intelligible and in a format approved by the issuing authority or the issuing authority's designee and will be given twice. The duration of the message shall not exceed 30 seconds.

Sec. 8-468. Inspection.

Upon reasonable notification, the issuing authority or the issuing authority's designee may inspect an alarm site and police alarm system of a permit holder or may inspect an alarm site and police alarm system that has not been permitted.

Sec. 8-469. Revocation of permit.

- (a) The issuing authority or the issuing authority's designee may revoke the permit of a police alarm system:
 - (1) If the police alarm system has had eight or more false burglar alarms during the preceding 12-month period; or
 - (2) If the permit holder of the permit for such police alarm system has failed to pay a false alarm penalty assessed pursuant to Section 8-464 above within 30 days after receipt of notice of the assessment of the penalty and the issuing authority or the issuing authority's designee has given the permit holder at least 30 days' prior written notice that the permit will be revoked for failure to pay the penalty; or
 - (3) If the permit holder for such police alarm system has failed to comply with any other provision of Division 2 of this article.

- (b) The use or operation of a police alarm system in the City during a period when the permit for such police alarm system has been revoked shall be an offense under Section 8-461(b).

Sec. 8-470. Indirect alarm reporting.

An alarm systems monitor who is engaged in the business of relaying burglar alarm notifications to the City shall:

- (a) Send a burglar alarm notification to the City by a human operator;
- (b) Report burglar alarm notifications only over a special telephone number, or numbers, designated by the issuing authority; and
- (c) Furnish the name, address and telephone number of an alarm systems monitor licensed by the Texas Board of Private Investigators and Private Security Agencies, responsible on a 24-hour, seven-day a week basis for correcting any malfunction that may occur.

Sec. 8-471. Exclusion of certain police alarm systems.

- (a) Notwithstanding anything contained in this article to the contrary, a property owner or an agent of the property owner authorized to make decisions regarding the use of an alarm site may elect to exclude the City from receiving an alarm signal by a police alarm system located on the owner's property.
- (b) The election made under this Section 8-471 must be in writing and may only be revoked in writing. The election must include the name of the property owner or property owner's agent making the election and the address of the alarm site for which the election is being made. A copy of such election and any revocation of such election must be provided to the issuing authority within five days after the election or revocation.
- (c) No permit will be issued to a property owner or property owner's agent who makes an election under this Section 8-471. No permit fee will be imposed on a property owner or property owner's agent who makes an election under this Section 8-471.
- (d) If an election is made under this Section 8-471, the property owner shall pay a fee of \$250.00 to the City for each law enforcement response to a false burglar alarm from a police alarm system located at such owner's property requested by an alarm systems monitor.
- (e) Notwithstanding anything contained in this article to the contrary, if an election is made under this Section 8-471, the fee(s) payable by the property owner more fully set forth in Section 8-471(d) shall be the only fines, penalties or fees, other than collection fees, payable by such property owner related to the police alarm system for which such election was made.

Sec. 8-516. Administrative hearing.

- (a) A person who has been assessed a fine, penalty or fee under this article may request a hearing on such assessed fine, penalty or fee by filing with the City Manager a written request for a hearing setting forth the reasons the fine, penalty or fee should not have been assessed. Such request for a hearing shall be made within 10 days after receipt of the notice from the issuing authority or the issuing authority's designee that such fine, penalty or fee has been assessed. A hearing shall be held within 30 days after receipt of the request for the hearing unless otherwise agreed to in writing by the person requesting the hearing and the issuing authority or the issuing authority's designee. The hearing may be continued by the hearing officer for good cause upon request by either party or upon the hearing officer's own motion. The request for a hearing with the City Manager stays an action of the issuing authority or the issuing authority's designee relating to such assessed fine, penalty or fee until the hearing officer makes a final decision. If a request for hearing is not made within the 10-day period, the action of the issuing authority or the issuing authority's designee is final.
- (b) The City Manager or the City Manager's designee shall serve as the hearing officer at the hearing. Hearings shall be informal. Evidence as admitted in administrative hearings, generally, shall be admissible. 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 evidence presented at the hearing.
- (c) Absent question of Constitutional deprivations, the finding of the hearing officer shall be final.

Sec. 8-517. Appeal from denial or revocation of a permit.

- (a) If the issuing authority or the issuing authority's designee refuses to issue or renew a permit, or revokes a permit under this article, the issuing authority or the issuing authority's designee shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the action and a statement of the right to appeal. The applicant or permit holder may appeal the decision of the issuing authority or the issuing authority's designee 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 or the issuing authority's designee. The filing of a request for an appeal hearing with the City Manager stays an action of the issuing authority or the issuing authority's designee from revoking 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 or the issuing authority's designee is final.
- (b) The City Manager or the City Manager's designee 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 a decision on the basis of a preponderance of evidence presented at the hearing.

Sec. 8-518. Violation; corporations, partnerships and associations.

- (a) A person commits an offense if the person violates by commission or omission any provision of this article that imposes on the person a duty or responsibility.
- (b) In addition to prohibiting or requiring certain conduct on individuals, it is the intent of this article to hold a corporation, general or limited partnership, limited liability company, unincorporated business, organization, association or any other business entity of any kind criminally responsible for acts or omissions performed by an agent acting on behalf of the corporation, general or limited partnership, limited liability company, unincorporated business, organization, association or any other entity of any kind, and within the scope of the agent's employment.

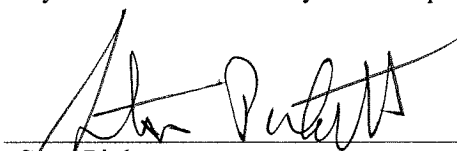
SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 5. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

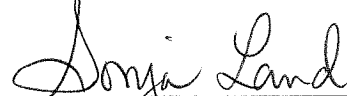
SECTION 6. That this ordinance shall take effect on and after September 19, 2016.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of September, 2016.




Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney