

ORDINANCE NO. 58-2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 20, ARTICLE V, SECTION 20-70, "DEFINITIONS," SECTION 20-71, "PERMIT APPLICATION; ISSUANCE," SECTION 20-72, "FALSE ALARMS, SERVICE FEES GENERALLY," SECTION 20-73, "REVOCATION OF PERMITS," AND SECTION 20-74, "STANDARDS; PROHIBITING AUTOMATIC DIALING AND REVIEW," OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, citizens' burglar alarm systems are a mechanism to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, the City of Abilene Fire Department's regulation of fire alarms is no longer by ordinance; and

WHEREAS, amendments to the City of Abilene burglar alarm ordinance are necessary to allow enforcement of the alarm ordinance in compliance with State law.

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

PART 1: That Chapter 20, Article V, Sections 20-70, 20-71, 20-72, 20-73 and 20-74 of the Code of Ordinances, City of Abilene, Texas, are hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance,

becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 8th day of October, 2015.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 1st day of November, 2015, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 5th day of November, 2015, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 5th day of November, 2015.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:



CITY ATTORNEY

EXHIBIT A

ARTICLE V. ALARM SYSTEMS

Sec. 20-70. Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

Alarm protective service: Any service whereby the person providing such service installs, services, repairs, maintains, sells, replaces, or responds to an alarm system or which causes any of the activities to take place. For the purposes of this article, alarm protective services shall not include any persons engaged solely in the sale of alarm systems designed to cause audible and/or visual signal to be emitted only in or on the premises in which the system is installed.

Alarm system: Any device used to detect or prevent burglary, theft, shoplifting, pilferage, or other such emergency situation which when activated, causes notification to be made directly or indirectly to the police department, or any device or system designed primarily for the purpose of giving an audible or visual signal of an attempted burglary, theft, shoplifting, pilferage, or other such emergency.

For the purposes of this article, an alarm system shall not include:

- (a) An alarm installed on a motor vehicle.
- (b) An alarm installed upon the premises occupied by the United States Government, the State of Texas, the City of Abilene, or any county governments or school districts situated within the corporate limits of the city.
- (c) A fire, smoke and/or carbon monoxide alarm system.

Alarm system user: Any person in control of the property on which an alarm system is maintained within the corporate limits of the city.

Automatic dialing service: An alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

False alarm: An alarm signal eliciting an emergency response when a situation requiring such response does not in fact exist, but does not include alarm signals caused by violent conditions of nature. Equipment malfunction causing a response when a situation requiring such response does not in fact exist shall be considered a "false alarm" for all purposes herein.

Permit: A certificate of authorization issued by the city to the person in control of the property which authorizes the operation of an alarm system.

Permit holder: Any individual, corporation, partnership or other legal entity to whom an alarm system permit is issued.

Person: Any individual, corporation, partnership or other legal entity.

(Ord. No. 50-2005, pt. 1(Exh. A), 10-13-05)

Sec. 20-71. Permit application; issuance.

(a) No person shall operate, cause to be operated, or permit the operation of an alarm system unless a valid permit has been issued by the city for such system. This requirement shall not be applicable to private businesses or private institutions that employ their own internal security or police department. Additionally, this requirement shall not be applicable to an alarm protective service, but is applicable only to the person in control of the property, which the alarm system is designed to protect. An alarm system user shall be in violation of this article if he permits the operation of such a system without a permit.

(b) An alarm system permit holder, or his agent shall obtain a permit for each alarm system(s) operated at the site of the protected property. Each permit shall be valid for one year from the date of issuance and shall expire on the last day of the month of issuance. The annual fee for an alarm system permit for a residential location and for a commercial location will be set by city council resolution. The city will notify each permit holder that their permit must be renewed and each permit holder shall be responsible for renewing and updating each system permit and application. Permits may be renewed at designated locations, determined by the city during regular business hours anytime during the permit expiration month. Failure to renew and update each system permit and application within thirty (30) days of notification of expiration may result in cancellation of the alarm system permit.

(c) Application for a permit for the operation of an alarm system shall be made at designated locations, determined by the city, by the person having control over the property on which the alarm system is to be installed and operated or by his agent. Application shall be made in writing on a form designated by the city. On such application form, the applicant shall set forth:

(1) The name, address, and telephone number of each person in control of the property to be protected.

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

(3) A brief description of the type of property to be protected and the type of alarm system to be installed.

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

(5) Name, address, and telephone number of the alarm protective service who will install and service the alarm system.

(6) Names and addresses of two (2) or more persons who are able to and have agreed to receive notification at any time, to go to the alarm system site to grant access to the alarm site and deactivate or reset the alarm system.

(7) A signed agreement by the applicant, assuring that for each activation of the alarm system for which he is seeking a permit, he will go, or cause his agent or representative to go, to the site of the alarm system to allow police personnel access and deactivate or reset the alarm system.

(8) Any other information required by the city, which is necessary for the enforcement of this article.

(d) The city shall issue a permit to the individual, corporation, partnership or other legal entity in control of the property to be protected upon submission of a completed application and payment of the appropriate fees, unless any statement made on the application is incomplete or false.

(e) The city, to the extent permitted by applicable law, and except as contractually required with third-party alarm system vendors, shall treat all information on the application as confidential.

(f) Any permit issued pursuant to this section shall be applicable only to the permit holder and is not transferable.

(g) Each permit issued to an alarm system user shall be valid until such time as one of the following occurs:

(1) Control of the property is transferred from the permit holder;

(2) Permit holder voluntarily discontinues services provided by a particular alarm protective service, and/or disconnects the alarm system;

(3) Revocation of the permit by the city pursuant to section 20-73; or

(4) The city, upon thirty (30) days' notice, terminates the permit for nonrenewal of the annual permit.

(h) After the effective date of this article, fees will be revised, as needed, by city council resolution. The revised fees will then be placed on file in the office of the city secretary.

(Ord. No. 50-2005, pt. I(Exh. A), 10-13-05)

Sec. 20-72. False alarms; service fees generally.

(a) False burglar or robbery alarm. Except as provided by subsection (d), the following service fees will apply for false activation of the burglar mode of an alarm system.

- (1) The city will assess a service fee set by city council resolution, but not more than fifty dollars (\$50.00), to the permit holder for each response by the city to notification of activation of the burglar mode of an alarm system which is determined to be a false alarm as defined by section 20-70 if the location has had more than three but fewer than six other false alarms in the preceding twelve-month period.
- (2) The city will assess a service fee set by city council resolution, but not more than seventy-five dollars (\$75.00), to the permit holder for each response by the city to notification of activation of the burglar mode of an alarm system which is determined to be a false alarm as defined by section 20-70 if the location has had more than five but fewer than eight other false alarms in the preceding twelve-month period.
- (3) The city will assess a service fee set by city council resolution, but not more than one hundred dollars (\$100.00), to the permit holder for each response by the city to notification of activation of the burglar mode of an alarm system which is determined to be a false alarm as defined by section 20-70 if the location has had eight or more other false alarms in the preceding twelve-month period.

(b) The city may revoke the permit pursuant to section 20-73 of this article or assess a service fee of no more than one hundred dollars (\$100.00) to the permit holder for each alarm system activation to which he does not go, or cause his agent or representative to go, when requested by the police, to allow police access and deactivate or reset the alarm system.

(c) After the effective date of this ordinance, fees will be revised, as needed, by city council resolution. The revised fees will then be placed on file in the office of the city secretary.

(Ord. No. 50-2005, pt. 1(Exh. A), 10-13-05)

Sec. 20-73. Revocation of permits.

(a) The City is authorized to revoke or refuse to renew an alarm system permit if the chief of police or his designee determines that:

- (1) There is a false statement of material matter on the application for a permit;
- (2) The permit holder has violated this article or any of its provisions;
- (3) The permit holder has failed to renew an expired permit within thirty (30) days of notice of such expiration;
- (4) The permit holder has failed to make timely payment in full of a service fee assessed under section 20-72;
- (5) The alarm system has had eight (8) or more false burglar mode alarms in the preceding 12-month period.

(b) It shall be unlawful for any person to:

- (1) Operate an alarm system during the period in which his alarm system permit is revoked or expired; or
- (2) Cause or permit another to operate an alarm system, knowing that the alarm system permit is revoked or expired.
- (3) Such offense shall be a misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) per offense.

(c) At the discretion of the city, emergency response to a permit holder's alarm system site may be terminated if the permit holder fails to pay the section 20-72 false alarm fees in full within thirty (30) days of notice.

(Ord. No. 50-2005, pt. 1(Exh. A), 10-13-05)

Sec. 20-74. Standards; prohibiting automatic dialing and review.

(a) The city may set reasonable standards and procedures to be followed by any alarm protective service when giving notice to the city of activation of an alarm system. Such standards and procedures shall be set out in writing and made available to any alarm system business requesting same.

(b) 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 communication center of the police department and then transmits any prerecorded message or signal.

(c) If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the city 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.

(d) Each permit shall be numbered and the holder thereof shall present such number to the city upon request or as set out in standards promulgated by the city. Alarm protective services, as defined in section 20-70, shall obtain the permit numbers of their customers and provide such numbers in accordance with the above.

(Ord. No. 50-2005, pt. 1(Exh. A), 10-13-05)

Sec. 20-75. Change in required information.

Should any change occur in any of the information required in the application for a permit under this article during the term of the permit, the permittee shall, within ten (10) days of the change

of such information, give written notification to the city of such change in order that the information required and furnished on the permit application will be kept current at all times. Violations of this section may result in revocation pursuant to section 20-73 of this article.

(Ord. No. 50-2005, pt. 1(Exh. A), 10-13-05)