

ORDINANCE NO. 411

AN ORDINANCE OF THE CITY OF MANOR, TEXAS, REGULATING COMMERCIAL AND RESIDENTIAL ALARM SYSTEMS; PROVIDING FOR PERMITS & FEES; REVOCATIONS/PENALTIES; RENEWALS; AND POLICIES AND PROCEDURES FOR POLICE; PROVIDING DEFINITIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

Whereas, residents of the City of Manor (“City”) frequently install alarm systems to prevent burglary and assist in other emergency situations and when alarm systems are properly installed and maintained they can give peace of mind to the users; and

Whereas, alarm systems that are not properly maintained or the resident is not properly instructed in the operation of the alarm may result in a false alarm occurring; and

Whereas, false alarms constitute a large number of responses from police, fire and EMS in the City and these calls result in many unnecessary calls for service and take officers from pro-active police work, and add to the expense of those departments that respond, constituting a negative impact on the economic and physical resources of the City; and

Whereas, Texas Local Government Code, Section 214.191 authorizes municipal permits for certain alarm systems; and

Whereas, the City Council of the City recognizes that the unregulated operation of emergency alarm systems diminishes the efficiency and effectiveness of the City’s police force; and

Whereas, it is necessary and reasonable for the City to regulate the use of emergency alarm systems in order to preserve and protect the public services and safety of the residents of the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS, THAT;

SECTION 1. FINDINGS. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. ORDINANCE. The City of Manor, Texas, elects to adopt an ordinance pertaining to the regulation of emergency alarm systems as follows:

ALARM SYSTEMS

Section 1. Definitions. For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM ADMINISTRATOR means the “Chief of Police” or any person designated by the Chief to administer the provisions of this Chapter.

ALARM NOTIFICATION means a notification intended to summon the police, which is designed either to be initiated purposely by a person, by an Alarm System that responds to a stimulus characteristic of unauthorized intrusion, or by an automatic or manual response to an incident which is intended to summon emergency services of the City. “ALARM NOTIFICATION” does not include recorded messages to any police station, which are prohibited.

ALARM SITE means the specific property served by an Alarm System that is under the control of one or more owner, tenant or lesser.

- (a) Residential site means a single family residence and each unit in a multi-unit building or complex that is served by an Alarm System.
- (b) Commercial site means every premises or location where any business activity is regularly conducted and that is served by an Alarm System. Each unit of a

business premises or business location, if served by a separate Alarm System in a multi-unit building or complex, shall be considered a separate commercial Alarm System site.

ALARM SYSTEM means any electrical, mechanical, or electronic device or assembly of equipment that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon, by direct or indirect means, the aid of emergency services of the City. Such systems are “categorized” as to the following types or combinations of types.

- (a) residential burglar alarm
- (b) residential medical emergency alarm
- (c) residential duress alarm
- (d) commercial burglar alarm
- (e) commercial holdup alarm

For purposes of this Ordinance, the following types of Alarm Systems are exempted:

- (a) An Alarm System installed in a motor vehicle, unless the vehicle is used for habitation and permanently located at a site;
- (b) An Alarm System designed to alert only the inhabitants of the premises which does not have a local alarm;
- (c) An Alarm System installed upon premises occupied by the United States Government;
- (d) An Alarm System designed solely to detect or give notice of fire, Smoke, or carbon dioxide; and
- (e) Any communication device not designed solely for alarm notification.

ALARM SYSTEM BUSINESS means any person who or entity that sells, installs, services, monitors, or responds to Alarm Systems.

AUTOMATIC DIAL means any device connected to an Alarm System which automatically sends a prerecorded message or coded signal indicating the activation of the Alarm System to a predetermined location.

CHIEF OF POLICE means the Chief of Police of the City, his Assistant Chief or any representative designated by the Chief as Alarm Administrator.

DISCONNECT means to render an alarm disabled so as to prevent any direct or indirect notification to the Police Department by a silent or local alarm.

EXPIRED PERMIT an invalid permit due to an expiration of the term of the Permit period defined herein.

FALSE ALARM NOTIFICATION means an alarm notification to the Police Department, when the responding officer or a subsequent investigation, finds no evidence of unauthorized intrusion, an attempted unauthorized intrusion, robbery, attempted robbery or other illegal activity for which the alarm was intended to report.

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.

MASTER ALARM PERMIT means a Permit issued to the owner or property manager of a residential apartment complex which has an Alarm System operated in one or more of the individual residential units. The fees for a Master Alarm Permit shall be the same as those for an alarm permit.

PERSON means an individual, corporation, partnership, association, organization or any legal entity.

RELAYING INTERMEDIARY means any person who reports the activation of an alarm to the Police Department for compensation.

Section 2. Permit and Fee Required

(a) **Permit:**

- (1) No person shall operate, or cause to be operated, an Alarm System at its alarm site without a valid alarm Permit. A separate alarm Permit is required for each alarm site.
- (2) An Alarm System may not be operated without a Permit issued by the Chief of Police.
- (3) Upon enactment, Permits shall be issued for new systems conforming to the Security Industry Association (SIA) Control Panel Standard with features for False Alarm Reduction.
- (4) Existing systems at the time of enactment not conforming to SIA, not conforming to the requirements of state law, shall be permitted or renewed within the guidelines of this ordinance until such time as such systems are significantly modified or converted; or taken-over by another Alarm Company. On or after January 1, 2007, Permits for new installations of such systems with a detection device control panel, such device shall meet or exceed the standards of the American National Standards Institute for false alarm reduction.
- (5) A separate Permit is required for each alarm site.
- (6) The Permit holder shall keep the alarm Permit at the alarm site and shall produce such Permit for inspection upon request of any member of the Police Department.
- (7) If the Permit holder does not advise the Police Department that they have relinquished control of the alarm site, and cancel their Permit; the Permit holder is responsible for outstanding fees associated with that Permit.

(b) **Apartment Complexes.**

- (1) The owner or property manager of an apartment complex shall obtain a Master Alarm Permit if any Alarm System is operated in any residential unit

on the premises, whether the Alarm System is furnished by the apartment complex owner or contracted for by an individual tenant.

- (2) A tenant of an apartment complex shall obtain a Permit before operating or causing the operation of an Alarm System in his/her residential unit.
- (3) The Permit of the tenant supersedes the Master Permit of the apartment complex, and the tenant is responsible for payment of fees for false alarm notifications emitted from the Alarm System in the tenant's unit. The Master Alarm Permit holder is responsible for payment of service fees for false alarm notifications emitted from unoccupied units or where no Permit has been obtained by the tenant.
- (4) The owner or property manager of an apartment complex shall obtain a separate alarm Permit for any Alarm System operated in a nonresidential area of the apartment complex, including, but not limited to , common tenant areas and office, storage and equipment areas.

(c) Fees:

- (1) Fees for the implementation of this ordinance are hereby established and set out in the City's fee schedule ordinance.
- (2) No fee under this ordinance for a residential location will exceed \$50 as provided for in the Texas Local Government Code, Chapter 214 or exceed the limits that may be set by subsequent amendments to the law.
- (3) All fees under this ordinance shall be set herein and such fees shall only be utilized to off-set costs associated with the implementation, enforcement, personnel training, and general administration of this Ordinance by the police department.
- (4) A late payment fee will be charged for fees not paid on time.
- (5) The Permit holder of record shall pay Permit fees incurred under such Permit including false alarm fees.

(d) False Alarm Notification Fee.

- (1) The holder of an alarm Permit shall pay a false alarm notification fee, as provided for in the fee schedule found in the City's fee schedule ordinance of this Ordinance for each false alarm notification indicating that a burglary has occurred that such fees shall begin and be collected in instances where the calls for service totals from an alarm site is in excess of three false alarms within any 12-month period.
- (2) This fee is in addition to any criminal penalty that may be imposed by this ordinance.
- (3) For any alarm notification for which a fee is assessed, the Chief of Police has the authority to investigate the circumstances of the alarm, and may waive the payment of the fee. Police responses in excess of 30 minutes response time shall not result in a "false alarm" incident for the purposes of this Ordinance's associated fees.

Section 3. Permit Application and Term; Renewal and Term, Late Fee.

- (1) An application for a Permit shall be made by a person who owns, leases, resides at, or manages the alarm site.
- (2) The application shall be submitted to the Police Department on a form provided by the Department and shall be accompanied by the application fee set forth in the fee schedule.
- (3) An alarm Permit is issued to an individual or corporate entity and is nontransferable and nonrefundable.
- (4) The date of issuance will be the date the Permit is issued.
- (5) If the Police Department has responded to a false alarm at the alarm site, date of issuance will be the date of the first call to any such false alarm and shall be for a period of one (1) year from that date. A Permit shall be issued for a one-year period.
- (6) Renewal permit applications are to be submitted to the Police Department not less than thirty (30) days prior to expiration.
- (7) A late fee will be assessed for applications submitted after the permit expires.
- (8) The term of the renewal is one year.

Section 4. Grounds for Denial or Revocation of Permit.

- (a) Permit Denial: The Alarm Administrator may deny a Permit for:
 - (1) Any false statement on the application; or
 - (2) Any false statement by applicant in connection with the application; or
 - (3) An applicant has failed to pay a fee assessed under Section 5 of this ordinance, or has had an alarm site revoked, and the violation causing the revocation has not been corrected.
- (b) The Alarm Administrator shall revoke an alarm Permit if he/she determines that:
 - (1) There was a false statement made in the application for the Permit.
 - (2) The Permit holder has had three false alarm notifications within a twelve month period.
 - (3) The Permit holder has failed to make payment of any fees assessed under this ordinance.
 - (4) The Permit holder does not maintain the Alarm System in a manner that minimizes false alarm notifications or ensures proper operation of the Alarm System and such actions result in eight or more false alarms in the preceding 12-month period.

Section 5. Appeal From Denial or Revocation of Permit.

- (a) If the Alarm Administrator refuses to issue a Permit or revokes a Permit, the Alarm Administrator shall notify the applicant or holder by certified mail, return receipt requested. The applicant or holder may appeal the decision by filing a notice of appeal with the Alarm Administrator. This notice setting forth the reasons for appeal must be received within ten calendar days of the mailing of the notice of refusal or revocation. For revocations, the notice must state that

revocation will occur on the tenth day after the mailing of the notice. The receipt of the notice of appeal will stay the revocation of the Permit. If the notice of appeal is not timely, the revocation is final. Failure to pick up a properly-addressed certified letter is no defense.

- (b) The City Manager will designate a hearing officer to hear the appeal. At the hearing the formal rules of evidence do not apply. The hearing officer shall make his decision on the basis of preponderance of the evidence presented. The hearing officer must render his decision on the basis of preponderance of the evidence presented. The hearing officer must render a decision within three (3) business days after the appeal is filed. The hearing officer may affirm, reverse, or modify the action of the Alarm Administrator. The decision of the hearing officer is final.

Section 6. Reinstatement of Permit

A Permit may be reinstated by the Alarm Administrator when the revoked Permit holder pays the application fee and shows:

- (1) All required fees have been paid; and
- (2) The Alarm System is operated in accordance with the requirements of this Ordinance.

Section 7. Policies and Procedures.

The Alarm Administrator shall institute policies and procedures to implement this ordinance. The Chief of Police shall institute policies and procedures for responses to any Alarm Systems.

Section 8. Police Response.

- (a) The response, if any, made to a signal from a permitted Alarm System shall be subject to the policies and procedures of the Police Department and will be in accordance with the priorities set for police response.
- (b) The issuance of a Permit authorizing the use of an Alarm System is not intended to nor shall it create a contract, either express or implied, nor does it create a duty or guarantee of response by the Manor Police Department.
- (c) Any and all liability and consequential damages resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained.

Section 9. Operation, Maintenance of Alarm Systems

- (a) A Permit holder shall:
 - (1) Maintain the premises containing an Alarm System in a manner that ensures proper operation of the Alarm System;
 - (2) Maintain the Alarm System in a manner that will minimize false alarm notifications;

- (3) Respond or cause a representative to respond within thirty minutes when notified by the city to repair or inactivate a malfunctioning Alarm System, to provide access to the premises, or to provide security for the premises;
 - (4) Not manually activate an Alarm System for any reason other than occurrence of an event that the Alarm System was intended to report;
 - (5) Utilize “relaying intermediaries” for residential Alarm Systems of all classification types; and
 - (6) Utilize “relaying intermediaries” for commercial Alarm Systems of all classification types.
- (b) A Permit holder of a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than 15 minutes after being activated.

Section 10. Duties of Installation Companies

The Alarm System installation company shall provide written and oral instructions to each of its alarm users concerning the proper use and operation of the Alarm System. Such instructions shall specifically include all instructions necessary to turn the Alarm System on and off and to avoid False Alarms.

Section 11. Violations

- (a) No person shall operate, cause to be operated or allow the operation of an Alarm System:
- (1) Without a valid Permit issued under the provisions of this ordinance; or
 - (2) Without being in compliance with the procedures and provisions of this ordinance; or
 - (3) That automatically dials the 911-Emergency Communications System.or
 - (4) Without due regard for maintaining such the system in a manner which minimizes false alarm notifications.
- (b) No person shall knowingly cause a false alarm to be activated.
- (c) No person shall operate or allow to be operated an Alarm System that sends a pre-recorded message to any police station.

Section 12. General Penalty.

- (a) Except as provided in Section 18, any person who shall violate any of the provisions of this Ordinance, or fail to comply therewith, or with any requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed more than \$500 but not less than \$50 upon first conviction, and not less \$100 upon second and subsequent convictions. For the purpose of this

Ordinance, a finding of guilty or the placement on deferred disposition for violation of this Ordinance constitutes a conviction. For continuing violations, each day or portion of a day during which the violation is committed or continued constitutes a separate offense.

- (b) It shall be a Class C Misdemeanor for any person to knowingly cause any category of false alarm notification to be activated. Such an incident may be prosecuted as a violation of Texas Penal Code §42.06, "False Alarm or Report", a Class A Misdemeanor or State Jail Felony depending on the circumstances.
- (c) Proof of a culpable mental state is not required to establish a violation of this ordinance.

Section 13. False Alarm Notifications; Penalty.

- (a) It shall be unlawful for any person who owns, leases, or is in control of a property or structure equipped with an Alarm System to permit or fail to prevent the occurrence of more than three false alarm notifications within any consecutive 12-month period.
- (b) For any false alarm notification for which a fine is assessed, the Chief of Police has the authority to investigate the circumstances of the alarm, and may waive the payment of the fine.
- (c) The fine for a violation of this section shall be as follows:
 - (1) \$50.00, if the property or structure has had more than three but fewer than six other false alarm notifications in the preceding 12-month period.
 - (2) \$75.00, if the property or structure has had more than five but fewer than eight other false alarm notifications in the preceding 12-month period;
 - (3) \$100, if the property or structure has had eight or more other false alarm notifications in the preceding 12-month period.
- (d) Before a penalty may be imposed on a person who owns or is in control of an apartment complex, condominiums, or other multiunit housing facility, the person shall be notified of the date of the false alarm notification; the address of the apartment complex, condominiums, or other multiunit housing facility where the false alarm notification occurred; and the identification of the individual unit within the apartment, condominium, or other multiunit housing facility where the false alarm notification occurred.

SECTION 2. SAVINGS CLAUSE. All rights and remedies of the City of Manor are expressly saved as to any and all violations of the provisions of any ordinances affecting alarms, alarm fees, and alarm penalties within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and

criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. AMENDMENT. All parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

SECTION 6. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

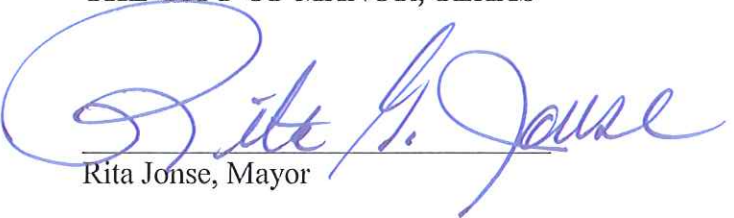
PASSED AND APPROVED on this the 18th day of September, 2013.

ATTEST:

THE CITY OF MANOR, TEXAS



Steve Shanks, City Manager



Rita Jonse, Mayor