

TOWN OF FAIRVIEW, TEXAS

ORDINANCE NO. 2022-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, AMENDING THE CODE OF ORDINANCES, TOWN OF FAIRVIEW, TEXAS, CHAPTER 4 "BUSINESS REGULATIONS," ARTICLE 4.05 "ALARM SYSTEMS," AND PROVISIONS THEREIN; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Fairview, Texas Town Council ("Town Council") recognizes that the regulations related to alarm systems within the Town is beneficial for safe and orderly law enforcement efforts; and

WHEREAS, the Town Council has in the past adopted regulations regulating alarm systems and fees and penalties related to permits, false alarms, and related matters; and

WHEREAS, the Town Council has determined that it should amend certain provisions in the Code of Ordinances, Town of Fairview, Texas, (the "Fairview Code") regarding alarm system to clarify certain matters including but not limited to false alarms, penalties and permit application fees.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:

Section 1. The above-stated recitals are incorporated herein as if set forth in full for all purposes.

Section 2. The Town Council hereby approves and adopts amendments to the provisions of Chapter 4 "Business Regulations," Article 4.05 "Alarm Systems," as said amendments are set forth in the document attached to this ordinance as Exhibit "A," incorporated herein for all purposes.


Section 3. The sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the Town Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 4. It shall be a Class C misdemeanor to violate any provision of this ordinance or the regulations adopted hereunder. The amount to be paid upon conviction shall not exceed the amount set forth and as applicable in the Fairview Code or in said regulations, or the highest

amount allowed by law, whichever is lower. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

Section 5. This ordinance amendment shall take effect upon passage and publication, and it is accordingly so ordained.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, this 1st day of November 2022.


Henry Lessner, Mayor
Town of Fairview

ATTEST:


Tenitrus Bethel, Town Secretary

APPROVED AS TO FORM:



Clark McCoy, Town Attorney



EXHIBIT “A”

ARTICLE 4.05 ALARM SYSTEMS

Division 1. Generally

Sec. 4.05.001 Findings

- (a) The town council hereby finds and determines that it is necessary and in the best interest of the town and its citizens to require an annual limit on false alarms.
- (b) The town council hereby finds and determines that it is necessary and in the best interest of the town and its citizens to establish procedures and fees for false alarms.
- (c) Texas Local Government Code, ch. 214, subch. F-1, provides for the regulation of burglar alarms by municipalities.

Sec. 4.05.002 Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm site. A location or premises served by an alarm system.

Alarm system. A device or system that transmits a signal intended to summon police or other emergency services of the town. The categories of alarm systems are robbery, burglary, fire, emergency medical assistance, and emergency assistance/personal distress. The phrase includes ~~includes~~ an alarm designed to emit an audible signal on the exterior of a structure that may or may not be monitored by an alarm system company. ~~Does but does~~ 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 structure.

Alarm system company. Any person or company that sells, installs, services, monitors, or responds to burglar alarm signal devices, burglar alarm television cameras, still cameras or any other electrical, mechanical, or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage, or other losses of that type; to prevent or detect intrusion; or primarily to detect and summon aid for other emergencies, and includes person relaying alarm notifications.

Alarm systems monitor. means a person who acts as an alarm systems company under Section 1702.105, Occupations Code.

Burglar alarm. An alarm system designed to provide notification of unauthorized intrusion.

Calendar year. ~~The annual time period beginning on January 1st and ending December 31st.~~

Director. The police chief or fire chief or his or her authorized representative.

Emergency assistance/personal distress alarm. An alarm system designed to provide notification of an emergency other than a robbery, burglary, fire, or emergency medical [assistance].

Emergency medical assistance alarm. An alarm system which summons emergency medical assistance.

False alarm. An alarm system's transmission of a signal to summon an emergency response to the alarm site, if found by the responding individual(s) or by a director to be false in accordance with section 4.05.007 of this article.

Fire alarm. An alarm system, including but not limited to a manual fire alarm box, automatic fire detector, water-flow switch or other device, designed to provide notification of a fire or fire signature.

Fire department. The fire department, to include mutual aid response agencies and other responding law enforcement agencies.

Local alarm. An alarm system that emits a signal at an alarm site that is audible from the exterior of a structure.

Panel alarm. An alarm system that is directly monitored by the police communications department.

Permit. A certificate, license, permit, or other form of permission that authorizes a person to engage in an action.

Police department. The police department, to include mutual aid response agencies and other responding law enforcement agencies.

Robbery alarm. An alarm system designed to provide notification of a robbery by means of a device designed to be purposely activated by an individual.

Sec. 4.05.003 Penalty

Any person, firm, corporation or business entity violating this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding ~~\$250.00~~\$50.00, and ordered to pay applicable court costs. Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this article shall not preclude the town from filing suit to enjoin the violation. The town retains all legal rights and remedies available to it pursuant to local, state and federal law.

Sec. 4.05.004 Responsibilities of property owner or occupant

(a) Generally. A property owner and/or occupant with an alarm system must:

- (1) Adjust or modify the sensory mechanism of his or her alarm system to suppress false indications of force so that the alarm system will not be activated by impulses due to:
 - (A) Transient pressure changes in water pipes;
 - (B) Flashes of light;
 - (C) Wind noise caused by the rattling or vibrating of doors or windows;
 - (D) Vehicular noise adjacent to the installation; and/or
 - (E) Other forces unrelated to actual emergencies.
- (2) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system. It is the responsibility of the alarm permit holder to properly maintain the alarm system to prevent false activations. Should an alarm site have more than three activations within 30 days, an inspection of the alarm system will be required, by a licensed repairman. The director must receive a written copy of the repairman's findings of the inspection within 30 days from the date of the inspection.
- (3) If a property owner/occupant or an emergency contact person is contacted to inspect an unsecured building or residence, and fails to respond to the scene in the allowed time of 30 minutes from time of call to secure the building or residence, the town is not responsible for loss and/or damage.

(b) Automatic alarm notifications. A property owner/occupant whose alarm system transmits automatic alarm notifications directly to the town over the normal telephone system shall:

- (1) Transmit the alarm in the form and content specified by the town;
- (2) Transmit over telephone lines designated for such use;
- (3) Design the system so that it will notify the property owner/occupant, or his or her designated agent, when an alarm is transmitted to the town;
- (4) Furnish the town with the name, address, and telephone number of a licensed alarm company responsible for correcting any alarm malfunction that may occur.

(c) Reporting alarm signals through relaying intermediary person. A property owner/occupant shall not report his or her signals through a relaying intermediary person that does not meet the requirements of this article.

Sec. 4.05.005 Responsibilities of persons relaying alarm notifications

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

- (1) Send notification of an alarm to the owner by an individual;
- (2) Keep his or her business premises locked and secured at all times;
- (3) Allow an inspection of his or her business premises by authorized agents of the town at any time;
- (4) Report alarms only to a telephone number, or numbers, designated by the town;
- (5) Send alarm notifications to the town in a manner and form determined by the town;
- (6) Maintain sufficient staff to ensure that valid alarms are relayed immediately to the town;
- (7) Inform their customers of permit requirements; and
- (8) Relay current permit numbers with all alarm notifications.

(b) An alarm system company may not be assessed (per the Texas Occupations Code) a service fee for incorrect permit number(s) relayed to the town with an alarm notification.

Sec. 4.05.006 Local alarms

(a) A person in control of a local alarm must:

~~(1) — Adjust adjust the mechanism so that an alarm signal will sound for no longer than 20 minutes after being activated;~~

~~(1) Display in a prominent exterior location an identification notice provided by the director.~~

(b) A person in control of a local alarm or alarm system that causes an alarm notification to be sent directly to the town shall adjust or modify 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 at the alarm site.

Sec. 4.05.007 Determination of false alarms

(a) As relates to an alarm system intended to summon police of a municipality in response to a burglary as such alarm system is defined in Texas Local Government Code Section

214.191, a false alarm means a notification of possible criminal activity reported to law enforcement:

- (1) that is based solely on electronic information remotely received by an alarm systems monitor;
- (2) that is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and
- (3) concerning which an agency of the town has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

(b) As relates to an alarm system not described by subsection (a), above, a false alarm means a notification of activity reported to an agency of the town:

- (1) whether or not based on electronic information remotely received by an alarm systems monitor;
- (2) that is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and
- (3) concerning which an agency of the town has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

(c) Notwithstanding the foregoing or any other provision of this article, the ~~The~~ town shall not consider an alarm notification to be false if it determines that the alarm was caused by:

- (1) A natural or man-made catastrophe;
- (2) Severe weather that causes physical damage to the premises;
- (3) Vandalism;
- (4) Telephone line outage;
- (5) Attempted unlawful entry or attempted robbery; or
- (6) In high-risk of loss of life occupancies where a fire alarm was:
 - (A) Caused by undetermined means; or
 - (B) Caused by conditions not under control of the building management such as manual false alarms or smoking.

- (d) Notwithstanding the foregoing or any other provision of this article, an alarm cannot be determined to be false alarm unless the town or responding law enforcement agency arrives at the address of the alarm within 30 minutes of its notification and the agency responding determines from an inspection of the interior or the exterior of the premises that the alarm was false.
- (e) The determination of the director in classifying an alarm notification as false or actual is final.

Sec. 4.05.008 ~~Service fees~~ Penalties for false alarms

- (a) Payment; late charge. A property owner must pay any ~~service fee~~ penalties assessed under the provisions of this section within 30 days after receipt of notice that it has been assessed by the director. If the assessed ~~fees~~ penalties become 90 days delinquent, a 10% late charge will be added.
- (b) False alarms. For each alarm system requiring a person to hold a permit, that person will be assessed a penalty fee for a false alarm if at least three other false alarms have occurred at that location during the preceding 12-month period. The amount of the penalty for the report of a false alarm shall be: each false alarm in excess of five false alarms by that alarm system during any calendar year. This fee will be \$50.00 for each such false alarm.
 - (1) \$50.00, if the location has had more than three but fewer than six other false alarms during the preceding 12-month period;
 - (2) \$75.00, if the location has had more than five but fewer than eight other false alarms during the preceding 12-month period; or
 - (3) \$100.00, if the location has had eight or more other false alarms during the preceding 12-month period.
- (c) As relates to an alarm system intended to summon police of a municipality in response to a burglary as such alarm system is defined in Texas Local Government Code Section 214.191, a penalty shall not be assessed under this subsection if reasonable visual proof of possible criminal activity recorded by an alarm systems monitor is provided to the town or responding law enforcement agency before the inspection of the premises occurs.
- (d) For the report of a false alarm by an alarm systems monitor on a person who has not obtained a permit for the alarm system in accordance with the provisions of section 4.05.031, that person shall be assessed a penalty of \$250.00 for each false alarm.
- (e) The town:
 - (1) shall impose a penalty of \$250 for the report of a false alarm on a person not licensed under Chapter 1702, Occupations Code, that to any extent is reported or facilitated by the unlicensed person; and

- (2) shall not impose a penalty for the report of a false alarm on an alarm systems monitor, except that an alarm systems monitor may be prosecuted for each violation of section 1702.286 of the Texas Occupations Code as amended.

Secs. 4.05.009–4.05.030 Reserved

Division 2. Permit

Sec. 4.05.031 Application; issuance; transfer

- (a) A Permit is required to be obtained for any person to operate or maintain an alarm system that is subject to this article. Each application for a permit required under this article must contain the following information:
- (1) Name, address and telephone number of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of the fees, if applicable, as assessed under this article.
 - (2) The street address of the property on which the alarm system is to be installed and operated.
 - (3) Classification of the alarm site as either residential, commercial, multifamily, religious/church/school, ~~or~~ governmental or any other type of unit (except if town owned or operated) and whether the alarm site includes any accessory or appurtenant structures, areas or uses.
 - (4) Any business name or title used for the premises on which the alarm system is to be installed or operated.
 - (5) The name of two other persons who have agreed to respond to an alarm in the event the permit holder is not available.
 - (6) Any other information required by the director which is necessary for the enforcement of this article.
- (b) Application for a permit under the provisions of this section constitutes a grant of approval for members of the police department to conduct a search for intruders or the fire department to conduct a search for injured or ill persons in the interior of any building on the alarm site found to be unsecured when responding to the alarm site as a result of an alarm notification.
- (c) 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 of refusal to grant, or revocation of, a permit under this section.

- (d) Upon receipt of a completed application form for a permit and payment of any permit/renewal fees, late fees or charges, penalties, and/or fines currently due, the director shall issue a permit unless there is cause to believe the equipment responsible for initiating an alarm will not be maintained or operated in accordance with this article or the applicant will not comply with each provision of this article. Burglary/robbery panel alarms will be limited to financial institutions.
- (e) An alarm permit cannot be transferred to another person. However, the individual(s) designated to respond to an alarm or relay an alarm may be changed. A permit holder must inform the director of any change that alters the information listed on the permit application. No fee will be assessed for such changes.
- (f) For purposes of this section, information contained in the permit application will be used for law enforcement purposes and will become part of the police department's records. Therefore, all information contained in any permit application shall be deemed confidential, pursuant to Tex. Gov't Code, ch. 552 and Texas Occupations Code Section 1702.284~~House Bill No. 859 (73rd Texas Legislature)~~, and said information contained in the permit application shall not be subject to public disclosure.

Sec. 4.05.032 Fees

- (a) There shall be a permit fee of \$50.00 assessed for each installation of a residential alarm permitted under section 4.05.031. This includes individual residential units in a multiunit residential housing facility, also referred to as a multifamily facility.
- (b) There shall be a permit fee of \$100.00 assessed for each alarm system or panel alarm installed in each commercial establishment or other non-residential alarm system locations under section 4.05.031.
- (c) Alarm system permits and panel alarm permits must be renewed each year during the month of January in accordance with subsection (d) regardless of when the original permit was issued, with a renewal permit fee of:
 - (1) ~~\$100.00~~\$50.00 for each alarm system or panel alarm in commercial establishments or other non-residential alarm system locations; and
 - (2) ~~\$50.00~~\$25.00 for each residential alarm system ~~or panel alarm~~.
- (d) Late Fee for Renewal. All renewal permit fee(s) required to be paid under subsection (c) of this section are due January 1 of each year; provided, however, that there is a 30-day grace period and no late fee will apply unless said renewal permit fee(s) are not paid on or before January 31 of the year they become due. Renewal permit fee(s) paid after January 31 will be considered late and incur a late fee of 25% of the permit fee(s).

Sec. 4.05.033 Denial or revocation

The director may deny, revoke or refuse to renew a permit if the alarm system in question: (1) has had eight or more false alarms during the previous 12-month period; or (2) for nonrenewal (including failure to pay required permit fees, late fees, penalties, and/or fines). Revocation or refusal to renew may not occur until after the director has provided at least 30 days' notice to the permit holder. The notice shall be sent to the applicant or permit holder by certified mail, return receipt requested, setting forth the reason for such action and advising the applicant or permit holder of the right of an appeal. The applicant or permit holder may appeal the decision of the director to the appeal hearing official (to be designated by the town manager) by filing with the town secretary a written request for a hearing, setting forth his or her objections to the action of the director, within ten days after receipt of the notice from the director. The timely filing of a request for an appeal hearing with the town secretary shall stay the action of the director in denying the issuance of or revocation of a permit until a final decision on the appeal is made by the appeal hearing official.

Sec. 4.05.034 Penalty for operation without permit

A person commits an offense if he or she operates any alarm system as defined in this article without having a valid permit in accordance with the provisions of section 4.05.031, and upon conviction in the municipal court of the town shall be punished by a fine not to exceed ~~\$50.00~~\$250.00 for each offense and ordered to pay applicable court costs. Each and every day such violation shall continue shall be deemed to constitute a separate offense. It is an affirmative defense to prosecution that, prior to any resultant court date for the violator, the violator obtains an alarm permit from the town.