

ORDINANCE NO. 11-2988

AN ORDINANCE AMENDING THE BEDFORD CODE OF ORDINANCES CHAPTER 50, ARTICLE II "ALARM SYSTEMS;" AMENDING DEFINITIONS; PROVIDING FOR ALARM SYSTEMS AND THAT PERMIT REQUIRED; PROVIDING FOR PROPER ALARM SYSTEM OPERATION AND MAINTENANCE; PROVIDING THAT DIRECT ALARM REPORTING PROHIBITED WITH CERTAIN EXCEPTIONS; PROVIDING FOR PROTECTION OF FINANCIAL INSTITUTIONS; PROVIDING FOR REVOCATION OR DENIAL OF PERMIT; PROVIDING FOR APPEALS; PROVIDING FOR FALSE ALARM NOTIFICATION; ESTABLISHING A PENALTY; PROVIDING FOR EXCEPTIONS; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

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

SECTION 1. That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2. That the City of Bedford Code of Ordinances Chapter 50, Article II, "Alarm Systems" SECTIONS 50-31 through 50-40 are hereby amended in their entirety to read as follows:

Section 50-31. DEFINITIONS

- (A) ALARM SYSTEM, in this chapter, means a device or system that emits, transmits, or relays a signal that is intended to notify the police department of an unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, an attempt to take a person hostage, and is intended to summon, or that would reasonably be expected to summon, public safety services of the City, including, but not limited to, local alarms. Alarm system does not include:
- (1) An alarm installed on a vehicle unless the vehicle is permanently located at a site; or,
 - (2) An alarm designed to alert only the inhabitants of the premises having the alarm system and which does not have a broadcast alarm.
- (B) ALARM NOTIFICATION means a notification intended to summon police services, which is designed either to be initiated purposely by a person or by an alarm system that responds to an unauthorized intrusion.
- (C) ALARM SITE means a single premise or location (one street address) served by an alarm system or systems that are under the control of one owner.
- (D) BROADCAST ALARM means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.
- (E) PERMIT HOLDER OR PERSON IN CONTROL means the person designated as such in the application for an alarm permit or the person that is responsible for responding to alarms and giving access to the site and who is also responsible for proper maintenance and operation of the alarm system and payment of fees. Such person must be at least eighteen (18) years of age.
- (F) PERSON means an individual, corporation, partnership, association, organization or similar entity.

Section 50-32. ALARM SYSTEM PERMITS

- (A) Permit Required.

- (1) A person commits an offense if he operates or causes to be operated, an alarm system without an alarm system permit issued by the Police Department.
- (2) A separate permit is required for each street address.
- (3) The fee for each permit shall be as set forth in Appendix A of the City of Bedford Code of Ordinances Schedule of Fees and which shall meet any state law requirements.
- (4) A permit shall be renewed annually.

(B) Form of Application.

(1) Application

- (a) Application for licenses required by the provisions of this Chapter shall be filed with the Police Department on the appropriate application form.
 - (b) If the applicant is an individual, the application shall be submitted by such person responsible to be named as the designated permit holder. If the applicant is an individual and does not reside, operate any business or is not employed within the State, then the application must also provide information relative to the individual having authority and responsibility for the management and operations of the property for which the alarm permit is sought and the information for the owner or occupant of the property. If the applicant is an employee of the property owner, the owner or occupant must also be a permit holder.
 - (c) If the applicant is a firm or partnership, the application shall be submitted by the person who owns or is in control of the property or a general partner. If no owner or general partner resides, operates a business or is employed within the State, then the application must also be submitted by the individual having the authority and responsibility for the management and operations at the property where the alarm is located and the information for the owner or occupant of the property. If the applicant is an employee of the property owner, the owner or occupant must also be a permit holder.
 - (d) If the applicant is a corporation, and none of its principal corporate officers are responsible for the management and operations of the alarm business within the State, the application shall be submitted by the individual having the authority and responsibility for the management and operations of the alarm business within the State and the information for the owner or occupant of the property. If the applicant is an employee of the property owner, the owner or occupant must also be a permit holder.
- (2) If the applicant is a corporation, the application shall specify the location of the applicant's principal place of business, and the registered agent for service for the corporation.
 - (3) If the applicant is a partnership, the application shall specify the location of the applicant's principal place of business and must provide information for at least one local contact person. Only one member of the partnership is required to submit the permit application. The names, business addresses and residence addresses of each additional partner may be provided in the Emergency Contact section of the permit application.
 - (4) The permit application shall include the following information for each permit holder:

- (a) The individual's full name, drivers license number and residence address;
 - (b) The individual's residence and business telephone number;
 - (c) The individual's date of birth;
 - (d) The name, address, and telephone number of the alarm company, to include the business telephone number and 24-hour contact telephone number;
 - (e) The address of the location of the alarm system site;
 - (f) Classification of the alarm system site as residential or business;
 - (g) Any other information required by the Police Department, which is necessary for the enforcement of this Chapter.
- (C) **Permit Issuance or Denial.** Upon receipt of a completed application form, the Police Department shall issue an alarm system permit to an applicant unless the applicant:
- (1) Has had an alarm system permit for the alarm site revoked and the violation causing the revocation has not been corrected;
 - (2) Has made a false statement of a material matter;
 - (3) Committed any act, which, if committed by a licensee, would be grounds for the revocation of a license under this Chapter; or
 - (4) While unlicensed, knowingly and willfully committed, or aided and abetted in commission, of any act for which a license is required by this Chapter.
- (D) **Transfer and Amendments.** An alarm system permit cannot be transferred to another address location within the City. A permit holder shall inform the Police Department of any change that alters any information listed on the permit application within two (2) business days. No fee will be assessed for such changes.
- (E) **Fees Paid.** All fees owed by an applicant must be paid before a permit may be issued or renewed.
- (F) **Permit Renewal.** A permit for an alarm system is valid for one year. A permit will be revoked for non-renewal upon thirty (30) days written notice from the Police Department to the permit holder.

Section 50-33. PROPER ALARM SYSTEM OPERATION AND MAINTENANCE

- (A) A permit holder or person in control of an alarm system shall:
- (1) Maintain the premises containing an alarm system in a manner that assures proper operation of the alarm system;
 - (2) Maintain the alarm system in a manner that will minimize false alarm notification;
 - (3) Respond to or cause a representative to respond within a reasonable period of time, which period shall be designated by the City, when requested 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 for any reason other than the occurrence of an event that the alarm system was intended to report; and

- (5) Notify the Police Department prior to activating an alarm system or fire alarm for maintenance purposes.
- (B) A permit holder or person in control of an alarm system shall not utilize any alarm system which causes an audible signal to be emitted continuously or intermittently for more than thirty (30) minutes after being activated or which emits a subsequent alarm without being reset which would constitute a nuisance and a violation of this ordinance.
- (C) A permit holder or person in control of an alarm system shall not allow alarm signals to be reported through a relaying intermediary that does not comply with the requirements of this Chapter and any other Chapter of this Code, or, for an alarm that is not licensed by the Texas Board of Private Investigators or Private Security Agencies.
- (D) A permit holder or person in control of an alarm system shall maintain a complete set of written operation instructions for each alarm system at each alarm site. Special codes, combinations, or passwords must not be included in these instructions.

Section 50-34. DIRECT ALARM REPORTING: AUTOMATIC ALARM NOTIFICATION PROHIBITED

An alarm system which transmits automatic alarm notification directly to the communication center of the Police Department is prohibited, except for such systems currently in place on date of original adoption of this section and to the original permit holder thereunder, or as authorized in Article II. Section 50-35 hereof, or under special circumstances as approved by the Police Chief.

Section 50-35. PROTECTION OF FINANCIAL INSTITUTIONS

- (A) A financial institution required to have a security/fire alarm system pursuant to the provisions of the Bank Protection Act of 1968 (12 U.S.C., Section 1882) may install, with the permission of the Police Department, a signal line directly to the Police Department for the purpose of reporting burglaries and robberies. If such an arrangement is made, all other requirements of this Chapter must be met. The financial institution shall execute a letter of agreement with the City permitting the installation of all necessary equipment on an indicator panel monitored in the Communications Division of the Police Department. The installation must be accomplished at the institution's expense.
- (B) The financial institution shall pay an annual fee to be determined for each indicator. The Police Department shall have the right, at reasonable times and upon oral notice, to inspect the alarm system at the alarm site and require necessary repairs or improvements. If the Police Department finds that the alarm system continually fails to operate properly, or to be operated improperly, the Police Department may terminate the privilege to have equipment and indicators in the Communications Division of the Police Department and require prompt removal of the equipment at the expense of the financial institution.
- (C) The financial institution, at its own expense, shall make arrangements to provide service for the alarm system on a 24-hour basis, seven days a week. In no event shall the City become liable for charges for repairs and maintenance.
- (D) The financial institution may cancel its agreement with the City at any time by giving the City written notice through the Police Department, and at its own

expense, remove its equipment and indicators from the monitor panel in the Communications Division.

- (E) The Police Department may require any change, modernization, or consolidation of alarm signaling equipment that the Police Department deems advisable. In no event shall the City become liable for charges for these changes.
- (F) Instead of a direct line, a financial institution may report burglaries and robberies by transmission through an alarm reporting service using special equipment designated by the Police Department.

Section 50-36. REVOCATION OR DENIAL OF ALARM SYSTEM PERMITS

- (A) The Police Department shall revoke or deny an alarm system permit if it is determined that:
 - (1) There is a false statement of a material matter in the application for permit; or,
 - (2) The permit holder has violated any provision of this Chapter.
- (B) A person commits an offense if he operates an alarm system during the period in which the person does not have an alarm permit.

Section 50-37. APPEALS

- (A) If the Police Department refuses to issue a permit, or revokes a permit, the Department shall notify the applicant or permit holder by any means, including hand delivery or certified mail, return receipt requested, written notice of the action taken and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the Police Department to the City Manager by filing with the City Manager a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt of the notice from the Police Department. The filing of a request for an appeal hearing with the City Manager stays an action of the Police Department in revoking a permit until the City Manager, or designated representative, makes a final decision. If a request for an appeal hearing is not made within the ten day period, the action of the Police Department is final.
- (B) The City Manager, or representative, shall serve as Hearing Officer at an appeal and consider evidence by an interested person. The formal rules of evidence do not apply at an appeal hearing and the Hearing Officer shall make his/her decision on the basis of a preponderance of the evidence presented at the hearing. The Hearing Officer must render a decision within thirty (30) days after the request for an appeal hearing is filed. The Hearing Officer shall affirm, reverse, or modify the action of the Police Department. The decision of the Hearing Officer is final as to administrative remedies with the City.

Section 50-38. FALSE ALARM NOTIFICATION

- (A) Except as otherwise provided, each false alarm notification emitted from any alarm system after the third (3rd) false alarm that has occurred during the preceding 12-month period shall constitute a violation of this chapter.
- (B) If a person notifies the Police Department and applies for an alarm system permit before a new alarm system is put into service, false alarm notification during the first sixty (60) days after the system is put into service will not be counted in

determining when a violation exists.

- (C) If the responding officer or fire personnel determines that an alarm notification was caused by smoke or fire, unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, or an attempt to take a person hostage, that notification will not be counted as a false alarm.
- (D) A false alarm system notification will not be counted in determining when a violation exists if the permit holder can prove to the satisfaction of the City that the alarm notification was the result of a severe weather condition that caused physical damage to the alarm site, or the result of the malfunction of the telephone lines for the transmission of alarm signals, proof of the latter being documented upon the telephone company work orders or time stamped records from the alarm company showing the period of interrupted service.
- (E) Except as otherwise provided in subsections (A)(B)(C) and (D) above, the holder of an alarm permit shall pay a service fee for each false alarm notification emitted from each false alarm system for each false alarm occurring after the third (3rd) false alarm occurring within the preceding 12-month period within any 12-month period as follows:
 - (1) Not to exceed fifty dollars (\$50.00) if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;
 - (2) Not to exceed seventy-five dollars (\$75.00) if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or
 - (3) Not to exceed one hundred dollars (\$100.00) if the location has had eight or more false alarms in the preceding 12-month period.
- (F) Failure to pay the designated service fee for violation of subsection (E) above, within the allotted time frame as established by the City, may result in the revocation of the alarm permit.

Section 50-39. VIOLATION; PENALTY

- (A) A person commits an offense if he violates by commission or omission any provision of this Chapter that imposes upon him a duty or responsibility.
- (B) A person who violates a provision of this Chapter is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted, and each violation is punishable by a fine of not more than the maximum allowed by State law.
- (C) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this Chapter to hold a corporation, partnership, or other association criminally responsible for acts or omissions performed by an agent acting in behalf of the corporation, partnership, or other association, and within the scope of his employment.

Section 50-40. EXCEPTIONS

- (A) This Chapter shall not apply to alarm systems operated by local, state or federal government entities.
- (B) This section does not apply to conduct prohibited by the Penal Code or the Education Code or any other state law prohibiting making a false alarm.

SECTION 3. 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, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. This ordinance shall become effective upon passage and publication in accordance with laws of the State of Texas and the Charter of the City of Bedford.

SECTION 5. That all ordinances or any parts thereof in conflict with the terms of this ordinance shall be and hereby are deemed repealed and of no force or effect; provided, however, that the ordinance or ordinances under which the cases currently filed and pending in the Municipal Court of the City of Bedford, Texas, shall be deemed repealed only when all such cases filed and pending under such ordinance or ordinances have been disposed of by a final conviction or a finding of not guilty, nolo contendere, or dismissal.

SECTION 6. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed the maximum permissible by state law and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 7. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto, to any person or 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 City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity which remaining portions shall remain in full force and effect.

SECTION 8. The fact that the present ordinances and regulations of the City of Bedford, Texas, are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the public creates an emergency which requires that this ordinance become effective from and after the date of its passage and it is accordingly so ordained.

PRESENTED AND PASSED on this 8th day of March, 2011, by a vote of 7 ayes, 0 nays, 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Jim Story, Mayor

ATTEST:

Michael Wells, City Secretary

APPROVED AS TO FORM:

Stan Lowry, City Attorney