

ORDINANCE NO. 2008-12

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS AMENDING CHAPTER 18, ARTICLE V, "ALARM SYSTEMS" BY AMENDING VARIOUS SECTIONS; ESTABLISHING FILING FEES AND PENALTIES; CONTAINING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT AND PROVIDING AN EFFECTIVE DATE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, Article 18 of the Code of Ordinances of the City of New Braunfels, Texas, governs the operation of security alarm systems in the corporate limits of the city, requires permits, establishes fee schedules, provides for revocations of permits, provides penalties for violations, prohibits certain interconnections and automatic dialing practices and establishes a system of administration; and

WHEREAS, repeated false alarms misuse the emergency services of the City police and fire departments; and

WHEREAS, the current false alarm regulations do not provide adequate reimbursement to the City for the use of emergency services responding to false alarm calls; and

WHEREAS, a civil service fee will allow an administrative remedy as opposed to the current criminal ordinance violation procedure; and

WHEREAS, proper alarm system operation and maintenance will reduce the number of false security alarm calls;

NOW THEREFORE BE IT ORDNANIED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. That Section 18-147. "Definitions" of the Code of Ordinances, City of New Braunfels, Texas, is hereby amended to read as follows:

Sec. 18-147. 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 coordinator means that individual designated by the chief of police to enforce the provisions in this article.

Alarm protective service means any service involving the installation, servicing, repair, maintenance, sale, replacement or response to an alarm system. For the purposes of this article, alarm protective service does not include any person engaged solely in the sale of alarm systems designed to cause an audible and/or visual signal to be emitted only in or on the premises in which the system is installed.

Alarm site means a single premise or location (one street address) served by an alarm system that is under the control of one owner or operator.

Alarm system means any assembly of equipment or devices, mechanical or electrical, arranged to signal by sound or other means of communication the occurrence of a hazard requiring urgent attention and to which police or fire department personnel are expected to respond. The term "alarm system" includes the terms "automatic holdup alarm system," "burglar alarm system," "holdup alarm system," "manual holdup alarm system," "robbery alarm system" and "fire alarm system" and also includes any audible sirens that can be heard by a person not at the alarm site.

Alarm system does not include the following:

- (1) An alarm system installed on a motor vehicle, unless the vehicle is permanently located at a site;
- (2) An alarm system designed to alert only the inhabitants of the premises served by the alarm system;
- (3) An alarm system installed upon premises occupied by the United States government, the state or any governmental entity.

Alarm system user means the owner, agent or person in control of any building, structure or facility where an alarm system is maintained.

Alarm system permit means a certificate issued by the city to an alarm system user which authorizes the operation of an alarm system at an alarm site.

Automatic dialing device means 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 an emergency situation that the alarm system is designed to detect and the need for an emergency response.

Automatic holdup alarm system means an alarm system in which the signal transmission is initiated by the action of a robber.

Burglar alarm means an alarm system signaling an entry or attempted entry into the area protected by the alarm system.

City means the City of New Braunfels, Texas.

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the alarm system user or any other activation to which a police officer or fire fighter responds and finds no evidence of an emergency for which the alarm system was designed to give notice.

False alarm does not mean:

- (1) An activation of an alarm system which is caused by hurricanes, tornadoes, earthquakes, or other acts of God.
- (2) An activation of an alarm system to which the response by the police department or fire department is canceled by either the alarm protective service or the alarm system user prior to the arrival of a responding police officer or fire fighter at the property on which the alarm system initiating the response is located.
- (3) An activation of an alarm system which is caused by war or terrorist attack.

Fire alarm means an alarm system signaling the occurrence of a fire, or fire related activity at a location protected by the alarm system.

Fire alarm system means any assembly of equipment, mechanical or electrical, arranged to signal by sound or other means of communication the presence of smoke or fire, requiring urgent attention to which the fire department is expected to respond. Excluded from this definition are alarms designed to alert only the inhabitants of a premises and not the fire department.

Fire department means the fire department of the city or any authorized agent thereof.

Holdup alarm system means an alarm system signaling a robbery or attempted robbery.

Interconnect means to connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes a telephone line to transmit a message upon the activation of the alarm system.

Manual holdup alarm system means any alarm system in which the signal transmission is initiated by a direct action of the person attacked or by an observer of the attack.

Medical alarm means an alarm system signaling the occurrence of a medical or medical related occurrence.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Permit holder means any person to whom an alarm system permit has been issued.

Police chief means the chief of police of the city or his designated representative.

Police or *police department* means the police department of the city or any authorized agents thereof.

Primary trunk line means a telephone line leading directly to the public safety communications center that is used for the purpose of handling emergency calls.

Public safety communications center means the city facility used to receive emergency and general information from the public to be dispatched to respective police or fire department officials for response.

Robbery alarm system means an alarm system signaling the robbery or attempted robbery of a person at a location protected by the alarm system.

SECTION 3. That Section 18-148. (h) "Security alarm, fire alarm user permits, application—Required" of the Code of Ordinances of the City of New Braunfels, Texas, is hereby amended to read as follows:

(h) The annual fee for a permit issued pursuant to this article shall be established by the city council. No permit shall be issued or renewed if service fees assessed under section 18-150 remain unpaid. No burglar alarm system permit will be terminated for nonrenewal without 30 days written notice by the city to the permittee. The fee for one permit shall be \$40.00 per annum for a residential permit and \$50.00 per annum for a business or commercial permit. The permit(s) shall be kept on the premises using the alarm system(s) and shall be available for inspection by the chief of police or his designee.

SECTION 4. That Section 18-150. "False alarms" of the Code of Ordinances of the City of New Braunfels, Texas, is hereby amended to read as follows:

Sec. 18-150. False alarms.

(a) Each alarm system user will be allowed a maximum of three false burglary, robbery or fire alarms per alarm site, within any 12-month period, without penalty.

(b) Upon the occurrence of the fourth false alarm but not more than seven false alarms during any 12-month period, the alarm system permit holder shall be subject to an alarm system service charge of \$50.00 per incident. Any subsequent false alarms occurring in the permit year (twelve month period) will result in an Alarm service charge of \$100.00 per incident. Each false alarm in excess of the allowable limit as provided for in this section shall be considered a separate incident.

(c) No alarm system permit may be revoked because of excessive alarms so long as any resultant service fees are paid in full.

(d) An alarm will be declared false if upon physical inspection of the alarm site by an officer of the police department or fire department there is no apparent indication of attempted or actual illegal or fire related activity having taken place or taking place, and it is determined not to have been caused by an act of God.

(e) The service fees pertaining to excessive alarms are applicable to this section only, and shall not affect penalty provisions as established by statute or this article in regard to other violations that may occur.

SECTION 5. That Section 18-154. (c) "Appeal from service fee or revocation of permit" of the Code of Ordinances of the City of New Braunfels, Texas, is hereby amended to read as follows:

(c) The city manager, or his designee, will serve as hearing officer at an appeal hearing. Formal rules of evidence do not apply, and the hearing officer will make a decision on the basis of a preponderance of the evidence presented at the hearing. The hearing officer will render a decision within 30 days after the request for an appeal hearing is filed. The hearing officer will affirm, reverse or modify the action forming the basis for the appeal. The decision of the hearing officer is final as to administrative remedies with the city.

SECTION 6. That the Code of Ordinances, City of New Braunfels, Texas, is hereby amended by adding a section, to be numbered 18-155, which said section reads as follows:

18-155. Governmental Immunity Preserved.

The City shall not be under any duty or obligation to any person by reason of this Article and specifically disclaims liability for any damages which may be caused by the failure of any department of the City to monitor and/or respond to an alarm notification transmitted by any means or for any damage as a result of any unreasonable delay in response to such alarm notification. A permit issued under this Article does not create a contract, either express or implied, or a duty or guarantee of response by the Police or Fire Departments. The City retains immunity from liability and suit based on a decision by the Police or Fire Department not to respond to an activation or a permitted alarm system.

SECTION 7. That the Code of Ordinances, City of New Braunfels, Texas, is hereby amended by adding a section, to be numbered 18-156, which said section reads as follows:

Section 18-156. Alarm Systems in Apartment Complexes.

(a) If the individual tenant, owner or property manager of an apartment complex installs an alarm system or has an alarm system monitored in the tenant's residential unit on the premises, the tenant must provide to the alarm company monitoring the alarm system the name of a representative of the owner or property manager of the apartment complex who has keys to the tenant's residential unit.

(b) Each tenant shall obtain a permit from the Chief of Police before operating or causing the operation of the alarm system.

(c) For purposes of assessing service fees and enforcing this Article against an individual residential unit, the tenant is responsible for payment of service fees for false alarm notification emitted from the alarm system in the tenant's residential unit.

(d) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm system operated in a non-residential area of the apartment complex, including, but not limited to, common tenant areas and office, storage, and equipment areas.

SECTION 8. That the Code of Ordinances of the City of New Braunfels, Texas is hereby amended by adding a section, to be numbered 18-157, which said section reads as follows:

Section 18-157. Permit Duration and Renewal.

An alarm system permit expires one year from the date of issuance and must be renewed annually by submitting an updated application and a permit renewal fee to the Chief of Police or the Fire Department as applicable. It is the responsibility of the Permit Holder to submit an application prior to the permit expiration date. All service fees and late fees assessed under this Article must be paid prior to renewal of the permit.

SECTION 9. That the Code of Ordinances of the City of New Braunfels, Texas is hereby amended by adding a section, to be numbered 18-158, which said section reads as follows:

Section 18-158. Duties of Alarm System Company

Any alarm company engaged in the business of monitoring alarm systems shall:

(a) On the installation or activation of an alarm system, distribute to the occupant of the alarm system location the following information:

- (1) A copy of this Article;
- (2) Information on how to prevent false alarms; and
- (3) Information on how to operate the alarm system.

(b) Report alarm signals only by using telephone numbers designated by the Chief of Police;

(c) Before requesting police response to an alarm signal, attempt to verify every alarm signal, except a duress or robbery alarm activation, by a telephone call to the alarm site;

(d) Communicate alarm notifications to the City in a manner and form determined by the Chief of Police; and

(e) On a weekly basis provide to the Chief of Police or his designee, a report which contains the name, address, telephone number, and date of activation of all current subscribers within the City.

SECTION 10. That the Code of Ordinances of the City of New Braunfels, Texas is hereby amended by adding a section, to be numbered 18-159, which said section reads as follows:

Sec. 18-159. Proper alarm system operation and maintenance.

(a) A permit holder or alarm system user 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) Repair or inactivate a malfunctioning alarm system within fifteen (15) calendar days. A permit holder may present extenuating circumstances regarding additional time required to repair or inactivate a system at any administrative hearing under this chapter;

(4) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report; and

(5) Safeguard the alarm system controls in order to prevent others from manually activating the alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

(b) A person in control of an alarm system shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than fifteen (15) minutes after being activated.

SECTION 11. 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 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.

SECTION 12. All provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 13. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 14. In accordance with the provisions of Section 3.10 of Article III of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less

than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 15. This Ordinance shall become adopted and effective ten (10) days after the date of publication in a newspaper pursuant to the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 14th day of January, 2008.

PASSED AND APPROVED: Second reading this 28th day of January, 2008.

CITY OF NEW BRAUNFELS, TEXAS

By: 
R. Bruce Boyer, Mayor

ATTEST:


Michael A. Resendez, City Secretary



APPROVED AS TO FORM:


Alan C. Wayland, City Attorney

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