

ORDINANCE NO. 1863

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EULESS, CHAPTER 26, "EMERGENCY SERVICES", ARTICLE II, "ALARM SYSTEMS"; CONTAINING FINDINGS AND DEFINITIONS; PROVIDING REQUIREMENTS AND PROCEDURES FOR REGISTRATION AND OPERATION OF ALARM SYSTEMS; AND AMENDING CHAPTER 30, "FEES", SECTIONS 30-1 AND 30-2; AND PROVIDING FOR PENALTY AND SEVERABILITY.

WHEREAS, The Texas State Legislature amended Section 214 of the Local Government Code because of the need for more responsible alarm ownership by allowing local government increased control over alarm registration and alarm response; and

WHEREAS, the Eules Police Department responded to more than 1800 false alarms from January 1, 2008 to December 31, 2008.

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

SECTION 1

THAT the findings contained in the preamble of this ordinance are determined to be true and correct and hereby adopted as part of this ordinance.

SECTION 2

THAT Chapter 26, "Emergency Services", Article II, "Alarm Systems", of the Code of Ordinances of the City of Eules, Texas, be hereby amended in its entirety to hereafter be and read as follows:

ARTICLE II. ALARM SYSTEMS

Sec. 26-31. Purpose.

- (a) The purpose of this article is to encourage alarm users and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.
- (b) This article governs alarm systems intended to summon law enforcement and requires registration, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for revocation of registration.

Sec. 26-32. 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 dispatch request means a notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

Alarm Installation Company means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site. This definition shall also include individuals or firms that install and service the alarm systems that will be used in their private or proprietary facilities. This does not include persons doing installation or repair work where such work is performed without compensation of any kind (i.e., do-it-yourselfers).

Alarm permit means authorization granted by the Chief of Police to an alarm user to operate an alarm system.

Alarm site means a single fixed premise or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multiunit building or complex, shall be considered a separate alarm site.

Alarm system means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response, including local alarm systems. Alarm system does not include:

- (1) An alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site; or
- (2) An alarm designed to alert only the inhabitants of the premises.

Alarm user means any person who has contracted for monitoring, repair, installation or maintenance service from an alarm installation company or monitoring company for an alarm system, or who owns or operates an alarm system which is not monitored, maintained or repaired under contract.

Alarm permit fee means the fee structure as determined by Chapter 30 of the Euless Code of Ordinances which includes new permits and renewals.

Appeal process means the process that a permit holder aggrieved by a decision must make by filing a formal request in writing to the City Secretary requesting a change in, or confirmation of, that decision made regarding an alarm issue.

Arming station means a device that allows control of an alarm system.

Automatic voice dialer/automatic alarm notification means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system to law enforcement.

Burglar alarm notification means the notification intended to summon police, which is initiated or triggered manually or by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

Cancellation means the process where response is terminated when a monitoring company (designated by the alarm user) for the alarm site notifies the responding law enforcement agency that there is not an existing situation at the alarm site requiring law enforcement agency response after an alarm dispatch request.

Certificate of compliance means a written certification from an alarm installation company stating that the alarm system has been inspected and repaired (if necessary) and/or additional training has been conducted by the alarm installation company or law enforcement agency.

Chief means the Chief of Police or designated representative.

City Manager means the City Manager of the City or his designated representative.

Duress alarm means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

False alarm notification means an alarm dispatch request to a law enforcement agency when a response is made by the law enforcement agency within 30 minutes of the alarm dispatch request and the responding law enforcement officer finds from an inspection of the interior and/or exterior of the alarm site no evidence of a criminal offense or attempted criminal offense.

Hearing Appeal Officer means the City Manager.

Holdup/robbery alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress or immediately after it has occurred.

Law enforcement authority means the Chief of Police.

License means a license issued by the State Department of Public Safety Private Security Bureau to an alarm installation company and monitoring company to sell, install, monitor, repair, or replace alarm systems.

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

Monitoring means the process by which a monitoring company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning law enforcement to the alarm site.

Monitoring company means a person in the business of providing monitoring services.

Offense means operating an alarm system without a valid permit, which shall include a revoked permit, or non-compliance where a duty is imposed in this Article.

Panic alarm means an audible alarm generated by the deliberate activation of a panic device.

Permit holder means the person designated in the application who is responsible for responding to alarms and giving access to the site and who is responsible for proper maintenance and operation of the alarm system and payment of fees.

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

Responder means an individual capable of reaching the alarm site within 30 minutes and having access to the alarm site, the code to the alarm system and the authority to approve repairs to the alarm system.

Verify means an attempt by the monitoring company or its representative to contact the alarm site and/or alarm user by telephone, whether or not actual contact with the person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch following the alarm verification and notification procedure.

Sec. 26-33. Permit Required; Application; Transferability; False Statements.

- (a) A person commits an offense if he operates or causes to be operated an alarm system without a valid alarm permit issued by the Chief.
- (b) Any person without an existing valid permit for an alarm system on the effective date of the ordinance must apply for a permit within 30 days of the effective date of this ordinance.
- (c) All existing permits will expire on the anniversary date of issuance. Any person, who has an existing permitted alarm system, must complete an application form and remit the required administrative fee within 30 days following the anniversary date the permit was issued or if such date is unknown, within 30 days following notification by the City.

- (d) Upon receipt of the required administrative fee and completed application form, the Chief shall issue a permit except as otherwise provided herein.
 - (1) A completed permit application must contain the following information and be complete, true and accurate in its entirety:
 - a) The name, address and telephone number of the permit holder who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
 - b) The classification of the alarm site as either residential or commercial, including whether the alarm site is an apartment or suite, and if so, the building number, the suite or apartment number;
 - c) The purpose of each alarm system located at the alarm site, i.e., burglary, robbery, panic/duress;
 - d) The name and telephone number of the alarm system monitoring company that has agreed to receive calls for the permitted alarm system, if applicable;
 - e) Except as otherwise provided herein, at least three names and telephone numbers of contacts (responders) that are able to respond to the alarm premise within 30 minutes with a key or means of access to the location if needed by law enforcement; and
 - f) Other information required by the Chief that is necessary for the enforcement of this article.
- (e) An alarm permit is nontransferable; however, the individual designated to respond to an alarm may be changed. A permit holder shall inform the Chief in writing of any changes that alter information listed on the permit application within two business days from the change. No fee will be assessed for such changes.
- (f) All application fees owed by an applicant must be paid before a permit may be issued.
- (g) No permit fee shall be required for any person age 65 or older at the time of such application.
- (h) Pursuant to State law, no permit shall be required for city, state, county, independent school district and federal government entities.
- (i) Any false statement or misrepresentation of a material fact made by an applicant or person for the purpose of obtaining an alarm permit or renewal, or while

making a change thereto, shall be sufficient cause for refusal to grant a permit, suspension of a permit or revocation of a permit by the police department.

Sec. 26-34. Authorization of Other Types of Alarms; Authority to Prescribe Additional Regulations.

- (a) A person shall not install or maintain an alarm system, except for the purpose of eliciting responses to burglaries, robberies, or panic/duress situations, unless specifically authorized by the Chief.
- (b) If innovations in alarm systems or other types of alarm devices adversely affect emergency services of the City, the Chief may promulgate other rules and regulations in order to protect the City's emergency service.

Sec. 26-35. Permit Fee.

A nonrefundable permit fee, as determined from time to time by City Council for residential permits and commercial permits, is required for issuance of a permit. Permits issued will expire on the last day of the month of expiration. It is the permit holder's responsibility to renew the permit within thirty days of the expiration date of the permit. The alarm permit fee is located in Chapter 30 of the Euless Code of Ordinances and is incorporated herein.

Sec. 26-36. Penalties Related to False Alarms and Noncompliance.

- (a) If within the preceding 12-month period, eight or more false burglar alarm notifications are emitted from an alarm site, the Chief may revoke the permit of the alarm site.
- (b) The Chief shall assess the permit holder a fee for each false alarm notification emitted from the alarm site. The fee for each false alarm shall be as determined from time to time by City Council, as set out in Chapter 30 of the Euless Code of Ordinances.
- (c) A permit holder shall pay a fee assessed under this section within 30 days after receipt of notice of assessment or pay a penalty fee as determined from time to time by City Council.
- (d) The permit holder will be exempt from any fee charged by Chapter 30 Code of Ordinances for a false alarm notification which is later shown to have been, in the Chief's sole determination, justified or which was due to a natural or manmade catastrophe or other situation specifically exempted by the Chief.
- (e) The alarm company shall pay a fee as determined from time to time by City Council in Chapter 30 Code of Ordinances for providing the wrong permit information to the responding agency.

- (f) An alarm user shall pay a fee as determined from time to time by City Council for failure to provide a responder within 30 minutes when requested by law enforcement authority.
- (g) If cancellation occurs prior to law enforcement arriving at the scene, this is not a false alarm for the purposes of this article.
- (h) If law enforcement takes longer than 30 minutes to respond to the alarm dispatch request, this is not a false alarm for the purposes of this article.

Sec. 26-37. Alarm System Operation and Maintenance.

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 designate a representative to respond, within 30 minutes after 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 an occurrence of an event that the alarm system was intended to report;
- (5) Notify the Police Department prior to activation of an alarm for maintenance purposes; and
- (6) Adjust the mechanism, or cause the mechanism to be adjusted, so that an alarm signal will sound no longer than 15 minutes after being activated.

Sec. 26-38. Reporting of Alarm through Relaying Intermediary.

A permit holder shall not report an alarm signal through a relaying intermediary that does not meet the requirements of this article, and any rules and regulations promulgated by the Chief, or is not licensed by the state board of private investigators and private security agencies, or is not the owner of the property.

Sec. 26-39. Monitoring Procedures.

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

- (1) Report alarm signals only using telephone numbers designated by the Chief;
- (2) Before requesting police response to an alarm signal, verify every alarm signal, except a duress, robbery, or panic alarm activation, by a telephone call to the alarm site;
- (3) When reporting an alarm notification to the City, provide the alarm permit number and address of the alarm site from which the alarm notification originated; and

Sec. 26-40. Duties of an Alarm Company.

- (a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:
 - (1) The applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;
 - (2) How to prevent false alarms; and
 - (3) How to operate the alarm system.
- (b) An alarm system company shall notify the Chief of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:
 - (1) The alarm systems company name;
 - (2) The alarm systems company license number;
 - (3) The name of the occupant of the alarm system location;
 - (4) The address of the alarm system location; and
 - (5) The date of installation or activation.
- (c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under Tex. Occ. Code § 1702.284.
- (d) An alarm systems company commits an offense if the company violates Subsection (a) or (b).

Sec. 26-41. Alarm Reset.

A permit holder of an alarm system that utilizes a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that, upon activation, the local alarm will not transmit another alarm signal without first being manually reset.

Sec. 26-42. Inspection.

Upon reasonable notification, the Chief may inspect an alarm site and alarm system of a permit holder at reasonable times.

Sec. 26-43. Grounds for Denial of a Permit or Revocation.

(a) *Grounds for denial of a permit.*

- (1) The Chief shall issue a permit to the applicant unless one or more of the following conditions are present:
 - a) The applicant fails to provide all of the information requested on the application or submits an incomplete application;
 - b) The applicant gives false, misleading or untrue information of material fact on the application;
 - c) The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, this article or the City building, zoning or health codes; or
 - d) The applicant has failed to pay any fee assessed pursuant to this article that is due and owing.
- (2) Denial of an alarm system permit shall be effected by written denial, setting forth the grounds for denial and sent certified mail, return receipt requested.

(b) *Grounds for revocation of a permit.*

- (1) The Chief may revoke an alarm permit if he determines that:
 - a) The permit holder, or his designated agent, has given false, misleading or untrue information of material fact in any record or report required by this article;
 - b) The permit holder fails to maintain the alarm system in accordance with the requirements of this article;

- c) The operation of the alarm system by the permit holder has demonstrated a history of unreliability, as set forth in subsection (c) of this section; or
 - d) There have been eight or more false alarms during the preceding 12-month period.
 - (2) A person commits an offense if he operates an alarm system during the period in which his alarm permit has been revoked.
- (c) *Grounds for nonrenewal of a permit.*
- (1) The alarm system has a history of unreliability and the applicant has failed to make alterations or corrections to the system to reasonably assure abatement of false alarms. Any alarm system generating eight or more false alarm notifications within a preceding 12-month period shall be presumed unreliable, and the alarm permit shall be revoked or suspended, after the City provides 30 days written notice to the permit holder.
 - (2) A person commits an offense if he operates an alarm system during the period in which his alarm permit has not been renewed.

Sec. 26-44. Reinstatement of a Permit.

- (a) A person whose alarm permit has been revoked may have the permit reinstated if the person:
 - (1) Submits an updated application and pays a permit reinstatement fee as determined from time to time by City Council in accordance with this Article; and
 - (2) Presents evidence the problem with the alarm system has been corrected.
- (b) A permit that has been reinstated shall expire on the same date it was originally set to expire.

Sec. 26-45. Appeal from Penalty Fee, Denial, or Revocation of a Permit.

- (a) Any applicant, permit holder, alarm installation company or monitoring company aggrieved by the decision to assess a penalty fee by the Chief of Police may appeal the decision to the hearing appeal officer by filing with the City Secretary a written request for a hearing, setting forth the reasons for the appeal within ten days after the Chief of Police renders the decision. The filing of a request for an appeal hearing with the City Secretary stays the action of the Chief of Police in assessing a penalty fee until the hearing officer makes a final decision. If a

request for an appeal hearing is not made within the ten-day period, the action of the Chief of Police is final.

- (b) If the Chief of Police refuses to issue or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the Chief of Police to the hearing appeal officer by filing with the City Secretary a written request for a hearing, setting forth the reasons for the appeal, within ten days after receipt or the notice from the Chief of Police. The filing of a request for an appeal hearing stays an action of the Chief of Police in revoking a permit until the hearing appeal officer makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the Chief of Police is final.

Sec. 26-46. Notification.

The alarm user shall be notified in writing when the alarm permit will be revoked. The notification shall include:

- (1) The fact that the permit will be revoked after the eighth false alarm, excluding duress, holdup and panic alarms; and
- (2) A description of the appeal procedure available to the alarm user.

Sec. 26-47. Indirect Alarm Reporting.

A person who is engaged in the business of relaying alarm notifications to the City shall:

- (1) Communicate alarm notifications to the City in a manner and form determined by the Chief;
- (2) Provide a local or toll free call-back telephone number when requested by the Police Department;
- (3) Contact a representative of the alarm site when requested by the Police Department; and
- (4) Comply with all other requirements of this article and any rules and regulations promulgated by the Chief.

Sec. 26-48. Direct Alarm Reporting.

An alarm system, other than an alarm system in a local, state, or federal governmental entity or in a financial institution, which transmits automatic alarm notifications directly to the police department, shall be prohibited.

Sec. 26-49. Alarm System Operating Instructions.

A permit holder shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations or passwords must not be included in these instructions.

Sec. 26-50. Alarm Records.

- (a) The communication employee receiving the alarm notification shall cause to be recorded such information as necessary to permit the Chief to maintain records, including, but not limited to, the following information:
 - (1) Identification of the permit holder;
 - (2) The alarm permit number;
 - (3) Identification of the alarm site;
 - (4) The communication received time, dispatch time and personnel arrival time;
 - (5) The date of occurrence;
 - (6) The disposition of the alarm call; and
 - (7) The name of the permit holder's representative on premises, if any.
- (b) The responding law enforcement personnel shall prepare and submit appropriate reports in regards to any events that contributed to the alarm notification as determined by the investigation.

Sec. 26-51. System Performance Reviews and Appeals.

- (a) If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation, the Chief may require a conference with an alarm permit holder to review circumstances of each alarm notification.
- (b) If there is belief that an alarm is the result of circumstances beyond the reasonable control of the permit holder, the permit holder or the permit holder's representative may request a conference with the Chief.
- (c) If the Chief determines that an alarm is the result of circumstances within the reasonable control of the permit holder, the permit holder or the permit holder's representative may appeal his decision as set out in the appeal process in section 26-45.

Sec. 26-52. Violations; Penalty.

- (a) An alarm company, an alarm permit holder or a person in control of an alarm system commits an offense if he violates any provision of this article that imposes upon him a duty or responsibility.

- (b) A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day in which the violation is committed or continues, and each offense is punishable by a fine not to exceed \$500.00 as follows:
 - (1) For the first conviction, \$200.00;
 - (2) For the second through tenth conviction, \$250.00; and
 - (3) For each subsequent conviction, \$500.00.
- (c) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this article 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 employment. A person or business utilizing an alarm system shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations or passwords must not be included in these instructions.

Sec. 26-53. Confidentiality.

In the interest of public safety, subject to the provisions of V.T.C.A., Government Code Ch. 552, information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests and applications for appeals shall be held in confidence by all employees or representatives of the City and by any third-party administrator or employees of a third-party administrator with access to such information. This information shall not be subject to public inspection. Public interest is served by not disclosing said information to the public and clearly outweighs the public interest served by disclosing said information.

Sec. 26-54. Government Immunity.

The issuance of an alarm permit and/or the provisions set forth in this article are not intended to, nor do they create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that law enforcement response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions and staffing levels.

SECTION 3

THAT Chapter 30, "FEES", Sec. 30-1, "Alarm Systems; permit fees"; and 30-2, "Excess false alarm fees, per call", of the Code of Ordinances of the City of Euless, Texas, be hereby amended in their entirety to hereafter be and read as follows:

Chapter 30. FEES

Sec. 30-1. Permit Fee.

Residential permits \$30.00 per year

Commercial permits \$100.00 per year

Sec. 30-2. Penalties Related to False Alarms and Noncompliance.

Fee for each false burglary alarm in the preceding 12 month period:

4 to 5	\$50.00
6 to 8	\$75.00
After 8	\$100.00

Fee for each false robbery alarm in the preceding 12 month period:

4 to 7	\$75.00
After 7	\$100.00

Each false panic/duress alarm in the preceding 12 month period:

4 to 7	\$75.00
After 7	\$100.00

Providing the wrong permit information to the responding agencies \$25.00

Failure to provide a responder within 30 minutes when requested by law enforcement authority \$50.00

A permit holder shall pay a fee assessed under this section within thirty (30) days after receipt of notice of assessment or be subject to a ten percent penalty fee.

Sec. 30-2-1. Reinstatement of a Permit.

Permit reinstatement fee \$100.00

SECTION 4

That 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 invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or 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 invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5

THAT Chapters 26 and 30 of the Code of Ordinances, City of Euless, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Effective Date. This ordinance shall be in full force and effect from and after its passage and publication as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND GIVEN FIRST AND FINAL READING AND APPROVED at a regular meeting of the Euless City Council on the 8th day of September, 2009, by a vote of ____ ayes, ____ nays, and ____ abstentions.

APPROVED:

Mary Lib Saleh
Mayor

ATTEST:

Susan Crim, TRMC
City Secretary

APPROVED AS TO FORM:

Bob McFarland
City Attorney