

ORDINANCE NO. 103

**AN ORDINANCE REGULATING SECURITY ALARM
SYSTEM AND FALSE ALARMS WITHIN THE TOWN
LIMITS OF THE TOWN OF HORIZON CITY, TEXAS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF
HORIZON CITY, TEXAS that;

Pursuant to Sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the Town of Horizon City hereby enacts and adopts this ordinance which regulates the licensing of security alarm systems and false alarms within the territorial limits of the Town of Horizon City.

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103.010 Definitions.

For the purposes of this chapter:

- A. "Alarm site" means a single premises or location served by an alarm system or systems that are under the control of one person.
- B. "Alarm system" means any device or system used to detect or prevent burglary, theft, shoplifting, pilferage or other such emergency situations which when activated cause notification to be made directly or indirectly to the police and/or sheriff's department. The term includes an alarm system that transmits a signal intended to summon the police department in response to a burglary or is connected to an alarm system business and includes an alarm that emits an audible signal on the exterior of a structure. For purposes of this ordinance, an alarm system shall not include:
1. An alarm installed on a vehicle, unless the vehicle is used for a habitation at a permanent site;
 2. Alarm systems that solely monitor temperature, humidity, or any other condition which are not designed for the detection of an unauthorized entry into a premises, attempted robbery at a premises, or a fire.
 3. Proprietary alarm systems not designed or intended to alert law enforcement or fire agencies or others outside the protected building, structure, or facility, but which are designed solely to alert the inhabitants, security personnel, or others directly connected with or employed by the owner or operator of the protected building, structure or facility.
 4. An alarm installed upon premises occupied by the United States government, the State of Texas, the Town of Horizon City, the County of El Paso, or by any government entity, situated within the corporate limits of the Town of Horizon City.
- C. "Alarm company" means any person, partnership, corporation or other legal entity which installs, services, monitors or responds to alarm systems for compensation, and is currently in compliance with the Private Security Act, Texas Occupations Code, Chapter 1702.
- D. "Applicant" means the person or entity who submits an application to obtain a permit and shall become the permit holder.
- E. "Automatic dialing service" means an alarm system which automatically sends over regular telephones lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

F. "Chief" means the chief of police or fire department of the city or his designated representative. "Sheriff" means the Sheriff of El Paso County, Texas or his designated representative.

G. "Conversion" means the transaction or process by which one alarm business begins servicing or monitoring of an alarm system installed by another alarm business or an alarm system which was previously serviced or monitored by another alarm business.

H. "False alarm notification" means an alarm notification to the police/sheriff or fire departments, for which the responding officer or firefighter finds no evidence of criminal activity or fire, smoke or heat for which the alarm system was designed to give notice.

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

J. "Person" means any individual, partnership, corporation or other legal entity.

K. "Relaying intermediary" means that portion of an alarm system business which receives or intercepts a signal or signals, indicating the activation of an alarm system and which relays this information to the police/sheriff's department.

L. "Verify" means an attempt by the alarm business, or its representative, to contact the alarm site by telephonic or other electronic means before requesting a police dispatch whether or not actual contact with a person is made, in an attempt to avoid an unnecessary alarm dispatch.

103.020 Permit—Required.

- A. No person shall operate or cause to be operated an alarm system, whether new or existing, without an alarm permit issued by the city. A person commits an offense if he operates or causes to be operated an alarm system without a valid permit issued under this article. A separate permit is required for each alarm site.
- B. Each permit issued pursuant to this article shall be valid for three years. Each permit must be renewed three years after its initial issuance and every three years thereafter. Provided, however, that if a permit holder sells or disconnects the alarm system or sells or moves from the residence or business where the alarm system is located, the permit shall no longer be valid and new permits must be obtained.
- C. The permit fee for the initial permit for a residential permit shall be thirty (\$30.00) dollars and the same amount for subsequent renewal of such permit, unless waived as provided herein. The permit fee for the initial permit for a commercial permit shall be sixty (\$60.00) dollars and the same amount for subsequent renewal of such permit. If a permit holder has zero false alarms for the three year period of the permit, said permit holder will not be required to pay the renewal amount for the permit for the succeeding three year permit.
- D. Each permit issued pursuant to this chapter shall be valid only for the permit holder and location named on the permit and is not transferable.
- E. The permit holder for an alarm system shall keep such permit displayed at the property or location where such alarm system is installed and shall produce such permit for inspection upon request of any member of the police department or a designated representative of the city.
- F. All alarm companies shall notify new alarm customers including customers acquired by a conversion of the alarm system of the existence and provisions of this article prior to the installation or conversion of the alarm system. Within thirty days after the installation of a new alarm system or the conversion of an existing alarm system, all alarm companies shall provide written notice of the installation or the conversion of an alarm system to the city.
- G. Persons operating a newly activated or reactivated alarm system must notify the city within twenty four (24) hours after commencing operation of the address of the alarm site, the name and address of the operator, and any contact persons. Persons who give such notification are exempt from the permit requirement for a period not to exceed seven (7) calendar days.
- H. Upon receipt of a completed application form and the required fee, the city shall issue an alarm permit to an applicant unless the applicant has failed to pay a service fee for a false alarm as required by this article or had an alarm permit revoked at this or any other alarm site, and the violation causing the revocation has not been corrected.

- I. Each alarm permit application must contain the following information:
- (1) Name, address, and telephone number of the permit holder and/or individual who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
 - (2) Classification of the alarm site as either residential or commercial;
 - (3) The purpose of each alarm system located at the alarm site, i.e. burglary, robbery, personal hostage, or fire;
 - (4) The street address of the alarm site on which the alarm system is to be installed and operated; if the alarm site is an apartment, should include the building number and apartment number, if applicable;
 - (5) Any business name, if any, used for the premises on which the alarm system is to be installed and operated;
 - (6) The name of the person or licensed alarm system company who will install and /or maintain the alarm system; and
 - (7) The names and telephone numbers of two (2) persons who are able to and have agreed:
 - (i) To receive notification at any time;
 - (ii) To come to the alarm site within one hour after receiving a request from a member of the police/sheriff's department to do so; and
 - (iii) To grant access to the alarm site and to deactivate the alarm system if such becomes necessary.
 - (8) Other information required by the Chief/Sheriff which is necessary for the enforcement of this article.
- J. Any false statement of a material matter made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit.
- K. All fees owed by an applicant must be paid before any alarm permit may be issued or renewed.
- L. The Town of Horizon City shall protect all information on an application as confidential information, provided, however, that nothing in this article shall prohibit the use of such information for legitimate law and fire code enforcement purposes and for enforcement of this article. A copy of the application and the information contained therein shall be provided to the sheriff's department and shall not be considered a breach of any confidentiality set up by this article

103.030 Alarm systems in multiple unit developments and unsold or unleased homes or businesses.

- A. Each tenant, owner, or occupant of a multiple unit development, including but not limited to an apartment complex, multiple condominium units managed by another, duplexes, shopping mall or strip, or other similar developments, shall obtain a separate alarm permit from the city for an alarm system that is operated in their unit, whether the alarm system is furnished by themselves; the system is furnished by the owner, manager, or landlord of the unit as an amenity; the system is a multiple location system that is partitioned among several locations that separately or individually have access to use the system within one location or unit; or the system is contracted for by an individual tenant, owner or occupant.
- B. If the owner, manager, or landlord contracts with an alarm company for the installation or operation of the alarm system on behalf of the tenant, owner, or occupant of the unit, the owner, manager, or landlord shall notify the tenant, owner, or occupant of the unit of the existence and provisions of this article prior to such time that the tenant, owner, or occupant of the unit begins operation of the alarm system.
- C. Each owner, manager, or landlord of a multiple unit development must obtain a separate permit to operate an alarm system in any unleased or unsold unit or in any common areas of the development, including but not limited to common tenant areas, offices, storage areas, and equipment areas.
- D. The owner, builder, or developer of an unsold or unleased home or business, including but not limited to newly constructed homes or businesses, must obtain a separate permit for each home or business to operate an alarm system on the premises.
- E. For purposes of assessing service fees and enforcing this article, the person in an occupied, leased, or purchased unit is responsible for compliance with this article and for payment of service fees for excess false alarm notifications emitted from an alarm system in their unit and the owner, manager, or landlord is responsible for compliance with this article and for payment of service fees for excess false alarm notifications emitted from an alarm system in unleased or unsold units and in any common areas. The owner, builder, or developer of an unsold or unleased home or business is responsible for compliance with this article and for payment of service fees for excess false alarm notifications emitted from an alarm system on the premises.

103.040 Service fee.

- A. The permit holder or any other person in control of an alarm system shall pay a service fee of fifty (\$50.00) dollars for each false alarm notification emitted from such alarm system that is in excess of five (5) false alarms in the preceding twelve-month period, except that alarm systems owned or operated by the city shall not be assessed service fees.
- B. If a person notifies the city as required in Section 103.020(G) and applies for an alarm permit before a new alarm system is put into service, no service fee will be assessed during the first thirty (30) days after the system is put into service, and alarm notifications during that period will not be counted in determining when a service fee will be assessed.
- C. If the responding law enforcement officer determines that an alarm notification was caused by unauthorized entry, attempted unauthorized entry, robbery, attempted robbery, an attempt to take a person hostage, or fire-related causes that notification will not be counted in determining when a service fee will be assessed.

103.050 Duties of permit holder.

A. A permit holder shall:

- (1) Maintain the premises containing an alarm system in a manner that insures 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 one hour when requested by the city to repair or deactivate 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 and the sheriff's department prior to activation of an alarm for maintenance purposes; and
- (6) Maintain at each alarm site, a complete set of written operating instructions for each alarm system, except that special codes, combinations, or passwords may be excluded in these instructions.

B. A permit holder shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than ten (10) minutes after being activated, except when prohibited by fire code.

C. Whenever a person listed on the application or listed on an amendment to the application is unable or unwilling to perform the duties set out in Section 103.020, the permit holder shall within two (2) business days file an amendment to the permit application listing a person who is able and will perform those duties so that at all times the application on file with the police department and sheriff's department, designates at least two (2) persons who are able and willing to perform such duties.

103.060 Automatic dialing devices---Prohibited

A. It is unlawful for any person to program an automatic dialing device to select any telephone line into the police and/or sheriff's department.

B. Within ninety (90) days of the effective date of this ordinance, all existing automatic dialing devices programmed to select any telephone line into the police and/or the sheriff's department shall be disconnected.

103.070 Direct alarm reporting—Automatic alarm notification prohibited.

An alarm system, other than an alarm system in a financial institution, which transmits automatic alarm notifications directly to the communications center of the police and or sheriff's department shall be prohibited.

- A. A financial institution required to have an 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 chief of police and the sheriff, a signal line directly to the police/sheriff's department for the purpose of reporting burglaries and robberies.
- B. The financial institution shall pay an annual fee of two hundred (\$200.00) dollars for each indicator. The police chief 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 chief finds that the alarm system continually fails to operate or to be operated to his satisfaction, he may terminate the privilege to have equipment and indicators in the communications center of the police department and require prompt removal of same at the expense of the financial institution.
- C. The financial institution, at its expense, shall make arrangements to provide service for the alarm system at the instance of the financial institution or the chief of police on a twenty-four hour basis, seven days a week. In no event shall the city become liable for service charges for repairs and maintenance of any such signaling device.
- D. The financial institution may cancel its agreement with the city at any time by giving the city written notice through the chief of police, whereupon such institution, at its expense shall have its equipment and indicators promptly removed from the monitor panel in the communications center.
- E. The chief of police shall have the right to require any change, modernization or consolidation of alarm signaling equipment that he deems advisable. In no event shall the city become liable for charges for such changes.
- F. Instead of a direct line, a financial institution may instead choose to report burglaries and robberies by transmission through an alarm reporting service using a telephone number designated by the chief of police and/or the sheriff.

103.080 Revocation—Procedure

A. The police chief may revoke an alarm permit or registration if it is determined that:

- (1) There is a false statement of a material matter in the application for a permit or registration;
- (2) The permit or registration holder has violated any part of this article or has failed to comply with or maintain any and all of the requirements applicable to the issuance of the permit as set forth herein.
- (3) The permit or registration holder, or any other person in control of an alarm system has failed to pay a service fee assessed under section 103.040 of this article within sixty (60) days after a bill for the assessment was issued;
- (4) Eight or more false alarms notifications have been emitted from the alarm site during the preceding twelve-month period; or
- (5) Five or more false alarm notifications have been emitted from the alarm site during the preceding twelve-month period which was emitted because of mechanical malfunction, faulty equipment, or human error.

B. Prior to taking action to revoke a permit or registration, the chief of police shall give written notice of the grounds of such revocation to the permit holder. The notice shall contain a statement that the permit holder may, within fourteen days (14) of the date of the notice, request a hearing to be held before hearing officer designated by the city.

C. If a hearing is requested, a hearing officer shall, as soon as practicable, hear such appeal, after reasonable notice to the appealing party and to the chief of police.

D. The hearing officer shall set a time and place for the hearing, which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The hearing officer shall consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right of cross-examination. The hearing officer shall make his decision on the basis of a preponderance of the evidence within fifteen (15) days after the hearing is concluded. The time for hearing an appeal may be extended by agreement of the parties. The hearing officer shall affirm, reverse, or modify the action of the chief. The decision of the hearing officer is final as to administrative remedies with the city.

E. A permit or registration holder or other person commits an offense if he operates an alarm system during the period in which the alarm permit or registration is revoked.

103.090 Revocation—Discontinuation of service.

In the event that the chief of police revokes an alarm permit in accordance with the provisions of this article for the reason stated in Section 103.080 of this article, the chief of police may further order the alarm system business to discontinue their service from such alarm system for such time as the permit for such system remains revoked. Notice of an order under this section shall be sent to the alarm company by certified mail, return receipt requested. The alarm system business shall comply with the order and discontinue alarm service within twenty-four (24) hours after receipt of the notice.

103.100 Appeal from assessment of service fee, denial or revocation of permit.

A. Any permit holder assessed a service fee under Section 103.040 may appeal the decision of the chief to the designated hearing officer within ten (10) days of receipt of notice of assessment of such service fee and in the same manner for other appeals as provided for herein.

B. If the chief refuses to issue or renew a permit, 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 appeal such action, such notice to include:

- (1) The specific dates on which there have been false alarms notifications from such alarm system which were caused by mechanical malfunction, faulty equipment, or human error.
- (2) The amount of any fees assessed under this article that are due and owing and the date such fees were incurred, if revocation is based on item failure to pay service fees.
- (3) That a hearing may be held before a designated hearing officer to determine whether the permit for such alarm system should remain revoked or be reinstated; and
- (4) That the permit holder may appear in person and/or be represented by counsel may present testimony and may cross-examine all witnesses.

C. The applicant or permit holder may appeal the decision of the chief of police to the designated hearing officer by filing with the city a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt of the notice from the chief. The filing of a request for an appeal hearing with the city stays an action of the chief revoking a permit until the mayor or his/her 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 chief is final.

D. The designated hearing officer shall set a time and place for the hearing, which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The designated hearing officer shall serve as the hearing officer at an appeal and consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. All parties to the hearing shall have the right to present evidence and shall have the right of cross-examination. The hearing officer shall make his decision on the basis of a preponderance of the evidence within fifteen (15) days after the request for an appeal hearing is filed. The time for hearing an appeal may be extended by agreement of the parties. The hearing officer shall affirm, reverse, or modify the action of the chief. The decision of the hearing officer is final as to administrative remedies with the city.

103.110 Reinstatement of permit.

Except as provided in Subsection (B) of this section:

A. A permit holder or other person whose alarm permit or registration has been revoked may be issued a new permit provided that all outstanding service fees or other fees required by this article have been paid and the person:

1. Meets the qualifications of an applicant;
2. Submits an updated application and pays a one hundred dollar (\$100.00) reinstatement fee; and
3. Pays, or otherwise resolves, all complaints in municipal court issued to the person under this article.

B. The reinstatement of a permit may be refused if the chief determines that the system proposed to be used or persons responsible for the alarm system under the reinstated permit have a history of unreliability. Factors to be used in determining a history of unreliability shall include:

1. Ten or more false alarm notifications in the thirty-day period prior to the revocation of the permit; or
2. Two or more incidents of failure of the permit holder or persons or alarm service business designated to respond to false alarm notifications by the police department in the thirty-day period prior to the revocation of the permit; or
3. Two or more incidents of continuing alarm system operation during the period in which the permit was revoked; or
4. Failure to provide proof that an alarm company has properly serviced the alarm system and corrected any deficiencies.

C. An appeal of the decision of the chief to refuse to reinstate a permit under subsection (B) of this section may be made to a hearing officer in the same manner as an appeal from the assessment of a service fee in Section 103.100. A hearing officer shall affirm, reverse, or modify the decision of the chief.

103.120 Proper alarm system operation and maintenance.

A. A permit holder or other person in control of an alarm system or premises in which an alarm system is operated:

1. Shall maintain premises containing an alarm system in a manner that insures proper operation of the alarm system;
2. Shall maintain the alarm system in a manner that will minimize false alarm notifications;
3. Shall not manually activate an alarm for any reason other than for an occurrence of an event as set forth in Section 103.010 of this chapter.

B. A permit holder or person in control of an alarm system shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm audible on the exterior of the alarm site will be actuated for no longer than ten (10) minutes after being activated. It shall be a violation for an alarm signal to sound at an alarm site continuously for more than fifteen (15) minutes.

103.130 Manual reset required.

A. A permit holder or person in control of an alarm system which utilizes equipment that is capable of being adjusted so that the mechanism, upon activation, will not make or transmit another alarm signal from the alarm or a separate zone therein without first being manually reset, shall adjust or cause the system to be adjusted so that it will not make or transmit another alarm signal from the alarm or a separate zone therein that triggered a false alarm without first being manually reset.

B. No person, on or after January 1, 2003, shall install on premises located in the city an alarm system or replacement equipment which controls the system for an existing alarm system that does not utilize equipment that is capable of being adjusted so that the mechanism, upon activation, will not make or transmit another alarm signal from the alarm or a separate zone therein without first being manually reset.

103.140 Reporting of alarm signals.

- A. 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 or that is not licensed by the Texas Board of Private Investigators and Private Security Agencies, as may be required.

- B. Before requesting a police response to an alarm system, an alarm company must attempt to verify every alarm signal except for an alarm signal authorized under Section 103.070 of this article, an alarm signal emitted from a certified UL system, or an alarm signal emitted from an alarm system owned or operated by the city or County of El Paso.

- C. An alarm notification may be canceled by the alarm company by notice to the Police and/or Sheriff's Department Communication Center within four (4) minutes of the alarm notification or prior to the arrival of a police officer at the scene of the alarm site, whichever occurs first. If cancellation is made timely, a false alarm will be avoided.

103.150 Alarm dispatch records.

A. The police and sheriff's department and the officer responding to a dispatch resulting from an alarm notification shall record or cause to be recorded such information as necessary to permit the chief and the sheriff to maintain records, including but not limited to the following information:

1. Identification of the alarm site;
2. Date, dispatch received time and arrival time;
3. Weather conditions;
4. Name of permit holder's representative on premises, if any.

B. The responding officer shall indicate or cause to be indicated on a record the presence or absence of factors indicating whether the notification was caused by a criminal offense or whether the notification was due to faulty or defective equipment or human error.

C. A copy of the record, as recorded at the alarm site by the responding officer, shall be left at the alarm site whenever possible. The notice shall include the date and time of the police response.

D. In the event that a person or person lawfully on the premises act or fail to act in any manner which results in the inability of the responding officer to make any inspection, determination, or report as set forth in this article, the officer shall make a determination that the alarm was false and shall note such determination on a record. In such an event, the officer shall not be required to leave a copy of the record at the alarm site.

E. The city will attempt, merely as a courtesy, to notify by phone or mail the alarm permit holder or the alarm company upon the occurrence of a fourth false alarm notification during any twelve month period at any single alarm site. Failure by the city to give this courtesy notice shall not preclude enforcement of any other section of this article.

103.160 Violations; penalty; corporations, partnerships and associations.

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. 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 on behalf of the corporation, partnership, or other association, and within the scope of his employment.

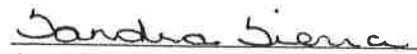
C. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined not more than two hundred dollars (\$200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

This ordinance was duly enacted together with all requisites and formalities incident thereto the enactment of ordinances and such is evidenced by the below signatures.

SIGNED and EXECUTED on this 11th day of February, 200~~2~~³


PATRICIA RANDLEEL
Mayor, Town of Horizon City

ATTEST:


SANDRA SIERRA, TOWN CLERK

APPROVED:


ROBERT A. DURAN, CITY ATTORNEY

First Reading: 01/14/03

Second Reading: 02/11/03

