

City of Houston, Texas, Ordinance No. 2019-189

AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 11 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO BURGLAR ALARM SYSTEMS, PERMITS AND PENALTIES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, in September 2015, the Texas Legislature passed HB 2162, which created Subchapter F-1 of the Local Government Code, relating to the regulation of burglar alarm systems in large municipalities wholly or partly located in large counties, including the City; and

WHEREAS, the City seeks to align its current regulations related to burglar alarm systems with these legislative changes by adopting the Administrative and Regulatory Affairs ("ARA") Department's proposed amendments to Chapter 11 of the Code which, in part, serve to:

- (1) Update the definition of a "false alarm" to an alarm notification that the Houston Police Department ("HPD") responds to within a reasonable amount of time and upon inspection determines to be false;
- (2) Allow an alarm system owner to elect to exclude the City from receiving an alarm signal from their alarm system, in which case the alarm system owner would not be required to obtain a permit for their alarm system;
- (3) Impose upon the alarm system owner a penalty of \$250.00 for each HPD response requested by an alarm system company based on an alarm signal from an alarm system whose owner has elected to exclude the City from receiving an alarm signal from the owner's alarm system; and

WHEREAS, ARA recommends establishing duties for alarm system companies to provide information concerning the necessity for obtaining an alarm system permit, how to operate the purchased alarm system, and how to prevent a false alarm to a person-in-control of an alarm system; and

WHEREAS, ARA and HPD recommend updating the definition of "alarm system" to reflect the growing number of alarm systems that rely on video imaging technology; and

WHEREAS, ARA recommends removing the penalties associated with false alarms and non-permitted alarm systems from the City fee schedule, since they are not fees, and instead, listing the penalties clearly in Chapter 11 of the Code; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Section 11-51 of the Code of Ordinances, Houston, Texas, is hereby amended by amending the definitions of the terms *alarm signal*, *alarm system*, and *false alarm* to read as follows:

"*Alarm signal* means the transmission of a signal, whether by electronic or other means, by an alarm system to an alarm systems company in response to an incident at the alarm site."

"*Alarm system* means any mechanical, electrical, electronic or radio-controlled alarm device or equipment designed to or that does emit or transmit an alarm signal that is designed or intended to produce an alarm notification. Alarm system includes, but is not limited to, silent, audible, panic, holdup, burglar and local alarm systems. Alarm system also includes a device designed and installed for the purpose of transferring video images reflecting existing conditions at an alarm site to an alarm systems company. The term does not include a personal emergency response system alarm, a fire alarm system designed solely to detect fire or smoke, or an alarm installed in a motor vehicle solely to prevent theft of the vehicle."

"*False alarm* means an alarm notification generated when an emergency of the kind for which the alarm system was designed did not in fact exist and a response is made by the police department within a reasonable time after the alarm notification and the police department determines from an inspection of the interior or exterior of the premises that the alarm was false. The term *false alarm* does not include an alarm caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to the control of a permit holder."

Section 3. That Section 11-57 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 11-57. Alarm system companies—Duty to maintain and provide records.

(a) *Records to be provided.* It shall be the duty of each alarm systems company to maintain a record of all alarm systems the company has installed or rendered capable of being activated in the city, as required by § 1702.286(b), Texas Occupations Code. The records required to be maintained by this subsection shall be maintained for at least two years from the date of their creation and shall be available for inspection and duplication upon demand by the police chief or director. At the discretion of the police chief or director, any such request may be made electronically or in writing by mail or by personal delivery to an alarm systems company.

(b) *Periodic reports to be provided.* A true and correct list of all alarm systems installed, rendered capable of being activated, maintained or monitored in the city by an alarm systems company shall be provided to the police chief and director annually, or more frequently if requested by the police chief or director. Such list shall be provided in an electronic or other format as may be required by the police chief or director.

(c) *Violation; penalty.* A person who violates any provision of this section is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted. Each offense is punishable as provided in section 11-74 of this Code."

Section 4. That Article III of Chapter 11 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 11-57.1 that reads as follows:

"Sec. 11-57.1. Same—Duty to inform person-in-control.

(a) Upon installation or activation of an alarm system, the installation company shall distribute to the person-in-control information concerning:

- (1) How to apply for an alarm permit;
- (2) How to operate the alarm system;
- (3) How to prevent false alarms; and
- (4) The applicable law relating to false alarms, including the potential for penalties and revocation of the alarm permit.

(b) Upon installation or activation of an alarm system, the installation company shall ensure the person-in-control of an alarm system

equipped with a panic, holdup, duress or burglar alarm is trained on the proper use of the panic, holdup, duress or burglar alarm."

Section 5. That Items (1), (2), and (10) of Section 11-59(a) of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- "(1) *Applicant.* The name, address, telephone number(s), email address, federal employee identification number, state sales tax number, corporate charter number, and state driver's license number of the applicant, as applicable. An applicant who is an individual who does not have a valid Texas driver's license must provide his social security number.
- (2) *Alarm subscriber.* If different from the applicant, the name, address, telephone number(s), email address, federal employee identification number, state sales tax number, corporate charter number, and state driver's license number of the alarm subscriber, as applicable."
- "(10) *No unpaid fees.* A statement that all fees and penalties due and owing to the city under this article by the alarm subscriber, the applicant and its partners, officers, owners and other principals have been paid or that any such outstanding fees and penalties are being paid under a payment arrangement with the director."

Section 6. That Subsection 11-59(a) of the Code of Ordinances, Houston, Texas, is hereby amended by deleting Item (11) and renumbering the subsequent Items accordingly.

Section 7. That Item 11-59(c)(4) of the Code of Ordinances, Houston, Texas, is hereby amended by inserting a comma following the word "had."

Section 8. That Subsection 11-61(b) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) *Notice of expiration.* The department shall give at least 30 days written notice to the permit holder of the expiration date of an alarm permit. A permit holder who wants to renew the permit shall file the renewal fee with the director not less than 10 business days before expiration of the alarm permit. The director shall issue the renewal alarm

permit for the 12-month period following the expiration date of the current permit."

Section 9. That Subsection 11-67(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) No person shall intentionally or knowingly cause an alarm system to be triggered for any purpose other than an emergency or threat of emergency of the kind for which the alarm system was designed to give notice; provided, however, it shall be an affirmative defense to prosecution under this subsection that the alarm system was triggered solely for the purpose of testing the alarm system and the person who tested the alarm system was a representative of the department, police department, or duly licensed under Chapter 1702 of the Texas Occupations Code and took reasonable precautions to avoid any alarm notification being sent to the police department."

Section 10. That Section 11-68 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 11-68. Penalties for false alarms and non-permitted alarms; collection fees; hearing on false or non-permitted alarm determination.

(a) *False alarm.* For a burglar alarm system, the permit holder will be charged a penalty based on the following table for each false alarm in excess of three during the preceding 12-month period, provided a response is made by the police department to the alarm site within a reasonable time after the alarm notification:

False Alarm Penalty

4 th false alarm	\$ 50.00
5 th false alarm	\$ 50.00
6 th false alarm	\$ 75.00
7 th false alarm	\$ 75.00
8 th false alarm	\$100.00
Each additional	\$100.00

(b) *False residential panic or holdup alarm.* For a residential alarm site, the permit holder of a panic or holdup alarm system will be

charged a penalty based on the following table for each false panic or holdup alarm in excess of one during the preceding 12-month period:

False Alarm Penalty

2 nd false alarm.....	\$ 140.09
3 rd false alarm	\$ 280.20
4 th false alarm	\$ 420.29
5 th false alarm	\$ 560.39
Each additional	\$ 560.39

(c) *False non-residential panic or holdup alarm.* For a non-residential alarm site, the permit holder of a panic or holdup alarm system will be charged a penalty based on the following table for each false panic or holdup alarm in excess of one during the preceding 12-month period:

False Alarm Penalty

2 nd false alarm.....	\$ 280.20
3 rd false alarm	\$ 560.39
4 th false alarm	\$ 700.50
5 th false alarm	\$ 700.50
Each additional	\$ 700.50

(d) *Alarm generated by a non-permitted alarm system.* If HEC or the police department receives an alarm notification, regardless of whether the alarm is false, from an alarm system that does not have a valid alarm permit, the alarm subscriber and the persons-in-control of any portion of the alarm site shall be charged a penalty for each such alarm notification and shall be jointly and severally liable to the city for payment thereof. The penalty per alarm notification for each type of alarm notification received shall be:

- (1) *Residential burglar alarm system:*\$ 116.75
- (2) *Non-residential burglar alarm system:*.....\$ 233.50
- (3) *Residential panic or holdup alarm system:*.....\$ 308.21
- (4) *Non-residential panic or holdup alarm system:*\$ 490.34

(e) *Notice.* A notice of each false alarm or alarm generated by a non-permitted alarm system shall be mailed to the permit holder by the director, or to any general addressee at the alarm site address if there is

no valid alarm permit, within 30 days from the date of the alarm. The notice shall include:

- (1) The date of the alarm; and
- (2) The address of the alarm site, and if the alarm site is a multi-unit housing facility, the identification of the individual facility where the false alarm occurred.

Except for collection fees added pursuant to subsection (l) of this section, the permit holder or owner of a non-permitted alarm system shall pay all fees and penalties assessed under this section to the department or make an arrangement with the director to cover the cost of such fees and penalties within 30 days following the date that the city places the false or non-permitted alarm notice in the mail, unless a hearing has been timely requested under subsection (f) of this section.

(f) *Hearing on false or non-permitted alarm.* If the permit holder, or an alarm subscriber or other person-in-control if there is no valid alarm permit, disputes any part of the false or non-permitted alarm notice, such person (appellant) may appeal by filing a written request for a hearing by mail or personal delivery to the director. The request for hearing and supporting documents must be received by the director not later than the 30th day next following the date that the city places the false or non-permitted alarm notice in the mail. Failure to timely request a hearing shall render the notice and imposition of penalties final.

(g) *Purpose of hearing.* The sole purpose of the hearing set out in the preceding subsection shall be to ascertain whether the disputed alarm was false or generated by a non-permitted alarm system. The request for hearing shall specify facts and have documents and records attached that prove the alarm was not false or generated by a non-permitted alarm system.

(h) *Rules and procedures for hearing.* Hearings shall be conducted in accordance with the rules established for that purpose by the director. The proceedings shall be informal. Without limitation of other provisions that may be established in such rules, the records generated by the police department personnel who responded to the alarm shall be admissible as proof of their contents, and the police department personnel who responded shall not be required to testify at the hearing.

(i) *Authority of director.* The director shall have the discretion at any time prior to the hearing to reverse a determination that an alarm was false or generated by a non-permitted alarm system if the records clearly establish the alarm was:

(1) Not in fact false or generated by a non-permitted alarm system; or

(2) Generated by or as a result of disaster for which the mayor has declared a state of disaster and emergency exists.

(j) *Burden of proof.* At the hearing, the burden shall be upon the appellant to demonstrate by a preponderance of the evidence that the alarm was not false or generated by a non-permitted alarm system.

(k) *Final decision.* The decision of the hearing officer shall be final, and fees and penalties assessed, if applicable, shall be paid within 15 days following the date that notice of the decision is mailed or hand delivered to the appellant.

(l) *Collection fee.* A collection fee of 30 percent of the false alarm penalty amount shall be added to each false alarm penalty assessed under this section if the false alarm penalty remains unpaid on the 61st day after it is due. Collection fees are due and payable on the day they are added to the false alarm penalty."

Section 11. That Item 11-69(b)(4) of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term "72 hour" with the hyphenated term "72-hour."

Section 12. That Item 11-69(b)(5) of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term "30 day" with the hyphenated term "30-day."

Section 13. That Items (1) through (3) of Subsection 11-70(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(1) *Unpaid amounts.* The permit holder has failed to make full payment to the city for any fees and penalties due under this article within 90 days after the date the director mailed a notice to the permit holder that the fees and penalties are due and owing, or within 15 days following the date of mailing or delivery of the decision notice adverse to the permit holder if an appeal has been timely filed;

(2) *Burglar alarm system; excessive false alarms.* The permit holder of a burglar alarm system on a residential or non-residential alarm site accrues more than seven false alarms during the preceding 12-month period;

- (3) *Panic or holdup alarm system; excessive false alarms.* The permit holder of a panic or holdup alarm system accrues more than:

- 3 false alarms in the preceding 1-month period;
- 4 false alarms in the preceding 3-month period;
- 5 false alarms in the preceding 6-month period; or
- 6 false alarms in the preceding 12-month period."

Section 14. That Subsection 11-70(c) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(c) *Notice of alarm permit denial or revocation.* If the director denies an application for an alarm permit or revokes an alarm permit, the director shall cause a denial or revocation notice to be sent to the applicant at the address set out in the permit application and shall maintain a copy thereof. The notice shall state the reasons for the denial or revocation and advise the applicant of the right to a hearing as provided in section 11-71 of this Code."

Section 15. That, effective January 1, 2020, Article III of Chapter 11 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 11-70.1 that reads as follows:

"Sec. 11-70.1. Exclusion of alarm system by owner.

(a) A property owner or person-in-control of an alarm site may elect to exclude the city from receiving an alarm signal from an alarm system located on the owner's property or at the alarm site by submitting to the city, on a form promulgated by the director, a request for exclusion. If an election is made under this section, the city shall not require the property owner or person-in-control to obtain a permit and shall not impose any fee to obtain a permit for the alarm system.

(b) A property owner or person-in-control who makes an election under this section shall pay to the director a penalty of \$250 for each Houston police department response to a signal from the alarm system requested by an alarm system monitor."

Section 16. That Subsection 11-71(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) *Appeal; written request required.* A person may appeal the denial or revocation of an alarm permit by delivering a written request for an appeal to the director not later than 30 days after the first date of mailing written notice of denial or revocation."

Section 17. That Section 11-71 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (f) that reads as follows:

"(f) *Decision of the hearing officer.* The decision of the hearing officer shall be final."

Section 18. That Subsection 11-72(a) of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the brackets around the word "*Verification*."

Section 19. That Section 11-77 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term "Subchapter F" with the term "Subchapter F-1."

Section 20. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 21. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets

of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 22. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and with the exception of **Section 15**, which shall take effect as therein provided, shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND ADOPTED this 27th day of March, 2019.

APPROVED this 27th day of March, 2019.



Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. _____

JWG:asw 03/07/2019



Assistant City Attorney

Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs

L.D. File No. 0371800090001

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: APR 02 2019

AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
ABSENT		BOYKINS
ABSENT		MARTIN
✓		LE
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		LASTER
✓		CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	