

ORDINANCE NO. 2013-4041

AN ORDINANCE OF THE CITY OF ARANSAS PASS, TEXAS, PROVIDING THAT THE CODE OF ORDINANCES BE AMENDED BY ADDING A SECTION VI TO CHAPTER 18 REGARDING ALARM SYSTEMS, PROVIDING A REPEALER CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARANSAS PASS, TEXAS:

SECTION 1: That the Code of Ordinances of the City of Aransas Pass, Texas, be amended by adding a new article to Chapter 18 of the Code of Ordinances to be numbered ARTICLE VI, to read as follows:

ARTICLE VI - ALARM SYSTEMS

Sec. 18-60. - Definitions.

Sec. 18-61. - Permit required; application, transferability, false statements.

Sec. 18-62. - Other types of alarms.

Sec. 18-63. - Fee for permit; duration, renewal.

Sec. 18-64. - Service charge.

Sec. 18-65. - Reporting of alarm signals.

Sec. 18-66. - Proper alarm system operation and maintenance.

Sec. 18-67. - Manual reset required.

Sec. 18-68. - Inspection.

Sec. 18-69. - Suspension of permit; offense to operate.

Sec. 18-70. - Appeal from denial or suspension of a permit.

Sec. 18-71. - Indirect alarm reporting.

Sec. 18-72. - Direct alarm reporting.

Sec. 18-73. - Protection of financial institutions.

Sec. 18-74. - Violations; corporations, partnerships and associations.

Sec. 18-75. - Punishment.

Secs. 18-76—18-79. - Reserved.

Sec. 18-60. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

- (1) *Alarm system* means a device or system that transmits or relays a signal intended to summon police or fire services provided by the city, as illustrated by, but not limited to, local alarms. Alarm system does not include:
 - a. An alarm installed on a vehicle unless installed at a permanent site;
 - b. An alarm designed to alert only the inhabitants of a premises; nor
 - c. An alarm installed upon premises occupied by the city.
- (2) *Alarm site* means a premises or location served by an alarm system.

- (3) *Burglar alarm notification* is a notification intended to summon the police, which is initiated or triggered manually or by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.
- (4) *City administrator* means the city manager or his authorized representative, but must not be a policeman or fireman for the City of Aransas Pass.
- (5) *Director* means the chief of police, or his authorized representative.
- (6) *False alarm notification* means a burglar alarm, holdup or robbery alarm, fire alarm, or smoke alarm notification to the city's emergency services department, and occurs when the responding emergency services employee finds no evidence of robbery or holdup, unauthorized intrusion or attempted unauthorized intrusion, smoke, fire, or evidence of either having just occurred.
- (7) *Local alarm* means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and has as its purpose the summoning of aid from a city department.
- (9) *Person* means an individual, corporation, partnership, association, organization or similar entity.
- (10) *Robbery alarm notification* includes holdup alarm notifications and is a notification by means of an alarm system designed to be purposely activated by a human who intended to summon the police when a robbery occurs.

Sec. 18-61. - Permit required; application, transferability, false statements.

- (a) A person commits an offense if he operates or causes to be operated an alarm system without first obtaining a permit from the director. A separate permit is required for each type of alarm notification capable of being emitted from each alarm site.
- (b) Any person with an alarm system on the effective date of this article must apply for a permit within sixty (60) days of installation of the system or after the effective date of this article.
- (c) Upon receipt of the required fee and completed application form, the director shall issue a permit unless there is cause to believe the equipment responsible for initiating an alarm will not be maintained and operated in accordance with this article or the applicant will not comply with each provision of this article.
- (d) Each permit application must contain the name, address and telephone number of the individual or alarm user representative who will be the permit holder and will be responsible for the proper maintenance and operation of the alarm system and payment of fees or charges levied under this article.
- (e) An alarm permit cannot be transferred to another person. However, the individual designated to respond to an alarm or relay an alarm may be changed. A permit holder shall inform the director in writing of any change that alters information listed on the permit application. No fee will be assessed for such changes.
- (f) Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant or suspension of a permit.

Sec. 18-62. - Other types of alarms.

- (a) A person shall not install or maintain an alarm system except for the purpose of eliciting responses to burglaries, fires, or robberies, unless specifically authorized by the director.

- (b) If innovations in alarm systems or other types of alarm devices adversely affect emergency services of the city, the director may promulgate rules and regulations in order to protect the city's emergency services.

Sec. 18-63. - Fee for permit; duration, renewal.

1. Residential Alarm Permits:

- a. A nonrefundable fee of thirty-five dollars (\$35.00) per year is required for the first permit. Any additionally required permits in combination with the initial permit shall require a nonrefundable fee of twenty dollars (\$20.00) per type of alarm notification permit required. A permit is issued for one (1) year and must be renewed each year thereafter by payment of the stated permit fees. It is the responsibility of the permit holder to pay the renewal fee prior to the expiration date. The director has the prerogative of determining the first expiration date, however. This initial period shall be no less than one (1) nor more than two (2) years from the date of issuance of the permit.

Business Alarm Permits:

- a. A nonrefundable fee of sixty dollars (\$60.00) per year is required for each permit. Any additionally required permits in combination with the initial permit shall require a nonrefundable fee of thirty-five dollars (\$35.00) per type of alarm notification permit required. A permit is issued for one (1) year and must be renewed each year thereafter by payment of the stated permit fee. It is the responsibility of the permit holder to pay the renewal fee prior to the expiration date. The director has the prerogative of determining the first expiration date, however. This initial period shall be no less than one (1) nor more than two (2) years from the date of issuance of the permit.

3. Government Alarm Permits:

- a. There are no fees or permitting requirements for ISD facilities or facilities owned and primarily controlled by the City of Aransas Pass, Texas. These entities shall keep an application on file and current from year to year.

Sec. 18-64. - Service charge.

- (a) If within any twelve-month period three (3) false alarm notifications are emitted from an alarm site, the director shall assess the permit holder in control of that alarm site a fee of:
 - I. fifty dollars (\$50.00) for the fourth (4th) and fifth (5th) subsequent false alarm notification emitted from the site, or
 - II. seventy-five dollars (\$75.00) for the sixth (6th) and seventh (7th) subsequent false alarm notification emitted from the site, or
 - III. one hundred dollars (\$100.00) for the eighth (8th) and each subsequent false alarm notification emitted from the site.
- (b) The director shall assess the permit holder of a robbery alarm a fee of eighty-five dollars (\$85.00) for each false robbery alarm notification emitted from the alarm site.
- (c) A permit holder shall pay a fee assessed under this section within thirty (30) days after receipt of notice that it has been assessed.
- (d) The permit holder will be exempt from any fee charged for a false alarm notification which is later shown to have been justified or which was due to a natural or man-made catastrophe or other situation specifically exempted by the director.

When permits are renewed, each permit holder will start over again with no false alarms to be carried over into the next twelve-month period from the previous period for which the permit was issued.

Failure to pay a specified fee is a violation of this article and could result in criminal charges.

Sec. 18-65. - Reporting of alarm signals.

A permit holder shall not report his alarm signals through a relaying intermediary that does not meet the requirements of this article and any rules and regulations promulgated by the director, is not licensed by the Texas Board of Private Investigators and Private Security Agencies, or is not the owner of the property.

Sec. 18-66. - Proper alarm system operation and maintenance.

- (a) A permit holder shall:
 - (1) Cause an adjustment to be made to the sensory mechanism of his alarm system in order to suppress false indications; and,
 - (2) Maintain premises containing an alarm system in a manner that ensures proper operation of the alarm system.
- (b) A person in control of a local alarm shall:
 - (1) Adjust the mechanism so that the alarm signal will sound for not longer than thirty (30) minutes after being activated; or
 - (2) Provide personnel who will within thirty (30) minutes after being notified by the city, to reset the alarm system and provide access to the premises.

Sec. 18-67. - Manual reset required.

A person in control of a local alarm or an alarm system that causes an alarm notification to be sent directly to the city shall adjust or cause the adjustment of the mechanism so that upon activation of the system, the system shall transmit only one (1) alarm signal and will not transmit another alarm signal without first being manually reset.

Sec. 18-68. - Inspection.

Upon reasonable notification, the director, or his designated representative, may inspect an alarm site and alarm system of a permit holder.

Sec. 18-69. - Suspension of permit; offense to operate.

- (a) The director may suspend or refuse to renew an alarm system permit for any violation of this article.
- (b) The director may suspend or refuse to renew an alarm permit if an alarm system generates an excessive number of false alarm notifications in a twelve-month period. In each respective category, an excessive number shall be:
 - (1) Ten (10) false burglar alarms;
 - (2) Five (5) false robbery alarms.
- (c) A suspension may be lifted upon a sufficient showing that the conditions which caused the action have been corrected and if the director determines that the alarm system is likely to be maintained and operated in a responsible manner in accordance with the provisions of this article.
- (d) A person commits an offense if he operates an alarm system during a period of suspension or after the director refuses to renew his or her permit.

Sec. 18-70. - Appeal from denial or suspension of a permit.

- (a) If the director refuses to issue or renew a permit, or suspends a permit, the director shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the director's action and a statement of the right to appeal. The applicant or permit holder may appeal the decision of the director to the city manager by filing with the city manager a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt of the notice of the director. The filing of a request for an appeal hearing with the city manager stays an action of the director in suspending a permit until the city manager makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the director is final.
- (b) The city manager shall serve as hearing officer at an appeal hearing and consider evidence offered by interested persons. The formal rules of evidence do not apply at an appeal hearing; the hearing officer shall make his decision on the basis of a preponderance of the evidence presented at the hearing. The hearing officer must render a decision within thirty (30) days after the request for an appeal hearing is filed. The hearing officer shall affirm, reverse or modify the action of the director, and hearing officer's decision is final unless the applicant or permit holder files a written request with the city council for a hearing within ten (10) days after the receipt of notice of the action of the hearing officer. A written request to the city council stays the action of the hearing officer in suspending a permit until the city council renders a final decision.
- (c) If a request for an appeal hearing with the city council is filed within the ten-day period, the city council shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply to an appeal hearing before the city council. The city council shall decide the appeal on the basis of preponderance of the evidence presented at the hearing. The city council shall affirm, reverse or modify the action of the hearing officer by a majority vote; failure to reach a majority decision on a motion shall leave the hearing officer's decision unchanged. The result of an appeal hearing before the city council is final.

Sec. 18-71. - Indirect alarm reporting.

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

- (1) Send notification of an alarm to the city by a human operator;
- (2) Keep his business premises locked and secured at all times;
- (3) Allow an inspection of his business premises by the director at any time;
- (4) Report alarms only over a special telephone number, or numbers, designated by the director; and
- (5) Send alarm notifications to the city in a manner and form determined by the director.

Sec. 18-72. - Direct alarm reporting.

A permit holder whose alarm system transmits automatic alarm notifications, other than alarm notifications from financial institutions, directly to the city over the normal telephone system shall:

- (1) Transmit in the form and content specified by the director;
- (2) Transmit over special telephone lines designed for such use;
- (3) Upon request, furnish the director with satisfactory copies of the alarm operation procedures, maintenance procedures and up-to-date circuit diagram of the components of the alarm system; and
- (4) Furnish the name, address and telephone number of an alarm company licensed by the Texas Board of Private Investigators and Private Security Agencies, and responsible on a twenty-four-hour, seven-day-a-week basis for correcting any malfunction that may occur.

Sec. 18-73. - Protection of financial institutions.

- (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, a signal line directly to the police department for the purpose of reporting burglaries and robberies. If such an arrangement is made, all other requirements of this article must be met. The financial institution shall execute a letter of agreement with the city permitting the installation of all necessary equipment on an indicator panel monitored in the communications division of the police department. The installation must be accomplished at the institution's expense.
- (b) The financial institution, 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 twenty-four-hour basis, seven (7) days a week. In no event shall the city become liable for service charges for repairs and maintenance of any such signaling device.
- (c) The financial institution shall pay an annual fee of one hundred dollars (\$100.00) 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 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.
- (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 police chief has 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 such changes.
- (f) Instead of a direct line, a financial institution may choose to report burglaries and robberies by transmission through an alarm reporting service using a telephone number designated by the chief of police.

Sec. 18-74. - Violations; corporations, partnerships and associations.

- (a) A person commits an offense if he violates by commission or omission any provision of this article 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 in behalf of the corporation, partnership or other association, and within the scope of his employment.

Sec. 18-75. - Punishment.

A person, firm or corporation violating any provision of this article shall upon commission be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed the sum of two hundred and fifty dollars (\$250.00) for each offense and each day such violation continues committed or permitted shall constitute a separate offense.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This ordinance shall take effect October 1, 2013, and after publication as required by the City Charter of the City of Aransas Pass.

PASSED AND APPROVED THIS THE 3rd DAY OF September, 2013.

CITY OF ARANSAS PASS, TEXAS

BY: ADAN CHAPA, MAYOR

ATTEST:

Yvonne Stonebraker, City Secretary

APPROVED AS TO LEGAL FORM:

Allen Lawrence, City Attorney