

ORDINANCE NO. __5760__

AN ORDINANCE to amend Title 3 “Business Regulations and Licenses” of the 2000 Municipal Code of Council Bluffs, Iowa, by repealing Chapter 3.12, “Alarm Systems”, in its entirety, and by enacting a new Chapter 3.12, to be entitled “Alarm Systems”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Title 3 “Business Regulations and Licenses” of the 2000 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 3.12, “Alarm Systems”, in its entirety.

SECTION 2. That Title 3 “Business Regulations and Licenses” of the 2000 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by enacting a new Chapter 3.12, “Alarm Systems”, to read as follows:

**CHAPTER 3.12
ALARM SYSTEMS**

Sections:	3.12.010	Definitions.
	3.12.020	Alarm systems, compliance with chapter.
	3.12.030	Alarm system registration required.
	3.12.040	Registration application fee; termination and renewal.
	3.12.050	Current information, term of registration and renewal.
	3.12.060	Maintenance of alarm systems.
	3.12.070	Required information for PCCC notification.
	3.12.080	False alarm fees.
	3.12.090	Suspension or revocation of license or permit.
	3.12.100	Appeal procedure.
	3.12.110	Notices.
	3.12.120	Penalty.

3.12.010 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) *Alarm Business* shall mean any person (i) who installs alarm systems, other than a principal, or (ii) who, pursuant to an agreement with a principal, communicates the presence of an emergency which is sounded or signaled by an alarm system, to the Pottawattamie County Communications Center (“PCCC”) in any manner or by any means.
- (2) *Alarm system* shall mean any device (other than a device installed upon premises occupied by the city) to detect, deter, sound, prevent, or signal an intrusion or other criminal activity, fire, rescue, or other emergency situation (collectively “emergency”) which, when activated, employs the use of:
 - (a) An audible annunciator, or
 - (b) A visual signal or other means to alert the PCCC of an emergency, whether directly or indirectly.

- (3) *Audible annunciator* shall mean that part of an alarm system which, when activated, sounds or signals an emergency by means of a bell, siren, buzzer or similar sound-producing device which is audible at a distance of fifty (50) feet from the protected premises.
- (4) *Coordinator* shall mean the Mayor of the city of Council Bluffs, Iowa, or his/her designee authorized to perform such duties imposed by this chapter.
- (5) *False Alarm* shall mean any alarm that is activated on purpose or by accident, or by system malfunction when there is no intrusion, fire, smoke, or medical emergency. The city shall have full authority and discretion to determine those situations and/or circumstances that may constitute a false alarm, but which are not set forth below.
 - (a) Error or mistake: Any action by any person, firm, corporation, or other entity owning or operating any dwelling, building, or place, or any action of an agent or employee thereof, which results in the activation of any alarm system when no emergency exists.
 - (b) Malfunction: Any unintentional activation of any alarm system caused by a mechanical malfunction, flaw in design, installation or maintenance of the system. Any activation caused by extraordinary violent conditions of nature, such as tornadoes, floods, or earthquakes, shall not be considered a malfunction.
 - (c) Intentional Misuse: Any intentional activation of an alarm system when no burglary, hold-up, fire, or other emergency exists or is in progress.
 - (d) Alarms that are cancelled by the alarm company before the responding police officer arrives at the scene shall not be classified as a false alarm. However, with the exception of fire alarms, if an alarm has been cancelled three (3) times during the same thirty (30) day period, the fourth (4th) alarm shall constitute a false alarm.
- (6) *Principal* shall mean the person, firm, partnership, association, corporation, company, or organization whose premises are or will be protected by an alarm system. If the premise are leased, the principal shall be the person in possession or control of the protected premises, unless more than one (1) tenant is served by a single alarm system, in which event, "principal", shall mean the owner of the protected premises.
- (7) *Protected premises* shall mean the area which is or will be covered by an alarm system.

3.12.020 Alarm systems, compliance with chapter. It shall be unlawful for any person to install, use, or maintain an alarm system in violation of any of the requirements of the chapter.

3.12.030 Alarm system registration required. Any alarm system installed on protected premises shall be registered with the police as set forth below:

- (1) Existing alarm systems. Any alarm system which has been installed as of the effective date of this chapter shall be registered by the principal within sixty (60) days of such effective date.
- (2) New alarm systems. Any new alarm system installed after the effective date of this chapter shall be registered by the alarm business within ten (10) days following installation.

Annual registration of the alarm system is the responsibility of the principal.

3.12.040 Registration application fee; termination and renewal.

(a) The city, or its designee, shall register each alarm system installed on protected premises upon receipt from the registering principal of the following information on forms provided for that purpose:

- (1) The name, address and telephone number of the principal.
- (2) The type of premises (e.g. home, office, variety store, etc.) and the name of any business operating in the protected premises by which the protected premises is known.
- (3) The address of the protected premises. If the protected premises is in a residential, commercial or industrial complex (e.g., office building, apartment house, shopping center, etc.), the address shall include the name, if any, by which the complex is commonly known.
- (4) The names, addresses and telephone numbers including home phone numbers, of at least three (3) natural persons and, if applicable, an alarm business who have access to the protected premises and who may be notified in the event the alarm is activated.
- (5) Certification by the principal that the principal's immediate family, tenants or employees (as appropriate under the circumstances) who have access to the protected premises have been given training which include procedures and practices to avoid false alarms and steps to follow in the event the alarm system is accidentally activated.

(b) Along with a registration application, the alarm business or principal shall remit a registration fee in the amount of twenty-five dollars (\$25.00), payable to the city, and, if applicable, a late charge of twenty-five dollars (\$25.00).

(c) The city or designee shall register the alarm system by issuing to the principal a permit bearing the name of the principal, the address of the protected premises, and an identification number, and setting forth the expiration date of the registration. The registration of any alarm system shall not obligate the city or PCCC to respond or accord any priority to any emergency.

(d) The term of any registration shall expire upon the earlier of (i) twelve (12) calendar months from the date of issuance or (ii) whenever there is a change of the principal.

(e) Registration shall be renewed by the principal at least ten (10) days prior to the expiration of each term by registering with the city or its designee in the same manner as provided in (a) above.

3.12.050 Current information, term of registration and renewal. Within ten (10) days following any change of circumstances, the principal shall supplement or amend all information which was provided to the police department at the time of registration. No additional fee shall be due unless the change has terminated the registration as provided in Section 3.12.040(d)(ii).

3.12.060 Maintenance of alarm systems.

(a) The principal shall, at all times, be responsible for the proper maintenance and repair if the alarm system, including the repair or replacement of any component or design feature.

(b) Each alarm system shall be maintained so that each audible annunciator will automatically silence within fifteen (15) minutes after being activated, and will not be reactivated unless a new emergency occurs.

(c) An alarm system incorporating an audible annunciator shall not be tested between the hours of 8:00 p.m. of any day and 7:00 a.m. of the following day.

3.12.070 Required information for PCCC notification. Any alarm business communicating the presence of an emergency to the PCCC shall provide the following information:

- (1) The name of the principal, the address of the protected premises, the type of premises (home, office, etc.) and the business name, if any, by which the premises are known. Such information shall be repeated a second time at the end of the message.
- (2) The name and telephone number of the principal, business, or its agent having ready access to the protected premises.
- (3) The apparent nature or type of an emergency indicated, e.g., burglary in progress, robbery, fire, rescue or other emergency.

3.12.080 False alarm fees.

(a) The principal shall pay a fee to the city for such false alarm, except fire alarms, within thirty (30) days of invoice in accordance with the following schedule:

One (1): No charge.

Two (2): per year, one hundred dollars (\$100).

Three (3): or more per year, each incident, two hundred and fifty dollars (\$250.00).

Failure to make full payment in 30 days of the invoice shall result in a \$50.00 late charge.

3.12.090 Suspension or revocation of license or permit.

(a) The following shall constitute grounds for suspension and/or revocation of a license or permit:

- (1) The violation of any of the provisions of this chapter; or
- (2) When an alarm system is knowingly activated by a licensee, permit holder, owner or employee or agent of said parties, in a situation where no burglary, fire intrusion, robbery, medical emergency or other emergency is actually in progress; or
- (3) When the licensee, permit holder, owner or an employee or agent of said parties has knowingly made any false, misleading or fraudulent statement of material fact in the application for a license or any report or record required to be filed with the city; or
- (4) Failure to pay applicable fees.

(b) The city or designee, in the case of suspension, shall serve the permit holder with a written order of suspension stating the reasons for the suspension. The order shall be effective immediately if personally served, or 72 hours after the order of suspension has been deposited by ordinary mail, postage prepaid, in the U.S. mail to the address provided on the permit. When an order becomes effective, the permit holder shall immediately discontinue the use of any alarm system requiring a permit under this chapter, and cease all operations conducted under the authority of any permit, unless such alarm is mandated or required as a matter of federal, state, or local law and cannot be disconnected. If the owner or operator of such alarm system continues to maintain the

use of the alarm, for each “false alarm” as defined in Section 3.12.010 of this chapter, the owner or operator of the alarm shall be charged a fee per response according to the provisions contained in Section 3.12.080.

- (c) A suspension shall become a revocation thirty (30) days after the order of suspension becomes effective unless the permit holder files an appeal of the order of suspension in the manner as hereinafter set forth in this chapter. When an appeal is filed, the order of suspension shall be stayed pending final determination of the appeal. The suspension shall become a revocation if the decision of the hearing officer upholds the suspension, unless the decision is ultimately overruled by the city council pursuant to Section 3.12.100. The suspension shall be dissolved immediately if the decision of the hearing officer reverses the suspension. If the hearing officer and/or city council concur in the suspension and at least fifteen (15) days have elapsed since notification to the licensee of the suspension, the suspension shall be deemed a revocation of the permit.
- (d) If any permit is revoked pursuant to this chapter, the permit holder shall immediately surrender the permit to the city clerk.
- (e) Whenever an alarm system which is under suspension, revocation or renewal has been repaired so as to be capable of functioning properly, and the city has received from an alarm company written certification to such effect, the city may recommend reinstatement of the alarm permit, and the permit shall then be issued or reinstated.
- (f) Any permit holder aggrieved by the decision of the city shall have the right of appeal regarding a denial of an application for a permit or renewal thereof, or for any penalty assessed or any order of suspension issued. The appeal will follow the process set forth in Section 3.12.100.

3.12.100 Appeal procedure. An alarm system owner who receives a notice of a false alarm and believes that notice was improperly issued may appeal the notice to the city attorney’s office within thirty (30) days of receiving the notice. A designated hearing officer may make a determination on the information contained in the appeal form or schedule a hearing, if necessary. The hearing officer may determine the false alarm should be chargeable or non-chargeable against the alarm system owner. If the false alarm is determined to be chargeable, the penalty, if any, shall be paid in full within thirty (30) days of the date of the decision of the appeal. Any alarm system owner wishing to appeal the decision of the hearing officer may appeal that decision in writing to the Council Bluffs City Council within ten (10) days of the hearing officer’s decision. Any further appeals shall be to the Iowa District Court of Pottawattamie County.

3.12.110 Notices.

(a) Notice or billing from the city to any alarm system registration holder shall be deemed to have been given or rendered on the date such notice or billing is deposited in the U.S. mail, first class postage prepaid, addressed to the registration holder at the address shown in the city’s registration records. A certificate signed by the person who mailed the notice or billing shall be prima facie evidence of the facts stated therein with respect to such notice or billing.

(b) Notice to the city or payment under this article shall be effective when received by the appropriate city office or designee.

3.12.120 Penalty. Failure to register or pay fees as set out in this chapter shall be deemed a simple misdemeanor. Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 5077, Section 1 (1992).

SECTION 4. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND _____, 2003
APPROVED

THOMAS P. HANAFAN Mayor

Attest:

CHERYL PUNTENEY City Clerk

First Consideration: _____

Second Consideration: _____

Public Hearing: _____

Third Consideration: _____