

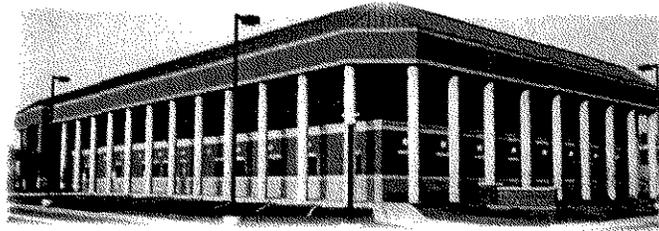
# ***AGENDA***

**FORT SMITH BOARD OF DIRECTORS  
STUDY SESSION**

***JUNE 22, 2010 ~ 12:00 NOON***

**FORT SMITH PUBLIC LIBRARY  
COMMUNITY ROOM  
3201 ROGERS AVENUE**

1. Discuss possible revisions to animal control ordinance
2. Review proposed amendments to ordinance concerning false alarms
3. Review preliminary agenda for July 6, 2010 regular meeting



SS1

## Fort Smith Police Department

Kevin Lindsey, Chief of Police

### INTERDEPARTMENTAL MEMORANDUM

**To:** Dennis Kelly, City Administrator

**From:** Kevin Lindsey, Chief of Police

**Subject:** Review of Animal Ordinance *KL*

**Date:** June 18, 2010

**Attachments:** Sections 4-1 & 4-7 of the Fort Smith Municipal Code

The Fort Smith Police Department has completed the review of Chapter 4, Article I, Section 4-7 of the City of Fort Smith Code of Ordinances dealing with vicious animals as requested by the Board of Directors. This review was to address the feasibility of changing fence height requirements for dog owners to six (6) feet in height, as requested by Ms. Tammy Trouillon. Ms. Trouillon has been a witness to two separate vicious dog attacks, both against her own dogs. Ms. Trouillon had one dog severely injured in an attack and one dog was killed in an attack. In both cases, the offending dog was a Pit Bull or Pit Bull mix. In early June staff spoke with Ms. Trouillon in reference to the current vicious animal ordinance. During this conversation Ms. Trouillon indicated that she would like to see the fence height requirement correlate with the height of a dog, specifically mentioning the Pit Bull breed of dogs to be included.

Sergeant Grubbs was assigned to collect data from the police department's records management system in regards to documented cases of dog attacks. Sergeant Grubbs reports there were seventeen (17) records within our records management system regarding a dog being deemed as vicious. All seventeen (17) records occurred on or after May 24<sup>th</sup>, 2006. The department did not track records of vicious animals prior to that time. Thirteen (13) of the seventeen (17) incidents were found to be animals running at large.

Ms. Trouillon provided staff with research that she compiled from the Internet regarding various cities' requirements for fencing pertaining to dogs. In reviewing her research, staff found no instances where a city approved a fence height requirement based on the height of an animal. Ms. Trouillon cited several Internet sources that had either similar or

less stringent requirements than the City of Fort Smith. Ms. Trouillon included information from the City of Fort Worth, TX, which was also researched by our staff. Fort Worth has enacted a six foot fence height requirement for dogs that have repeatedly and unprovoked bitten or attacked other domestic animals or people inside the dogs enclosure or who repeatedly and aggressively attempt to escape from their enclosure to attack another domestic pet or person. Under our current ordinance, a dog of this nature could be deemed to be either vicious or dangerous after the first occurrence and required to be confined to a six foot pen with an enclosed top, along with other requirements.

In conducting our research, staff has compared the City of Fort Smith Animal Ordinance with other ordinances around the state and country. The Arkansas cities of Beebe, Lonoke, Jacksonville and N. Little Rock, have an all out ban on Pit Bulls and similar breeds of dogs. However, the vast majority of cities surveyed had ordinances very similar, but not as stringent, as the City's ordinance.

The City's current ordinance defines dangerous and vicious dogs in Sections 4-1 and 4-7, Article I. In the majority of cases inside the City of Fort Smith dog owners relinquish their dogs to the City to be euthanized once they have been deemed vicious or dangerous.

Staff contacted two different fencing companies in Fort Smith. Implementing a requirement to install a six foot high fence versus a four foot high fence would increase the cost by 50%. Requiring citizens to replace an existing fence with a six foot high fence may prove to be cost prohibitive for citizens. Staff's recommendation is to retain the current ordinance, since it provides for appropriate measures to address dangerous or vicious dogs that exhibit aggressive tendencies and imposes reasonable requirements on their owners. While Ms. Trouillon's concern is legitimate, our research indicates that the current animal ordinance is sufficient for proper enforcement and safety of the public.

**ARTICLE I. IN GENERAL****Sec. 4-1. Definitions.**

The following words and phrases shall, for the purpose of this chapter, have the following meanings:

*Animal* shall mean any animal which may be affected by rabies.

*Animal warden* shall mean the person who shall be, from time to time, duly authorized by the board of directors as the agent of the city for the purpose of providing the services and fulfilling the responsibilities of the animal warden as herein set out.

*Cat* shall mean animals of all ages, both female and male, which are members of the feline, or cat family.

*City pound* shall mean the place provided and operated by the animal warden for the impounding of dogs and other animals.

*Dangerous dog* means any dog which displays or has a tendency, disposition or propensity to:

- (1) Bare its teeth or approach in a menacing manner a person or domestic animal that is not provoking the dog, or
- (2) Attack, chase, charge or bite a person or domestic animal in a menacing manner, or attempt to do so.

*Dog* shall mean animals of all ages, both female and male, which are members of the canine or dog family.

*Has been bitten* shall mean that a person has been seized with teeth or jaws by an animal, so that the skin of the person or things seized has been nipped or gripped, or has been wounded or pierced and includes contact of saliva with any break or abrasion of the skin.

*Licensed veterinarian* shall mean a practitioner of veterinary medicine who holds a valid license to practice his profession.

*Muzzle*, when required, shall mean an apparatus of appropriate material with sufficient strength to restrain the dog from biting; provided, that no such muzzle employed shall be made from any material or maintained on the dog in any manner so as to cut or injure the dog.

*Owner* shall mean every person having a right of property in a dog or other animal or who keeps or harbors a dog or other animal, or has it in his care, or acts as its custodian, or knowingly permits a dog or other animal to remain on or about any premises occupied by him.

*Pen* shall mean an enclosure for domestic animals meeting the following requirements:

- (1) The minimum pen size shall be four (4) feet by six (6) feet or twenty-four (24) square feet for one dog under fifty (50) lbs. For dogs over fifty (50) lbs., the minimum pen size shall be five (5) feet by ten (10) feet or fifty (50) square feet.
- (2) In all pens, each dog housed therein shall have room to stand, lie down, turn around and sit normally away from its own waste; this requires a minimum of four (4) feet by six (6) feet. A pen five (5) feet by ten (10) feet shall hold no more than one (1) large, or two (2) medium, or three (3) small breed dogs.
- (3) All pens shall be a minimum of six (6) feet in height.
- (4) All pens surrounded on all sides and top by chainlink fencing of at least no. 9

gauge, with steel ties, maximum two and one-half-inch mesh, with concrete or similar flooring or with side fencing buried eighteen (18) inches into the ground, and with gates padlocked.

*Run at large* shall mean the state of freedom of any dog not confined on the premises of the owner within an enclosure, house or other building, or not restrained on the premises of the owner by a leash sufficiently strong to prevent the dog from escaping and restricting the dog to the premises, or not confined by leash or confined within an automobile when away from the premises of the owner. In relation to unspayed female dogs while in season, "run at large" shall further be defined as the state of freedom of any such dog not confined inside an enclosure of such a substantial construction so as to prevent such dog from attracting other dogs to the near vicinity of the confined dog.

*Vaccination* shall mean the injection, subcutaneously or otherwise, of canine antirabic vaccine, as approved by the United States Department of Agriculture or the state veterinarian and administered by a licensed veterinarian.

*Vaccination certificate* shall mean a written or printed certificate showing on its face that the owner described thereon has received an inoculation or antirabic vaccine in an amount sufficient to produce immunity in the described animal and bearing the signature of a licensed veterinarian.

*Vicious animal* shall mean any animal which:

- (1) When unprovoked, approaches in a manner of attack any person upon the streets, sidewalks, or any other public ground or place;
- (2) Has a known propensity, tendency or disposition to attack, without provocation, human beings or domestic animals;
- (3) Without provocation, bites or attacks a human being or domestic animal on public or private property;
- (4) Is owned or harbored primarily or in part for the purpose of animal fighting or is an animal trained for animal fighting.

Notwithstanding the above definition, no animal shall be declared vicious if the person attacked or bitten by the animal was teasing, tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime. Furthermore, no animal shall be declared vicious if a domestic animal which was bitten or attacked was teasing, tormenting, abusing, or assaulting the animal. Additionally, no animal shall be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

*Vicious dog* means any dog which has:

- (1) Caused a life-threatening injury, broken bone, multiple sutures, or any injury requiring medical attention to a person or domestic animal, without provocation, on public or private property; or
- (2) Killed a domestic animal, without provocation, on public or private property; or
- (3) Is owned or harbored primarily or in part for the purpose of dog fighting or is a dog trained for fighting.

(Code 1976, § 4-1; Ord. No. 16-91, § 1, 4-2-91; Ord. No. 105-06, § 1, 11-7-06)

#### **Sec. 4-2. Interference with enforcement.**

It shall be unlawful for any person to interfere with or attempt to prevent the animal warden, or other authorized persons, from seizing and impounding any animal which is authorized to be impounded under the provisions of this chapter. It shall be unlawful for any person to refuse to deliver any unlicensed or unvaccinated dog or any animal observed by an animal warden to be running at

collect such birds or their nests or eggs shall comply with the provisions of A.C.A. § 15-45-210.  
(Code 1976, §§ 4-19--4-21)

**State law references:** State to be wild fowl sanctuary, A.C.A. § 15-45-210.

#### **Sec. 4-7. Vicious animals.**

- (a) The following procedure shall be followed for classifying a dog as vicious or dangerous:
- (1) The animal warden shall be authorized initially to classify a dog as dangerous or vicious. The animal warden may find and declare a dog to be vicious or dangerous if the warden has probable cause to believe that the dog falls within the definition set forth in section 4-1. The finding must be based upon:
    - a. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of section 4-1; or
    - b. A report filed with the animal warden or any law enforcement officer; or
    - c. Actions of the dog witnessed by the animal warden or by any law enforcement officer.
  - (2) The classifying of a dog as vicious or dangerous shall be in writing and shall be served on the owner or harbinger by one of the following methods:
    - a. Certified mail to the owner's or harbinger's last known address; or
    - b. Personally.
- (b) Appeal of determination. Any person who has received notice that his or her canine has been deemed a vicious or dangerous dog may appeal such decision to the animal control unit supervisor. The appeal must be in writing and made within five (5) business days of the day the notice was provided in accordance with this section.
- (1) The supervisor shall schedule and hold a hearing, within five (5) business days after receiving the written appeal, to review the initial classification. The supervisor's decision shall be considered the final decision of the city as to whether the canine is a vicious or dangerous dog.
  - (2) If the initial classification is not appealed or if the right to appeal is waived, the initial classification shall be considered the final decision of the city as to whether the canine is a vicious or dangerous dog.
  - (3) An appeal from the decision of the supervisor may only be made to a court of competent jurisdiction.
- (c) During the entire appeal process, it shall be unlawful for the owner or harbinger appealing the classification of vicious or dangerous dog to allow or permit the dog to:
- (1) Be unconfined on the premises of the owner or harbinger; or
  - (2) Go beyond the premises of the owner or harbinger unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.
- (d) The animal warden may require temporary confinement of the dog pending the determination required in this section. If the owner or harbinger does not comply immediately with the temporary confinement requirements, the dog shall be impounded as provided in section 4-32 of this Code.
- (e) No person shall own, possess or cause to be in the city any dog which the animal warden has determined to be a dangerous or vicious dog, unless it is restrained, confined or muzzled so

that it cannot charge, attack, bite or cause injury to any person or domestic animal, and unless it is maintained at all times in compliance with any order of compliance issued under this article.

(f) Upon determination that a dog is dangerous or vicious, the animal warden shall issue an order of compliance requiring the owner or harborer immediately to confine, muzzle and restrain the dog sufficiently to protect all persons and domestic animals, and otherwise to comply completely with the terms of this article. Coming into full compliance with this article shall not exceed forty-five (45) business days from the date of issuance of the order of compliance.

(g) The order of compliance may, in the reasonable discretion of the animal warden, require that:

(1) When outside of the walls of the owner's or harborer's home, the dog shall be confined in pen as set forth in the definition of "pen" in this section except when entering or exiting the pen.

(2) It shall be unlawful for a vicious dog to be outside of a dwelling or enclosure unless it is necessary for the owner or harborer thereof to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with commands or directions of the animal warden with respect to the vicious dog. In such event, the vicious dog shall be securely muzzled and restrained with a chain leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of an individual capable of restraining and controlling the vicious dog.

(3) The owner's or harborer's home and the dog's pen shall be posted with firmly attached and prominently displayed signs warning the public that the dog is dangerous or vicious. These signs shall be furnished by the city and will be distributed upon payment of any license fee required to be paid pursuant to this section.

(4) The owner or harborer of a vicious dog shall provide proof upon request by an animal warden or law enforcement officer of liability insurance in the amount of one million dollars (\$1,000,000.00) covering harm done by the dog.

(5) The owner or harborer of a vicious dog shall provide proof upon request by an animal warden or law enforcement officer that the dog has been spayed or neutered.

(h) Upon a determination that a dog:

(1) Is a dangerous dog, the owner or harborer shall present the dog for photographing by the animal warden sufficient to identify the dog for city records and have a microchip identification implanted by a licensed veterinarian or the Sebastian County Humane Society.

(2) Is a vicious dog, the owner or harborer shall present the dog for photographing by the animal warden sufficient to identify the dog, for city records, and have a microchip identification implanted by a licensed veterinarian or the Sebastian County Humane Society.

(i) By continuing to be an owner or harborer of a dog within the city, which has been determined to be a dangerous or vicious dog, the owner or dog harborer shall be deemed to have given implied consent to reasonable inspections by the animal warden of the dog, of the premises where it is kept, and of documents evidencing any required liability insurance.

(j) If the owner or harborer fails to meet fully the animal warden's requirements for temporary confinement and restraint, including any schedule of construction of pen or restraints, or fails to maintain full compliance with the order of compliance, the animal warden may seize and impound the dog, and may after five (5) business days humanely destroy it, unless the owner or harborer has demonstrated full obedience to the requirements for temporary confinement and the order of compliance, in which case the dog may be returned after payment of all impoundment costs and fees.

(k) A determination that a dog is dangerous or vicious shall stand until the animal warden determines otherwise by written finding.

(l) No person shall be an owner or harbinger of or cause to be in the city:

(1) Any dog determined to be a dangerous dog by the animal warden unless an annual special license fee of two hundred fifty dollars (\$250.00) shall have been paid to the city; or

(2) Any dog classified vicious by the animal warden unless an annual special license fee of one thousand dollars (\$1,000.00) shall have been paid to the city. No such license shall be issued except upon proof of paid annual liability insurance in the amount of one million dollars (\$1,000,000.00) as required by this section.

(m) The owner or harbinger of a dog in violation of any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by the assessment of a fine as specified in section 1-9 of this Code.

(n) If a complaint has been filed in the district court against the owner or harbinger of an impounded dog for violation of this section, it shall not be released except on the order of the court, which order may also direct the owner or harbinger to pay a fine and all impoundment fees. Upon finding that the dog is vicious, the court may order it to be euthanized in a humane manner. Surrender of a dog by the owner or harbinger thereof to the animal warden shall not render the owner or harbinger immune from the fines and fees of this article.

(o) An owner or harbinger of a dangerous or vicious dog, who desires to transfer possession of the dog shall, at least three days prior to the transfer, complete and return a notarized transfer form provided by the animal warden.

(p) Any notice required under this article shall be deemed delivered:

(1) Five (5) business days after being mailed, first class postage prepaid, to the residential or business address of the owner or harbinger;

(2) Twenty-four (24) hours after being posted at the location where the dog is held, unless it is impounded by the city; or

(3) Upon hand delivery to the owner or harbinger.

(q) It shall be an affirmative defense to prosecution under this article that the dog:

(1) Is owned by a law enforcement agency and used for law enforcement purposes; or

(2) Directed its behavior at a person who was committing a willful trespass or other tort upon the property of the owner; or

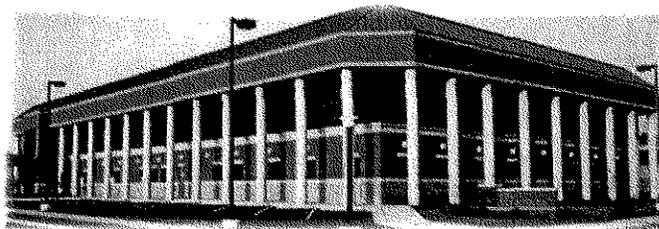
(3) Directed its behavior at a person who was committing a violent offense to the owner or dog when off the owner's property, but under restraint; or

(4) At the time of its behavior was in custody of a veterinarian or animal shelter.

(Ord. No. 16-91, § 3, 4-2-91; Ord. No. 13-00, 3-7-00; Ord. No. 105-06, § 2, 11-7-06)

#### **Sec. 4-8. Poultry animals and rabbits.**

(a) It shall be unlawful to keep on any residentially zoned real property of less than one-half ( 1/2) acre or twenty-one thousand seven hundred eighty (21,780) square feet within the city any poultry animals or more than two (2) rabbits. If two (2) rabbits are kept, both rabbits shall be of the same sex or at least one of the rabbits shall be incapable of reproduction. School children actively enrolled in a 4-H, FHA or school-related projects involving the raising of chickens or rabbits shall be exempt from this section. Any person possessing a valid state or federal permit



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## Fort Smith Police Department

Kevin Lindsey, Chief of Police

### INTERDEPARTMENTAL MEMORANDUM

**To:** Dennis Kelly, City Administrator

**From:** Kevin Lindsey, Chief of Police 

**Subject:** Alarm Ordinance Revision

**Date:** June 18, 2010

#### **Attachments:**

The purpose of this memorandum is to present background information and proposed changes relating to Section 20-31 et. seq. of the Fort Smith Municipal Code. An inquiry from a citizen prompted your request for police and fire department reviews of the existing ordinance. Several meetings were held to discuss response and enforcement of the ordinance from each department's perspective, and to investigate and recommend changes appropriate to both departments.

According to Police Records, from 2007 to early March of 2010, our department responded to 18,404 alarm calls within the City of Fort Smith. Of the 18,404 responses, 17,858 (97%) were considered false alarms. The average number of alarms per year for 2007 through 2009 was 5,843. A conservative estimate of \$28.00 per hour was utilized to figure an estimated cost for response to alarms per year, which includes officer and telecommunicator time. Based upon this hourly estimate, the average cost per year for 2007 through 2009 for responding to alarm calls was calculated to be \$44,751.

Our current ordinance calls for fines levied on the seventh (7<sup>th</sup>) false alarm, increasing the fines incrementally through the tenth (10<sup>th</sup>) and subsequent false alarms. Current revenues generated for false alarms per year average about \$9,500.00. Under the proposed ordinance, fines would be levied at the fifth (5<sup>th</sup>) and subsequent false alarms, incurring a fine of \$100.00 per false alarm. Estimated revenue is expected to increase by three times to an average of over \$32,000.00 per year, based upon current false alarm calls.

Four cities—Jonesboro, Springdale, Fayetteville, and North Little Rock—were contacted regarding their current alarm ordinance. The city our department more closely resembles the City of Fayetteville's ordinance.

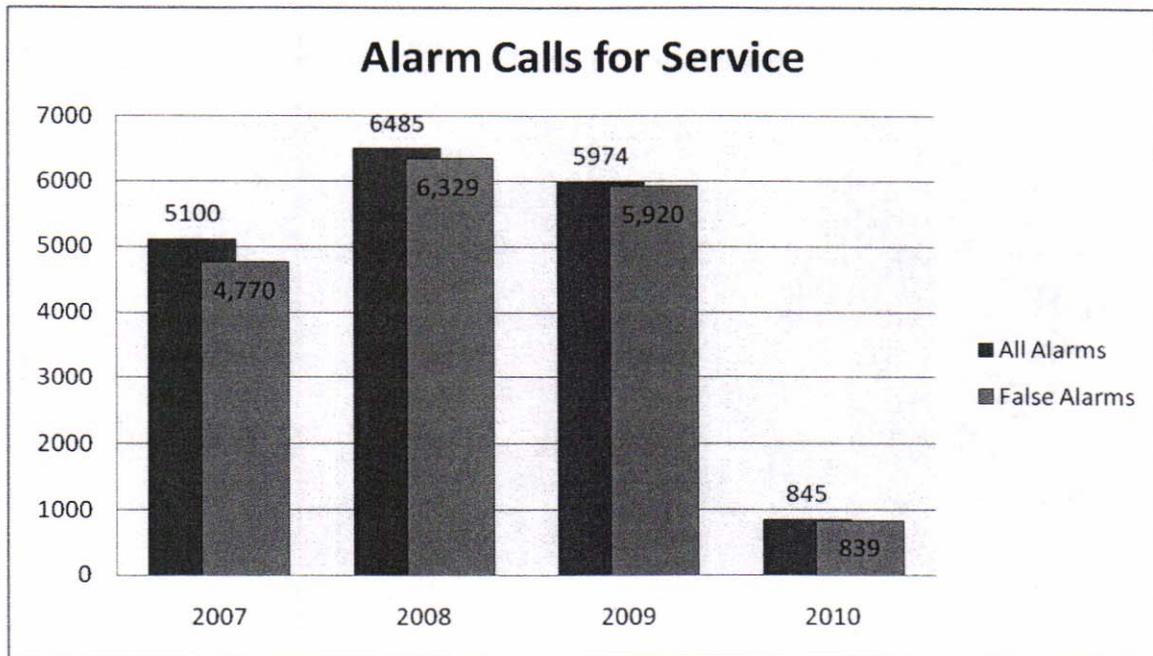
Considering the data utilized by the police department, the following changes to the existing alarm ordinance are suggested:

- Change the number of false alarms within a calendar year reaching the level of a fine from the seventh (7<sup>th</sup>) and subsequent to the fifth (5<sup>th</sup>) and subsequent; and instead of an incremental fine schedule of \$25 - \$100, implement a constant fine of \$100.00 per false alarm.
- Require property owners to apply for and possess a permit for any monitored alarm system within the city limits. The permit would be issued at no cost to the property owner, but a fine could be imposed on a property owner who does not possess a permit. We have discussed the possibility of allowing the permit application process to be available on our website as well as hard copy. The permit concept will greatly assist in the efficiency of the police and fire departments. The permit requires up-to-date contact information on responsible persons for monitored properties, as well as the permit holder. It is a common problem for emergency personnel to be on scene of an alarm call, and alarm companies either cannot reach a responsible person for the property or do not have any contact information for a responsible person. The permit information would be maintained at the police department for easy access to pertinent information if needed. The monitoring of false alarms and permits will be the responsibility of a clerk assigned to the Patrol Division.
- Minor wording adjustments were proposed that reflect an 'Alarm User' versus 'Alarm Customer' throughout the ordinance.
- A section was proposed outlining the responsibilities of the alarm user. Specifically, a reasonable effort to have a person available at an alarm site within 30 minutes.
- In addition, definitions were added for 'Alarm Permit,' 'Alarm User,' and 'Responsible Person.'

Three local alarm companies, Guardtronic, Alert, and ADT, were contacted regarding the proposed change to the city ordinance. All were provided a copy of the proposed ordinance, and invited to attend the Study Session scheduled for June 22, 2010. All expressed their sincere support of the changes.

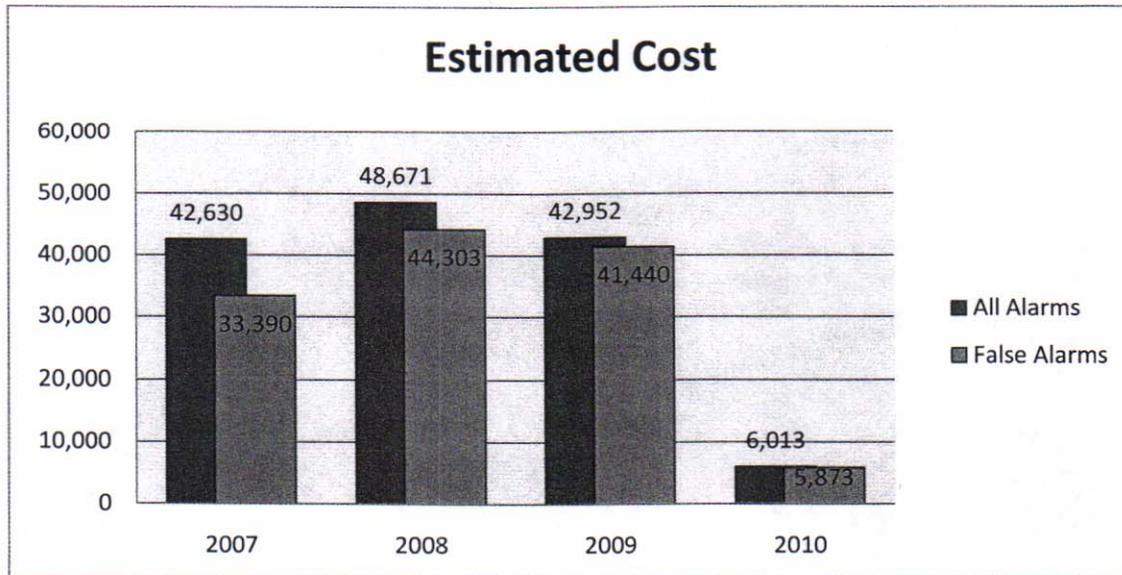
Staff firmly believes that the proposed changes to the ordinance will greatly benefit the total efficiency of both the police and fire departments, and will hold monitored alarm users more accountable for the proper operation of their alarm system. In addition, during certain circumstances, it will allow emergency personnel to return to service more expeditiously, resulting in more availability to serve residents of our city. Staff recommends approval and adoption of the ordinance revisions.

Chart 1



\*The above chart illustrates the total number of alarm calls for service versus the total number of alarm calls deemed false.

Chart 2



\* The above chart illustrates the estimated cost for police response to alarm calls. The "Estimated Cost" was calculated based upon a cost estimate of \$28.00 per hour.



# FORT SMITH FIRE DEPARTMENT

200 NORTH FIFTH STREET  
FORT SMITH, ARKANSAS 72901  
479-783-4052



Mike Richards  
Fire Chief

## MEMORANDUM

**To:** Dennis Kelly, City Administrator  
**From:** Mike Richards, Fire Chief *MR*  
**Subject:** Alarm Ordinance Revision  
**Date:** June 17<sup>th</sup>, 2010

The Fort Smith Fire Department responded to 2,072 false fire alarm calls between January 1<sup>st</sup>, 2007 and May 31<sup>st</sup>, 2010 within the City of Fort Smith. Due to the incident coding guidelines required by the Federal Emergency Management Agency's (FEMA) National Fire Incident Reporting System (NFIRS), 100% of these calls were considered false alarms by definition. The fire department was also dispatched to an additional 1,056 fire alarm calls that are not included in the "false fire alarm call" data because of NFIRS coding guidelines and guidelines adopted in Section 20-31 of the Fort Smith Municipal Code.

Between 2007 and 2009 the fire department averaged 628 false fire alarms per year. However, the number of false fire alarms has decreased each year from 692 in 2007 to 510 in 2009. That trend appears to be continuing as we are on a course to respond to 451 false fire alarms in 2010.

The estimated total cost for the fire department to respond to a false fire alarm (or any other type of emergency requiring this type of response) is approximately \$682.00 per hour. These rates include all the personnel and the total number of apparatus required by National Fire Protection Association (NFPA) and the Insurance Service Office (ISO) standards to respond to a potential emergency of this type. Although this is not an additional cost to the City, as the personnel are already on duty and the equipment is in place, it is still the cost of the resources to handle such calls.

The average of 628 false fire alarm calls between 2007 and 2009 was spread between an average of 142 customers per year. Out of this group, even though a few customers had as many as 24 fire alarm calls within a calendar year, none met the threshold of seven (7) false fire alarm calls that required billing as outlined in the current Fort Smith Municipal Code. The proposed change to a fine being levied at the fifth (5<sup>th</sup>) and subsequent alarms in our estimation would generate approximately \$2,000.00 per year.

We have surveyed four area fire departments; Tulsa, North Little Rock, Fayetteville, and Springdale, and found each to have very different policies regarding their response to false fire alarms. The policies ranged from no limits or charges for excessive false fire alarms (Tulsa) to a fine of \$250.00 after the 10<sup>th</sup> and all subsequent false fire alarms (Fayetteville). We believe a flat fee of \$100.00 on the fifth (5<sup>th</sup>) and all subsequent false fire alarms is appropriate.

We are also in support of the other suggested changes to our current alarm ordinance. Briefly, we support the following changes as outlined in Chief Lindsey's memo:

- A flat fee charge of \$100.00 upon the fifth (5<sup>th</sup>) and all subsequent false fire alarms
- The requirement of a property owner to apply for and possess a permit for any monitored alarm system within the city limits
- Minor wording adjustments that reflects an Alarm User versus Alarm Customer
- A section outlining the responsibilities of the alarm user. Specifically, a reasonable effort to have a person available at an alarm site within 30 minutes
- Definitions covering Alarm Permit, Alarm User versus Alarm Customer, and Responsible Person

We support the changes of this ordinance. We firmly believe it will help hold our cost down over the long term by making alarm users more accountable for their alarm system. The changes should also help make our emergency personnel and apparatus more readily available for other emergency calls thereby greatly benefiting all citizens of Fort Smith.

**Fire Response Cost per Hour for a Single Alarm Incident**

Wage rates based on 2010 Budget

**Equipment rates based on Department of Homeland Security/FEMA Schedule of Equipment Rates**

Cost Code	Equipment	Specification	Capacity/Size	Unit	Rate	QTY	Total
8692	Truck, Fire	Pump Capacity	1500 GPM	Hour	\$95.00	3	\$ 285.00
8695	Truck, Aerial	Truck, Fire Ladder	150 ft length	Hour	\$175.00	1	\$ 175.00
8802	Truck, Pickup		1 Ton	Hour	\$25.00	1	\$ 25.00

Pay Range	Position	Rate	QTY	Total
14	Captain	19.44	3	\$ 58.32
9	Driver	16.32	4	\$ 65.28
F1D	Firefighter	12.13	4	\$ 48.52
17	Battalion Chief	24.7	1	\$ 24.70

**Total per hour** **\$ 681.82**

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## ARTICLE II. ALARM SYSTEMS\*

### Sec. 20-31. Definitions.

For the purpose of this article, certain words and phrases shall be defined as specified below: *Alarm system* shall mean any mechanical, electrical or other device that is arranged, designed or used to signal the occurrence in the city of a burglary, robbery or other criminal activity requiring urgent attention and to which police personnel are expected to respond ("police alarm system") and any mechanical, electrical or other device that is arranged, designed or used to signal the occurrence in the city of a fire requiring urgent attention and to which fire personnel are expected to respond ("fire alarm system"). Alarm systems include those through which police or fire personnel are notified directly or indirectly by way of a third party which monitors alarm systems and reports such signals to the police or fire department, or those designed to register a signal which is audible, visible or in other ways perceptible outside a protected building, structure or facility so as to notify persons in the neighborhood beyond the lot where the signal is located who in turn may notify the police department or fire department of the signal. Alarm systems do not include those affixed to automobiles or auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system. Alarms in separate structures or locations are to be counted as separate systems even though owned, leased, contracted for or controlled by the same person or entity.

*Alarm User* shall mean any person who purchases, leases, contracts for or otherwise obtains and operates an alarm system.

*Alarm Permit* shall mean a permit issued by the City to the Alarm User to operate an Alarm System, obtained after the Alarm User makes written application to the Chief of Police or his designee.

*Responsible Person (RP)* shall mean an individual who is able and has agreed to:

- (1) Receive notification of an Alarm System activation at any time;
- (2) Respond to the Alarm Site within 30 minutes at any time; and
- (3) Grant access to the Alarm Site and deactivate the Alarm System upon request.

*False alarm* shall mean an alarm signal eliciting a response by the police department or fire department when a situation requiring a response by the police department or fire department does not in fact exist. False alarm does not include an alarm signal caused by conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm system operator or alarm system customer. Alarms resulting from the following conditions are not considered false alarms:

- (1) Criminal activity or unauthorized entry;

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- (2) Fire;
- (3) Telephone or cable line cut or malfunction, verified in writing to the city by at least a first-line telephone or cable company supervisor;
- (4) Electrical service interruption, verified in writing to the city by the local power company;
- (5) Communication to the police department or fire department before a unit arrives to investigate clearly indicating that the alarm resulted from authorized entry, authorized system test or other noncriminal or nonfire cause;
- (6) An alarm caused on the reasonable but mistaken belief that a burglary, robbery or other criminal offense or fire emergency is in progress;
- (7) Fire alarm activated by pull box or other similar device; and
- (8) Alarms generated during a grace period not longer than thirty (30) days during the original installation or during substantial modifications to an alarm system (verified by alarm system installer).

(Code 1976, § 24-16; Ord. No. 15-00, § 1, 4-4-00)

**Cross references:** Definitions and rules of construction generally, § 1-2.

## Sec. 20-33. Charges for excessive false alarms.

(a) The police or fire personnel at the scene, or subsequently the designee of the chief of the police or fire department, shall provide written notice to the alarm system user on each false alarm at a given location. The notification may take the form of a written report left at the location of the alarm. The written report shall advise the alarm user ~~eustomer~~ that; it is the alarm user's ~~eustomer's~~ responsibility to take proper corrective action to reduce false alarms, ~~shall~~ shall inform the ~~eustomer~~ of the false alarm charge as provided in this article, and ~~shall~~ shall inform the ~~eustomer~~ that on the fifth and subsequent false alarm at the same location during each calendar year the alarm user ~~eustomer~~ will be billed as provided in this article.

(b) Upon the fifth and upon each subsequent false alarm at the same location during any calendar year period, the notice provided for in (a) above shall include notice of the assessment of the following charge applicable to the fifth and applicable to each subsequent false alarm at the same location during a calendar year period: \$100.00 for each such false alarm.

~~Upon the seventh and subsequent false alarms at the same location during any calendar year period, the notice provided for in (a) above shall include notice of the assessment of the following charges applicable to the seventh and subsequent false alarms at the same location during a calendar year period:~~

- ~~(1) Charge for seventh false alarm . . . \$25.00~~
- ~~(2) Charge for eighth false alarm . . . 50.00~~
- ~~(3) Charge for ninth false alarm . . . 75.00~~
- ~~(4) Charge for tenth and all subsequent false alarms . . . 100.00~~

(c) Additional to any notice provided pursuant to (a) and (b), a copy of any notice issued pursuant to (b) above shall be provided to the alarm system user ~~eustomer~~ at any address for the customer provided by the alarm system company which installed or which provides maintenance or other services for the alarm system user, ~~eustomer~~.

# DRAFT

(d) Within ten (10) days of receipt of any notice provided for in this section, including the notice of charge for false alarm provided for in (b) and (c) above, the alarm system user shall have the right to a hearing at which the alarm system user customer may produce any information to indicate that the determination of false alarm or the determination of charge for false alarm is improper. In addition, the alarm user customer may request a hearing to submit proof that the defect in the alarm system which caused the false alarm has been repaired and, with such proof, to request a waiver of the charge. A request for hearing regarding a false alarm responded to by the police department shall be presented to the chief of police or to another city employee designated by the chief of police. A request for hearing regarding a false alarm responded to by the fire department shall be presented to the fire chief or to another city employee designated by the chief. Within five (5) days of receipt of such request for hearing, the chief, or designee, shall advise the alarm system user customer of a time and place for the hearing. The hearing officer shall determine the false alarm and charge issues and, in addition, upon submission of proof that the faulty equipment causing the false alarm has been repaired so that the system is in proper working order, may waive the charge. Within five (5) days following the hearing, the chief, or designee, shall issue a notice to the alarm system user customer of the final determination of the city regarding the matter.

(e) After reasonable efforts have been made to collect from the alarm system user customer the charge referred to in subsection (b) above, the city administrator, or his designated agent, shall be authorized to refer any unpaid account of thirty (30) or more days to the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code for the purpose of filing an action in a court of appropriate jurisdiction to collect the unpaid charges.

(Code 1976, § 24-18; Ord. No. 15-00, § 3, 4-4-00; Ord. No. 3-02, § 5, 1-22-02)

## Sec. 20-34. Provision of current address for alarm system customers.

(a) It shall be unlawful for any person or entity, which has installed or which provides maintenance or other services for an alarm system owned by an alarm system user customer, to refuse to provide a current address for any alarm system customer to the city police or fire departments upon written request.

(b) Any person determined to have violated the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to punishment as provided in section 1-9 of the Code of Ordinances.

(Ord. No. 15-00, § 4, 4-4-00)

## Sec. 20-35. Permit Required; Application; Transferability;

(1) No Alarm User shall operate, or cause to be operated, an Alarm System at its Alarm Site without a valid Alarm Permit. A separate Alarm Permit is required for each Alarm Site.

# DRAFT

(2) Existing Alarm System. Any alarm system which has been installed before the effective date of this chapter shall be registered by the Alarm User within 120 (One Hundred Twenty) days of such effective date.

(3) Alarm Systems. Any Alarm System that is installed on a protected premises located within the City of Fort Smith, the Alarm User shall have an Alarm Permit within ten (10) days from the date of the installation to notify the Fort Smith Police Department that an alarm system has been installed.

(4) The Alarm Permit application must be submitted by the Alarm User to the Chief of Police or his designee at the time of an Alarm System installation or Takeover. All Local Alarm System applications must be submitted at the time of an Alarm System installation or Takeover by the next business day. The Alarm Permit shall be effective until such time as the registered Alarm User no longer occupies the Alarm Site.

(5) Each Alarm Permit application must include the following information:

(a) The name, complete current address, (including apartment or suite number), and telephone numbers of the Person who will be the Permit holder and be responsible for the proper maintenance and operation of the Alarm System;

(b) The name, complete current address, (including apartment or suite number), and telephone numbers of the Person(s) who will be a Responsible Person (RP)

(c) The classification of the Alarm Site (e.g. single or multi-family residential, commercial, warehouse, governmental, etc.);

(d) Mailing address, if different from the address of the Alarm Site;

(e) The date of installation, Conversion or Takeover of the Alarm System;

(f) The name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System installation, Conversion or Takeover, and of the Alarm Installation Company responsible for providing repair service to the Alarm System;

(g) The name, address, and telephone number of the monitoring Company, if different from the Alarm Installation Company; any protective / reactive systems, and,

(h) Signed certification from the Alarm User stating that:

(1) A set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, have been left with the applicant by the Alarm Installation Company;

(2) The Alarm Installation Company has trained the applicant in the proper use of the Alarm System, including instructions on how to avoid False Alarms; and,

(3) The Alarm User is aware of the fact that a police response may be influenced by factors including, but not limited to, the availability of police units, priority of calls, weather conditions, traffic conditions, and staffing levels.

(6) An Alarm Permit cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Fort Smith Police Department of any change to any of the information on the Alarm Permit application within five (5) business days of such change.

(7) An Alarm Permit is good for two (2) years from the issued date.

# DRAFT

(8) Per A.C.A. 17-40-106, the Alarm Permit will be given at no cost to the Alarm User.

(9) Any person operating a non-permitted Alarm System will be subject to an additional charge of \$250.00. The Chief of Police or his designee may waive the additional fee for non-permitted Alarm Systems, if the Alarm User submits an application for an Alarm Permit within ten (10) days after notification of such a violation.

## Sec. 20-36. Duties of the Alarm User

(1) Maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms.

(2) Make every reasonable effort to have a Responsible Individual available at the Alarm Site within thirty (30) minutes after an Alarm Dispatch Request.

(3) Not activate an Alarm System for any reason other than an occurrence of an event that the Alarm System was intended to report.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 20, ARTICLE II, OF THE FORT SMITH CITY CODE OF ORDINANCES REGULATING ALARM SYSTEMS**

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**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS that:**

Sections 20-31, 20-33, and 20-34 of Chapter 20, Article II (Alarm Systems), of the Fort Smith Municipal Code are amended to read as follows and said Chapter is also amended to add Sections 20-35 and 20-36:

**Sec. 20-31. Definitions.**

For the purpose of this article, certain words and phrases shall be defined as specified below:

*Alarm system* shall mean any mechanical, electrical or other device that is arranged, designed or used to signal the occurrence in the city of a burglary, robbery or other criminal activity requiring urgent attention and to which police personnel are expected to respond ("police alarm system") and any mechanical, electrical or other device that is arranged, designed or used to signal the occurrence in the city of a fire requiring urgent attention and to which fire personnel are expected to respond ("fire alarm system"). Alarm systems include those through which police or fire personnel are notified directly or indirectly by way of a third party which monitors alarm systems and reports such signals to the police or fire department, or those designed to register a signal which is audible, visible or in other ways perceptible outside a protected building, structure or facility so as to notify persons in the neighborhood beyond the lot where the signal is located who in turn may notify the police department or fire department of the signal. Alarm systems do not include those affixed to automobiles or auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system. Alarms in separate structures or locations are to be counted as separate systems even though owned, leased, contracted for or controlled by the same person or entity.

*Alarm User* shall mean any person who purchases, leases, contracts for or otherwise obtains and operates an alarm system.

*Alarm Permit* shall mean a permit issued by the City to the Alarm User to operate an Alarm System, obtained after the Alarm User makes written application to the Chief of Police or his or her designee.

*Responsible Person (RP)* shall mean an individual who is able and has agreed to:

- (1) Receive notification of an Alarm System activation at any time;
- (2) Respond to the Alarm Site within 30 minutes at any time; and,

(3) Grant access to the Alarm Site and deactivate the Alarm System upon request.

*False alarm* shall mean an alarm signal eliciting a response by the police department or fire department when a situation requiring a response by the police department or fire department does not in fact exist. False alarm does not include an alarm signal caused by conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm system operator or alarm system customer. Alarms resulting from the following conditions are not considered false alarms:

- (1) Criminal activity or unauthorized entry;
- (2) Fire;
- (3) Telephone or cable line cut or malfunction, verified in writing to the city by at least a first-line telephone or cable company supervisor;
- (4) Electrical service interruption, verified in writing to the city by the local power company;
- (5) Communication to the police department or fire department before a unit arrives to investigate clearly indicating that the alarm resulted from authorized entry, authorized system test or other noncriminal or nonfire cause;
- (6) An alarm caused on the reasonable but mistaken belief that a burglary, robbery or other criminal offense or fire emergency is in progress;
- (7) Fire alarm activated by pull box or other similar device; and,
- (8) Alarms generated during a grace period not longer than thirty (30) days during the original installation or during substantial modifications to an alarm system (verified by alarm system installer).

**Sec. 20-33. Charges for excessive false alarms.**

(a) The police or fire personnel at the scene, or subsequently the designee of the chief of the police or fire department, shall provide written notice to the alarm system user on each false alarm at a given location. The notification may take the form of a written report left at the location of the alarm. The written report shall advise the alarm user of the following: it is the alarm user's responsibility to take proper corrective action to reduce false alarms, the false alarm charge as provided in this article, and that on the fifth and subsequent false alarm at the same location during each calendar year the alarm user will be billed as provided in this article.

(b) Upon the fifth and upon each subsequent false alarm at the same location during any calendar year period, the notice provided for in (a) above shall include notice of the assessment of the following charge applicable to the fifth and applicable to each subsequent false alarm at the same location during a calendar year period: \$100.00 for each such false alarm.

(c) Additional to any notice provided pursuant to (a) and (b), a copy of any notice issued pursuant to (b) above shall be provided to the alarm system user at any address for the customer provided by the alarm system company which installed or which provides maintenance or other services for the alarm system user.

(d) Within ten (10) days of receipt of any notice provided for in this section, including the notice of charge for false alarm provided for in (b) and (c) above, the alarm system user shall have the right to a hearing at which the alarm system user may produce any information to indicate that the determination of false alarm or the determination of charge for false alarm is improper. In addition, the alarm user may request a hearing to submit proof that the defect in the alarm system which caused the false alarm has been repaired and, with such proof, to request a waiver of the charge. A request for hearing regarding a false alarm responded to by the police department shall be presented to the chief of police or to another city employee designated by the chief of police. A request for hearing regarding a false alarm responded to by the fire department shall be presented to the fire chief or to another city employee designated by the chief. Within five (5) days of receipt of such request for hearing, the chief, or his or her designee, shall advise the alarm system user of a time and place for the hearing. The hearing officer shall determine the false alarm and charge issues and, in addition, upon submission of proof that the faulty equipment causing the false alarm has been repaired so that the system is in proper working order, may waive the charge. Within five (5) days following the hearing, the chief, or the chief's designee, shall issue a notice to the alarm system user of the final determination of the city regarding the matter.

(e) After reasonable efforts have been made to collect from the alarm system user the charge referred to in subsection (b) above, the city administrator, or his or her designated agent, shall be authorized to refer any unpaid account of thirty (30) or more days to the qualified and licensed attorneys at law contracted to provide legal services pursuant to sections 2-111--2-113 of this Code for the purpose of filing an action in a court of appropriate jurisdiction to collect the unpaid charges.

#### **Sec. 20-34. Provision of current address for alarm system customers.**

(a) It shall be unlawful for any person or entity that has installed or that provides maintenance or other services for an alarm system owned by an alarm system user to refuse to provide a current address for any alarm system customer to the city police or fire departments upon written request.

(b) Any person or entity determined to have violated the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to punishment as provided in section 1-9 of the Code of Ordinances.

**Sec. 20-35. Permit Required; Application; Non-Transferability.**

- (1) No Alarm User shall operate, or cause to be operated, an Alarm System at its Alarm Site without a valid Alarm Permit. A separate Alarm Permit is required for each Alarm Site.**
- (2) Existing Alarm System. Any alarm system which has been installed before the effective date of this ordinance shall be registered by the Alarm User within 120 (One Hundred Twenty) days of such effective date.**
- (3) Alarm Systems. For any Alarm System that is installed on a protected premises located within the City of Fort Smith, the Alarm User shall have obtained an Alarm Permit within ten (10) days from the date of the installation to notify the Fort Smith Police Department that an alarm system has been installed.**
- (4) The Alarm Permit application must be submitted by the Alarm User to the Chief of Police or his or her designee at the time of an Alarm System installation or Takeover (i.e., assumption of the control of an existing Alarm System). All Local Alarm System applications must be submitted at the time of an Alarm System installation or Takeover by the next business day. The Alarm Permit shall be effective until such time as the registered Alarm User no longer occupies the Alarm Site.**
- (5) Each Alarm Permit application must include the following information:**
  - (a) The name, complete current address, (including apartment or suite number), and telephone number(s) of the Person(s) who will be the Permit holder and be responsible for the proper maintenance and operation of the Alarm System;**
  - (b) The name, complete current address, (including apartment or suite number), and telephone number(s) of the Person(s) who will be a Responsible Person (RP);**
  - (c) The classification of the Alarm Site (e.g., single or multi-family residential, commercial, warehouse, governmental, etc.);**
  - (d) Mailing address, if different from the address of the Alarm Site;**
  - (e) The date of installation, Conversion or Takeover of the Alarm System;**
  - (f) The name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System installation, Conversion or Takeover, and of the Alarm Installation Company responsible for providing repair service to the Alarm System;**
  - (g) The name, address, and telephone number of the monitoring Company, if different from the Alarm Installation Company; any protective/reactive systems; and,**
  - (h) Signed certification from the Alarm User stating that:**

(1) A set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, has been left with the applicant by the Alarm Installation Company;

(2) The Alarm Installation Company has trained the applicant in the proper use of the Alarm System, including instructions on how to avoid False Alarms;

(3) The Alarm User is aware of the fact that a police response may be influenced by factors including, but not limited to, the availability of police units, priority of calls, weather conditions, traffic conditions, and staffing levels;

(4) An Alarm Permit cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Fort Smith Police Department of any change to any of the information on the Alarm Permit application within five (5) business days of such change;

(5) An Alarm Permit is good for two (2) years from the issued date;

(6) Per A.C.A. section 17-40-106, the Alarm Permit will be given at no cost to the Alarm User; and,

(7) Any person operating a non-permitted Alarm System will be subject to an additional charge of \$250.00. The Chief of Police or his or her designee may waive the additional fee for non-permitted Alarm Systems, if the Alarm User submits an application for an Alarm Permit within ten (10) days after notification of such a violation.

**Sec. 20-36. Duties of the Alarm User.**

(1) Maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms.

(2) Make every reasonable effort to have a Responsible Individual available at the Alarm Site within thirty (30) minutes after an Alarm Dispatch Request.

(3) Not activate an Alarm System for any reason other than an occurrence of an event that the Alarm System was intended to report.

This Ordinance adopted this \_\_\_\_ day of \_\_\_\_\_, 2010.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney  
Publish 1 time