

Ordinance No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
YUBA CITY REPEALING AND REENACTING CHAPTER 10 OF TITLE 4
TO THE YUBA CITY MUNICIPAL CODE
PERTAINING TO ALARM SYSTEMS

WHEREAS, a burglary or robbery alarm is a high priority incident requiring the immediate assignment of multiple police units to respond;

WHEREAS, the Police Department responds to a significant number of false alarms generated by security systems, causing a substantial expenditure of public funds designated for emergency resources;

WHEREAS, repeatedly responding to false alarms impairs police officers ability to acknowledge that actual peril may exist when responding to a burglary or robbery alarm; and

WHEREAS, it is the City's intention to create a civil penalty for repeated burglary or robbery false alarms in an effort to limit the number thereof.

NOW, THEREFORE, the City Council of the City of Yuba City does hereby ordain as follows:

Section 1. Chapter 10 of Title 4 of the Yuba City Municipal Code is hereby repealed.

Section 2. Chapter 10 of Title 4 is hereby added to the Yuba City Municipal Code to read as follows:

CHAPTER 10

ALARM SYSTEMS

Sections:

4-10.010	Purpose
4-10.020	Definitions
4-10.030	Alarm System Standards and Regulations
4-10.040	Permits; Required
4-10.050	Permits; Applications; Content
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4-10.070	Permit; Fees; Receipt
4-10.080	Applicability of Ordinance to Existing Alarm Systems
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4-10.100	False Alarm Service Fee
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4-10.120	Denial, Suspension or Revocation of Permit; Appeal
4-10.130	Appeals
4-10.140	Prohibitions
4-10.150	Severability
4-10.160	Fee Exemptions
4-10.170	Remedies Cumulative
4-10.180	Public Nuisance

Section 4-10.010 Purpose.

The purpose of this chapter is to encourage the proper and effective use of alarm systems by setting forth regulations governing burglary and robbery alarm systems within the City.

Section 4-10.020 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

(a) "Alarm agent" shall mean a person employed by an alarm company operator whose duties include selling on premises, maintaining, leasing, servicing, repairing, altering, monitoring, replacing, moving, or installing on or in any building, structure, or facility any alarm system within the City. "Alarm agent" also can mean a person who responds to or monitors an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any duties described herein. Such agents shall be licensed in accordance with the provisions of the California Business and Professions Code sections 7590 et seq., commonly known as the "Alarm Company Act."

(b) "Alarm company" shall mean the business of any individual, partnership, corporation, or other entity selling, leasing, maintaining, servicing, repairing, monitoring, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, monitored, or installed any alarm system in or on any building, structure, or facility within the City. Such companies shall be licensed in accordance with the provisions of the California Business and Professions Code sections 7590 et seq., commonly known as the "Alarm Company Act." Additionally, such companies shall be licensed as required in this code Section 3-4.01 et seq.

(c) "Alarm system" shall mean any mechanical or electrical device(s) designed to emit a sound or generate a signal by telephone, telephone line, or directly to a police or other emergency dispatch room, or which produces an audible or visible signal designed to notify persons of an emergency situation, the

commission of an unlawful act, or the detection of an unauthorized entry or attempted unauthorized entry into a building, structure, or facility.

The following devices shall not constitute an alarm system:

(1) Alarm devices affixed to motor vehicles (as defined in California Vehicle Code sections 415, 630, and 635), vessels or aircraft unless it is fixed in one position and used as a business or residence.

(2) Alarm devices installed on a temporary basis by the Yuba City Police Department or authorized by the Chief of Police for law enforcement purposes;

(3) Hand held portable personal safety devices that do not trigger an alarm system.

(d) "Alarm user" shall mean any person using an alarm system at his/her place of business or residence.

(e) "Answering service" shall mean a telephone answering service which provides as one of its services the receiving, on a continuous basis, of signals from alarm systems. Immediately upon receiving the signal, the answering service relays a message to the Yuba City Police Department.

(f) "Applicant" shall mean any person who files an application for a new or renewal alarm permit as provided in this chapter.

(g) "Automatic calling/dialing system" shall mean any alarm system which automatically sends over telephone lines, by direct connect or otherwise, a recorded message indicating an emergency situation exists or an alarm signal.

(h) "Burglary alarm" shall mean any electrical or mechanical device installed at a residence or business and designed or used to instantly emit a signal when there is an unlawful entry or unlawful attempted entry to an alarm system protected area.

(i) "Canceled alarm" shall mean a police response to an alarm signal, where the response is canceled by the alarm company or an authorized person at the alarm site prior to the arrival of any responding police unit.

(j) "Central station" shall mean an office to which alarm systems are connected, where operators supervise circuits, and where security or other personnel are continuously present to investigate alarm signals and as necessary relay a message by live voice to the Yuba City Police Department.

(k) "Chief of Police" shall mean the person who occupies the office of Chief of Police for the Yuba City Police Department, or any person(s) the Chief of Police designates to administer this chapter.

(l) "City" shall mean the City of Yuba City, California.

(m) "Direct connect or line" shall mean a telephone line leading directly from a central station or answering service to the communications center of the Yuba City Police Department which is used solely to report alarm signals on a person-to-person basis.

(n) "Emergency" shall mean any condition which results in, or which could result in, the response of police in an authorized emergency vehicle, or any condition which jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, facility, vehicle or any other place which an individual may enter.

(o) "Excessive false alarms" shall mean three or more false alarms within a three hundred sixty five (365) day period.

(p) "False alarm" shall mean the activation of an alarm system which results in a response or commencement of a response by the Yuba City Police Department where, after having completed a timely investigation of the alarm site, no evidence of a criminal offense or attempted criminal offense exists.

(q) "False alarm service fee" shall mean the amount a permittee shall pay the City of Yuba City for excessive false alarms to defray the cost of responding to false alarms.

(r) "Infraction" shall mean an infraction as defined in the California Penal Code as a public offense which is not punishable by imprisonment. Unless otherwise specified, infractions under this chapter are punishable as provided in Section 1-2.02 of this code.

(s) "Notice" shall mean written notice, served either by personal service or by United States mail, first class postage prepaid, addressed to the person to be notified at the last known address. Service of such notice shall be effective upon the completion of personal service or forty-eight hours after the placing of the notice in the custody of United States Postal Service.

(t) "Panic alarm" shall mean any electrical or mechanical device designed to enable an individual, twenty-four (24) hours a day, to instantly alert others of the existence of a residential emergency by the transmitting of a signal and/or sounding of audible alarm when activated.

(u) "Permittee" shall mean the person, to whom an alarm system permit is issued, and his or her agents and representatives.

(v) "Person" shall mean natural persons without regard to number or gender, and any partnership, corporation, or other type of legal entity.

(w) "Primary trunk line" shall mean a telephone line leading directly to the communications center of the Yuba City Police Department, including 9-1-1 emergency lines, used to respond to emergency calls on a person-to-person basis.

(x) "Responding party" shall mean the person(s) identified on the alarm application as the person(s) who will respond to an alarm, or render service or repairs to the alarm, on a twenty-four (24) hour basis, including holidays.

(y) "Revoke or revocation" shall mean the cancellation of an alarm permit.

(z) "Robbery alarm" shall mean any device or system designed to operate twenty-four (24) hours a day to instantly transmit a silent signal from a business to alert others of an actual robbery in progress.

(aa) "Siren" shall mean any audible noise similar to the sound that authorized emergency vehicles are required to produce under conditions set forth in Section 21055 of the California Vehicle Code.

(bb) "Suspension" shall mean that a person with an otherwise valid permit is prohibited from operating an alarm system for a period of time determined by the Chief of Police.

Section 4-10.030 Alarm System Standards and Regulations.

The Chief of Police may prescribe minimum standards and regulations and/or amend standards and regulations for the construction and maintenance of all alarm systems installed within the City. All alarm systems to be installed shall be installed, monitored, and maintained by licensed personnel pursuant to the provisions of Section 7590 et seq. of the Business and Professions Code of the State and all other related Federal and State provisions. The Chief of Police may require inspection of an alarm system installed within the City during the permitting process.

Required and prohibited standards for alarm systems:

(a) Sirens. No alarm system which emits the sound of a siren shall be installed or connected. This section shall not be construed to prohibit the use of certain electronic horns or howlers that may be approved by the Chief of Police,

provided such devices do not emit a sound similar to a siren. Anyone who installs, permits the installation, or uses an alarm system that emits the sound of a siren, is guilty of an infraction as provided in Section 1-2.02 of this code.

(b) Automatic Shutoff. Any alarm system that is designed to emit a sound audible outside the structure in which the alarm system is lawfully installed, maintained and operated shall include an automatic shutoff device that shuts off the alarm system within fifteen (15) minutes of the initial activation. Any person who knowingly installs, causes the installation of, maintains or uses an audible alarm system without the required shutoff is guilty of an infraction as provided in Section 1-2.02 of this code.

(c) Automatic Calling/Dialing Systems. Persons using automatic dialing devices shall have such devices transmit directly to a central station, answering service or other device not prohibited below.

(1) No automatic dialing device shall be interconnected to dial the 9-1-1 operator. Any person who knowingly interconnects or permits the interconnection of an automatic dialing device to the 9-1-1 operator is guilty of an infraction as provided in Section 1-2.02 of this code.

(2) No automatic dialing device shall be interconnected to a primary trunk line of the Yuba City Police Department. Any person who interconnects or permits the interconnection of an automatic dialing device to a primary trunk of the Yuba City Police Department is guilty of an infraction as provided in Section 1-2.02 of this code.

(d) Robbery Alarm. A robbery alarm system shall be activated only in the event of an emergency. Any other use is prohibited. Any violation of this section is an infraction as provided in Section 1-2.02 of this code.

(e) Panic Alarm. Any person who activates a panic alarm for reason other than signifying an emergency is guilty of an infraction as provided in Section 1-2.02 of this code.

Section 4-10.040 Permits; Required.

(a) Users. No person shall cause an alarm system to be installed, connected, operated or maintained upon any property within the City without first obtaining an alarm permit. The permit shall be issued in accordance with this chapter. Any person who causes an alarm system to be installed, connected, operated or maintained without first obtaining a permit as required by this section is guilty of an infraction as provided in Section 1-2.02 of this code.

(b) Alarm Companies - Installation or Connection. No alarm company shall install or connect any alarm system upon any property located within the City without first performing one of the following:

- (1) Obtain a copy of the alarm system permit from the alarm user, or
- (2) Obtain a copy of the alarm permit fee receipt from the alarm user.

(c) Proof of Compliance Required. One of the copies of the permit referenced above shall be maintained in the alarm company files for the period of the warranty of the alarm system or while the alarm system is serviced by the installing alarm company, whichever is the longest. An alarm company that installs, connects or maintains an alarm system without complying with this section is guilty of an infraction as provided in Section 1-2.02 of this code.

(d) Unauthorized Installation or Service. An alarm company may install, connect or maintain an alarm system only after it has established that the intended user has a valid permit or has complied with the provisions of this chapter for the issuance of a permit. If the Chief of Police notifies an alarm company of a denial, non-renewal, suspension, revocation or of other conduct rendering it illegal for the intended user to operate the alarm, the alarm company shall discontinue service to that alarm system within twenty-four (24) hours of such notification. Any alarm company that fails to comply with this section is guilty of an infraction as provided in Section 1-2.02 of this code.

(e) Alarm Usage Without a Permit. Whenever any person shall cause an alarm system to be installed, connected, operated or maintained without first obtaining a permit as required by this section, a special investigation shall be made before a permit may be issued. An investigation fee, in addition to the permit fee shall be collected whether or not a permit is then, or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this chapter.

Section 4-10.050 Permits; Applications; Content.

(a) Applications and Renewals. Applications and renewals can be personally delivered or mailed to the Chief of Police on forms he or she may prescribe. The ability to make applications and renewals online will be considered by the City of Yuba City. Applications shall contain the following:

- (1) The name, address and telephone number of the Applicant.

(2) The name, address and telephone number of the Responding Party.

(3) The address where the alarm system is or will be installed: (i) if the address is a residence, the name and telephone number of the person(s) occupying the residence; or (ii) if the address is a business, the name, address and telephone number of the local manager or local contact person responsible for securing the premises, and the telephone number of the business which would be answered should an employee be inside the business.

(4) The name, address and telephone number of the company installing the alarm system, and the name, address and telephone number of the company monitoring the alarm system. If the installing company is not known, the name, address and telephone number of the company who will be maintaining the alarm system will suffice.

(5) The manufacturer's name and model number of the alarm being installed.

(6) Such additional information as the Chief of Police shall reasonably deem necessary for the evaluation and proper processing of the permit application.

(b) Applications Confidential. In the interest of public safety, and as per California Government Code section 6254(f), all information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests, and applications for appeals shall be held in confidence by all employees or representatives of the City and by any third-party administrator or employees of a third-party administrator with access to such information.

(c) Changes to Applications. Whenever any change occurs to the information contained on the Application relating to the information required by this section, written notice must be given to the Chief of Police within ten (10) days after such change.

(d) Denial of Application. An alarm system permit may be denied if the application is not in the form required and does not contain all information or fees required by this chapter.

Section 4-10.060 Permit; Issuance; Term.

(a) Issuance. Upon the filing of an application containing all of the information required by Section 4-10.050, the Chief of Police may issue an alarm system permit.

(b) Three (3) Year Terms. Each alarm system permit that is issued shall expire three (3) years after the date of issuance or renewal, unless otherwise suspended or revoked at an earlier time. The date of issuance or renewal shall be the date shown on the alarm system permit issued by the Chief of Police. If a permit is not renewed, or it is revoked, the alarm system may not be operated until a new permit is issued.

(c) Permit Termination. If an application for renewal is not received by the Chief of Police within thirty (30) days of the permit expiration date, the permit will be retroactively cancelled on the expiration date and the permittee will be guilty of an infraction each day of continued use of the alarm system after the date of cancellation.

Section 4-10.070 Permit; Fees; Receipt.

(a) Fees. Every initial application, subsequent renewal and reapplication for an alarm system permit shall be accompanied by a non-refundable permit fee. The fee is established to defray costs of processing applications and permits, and shall be in addition to any other permit fee imposed by the Yuba City Municipal Code.

(b) Amount of Fee. The fee imposed shall be as stated in Section 3-8.04 of the Yuba City Municipal Code.

(c) Fee Receipt. Applicants may request a receipt for the permit fee at the time the fee is paid. The receipt may serve as a temporary alarm permit for a period of time not to exceed forty-five (45) days commencing the day following payment of fee.

(d) Fee Waiver. The permittee may request a waiver of fees from the Chief of Police if the permittee has more than one system at the same physical address, the location is under one name, the same company monitors the alarm systems and the same person(s) will respond to the alarms. This request for waiver of fees must accompany the application for the permit. Should a waiver be granted, the permittee will be responsible for all systems and all alarm responses will be calculated as though there was only one alarm system.

Section 4-10.080 Applicability of Ordinance to Existing Alarm Systems.

(a) Applicability. The provisions of this chapter shall apply to all alarm systems which were installed, connected, operated or maintained on or prior to the date on which this chapter becomes effective.

(b) Unauthorized Alarm Systems. For all alarm systems for which there is no permit, or the permit is not in good standing, a permit shall be

obtained within thirty (30) days from and after the date on which this chapter becomes effective. All alarm permits that were duly issued prior to the date that this chapter becomes effective shall remain as valid permits but will be subject to terms and conditions of this chapter. Upon renewal, the alarm user must apply for a new permit under the terms and conditions of this chapter.

(c) Inapplicability. The provisions of this chapter shall not apply to alarm systems being used or installed within the City but under the law enforcement responsibility of the Sutter County Sheriff's Department, until sixty (60) days after the Yuba City Police Department acquires the law enforcement responsibility of those systems.

Section 4-10.090 Transferability of Permit.

Any alarm system permit issued in accordance with the provisions of this chapter shall be valid only as to the permittee named on the permit, and only for the particular alarm system or alarm systems specified on the permit. No alarm system permit shall in any manner be transferred or assigned without the consent of the Chief of Police. Any request to transfer an alarm system permit shall be on a completed alarm permit application and accompanied by a nonrefundable fee in an amount equal to the current renewal fees as stated in Section 3-8.04 of this Code. Successful transfer of an alarm system permit shall extend the permit for a period of three years from the date issued to the new permittee. False alarms previously charged to the transferor shall not be charged to transferee. However, the Chief of Police may deny any request to transfer an alarm system permit where, after investigation, it appears that the transfer is requested for the purpose of allowing the transferor to evade responsibility for prior false alarms.

(a) Notice of Denial. The Chief of Police shall give the permit applicant written notice of the denial to transfer. The notice of denial shall be mailed not later than ten (10) days following the decision to deny the transfer. The notice shall include the grounds for denial.

(b) Appeal of Denial. The decision by the Chief of Police to deny an application to transfer or assign an alarm permit may be appealed pursuant to Section 4.10-130 of this Code.

Section 4-10.100 False Alarm Service Fee.

(a) Fee. Any user of an alarm system which produces Excessive False Alarms shall pay a fee to the City as established in Section 3-8.04 of the Yuba City Municipal Code.

(1) Failure to pay the penalty when due may, in addition to any other available remedy, lead to suspension and/or revocation of the alarm permit and additional fees associated with collection.

(2) Penalties for excessive false alarms may be waived by the Chief of Police or designee upon presentation of substantial evidence showing extenuating, mitigating, or extraordinary facts and circumstances, and where the permittee has undertaken action to correct alarm system deficiencies.

(3) Penalties may be waived by the Chief of Police for false alarms caused by extreme acts of nature.

(4) A canceled alarm is considered a false alarm unless the Chief of Police determines that no resources were expended in responding to the canceled alarm.

Section 4-10.110 Grounds for Suspension, Denial and/or Revocation.

(a) Grounds. The following shall constitute grounds for denial, suspension and/or revocation of the alarm permit:

- (1) Failure to pay fines and/or charges imposed as a result of excessive false alarms at any alarm site;
- (2) Excessive false alarms without remedial measures deemed adequate by the Chief of Police
- (3) Failure to comply with standards or regulations adopted pursuant to this chapter; or
- (4) Where the applicant, permittee, or the employee or agent of the applicant or permittee has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit.

Section 4-10.120 Denial, Suspension or Revocation of Permit.

(a) Order. If the Chief of Police denies, suspends or revokes a permit issued under this Chapter, the Chief of Police shall serve the permittee with a written order stating the reasons for the denial, suspension or revocation of the permit and indicate that the permittee may request a hearing. The order shall be effective immediately upon service and, unless there is a separate indication that there is a crime in progress, the Chief of Police may refuse or reduce the priority of police response to the alarm site after the suspension or revocation of an alarm permit.

(b) Illegal Operation. It is unlawful to operate or use any alarm system after service of a notice of denial, suspension, or revocation of an alarm permit and is punishable as an infraction as provided in Section 1-2.02 of this code.

(c) Reconsideration. The Chief of Police may reconsider the denial, suspension or revocation of a permit or reinstate a suspended permit, provided that within thirty days of the denial or suspension, the applicant or permittee has established to the satisfaction of the Chief of Police that the alarm system will be operated in compliance with this chapter, by complying with the following:

(1) Provide a letter from an alarm company licensed by the State of California indicating that the alarm has been completely checked, any mechanical malfunctions have been repaired and the responding party has been trained on how to operate the alarm;

(2) Agree that an agent of the business, or, if the alarm is residential, a responsible party, shall respond to the alarm site within thirty minutes of notification, each time the alarm is activated;

(3) Review correct alarm setting procedures with every resident, agent, employee or other person who may be responsible for user error alarm activations;

(4) Pay in full all outstanding excessive false alarm fines or charges; and

(5) Other reasonable procedures, conditions, or requirements as may be established by the Chief of Police.

(d) Final Decision. Any denial, suspension or revocation of a permit which has not been reconsidered by the Chief of Police within thirty days of such denial, suspension or revocation shall be final. A revoked permit shall not be reissued and will be deemed cancelled. Six months after the denial, suspension or revocation of an alarm permit, a new application may be filed pursuant to Section 4-10.050.

(e) Expiration During Suspension. Should the alarm permit's expiration date occur during a suspension, the permittee is required to apply for a renewal as stated in Section 4-10.060 of this Chapter. However, the permit will remain suspended until the end of the suspension is reached.

Section 4-10.130 Appeals.

Any person aggrieved by the decision of the Chief of Police in denying, suspending or revoking an alarm permit, in denying the transfer of an alarm permit or in assessing a false alarm service fee may appeal such decision pursuant to Title 1, Chapter 4 of this Code.

(a) Stay. During the pendency of said appeal, action by the Chief of Police may be stayed.

(b) Notice.

(1) Notice of the appeal shall also be mailed by the appellant to the Chief of Police.

(2) Notice of appeal shall include the name, current address and telephone number of the appellant, a statement of the action which is being appealed, and a statement of the facts and law on which the appeal is based. In addition, the appeal shall be accompanied by a copy of the relevant applications, renewals, and requests submitted to the Chief of Police and all notices and decisions received from the Chief of Police.

(3) The timely receipt of a proper notice of appeal shall not affect a suspension, revocation or service fee assessment unless the appellant seeks and is granted a stay by the Chief of Police. A request for stay shall set forth facts demonstrating that the appellant would suffer an extraordinary hardship if the stay is not granted.

Section 4-10.140 Prohibitions.

Anyone who activates any alarm system for the purpose of summoning Police personnel, except in the event of what is reasonably believed to be an emergency is guilty of an infraction as provided in Section 1-2.02 of this code.

Section 4-10.150 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The Council hereby declares that it would have adopted this chapter, and each section, subsection, sentence, clause, and phrase of this chapter, irrespective of the fact that any one of the sections, subsections, sentences, clauses, or phrases of this chapter are declared invalid or unconstitutional.

Section 4-10.160 Fee Exemptions.

The United States, State of California, counties, municipal corporations, departments thereof and other governmental entities are exempt from application fees required in Sec 4-10.070.

Section 4-10.170 Remedies Cumulative.

All remedies shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

Section 4-10.180 Public Nuisance.

Any alarm system is a public nuisance when:

(a) The alarm system generates an audible sound on the premises for a period longer than fifteen minutes, or

(b) The alarm system generates excessive false alarm.

Section 3. This ordinance shall become effective 30 days after its adoption and within fifteen (15) days of the passage of this ordinance, a copy shall be published once in the Appeal Democrat, a newspaper of general circulation in the City of Yuba City.

Introduce and read at the regular meeting of the City Council on the 20th day of January, 2009; and adopted at a regular meeting thereof held on the __ day of _____ 2009.

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Leslie McBride, MAYOR

ATTEST:

Terrel Locke, City Clerk

APPROVED AS TO FORM:

Timothy P. Hayes, City Attorney