ORDINANCE NO. 07-__53__

AN ORDINANCE AMENDING 12-1-9 OF THE GREENVILLE CITY CODE, RELATING TO FALSE ALARMS

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That Section 12-1-9 of the Code of Ordinances, City of Greenville, is hereby amended to read as follows:

Section 12-1-9. False alarms.

(a) Purpose

The purpose of this section is to encourage alarm users to properly use and maintain the operational effectiveness and proper utilization of alarm systems and to reduce or eliminate false alarms which may unduly divert law enforcement resources. This section governs systems intended to summon law enforcement, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for suspension.

(b) Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Alarm administrator* means a person appointed by the chief of police to administer this section.

(2) *Alarm systems business* means a person or business subject to the licensing requirements of N.C.G.S. Chapter 74D and engaged in selling, leasing, installing, servicing or monitoring alarm systems within the city.

(3) *Alarm user* means any owner, tenant or other person or entity that uses or is in control of an alarm system within the city.

(4) *Alarm site* means the individual location of each alarm system.

(5) *Alarm system* means any assembly of equipment, mechanical or electrical, device or series of devices, including, but not limited, to systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible,

visual or electronic signal indicating an alarm condition and intended to discourage crime and summon the Greenville Police Department.

(6) *Automatic dialing device* means an alarm system which automatically sends, via telephone, a prerecorded voice message or coded signal indicating the existence of an emergency situation.

(7) *City* means the City of Greenville or its agent.

(8) *Commercial premises* means any structure or area which is not defined in this section as a governmental or residential premise.

(9) *Deactivated alarm* means an alarm system that has the primary and secondary power and the telephone line disconnected at the alarm control panel.

(10) *False alarm* means the activation of an alarm system for any reason other than a robbery or unauthorized entry, and a subsequent response by the Greenville Police Department to that alarm site. A false alarm does not include:

(a) An alarm caused by physical damage to the alarm system as a result of lightning, wind, or other meteorological event, where there is clear evidence of physical damage to the alarm system; or

(b) An alarm caused by disconnection of a telephone circuit beyond the control of the alarm user or the alarm user's agents, verified by written communication from the telephone company; or

(c) An alarm caused by continuous electrical power disruption in excess of four hours.

(11) *Governmental premises* means a structure or area operated by a government entity not including premises leased to non-governmental entities.

(12) *Permit year* means the period starting from the date of issuance of a permit and ending one year from that date.

(13) *Police department* means the Greenville Police Department

(14) *Residential premises* means any structure serving as a home, residence, or sleeping place by one person or by two or more persons who maintain a common household consistent with the provisions of Section 9-4-22 of the Zoning Ordinance for Greenville, North Carolina.

(c) Alarm systems business.

Every alarm systems business shall register annually with the city. Each registration shall be valid for 12 months. The alarm systems business shall provide the following information:

(1) Name, street address and telephone number of the alarm systems business.

(2) The alarm systems business license number issued by the North Carolina Alarm Systems Licensing Board.

(d) Requirements for alarm users.

(1) Permits and applications

(a) Every alarm user shall annually apply to the chief of police for a nontransferable alarm permit. The permit shall be valid for one permit year and then expire.

(b) The permit application form will be provided by the police department. No other permit application form will be acceptable.

(c) Whenever the information provided in the alarm permit application changes, the alarm user shall provide correct information to the police department within 30 days of the change.

(d) If an alarm user has more than one location that has an alarm system, then a permit is required for each location.

(e) Failure to obtain a permit shall be a violation of this section.

(2) A fee of $15.00 shall accompany each application for an alarm permit for a residential, commercial or governmental premise. After the initial permit period has expired, each annual renewal shall be accompanied by a $5.00 fee.

(3) No permit shall be required for a deactivated alarm system.

(4) No permit shall be required unless the alarm system results in a call to the police department through an alarm system and alarm systems business or monitoring service.

(5) In the application for permit, the alarm user shall provide the following information:

(a) The name, address and telephone number of the alarm user.

(b) The address of the alarm site.

(c) The names, addresses and telephone numbers of two persons who have access to the premises, the ability to reset the alarm, and who, upon request of the police department, will respond as a representative of the alarm user to the alarm site within 30 minutes of notification.

(d) The name, address and telephone number of the alarm systems business, if any.

(e) Any dangerous or special conditions present at the alarm site.

(f) Other information as required by the police department.

(e) Restrictions.

(1) Response to alarm.
The alarm user or a representative of the alarm user listed on the application for permit shall respond to the alarm site within 30 minutes from the time of notification by the city of the activation of the alarm, whether false or not. The failure to respond, when directed by the city, shall be deemed a violation by the alarm user.

(2) Deactivation of audible alarms.
The alarm user shall deactivate the alarm within 15 minutes of activation or adjust the alarm to automatically deactivate within 15 minutes of activation.

(3) Automatic dialing devices prohibited.
The alarm user shall not operate an alarm system equipped with an automatic dialing device programmed to connect directly to the police department. Alarm users using an automatic dialing device dialing device programmed to connect directly to the police department shall be determined to be operating a non-permitted alarm system. Such use shall be a violation of this section. The police department will not respond to prerecorded messages.

(4) No permit will be issued when a civil penalty for a violation of this section is outstanding, when a reason for a previous revocation has not been corrected, or if the applicant provides false information.

(f) Leased premises.

Where the owner or manager of any residential or commercial premises makes an alarm system service available to the tenant and the tenant is to use or control the alarm system, the owner or manager shall:

(1) Explain to the tenant the operation of the alarm system;

(2) Explain to the tenant the alarm user's financial responsibilities for false alarms;

(3) Obtain the tenant's signature on a form in which the tenant acknowledges having received and understood the information provided in (d) above; and

(4) Furnish a blank alarm permit application to the tenant. The city shall provide the owner or manager with forms upon request.

(g) Enforcement of provisions.

(1) Responsibility for false alarms shall be borne by the alarm user.

(2) The following civil penalty shall be required for each false alarm per alarm system within one permit year:

(a) First and second false alarms: $25.00 each; however, if the alarm operator has a valid alarm permit, then there is no civil penalty for the first false alarm;

(b) Third and fourth false alarms: $50.00 each;

(c) Fifth and sixth false alarms: $100.00 each;

(d) Seventh and eighth false alarms: $200.00 each;

(e) Ninth and above false alarms: $400.00 each;

(f) In addition to the foregoing fines, an additional civil penalty for false alarms from a non-permitted alarm system is $200.00. The chief of police may reduce this amount to $50.00 if the alarm system is permitted within ten days of the false alarm.

(3) For any violation of the provisions of this section other than a false alarm, a violator shall be subject to a civil penalty in the amount of $50.00.

(4) The city may offer an alarm awareness class to alarm users. Alarm users may attend the class in lieu of paying one civil penalty per permit year.

(5) After responding to an alarm and determining that the alarm was false, the city shall leave written notice at the alarm site that there was a false alarm. The notice shall include the identity of the officer and time of response.

(6) The alarm user shall not be liable for a false alarm that occurs at an alarm site for which the alarm user has previously given a written disconnection notice to the alarm systems business or monitoring service.

(7) Payment of civil penalties. Civil penalties shall be paid within 30 days from the date of the citation. Violators shall be issued a written citation which must be paid within 30 days of the citation date. If not paid within the 30-day period, then an additional fifty dollars ($50.00) delinquency charge shall be assessed for each 30-day period thereafter upon nonpayment until paid in full. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations and any delinquency charge, and the chief of police, or his designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer or other employee authorized by the city manager to enforce the false alarm ordinances may issue a citation for violations of this chapter. If litigation is required to recover the penalties and delinquency charges, the city attorney or designee in addition to the penalties and delinquency charges may recover reasonable attorneys' fees and other costs incurred in bringing the action and collecting the judgment.

(8) Equitable remedy. The city may enforce the provisions of this section by applying to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

(9) Noncriminal violation. A violation of any of the provisions of this section shall not constitute a misdemeanor or infraction punishable pursuant to G.S. 14-4.

(h) Suspension, revocation, or reinstatement of alarm permit.

1) In addition to the imposition of civil penalties as provided for in this section, the eighth false alarm response in a permit year shall result in a suspension of the alarm permit, which remains effective until such time as:

a) The alarm user has taken action to remedy the causes of the false alarms; and

b) The chief of police has reinstated the permit.

2) A civil penalty unpaid in excess of 30 days shall result in a suspension of the alarm permit.

3) The chief of police may revoke an alarm permit if it is determined that:

a) There is a false statement of a material matter in the permit application; or

b) Ten or more false alarms have been received by the city from the alarm site within a permit year.

4) An alarm user whose alarm permit has been revoked may be issued a new permit if the alarm user:

a) Submits an updated application and pays a $50.00 permit fee; and

b) Pays all civil penalties and delinquency charges issued to the alarm user under this section.

5) The city shall notify the alarm user of a suspension, revocation, or reinstatement.

(i) Appeals.

1) Assessments of civil penalties and other enforcement decisions made under this section may be appealed by filing a written notice of appeal with the alarm administrator within 20 days after the date of notification of the assessment of civil penalties or other enforcement decision (suspension or revocation). The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decision. Proper notification of the alarm administrator shall stay the imposition of a penalty, suspension or revocation until adjudication. The alarm administrator shall conduct an informal hearing and consider evidence presented by the alarm user. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal.

2) If the alarm user is not satisfied with the ruling of the alarm administrator, then the alarm user may appeal to the chief of police. The request for an appeal to the chief of police must be provided to the chief of police, on a form provided by the city, within 20 days from the date of the alarm administrator's ruling. Proper notification shall stay the imposition of a penalty, suspension or revocation until adjudication. The chief of police shall conduct a hearing and consider evidence presented by the alarm user and by other interested persons. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal. The chief of police shall make a decision based on the preponderance of the evidence standard, and provide a decision within 30 days. The decision of the chief of police is the final administrative remedy as to the city.

(3) Appeal standard. The chief of police shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the chief of police shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

(j) No public duty.

The permitting of an alarm system is not intended to, nor will it create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By registering the alarm system, the alarm user acknowledges that law enforcement response may be based on factors such as availability of law enforcement units, priority of calls, weather conditions, traffic conditions, emergency conditions and staffing levels.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 4. This ordinance will become effective July 1, 2007.

This the 10th day of May, 2007.

Robert D. Parrott, Mayor

ATTEST:

Wanda T. Elks, City Clerk

692831

ORDINANCE NO. 08- 110

AN ORDINANCE AMENDING SECTION 9 OF CHAPTER 1 OF TITLE 12 GREENVILLE CITY CODE, RELATING TO FALSE ALARMS

THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DOES HEREBY ORDAIN:

Section 1. That Section 12-1-9(g) of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting subsection (g) to read as follows:

(g) Enforcement of provisions.

(1) Responsibility for false alarms shall be borne by the alarm user.

(2) The following civil penalty shall be required for each false alarm per alarm system within one permit year:

(a) First false alarm: no civil penalty;

(b) Second false alarm: $25.00; however, if the alarm operator has a valid alarm permit, then there is no civil penalty for the second false alarm;

(c) Third and fourth false alarms: $25.00 each;

(d) Fifth and sixth false alarms: $50.00 each;

(d) Seventh and above false alarms: $100.00 each;

(f) In addition to the foregoing fines, an additional civil penalty for false alarms from a non-permitted alarm system is $200.00. The additional civil penalty will be waived if the alarm system is permitted within forty five (45) days of the false alarm.

(3) For any violation of the provisions of this section other than a false alarm, a violator shall be subject to a civil penalty in the amount of $50.00.

(4) The city may offer an alarm awareness class to alarm users. Information on the opportunity to attend an alarm awareness class will be provided to alarm users after the first false alarm in a permit year.

(5) After responding to an alarm and determining that the alarm was false, the city shall leave written notice at the alarm site that there was a false alarm. The notice shall include the identity of the officer and time of response.

(6) The alarm user shall not be liable for a false alarm that occurs at an alarm site for which the alarm user has previously given a written disconnection notice to the alarm systems business or monitoring service.

(7) Payment of civil penalties. Civil penalties shall be paid within 30 days from the date of the citation. Violators shall be issued a written citation which must be paid within 30 days of the citation date. If not paid within the 30-day period, then an additional fifty dollars ($50.00) delinquency charge shall be assessed for each 30-day period thereafter upon nonpayment until paid in full. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations and any delinquency charge, and the chief of police, or his designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer or other employee authorized by the city manager to enforce the false alarm ordinances may issue a citation for violations of this chapter. If litigation is required to recover the penalties and delinquency charges, the city attorney or designee in addition to the penalties and delinquency charges may recover reasonable attorneys' fees and other costs incurred in bringing the action and collecting the judgment.

(8) Equitable remedy. The city may enforce the provisions of this section by applying to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.

(9) Noncriminal violation. A violation of any of the provisions of this section shall not constitute a misdemeanor or infraction punishable pursuant to G.S. 14-4.

Section 2. That Section 12-1-9(i) of the Code of Ordinances, City of Greenville, be and is hereby amended by rewriting subsection (i) to read as follows:

(i) Appeals.

(1) Assessments of civil penalties and other enforcement decisions made under this section may be appealed by filing a written notice of appeal with the alarm administrator within 20 days after the date of notification of the assessment of civil penalties or other enforcement decision (suspension or revocation). The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalties or other enforcement decision. Proper notification of the alarm administrator shall stay the imposition of a penalty, suspension or revocation until adjudication. The alarm administrator shall conduct an informal hearing and consider evidence presented by the alarm user. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal.

(2) If the alarm user is not satisfied with the ruling of the alarm administrator, then the alarm user may appeal to the alarm appeal board as constituted in accordance with the provisions of subsection (4). The request for an appeal to the alarm appeal board must be provided to the alarm administrator, on a form provided by the city, within 20 days from the date of the alarm administrator's ruling. Proper notification shall stay the imposition of a penalty, suspension or revocation until adjudication. The alarm appeal board shall conduct a hearing and consider evidence presented by the alarm user and by other interested persons. Faulty or overly sensitive equipment, user error, or failure to renew the alarm permit shall not be sufficient basis to grant an appeal. The alarm appeal board shall make a decision based on the preponderance of the evidence standard, and provide a decision within 30 days. The decision of the alarm appeal board is the final administrative remedy as to the city.

(3) Appeal standard. The alarm appeal board shall review an appeal from the assessment of civil penalties or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalties or other enforcement decision, the alarm appeal board shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

(4) The alarm appeal board shall be constituted of three (3) members who shall be a member of the police department designated by the chief of police, a person associated with an alarm system business designated by the city manager from nominations received from alarm system businesses, and a person designated by the city manager from nominations received by the Neighborhood Advisory Council. In the event nominations are not received from the alarm system businesses or the Neighborhood Advisory Council or the city manager determines to not designate a member from the nominations received, the city manager shall designate a person to serve on the alarm appeal board until a nomination is received by the city manager and the person is designated by the city manager as a member of the alarm appeal board. Members of the alarm appeal board will be designated for a term consisting of one (1) calendar year from January to December, members may serve unlimited consecutive terms, and a vacancy shall be filled for the unexpired term.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 5. This ordinance will become effective November 1, 2008.

This the 9th day of October, 2008.

Patricia C. Dunn, Mayor

ATTEST:

Wanda T. Elks, City Clerk

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