

AN ORDINANCE

ADOPTING a False Alarm Ordinance for the City of Marietta.

WHEREAS, the City of Marietta finds that excessive false alarms unduly burden the Marietta Police Department and wastes limited law enforcement resources. The purpose of this ordinance is to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for their use of alarm systems.

Section 1: The City of Marietta Code of Ordinances is hereby amended to adopt the following:

Section 10-4-020 False Alarms.

A. Definitions

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

1. "Alarm Administrator" means a person or persons designated by the City of Marietta to administer, control and review false alarm reduction efforts and administer the provisions of this Ordinance.
2. "Alarm Company" means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site.
3. "Alarm permit" means a permit issued by the City of Marietta allowing the operation of an alarm system within the City of Marietta.
4. "Alarm signal" means a detectable signal; audible or visual; and/or silent generated by an alarm system, to which the Marietta Police Department is requested to respond.
5. "Alarm system" means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other activity requiring immediate attention and to which the Marietta Police Department will be requested to respond, but does not include alarms installed in motor vehicles, fire alarms, domestic violence alarm, or alarms designed to elicit a medical response.

6. "Alarm user" means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.
7. "Alarm user awareness class" means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.
8. "Automatic Voice Dialer" means any electrical, electronic, mechanical, or other device capable of being programmed to send a pre-recorded voice message, when activated, over a telephone line, radio or other communication system, to the Marietta Police Department requesting police dispatch.
9. "Cancellation" means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Emergency Communications Center that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to the Marietta Police arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.
10. "Emergency Communication Center" means the Cobb County Department of Public Safety's Emergency Communications (911) Center.
11. "False alarm" means the activation of an alarm system to summon law enforcement personnel which occurs as a result of mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, unless the request for response was cancelled by the alarm user or his/her agent before the Marietta Police arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the Marietta Police Department, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises, which would have activated a properly functioning alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm, which can reasonably be determined to have been caused or activated by violent conditions of nature, nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies and receives permission from the user's alarm company, or designee, to test the system.
12. "Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
13. "Local Alarm" means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote monitoring facility, whether installed by an alarm company or user.

14. "Permit Year" means a 12-month period beginning on the day and month on which an alarm permit is issued.

15. "Runaway alarm" means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action. The Marietta Police Department may in its discretion discontinue police responses to alarm signals from what appears to be a runaway alarm.

16. "SIA Control Panel Standard CP-01" means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction".

17. "Verify" means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting the Marietta Police for dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this ordinance, telephone verification shall require, as a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch.

B. Alarm Permits.

1. Permit required. Effective October 1, 2007, no alarm system shall be used unless the alarm user first obtains a permit for such alarm system from the City of Marietta. There will be no charge for the permit. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.

2. Registration. Each alarm user has the duty to obtain and complete a permit application on a form provided by the City of Marietta.

3. Non-transferability; New Registration Required. Alarm permits are not transferable. Upon transfer of the possession of premises at which an alarm system is maintained, the new alarm user shall register for an alarm permit within 30 days of obtaining possession of the property.

4. Reporting updated information. When information required on the alarm permit application changes, the alarm user shall provide correct information to the City of Marietta within 30 days of the change. In addition, each year after the issuance of the permit, permit holders will receive, from the City, a form requesting updated

information. The permit holder shall complete and return this form to the City within 30 days.

5. Multiple alarm systems. If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

C. Duties of the Alarm User.

An alarm user shall be required to:

1. Register and obtain an alarm permit.
2. Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms.
3. Respond or cause a representative to respond to the alarm system's location within thirty (30) minutes upon notification of the need to deactivate a malfunctioning alarm system; to provide right of entry to the premises, or to provide alternative security for the premises.
4. Ensure that an alarm is not manually activated by the alarm user or any other person for any reason other than an occurrence of an event that the alarm system was intended to report.
5. Upon obtaining a permit number, provide that number to the alarm company.
6. Obtain a new permit if there is a change of address or ownership of a business or residence or if there is updated information.

D. Duties of the Alarm Company.

An alarm company shall be required to:

1. Obtain and maintain required state and local license(s) and/or permits.
2. Maintain current contact information, including user permit numbers, which shall be provided to the Emergency Communications Center at the time of a request for law enforcement response.
3. Ninety (90) days after the effective date of this Ordinance alarm companies will be required to use control panels meeting Security Industry Association (SIA) Control Panel Standard CP-01 on all new installations.
4. Prior to activation of the alarm system, the alarm company must provide verbal and written instructions explaining the proper operation of the alarm system to the alarm

user and provide written information on how to obtain service from the alarm company.

5. An alarm company performing monitoring services shall:

(a) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, EXCEPT in the case of a panic or robbery-in-progress alarm, or in cases where a crime-in-progress has been verified by video and/or audible means.

(b) Communicate a cancellation to the Emergency Communications Center as soon as possible following a determination that response is unnecessary.

(c) Communicate any available information about the location of the alarm.

E. Prohibited Acts.

1. It shall be unlawful to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.

2. It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than 10 minutes.

3. It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Emergency Communications Center or the Marietta Police Department.

4. An alarm company shall provide the permit number for the alarm system that produced the alarm signal at the time the alarm company notifies the Emergency Communications Center of an alarm signal to facilitate dispatch.

F. Enforcement of Provisions.

1. Excessive false alarms. It is hereby found and determined that three or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for false alarms within a permit year may be assessed against an alarm user as follows: *(Examples)*

First and second false alarm.....	No Charge
Third through fifth false alarm	\$50.00
Sixth false alarm	\$100.00
Seventh false alarm	\$100.00
Eighth false alarm	\$250.00
Ninth false alarm	\$250.00
Tenth and over false alarm	\$500.00
Failure to Register.....	\$100.00

2. Other Civil Penalties. Violations will be enforced through the assessment of civil penalty (ies) in the amount of \$100.00.

3. Payment of Civil Penalties. Civil penalties shall be paid within (30) days from the date of the invoice.

4. Cause of Verified Response. The failure of an alarm user to make payment of any civil penalties assessed under this ordinance within 30 days from the date of the invoice will be cause for the Marietta Police Department to only respond to alarm calls at that location when the alarm has been verifiably set off due to a crime. All other calls to that location will be responded to normally by the Marietta Police Department. All alarms will be responded to normally once the alarm user's payment has been received.

6. Noncriminal (Civil) Violation. A violation of any of the provisions of this ordinance shall be civil in nature and shall not constitute a misdemeanor or infraction.

G. Alarm User Awareness Class

1. Alarm User Awareness Class. The City of Marietta may create and implement an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms.

2. Alarm User Awareness Class in lieu of payment. An alarm user may have the option of attending an Alarm User Awareness Class in lieu of paying one prescribed civil penalty.

H. Appeals.

1. Appeals process. Assessments of civil penalties and other enforcement decisions made under this ordinance may be appealed by filing a written notice of appeal with the Chief of Police within 10 days after the date of notification of the assessment of civil penalties or other enforcement decisions. The written notice of appeal shall contain the cause for the appeal and any other pertinent information relevant to the case. 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

decisions. The Chief of Police shall designate a hearing officer from the Marietta Police Department to hear the appeal. The hearing officer shall render a decision within 5 business days and give written notification of his/her decision. The hearing officer's decision may be appealed to the Chief of Police by filing a written notice of appeal within 10 days of the decision of the hearing officer. The Chief of Police shall have the final decision in this matter. The hearing officer's decision and the decision of the Chief of Police is subject to review by the courts by proceedings in the nature of certiorari.

2. Appeal standard. The hearing officer 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 hearing officer shall have the discretion to dismiss or reduce civil penalties or reverse any other enforcement decision where warranted.

I. Confidentiality.

To the extent allowed by law, information contained and gathered through the alarm registration process will be held in confidence by the City of Marietta.

J. Government Immunity.

Alarm registration 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 applying for an alarm registration, the alarm user acknowledges that the Marietta Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

K. Severability.

The provisions of this Ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

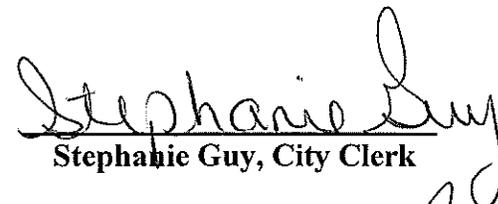
Section 4: This Ordinance shall take effect on October 1, 2007.

DATE: July 11, 2007

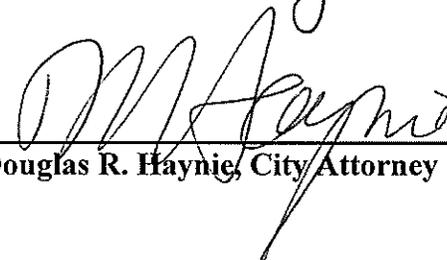
APPROVED:


William B. Dunaway, Mayor

ATTEST:


Stephanie Guy, City Clerk

Approved as to form:


Douglas R. Haynie, City Attorney