

Prepared By:  
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**ORDINANCE NO. 2020-5**

**AN ORDINANCE REGULATING AND CONTROLLING POLICE AND FIRE ALARM SYSEMS;  
PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND,  
FOR OTHER PURPOSES**

**WHEREAS**, several residences, businesses, and school buildings within the City have or plan to have alarm systems which directly or indirectly cause the Pottsville Police Department and Pottsville Fire Department to be dispatched to an alarm site upon activation of the system;

**WHEREAS**, the City Council finds that excessive, unjustified false alarms which cause the City's Police Department and Fire Department to be dispatched to an alarm site deplete valuable time and resources, and that they impair the ability of the police and fire departments to respond to legitimate emergencies; and,

**WHEREAS**, the City Council recognizes that some degree of false alarms is unavoidable and it is not prudent to punish all instances of said conduct, nor to discourage persons, institutions, firms, or corporations from having alarms capable of causing the dispatch of the police department and fire department;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTTSVILLE, ARKANSAS:**

**SECTION 1.** This Ordinance may be known and cited as the "Pottsville False Alarm Ordinance."

**SECTION 2. Police and Fire Alarm Systems: Purpose and Findings.**

A. The City Council of the City of Pottsville is enacting this Ordinance to encourage security alarm users and alarm system monitoring companies to maintain the operational reliability; to ensure proper use of security alarm systems in order to reduce unnecessary police and fire department responses to false alarms; to protect all citizens of Pottsville from the dangers of emergency personnel and equipment being inappropriately utilized

because of answers to unwarranted alarms; and, further, the council finds that false alarms are not only a public nuisance but also a threat to public safety by diverting limited police and fire resources from legitimate requests for assistance and other law enforcement matters.

B. The City Council intends this Ordinance to provide for the health, safety, and welfare of the general public and not to protect particular individuals or to otherwise designate a particular group of persons who should be especially affected by the terms of the Ordinance. The Ordinance imposes or creates no duties on the part of the City or its Departments and employees, and the obligations of complying with the requirements of the Ordinance, and any liability for failure to do so is placed upon the parties responsible for owning, operating, monitoring or maintaining alarm systems.

C. The City Council is authorized to enact this Ordinance pursuant to A.C.A. § 14-43-602 and its police powers, as stated in A.C.A. § 14-55-102. The Council does not intend this Ordinance to conflict with any State laws that may govern the licensing of alarm system monitoring companies and false alarms.

### **SECTION 3. Definitions.**

For the purpose of this Ordinance, certain words and phrases shall be construed as set forth in this section, unless it is apparent in the context that a different meaning is intended.

A. Act of God – means an act occasioned exclusively by violence of nature without the interference of any human agency (examples: lightning, thunder, tornadoes, or violent winds).

B. Alarm Agent – means any person who is employed by an alarm business, either directly or indirectly, whose duties include any of the following: selling, maintaining,

leasing, servicing, repairing, monitoring, altering, replacing, moving or installing on or in any building, structure or facility, any alarm system.

The definition of Alarm Agent does not include a person who engages in the manufacture or sale of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designs the scheme for physical location and installation of the alarm system in a specific location.

C. Alarm Business – means the business by any individual, a partnership, corporation or other form of association that engages in the business of: selling, leasing, maintaining, monitoring, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.

D. Alarm System – means any mechanical, electrical or electronic device which is designed or used for the detection of an unauthorized entry into a building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure or facility, or both, and/or detects the presence of fire or smoke and which emits a sound or transmits a signal or message when actuated is intended to summon a police or fire department response. Alarm systems include, but are not limited to, direct dial telephone devices, audible alarms, and proprietor alarms.

Devices which are not designed or used to register alarms that are audible, visible, or perceptible outside of the protected building, structure or facility are not included within this definition. 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.

E. Alarm System Monitoring Company – means an individual, partnership, corporation, or other form of association that engages in the business of monitoring security alarm systems and reporting any activation of such alarm systems to the police and/or fire departments.

F. Alarm User – means any individual, partnership, corporation or other form of association that owns or leases a security alarm system or on whose premises a security alarm system is maintained for the protection of the premises and/or detection of fire or smoke upon the premises.

G. Automatic Dialing Telephone Alarm – means a security alarm system with a device that automatically dials the Police Department or Pottsville Fire Department emergency assistance telephone lines without human activation of the device by the alarm user.

H. Civil Penalty – If the offense is determined to be civil in nature and after five (5) warnings have been issued within a calendar year, the police officer may issue a citation for a civil penalty as set out in Section 10.

I. Criminal Penalty – If the offence is determined to be criminal in nature, there shall be no warning issued and the police officer may issue a citation for a criminal violation as set out in Section 10.

J. False Alarm – means an alarm signal eliciting notification to and response by the police when there is no evidence of a crime or other activity that warrants a call for immediate police assistance and no person who was on or near the property or has viewed a video communication for the property called for the police dispatch or confirmed the need for police assistance. It also means an alarm signal eliciting notification to and response by the fire department when there is no evidence of smoke or fire.

“False Alarm” does include any negligently or accidentally activated signals, as well as any signal that is the result of faulty, malfunctioning, or improperly installed or maintained equipment or any signal or call of any type that is properly activated to summon a law enforcement agency and/or fire department in a non-emergency situation.

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;
- (4) Electrical service interruption;
- (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 cause;
- (6) An alarm caused on the reasonable but mistaken belief that a burglary, robbery or other criminal offense is in progress;
- (7) Alarm signal caused by violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user.

K. Fire Chief – means the Fire Chief of the Pottsville Fire Department, Pottsville, Arkansas, or his representative or designee.

L. Hold-up Alarm – means any alarm system designed to be actuated by a criminal act or other emergency at a specific location or by a victim of a hold-up, robbery, or other emergency or criminal act at a specific location.

M. Intrusion – means any entry into any area or building equipped with one or more alarm systems by any person or object whose entry actuates an alarm system.

N. Malfunction – means that the alarm system, which activated, was not due to a fault or negligence on the part of the owner of the alarm system or systems.

O. Police Chief - means the Police Chief of the Pottsville Police Department, Pottsville, Arkansas, or his representative or designee.

P. Warning - There shall be five (5) warnings per calendar year issued if the offense is determined to be civil in nature prior to any civil penalty applied under Section 10.

#### **SECTION 4. Audible Alarm Standards.**

An alarm system that emits an audible signal that may be heard outside of the protected premises shall conform to the following requirements:

A. Audible alarms shall automatically discontinue emitting the audible sound within fifteen (15) minutes after activation of the alarm; and

B. With respect to security alarm systems in existence prior to the enactment of this Ordinance that do not comply with subsection (A) above, the alarm user shall have sixty (60) days from the enactment of the Ordinance in which to make the necessary modification to the alarm system in order to comply with the requirement; and

C. Every person maintaining an audible alarm system shall furnish to the Police Chief and Fire Chief the name and telephone number of the primary person responsible for the alarm system and an alternate name and telephone number of a person who can activate the alarm system or systems. The lessee or owner of any audible alarm system will be responsible for deactivating the alarm system within the time frame stated in subsection (A) following notification by the Police Department; and

D. It is a defense to a violation of this Section that the continuous sounding of the alarm:

- (1) assisted in saving a life or avoiding injury; or
- (2) was activated by an unauthorized entry or criminal activity.

#### **SECTION 5. Automatic dialing Telephone Systems Prohibited.**

Beginning thirty (30) days after the effective date of this Ordinance, it shall be unlawful for any individual, partnership, corporation or other form of association to sell, offer for sale, install, maintain, operate or assist in the operation of any alarm system with an automatic or digital alarm communicator feature that automatically calls the police and/or fire departments in the event of an alarm.

## **SECTION 6. Alarm Users.**

### **A. An alarm user shall:**

- (1) Maintain the premises and security alarm system in a manner that will minimize or eliminate false alarms;
- (2) Review all alarm system operating instructions, including those for verification of an alarm;
- (3) Notify the alarm system monitoring company of a false alarm activation as soon as the user is aware of the false alarm;
- (4) Not manually activate an alarm except when needing an immediate police response to an emergency;
- (5) Respond to the scene of an activated alarm within one-half hour after the alarm was first activated if the alarm user has not contracted with an alarm agent unless good cause is shown; and
- (6) In addition to other relevant information, provide Pope County 911 with the following if an alarm user requests an emergency response to an alarm activation: the identity of the caller, the name of the system owner, and the address of the system owner.

**B.** The information required in this Section is not a prerequisite for emergency services. Any caller unable to provide the required information due to exigent circumstances shall receive prompt response as though the information had been provided.

**C.** The failure of the alarm user, or his agent, to respond to the scene of an alarm activation after request to do so, or failure to respond within the time required by this Ordinance, shall be a violation of this Ordinance and shall be subject to penalties set forth in Section 10.

## **SECTION 7. Alarm System Monitoring Companies.**

An alarm system monitoring company engaging in business activities in the City shall:

- A. Obtain all necessary business licenses as required by the City and the State of Arkansas;
- B. Maintain a current record, accessible to the Police Chief and Fire Chief, that includes: the names of the alarm users serviced by the company; the addresses of the protected properties; the type of alarm system; original installation date and subsequent modifications, if any, for each protected property; and a record of false alarms at each property;
- C. Provide the Police Chief and Fire Chief such information as the Chiefs request regarding: the nature of the company's security alarms; the company's method of monitoring the alarms; the company's program for preventing false alarms; including educational programs for alarm users; and the company's methods for disconnecting audible alarms; the name, address, and telephone number of each monitoring station; and, the type of business organization that it is (individual, partnership, or corporation);
- D. Provide each of its alarm system users with: operating instructions for the alarm system, including an explanation of the alarm company's alarm verification process; a telephone number to call for assistance in operating the system; and a summary of the provisions of this Ordinance relating to penalties for false alarms and the possibility of no police response to alarm systems experiencing excessive false alarms;
- E. Maintain a verification process, as specified in Section 8, for all monitored alarm systems in order to prevent unnecessary police dispatches resulting from false alarms;
- F. Communicate requests for police responses to the Police Department in a manner specified by the Police Chief;
- G. Communicate requests for cancellations of police responses in a manner specified by the Police Chief;
- H. Communicate requests for fire responses to the Fire Department in a manner specified by the Fire Chief;
- I. Communicate requests for cancellations of fire responses in a manner specified by the Fire Chief;
- J. Maintain a record of all requests for police and fire responses to an alarm, including: the date and time of the alarm and request for police and fire response; the alarm system user's name and address; evidence of the company's attempt to verify the alarm; and, to the best of its knowledge, an explanation of the cause of any false alarm;
- K. Work cooperatively with the alarm system user and the Police Chief and Fire Chief in order to determine the cause of any false alarm and to prevent recurrences; and

L. Notify its subscribers that protection is no longer being provided when an alarm agent or alarm system monitoring company's service to its subscribers is disrupted for any reason by the alarm agent or monitoring station, or alarm agent or monitoring station becomes aware of such disruption unless written instructions from the subscriber request such notification not be made during certain hours.

#### **SECTION 8. Security Alarm Verification Process.**

A verification process is an independent method of an alarm system monitoring company for determining that a signal from a security alarm system requires immediate police and/or fire response. The verification process shall not take more than five (5) minutes, calculated from the time that the alarm company receives the alarm signal until the alarm company determines whether to request a police and/or fire department dispatch. The means of verification shall include at least one (1) of the following:

- A. The establishment of voice communications with the alarm user or a person authorized by the user at or near the premises with the alarm who may indicate whether there is an immediate need for police and/or fire response;
- B. A feature that permits the alarm user or a person authorized by the user to send a special signal to the alarm company that will cancel the alarm immediately after the signal has been sent and prevent the alarm company from calling the police and/or fire department;
- C. The installation of a video system that provides the alarm company when the alarm signal is received with the ability to ascertain whether activity is occurring what warrants immediate police and/or fire department response;
- D. A confirmation that an alarm signal reflects a need for immediate police and/or fire department response from either the alarm user or a person authorized by the user or an alternate response agency made before dispatching the police and/or fire department; or
- E. An alternative system that the Police Chief and Fire Chief determines has or is likely to have a high degree of reliability.

#### **SECTION 9. Unlawful Activation or Report of Alarm.**

- A. No person shall knowingly or intentionally activate a security alarm system for the purpose of summoning the police and/or fire department when no emergency exists except



in the event of an unauthorized entry, robbery, burglary, hold-up, or other crime being committed or attempted on the premises; or if the person needs immediate assistance in order to avoid injury or serious bodily harm; or if the person needs immediate assistance because life or property is in danger due to the presence of fire or smoke upon the premises.

B. Any person who shall notify the police and/or fire department of an activation and have knowledge that such activation was apparently caused by an electrical or other malfunction shall at the same time notify the police and fire departments of the apparent malfunction.

C. Any person who violates this Section shall be subject to the penalties as provided in Section 10 of this Ordinance and shall be subject to prosecution under the Arkansas State Law for falsely reporting an incident (A.C.A. §5-71-210 – Communicating a False Alarm).

#### **SECTION 10. Penalty for False Alarm.**

A false alarm shall be subject to civil or criminal penalty, or both as set out below.

A. Criminal violation and penalty.

- (1) Any person found in violation of any of the provisions of this Ordinance may be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00). Prosecution of criminal violations shall be heard in the Pottsville Division of Pope County District Court.

B. Civil Violations and Penalties.

- (1) If the offense is found to be civil in nature and, after five (5) warnings have been issued within the calendar year, any person found in violation of any of the provisions of this ordinance may result in a civil penalty as follows:
  - (a) For the sixth (6<sup>th</sup>) finding within a calendar year that this Ordinance has been violated, a civil penalty of \$25.00.

(b) For the seventh (7<sup>th</sup>) or any subsequent finding within a calendar year that this Ordinance has been violated, a civil penalty of \$50.00.

(c) Failure to pay alarm violation notice within thirty (30) days of receipt will result in further legal action, including but not exclusive to the following, the City filing for civil remedy for recovery of fines.

(2) Any civil penalties imposed under this Section shall be heard in the Pottsville Division of Pope County District Court.

#### **SECTION 11. Defective Systems Notices.**

- A. No person shall permit a defective alarm system to be in operation on property that they own or control.
- B. An alarm system is presumed to be defective if more than five (5) false alarms occur within a calendar year.
- C. A lack of physical evidence of an attempt to break into a residence or business, or lack of physical evidence of a fire or smoke, or other emergency, shall create a rebuttable presumption that an alarm system is defective.
- D. Any person convicted of violating the provisions of this Section shall be subject to punishment in accordance with Section 10 of this Code.
- E. It shall be an affirmative defense to prosecution under this Section that an alarm user contracted with an alarm agent or other agency to maintain, repair, modify, or replace a defective alarm system and that the alarm agent or other agency failed or refused to promptly make such maintenance, repair, modification, or replacement, resulting in the false alarm.

#### **SECTION 12. Determination of False Alarm; Rebuttable Presumption.**

For the purposes of this Ordinance, there is a rebuttable presumption that the following determinations made by the Fire Chief, Chief of Police or by a police officer or fire fighter, as the case may be, dispatched to the premises reporting an alarm signal are correct:

- A. There is no evidence of a crime or other activity that would warrant a call for immediate police assistance at the premises;

B. No individual who was on or near the premises or who has viewed a video communication from the premises called for a police or fire dispatch or verified a need for an immediate police or fire department response; and

C. There is no evidence that violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user caused the activation of the alarm.

### **SECTION 13. Inspection of Alarm Devices.**

A. The Police Chief, Fire Chief, or their designees shall have the right to inspect any alarm system on the premises to which a response has been made, and he may cause an inspection of such system to be made at any reasonable time thereafter.

B. If any inspection reveals any problems with an alarm system, the owner or lessee shall have a period of thirty (30) days after receiving written notice to make required corrections or repairs. If the correction or repairs are not made in the specified amount of time, the owner or lessee shall be subject to the fines as set forth in Section 10. There will be no testing or demonstrating of a direct alarm system without first obtaining permission from the Police Department and Fire Department.

### **SECTION 14. Power to Issue Citations.**

A. The Police Department shall have the power to issue citations for the violation of any provision set forth in this article.

B. Whenever an alarm is activated and an emergency response to the location is made by police or fire personnel, the police on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the alarm signal was a false alarm. If the Police Department personnel at the scene of the activated alarm system determine the alarm to be false, such personnel shall make a report of the false alarm and

shall issue a citation or warning depending on the history of previous activated alarm systems at the scene within the calendar year.

C. If the Police Department after an investigation determines that the alarm the police or fire department responded to was false, the Police Department shall file the false alarm report with the City Attorney's Office for that Office to prosecute on the City's behalf. This paragraph shall only apply if the Police Department did not issue a citation to the alarm user at or just after the time the false alarm was activated.

**SECTION 15. Deposit of Fines.** All fines less the court costs, whether criminal or civil in nature, collected by the Pottsville Police Department under the provisions of this Ordinance shall be paid into the Personnel/Vehicle Account or the Fire Department Account which shall be maintained by the Pottsville District Court Clerk. Specifically, all fines less court costs collected for fire alarm calls shall be deposited in the Fire Department Account, and all fines less court costs collected for all other alarm calls shall be deposited in the Police Department Personnel/Vehicle Account.

**SECTION 16. Penalties.** Unless specially enumerated herein, any person convicted of a violation of any of the provisions of this Ordinance shall be punished as provided in Section 10.

**SECTION 17. Government Immunity.** Nothing in this Section is intended to, nor will it, create a contract, duty, or obligation, neither expressed or implied, of response to an alarm by the Pottsville Police Department or Pottsville Fire Department. Any and all liability and consequential damage resulting from the failure to response to a notification is hereby disclaimed and governmental immunity as provided by law is retained. An Alarm User is put on notice that the Pottsville Police Department and Pottsville Fire Department's

responses may be influenced by factors such as: the availability of officers and/or firefighters, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, and prior response history.


**SECTION 18:** Any and all prior resolutions, ordinances, or parts of the same, which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 19:** If any provision of this Ordinance or the application thereof to any person or circumstances is declared to be invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which may be given effect without the invalid provision(s) or application(s), and to this end the provisions of this Ordinance are declared severable.

**SECTION 20. EMERGENCY CLAUSE.** It is hereby found and determined by the City Council of the City of Pottsville that significant police services and resources are expended in answering alarms which turn out to be malfunctions or are otherwise unwarranted; and that the creation of a sanction for unnecessary alarms has resulted in a significant decrease in the number of alarms in other communities; that the City's police and fire services and resources should be reserved for true emergency responses; and that this Ordinance is necessary to preserve the public peace, health, and safety.

THEREFORE, an emergency is declared to exist and this Ordinance being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect on the date it is passed.

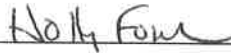
Passed and approved this 22<sup>nd</sup> day of June 2020.



**RANDY TANKERSLEY**  
**MAYOR**

**ATTEST:**

I, Holly Fowler, City Clerk of Pottsville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2020-5 passed by the Pottsville City Council on the 22<sup>nd</sup> day of June 2020.



**HOLLY FOWLER**  
**POTTSVILLE CITY CLERK**

