

CITY OF LYNNWOOD

Ordinance No. 2144

AN ORDINANCE OF THE CITY OF LYNNWOOD AMENDING CHAPTER 10.40 OF THE LYNNWOOD MUNICIPAL CODE AND PROVIDING FOR RESTRICTED RESPONSES TO FALSE ALARMS.

WHEREAS, the City Council of the City of Lynnwood has determined that the Lynnwood Municipal Code pertaining to burglar alarms needs to be amended: (1) to reduce the amount of City resources devoted to unnecessarily responding to false alarms; (2) to improve citizen education regarding the causes and effects of false alarms; and, (3) to encourage alarm users and security alarm monitoring companies to maintain the operational reliability of the alarm systems.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1: Repealer. Chapter 10.40 of the Lynnwood Municipal Code as it presently exists is repealed in its entirety.

Section 2: New Section. Chapter 10.40 of the Lynnwood Municipal Code is hereby adopted to read as follows:

Chapter 10.40
ALARM SYSTEMS

Subchapter I General Provisions

- 10.40.010 Unlawful connections designated.
- 10.40.020 Direct connections to municipal systems prohibited.
- 10.40.030 Reporting not prohibited.
- 10.40.040 Violation -- Penalty.

Subchapter II Property and Panic Alarm Systems

- 10.40.135 Purpose.
- 10.40.140 Definitions.
- 10.40.145 Audible alarm standards.
- 10.40.150 Notice -- Alarm turnoff.
- 10.40.155 Ten-minute limit on audible alarms.
- 10.40.160 Unlawful activation or report of alarm.
- 10.40.165 Alarm system monitoring companies -- Verification process.
- 10.40.170 Determination -- Rebuttable presumption.
- 10.40.175 Penalty for false alarms.
- 10.40.180 Frequent false alarms -- Process for disregarding automatic alarms -- In-person verification.
- 10.40.185 Violation -- Civil penalties.

Subchapter I General Provisions

10.40.010 Unlawful connections designated.

It is unlawful for anyone having or conducting a privately owned burglary or robbery alarm system to have or maintain any equipment or device at, or any direct connection with, the facilities of any office, branch, department or agency of the Lynnwood Police Department; provided that nothing in this chapter shall prohibit the installation or use of regular private or business telephone lines for the reporting by any person of a burglary or robbery.

10.40.020 Direct connections to municipal systems prohibited.

It shall be unlawful for anyone to make any direct connection to or on the municipally owned police signal systems of the City.

10.40.030 Reporting not prohibited.

Nothing in this chapter shall prohibit or prevent any individual from making reports to the Lynnwood Police Department.

10.40.040 Violation – Penalty.

Unless otherwise provided by law, the violation of or failure to comply with any of the provisions of this chapter is a misdemeanor, and shall subject the offender upon conviction thereof to a fine not to exceed Three Hundred Dollars (\$300), or imprisonment not to exceed ninety (90) days, or both fine and imprisonment.

Subchapter II Property and Panic Alarm Systems

10.40.130 Purpose.

The purpose of Sections 10.40.140 through 10.40.180 is to encourage security alarm users and security alarm monitoring companies to maintain the operational reliability and the proper use of alarm systems in order to reduce unnecessary police responses to false alarms and to require in-person or other independent verification before responding to emergency calls at premises where an automatic property or burglary alarm system has a record of unreliability.

The express purpose of this chapter is to provide for and promote the health, safety and welfare of the general public, and not to protect individuals or create or otherwise establish or designate any particular class or group of persons who will or should be especially affected by the terms of this chapter. This chapter imposes or creates no duties on the part of the City or any of its departments. The obligation of complying with the requirements of this chapter, and any liability for failing to do so, is placed upon the parties responsible for owning, operating, monitoring or maintaining automatic alarm systems.

10.40.135. Applicability.

(a) The provisions of this chapter apply to burglary, property, and panic alarms as defined in this chapter. The Police Department of the City of Lynnwood has the responsibility and the authority to administer and implement this chapter, and to promulgate additional rules and procedures as necessary to implement this chapter.

(b) The Chief of Police or the Chief's designee shall have the authority and responsibility for enforcing this chapter as it pertains to burglary, property, and panic alarms.

10.40.140 Definitions.

As used in this subchapter, the following terms have the meanings indicated unless the context clearly requires another interpretation:

A. "Alarm Administrator" means the individual or individuals designated by the Police Chief to administer, control, and review the provisions of this chapter.

B. "Alarm system monitoring company" means any individual, partnership, corporation, or other form of association that engages in the business of monitoring property, burglary, robbery, or panic alarms, and reporting any activation of such alarm systems to the Lynnwood Police Department.

C. "Alarm system user" means the person having or maintaining a property, burglary, robbery, or panic alarm. It means only the subscriber when the system is connected to an alarm system monitoring company.

D. Burglary alarm. See "Property alarm" below.

E. "Chief of Police" means the Chief of Police of the City of Lynnwood and his or her designee.

F. "Department" means the Lynnwood Police Department.

G. "Dispatch" or "immediate dispatch" means a discretionary decision whether to direct police units to a location where there has been a report made, by whatever means, that police assistance or investigation is needed. There is no duty to dispatch or immediately dispatch under any circumstances whatever, whether automatic alarms are involved or not, and all dispatch decisions are made subject to competing priorities and available police response resources.

H. "False alarm" means the activation of a property or burglary alarm when:

1. There is no evidence of a crime or other activity on the premises that would warrant a call for immediate police assistance or investigation; and

2. No individual who was on or near the premises or who had viewed a video or heard an audio communication from the premises, called for the dispatch or confirmed a need for an immediate police response.

I. Panic alarm. See "Robbery alarm" below.

J. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated entity, or other entity or group of persons, but excludes the United States, the State of Washington and any political subdivision or municipal corporation thereof.

K. "Property alarm" or "burglary alarm" means any system, device, or mechanism for detection and reporting of any unauthorized entry or attempted entry or property damage upon real property protected by the system which may be activated by sensors or other techniques, and, when activated, automatically transmits a telephone message, emits an audible or visible signal that can be heard or seen by persons outside the protected premises, or transmits a signal beyond the protected premises.

L. "Residence" means a building or structure or portion thereof designed to be used as a place of abode for human beings and not used for any other purpose. The term includes all dwelling units within the definition of a "residential use," as defined in Section 21.02.625.

M. "Robbery alarm" or "panic alarm" means any system, device, or mechanism, activated by an individual on or near the premises, to alert others that a robbery or any other crime is in progress, or that the user is in need of immediate assistance or aid in order to avoid injury or serious bodily harm, which meets the following criteria:

1. The system is installed on real property (the "protected premises");
2. It is designed to be activated by an individual for the purpose of summoning assistance to the premises;
3. It transmits a telephone message or emits an audible, visible, or electronic signal that can be heard, seen or received by persons outside the protected premises; and
4. It is intended to summon police assistance to the premises.

N. Verification. See Section 10.40.165.

10.40.145 Audible alarm standards.

On or after September 1, 1997, no automatic property or burglary alarm which, when activated, causes an audible sound to be heard off the premises continuously for more than ten (10) minutes shall be installed on privately-owned premises in Lynnwood.

Owners of existing automatic property or burglary alarms which, when activated, sound continuously until turned off and send audible sounds off the premises are encouraged to limit the duration of the sound to ten (10) minutes or less by such methods as installing an automatic shutoff mechanism, connecting to a monitoring system, or converting to more modern equipment.

Nothing in this section shall limit the duration of a fire or other evacuation alarm during a bona fide emergency when the sound may assist in saving life or avoiding injury.

10.40.150 Notice – Alarm turnoff.

Anyone who shall have or maintain on any commercial premises an audible-type property, burglary or robbery alarm shall maintain posted at the main entrance to such premises a prominent notice of the telephone numbers at which the person or persons authorized to enter such premises and turn off such alarm can be reached at all times. This requirement is satisfied if the number provided is that of an alarm monitoring service that has a current contract for monitoring the premises, and the alarm system user has provided that service with current contact information.

10.40.155 Ten-minute limit on audible alarms.

The sounding of an audible automatic property or burglary alarm in a manner such that the sound can be heard continuously off the premises for more than ten (10) minutes is punishable by a civil fine in a default amount of \$25.00. It shall be charged to the alarm system user.

It is a defense that the continuous sounding of the alarm assisted in saving life or avoiding injury in a bona fide emergency.

It is a mitigating circumstance that the alarm was caused by a malfunction of the equipment without prior knowledge of the owner, or activated by an unauthorized entry or by criminal activity.

10.40.160 Unlawful activation or report of alarm.

No person shall activate any robbery, panic, property, or burglary alarm for the purpose of summoning police response except in the event of an unauthorized entry, robbery or other crime being committed or attempted on the premises, or the user needs immediate assistance in order to avoid injury or serious bodily harm.

Anyone who shall notify the police department of an activated alarm and have knowledge that such activation was apparently caused by an electrical or other malfunction of the alarm system, shall at the same time notify the police of such apparent malfunction.

10.40.165 Alarm system monitoring companies -- Verification process.

Every alarm system monitoring company engaging in business activities in Lynnwood shall:

- A. Obtain a City of Lynnwood business license from the Finance Department;
- B. Upon request, provide the Chief of Police such information about the nature of its property alarms, burglary alarms, robbery alarms, and panic alarms; its method of monitoring; its program for preventing false alarms; and its method of disconnecting audible alarms, each as the Chief may require by rule;
- C. Maintain a current list of all subscribers, which list shall be accessible to the Chief at all times. Said list shall contain the subscribers' names, emergency contact phone numbers, and the associated protected premises the alarm serves;
- D. Maintain a verification process with those subscribers who have an automatic alarm system to prevent false alarms from resulting in unnecessary police dispatches; and

E. When the Chief reports that there appears to have been a false alarm at a subscriber's premises, work cooperatively with the subscriber and the Chief in order to determine the cause thereof and prevent recurrences.

A verification process is an independent method of determining that a signal from an automatic alarm system reflects a need for immediate police assistance or investigation. The verification process shall not take more than five (5) minutes calculated from the time that the alarm signal has been accepted by the alarm system monitoring company until a decision is made whether to call for a police dispatch. The means of verification may include one (1) or more of the following:

1. The establishment of voice communication with an authorized person at or near the premises who may indicate whether or not need for immediate police assistance or investigation exists;
2. A feature that permits the alarm system user or a person authorized by the user to send a special signal to the alarm system monitoring company that will cancel an alarm immediately after it has been sent and prevent the monitoring company calling for a police dispatch;
3. The installation of a video or audio system that, when the signal is received, provides the alarm system monitoring company with the ability to ascertain that activity is occurring that warrants immediate police assistance or investigation;
4. A confirmation that a signal reflects a need for immediate police assistance or investigation either by the alarm system user, a person at or near the premises, or an alternate response agency made before dispatching police response; or
5. An alternate system that the Chief determines has or is likely to have a high degree of reliability.

10.40.170 Determination – Rebuttable presumption.

For the purposes of this subchapter, there is a rebuttable presumption that the following determinations made by the Chief of Police or made on behalf of the Chief by a police officer dispatched to the premises, are correct:

- A. There is no evidence of a crime, or other activity that would warrant a call for immediate police assistance investigation at the premises; and
- B. No individual who was on or near the premises, or who had viewed a video or heard an audio communication from the premises, called for the dispatch or verified a need for an immediate police response.

10.40.180 Frequent false alarms – Process for disregarding automatic alarms – In-person verification.

- A. In exercising his or her discretion to make an immediate dispatch in response to an automatic property or burglary alarm, the Chief of Police may disregard a call for emergency assistance when:
 1. The premises are not a residence; and

2. The call comes from or is prompted by an automatic property or burglary alarm that has a record of sending six (6) false alarms within a period of twelve (12) months; and

3. The call is the only basis for making such a dispatch.

The Chief may consider such a call as an additional factor in making his or her decision to order an immediate dispatch when an in-person call, verification from an individual at or near the premises, or other independent evidence shows a need for immediate police assistance at the premises.

B. To discourage false alarms, the Chief shall adopt a process of sending a letter or delivering a notice informing the alarm system user of record of the consequences of a false alarm, the need to take corrective action, which may include a requirement for an inspection of the alarm system by a licensed alarm service person, and the prospect that six (6) false alarms within a twelve (12) month period may result in the automatic signals being disregarded and an in-person call or verification being required or other independent information showing a need for such a dispatch before an immediate dispatch will be made to the premises. This notice shall be mailed or delivered to the alarm system user's last reported business address on file with the City.

C. Before acting as authorized in subsection A of this section, the Alarm Administrator shall send or deliver a notice to the alarm system user that:

1. Six (6) false alarms have been received within a twelve (12) month period;

2. The property may be placed in a non-response status;

3. A requirement of an in-person communication or verification may remain in effect for a period of three hundred sixty-five (365) days.

D. Appeals. All parties aggrieved by actions of an Alarm Administrator may appeal the action to the Commander, Bureau of Field Operations of the Lynnwood Police Department, or in that Commander's absence, to the Commander, Investigations and Services of the Lynnwood Police Department, by filing a Notice of Appeal with the appropriate Department within five (5) days of mailing of the notice. All decisions by the Commander shall be in writing with a copy to the Alarm Administrator and to all parties of record.

The decision of the Commander may be appealed to the Judge of the Lynnwood Municipal Court by filing an additional Notice of Appeal with the Police Department within five (5) days of mailing of the Commander's decision.

Such written appeal shall contain:

A caption reading: "Appeal of _____" giving the names of all appellants participating in the appeal;

A brief statement setting forth the legal interest of each of the appellants in the property involved in the proceeding;

A brief statement in concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed, modified or otherwise set aside;

The signatures of all appellants, and their official mailing addresses;

The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

E. If a hearing is requested, the Commander shall schedule the hearing within ten (10) days of the date of receipt of the request. The Commander may take into consideration such factors as the steps that the alarm system user or alarm system monitoring company has taken or is taking to correct the problem; the incidence of crime in the area; the facts and circumstances of the false alarms; and other relevant information presented by the user or the monitoring company.

F. The Chief may suspend or cancel the remedy under subsection A if the Chief determines that the automatic alarm system has been corrected to prevent the recurrence of false alarms.

10.40.185 Violation -- Civil penalties.

A. The failure of an alarm system monitoring company that engages in business activities in Lynnwood to comply with any of the requirements of Section 10.40.165 shall be a civil infraction as contemplated by RCW Chapter 7.80 and is subject as a Class 1 civil infraction under RCW 7.80.120(2) to a maximum monetary penalty and a default amount of Two Hundred Fifty Dollars (\$250.00) plus statutory assessments. Each day of noncompliance shall be a separate violation, and the monetary penalties shall accumulate.

B. Any person who fails to respond to a notice of civil infraction as promised or to appear at a requested hearing shall be guilty of a misdemeanor and may be punished by a fine not to exceed One Thousand Dollars (\$1,000) and confinement not to exceed ninety (90) days

C. If the investigating officer determines that the cause of the false alarm was other than operator error, the violator shall submit a written report to the alarm administrator, stating the probable cause of the false alarm, the corrective action taken, whether the alarm has been inspected by a licensed service person, and any other such information as the Chief of Police may reasonably require to determine the cause of such false alarms and corrective action necessary.

D. The penalty for sending a false alarm is the assessment of a civil fine, and shall subject an owner or an alarm system monitoring company to a civil fine in an amount as follows:

1. First violation: no monetary fine; violator shall receive a warning letter.
2. Second violation: \$25 fine.
3. Third violation: \$50 fine, which may be waived if the violator successfully completes an alarm awareness class.

4. Fourth violation: \$100 fine; violator shall receive a letter advising of the possibility of future restricted response.
5. Fifth violation: \$150 fine; violator shall receive a registered or certified letter advising them that there may be no response after a sixth violation.
6. Sixth and subsequent violation: \$200 fine; violator shall receive a registered or certified letter advising them that they are on restricted response status.

Provided, however, that the restricted response provisions of this section shall not apply to residential properties.

Section 3: Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

Section 4: Effective Date. This Ordinance shall take effect and be in full force September 1, 1997.

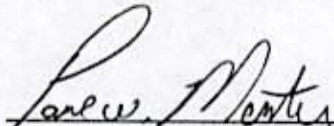
PASSED this 9th day of June, 1997, and signed in authentication of its passage this 10th day of June.



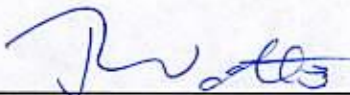
TINA ROBERTS, MAYOR

ATTEST:

APPROVED AS TO FORM:



PAUL W. MENTER, Finance Director



JOHN P. WATTS, City Attorney