

STATE OF TEXAS       §  
COUNTY OF SMITH    §

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**ORDER OF THE COMMISSIONERS COURT OF SMITH COUNTY, TEXAS  
PURSUANT TO TEX. LOC. GOV'T CODE CHAPTER 233  
ADOPTING THIS ORDER FOR COUNTY REGULATION OF ALARM  
SYSTEMS IN SMITH COUNTY**

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On this the 27<sup>th</sup> day of April, 2009, pursuant to the authority granted by the Constitution and Chapter 233 of the Local Government Code of the State of Texas, the Commissioners Court of Smith County, Texas, has adopted the Alarm Systems Order on this day in and for the best interest of Smith County.

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**Honorable Judge Joel Baker**  
**Chairman of Commissioners Court**

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**Jeff Warr, Commissioner**  
**Precinct One**

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**William McGinnis, Commissioner**  
**Precinct Two**

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**Terry Phillips, Commissioner**  
**Precinct Three**

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**JoAnn Hampton, Commissioner**  
**Precinct Four**

ATTEST:

\_\_\_\_\_  
JUDY CARNES, COUNTY CLERK

APPROVED:

\_\_\_\_\_  
J. B. SMITH, SHERIFF

APPROVED:

\_\_\_\_\_  
ASST. DISTRICT ATTORNEY

STATE OF TEXAS  
COMMISSIONERS COURT FOR SMITH COUNTY  
ALARM SYSTEMS ORDER

**AN ORDER PROVIDING FOR RULES GOVERNING THE REGULATION OF ALARM SYSTEMS AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE, AND DECLARING A PENALTY.**

**WHEREAS**, The regulation of incidences of and responses to false alarms is a matter of public interest in the present time of great lawlessness and limited local governmental resources;

**WHEREAS**, The Smith County Commissioners Court believes it would be in the public interest to regulate the incidences of and responses to false alarms so as to protect against the avoidable waste of limited local governmental resources; and

**WHEREAS**, The County through its Commissioners Court has authority pursuant to the enabling legislation found in TEX. LOC. GOV'T CODE, Sections 233.091-233.098, to regulate alarm systems within Smith County by adopting rules to implement Sections 233.091-233.098.

**NOW, THEREFORE, BE IT ORDERED**, by the Commissioners Court of Smith County, Texas:

- (1) That Rules Governing the Regulation of Alarm Systems within Smith County, Texas is hereby adopted as set out in Article I, attached hereto and made a part of this Order for all purposes.
- (2) That if any provision or any section of said Rules Governing the Regulation of Alarm Systems Within Smith County, Texas shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of said Rules, which shall remain in full force and effect.
- (3) That any previous Orders or Rules in conflict herewith are hereby repealed on the effective date hereof.

(4) That any person who violates TEX. LOC. GOV'T CODE Chapter 233, this Commissioners Court Order, or the attached Rules Governing The Regulation of Alarm Systems Within Smith County, Texas set out in Article I, shall be deemed guilty of a Class C misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$500.00. And since State law, this Order, and said Rules implementing same provide for a penalty for violation, this Order and said Rules Governing The Regulation of Alarm Systems Within Smith County, Texas shall become effective after publication of its caption in a newspaper of county-wide distribution, on Tuesday, April 28, 2009.

# ARTICLE I.

## RULES GOVERNING THE REGULATION OF ALARM SYSTEMS WITHIN SMITH COUNTY, TEXAS

### Section

- 1.000 Purpose and Scope
- 1.001 Construction/Definitions
- 1.002 Permit Required; Exceptions
- 1.003 Application for permit; Requirements
- 1.004 Amendment to Permit: Requirements
- 1.005 Term of permit; Renewal
- 1.006 Permit fees; Amendment fee
- 1.007 Permit nontransferable
- 1.008 Permits to be kept at alarm site
- 1.009 Duties of permit holder
- 1.010 Repair of alarm system; Deactivation
- 1.011 Duty to provide access and assistance
- 1.012 Requirements for operation; Prohibitions
- 1.013 Duties of alarm system business to furnish  
Information about each alarm system installation
- 1.014 Additional duties of alarm system business
- 1.015 Duties of alarm system business operating a central station  
And/or telephone answering service
- 1.016 False Alarms; Exceptions
- 1.017 Fees for County Response to false alarms
- 1.018 When permit may be revoked.
- 1.019 Notice of revocation; Reinstatement hearing
- 1.020 Penalties for violations
- 1.021 Defenses
- 1.022 Policies and procedures.

### Section 1.000 Purpose and Scope

- (a) The purpose of this Article is to:
  - (1) Protect the emergency and law enforcement services of Smith County, Texas from misuse; and
  - (2) Defray the cost of administering this Article through permit fee charges.
- (b) The provisions of this Article shall apply only to the alarm systems;
  - (1) Which send an alarm signal directly to the Sheriff's Department;
  - (2) Which send an alarm signal to a location where the signals are continuously monitored and relayed to the Sheriff's Department; or
  - (3) Which produce an audible or visual alarm which can be heard or seen outside of the premises and are not equipped with an automatic shutoff device which will shut off all external alarms within fifteen (15) minutes of being activated.
- (c) The provisions of this Article shall not apply to alarm systems which produce an audible or visual alarm which can be heard or seen outside the premises provided that:

- (1) The alarm system is equipped with an automatic shutoff device which will shut off all external audible and visual alarms within fifteen (15) minutes of being activated; and
- (2) The alarm system is not continuously monitored at an off-premises location.

**Section 1.001 Construction/Definitions**

- (a) In these rules, unless the context otherwise requires:
  - (1) Words in the singular number include the plural, and in the plural include the singular; and
  - (2) Words of the masculine gender include the feminine and the neuter, and when the sentence so indicates words of the neuter gender may refer to any gender.
- (b) The following words, terms and phrases, when used in these rules, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:
  - (1) "Alarm Detail" means the administrative unit of the Smith County Sheriff's Department designated and authorized by the Sheriff to administer these rules.
  - (2) "Alarm site" means the specific property or area of the premises on or within which an alarm system is installed or placed.
  - (3) "Alarm system" means an alarm signal device, burglar alarm, heat or motion sensor, hold-up alarm, local alarm, panic alarm, or other electrical, mechanical, or electronic devices used:
    - (a) To prevent or detect or detect burglary, theft, pilferage, or other loss of property;
    - (b) To prevent or detect intrusion; or
    - (c) Primarily to detect and summon aid for other emergencies.
  - (4) "Alarm system business" means any person who sells, installs, services, monitors, or responds to alarm systems as a livelihood.
  - (5) "Applicant" means the person, or an agent or employee acting on behalf of such person, for whom a permit is sought.
  - (6) "Automatic dialing device" means any device connected to an alarm system which automatically sends a prerecorded message or coded signal to a predetermined location indicating activation of the alarm system.
  - (7) "Burglar alarm" means any alarm system intended to prevent or detect an unauthorized entry or attempt therefore into the alarm site.
  - (8) "Central station" means that part of an alarm system business which intercepts signals indicating the activation of an alarm device and which relays this information by live voice to a Smith County law enforcement agency.
  - (9) "County law enforcement official" means any certified Texas Peace Officer who holds a valid commission from the Sheriff or a Smith County Constable.
  - (10) "Disconnect" means to render an alarm system disabled so as to prevent any direct or indirect notification by a silent or local alarm to a Smith County law enforcement agency.
  - (11) "False alarm" means an alarm signal received by a County law enforcement official that is later determined not to involve a criminal offense, attempted criminal offense, fire, or other emergency of the kind for which the alarm system was designed to give notice, or as may be further defined by Chapter 233 of the Texas Local Government Code, as amended.

- (12) "Hold-up alarm" means any alarm system which when activated by human action gives notification of a robbery or attempt thereof.
- (13) "Local alarm" means any alarm system emitting audible and/or visual signals in, at or on the alarm site when activated and which causes notification to be made directly or indirectly to the appropriate Smith County law enforcement agency.
- (14) "Panic alarm" means any alarm system which when activated by human action gives notification of or summons a law enforcement agency for any life threatening reason(s).
- (15) "Permit" means a certificate of authorization issued to the applicant authorizing operation of the alarm system(s) for which the permit is issued.
- (16) "Permit holder" means the person to who an alarm system permit is issued.
- (17) "Person" means any individual, firm, partnership, association, corporation, or other group or combination acting as a unit.
- (18) "Sheriff" means the Sheriff of Smith County and any employee(s) of the Sheriff's Department assigned by the Sheriff or his designee to perform the duties prescribed by these rules.
- (19) "Sheriff's Department" means the Smith County Sheriff's Department, a departmental unit of Smith County, Texas.
- (20) "Telephone answering service" means any business which intercepts signals indicating the activation of an alarm system and which relays this information by live voice to a Smith County law enforcement agency.
- (21) "Fifteen-minute shutoff" means an automatic device associated with a local alarm system which automatically causes the alarm to shut off and discontinue the emission of an audible and/or visual signal after a period of time not to exceed fifteen (15) minutes of continuous operation.
- (22) "Intentionally" has the same meaning as found and defined in the Texas Penal Code, as amended from time to time.
- (23) "Knowingly" has the same meaning as found and defined in the Texas Penal Code, amended from time to time.

**Section 1.002            Permit Required; Exceptions**

- (a) No person shall operate, cause to be operated, or allow the operation of an alarm system without a permit issued in accordance with this Article.
- (b) This Article does not apply to:
  - (1) Emergency response systems managed by health care facilities licensed by the Texas Department of Health; or
  - (2) Alarm systems installed on:
    - (a) A motor vehicle;
    - (b) Premises owned by the United States, the State of Texas, or Smith County;
    - (c) Premises located in an incorporated area within Smith County; or
    - (d) Alarm systems as described in Section 1.000 (c) hereof.
- (c) Any person who violates Section 1.002(a) hereof, commits a Class C misdemeanor and, upon conviction thereof may be punished by a fine of up to \$500.00.
- (d) Section 1.002 in no way affects the authority of a municipality in Smith County to enact ordinance regulating alarm systems.

(e) This section shall not be applicable to an alarm system business which monitors and services an alarm system installed and designed to protect property belonging to a person other than the alarm system business.

(f) Upon receipt of notification from an alarm system business, as authorized by these rules, a response made by any County Law enforcement official shall be subject to any applicable policies and procedures of the Sheriff's Department, governing response priorities. Neither Smith County, the Sheriff, the Smith County Sheriff's Department, nor any other law enforcement agency of Smith County has any duty or obligation to respond to a notification or activation of an alarm system for which no valid permit exists. Additionally, pursuant to TEX. LOC. GOV'T CODE Section 233.097 neither Smith County, the Sheriff County Commissioners Court, the Smith County Sheriff, nor the Smith County Sheriff's employees or agents are liable for an action arising out of the regulation of or failure to regulate alarm systems.

(g) An applicant is required to apply for a separate permit for each alarm system per premises, installed or to be installed on so much of the premises to which the person to whom the permit is to be issued has legal rights of ownership or possession.

(h) The issuance of a permit authorizing the use of an alarm system is not intended to nor shall it create a contract, either express or implied creating a duty or guarantee of response from the Smith County Sheriff, the Smith County Sheriff's Department, the Smith County Constable's Office, Smith County, or any other agency, department, or office of Smith County.

### **Section 1.003                    Application for Permit; Requirements**

(a) Application for a permit authorizing the operation of an alarm system shall be made by any person who owns, leases, uses, resides at or manages the property upon which the alarm system is installed. Such application shall be made in writing to the Alarm Detail on a form designated for that purpose. On such application shall be set forth:

(1) The name, address, telephone number(s), and Texas driver's license number (if applicable) of the permit applicant or intended permit holder;

(2) The street address of the property on which the alarm system is to be installed and operated, including the particular suite or apartment number(s), if applicable, and the 9-1-1 address and directions to that location;

(3) Any business or assumed name used for the premises on which the alarm system is to be installed and operated;

(4) Whether the alarm system is a hold-up alarm, a panic alarm, a burglar alarm, or a local alarm, and whether it is designed to give notice of a burglary, robbery, or any life-threatening emergency;

(5) The name of the alarm system business that has installed or will install the alarm system;

(6) In addition to the name(s) of the permit holder, the names and local telephone numbers of two (2) persons, (or the name and local telephone number of an alarm system business), which are (is) able to, and have agreed to:

(a) Receive notification at anytime;

(b) Come to the alarm site within thirty (30) minutes after receiving a request from a County law enforcement official to do so; and

(c) Grant access to the alarm site and to deactivate the alarm system if necessary; and

- (7) A representation that all outstanding charges owned Smith County by the applicant or the intended permit holder, and all outstanding fines, fees or costs previously imposed by a justice court as a consequence of any violation of these rules, or an order of the Smith County Commissioners Court, or Chapter 233, Texas Local Government Code, have been paid.
- (b) Such application shall be signed by the person making the application for the permit, acknowledging that he has read the application, affirming the correctness and accuracy of the information given on the application, authorizing the release to the Sheriff of the information required hereunder, and if such person making the application will not be the permit holder.
- (c) Such application shall state the conditions for revocation of the permit and shall include by reference these rules, referred to the rules governing the Regulation of Alarm Systems within Smith County, Texas or as it may subsequently be otherwise entitled.
- (d) The Sheriff shall issue a permit upon submission of an application therefor in accordance with these rules and payment of the permit fee, unless the Sheriff finds that:
- (1) Any statement made in the application was incomplete, misleading, or false;
  - (2) The applicant or the intended permit holder has not paid all outstanding charges owed to Smith County or has not paid all outstanding fines, fees or costs previously imposed by a justice court as a consequence of any violation of these rules, an order of Smith County Commissioners Court, or Chapter 233, Texas Local Government Code;
  - (3) The alarm system installed at the alarm site has had a history of unreliability; or
  - (4) The alarm site was previously non-permitted while under the control of the applicant or the intended permit holder and outstanding fines, fee or costs are still owed by the applicant or the intended permit holder, and outstanding fines, fee or costs are still owed by the applicant or intended permit holder.
- (e) The Sheriff may establish, as a policy of the Sheriff's Department, reasonable standards determining reliability or unreliability of alarm systems.
- (f) If the Sheriff denies the application for a permit, he shall cause to be mailed a notice of denial to the applicant or intended permit holder at he address set out in the application and shall furnish a copy thereof to be retained by the Alarm Detail. The notice shall state the reasons for the denial and shall inform the applicant or intended permit holder that he may reapply for a permit upon resolution or correction of the condition(s) that caused such denial. There is no appeal from a denial of a permit application.

**Section 1.004                      Amendments to permit application**

- (a) Whenever a person listed on the application or listed on an amendment to the application is unable or unwilling to perform the duties set out in sections 1.009, 1.011, or 1.014 of these rules, the permit holder shall file an amendment to the permit application listing a person or company who is able and will perform those duties so that all times the application on file with the alarm detail of the Sheriff's Department designates at least two (2) persons or an alarm system business who are/is able and willing to perform such duties.

**Section 1.005                      Term of Permit; Renewal**

- (a) Permits will be issued based on a sixty (60) month permit period. Permits may be valid up to (60) months; however, permits will be issued as requested through the application process and expire at the end of the sixty (60) month period the permit is issued during. All permits issued after December 31, 2010, will expire on December 31, 2015, and will need to be renewed for

additional permit periods. The intent of this section is to have all permits expire at the same time for administrative efficiency. If the permit holder relinquishes control of the alarm site before the expiration of sixty (60) months, the permit shall expire on the date of such relinquishment.

(b) The Sheriff shall give the permit holder at least thirty (30) days notice of the expiration date and the need for timely renewal, provided however, that such notice or lack thereof for whatever reason shall not relieve the permit holder of his duty to renew such permit as provided hereunder. Prior to the expiration of the permit, the permit holder shall submit to the Alarm detail a renewal application and by timely renewing may avoid any renewal fee. After the expiration of the permit the permit holder shall submit to the alarm detail a renewal application and the renewal fee as required under section 1.006. If any fines fees or costs remain owed to Smith County or to a Smith County justice court or if the alarm system for which the renewal is sought is unreliable or has a history of unreliability, the Sheriff may deny the renewal application until such time that all fines fees or costs have been paid and the alarm system is shown to be reliable in accordance with Sheriff's Department policy. The renewal will relate back to the original date of issuance in determining the sixty (60) month duration of the renewal permit.

**Section 1.006                      Permit Fees; Amendment Fee**

(a) The fee for each new permit, whether for residential or commercial alarm systems shall be \$25.

(1) Fee must be sent in with new application.

(b) The fee for each renewal permit shall be as follows:

(1) There shall be a \$5 fee for a renewal permit if a renewal application is received by the alarm detail within thirty (30) days of the expiration of the preceding permit, otherwise there will be a \$25 renewal fee.

(2) Fee must be sent in with renewal application.

**Section 1.007                      Permits Nontransferable**

(a) Each permit issued shall be valid only for the premises permitted and is not transferable to another person or other premises upon transfer from the permit holder of ownership or leasehold right to the alarm site, a new permit must be applied for in accordance with these rules.

(b) Any person who violates Section 1.007 (a) by attempting to transfer a permit either to another person or other premises commits a Class C misdemeanor, and upon conviction thereof, may be punished by a fine of up to \$500.00.

**Section 1.008                      Permits to Be Kept At Alarm Site**

(a) The permit holder shall keep the permit at the alarm site and shall produce such permit for inspection upon the request of any County law enforcement official.

(b) Any permit holder who violets Section 1.008 (a) by failing to keep the permit at the alarm site and producing such permit for inspection upon the request of any County law enforcement official commits a Class C misdemeanor, and upon conviction thereof, may be punished by a fine of up to \$500.00.

**Section 1.009                      Duties of Permit Holder**

(a) The permit holder shall ensure that he or any person listed with the Alarm Detail under section 1.003 and 1.004 is able to:

(1) Receive notification at anytime;

- (2) Come to the alarm site within thirty (30) minutes after receiving a request from a County law enforcement official to do so; and
  - (3) Grant access to the alarm site and deactivate the alarm system if necessary.
- (b) The permit holder shall additionally ensure that all persons authorized to activate or deactivate the alarm system are trained in the proper operation of the alarm system.
- (c) The permit holder is responsible for all fines, fees, or costs associated with the permit and operation of the alarm system, including, but not limited to, false alarms.

**Section 1.010            Repair of Alarm System Deactivation**

- (a) Upon receipt of notification from the Alarm Detail that an alarm system is malfunctioning or causing excessive alarms, the permit holder shall have such system repaired within seventy-two hours.
- (b) The permit holder may cause such system to be deactivated rather than having the system repaired. In such event, the system shall not be reactivated until it has been repaired.

**Section 1.011            Duty To Provide Access And Assistance**

- (a) Upon receipt of notification from a County law enforcement official that an alarm system has been activated, any person who is able to give access to the alarm site, or who has been designated by the permit holder to do so, shall come to such site within thirty (30) minutes in order to provide any necessary access or assistance, including, but not limited to, deactivation of the alarm system.

**Section 1.012            Requirements for Operation Prohibitions**

- (a) No person shall install, cause to be installed, or permit to be installed any alarm system unless the following requirements are met.
- (1) Any alarm system which may be activated as a result of different types of emergency situations shall give a silent signal if so equipped, that is unique to designate activation as a result of a hold-up a burglary, or any other type of emergency situation so that the proper response can be made;
  - (2) Any alarm system designed to emit an audible signal or sound intended to be heard from the exterior of the alarm site shall have a fifteen (15) minutes shut off from the time of activation;
  - (3) No person shall use or permit the use of any telephone device or telephone attachment which automatically selects any telephone line or number assigned to any governmental agency or Smith County, Texas, and then transmits a prerecorded message or signal;
  - (4) No person shall use or permit the use of any alarm system which gives notification of the activation of an alarm system directly to a Smith County law enforcement agency by means other than live human voice; and
  - (5) The Sheriff may set reasonable standards and procedures to be followed by any alarm system business or telephone answering service when giving notice to a law enforcement agency of activation of an alarm system. Such standards and procedures shall be set out in writing and made available to any person requesting same for a reasonable reproduction fee as authorized State law.

**Section 1.013                   Duty Of Alarm System Business To Furnish Information About Each Alarm System Installation**

(a) Any alarm system business which installs or which has previously installed an alarm system within the unincorporated portions of Smith County shall provide to the Alarm Detail the following information in written form (specifically including, but not limited to, information provided via fax machine):

- (1) The street address where the alarm system is installed;
- (2) The name, address, and telephone number of the person contracting for the services of such business;
- (3) The name of the permit holder.

(b) For all alarm systems installed prior to the enactment of these rules, the information required under subsection (a) hereof shall be provided to the Alarm Detail within sixty (60) days of such enactment.

(c) For all alarm systems installed subsequent to the enactment of these rules, the information required under subsection (a) here of shall be provided to the Alarm Detail not earlier that twenty (20) days prior to the date of installation of such system nor later than five (5) working days after such system is installed.

(d) Information provided to the Alarm Detail under this section shall be treated by the Sheriff as confidential information and its use shall be restricted to legitimate law enforcement of these rules.

(e) Any alarm system business owner or his employee who intentionally or knowingly violates Section 1.013 (a) here of by failing to provide the information cited therein to the Alarm Detail, commits a Class C misdemeanor, and upon conviction thereof, may be punished by a fine of up to \$500.00.

**Section 1.014                   Additional Duties Of Alarm System Business**

(a) Whenever an alarm system business agrees with any person to either respond to or service any alarm system, such business shall:

- (1) Ensure that personnel of such business are able to arrive at such alarm site within thirty (30) minutes of a request by a County law enforcement official for assistance. If such alarm system business has agreed with any person to respond to an activation of such alarm system; and
- (2) Ensure that sufficient personnel of such business are available to provide service and to repair any alarm system such business has agreed to maintain or service, within seventy-two (72) hours after notification that such system is in need of repair is received from the permit holder or as provided for by its contract with the permit holder or by law.

**Section 1.015                   Duties Of Alarm System Business Operating A Central Station And/Or Telephone Answering Service.**

(a) Any alarm system business which operates a central station and any telephone answering service shall:

(1) Upon receiving notification or activation of an alarm, immediately notify the appropriate Smith County law enforcement agency. Such notification of activation shall include:

- (a) The street address of the alarm site, including the particular suite or apartment number(s) if applicable;

- (b) The name of the permit holder;
  - (c) The type of alarm activated; and
  - (d) The name(s) and local telephone numbers of the person(s) to notify, if so authorized by the permit holder; and
- (2) Notify the permit holder or his designee of the activation of the alarm system within twenty-four (24) hours of the time the alarm was activated, exclusive of weekends and holidays, by telephone or by placing written notice in the mail, proper postage paid, addressed to the permit holder. If there is not permit holder, then such notice shall be given to the person contracting with the alarm system business.

**Section 1.016            False Alarms Exception**

- (a) No person shall intentionally or knowingly activate an alarm system for any reason other than an emergency or threat of an emergency of the kind for which the alarm system was designed to give notice provided; however, it shall be an affirmative defense to prosecution under this subsection that the alarm system was activated solely for the purpose of testing the alarm system, and the person who tested the alarm system took reasonable precautions to avoid any request for response being made to a Smith County law enforcement agency.
- (b) Any person who violates Section 1.016 (a) hereof, commits a Class C misdemeanor and, upon conviction thereof, may be punished by a fine of up to \$500.00.
- (c) This section shall not apply to conduct which is prohibited by Section 42.06 of the Texas Penal Code, as presently enacted or as may be subsequently amended.

**Section 1.017            Fees for Smith County Response to False Alarms**

- (a) A permit holder shall not incur a fee for a response by a County law enforcement official to a notification of activation of an alarm as authorized by these rules, except as follows:
- (1) A permit holder may be assessed the full costs incurred by Smith County in the event that the permit holder, his agent, or employee intentionally or knowingly activates an alarm system for any reason other than an emergency or threat of an emergency of the kind for which the alarm system was designed to give notice. Notwithstanding any cost incurred by Smith County in responding to any such activation as specified herein, a minimum of \$75 shall be assessed the permit holder when he, his agent, or employee intentionally or knowingly activates a hold-up alarm or panic alarm for any reason other than an emergency or threat of an emergency of the kind for which the alarm was designed to give notice and a County law enforcement official responds to such activation. For hold-up alarms or panic alarms, such \$75 charge shall be a minimum charge only and shall not be applicable when the full costs incurred by Smith County in connection with such response including overhead costs of any investigation necessitated by such response, and all other costs incident to the response exceed \$75. For burglar alarms, such \$50 charge shall be a minimum charge only, and shall not be applicable when the full costs incurred by Smith County in connection with such response, including overhead costs of any investigation necessitated by such response, and all other costs incident to the response exceed \$50.
  - (2) The alarm detail shall evaluate each response made to a notification of activation of an alarm system to determine whether such alarm system was false. During any twelve (12) month period beginning on the date on which a permit is issued on the applicable anniversary date or renewal date, a permit holder will be allowed a maximum of five (5)

false alarms without being assessed a charge therefor. Thereafter, unless the full cost incurred by Smith County incident to a response are assessed under subsection (a)(1) of this section a fee of \$75 shall be charged the permit holder for each response made by a County law enforcement official to a false hold-up alarm or panic alarm, and a fee of \$50 shall be charged the permit holder for each response made by a County law enforcement official to a false burglar alarm. However, no fee will be charged for a response to a notification of activation of any alarm if the permit holder can demonstrate to the Alarm Detail through convincing evidence that the alarm was not false or that such alarm system was being tested, and the person testing such alarm took reasonable precautions to avoid any request for response being made to a Smith County law enforcement agency. For purposes of determining the fees set out above, upon determination by the Alarm Detail that an alarm was not false.

(3) The Sheriff may waive the imposition of a false alarm fee if he determines that the permitted alarm site is located within a geographical area in which a qualified emergency cause an activation of the alarm system. The Sheriff may promulgate and institute procedures governing the determination of a qualified emergency and establishing a list of qualified emergencies.

#### **Section 1.018            When Permit May Be Revoked**

(a) An alarm system permit may be revoked upon the occurrence of one or more of the following:

- (1) The permit holder has failed to make payment in full to Smith County for any fees assessed under sections 1.006 and 1.017 hereof within sixty (60) days of the date the Sheriff has mailed a notice to the permit holder that such fees are due and owing; or
- (2) The permit holder accrues more than nine (9) false alarms during any twelve (12) month period, over and above the five (5) false alarms allowed during any twelve (12) month period. After the first reinstatement in accordance with section 1.019 hereof, the false alarm fee(s) authorized under section 1.017 above will be assessed if the permit holder accrues more than three (3) false alarms during the remainder of any twelve (12) month period.

#### **Section 1.019            Notice of Revocation Reinstatement Hearing**

(a) Upon revocation of a permit, written notice of such revocation shall be given to the permit holder or his agent by placing same if the U. S. Mail addressed to the permit holder at such holder's address as shown in the application or its most recent amendment such notice shall set forth:

- (1) The amount of any fees assessed under these rules that are due and owing at the time of the notice and the dates on which such fees were incurred if the revocation is based in whole or in part upon subsection (a) of this section;
- (2) The specific dates of false alarms from such alarm system if the revocation is based in whole or in part upon subsection (b) of this section;
- (3) That upon receipt by the Alarm Detail of written request from the permit holder, his agent, or employee within ten (10) calendar days of the date of issuance of the notice of revocation, a reinstatement hearing will be held before the Sheriff or his designee within a reasonable time, not to exceed thirty (30) working days, to determine whether the revoked permit should be reinstated;

- (4) That the permit holder shall appear at the hearing and may be represented by legal counsel, may present testimony, and may cross-examine all witnesses; and/or
- (5) That the decision of the hearing officer shall be final.
- (b) All hearings shall be held by the Sheriff or his designee, who shall be referred to as the hearing officer. The Sheriff shall not designate any person to perform the duties of hearing officer under this section who has participated in the investigation of false alarms from the alarm site in question.
- (c) All such hearings are intended to be conducted in an informal manner, provided, however, the following rules shall apply to all such hearings:
- (1) All parties shall have the right to be represented by legal counsel at his own expense, although an attorney is not required. Legal representation for the Sheriff shall be provided by the Smith County District Attorney's Office, unless the Sheriff request that such representation be provided by outside legal counsel and approval for such outside counsel is given by the Smith County District Attorney;
  - (2) Each party may present witnesses in his own behalf;
  - (3) Each party may cross-examine all witnesses;
  - (4) Only evidence presented before the hearing officer at such hearing shall be considered by the hearing officer in rendering his findings and final decision;
  - (5) The hearing officer may adjust the amount of fees owned upon a showing of good cause by the permit holder; and
  - (6) All decisions of the hearing officer are final.
- (d) If the permit holder fails to appear at the time, place, and date specified for the hearing, sufficient evidence shall be presented by the Alarm Detail to establish a prima facie case showing that grounds exist for revocation of the permit.
- (e) If the hearing officer finds that no grounds exist for reinstatement of the permit for the alarm system he shall refuse to reinstate such permit and shall give written notice to the permit holder of such finding. Upon receipt of such notice, the permit holder shall disconnect such alarm system immediately and shall surrender his permit to the Alarm Detail in person or by certified U.S. mail return receipt requested.
- (f) If the hearing officer finds that grounds for reinstatement of the alarm permit do exist, he shall give written notice of such findings to the permit holder of such finding. A permit reinstated under this section shall retain its original issuance date for purposes of determining the permit term. For the remainder of such permit term the permit holder will be charged a response fee as authorized under section 1.017 above, for any false alarm generated by the alarm system subject to the permit.
- (g) A reinstated permit may be subject to revocation in accordance with the provisions of section 1.018 above. If a permit has been revoked twice during the term of the permit, the permit holder must wait a period of one (1) year from the date of the second revocation, or if a second reinstatement hearing has been requested, from the date of the denial of such reinstatement (if so denied), before reapplying for a new permit for the alarm site.

### **Section 1.020 Penalties For Violations**

A person who violates any provision of Chapter 233 of the Texas Local Government Code, any provision of these rules, or any order of Smith County Commissioners Court pertaining to these rules, commits a Class C misdemeanor, and, upon conviction thereof, may be punished by a fine

of up to \$500.00 plus imposition of any applicable response fee(s) and costs incident to such violation.

**Section 1.021            Defenses**

It shall not be necessary for the complainant to negate any exception or affirmative defense contained in this Article, but any such exception or affirmative defense provided for in this Article may be argued as a defense by any person charged by such complaint.

**Section 1.022            Policies And Procedures**

The Sheriff may from time to time promulgate and institute policies and procedures necessary to implement and enforce these rules.