

First Reading: June 3, 2009
Second Reading: June 17, 2009

ORDINANCE NO. 418

WHEREAS, the City of Flowery Branch finds that excessive false alarms unduly burden the Flowery Branch Police Department's limited law enforcement resources; and

WHEREAS, 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.

NOW THEREFORE, having the authority pursuant to O.C.G.A. § 36-35-3(a) to adopt clearly reasonable ordinances relating to its property, affairs and local government, the Council of the City of Flowery Branch hereby ordains as follows:

SECTION 1: 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:

Alarm Administrator means a person or persons designated by the City to administer, control and review false alarm reduction efforts and administer the provisions of this ordinance.

Alarm company means a person subject to the licensing requirements, and/or a company engaged in selling, leasing, installing, servicing or monitoring alarm systems; this person shall be licensed in compliance with city, county and state laws.

Alarm permit means a permit issued by the City allowing the operation of an alarm system within the City.

Alarm signal means a detectable signal; audible or visual, generated by an alarm system, to which law enforcement is requested to respond.

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 law enforcement is requested to respond, but does not include motor vehicle or boat alarms, fire alarms, domestic violence alarms, or alarms designed to elicit a medical response.

Alarm user means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning, leasing or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

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.

Automatic dial protection device means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the Flowery Branch Police Department a recorded message or code signal indicating a need for law enforcement response.

Cancellation means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Flowery Branch Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.

City means Flowery Branch, Georgia.

False alarm means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, and signals activated to summon law enforcement personnel unless law enforcement response was cancelled by the alarm user or his/her agent before law enforcement personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the Flowery Branch 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 unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user.

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.

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

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

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 a nationally recognized testing organization, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction".

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 law enforcement 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.

SECTION 2: ALARM PERMIT

(a) **Permit required.** No person shall use an alarm system without first obtaining a permit for such alarm system from the City. No fee shall be required for the initial registration and annual renewals. However, a fine may be imposed for the failure to register an alarm system as pursuant to Section 5 (a). 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.

(b) **Application.** The permit shall be requested on an application form provided by the City. An alarm user has the duty to obtain an application from the City.

(c) **Transfer of possession.** When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property. Alarm permits are not transferable.

(d) **Reporting updated information.** Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the City within thirty (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 when any of the requested information has changed; failure to comply will constitute a violation and may result in a civil penalty.

(e) **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.

SECTION 3: DUTIES OF THE ALARM USER

(a) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms; and

(b) Must respond or cause a representative to respond to the alarm system's location within thirty (30) minutes when notified by the Flowery Branch Police Department to deactivate a malfunctioning alarm system.

(c) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report or to perform routine maintenance as prescribed by alarm system provider.

(d) An alarm user must obtain a new permit and pay any associated fees if there is a change in address or ownership of a business or residence.

SECTION 4: PROHIBITED ACTS

(a) 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, when no medical emergency is occurring on the premises or otherwise to cause a false alarm.

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

SECTION 5: ENFORCEMENT OF PROVISIONS

(a) ***Excessive false alarms/Failure to register.*** 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:

Third, fourth and fifth false alarm:	\$50.00 per false alarm
Sixth and seventh false alarm:	\$100.00 per false alarm
Eighth and ninth false alarm:	\$250.00 per false alarm
Tenth and over false alarms:	\$500.00 per false alarm
Failure to Register:	\$100.00 per false alarm

(b) ***Other civil Penalties.*** Violations will be enforced through the assessment of a civil penalty in the amount of \$100.00 per violation.

(c) ***Payment of civil penalties.*** Civil penalties shall be paid within (30) days from the date of the invoice.

(d) ***Civil non-criminal violation.*** A violation of any of the provisions of this ordinance shall be a civil violation and shall not constitute a misdemeanor or infraction.

SECTION 6: ALARM USER AWARENESS CLASS.

(a) ***Alarm User Awareness Class.*** The City 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. The City may grant the option of attending a class in lieu of paying one assessed fine.

SECTION 7: APPEALS

(a) *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 Alarm Administrator within ten (10) days after the date of notification of the assessment of the civil penalty or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of the civil penalties or other enforcement decision. Appeals shall be heard through an administrative process established by the City. The hearing officer's decision is subject to review by the Hall County Superior Court by proceedings in the nature of certiorari.

(b) *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.

SECTION 8: CONFIDENTIALITY

In the interest of public safety, all information contained in and gathered through the alarm registration applications, no response records, applications for appeals and any other alarm records shall be held in confidence by all employees and/or representatives of the City.

SECTION 9: 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 Flowery Branch 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.

SECTION 10: 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 11: REPEALER

All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 12: EFFECTIVE DATE

This ordinance shall take effect on the date is adopted by the city council.

SO ORDAINED this 17th day of June, 2009.

Diane Hirling, Mayor

Craig Lutz, Post 1

Chris Fetterman, Post 2

Pat Zalewski, Post 3

Allen J. Bryans, Sr., Post 4

Mary Jones, Post 5

ATTEST:

Melissa McCain, City Clerk

APPROVED AS TO FORM:

E. Ronald Bennett, Jr., City Attorney