

ARTICLE V. - RESTRICTED ENTRY ACCESS SYSTEMS

[Sec. 25-81. - Definitions.](#)

[Sec. 25-82. - Permit requirement.](#)

[Sec. 25-83. - Electronically controlled key pad system requirement.](#)

[Sec. 25-84. - Compliance term.](#)

[Sec. 25-85. - Reporting code.](#)

[Sec. 25-86. - Emergency access code changes.](#)

[Sec. 25-87. - Maintenance of restricted entry access system.](#)

[Sec. 25-88. - Permit application.](#)

[Sec. 25-89. - Notice.](#)

[Sec. 25-90. - Penalties.](#)

Sec. 25-81. - Definitions.

[For purposes of this article, the following definitions shall apply unless the context requires a different definition:]

Access controller means a person or entity controlling entry access to any residential development to which access by the public is restricted by means of a restricted entry access system. For the purposes of section 25-90, the term "access controller" does not include an agent, representative, or employee of the person or entity controlling entry access to a residential development.

Electronically controlled key pad system means a restricted entry access system which functions in such a way that it allows or permits entry access only after depressing keys or push buttons and requires the use of no other equipment of any kind, including but not limited to, keys or cards.

Emergency access code is a sequence of one (1) or more alphabetic or numeric characters assigned at the sole discretion of the access controller for the purpose of complying with this article.

Residential development means any multi-unit development used for residential purposes and shall include apartment houses, condominiums, townhouses, mobile home parks, single-family residences, multifamily residences, planned unit developments, or any other residential development.

Restricted entry access system means any device or system of devices which control or restrict entry access to a residential development. The term restricted entry access system as used herein does not include a system serving only one (1) dwelling unit.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-82. - Permit requirement.

The access controller may not restrict entry access to any residential development without first having submitted a completed application for a restricted entry access permit.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-83. - Electronically controlled key pad system requirement.

Where entry access to residential developments is restricted by the use of a restricted entry access system, access must be available through an electronically controlled key pad system or staffed twenty-four (24) hours a day through at least one (1) entrance to the residential development. Other entry access systems functioning simultaneously with an electronically controlled key pad system are permitted. Each entrance served by an electronically controlled key pad system must allow access through entry of the same emergency access code.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-84. - Compliance term.

Access controllers who, on the effective date of this article, restrict entry access to a residential development under their control by a means of either an electronically controlled key pad system or other restricted entry access system must bring such

residential developments into compliance with this ordinance no later than one (1) year from the effective date of this article. An access controller installing a restricted entry access system after the effective date of this article shall submit an application to the police department alarm unit at least fourteen (14) days before entry access is restricted by such system. In addition, the access controller must specify the date on which the new emergency access code will become effective; such date shall not be less than fourteen (14) days after the date on which notice is provided. Fifteen (15) days after submission of a permit application, the access controller may restrict access to the residential development unless it receives notice under section 25-88(d) that its application has been denied.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-85. - Reporting code.

The access controller who controls restricted entry access to residential developments by means of any electronically controlled key pad system shall report the emergency access code to such system to the police department alarm unit prior to the granting of a permit for such system. In addition, access controllers must provide written operating instructions for each electronically controlled key pad system.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-86. - Emergency access code changes.

(a)

Access controllers who restrict entry access to residential developments by means of any electronically controlled key pad system shall not change the emergency access code reported to the police department alarm unit without first giving at least two (2) working days' written notice of the new emergency access code to the police department alarm unit. In addition, the access controller must specify the date on which the new emergency access code will become effective; such date shall not be less than two (2) days after the date on which notice is provided.

(b)

An access controller may change the emergency access code without prior notice to the police department alarm unit in the event there is an emergency arising from a threat to the health or safety of individuals in or near the residential development or to the personal or real property of individuals in or near the residential development. An access controller who does so must provide written notice to the police department alarm unit not later than the next business day following the code change.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-87. - Maintenance of restricted entry access system.

An access controller restricting access to a residential development by means of an electronically controlled key pad system shall utilize its best efforts to keep the restricted entry access system in good working order. During any period in which such system is malfunctioning, entry access may not be restricted unless there is an alternate entrance to the residential development which is controlled by an electronically controlled key pad system and the emergency access code to the alternative restricted entry access system has been provided to the police department alarm unit.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-88. - Permit application.

(a)

An access controller shall make application for a restricted entry access permit to the police department alarm unit. Such application shall state:

(1)

The name, address and telephone number (if applicable) of the residential development to which access is restricted;

(2)

The name, address and telephone number of the access controller (of the residential development or any association governing the residential development) and the name, address and telephone number of the access controller's authorized agent, if different from the access controller;

(3)

The name, address and telephone number of the local contact person for the access controller;

(4)

The name, address and telephone number of another person who may be contacted in the case of an emergency;

(5)

Each of the street addresses within the residential development, whether designating improved or unimproved property;

(6)

The location of each restricted entry access system and the manner in which access is restricted;

(7)

If the system is an electronically controlled key pad system erected prior the effective date of this article, the emergency access code for such system in effect at the time of application; and

(8)

If the system is an electronically controlled key pad system erected after the effective date of this article, the emergency access code for such system and the date the emergency access code for such system would be in effect.

(b)

Upon submission of a completed application, the police department alarm unit shall issue a restricted entry access permit to the applicant within the fourteen-day period referred to in section 25-84.

(c)

If any material information on the application changes after submission of the original application, the access controller shall provide written notice of the change to the police department alarm unit within fourteen (14) days of the occurrence. Material changes requiring notification include, but are not limited to, the addition of street addresses to a residential development or the change of street address within a residential development.

(d)

Within fourteen (14) days after submission of a permit application, the police department alarm unit shall either issue a restricted entry access permit to the applicant or notify the applicant that the application has been denied, stating the reason for the denial.

(e)

The application must include instructions for each applicable electronically controlled key pad system for an entrance to the residential development and a permit fee of fifty dollars (\$50.00) for each restricted entry access system.

(f)

It shall be unlawful for any person to intentionally make a false or misleading representation while applying for a permit under this section. A person who does so shall, upon conviction, be punished by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00).

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-89. - Notice.

Unless otherwise indicated, for purposes of this article, notice shall be deemed to have been provided when:

(1)

It is deposited in the United States Mail, certified mail, return receipt requested;

(2)

Hand delivered with a signed receipt; or

(3)

Delivered via facsimile transmission with a transmittal receipt with a copy sent by regular mail.

(Ord. No. 84636, § 1, 8-29-96)

Sec. 25-90. - Penalties.

(a)

Violations. Unless otherwise provided, the failure to adhere to any of the provisions of this article shall constitute a civil offense.

(b)

Notice. A citation alleging such a violation shall be issued by a police officer, served on the access controller, and shall provide the time and place of an administrative hearing to be held before the chief of police or his designee. Such hearing shall be held not earlier than ten (10) days from the issuance of the citation.

(c)

Right to cure. It is an affirmative defense to a violation of this article involving an electrical, electronic, hardware or mechanical failure of a restricted entry access system that such system was repaired within seventy-two (72) hours of the issuance of the citation or that entry access was not restricted for more than seventy-two (72) hours from the issuance of a citation.

(d)

Hearing. At the administrative hearing, witnesses may be called by either party. The failure of any person charged with a violation to appear at the hearing shall be an admission of liability of the charged violation. The chief of police or his designee shall issue a written order stating whether or not the person charged is liable for the violation and the amount of any fine. The order shall be filed with the municipal court director.

- (e) *Fines.* The total fine for an offense shall not exceed five hundred dollars (\$500.00); however, no fine or penalty may be imposed for a violation where there was no finding of liability for violation of this article on a separate occasion during the twelve-month period preceding the date of the issuance of the citation. Failure to comply with the order of the chief of police or his designee within thirty (30) days from the date the order is filed shall constitute a separate offense; payment of any fine or imposition of any penalty shall be abated during the pendency of any appeal.
- (f) *Enforcement.* In the event the access controller fails to appeal or comply with the order of the chief of police or his designee within thirty (30) days of the date the order is filed, the order may be enforced by:
- (1) The imposition of an additional fine not to exceed five hundred dollars (\$500.00); and/or
 - (2) The revocation of the restricted entry access permit.
- (g) *Appeal.* A person determined by the chief of police or his designee to be in violation of this article may appeal the decision to a hearing officer, who shall be appointed by the city manager, by filing a written appeal with the municipal court director not later than thirty (30) days after the order is filed and by paying a five dollar (\$5.00) appeal filing fee. The hearing officer shall set the time and place of the appeal hearing. Such hearing shall not be held earlier than ten (10) days from the date notice of the time and place of the appeal hearing is delivered to the access controller. The municipal court director shall establish a written body of administrative procedures for appeals.
- (h) *Appeal hearing.* The appeal hearing shall be a hearing de novo. Witnesses may be called by either party. The failure of the appellant to appear at the appeal hearing shall be an admission of liability for the charged violation. The hearing examiner shall issue a written appeal order stating whether or not the person charged is liable for the violation and the amount of any fine. The appeal order shall be filed with the municipal court director. The failure to comply with the appeal order within thirty (30) days shall constitute a separate offense.
- (i) *Enforcement of appeal order.* In the event the access controller fails to comply with the appeal order within thirty (30) days from the date the appeal order is filed, the appeal order may be enforced by:
- (1) The imposition of an additional fine not to exceed five hundred dollars (\$500.00); and/or
 - (2) The revocation of the restricted entry access permit.

(Ord. No. 84636, § 1, 8-29-96)