

**ORDINANCE NO. 98-4**

**AN ORDINANCE, RELATING TO CIVIL EMERGENCIES IN PARTICULAR EMERGENCY ALARM SYSTEMS, PROVIDING FOR DEFINITIONS, PROVIDING FOR THE REQUIREMENTS OF OUR ALARM PERMIT. PROVIDING FOR THE RULES AND REGULATIONS FOR INSTALLING AND OPERATING ALARM SYSTEMS, AND ESTABLISHING A PERMIT FEE; PROVIDING FOR THE MANNER AND METHOD OF ASSESSING AND COLLECTING SERVICE FEES FOR FALSE ALARMS; PROVIDING FOR THE SUPERVISION OF ALARM SYSTEMS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND DECLARING AN EMERGENCY**

WHEREAS the City of Commerce desires to have one permit for Alarm Systems; and

WHEREAS there is advantage in administering the ordinance to combine the supervisory responsibilities.

**BE IT ORDAINED BY THE CITY OF COMMERCE, TEXAS THAT AN EMERGENCY ALARM ORDINANCE BE ADOPTED AND PLACED IN THE CODE OF ORDINANCES OF THE CITY OF COMMERCE, TEXAS AND BE STYLED CIVIL EMERGENCIES ARTICLE I, EMERGENCY ALARM SYSTEMS.**

**SECTION 30-1            DEFINITIONS**

The following words and terms, as used herein have the meanings respectively ascribed to them, as follows:

**Alarm system.** An electrical or electric mechanical device or system which transmits a signal intended to summon an emergency service of the City in response to an emergency. The categories of alarm systems are robbery, burglary, fire, emergency medical assistance, and emergency assistance. Alarm system does not mean an alarm installed on a vehicle, unless used for habitation at a permanent site, or an alarm designated to alert only the inhabitants within a premises, but does include an alarm that emits an audible signal on the exterior of a structure.

**Alarm notification** means a notification intended to summon Public Safety Personnel, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion or fire system.

**Alarm site** means:

- (a) A premise or location with one (1) street address served by an alarm system or systems that are under the control of one (1) owner or lessee.
- (b) Establishments doing business under different names with the same owner/lessee are considered separate alarm sites.

**Broadcast Signal** means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.

**Chief** means the Fire Chief or the Chief of Police of the City of Commerce or his or her authorized representative.

**Commercial** means a site used primarily for the purpose of conducting a business or trade. In the case of joint commercial and residential uses, the use of the unit wherein the alarm device is located classifies the site for the purpose of this section.

**Establishment** means any enterprise, public, private or social, operating at an alarm site.

**False Alarm Notification** means an alarm notification to the Communication Center of the City of Commerce when the responding emergency personnel finds no evidence of an attempted or actual unauthorized intrusion, burglary, robbery, hostage taking, or indication of a fire.

**Local Audible Alarm** means an alarm system that emits a signal at an alarm site which is audible or visible from the extension of the alarm site.

**Marshal** means the Fire Marshal of the City of Commerce, or his or her authorized representative.

**Person** means an individual, corporation, partnership, association, organization or similar entry.

**Residential** means a site used primarily as a dwelling. In the case of joint commercial and residential uses, the use of the unit wherein the alarm device is located classifies the site for the purposes of this section.

**Unit** means a portion of alarm site that contains a separately operated alarm system.

## **SECTION 30-2      Permit Required**

- (a) A separate permit is required by the owner of each alarm site where an alarm system is provided by the owner, except at non-residential sites, in which case a separate permit is required by the owner of the establishment located on the site.
- (b) A separate permit is required by the lessee of each alarm site where an alarm system is provided by the lessee.
- (c) A person required by this section to have an alarm permit commits an offense if he or she operates, or causes or allows to be operated, an alarm system without having obtained an alarm permit not later than ten (days) after a false alarm notification has been emitted from said alarm site while under his or her care, custody, or control.
- (d) No exemptions shall apply except as required by Federal Law, State Law, or Fire Prevention Code. The burden of proof shall be with the person asserting the exemption.
- (e) A non-refundable fee shall be paid by the applicant prior the issuance of a permit as provided for in the fee schedule found in 30-4.

## **SECTION 30-3      Form of Application**

- (a) Applications for permits required by the provisions of this section shall be filed with the Assistant City Secretary of the City of Commerce on a form provided by the City of Commerce.
- (b) The application shall include at least the following information:
  - (1) The individual's full name, business address and residence address;
  - (2) The individual's residence and business telephone numbers;
  - (3) The business and residence addresses and telephone numbers of the primary person

designated to respond to an alarm as required by 30-10 below and at least one other contact person;

(4) Must notify the Assistant City Secretary and Police Department immediately upon any change of response designees in writing by certified mail.

(c) Any individual signing a permit application must be at least eighteen (18) years of age.

(d) The application shall state the address site for the location of the alarm system and whether it is a residential, commercial, banking, industrial, health care institution or educational institution.

(e) Any other information required by the City of Commerce to insure compliance with all the provisions of this section.

#### **1SECTION30-4 Alarm Permit Fees1**

A non-refundable fee of twenty-five dollars (\$25.00) shall be paid by an applicant prior to the issuance of a permit for a burglar alarm system, fire alarm system or any combination thereof, provided however, that no fee will be charged on existing systems until December 31, 1998, at which time existing systems will be required to pay such permit fee for the succeeding years.

(a) The permit holder shall pay a fee for each false alarm notification received during the permit period according to the following:

(1) **BURGLAR ALARM SERVICE FEES:**

Number of False Alarms

Service Fees

1 - 4

-0-

5 - 8

\$25.00 per violation,  
per permit period

9 - 10

\$50.00 per violation,  
per permit period

-11-

Suspension

(2) **FIRE ALARM SERVICE FEES**

Number of False Alarms

Service Fees

1 - 4

-0-

5 - 8

\$50.00 per violation,  
per permit period

9 - 10

\$100.00 per violation,  
per permit period

-11-

Suspension

(3) False alarm notifications that are received during bona fide electric power failures shall not be considered a false alarm notification for which a fee is charged under the terms hereunder. The Finance Office shall then send to the permit

holder, at the address stated on the application, a statement for fees due. Such fees shall be paid by the permit holder within thirty (30) days.

- (b) The Police Department shall, on a monthly basis, file with the Finance Office a report of false alarm notifications for which a fee is charged under the terms hereunder. The Finance Office shall then send to the permit holder, at the address stated on the application, a statement for fees due. Such fees shall be paid by the permit holder within thirty (30) days.

#### **SECTION 30-5          Permit Issuance; Denial**

Upon receipt of a completed application form, the Assistant City Secretary shall issue an alarm permit to an applicant unless the applicant:

- (a) Failed to pay a service fee assessed under 30-20 hereof.
- (b) Had an alarm permit for the alarm site revoked and the violation causing the revocation has not been corrected;
- (c) Made a false statement of material matter in the application;
- (d) Committed any act which, if committed by a permittee, would be grounds for the revocation of a license under 30-23 hereof; or
- (e) Alarm permits will be issued for alarm sites inside the corporate limits of the of the City of Commerce including extra territorial jurisdiction.

The permit holder shall notify the City of Commerce of any change in the information contained in the application within five (5) days of such change in writing by certified mail.

#### **SECTION 30-6          Transfer and Amendments**

An alarm permit cannot be transferred to another person.

#### **SECTION 30-7          Fees Paid**

All service fees and permit fees owed by an applicant must be paid before a permit may be issued or renewed.

#### **SECTION 30-8 Permit Duration and Renewal**

A permit is issued for one (1) year and must be renewed every year upon submission of an updated application. It is the responsibility of the permit holder to submit an application then (10) days prior to the permit expiration date. All permits expire on December 31, of each year regardless of when they are issued within a permit year.

#### **SECTION 30-9          Duration of Denial**

A denial of permit shall be for any period of time up to six (6) months at the discretion of the City of Commerce based on the severity of the violation under 30-4 hereof.

#### **SECTION 30-10        Requirements of Operation**

A permit holder or person in control of an alarm system shall:

- (a) Respond or cause a representative to respond within a reasonable period of time (not to exceed thirty (30) minutes) when notified by the City of Commerce to repair or inactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises; and
- (b) From and after the effective date of this section, it shall be unlawful for any person to intentionally activate or cause to be activated any fire, hold-up, intrusion, supervisory or firm alarm without existence of an emergency situation and with the intent of causing the response of City Police or Fire Departments.

#### **SECTION 30-11 Maintenance**

- (a) A permit holder or person in control of an alarm system shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm will sound for no longer than thirty (30) minutes after being activated.
- (b) If an alarm system sounds a broadcast signal for longer than thirty (30) minutes after being activated, a Commerce Police officer or Fire personnel is authorized to disable the alarm. All costs to the City of Commerce in disabling the alarm shall be assessed to the person required to have a permit and shall be paid to said City within thirty (30) days after the person has received notice that the costs have been assessed. Application for a permit constitutes a grant of approval to said City to disable the alarm as provided herein.

#### **SECTION 30-12 Manual Reset Required**

A permit holder or person in control of any alarm system, that causes an alarm notification to be sent to the City of Commerce Communications Center, shall adjust the mechanism or cause the mechanism to be adjusted so that upon activation the system will not transmit another alarm signal without first being manually reset.

#### **SECTION 30-13 Reporting of Alarm Signals**

A permit holder or person in control of an alarm system shall not allow alarm signals to be directly reported or reported through a relaying intermediary by a signal or recorded message to the Public Safety Communications Center unless mandated by Federal law.

#### **SECTION 30-14 Alarm Reporting**

A permit holder or person in control of an alarm system whose alarm system transmits alarm notifications to a central monitoring location shall:

- (a) Transmit the alarm in the form and with the content specified by the City of Commerce; and
- (b) Ensure that no recorded message is transmitted to the Communications Division.
- (c) Not install a hold-up, intrusion, fire or supervisory alarm device which causes the Police/Fire emergency telephone to ring.

#### **SECTION 30-15 Alarm System Operating Instructions**

A permit holder or person in control of an alarm system shall maintain a complete set of written operating instructions for each alarm system at each alarm site. Special codes, combinations or passwords must not

be included in these instructions.

#### **SECTION 30-16      Administrative Rules Establishment**

The Chief of Police, in the case of hold-up or intrusion alarms, or the Fire Chief, in the case of supervisory or fire alarms, is authorized to establish and enforce reasonable administrative rules and procedures to regulate the installation and operation of alarm system, including, but not limited to, alarm installation, registration, response and removal; and further authorizing the enforcement of technical standards as may be adopted by the City of Commerce.

#### **SECTION 30-17      Alarm Monitoring**

Alarms must be monitored by a service provider and reported by a representative of the alarm company to the Communications Center. No alarms will be connected directly to the Commerce Communications Center except alarms installed on city owned/controlled property.

#### **SECTION 30-18      Information Recorded**

The City of Commerce Public Safety personnel shall cause to be recorded such information as necessary to permit said city to maintain records or calls made in response to an alarm, including but not limited to the following information, if available:

- (a) Identification of the permit holder;
- (b) Identification of the alarm site;
- (c) Arrival time and time call cleared;
- (d) Time of day and date;
- (e) Physical damage to the structure likely to have caused the alarm; and
- (f) Name of the permit holder's representative on premises, if any.

#### **SECTION 30-19      Alarm Classification**

The responding Public Safety Personnel shall report whether the notification was caused by a criminal offense, fire, weather condition or other physical damage to the structure likely to have caused the alarm, which classification will determine whether the alarm is a false alarm notification.

#### **SECTION 30-20      Service Fee**

Except as provided in 30-21 and 30-22 hereof, a person who is required to obtain a permit shall pay service fee within twenty (20) days of receipt of each false alarm notification emitted from an alarm site, in accordance with the service fees found in the appendix of this Code.

#### **SECTION 30-21      New Installations**

If a person applies for an alarm permit before the installation of a new alarm system, no service fee will be assessed during the first (30) days after installation, and alarm notifications during that period will not be counted in determining when a service fee will be assessed.

#### **SECTION 30-22      Service Fee Waiver**

If the responding Public Safety Officer determines that an alarm notification was caused by a criminal offense, weather condition or other physical damage to the structure likely to have caused an alarm, no service fee will be assessed for that notification and that notification will not be counted in determining when a service fee will be assessed.

#### **SECTION 30-23      Grounds for Revocation of Alarm Permit**

The City of Commerce shall revoke an alarm permit if he or she determines that:

- (a) There is a false statement of a material matter in the application for a permit;
- (b) The permit holder has violated 30-16 hereof; or
- (c) The permit holder has failed to make a timely payment of fees assessed under 30-20 hereof.

#### **SECTION 30-24      Duration of Revocation**

A revocation shall be for any period of time up to six (6) months at the discretion of the City of Commerce, based on the severity of the violation.

#### **SECTION 30-25      Appeal From Denial, Suspension, or Revocation of a Permit**

- (a) If the Assistant City Secretary refuses to issue or renew a permit, or revokes a permit, he or she shall send to the applicant or permit holder, within five (5) working days by certified mail, return receipt requested, written notice of his or her action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision to the City Manager of the City of Commerce by filing with said City Manager a written request for a hearing setting forth the reasons for the appeal, within ten (10) days after receipt of the notice. If a request for an appeal hearing is not made within the ten (10) day period, the refusal, suspension or revocation is final.
- (b) The City Manager or his or her designated representative shall serve as Hearing Officer at an appeal and consider evidence by any interested person. The formal rules of evidence do not apply at an appeal hearing. The Hearing Officer shall make his or her decision on the basis of a preponderance of the evidence presented at the hearing. The Hearing Officer must render a decision within thirty (30) days after the request for an appeal hearing is filed. The Hearing Officer shall affirm, reverse or modify the action appealed.

#### **SECTION 30-25-1      Violations; Penalty**

- (a) General. A person commits an offense if he or she violates by commission or omission any provision of this section of the Code of the City of Commerce that imposes upon him or her a duty or responsibility.
- (b) Permittee. A person who is required to have a permit under this section commits an offense if he or she knowingly operates, causes, or permits to be operated an alarm system after receipt of notice that the alarm permit is revoked.
- (c) Non-Permittee. A person who is required to have permit under this section commits an offense if he or she knowingly operates, causes, or permits to be operated an alarm system during the period in which the alarm permit is revoked.

- (d) Revoked Permit. A person who is required to have a permit under this section commits an offense if he or she knowingly operates, causes, or permits to be operated an alarm system during the period in which the alarm permit is revoked.
- (e) Penalty. A person who violates a provision of this section is guilty of a separate offense for each violation committed, continued, or permitted, and each offense is punishable by a fine, not to exceed \$500.00.

#### **SECTION 30-25-2 Corporation, Partnerships and Associations**

In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this section to hold a corporation, partnership or other association criminally responsible for acts or omissions performed by an agent, association, and within the scope of his or her employment.

#### **SECTION 30-25-3 Implementation of Provisions**

Upon adoption, this section shall apply only to a person who operates or causes to be operated an alarm system at an alarm site in the City of Commerce.

#### **SECTION 30-25-4 Review**

The Police Department shall monitor the enforcement and effect of this section and make a periodic report to the City Council of its effect in reducing unnecessary alarm notifications.

#### **SECTION 30-25-5 Statement of Purpose**

All of the regulations provided in this section are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the enforcement of this section acting for the City of Commerce in the discharge of his or her duties, shall not thereby render himself or herself personally liable; and he or she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his or her said duties.

**SECTION 30-25-6** All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

**SECTION 30-25-7** If any section, sub-section, word, sentence, or phrase of this ordinance is declared to be invalid, it shall not effect the validity of this ordinance.

**SECTION 30-25-8** That this Ordinance is declared to be an emergency measure, necessary for the preservation of the health, safety and welfare of the City of Commerce, Texas and the inhabitants thereof; therefore, all rules and regulations providing for the reading of ordinances more than one time or on more than one occasion be and the same are hereby suspended, and this Ordinance is passed and shall take effect as an emergency measure, and shall be and remain in full force and effect as herein providing from and after its passage and approval.

PASSED AND APPROVED on this the 17<sup>th</sup> day of February, 1998.

ATTEST:

CITY OF COMMERCE, TEXAS

Marty Morrison  
Marty Morrison  
City Secretary

John R. Sands  
John R. Sands  
Mayor

(seal)

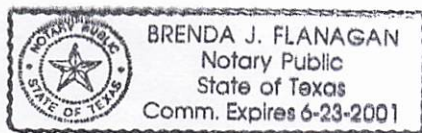
I, Marty Morrison, City Secretary of the City of Commerce, Texas do hereby certify that the above is a true and correct of an ordinance, and that the same has not been repealed and is in full force and effect.

Marty Morrison  
Marty Morrison,  
City Secretary of the City of Commerce, Texas

(seal)

Sworn to and subscribed before me, on this the 17th day of February, 1998,  
to certify which witness my hand and seal of office.

(seal)



Brenda J. Flanagan  
Notary Public, State of Texas