

ORDINANCE NO. 1934

AN ORDINANCE AMENDING CHAPTER 12, ENTITLED LICENSES AND BUSINESS REGULATIONS, OF THE HURST CODE OF ORDINANCES BY REPEALING ARTICLE VI, ENTITLED ALARM SYSTEMS, AND REPLACING THAT ARTICLE IN ITS ENTIRETY WITH REVISED REGULATIONS FOR ALARM SYSTEMS; REQUIRING PERMITS FOR ALARM SYSTEM USERS, WITH EXCEPTIONS; PROVIDING FOR A PERMIT FEE; PROVIDING FOR REVOCATION OF PERMIT; REGULATING ALARM REPORTING AND OPERATIONS; PROVIDING SERVICE FEES FOR FALSE ALARMS; PROVIDING FOR REVOCATION AND DENIAL OF PERMIT; ESTABLISHING PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Hurst desires to maintain regulations which will discourage the use of alarm systems which cause an undue number of false alarms, thus wasting taxpayers money through unneeded police calls, and in the case of audible alarms, unnecessarily annoying persons in the vicinity thereof;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HURST, TEXAS;

Section. 1. **THAT** Chapter 12 of the Hurst Code of Ordinances be amended by repealing Article VI, entitled Alarm Systems, and replacing that article in its entirety with a new Article VI which shall read as follows:

“ARTICLE VI. ALARM SYSTEMS

DIVISION I. GENERALLY

Sec. 12-176. Definitions.

- (a) *Alarm system* means any mechanical or electrical device, which is used to protect buildings or premises from criminal acts or unauthorized entries by warning persons of a crime or unauthorized entry through the emission of a sound or the transmission of a signal or message.
- (b) *Broadcast alarm* means an alarm system that emits a signal at the alarm site that is audible and/or visible from the exterior of a structure.
- (c) *Chief* means the chief of police of the city or his designated representative.
- (d) *Commercial alarm* means an alarm system located and installed in a commercial, business or any other non-residential structure or unit, and capable of emitting an alarm notification.

- (e) *Commercial hold-up alarm* means an alarm system located and installed in commercial premises, which is not triggered automatically, but requires manual activation by an employee, officer or agent of the business or commercial enterprise located on the premises. It is designed and intended to indicate to law enforcement personnel that a robbery or hold-up is in progress on the premises, and thus is intended to generate a different response from law enforcement authorities than a burglar alarm.
- (f) *False alarm notification* means an alarm notification to the police department, when the responding officer finds no evidence of unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, or an attempt to take a person hostage.
- (g) *Permit holder* means a natural person designated in the application for an alarm system, broadcast alarm or a hold-up alarm who is responsible for responding to alarms and giving access to the site and who is also responsible for proper maintenance and operation of the alarm system and payment of fees.
- (h) *Residential alarm* means an alarm system located and installed in a private residence, apartment, duplex, townhome or any other residential dwelling unit, which is capable of emitting an alarm notification.

Sec. 12-177. Violation; penalty.

- (a) A person commits an offense if he violates by commission or omission any provision of this article that imposes upon him a duty or responsibility.
- (b) A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted, and each violation is punishable by a fine of not less than fifty dollars (\$50.00) upon first conviction and not less than seventy-five dollars (\$75.00) upon second and subsequent convictions.

Sec. 12-178. Exceptions.

This article shall not apply to alarm systems operated by local, state or federal government entities.

Sec. 12-179. Proper operation and maintenance.

If required to obtain an alarm permit, the permit holder shall:

- (a) Maintain the premises containing an alarm system in a manner that assures proper operation of the alarm system;

- (b) Maintain the alarm system in a manner that will minimize false alarm notification;
- (c) Respond to or cause a representative to respond within a reasonable period of time when requested by the city to repair or inactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises;
- (d) Refrain from manually activating an alarm for any reason other than the occurrence of an event that the alarm system was intended to report;
- (e) Notify the police department prior to activating an alarm for maintenance purposes;
- (f) Post the permit at a location where it may be read from outside the main entrance by the responding officer.

Sec. 12-180. Duration of signal.

A permit holder shall not utilize any alarm system which causes an audible signal to be emitted for more than thirty (30) minutes after being activated or which emits a subsequent alarm without being reset.

Sec. 12-181. Indirect reporting.

A person who is engaged in the business of relaying alarm notification to the city shall:

- (a) Communicate alarm notification to the city in a manner and form determined by the chief of police; and
- (b) Comply with the requirements of this article and any rules and regulations promulgated by the chief.

Sec. 12-182. Direct reporting; automatic notification prohibited.

An alarm system which transmits automatic alarm notification directly to the communication center of the police department is prohibited.

DIVISION 2. PERMIT

Sec. 12-196. Required.

No commercial business shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit issued by the alarm permit officer. A separate permit is required for each alarm site. Residences are required to obtain an alarm permit within fifteen (15) days after the first false alarm dispatch.

Sec. 12-197. Fee.

The annual fee for a permit or permit renewal for a residential alarm site is \$25. The annual fee for a permit or permit renewal for a commercial alarm site or a commercial hold-up alarm is \$50. No refund of a permit or permit renewal fee will be made. The initial annual permit fee must be submitted to the alarm permit officer by commercial establishments within fifteen (15) days after the alarm installation or alarm takeover.

Sec. 12-198. Issuance.

Upon receipt of a completed application form and the permit fee, the alarm permit officer shall issue an alarm permit valid until January 15th of the following year unless the applicant has:

- (a) Failed to pay a service fee assessed under Sec. 12-204 or,
- (b) Had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

Sec. 12-199. Application.

Each permit application shall include the following information:

- (a) Name, address, and phone number of alarm site;
- (b) Name, address, and telephone numbers of the permit holder, who is responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
- (c) Classification of the alarm site as residential, commercial or commercial hold-up;
- (d) The name and phone numbers of at least three (3) persons other than the permit holder, authorized to respond to alarms;
- (e) The name, address, and phone number of the alarm company monitoring the alarm system;
- (f) Other information required by the chief which is necessary for the enforcement of this article.

Sec. 12-200. False Statement

Any false statement made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit.

Sec. 12-201. Transferability.

An alarm permit is not transferable. The permit holder shall inform the alarm permit officer of any change that alters any information listed on the permit application within five (5) business days. All fees and/or fines must be paid before an alarm permit is issued or renewed.

Sec. 12-202. Cancellation.

A permit holder shall cancel a permit for any alarm system which is removed from an alarm site or which otherwise ceases to come under the permit requirements of this article. Cancellation may be accomplished by returning the permit to the chief.

Sec. 12-203. Duration and renewal.

All alarm permits expire on January 15th and must be renewed annually by submitting an updated alarm permit application and permit renewal fee to the alarm permit officer. The alarm permit officer shall notify the permit holder of the need to renew thirty (30) days prior to the expiration of their permit. It is the responsibility of the permit holder to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a non-permitted alarm system and citations and penalties shall be assessed without waiver.

Sec. 12-204. Service fee.

- (a) Except as otherwise provided in subsections (b) and (c) below, the permit holder shall be subject to service fees, warnings and suspension or revocation of permit depending on the number of false alarm dispatches emitted from an alarm system within a 12-month period based upon the following schedule:

<u>Number of False Alarm Dispatches</u>	<u>Action Taken</u>	<u>Fee</u>
1 - 4	None	0
5	On Site Written Notice & Warning Letter	0
6 or more	On Site Written Notice & Suspension of Permit	\$50

- (b) Any person operating a non-permitted alarm system (whether revoked, suspended or never acquired) will be subject to a service fee up to \$500 for each false alarm dispatch.
- (c) Alarm dispatch requests caused by an actual criminal offense or with evidence of a criminal attempt, or as a result of a severe weather condition, shall not be counted as a false alarm dispatch. The permit holder has ten (10) days to produce evidence for changing the status of a false dispatch alarm to a true alarm.

Sec. 12-205. Revocation.

The chief of police shall revoke an alarm permit if he determines that:

- (a) There is a false statement of a material matter in the application for permit;
- (b) The permit holder has violated any provision of this article;
- (c) The permit holder has failed to make payment of a service fee assessed under section 12-204 within thirty (30) days of receiving notice to do so.

A person commits an offense if he operates an alarm system during the period in which his alarm permit is revoked.

Sec. 12-206. Appeal procedure.

- (a) If the chief of police refuses to issue or renew an alarm permit, or revokes an alarm permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief to the city manager by filing with the city manager a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt of the notice from the chief. The filing of a request for an appeal hearing with the city manager stays an action of the chief in revoking a permit until the city manager or his designated representative makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief is final.
- (b) The city manager shall set a time and place for the hearing, which shall be served upon the applicant or permit holder by certified mail, return receipt requested. The city manager or his 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. All parties to the hearing shall have the right to present evidence and shall have the right to cross-examination. The hearing officer shall make his decision on the basis of a preponderance of the evidence within fifteen (15) days after the request for an appeal hearing is filed. The time for hearing an appeal may be extended by agreement of the parties. The hearing officer shall affirm, reverse or modify the action of the chief. The decision of the hearing officer is final as to administrative remedies with the city.

Sec. 12-207. Reinstatement of alarm permit

A person whose alarm permit has been revoked or suspended may be issued a new permit if the person:

- (a) Submits an updated application and pays the \$25 residential, \$50 commercial or \$50 commercial hold-up alarm permit fee; and

(b) Pays, or otherwise resolves, all citations and fines.”

Section 2. It is hereby desired declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section had it been aware of such invalidity.

Section 3. The City Secretary is hereby authorized and directed to cause publication of the caption and penalty clauses of this ordinance as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

Passed on first reading on the ____ day of _____, 2004, by a vote of ____ to ____.

Passed on second reading on the ____ day of _____, 2004, by a vote of ____ to ____.

CITY OF HURT

Richard Ward, Mayor

ATTEST:

Alyce E. Deering, City Secretary

Approved as to Form and Legality:

City Attorney

