

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 8.28, "BURGLAR ALARM SYSTEMS
AND FALSE ALARMS," TO THE MERCED
MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN
AS FOLLOWS:**

SECTION 1. ADDITION TO CODE. Chapter 8.28, "Burglar Alarm Systems and False Alarms," is hereby added to the Merced Municipal Code to read as follows:

**"Chapter 8.28
BURGLARY ALARM SYSTEMS
AND FALSE ALARMS**

Sections:

- 8.28.010 Short Title.**
- 8.28.020 Purpose.**
- 8.28.030 Definitions.**
- 8.28.040 Audible Alarm System.**
- 8.28.050 Automatic Dialing Devices Prohibited.**
- 8.28.060 Robbery, Burglary and Panic Alarm Systems.**
- 8.28.065 Duties of Alarm Companies.**
- 8.28.070 Maintenance and Testing.**
- 8.28.080 Assessment of Service Fees.**
- 8.28.085 Special Rules Applicable to Governmental Entities.**
- 8.28.090 Alarm User Awareness Class.**
- 8.28.100 Permit Required.**
- 8.28.110 Permit Applications.**
- 8.28.120 Issuance of Permit.**
- 8.28.130 Expiration of Permit.**
- 8.28.140 No Transfer or Assignment of Permit.**
- 8.28.150 Suspension or Revocation of Permit.**

- 8.28.160 Suspension and Revocation Hearing.**
- 8.28.170 Reapplication for Permit; Certification;
Reissuance of Permit.**
- 8.28.180 Alarm Use After Suspension or
Revocation of Permit.**
- 8.28.190 Notices.**
- 8.28.200 Contesting a False Alarm Service Fee.**
- 8.28.210 Violations.**
- 8.28.220 Severability.**
- 8.28.230 Nonliability.**

8.28.010 Short Title.

This Chapter shall be known as the Burglar Alarm Ordinance of the City of Merced.

8.28.020 Purpose.

The purpose of this Chapter is to establish standards and regulations for the installation and use of alarm systems to reduce the needless and frequent occurrence of police responses to false alarms occurring at commercial, residential, and other facilities or structures within the City. The increasing frequency of police responses to false alarm calls constitutes a hazard to police officers and the public, and also inhibits the ability of the Police Department to respond to other emergencies to protect the health, safety, and welfare of the residents of Merced. Police resources within the City are limited and the unnecessary responses to false alarms diverts valuable police resources and results in substantial costs to the City each year. The regulation of alarm systems is necessary to promote the health, safety and general welfare of the public by discouraging false alarms.

8.28.030 Definitions.

For the purpose of this Chapter, certain words and phrases are defined and shall be construed as set forth

below unless it is apparent from the context a different meaning is intended.

A. Alarm Administrator. The term ‘alarm administrator’ means the person designated by the Chief of Police to administer the City’s false alarm program, to issue citations and levy fees pursuant to this Chapter.

B. Alarm Company. The term ‘alarm company’ shall be defined as any person, retail establishment, organization, answering service, central station, or modified central station that installs, maintains, alters, sells, connects, or monitors burglary or other alarm security systems for profit or other consideration. This includes an alarm company that is located outside of the limits of the City which monitors alarms installed within the limits of the City. Such companies must be licensed in accordance with the Business and Professions Code Sections 7590 *et seq.*

C. Alarm Permit. An “alarm permit” means a permit issued by the City or Chief of Police allowing the operation of an alarm system within the City.

D. Alarm System. The phrase ‘alarm system’ means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other illegal activity requiring immediate attention and a law enforcement response. Fire or smoke detection systems, alarm systems affixed to motor vehicles, alarms designed to elicit medical responses or alarm systems which by design or operation, only alert the occupants of a residence or business premises do not constitute alarms systems within the meaning of this Chapter.

E. Alarm User. The phrase ‘alarm user’ means any person owning, leasing, or operating an alarm system or a person who is entitled to possession of any premises within the City that has an installed alarm system that he/she operates.

F. Answering Service. The phrase ‘answering service’ means a telephone answering service which provides, among its services, the receiving of signals from alarm systems, and the subsequent immediate relaying of said messages based on such signals by live voice to the communications center of the Police Department.

G. Automatic Dialing Device. The phrase ‘automatic dialing device’ means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message indicating the existence of an emergency situation that the alarm system is designed to detect and a request for a law enforcement response.

H. Business. The word ‘business’ means any individual or organization engaged in a for-profit enterprise or any non-profit organization which seeks to install an alarm system.

I. Cancellation. A ‘cancellation’ means the process where a police response is terminated when an alarm company or alarm user notifies the Police Department before the arrival of law enforcement personnel that there is not an existing situation at the alarm site requiring police response.

J. City. References to City refer to the City of Merced.

K. Central Station. The phrase ‘central station’ means an office to which alarm systems are connected, where operators monitor the circuits, and where guards and/or service persons are continuously present to investigate signals.

L. Chief of Police. For purposes of this Chapter, ‘Chief of Police’ means the Chief of Police for the City or his or her designee.

M. Emergency. For purposes of this Chapter, the word ‘emergency’ means the commission or attempted commission of an illegal act, including, but not limited to, robbery or burglary, or an unauthorized entry into a building, structure or facility or any other life threatening emergency requiring a law enforcement or medical response.

N. Excessive False Alarms. An alarm system shall be deemed to have actuated excessive false alarms when there are more than ten (10) false alarms for a residence or twenty (20) false alarms for businesses or institutional facilities within a calendar year.

O. False Alarm. A ‘false alarm’ means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user or his/her employees, agents or authorized users which necessitates a response and arrival by the police department when an emergency condition does not exist. Alarm calls that are cancelled by the alarm user or his/her agent before police department personnel arrive at the alarmed location shall not constitute a false alarm. A false alarm shall not include an alarm which was caused by a severe storm, earthquake, or other uncontrollable act of nature, a loss of electrical power at the address of the alarm system or any other extraordinary circumstances that are not reasonably subject to the control of the alarm user.

P. Government Facility. The phrase ‘governmental facility’ means any alarmed location where the primary owner, operator, renter or lessee is the United States Government, the State of California, a County, or departments thereof, including the University of California.

Q. Modified Central Station. The phrase ‘modified central station’ means an office to which alarm systems

are connected, where operators monitor the circuits but where guards are not present to investigate alarm signals.

R. Panic Alarm. The phrase ‘panic alarm’ means any electrical or mechanical device designed to enable an individual, 24 hours a day, to instantly alert others of the existence of an emergency by the sounding of an audible alarm or transmitting a signal or message when activated.

S. Permittee. The word ‘permittee’ means the person to whom an alarm system permit is issued.

T. Person. The word ‘person’ shall include natural persons without regard to number or gender, and any partnership, corporation, or any other type of legal entity.

U. Residence. The word ‘residence’ means any structure used primarily as living quarters. This includes single-family homes, multi-family dwellings, duplexes, apartments, condominiums, and mobile homes.

V. Robbery Alarm. The phrase ‘robbery alarm’ means any device or system designed to operate day or night to instantly transmit a signal to alert others of an actual armed robbery or holdup in progress.

W. Service Fees. ‘Service fees’ are fees charged for police responses to false alarms.

X. Verify/ Verification. The terms ‘verify’ and ‘verification’ mean an attempt by the alarm monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone or other electronic means to determine or attempt to determine whether an alarm signal is valid before requesting a law enforcement dispatch in order to avoid an unnecessary alarm dispatch request.

8.28.040 Audible Alarm System.

Audible alarms shall automatically turn off within fifteen (15) minutes of initial activation.

8.28.050 Automatic Dialing Devices Prohibited.

A. No person shall install, maintain or use an alarm system that automatically dials or transmits a signal directly to the Police Department upon activation.

B. The relaying of emergency messages regarding activation of burglary or robbery alarms to the Police Department by a central station, modified central station, or an answering services shall be as permitted and designated by the Chief of Police.

8.28.060 Robbery, Burglary and Panic Alarm Systems.

A burglary, panic or robbery alarm system is to be activated only in the event of an emergency as defined in section 8.28.030 (M) of this Chapter. Any other use or indiscriminate activation is prohibited and constitutes a violation of this Chapter.

8.28.065 Duties of Alarm Companies.

A. All alarm companies shall verify burglary alarm activations prior to contacting the Police Department to request a law enforcement response. This verification requirement shall not apply to robbery or panic alarm activations or signals. Verification must be made by one of the following methods prior to requesting a police response:

1. Enhanced Call Verification (ECV) whereby at least two calls to two different phone numbers provided by the alarm user have been made to verify that an actual emergency exists.

2. Video Verification whereby a video signal or connection is sent or accessed by the alarm company showing visual evidence that criminal activity or an emergency situation is occurring at the alarmed location.

3. Listen In or Audio Technology whereby the alarm monitoring company operator hears evidence indicating there is the possibility that criminal activity or an emergency situation is occurring at the alarmed location.

4. Multi-Zone Activation whereby the alarm monitoring company operator has determined that there are alarm activations in two or more separate monitoring zones and the alarm company has been unable to contact the alarm user.

B. An alarm company shall immediately contact the Police Department Communications Center to cancel a request for a police response following a determination that a police response is unnecessary.

C. Upon the effective date of this ordinance, any alarm companies providing alarm monitoring services within the City shall provide to the alarm administrator the initial list of alarmed locations in the format designated by the alarm administrator within 30 days. All alarm companies shall also ensure that their customer information is updated with the alarm administrator at least quarterly in the format provided by the alarm administrator.

D. Alarm companies providing alarm system installation services shall provide written and oral instructions to each of its alarm users in the proper use and operation of their alarm systems. Such instructions shall specifically include all instructions necessary to turn the alarm system on and off with an emphasis on the avoidance of false alarms.

E. Alarm companies that purchase alarm system accounts from another person or the alarm company shall notify the alarm administrator of that purchase within 30 days of the finalization of the purchase and shall provide information regarding their services and accounts as may be reasonably requested by the alarm administrator.

F. Alarm companies shall, on new installations of alarm systems, use only alarm control panel(s) which meet SIA Control Panel Standard CP-01.

8.28.070 Maintenance and Testing.

An alarm user or alarm company shall ensure that the Police Department is notified, and confirm receipt of such notice, at least eight (8) hours before conducting any service, testing, or maintenance of an alarm system which may signal or activate an alarm. An alarm activated where such prior notice has been given to the Police Department shall not constitute a false alarm.

8.28.080 Assessment of Service Fees.

Each false alarm within any calendar year (i.e., January to December) shall incur a service fee, payable to the City as follows:

Number of False Alarms	Service Fees for Permitted Systems	Service Fees for Non-permitted Systems
1-2	No service fee	\$100.00
3	\$ 50.00 (subject to waiver)	\$150.00
4-5	\$ 50.00	\$150.00
6 or more	\$ 100.00	\$200.00

The maximum fee per day shall not exceed \$250.00.

8.28.085 Special Rules Applicable to Governmental Entities.

Government facilities are subject to the following special rules:

1. Any alarmed government facilities must obtain a permit and update the permit annually for the purpose of providing contact information for the alarm system.
2. No cost recovery service fees shall be charged for police response(s) to false alarms at governmental facilities.
3. Government facilities are exempt from having police response suspended.
4. To qualify for the special rules and exemptions under this section, an alarm site/facility must meet the following criteria:
 - (a) The facility is located within the municipal boundaries of the City; and,
 - (b) The site meets the criteria as defined in Section 8.28.030 (P) of this Chapter.

8.28.090 Alarm User Awareness Class.

- A. The Police Department may deliver, provide access to or recommend an on-line provider for an alarm user awareness class for the prevention of false alarms.
- B. If an alarm user successfully completes the alarm user awareness class, the police department or approved provider shall issue the person a certificate or other proof of completion. The certificate may be used in lieu of

payment for the third false alarm service fee as described in Section 8.28.080 of this Chapter. A waiver shall only be granted to an alarm user who had a permitted alarm system at the time of their third false alarm violation.

8.28.100 Alarm Permit Required.

A. Individual Users. No property owner or person in possession of property shall cause an alarm system to be installed, connected, operated, or maintained on any property in the City without first obtaining an alarm system permit from the Chief of Police in accordance with this Chapter. Alarm systems which are not designed to summon public and/or Merced Police Department attention, but which are privately monitored and responded to, are exempt from this requirement.

B. Alarm Companies: Installation or Connection of Alarm System. No alarm company shall install or connect an alarm system upon any property within the City without first obtaining a copy of the alarm system permit.

C. Existing Alarm Users. All alarm users who have alarm systems installed and operational prior to the adoption of the ordinance codified in this Chapter shall have ninety days from the effective date of this ordinance to obtain an alarm user's permit pursuant to this Chapter.

8.28.110 Permit Applications.

A. Permit Applications. Applications, renewals, and reapplications for alarm system permits shall be filed with the Chief of Police on such forms as he or she may prescribe. Such applications shall contain the name, address, and telephone number of the person who will respond to the alarm, or render service or repairs to the alarm during any hour of the day or night and such additional information the Chief of Police shall deem

reasonably necessary for the evaluation and proper processing of the permit application.

B. Confidentiality. The information furnished and secured pursuant to this Chapter shall be confidential in character, shall not be subject to public inspection, and shall be kept so the contents thereof shall not be disclosed except to persons charged with the administration of this Chapter.

8.28.120 Issuance of Permit.

The Chief of Police may issue an alarm system permit after determining that the requirements of this Chapter have been met.

8.28.130 Expiration of Permit.

Each alarm system permit issued shall only expire upon renewal, change of ownership if issued to a property owner or upon change of tenancy if issued to a tenant. Upon expiration of an alarm system permit, a new permit shall be secured in the manner specified in this Chapter, before an alarm system may continue to be used.

8.28.140 No Transfer or Assignment of Permit.

Any alarm system permit issued in accordance with the provisions of this Chapter shall be valid only as to the permittee named on the permit and only for the particular alarm system specified on the permit. No alarm system permit shall in any manner be transferred or assigned.

8.28.150 Suspension or Revocation of Permit.

A. Grounds for Suspension or Revocation. The following shall constitute grounds for suspension or revocation of an alarm system permit:

1. The violation of any provision of this Chapter.
2. The occurrence of excessive false alarms calls, meaning more than ten (10) false alarms for a residence or more than twenty (20) false alarms for businesses or institutional facilities within a calendar year.
3. The violation of any condition imposed by the Chief of Police upon an alarm system permit issued in accordance with this Chapter.
4. This section does not apply to public schools or government facilities.

B. Length of Suspension; Restoration. When a permit is suspended, the Chief of Police may impose a suspension period not to exceed ninety (90) days. The permit will be restored when the condition which caused the suspension is corrected. If the condition causing the suspension is not corrected within ninety (90) days, the permit shall be deemed revoked.

8.28.160 Suspension and Revocation Hearing.

No alarm system permit shall be suspended or revoked until a hearing has been held by the City Manager or his or her designated representative. Written notice of the time and place of such hearing shall be sent to the permittee. Such notice shall be given at least ten (10) days prior to the date set for hearing. The notice of hearing shall include the date, time, and location of the hearing, and a brief statement of the grounds upon which the proposed suspension or revocation will be based. Notice may be given either by personal service or by depositing the notice in the United States mail addressed to such person(s) to be notified at the address provided on the alarm system permit application or any change of address provided to the Chief of Police for purposes of

updating the alarm system permit information. A permittee may appear at the hearing telephonically.

8.28.170 Reapplication for Permit; Certification; Reissuance of Permit.

Any person whose alarm system permit is suspended or revoked may reapply for a new alarm system permit as follows:

A. Reapplication for Permit. All reapplications shall be submitted directly to the Chief of Police on such forms as he or she prescribes.

B. Certification of Corrective Action. The person reapplying for an alarm system permit following the suspension or revocation of their permit shall submit a certification declared under penalty of perjury that all corrective action has been taken to ensure that no further violations will occur and that any pre-conditions to the re-issuance of the alarm system permit have been met.

C. Reissuance of Permit. If, after reviewing the certification and in his or her sole discretion, the Chief of Police determines that the grounds for the prior suspension or revocation have been eliminated, or that such grounds are not likely to occur again in the future, an alarm system permit shall be re-issued to the owner or person in possession of the property for which the alarm system is sought to protect. The Chief of Police may impose such conditions on the alarm system permit as he/she deems reasonably necessary to ensure that the permittee will comply with the provisions of this Chapter.

8.28.180 Alarm Use after Suspension or Revocation of Permit.

Any alarm user who knowingly operates or causes a false alarm to occur after his or her alarm user permit has been suspended or revoked shall be subject to civil and/or criminal penalties as determined by the City.

8.28.190 Notices.

Any notice or other written proof required by this Chapter to be served on or given to any person shall be in writing and shall be duly served and given when personally delivered to the person to whom it is directed or when deposited in the United States mail, first class, postage prepaid, addressed to the last known address of the person to whom it is directed.

8.28.200 Contesting a False Alarm Service Fee.

An alarm user may appeal the imposition of a service fee as follows:

- A. An alarm user may appeal the imposition of a service fee by sending a letter to the Chief of Police specifying the reasons for the appeal and contesting the imposition of the service fee. The alarm user must include a detailed description of the false alarm event and include all credible evidence in his or her possession that supports the contention that the alarm activation does not constitute a false alarm.
- B. The letter must be received by the Chief of Police within thirty (30) calendar days after the false alarm service fee invoice is mailed to the alarm user.
- C. A false alarm service fee may only be appealed on the grounds that the incident cited as the basis for the service fee was, in fact, not a false alarm as defined by Section 8.28.030 (O) of this Chapter.

D. The Chief of Police may reject requests for appeals that are not supported by detailed, credible evidence demonstrating that the alarm was not a false alarm.

E. A Notice of Decision regarding the appeal to the Chief of Police shall be mailed to the alarm user within fifteen (15) business days following the receipt of the appeal request.

F. In the event that the first appeal is denied, the alarm user may, within twenty one (21) calendar days after the Notice of Decision is sent by the Chief of Police, file a written request for an appeal with the City Manager or his or her designee requesting an in-person hearing.

G. An informal appeal hearing shall be held within 90 days following the timely submission of a request for an appeal.

H. The hearing shall be conducted by an appeals officer appointed by the City Manager. Written notice to the appellant of the date, time and location of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing either by personally delivering the notice to the appellant or by mailing a copy thereof to the appellant at the address shown or provided in the appeal. The appellant may appear at the hearing telephonically.

The employment, performance evaluation, compensation and benefits of the appeals officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld, imposed, awarded or assessed by the appeals officer.

I. The alarm administrator may serve as the City's representative in these hearings. The alarm administrator may participate in the hearing telephonically.

J. The decision regarding the appeal shall be in writing and shall contain a determination of the all issues and questions of fact presented. The decision shall be mailed to the appellant by first class mail to the address shown or provided in the appeal within thirty (30) days of the hearing.

K. The failure of any person to timely file an appeal shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice imposing the false alarm service fee.

8.28.210 Violations.

A. Penalties. Except where punishment is specifically provided elsewhere in this Chapter, penalties for violations of provisions of this Chapter may be levied in accordance with Chapter 1.12 of this Code.

B. Enforcement. The conviction or punishment of any person for violating any provision of this Chapter shall not relieve such person from paying any service fees due and unpaid at the time of such conviction or punishment, nor shall payment of any service fees bar a criminal prosecution for a violation of any provision of this Chapter. All remedies shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter. The amount of any service fees due and owing shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent service fees. All service fees shall be deemed delinquent thirty (30) days from the date they are due and payable.

8.28.220 Severability.

The sections, paragraphs, sentences, clauses, and phrases of this Chapter are, and are intended to be, severable. If any phrase, clause, sentence, paragraph, or section of this Chapter shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Chapter.

8.28.230 Nonliability.

Nothing in this article shall create or be construed to create a duty upon the Police and/or Fire Department or City to respond to any alarm system activation or signal whether false or not. All calls for service from the City's Police and Fire Departments, including those caused by an alarm activation or signal, may be responded to within the resources available at the time of the alarm.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the ____ day of _____, 2017, and was passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2017, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Kelly Fincher 12/11/17
City Attorney Date

NOTICE OF POTENTIAL INTRODUCTION OF ORDINANCE

CITY OF MERCED

NOTICE IS HEREBY GIVEN that on _____, 2016, the City Council of the City of Merced is scheduled to consider the introduction of an Ordinance entitled:

**“AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, ADDING
CHAPTER 8.28, ‘BURGLAR ALARM SYSTEMS
AND FALSE ALARMS,’ TO THE MERCED
MUNICIPAL CODE”**

at its regular meeting to be held at 7:00 pm in the City Council Chambers at 678 West 18th Street, Merced, California. The public is invited to provide any oral or written comments regarding this proposed Ordinance.

If adopted, this Ordinance would regulate the use and installation of burglar alarm systems at commercial, residential, and other facilities or structures in the City of Merced. It imposes duties on both alarm companies and alarm users to deter the incidence of false alarms occurring within the City. In addition, anyone using an alarm system within the City of Merced must apply for and obtain a permit for such use from the Chief of Police. There is no cost for obtaining a permit. This Ordinance also sets a service fee schedule which will be used to impose a service fee after the occurrence of two false alarms that result in a police response to the alarmed location. The City Council will consider two different fee schedules for this Ordinance. One would apply to any alarm user within the City of Merced, except for governmental entities, and the other that would have a separate fee schedule for the public schools located within City limits.

A copy of the full text of the proposed Ordinance is available for review in the Office of the City Clerk, City of Merced, 678 West 18th Street, Merced, California, and on the City’s website at www.cityofmerced.org.

ASSISTANT CITY CLERK

PUBLISH: