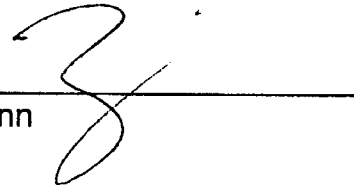


MEMORANDUM

TO: The Honorable Chair and Members of City Council
FROM: Mark A. Winn, Chief Assistant City Attorney
DATE: December 5, 2008
RE: Amendments to Chapter 20, Fire False Alarm Ordinance

Chapter 20 of the City Code provides for regulations of various activities. Section 20-147 currently makes it a violation to have too many false alarms at a property which police must respond to and subjects the property owner to an escalating series of fines for multiple violations. The purpose is to reduce the number of false alarms which police must respond to thus saving time and money. This ordinance amendment would make multiple false fire alarms at the same location to be a violation and would operate in the same way that the police false alarms are currently handled. The goal would be to achieve the same savings in time and money as are currently realized by the Police Department.

Mark A. Winn

A handwritten signature in black ink, appearing to be 'M. Winn', is written over a horizontal line. The signature is stylized and cursive.

AN ORDINANCE AMENDING CHAPTER 20, ARTICLE VI, SECTION 20-147, OF THE ST. PETERSBURG CITY CODE RELATING TO FALSE ALARMS; AMENDING ALL SECTIONS TO APPLY TO FALSE FIRE ALARMS; ADDING, AMENDING AND DELETING DEFINITIONS; CORRECTING AND CLARIFYING INCONSISTENT OR AMBIGUOUS TERMINOLOGY; MAKING MINOR TECHNICAL CORRECTIONS; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1: Subsections 20-147 (a-k) of the St. Petersburg City Code are hereby amended as follows:

Sec. 20-147. Unlawful false alarms resulting from the improper use of alarm systems.

(a) *Purpose.*

(1) The purpose of this section is to encourage persons who utilize security and/or fire alarm systems and the fire and security alarm companies to properly use and maintain the operational effectiveness of fire and security alarm systems in order to improve the reliability of fire and security alarm systems and reduce or eliminate false fire and security alarms.

(2) This section governs fire and security alarm systems intended to summon a response from the police or fire department, and requires registration, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for suspension of police response or revocation of registration.

(b) *Definitions.*

When used in this section, the following terms shall have meanings ascribed to them below unless another meaning is clearly evident from the context in which they are used:

Alarm initiating device means a device that is designed to respond either manually or automatically to smoke, fire or activation of a fire suppression system.

Arming station means a device that allows control of a security alarm system.

Automatic telephone dialing device or digital alarm communicator system means an alarm system which automatically sends a pre-recorded voice message or coded signal over regular telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

Calendar year means 12 continuous months of days beginning on the first day of January each year, regardless of when the permit was initially issued for the operation of the fire and/or security alarm.

Cancellation means the process whereby an official response is terminated, when a security or fire alarm monitoring company (designated by the responsible party) for the premises, notifies the responding police or fire department that there is not an existing situation at the premises requiring an official response to the alarm. This notification must be received in the police or fire communications center prior to police or fire officers arrivals in order for the alarm call to be cancelled.

Duress alarm means a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the responsible party is being forced to turn off the system and requires an official response to the alarm.

Enforcement official means the Fire or Police Chief or his designated representative(s).

False fire alarm means the activation of any fire alarm system which results in a response by the fire department and which is caused by mechanical failure, malfunction, improper installation, lack of proper maintenance, negligence or intentional misuse of the fire alarm system by the responsible party or any other activation of a fire alarm system not caused by heat, smoke or fire.

False security alarm means a security alarm malfunction or the activation of any alarm, not caused by forced entry, attempted forced entry, or robbery which results in an official response of the police department and which is caused by the negligent or intentional misuse of the system by the responsible party. A presumption exists that the alarm was false if the police officer responding to the alarm finds no evidence of criminal activity, attempted criminal activity or an emergency at the premises.

Fee means the assessment of a monetary charge payable to the City of St. Petersburg ~~authorized pursuant to this section.~~

Fire alarm activation report means a document issued by the enforcement official indicating that the activation was deemed to be the result of a fire alarm activation due to fire or a false fire alarm.

Fire alarm system means a system or portion of a combination system consisting of components and circuits arranged to monitor the status of a fire alarm and to initiate the appropriate response to the alarm.

Holdup alarm means a silent security alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

License means any required license issued by the State of Florida to a fire and security alarm installation company and a fire and security alarm monitoring company to sell, install, monitor, repair, or replace fire and security alarm systems.

Monitoring means the process by which a fire and/or security alarm monitoring company receives signals from a fire and/or security alarm system and relays an alarm activation for the purpose of summoning the fire or police department to the alarm site.

Official response to alarm means a response to an alarm activation where any officer or member of the fire or police department shall be dispatched to the premises where the alarm has been activated or where any on-duty officer or member of the fire or police department learns of the activation of the alarm system(s), by any means whatsoever, and responds thereto by traveling to that premise. The response ends when the officer or member has completed their investigation of the incident.

Panic alarm means a security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a response from the police department.

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

Premises means any building, structure or combination of buildings and structures including the curtilage thereof, which is used for residential, commercial or any other purpose. At the option of the responsible party, out buildings, separate or detached buildings may be deemed separate premises' for the purpose of fire or security alarm permits.

Permit year begins on the date when the permit was initially issued for the operation of the security or fire alarm and ends 365 days later.

Qualified fire alarm technician means any person who inspects, installs, repairs or performs maintenance on fire alarm systems. This person shall be factory trained and certified; National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II, III, IV, or above certified; or, licensed or certified by the State of Florida,

Responsible party means any person, his employees, agents or servants who owns or controls the premises in which an alarm system is installed. By way of example and not limitation, the person who controls is a person who leases, operates, occupies or manages the premises.

Security or fire alarm conversion means the transaction or process by which one security or fire alarm installation or security or fire alarm monitoring company begins the servicing and/or monitoring of a previously unmonitored security or fire alarm system or a security or fire alarm system previously serviced and/or monitored by another security or fire alarm company.

Security or fire alarm installation company means a person licensed in the State of Florida, engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a security or fire alarm system on the premises.

Security or fire alarm malfunction means the activation of any alarm which results in an official response of the police or fire department caused by mechanical failure, malfunction, improper installation or lack of proper maintenance; or any other response for which the police or fire department personnel are unable to gain access to the premises for any reason or are unable to determine the apparent cause of the activation.

Security or fire alarm monitoring company means a person licensed in the State of Florida, engaged in the business of providing monitoring services.

Security alarm permit means a permit issued by the City allowing the operation of a security alarm system within the City.

Security alarm system means any mechanical, electrical or radio controlled device which is designed to be used for the detection of any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act at or within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated. Without limiting the generality of the foregoing, alarm systems shall be deemed to include audible alarms at the site of the installation of the detection device, proprietor alarms, and automatic telephone direct dial devices or digital communicator systems.

Excluded from the definition of security alarm systems are devices which are designed or used to register alarms that are audible, visible or perceptible, in or attached to any motor vehicle, or auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service.

Security or fire alarm technician means any person who inspects, installs, repairs or performs maintenance on fire or security and/or burglar alarm systems and is licensed by the State of Florida or works under a state licensed fire or alarm contractor.

SIA Control Panel Standard CP-01 means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) 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 the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL) or other nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

Takeover means the transaction or process by which a new party takes over control of a premises where there is an existing security or fire alarm system previously controlled by the prior responsible party.

Verify means an attempt by the security or fire alarm monitoring company to contact the responsible party by telephone and/or other electronic means unless otherwise exempted by Florida Statutes, whether or not actual contact with the responsible party is made, to determine whether an alarm signal is valid before requesting an official response to the alarm, in an attempt to avoid an unnecessary official response. Telephone verification shall require that a second call be made to a different number if the first attempt fails to reach the responsible party who can properly identify themselves to determine whether an alarm signal is valid before requiring an official response to the alarm.

(c) *Alarm system operations; necessary equipment to qualify for a permit.*

(1) The City, its officers, employees and agents, shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned security or fire alarm system, those duties or responsibilities being solely those of the responsible party as defined in paragraph (b).

(2) The responsible party shall be required to silence and reset an activated security alarm. All security alarm systems shall automatically reset/silence the audible alarm within 15 minutes of activation.

(3) All security alarm systems shall have a backup power supply that will automatically become available for a minimum of 4 hours in the event of a power failure or outage, without activation of the security alarm system.

(d) *Alarm permits required; annual alarm permit renewal required; penalties.*

(1) a. Every person who installs, owns, leases, possesses or operates any security alarm system within the City shall obtain a security alarm permit prior to activation of the security alarm system. The responsible party, in the event of self installation, or the security alarm technician in the event of installation or reassignment by a state licensed alarm contractor, shall insure that a security alarm permit has been issued prior to activation or reactivation of the security alarm system. Fire alarm systems shall not be self installed.

b. It shall be unlawful for any person who has not obtained a security alarm permit for the premises, or who has had his security alarm permit revoked or who has failed to renew his security alarm permit, to activate or operate a security alarm system.

Violation of subsection 20-147(d)(1) shall be punishable by a fine as set forth in the following schedule.

TABLE INSET:

Number of Violations	Fine
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1st violation . . . \$ 100.00
 2nd violation . . . 250.00
 3rd and subsequent violations . . . 500.00

(2) Applications for a security alarm permit are available from, and shall be filed with, the St. Petersburg Police Department. Upon approval of the application, the enforcement official shall issue a security alarm permit which shall be valid for one (1) permit year. The initial application for a security alarm permit shall be accompanied by a \$15.00 fee.

a. The application shall include the following information:

1. The name(s), address, date of birth, business and home telephone number of the responsible party in charge of the premises wherein the alarm system is installed.
2. The type of premise, whether commercial or residential, the business name if any, and the exact address.
3. The name, address and telephone number of at least one and preferably more than one authorized representative who can be notified by the police department, in the event of an activation of the alarm system, who shall be capable of responding to the premises within 45 minutes and who are authorized and able to enter the premises to ascertain the status ~~thereof~~ thereof if necessary.
4. The name, address and 24-hour telephone number of the installing and/or maintaining alarm installation company, or the name, address and telephone number of the company monitoring the alarm system, if different.

b. When any of the information required in subsection (d)(2)a. has been changed, it shall be reported to the enforcement official by the responsible party within ten (10) working days of such change. Failure to notify the enforcement official of any changes to the information on file with the City regarding such permit shall constitute grounds for revocation of the permit, and the imposition of any penalties pursuant to subsection (d)(1)(b).

(3) If a responsible party has one or more security alarm systems protecting two or more separate structures having different addresses, a separate permit shall be required for each structure. A separate permit may be obtained for security alarm systems in separate buildings or structures having the same address.

(4) Each responsible party will be required to renew the security alarm system permit on a yearly basis, whereby thirty (30) days prior to the expiration of the permit year, the responsible party will be notified by the enforcement official of the need to renew the security alarm permit.

a. The requirements for the annual permit renewal consist of:

1. A completed permit renewal application and a registration fee of \$10.00 must be submitted by the responsible party to the enforcement official prior to the expiration of the permit year.
2. Prior to approval by the enforcement official, the responsible party must have paid all outstanding fees/service charges related to false alarms or malfunctions and the security alarm permit must be reinstated if previously revoked pursuant to section (g).
3. Failure to renew the security alarm permit or comply with all the requirements in (d)(4)(a) will be classified as a non-permitted security alarm system punishable pursuant to subsection (d)(1)(b).

(5) Responsible parties for fire alarms shall not be required to obtain a permit provided that all information required herein for security alarms is provided to the Fire Marshall in the annual report from the fire alarm monitoring company or is provided during a fire inspection. If a responsible party has one or more fire alarm systems protecting two or more separate structures having different addresses, a separate report or inspection may be required for each structure if the Fire Marshall determines that is necessary for fire safety.

(e) *Responsibility for ~~security~~ alarm activation, responsible party response, ~~security~~ alarm malfunction, corrective action, and fees.*

(1) The responsibility for false alarms shall be borne by the responsible party for the premises at the time of the false alarm. In the absence of the specific assignment of responsibility for the alarm, the person or persons occupying and/or controlling the premises on which the alarm is located will be held liable.

(2) a. When responding to an alarm at which there are no individuals on the premises, and there is evidence of a break in, attempted break in, tampering with the security alarm system, or circumstances which the officer reasonably believes requires the presence of the responsible party, the responsible party or authorized representative will be contacted and required to respond to the premises within 45

minutes, for the purposes of conducting a security check of the premise and resetting the alarm system. If the responsible party or authorized representative is not available after notification is attempted, or fail or refuse to respond to the premises as required herein, the responsible party shall be assessed a fee of \$40.00 notwithstanding that it is later determined that the alarm activation was not a false alarm or alarm malfunction. The assessment of this fee shall be in addition to the assessment of any fee for a false security or fire alarm or security or fire alarm malfunction as may be provided for in subsection (f)(1).

b. Other provisions of this section notwithstanding, when the police or fire officer determines that no security or fire alarm permit has been issued for the premises, it shall be unlawful for any responsible party, when so notified, to fail or refuse to respond to the premises.

(3) In the event of a security or fire alarm activation deemed to be the result of an alarm malfunction, the responsible party will be served with an "alarm cause and corrective action" form by an officer or member of the police or fire department. This form will indicate the activation was deemed to be the result of a security or fire alarm malfunction, and will require the responsible party to return within fifteen (15) days of receipt, a completed "affidavit of service and repair." This affidavit, shall verify that the security or fire alarm system in question has actually been examined by the responsible party or a security or fire alarm technician and that a bonafide attempt has been made to identify and correct the cause or suspected cause of the security or fire alarm malfunction.

a. Failure to return an "affidavit of service and repair" within said fifteen (15) days of service, will result in an assessment against the responsible party of a fee as set forth in the following schedule, and may result in the revocation of the permit to operate a security or fire alarm system.

Fee Schedule: Failure to Return Affidavit

1st incident . . . \$ 30.00
2nd incident . . . 40.00
3rd incident . . . 50.00
4th incident . . . 50.00 and permit revocation for security
alarm permits, for fire alarms the fee shall increase to \$500.

b. The timely return of an "affidavit of service and repair" to the enforcement official, shall exempt the responsible party from any fees in subsection 20-147(e)(3)a. above but not from any applicable fee in subsection 20-147(f)(1) below.

(4) Each false alarm more than twenty-four (24) hours apart for which the police or fire department make a separate response is subject to a separate fee assessment.

(5) No person shall be held liable under this chapter for any false security alarm transmitted under a reasonable mistake of fact that a robbery, burglary or other felony crime was being or had been committed.

(f) *Fees--Service charges for multiple ~~security~~ alarm malfunctions or for false ~~security~~ alarms.*

(1) No fee shall be assessed under this section for the first two (2) false alarms at the same premises responded to by the Police Department during each calendar year. No fee shall be assessed under this section for the first false alarm at the same premises responded to by the Fire Department during each calendar year. Thereafter, the following fees shall be paid by the responsible party for each false alarm as set forth below.

False Security Alarm or
Alarm Malfunction Fee Schedule

TABLE INSET:

Number of Alarms	Fee per Alarm
Third through fifth . . .	\$ 50.00
Sixth through eighth . . .	100.00
Ninth through thirteenth . . .	200.00
Fourteenth and above . . .	300.00

False Fire Alarm or
Alarm Malfunction Fee Schedule

TABLE INSET:

<u>Number of Alarms</u>	<u>Fee per Alarm</u>
<u>Second through fifth . . .</u>	<u>\$ 130.00</u>
<u>Sixth through ninth . . .</u>	<u>400.00</u>
<u>Tenth and above . . .</u>	<u>500.00</u>

(2) All fees/service charges assessed in the carrying out of this ordinance shall be considered a bill owed by the responsible party to the City. Each fee/charge shall be paid to the City of St. Petersburg within thirty (30) calendar days from the date of the receipt of the written notification of the fee/charge. The fees/service charges are separate and apart from any fines that may be assessed for a violation of this ordinance.

(3) If the responsible party's security alarm permit has been revoked, the security alarm permit shall not be reinstated until the responsible party satisfies the condition(s) which caused the revocation of the security alarm permit.

(g) *Revocation of ~~a~~ security alarm system permit.*

(1) The enforcement official is authorized to revoke the permit for any security alarm system, by written notice to the responsible party for the premises wherein an alarm system is installed, for any of the following reasons:

- a. Failure to meet all requirements or pay the fees provided for in this section within thirty (30) days of the charging of the fee; or
- b. Failure to return an "affidavit of service and repair" on more than three (3) occasions within any calendar year; or
- c. A false security alarm or alarm malfunction occurs nine (9) times or more at a premises, and it is the result of a failure of the responsible party to take corrective action to eliminate the cause of the false alarm; or
- d. The unavailability or failure of an authorized representative to respond within 45 minutes after notification or attempted notification to respond, which occurs on more than three (3) occasions within any calendar year.

(2) The written notice of revocation shall be hand delivered or mailed to the responsible party and shall specify the effective date of revocation. If mailed, said notice shall be sent certified mail, return receipt requested.

- a. Said date of revocation shall be at least twenty (20) calendar days following the date of the notice. The responsible party may appeal the notice of the enforcement official pursuant to section (h).
- b. Upon proper notice of the appeal as provided for in this chapter, the enforcement official shall stay the revocation pending the appeal.

(3) Fire alarm permits are not revocable.

(h) *Appeals.*

(1) The responsible party may request a hearing within fifteen (15) calendar days of the date of receipt by the responsible party of any notice of false alarm, fee assessment or notice of revocation, to contest the validity of any notice of false alarm, fee assessment or notice of revocation. The request for a hearing shall be in writing and accompanied by an appeal fee of \$25.00, which shall be refunded if the responsible party prevails. Said request related to a false security alarm shall be directed to the Legal Division of the St.

Petersburg Police Department. Said request related to a false fire alarm shall be directed to the City Attorney's Office for the City of St. Petersburg.

(2) The Police or Fire Chief or designee shall hold a hearing within twenty (20) calendar days from the date the responsible party files the request for a hearing with the enforcement official. The responsible party or designee shall be given notice of the hearing and shall have the opportunity to present evidence on their behalf, to cross-examine any witnesses, and to be represented by counsel. Within ten (10) calendar days of the hearing, the Police or Fire Chief or designee shall issue a written determination affirming or denying the action taken by the enforcement official and advising the responsible party of the action(s) needed to avoid revocation. The written determination shall be final and conclusive, subject to judicial review by common law certiorari in the circuit court for Pinellas County.

(3) If the responsible party is unsuccessful in their appeal and fails to seek further review in the circuit court, the responsible party shall have thirty (30) calendar days from the date the Chief of Police or Fire Chief or designee issued the written determination, to satisfy the requirements set forth in the written determination; otherwise the responsible party's permit for the premises shall become automatically revoked.

(4) If the Police or Fire Chief or designee determines that the alarm was activated by severe weather conditions which includes but is not limited to hurricanes, tornadoes, or a direct lightning strike to the premises, the service fee or assessment shall be canceled. However, within fifteen (15) calendar days from the date the Police or Fire Chief or designee issues the written determination, the responsible party must present the enforcement official written evidence from a licensed alarm technician certifying the alarm system is operating properly; otherwise the alarm permit for the premises shall become automatically revoked.

(5) The enforcement official shall notify the responsible party of any automatic revocation pursuant to subsections (h)(3) or (4) by certified mail, return receipt requested.

(i) *Reinstatement after revocation.* Upon revocation for any cause provided for in this section, the responsible party may apply for reinstatement of the alarm permit. The enforcement official shall reinstate the alarm permit only when the following requirements have been satisfied:

(1) That in cases based on continued malfunctions, that the responsible party provides an affidavit of service and repair from a licensed alarm technician that any conditions which led to the revocation have been corrected, or;

(2) That corrective action has been taken to remedy any circumstances which gave rise to the revocation other than those defined in (i)(1).

(3) That all fees previously assessed under this chapter have been paid.

(4) A reinstatement fee of \$15.00 is paid.

(j) *Automatic telephone dialing alarm device.* It shall be unlawful for any person to possess, operate or maintain an alarm system that includes an automatic dialing system that automatically dials the statewide emergency telephone number (911), or any other telephone number assigned to the Police Department, except when required by federal or state law or local ordinance. Any person who shall violate the provisions of this section shall be subject to the fines provided for in Section 1-7 of this Code.

(k) *Newly installed alarm systems.* Except for the application requirements of section (d), the provisions of this section shall not apply to any newly installed alarm system for a period of 30 days from the date of the application.

(l) *Alarm awareness class.* The enforcement official may create and implement an alarm awareness class. The enforcement official may request the assistance of associations, alarm companies and law enforcement agencies in developing and implementing the class. The class shall inform a responsible party of the problems created by false security or fire alarms and teach a responsible party how to avoid generating false fire or security alarms. Participation in the alarm awareness class may result in a reduction of fees/service charges or reduce the number of false fire or security alarms or fire and security alarm malfunctions counted against a responsible party in one (1) calendar year.

(m) *Testing alarm systems.* Notwithstanding any other provision of this chapter, it shall not be a violation of this section of the code to test an alarm system under the following conditions:

(1) Where there is no visual, audio, electronic or other indication of the alarm which can be seen, heard or received beyond the boundaries of the property upon which the test is occurring; or

(2) Where there is a visual, audio, electronic or other indication of the alarm which can be seen, heard or received beyond the boundaries of the property upon which the test is occurring, and one of the following two precautions are observed:

a. Adequate measures are taken to ensure that anyone seeing, hearing or receiving the indication of an alarm will not report it either directly or indirectly to the City as an alarm requiring assistance of the Police or Fire Department of the City; or

b. The Police or Fire Department of the City is notified, in writing to the enforcement official, in advance of the test and is instructed not to respond by the responsible party for the property upon which the test is to occur.

SECTION 2: That the unconstitutionality or invalidity of any word, sentence, or portion of this ordinance shall not affect the validity of the remaining portions.

SECTION 3: That words in ~~struck through~~ type are deletions from the existing St. Petersburg City Code and words that are underlined are additions.

SECTION 4: In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY (Designee)

ADMINISTRATION

By: _____
Assistant City Attorney
