

**MEMORANDUM
CITY OF ST. PETERSBURG**

TO: The Honorable Chair and Members of City Council

FROM: Lynn Gordon, Legal Intern/Attorney

DATE: February 18, 2009

RE: Convenience Business/Convenience Store Safety Ordinances

Attached, please find drafts of two proposed ordinances which would impose and regulate security measures at convenience businesses and convenience stores. Both ordinances are drafted based on the security requirements set forth in the Convenience Business Security Act of the Florida Statutes.

Section 20-52 is being proposed to allow the City to enforce the security standards for convenience businesses set forth in Florida Statutes (the Attorney General is the only entity that can enforce these statutes). The statute and the ordinance define convenience businesses which definition excludes certain convenience type stores. Section 812.173, F.S. enumerates security standards which all convenience businesses must comply with and preempts the City from adopting any security standards which differ from those set forth in the Florida Statutes.

The definition of a convenience business does not include certain types of convenience stores. Section 20-53 has been drafted to impose and regulate security standards for these other types of convenience stores and to differentiate them from convenience businesses. The ordinance defines these businesses as 'convenience stores'. Section 20-53 contains several of the statutory security requirements that are applicable to convenience businesses. Section 20-53 also contains the requirement that convenience businesses have a CPTED review conducted by the Police Department in the event there has been a robbery at the store in an effort to make owners more aware of security measures that can be implemented for the safety of the store owners and employees, patrons, and the surrounding community. In addition to participating in a CPTED review, convenience store owners may be required to enact more stringent security measures in the interest of safety for employees, patrons, and the community.

Recommendation: Conduct first reading and schedule a public hearing.



Lynn Gordon, Legal Intern/Attorney

AN ORDINANCE CREATING A NEW SECTION 20-52 OF THE ST. PETERSBURG CITY CODE TO AUTHORIZE THE CITY TO ENFORCE THE STATUTORY REQUIREMENTS AND PROCEDURES FOR CONVENIENCE BUSINESS SAFETY; CREATING A NEW SECTION 16.50.120.4 TO REQUIRE ALL USES REGULATED BY THIS SECTION TO COMPLY WITH PROVISIONS OF CHAPTER 20 REGARDING CONVENIENCE BUSINESSES AND CONVENIENCE STORES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, convenience businesses and convenience stores are most often targeted for criminal activity at night and during early morning hours; and

WHEREAS, a recent increase in the number of convenience business and convenience store robberies has increased the concerns about public safety; and

WHEREAS, due to the increase in the criminal activity that targets convenience businesses and convenience stores, the City of St. Petersburg believes that it is necessary to enact an ordinance to enact certain minimum requirements to protect store employees, customers, and law enforcement officers.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1. The St. Petersburg City Code is hereby amended by adding a new Section 20-52 to read as follows:

SEC. 20-52. Convenience Business Safety

(a) **Definition.** As used in this section, the term "convenience business" means any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term "convenience business" does not include:

- (1) A business that is solely or primarily a restaurant.
- (2) A business that always has at least five employees on the premises after 11 p.m. and before 5 a.m.
- (3) A business that has at least 10,000 square feet of retail floor space.

The term "convenience business" does not include any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.

(b) Security Standards. Every convenience business shall be equipped with the following security devices and standards:

(1) A security camera system capable of recording and retrieving an image to assist in offender identification and apprehension.

(2) A drop safe or cash management device for restricted access to cash receipts.

(3) A lighted parking lot illuminated at an intensity of at least 2 foot-candles per square foot at 18 inches above the surface.

(4) A conspicuous notice at the entrance which states that the cash register contains \$50 or less.

(5) Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area.

(6) Height markers at the entrance of the convenience business which display height measures.

(7) A cash management policy to limit the cash on hand at all times after 11 p.m.

(c) A convenience business shall not have window tinting that reduces exterior or interior view in a normal line of sight.

(d) Every convenience business shall be equipped with a silent alarm to law enforcement or a private security agency, unless an application for exemption is made to and granted by the Attorney General, pursuant to Florida Statutes Section 812.173.

(e) If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false imprisonment, as those crimes are identified and defined by Florida Statutes, occurs or has occurred at a convenience business since July 1, 1989, and arises out of the operation of the convenience business, that convenience business shall implement at least one of the following security measures:

(1) Provide at least two employees on the premises at all times after 11 p.m. and before 5 a.m.;

(2) Install for use by employees at all times after 11 p.m. and before 5 a.m. a secured safety enclosure of transparent polycarbonate or other material that meets at least one of the following minimum standards:

a. American Society for Testing and Materials Standard D3935 (classification PC110 B 3 0800700) and that has a thickness of at least 0.375 inches and has an impact strength of at least 200 foot pounds; or

b. Underwriters Laboratory Standard UL 752 for medium power small arms (level one), Bullet Resisting Equipment;

(3) Provide a security guard on the premises at all times after 11 p.m. and before 5 a.m.;

(4) Lock the business premises throughout the hours of 11 p.m. to 5 a.m., and only transact business through an indirect pass-through trough, trapdoor, or window; or

(5) Close the business at all times after 11 p.m. and before 5 a.m.

(f) For purposes of this section, any convenience business that by law implemented any of the security measures set forth in paragraphs (e)(1)-(5) and has maintained said measures as required by the Department of Legal Affairs without any occurrence or incidence of the crimes identified by subsection (e) for a period of no less than 24 months immediately preceding the filing of a notice of exemption, may file with the department a notice of exemption from these enhanced security measures. In no event shall this exemption be interpreted to preclude full compliance with the security measures set forth in subsection (e) should any occurrence or incidence of the crimes identified by subsection (e) cause subsection (e) to be statutorily applicable. As of the date this act becomes law, the Department of Legal Affairs will provide notice to any convenience business to which a subsection (e) incident has previously occurred. In no event shall the state or the Department of Legal Affairs incur any liability for the regulation and enforcement of this act.

(g) All materials and methods of construction required pursuant to this section shall conform to the requirements of the Florida Building Code, as amended, which has been adopted by the City of St. Petersburg, and shall comply with all permitting requirements as set forth in the St. Petersburg City Code.

SECTION 2. The St. Petersburg City Code is hereby amended by adding a new Section 16.50.120.4 to read as follows:

16.50.120.4 All uses regulated by this section shall comply with the applicable provisions of Chapter 20 regulating convenience businesses and convenience stores, as amended (currently Section 20-52 and Section 20-53).

SECTION 3. The provisions of this Ordinance shall be deemed severable. The unconstitutionality or invalidity of any word, sentence or portion of this ordinance shall not affect the validity of the remaining portions.

SECTION 4. In the event these ordinances are not vetoed by the Mayor in accordance with the City Charter, they shall become effective after 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 ordinances, in which case the ordinances shall take effect immediately upon filing such written notice with the City Clerk. In the event these ordinances are vetoed by the Mayor in accordance with the City Charter, they shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case they shall become effective immediately upon a successful vote to override the veto.

Approved as to Form and Content:

By: _____
City Attorney (designee)

Administration

00103497.DOC

AN ORDINANCE CREATING A NEW SECTION 20-53 OF THE ST. PETERSBURG CITY CODE TO ESTABLISH SECURITY REQUIREMENTS AND PROCEDURES FOR CONVENIENCE STORE SAFETY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, convenience businesses and convenience stores are most often targeted for criminal activity at night and during early morning hours; and

WHEREAS, a recent increase in the number of convenience business and convenience store robberies has increased the concerns about public safety; and

WHEREAS, due to the increase in the criminal activity that targets convenience businesses and convenience stores, the City of St. Petersburg believes that it is necessary to enact an ordinance to enact certain minimum requirements to protect store employees, customers, and law enforcement officers.

THE CITY OF ST.PETERSBURG DOES ORDAIN:

SECTION 1. The St. Petersburg City Code is hereby amended by adding a new Section 20-53 to read as follows:

SEC. 20.53. Convenience Store Safety

(a) Definition. As used in this section, the term “convenience store” shall include any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, which is not included in the definition of convenience business, and is not exempt pursuant to Section 20-52(a)(1), (2), and (3).

(b) Security Standards. Every convenience store shall be equipped with the following security devices and standards:

(1) A security camera system capable of recording and retrieving an image to assist in offender identification and apprehension. At least one camera shall be pointed at the front counter where transactions occur and at least one shall be pointed at the convenience store entrance.

(2) Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area.

(3) Height markers at the entrance of the convenience store which display height measures.

(4) A door buzzer or similar security device installed at the convenience store entrance which will require an employee to grant a person access to enter the convenience store the hours of 11 p.m. to 5 a.m.

(5) A conspicuous notice posted at the convenience store entrance that states that the cash register contains \$50 or less and that the clerk does not have access to the drop safe or cash management device.

(6) A drop safe or cash management device for restricted access to cash receipts.

(c) A convenience store shall not have window tinting that reduces exterior or interior view in a normal line of sight.

(d) If a robbery, as defined by Florida Statutes, or other violent crime occurs or has occurred at a convenience store after March 12, 2009 and arises out of the operation of the convenience store, that convenience store shall contact the Police Department within ten days to have a CPTED review conducted and will be required to implement at least one of the following security measures:

(1) Provide at least two employees on the premises at all times after 9 p.m. and before 5 a.m.;

(2) Install for use by employees at all times after 9 p.m. and before 5 a.m. a secured safety enclosure of transparent polycarbonate or other material that meets at least one of the following minimum standards:

a. American Society for Testing and Materials Standard D3935 (classification PC110 B 3 0800700) and that has a thickness of at least 0.375 inches and has an impact strength of at least 200 foot pounds; or

b. Underwriters Laboratory Standard UL 752 for medium power small arms (level one), Bullet Resisting Equipment;

(3) Provide a security guard on the premises at all times after 9 p.m. and before 5 a.m.;

(4) Lock the business premises throughout the hours of 11 p.m. to 5 a.m., and only transact business through an indirect pass-through trough, trapdoor, or window; or

(5) Close the business at all times after 11 p.m. and before 5 a.m.

(e) All materials and methods of construction required pursuant to this section shall conform to the requirements of the Florida Building Code, as amended, which has been adopted by the City of St. Petersburg, and shall comply with all permitting requirements as set forth in the St. Petersburg City Code.

SECTION 2. The provisions of this Ordinance shall be deemed severable. The unconstitutionality or invalidity of any word, sentence or portion of this ordinance shall not affect the validity of the remaining portions.

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