

ORDINANCE O-15-31

AN ORDINANCE AMENDING THE PROVISIONS OF ARTICLE II, CHAPTER 5.5, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER HAVEN, FLORIDA KNOWN AS THE SECURITY ALARM SYSTEM CONTROL ORDINANCE; PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND A REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Winter Haven Police Department has reviewed the provisions regarding security alarm system monitoring in the City's Code of Ordinances codified in Article II, Chapter 5.5 of the Code of Ordinances for the City of Winter Haven; and

WHEREAS, on July 1, 2015, Chapter 2015-50, Committee Substitute for Senate Bill No. 466 became effective; and

WHEREAS, Chapter 2015-50, Committee Substitute for Senate Bill No. 466, is an act relating to low-voltage alarm systems and amends Section 553.793 of the Florida Statutes (the "Act"); and

WHEREAS, the Act amended the definition of "low-voltage alarm system project," added the definition of "wireless alarm system," and amended permit and fee requirements for new and existing alarm systems; and

WHEREAS, the Act expressly prohibits an entity of local government from adopting and/or maintaining an inconsistent ordinance and/or rule; and

WHEREAS, the Winter Haven Police Department has evaluated the City's existing ordinance and provisions relating to alarm system controls as codified in Article II, Chapter 5.5 of the Code of Ordinances of the City of Winter Haven and determined that certain amendments to the provisions of Article II, Chapter 5.5 of the City's Code of Ordinances should be made so as to be consistent with the Act and to reflect current practices of the Winter Haven Police Department and to provide a more effective means of monitoring security alarm systems and/or the collection of fees for violation(s); and

WHEREAS, the Winter Haven Police Department recommends that the City Commission of the City of Winter Haven, Florida, amend the provisions of Article II,

Chapter 5.5, of the City's Code of Ordinances regarding security alarm system controls as more particularly set forth below in this Ordinance; and

WHEREAS, the City Commission of the City of Winter Haven, Florida, finds that it is expedient and appropriate to amend the provisions of Article II, Chapter 5.5, of the City's Code of Ordinances regarding security alarm system controls as more particularly set forth below in this Ordinance;

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

1. Article II, Chapter 5.5, of the Code of Ordinances of the City of Winter Haven, Florida, regarding security alarm system controls is hereby amended as follows (language ~~struck through~~ is deleted and language underlined is added):

SECTION 1: SHORT TITLE

This ordinance shall be known and may be cited as the "Security Alarm System Control Ordinance."

SECTION 2: DEFINITIONS

Except where the context clearly indicates a different meaning, the following words, terms and phrases shall have the meanings ascribed to them for the purpose of interpreting and administering this ordinance:

Alarm Company means a person or company that engages in selling, leasing, installing, servicing or monitoring security alarm systems and is subject to state, county and/or municipal licensing requirements including but not limited to a contractor as defined in Section 553.793 (1) (a) of the Florida Statutes.

Alarm Coordinator means a person or persons designated by the Winter Haven Police Chief to administer the provisions of this ordinance and other efforts to reduce security alarm system false alarms.

~~Alarm Permit means a written document issued by the Winter Haven Police Department to certify a security alarm system is registered and authorized for operation within the City's geographical boundaries.~~

Alarm Signal means a detectable audible or visual signal generated by a security alarm system to summon law enforcement assistance.

Alarm System means any single device or equipment assembly designed to signal the occurrence of an illegal or unauthorized entry into a building or onto real property or other activity requiring immediate law enforcement attention. Alarm System may include both low voltage and wireless alarms as more particularly defined in Section 553.793(1)(b) and (c) of the Florida Statutes. Motor vehicle or boat alarms; fire alarms; domestic violence alarms; 911 or E911 emergency phone calls or alarms designed to elicit a medical response are excluded from the provisions of this ordinance.

Alarm User means any person; corporation; partnership; proprietorship; governmental, educational or other entity that owns, leases or operates a security alarm system or the property upon which a security alarm system is maintained and used for the protection of the premises.

~~Alarm User Awareness Class means a class conducted for the purpose of educating alarm users about the responsible use, operation and maintenance of alarm systems and the problems created by false alarms and runaway alarms.~~

Automatic Dial Protection Device means an automatic telephone dialing alarm system, or any similar such system, which when activated automatically sends a recorded message or code signal to the Winter Haven Police Department to indicate law enforcement response is needed.

Calendar Month means a time period as depicted by a common calendar (e.g. January, February, etc.).

Cancellation means the post dispatch request to terminate a police response to a signaled alarm. Cancellation occurs when an alarm company or alarm user notifies the Winter Haven Police Department that there is not an existing situation requiring police response at the signaled alarm site.

City means the City of Winter Haven or its designated agent.

False Alarm means a mechanical or electronic failure, malfunction, improper installation or user negligence caused alarm signal that has occurred when no emergency condition that would require the immediate attention of law enforcement is found to exist. A signaled alarm is considered false when upon inspection of the premises by the Winter Haven Police Department, there is no evidence discovered to indicate that an unauthorized entry, robbery or other such crime was attempted or committed to have caused a properly functioning alarm system to activate. Notwithstanding the foregoing, a false alarm shall not include any alarm signal activation that can be reasonably deemed to have been caused by unusually violent

conditions of nature or other extraordinary circumstances beyond the control of the alarm user. Additionally, an alarm signal activated during a system testing procedure shall not be considered false, provided the alarm user first notifies and receives the permission of the alarm company or the company's designee to test the system, and the Winter Haven Police Department is informed of the authorized testing in advance of such occurring.

Local Alarm means an alarm company or user installed alarm system that emits an exterior on-site audible or visible signal and is not monitored by a remote alarm monitoring facility.

~~365-Day Period means any consecutive 365-day period.~~

Runaway Alarm means an alarm system that produces repeated alarm signals for no apparent reason or cause of action by a human.

SIA Control Panel Standard CP-01 means the current and from time to time updated American National Standard Institute (ANSI) standard for security alarm system control panel design and related features, inclusive of arming and disarming devices to reduce false alarms. Security alarm system control panels built to this standard and tested by a nationally recognized testing organization are marked: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

Verify means the attempt made by the alarm monitoring company or its representative to contact the alarm site or user by telephone or other electronic means, but not necessarily in person, to confirm the validity of the alarm before

law enforcement dispatch is requested. For the purpose of verification by telephone, if a first attempt at reaching the alarm user fails, the making of a second call to a different telephone number for the alarm user is minimally expected to properly authenticate the alarm signal before law enforcement dispatch is requested unnecessarily.

~~SECTION 3: SECURITY ALARM SYSTEM REGISTRATION WITH FEE IMPOSED~~

~~(a) Alarm System Registration with Fee Imposed (Alarm Permit Required).~~

~~Prior to installing, activating or operating a security alarm system within the city limits, or causing such to occur, any intended alarm user or entity acting on a user's behalf must first register the system with the Winter Haven Police Department by obtaining a non-transferable Alarm Permit. Alarm users will be required to obtain a separate Alarm Permit for each alarm system to be used; each unit or structure with a different address or tenants to be protected must be registered and permitted. A fee of \$25 for each single security alarm system registration shall be imposed and collected by the Winter Haven Police Department at the time the Alarm Permit application is filed. Before activating or monitoring an installed alarm, alarm companies shall ensure an approved Alarm Permit has been obtained from the Winter Haven Police Department.~~

~~(b) Alarm Permit Application and Issuance. A prospective security alarm system user must apply for an Alarm Permit by using a form provided by the Winter Haven Police Department. An application for an Alarm Permit shall be filed with the Records Division of the Winter Haven Police Department. At the time of~~

~~filing an Alarm Permit application, the applicant must swear under oath to the authenticity of the information stated therein and remit payment of the required registration fee.~~

~~Upon receipt of an Alarm Permit application, the Police Chief's designated Alarm Coordinator shall review the application to determine if it is sufficiently and properly completed. Provided an application is not in some manner defective and the registration fee is paid in full, an Alarm Permit will be issued by the Alarm Coordinator, with the approval of the Police Chief or his designee, within five (5) business days of its receipt by the Winter Haven Police Department.~~

~~(c) Alarm Permit Term of Effectiveness. An authorized Alarm Permit will remain in effect until such time as the system is no longer in operation or there is a change in the address, ownership or possession of the premises where an alarm system is maintained. Security alarm system registrations and permits shall not be considered transferable.~~

~~(d) Change of Address, Ownership or Possession. In the event of a change in address, ownership or possession of the premises where an already registered and permitted alarm system is maintained, the person or entity retaining or acquiring possession and ownership of the premises shall, within thirty (30) days of said transaction occurring, file a new Alarm Permit application and pay the required registration fee to the Winter Haven Police Department.~~

~~(e) Reporting Updated Alarm Permit Information. When any information appearing on an existing Alarm Permit changes, including, but not limited to personal, contact, alarm system use or other such similar information, the alarm user shall, within thirty (30) days of said change(s) occurring, provide the Winter~~

~~Haven Police Department with the correct, updated information. An additional registration fee shall not apply or be assessed in this instance.~~

SECTION 4 ~~3~~: DUTIES OF THE ALARM USER

At all times, an alarm user ~~person or entity~~ maintaining and using an alarm system within the city limits of the City of Winter Haven shall:

(a) Maintain the premises and the alarm system in a manner that will reduce or eliminate false alarms;

(b) Provide the alarm company ~~the permit number issued by the Winter Haven Police Department,~~ with the current physical address of alarm location and contact information, as this will help to ensure proper dispatching of law enforcement personnel in the event of an emergency;

(c) ~~Make solemn endeavor~~ its best efforts to respond or cause a representative to respond to the alarm system's location within thirty (30) minutes of being notified by the Winter Haven Police Department that deactivation of an alarm system, right of entry to the premises or alternative security of the premises is necessary;

(d) Only manually activate an alarm system for its intended reason, to signal an event warranting law enforcement response, or to perform prior announced and approved routine maintenance as prescribed by the alarm company or system provider;

~~(e) Obtain a new Alarm Permit if there is a change in address, ownership or possession of a business or residence where an already authorized security alarm system is maintained; and~~

~~(f) Update any existing Alarm Permit information when a change occurs.~~

SECTION 5 4: DUTIES OF THE ALARM COMPANY

At all times, an alarm company monitoring any alarm system located within the city limits of the City of Winter Haven shall:

(a) Be a contractor as that term is defined in Section 553.793 (1)(a) of the Florida Statutes and ~~licensed~~ under and comply with all rules and regulations promulgated under the authority of Chapter 489, of the Florida Statutes;

(b) Obtain and maintain any required state, county and/or city license and business tax receipts;

(c) Provide the name, address and telephone number of the alarm company license holder or designee who can be called in an emergency at any time, 24-hours a day, and will respond to an alarm call within two (2) hours of being notified of the need to do so;

(d) Provide the Winter Haven Police Department with the most current contact information including physical address of any alarm user subscribing to the alarm company's services;

(e) Ninety (90) days after this Ordinance is enacted, only install, re-install and use alarm control panels that meet SIA Control Panel Standard CP-01;

(f) Prior to activating any alarm system, provide the alarm user with system use instructions and explain in detail how the system is to be safely and properly operated;

(g) Give the alarm user written materials outlining how alarm system service is to be obtained from the alarm company;

(h) With the exception of a video or audio recorded crime in progress, a panic alarm signal or a robbery-in-progress alarm signal, verify an alarm signal before contacting law enforcement and requesting dispatch;

(i) Upon request, provide law enforcement with ~~Alarm Permit numbers and~~ available alarm signal location information; and

0) As soon as possible, contact the Winter Haven Police Department to cancel law enforcement when it is determined that response to an alarm is unnecessary.

SECTION ~~6~~ 5: PROHIBITED ACTS

It shall be unlawful for any ~~person or company~~ Alarm Company and/or Alarm User within the limits of the City of Winter Haven to:

(a) Activate an alarm system for testing, repair or maintenance that has not been announced and approved in advance and/or has not met all of the notice requirements set forth in Section 553.793 (6) of the Florida Statutes;

(b) Activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery or other crime dangerous to life or property is being attempted or committed on the premises, or to cause a false alarm as otherwise defined herein;

(c) Install, maintain or use an audible alarm system that can sound continually for more than ten (10) minutes;

(d) Install, maintain or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Winter Haven Police Department;

(e) Fail to pay an assessed ~~registration fee~~ or monetary penalty

pursuant to this ordinance; or

- (f) Violate any of the provisions of this ordinance.

SECTION 7 6: ENFORCEMENT AND PENALTIES

(a) Enforcement Notwithstanding anything herein to the contrary, violations of any provision of this ordinance shall be subject to enforcement action by the Winter Haven Police Department as provided for by general law, and may include a code violation citation provided for by Chapter 162, Florida Statutes, or prosecution pursuant to Section 1-13 of the City's Code of Ordinances. Each separate act in ~~defiance~~ violation of this ordinance shall constitute a unique separate punishable violation and penalty announced herein.

(b) Monetary and Administrative Penalties Imposed. ~~Failure to obtain a required Alarm Permit; an excessive number of false alarms within a 365-day period, four or more, and~~ False and runaway alarms constrict law enforcement resources, constitute a public nuisance, shall be considered unlawful and will subject the alarm user to penalties defined as follows:

Failure to Register-Obtain an Alarm Permit	\$100 each occurrence
Excessive False Alarms	
Fourth and Fifth Occurrence	\$50 each
Sixth and Seventh Occurrence	\$100 each
Eighth and Ninth Occurrence	\$250 each
Tenth Occurrence and Beyond	\$500 each
Runaway Alarms	Police Chiefs Discretionary Discontinuation of Law Enforcement Response Service

(1) No charge for a response to the first false alarm in a calendar month hereafter referred to as "first response".

(2) A twenty-five dollar (\$25.00) charge for a response to all other false alarms each calendar month.

~~For the purposes of determining the number of false alarms an alarm user has incurred within a 365 day period, the 364 days preceding the date of the most recent false alarm will be analyzed.~~ Further, if a law enforcement response is cancelled prior to arrival at a sounded alarm site such an event shall not be counted as a "false alarm."

(c) Penalty Assessment. Monetary and administrative penalties shall be assessed by administrative Final Order of the Alarm Coordinator. Final Orders shall be mailed by United States Mail, certified return receipt requested, to the alarm user of record. In the event there is no alarm user contact information on file in the Winter Haven Police Department, the Final Order shall be mailed by United States Mail, return receipt requested, to the address where the false alarm event occurred. Should any Final Order be returned and marked as undeliverable, a copy of the Final Order shall be posted at the false alarm or runaway alarm event site and City Hall, with the posting date serving as the receipt date for appellate period calculation purposes.

All monetary penalty Final Orders shall be due and payable to the City of Winter Haven Police Department within thirty (30) days of receipt. After the payment due date expires and to the extent provided by law, any non-paid monetary penalty shall operate as a lien and privilege on the false alarm subject property; shall be superior in right and dignity to all other liens or privileges, including mortgages equal to the lien of ~~true~~taxes until paid, and shall accrue interest at the judgment rate in effect as of the date of issuance.

~~SECTION 8: ALARM USER AWARENESS CLASS.~~

~~The Winter Haven Police Department will develop and may periodically offer~~

~~an Alarm User Awareness Class to promote understanding of security alarm system operations, the problems created by false and runaway alarms and to provide alarm users instruction on how to reduce false alarms. Area alarm companies may be invited to assist with class development and implementation. The one time option of an alarm user attending this class in lieu of paying a single assessed monetary penalty may be granted by the Alarm Coordinator, subject to the approval of the Police Chief or his designee.~~

SECTION ~~9~~ 7: APPEAL

Within ten (10) days of the date a monetary or administrative penalty assessment Final Order is received, an alarm user may file a written notice with the Records Division of the Winter Haven Police Department to appeal said Final Order. The alarm user's written appeal must clearly state the basis of appeal and contain all other relevant information. Failure of the alarm user to provide timely notice of the appeal shall constitute a waiver of the right to contest the penalty assessment. Appeals shall be heard through an administrative process established by the Police Chief or his designee.

Upon receipt of a properly filed written notice of appeal, the Police Chief or his designee shall review the penalty assessment in its entirety to determine if it should be sustained or amended. The Police Chief or his designee may modify or void the penalty assessment Final Order based upon the totality of the circumstances and preponderance of the evidence presented. Written notice of the appeal determination shall be issued to the appellant within thirty (30) days of the notice of appeal being received by the Winter Haven Police Department. Any decision by the Police Chief or his designee may only be further appealed

by the alarm user filing a petition for writ of certiorari to the Tenth Judicial Circuit of Florida, in accordance with the applicable rules of appellate procedure.

SECTION 10 8: GOVERNMENT IMMUNITY

~~Alarm registration is~~The provisions of this Ordinance are not intended to nor will it create a contract, duty or obligation, either expressed or implied, for response by the Winter Haven Police Department. The alarm user, ~~at the time of registration~~, acknowledges that the Winter Haven Police Department's response may be influenced by factors such as police unit and personnel availability; call priority; weather conditions; traffic conditions; emergency conditions and prior response history. Any and all liability or consequential damage resulting from a delay or inability to respond to a security alarm system notice is hereby disclaimed and governmental immunity as provided by law is retained.

SECTION 14 9: REVIEW OF FEES AND MONETARY PENALTIES

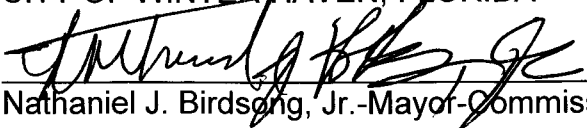
On October 1 of each year after this ordinance is initially adopted, all ~~fees and monetary penalties~~ imposed herein shall be automatically "indexed" to inflation by applying to each established ~~fee and monetary penalty~~ an incremental percentage increase in an amount equivalent to the Consumer Price Index (CPI-U) percentage increase promulgated for that year, but in any event shall not be less than the equivalent of a 2.5% annual adjustment. At no time shall any of the ~~fees or monetary penalties~~ established herein be adjusted downward. A schedule of Security Alarm System Control Ordinance ~~fees and monetary penalties~~ shall be published and maintained on file in the City Clerk's office.

2. This Ordinance shall be codified and made a part of the Code of Ordinances of the City of Winter Haven. It is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the City of Winter Haven Code of Ordinances; and that sections of this ordinance may be renumbered or relettered and the word *ordinance* may be changed to *section*, *article*, or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his/her designee without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.
3. All Ordinances or parts of Ordinances and Resolutions in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. Provided further all provisions of this Ordinance are subject to all low-voltage alarm system requirements set forth in the Florida Statutes including but not limited to those codified in Section 553.793 of the Florida Statutes and this Ordinance is not intended to nor shall it be deemed to be inconsistent with such applicable general law requirements.
4. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.
5. This ordinance shall take effect immediately after second reading.

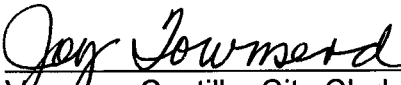
INTRODUCED on first reading this 14th day of DECEMBER, 2015.

PASSED on second reading this 28th day of DECEMBER, 2015.

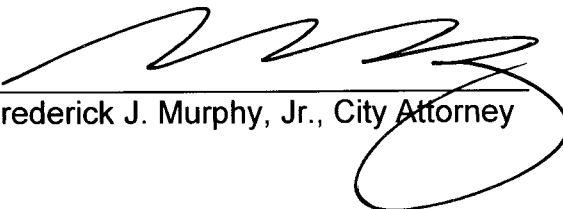
CITY OF WINTER HAVEN, FLORIDA


Nathaniel J. Birdsong, Jr. - Mayor-Commissioner

ATTEST:


~~Vanessa Castillo, City Clerk~~
Joy Townsend, DEP. CITY CLERK

Approved as to form:


Frederick J. Murphy, Jr., City Attorney

