

ORDINANCE 1237

AN ORDINANCE ESTABLISHING ALARM CONTROL REGULATIONS; PROVIDING FOR CODIFICATION IN THE POLK CITY CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLK CITY FLORIDA, THAT:

Section 1. Short title.

This division shall be known and may be cited as the "Polk City Alarm Control Ordinance."

Section 2. Definitions.

Unless it is clear from the context that another meaning is intended, the following words, when used in this division, shall have the meaning attributed to them by this section:

365-day period means any consecutive 365-day period. For the purposes of determining the number of false alarms an alarm user has had within a 365-day period, the period of time to be analyzed shall be the date on which the most recent false alarm has occurred and the 364-days preceding the date of such false alarm.

Alarm system means any mechanical, electrical or radio controlled device which is designed to be used for the detection of smoke, heat or fire or an unauthorized entry into a building, structure or facility, or for alerting others to the commission of an unlawful act within a building, structure or facility, and which emits a sound or transmits a signal or message when activated. Excluded from this definition are devices that do not register alarms that are audible or visible and that do not otherwise communicate outside of the protected building, structure or facility; auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service; and alarm systems installed in conveyances for the exclusive protection of such conveyances. Alarms that indicate malfunctions in public utilities are also excluded from this definition.

Alarm user means the person, firm, business, partnership, association, corporation or other entity who either:

- (1) Owns the premises in which an alarm system is installed; or
- (2) Who leases or occupies the premises;
- (3) Who is designated as the registered agent of the premises; or
- (4) Is the rental/property management company for the premises.

Automatic alarm communication system means any automatic communication device or automatic telephone dialing alarm system which, upon being activated, automatically transmits to any telephone in any facility of the fire services division or the sheriff's office a recorded message or coded signal indicating the need for an emergency response.

False alarm means an activated alarm that elicits a response by the fire services division when no fire, reasonable threat of a fire, or other emergency requiring the services of the fire services division exists, or that elicits a response by the sheriff's office when no criminal activity, reasonable threat of criminal activity, unauthorized entry or other emergency requiring the services of the sheriff's office exists. This definition includes signals activated by accident, negligence, mechanical failure, electrical failure, signals activated intentionally in non emergency situations and signals for which the actual cause of activation is unknown. A rebuttal presumption shall exist that an alarm is false if, in the case of a fire alarm, personnel from the fire service division find no evidence of a fire, reasonable threat of a fire, or other emergency requiring the services of the fire service division after following normal operating procedures or, in the case of a security alarm, personnel from the sheriff's office find no evidence of an unauthorized entry, criminal activity, a reasonable threat of criminal activity, or another emergency requiring the services of the sheriff's office after following normal operating procedures. This presumption may be overcome if the alarm user proves that:

- (1) In the case of a fire alarm, an individual activated the alarm based upon a reasonable belief that a fire, reasonable threat of a fire, or another emergency requiring the services of the fire services division actually existed; or
- (2) In the case of a security alarm, an individual activated the alarm based upon a reasonable belief that an unauthorized entry, criminal activity, a reasonable threat of criminal activity, or another emergency requiring the services of the sheriff's office actually existed; or
- (3) The alarm system was activated by lightning or an electrical surge that caused physical damage to the alarm system, as evidenced by the testimony of a state-certified or

- registered alarm system contractor who conducted an on-site inspection of the system;
or
(4) The alarm system was activated by some other cause beyond the alarm user's reasonable control.

Fire services division means the Polk County fire services division.

Key holder means any person authorized by the alarm user to enter or provide access to the alarm user's premises for the purposes of enabling the fire services division or the sheriff's office to investigate and determine the validity of an alarm.

Panic alarm means any mechanical, electrical or radio-controlled device which is personally activated by the alarm user and which indicates that a clear and present danger is presently confronting the alarm user. The term shall include pull stations used to signal the existence of a fire.

Polk City means Polk City, a political subdivision of the State of Florida.

Polk City Code Enforcement Citation Ordinance means Polk City Ordinance No. 99-1, as amended, and the uniform fine schedule adopted pursuant thereto. Said ordinance may also be referred to herein as the "Polk City citation ordinance" and the "citation ordinance".

Responding officer means an officer or deputy with the sheriff's office responding to a security alarm or a firefighter, fire inspector or other official with the fire services division responding to a fire alarm.

Sheriff's office means the Polk County sheriff's office.

Section 3. Applicability.

This division shall apply in the incorporated limits of Polk City.

Section 4. Alarm system requirements.

- (a) All alarm systems installed subsequent to the effective date of this division shall meet the following requirements:

- (1) If the system is designed to produce an audible alarm, it shall be equipped with an automatic reset function that deactivates any such audible alarm within fifteen (15) minutes of activation and that will prevent reactivation as a result of the continuation of the same event that caused the original activation; provided, this time limitation shall not apply to those systems that are required by law or Underwriters' Laboratory standards to have a longer operating time. In those cases, the alarm system shall be equipped so as to silence at the conclusion of the mandated extended period.
 - (2) The system shall have either a battery backup power supply that will automatically activate in the event of a power failure or outage to prevent activation of an alarm or shall be designed such that the system will not activate in the event of a power failure or outage. If the system utilizes a backup power supply, said supply shall be capable of lasting a minimum of three (3) hours without an alarm being activated.
- (b) Each alarm user shall be responsible for ensuring that his or her alarm monitoring company has current home, work and emergency telephone numbers for the alarm user and each key holder for the alarm user.
 - (c) Upon discovery of a violation of this section, the alarm user shall be notified of the violation and given a reasonable time to correct the violation, not to exceed thirty (30) days. A citation shall be issued if the alarm user does not correct the violation within the given time. The fine pursuant to said citation shall be fifty dollars (\$50.00) if uncontested and in an amount to be determined by the court if contested, not to exceed five hundred dollars (\$500.00). This fine shall be in addition to any other fine imposed under this division. Each day an alarm system is operated in violation of this section shall constitute a separate violation.
 - (d) Notwithstanding anything herein to the contrary, all alarm systems shall be installed, maintained and operated in accordance with all other applicable local, state and federal regulations.

Section 5. Response to alarms; determination of validity.

- (a) Upon responding to any alarm activated in the incorporated limits of Polk City, the responding officer shall make a complete and thorough inspection of the building, residence or premises where the alarm has been activated to determine the validity of the alarm.

- (b) If the responding officer determines the alarm to be false, the officer shall so notify the communications section of the fire services division in the case of a fire alarm or the communications section of the sheriff's office in the case of a security alarm. The appropriate communications section shall complete an alarm report documenting the false alarm. Upon request by the fire services division or by the sheriff's office, the alarm monitoring company shall provide the name, physical/mailling address, and phone number for the alarm premises owner, the alarm premises lessee/occupant, the rental/property management company or the registered agent. This information shall be used to maintain a current database to ensure compliance with the provisions of this division. Failure by the alarm monitoring company to provide such information, upon request, will result in fines and penalties for false alarms imposed pursuant by this division being imposed against the alarm monitoring company.
- (c) Alarm users shall respond to each activated alarm at their premises within forty-five (45) minutes of notification. Response means arrival at the scene of the alarm. Response by a key holder shall constitute response by an alarm user for the purposes of this subsection. In addition to any other penalty provided for herein, failure to respond within forty-five (45) minutes of notification without good cause shall result in a fine of fifty dollars (\$50.00), or such fine as determined by the court if contested, not to exceed five hundred dollars (\$500.00). In addition, the sheriff's office and the fire services division may, in their sole discretion, choose not to respond to an alarm in the event they have been informed by the alarm user or some other reliable source that neither the alarm user nor a key holder for the alarm user will respond to the alarm and no legitimate reason for such failure to respond exists. However, subject to section 10.5-206, both the fire services division and the sheriff's office shall attempt to respond in all cases where a panic alarm has been activated and in all cases where they have received reliable information that an emergency in fact exists.

Section 6. False alarms; required corrective action and penalties.

- (a) Regardless of the number of false alarms an alarm user has had within any period of time, whenever it appears that a false alarm was caused by a system malfunction rather than human error or some other external source, the alarm user shall within fifteen (15) days have his or her alarm system inspected and, if necessary, repaired by a state-certified or state registered alarm contractor. The alarm user shall submit written proof of such inspection and, if applicable, repair to the fire services division in the case of a

fire alarm and to the sheriff's office in the case of a security alarm within thirty (30) days of the false alarm.

- (b) Except as provided in subsection (c), the penalties for false alarms shall be as follows:
- (1) No fine shall be imposed for the first false alarm within any 365-day period.
 - (2) No fine shall be imposed for the second false alarm within any 365-day period unless the alarm user has failed to comply with the requirements of subsection (a), in which case a fine in the amount of fifty dollars (\$50.00) shall be imposed.
 - (3) The fine for a third and subsequent false alarms within a 365-day period shall be as follows, except that the listed fines shall be doubled if the alarm user is not in compliance with subsection (a) at the time the false alarm triggering the fine occurs:

TABLE INSET:

False Alarm	Fine
3 rd	\$50.00
4 th	75.00
5 th	100.00
6 th	150.00
7 th	200.00
8 th	300.00
9 th	400.00
10th and over	500.00

- (c) The penalty for contested citations shall be in an amount to be determined by the court, not to exceed five hundred dollars (\$500.00).
- (d) If an alarm user fails to pay any fine imposed herein within sixty (60) days of issuance of a citation, or within forty-five (45) days of the date of an adverse final judgment by the court in the event of a contested citation, the alarm user forfeits the right to operate his or her alarm system and, unless otherwise required by law, may not operate said system until such fine is paid. Operation of an alarm system in violation of this subsection shall constitute a misdemeanor of the second degree; punishable as provided in Chapter 775, Florida Statutes. In addition, a judgment lien may be recorded against the alarm user in the public records.
- (e) For the purposes of this section, false security alarms and false fire alarms shall be counted separately. For example, an alarm user who has had three (3) false security alarms within a 365-day period will not receive a citation upon the occurrence of his or her first false fire alarm within the 365-day period.

Section 7. Citation procedure.

Both the fire services division and the sheriff's office may issue citations for violations of this division. The procedures to be utilized for issuing and contesting citations shall be the procedures contained in the Polk City Code Enforcement Citation Ordinance. Citations may be issued to the alarm user in person or by certified mail. Notwithstanding Section 6(d), an alarm user shall have thirty (30) days from the issuance of a citation to either pay the fine imposed pursuant to the citation or to request a hearing to contest the citation. Failure to either pay the applicable fine or request a hearing within this time period shall constitute a waiver of the alarm user's right to contest the citation and a judgment may be entered against the alarm user.

Section 8. Automatic alarm communication systems prohibited.

- (a) It shall be unlawful for any person, firm, business, partnership, association, corporation or other entity to install, maintain, or operate an automatic alarm communication system, as defined herein. The owner, operator or lessee of such a system shall disconnect such system within seventy-two (72) hours of receiving notice to do so.
- (b) Failure to comply with this section shall constitute a misdemeanor of the second degree, punishable as provided in Chapter 775, Florida Statutes.

Section 9. Limitation of liability.

Nothing herein shall be construed to create a duty on the part of the sheriff's office or Polk City, including its fire services division, to respond to any alarm or to otherwise guarantee the safety of any member of the public, and the sheriff's office and Polk City expressly retain the discretion to determine whether or not to respond to an alarm and to otherwise determine the most efficient deployment of law enforcement and firefighting resources. Nothing herein shall be construed as a waiver of sovereign immunity on the part of either the sheriff's office or Polk City.

Section 10. Disposition of penalties and fees.

After deducting a processing fee, the clerk of the court shall forward the penalties and fees collected for false alarms to the City of Polk City. The processing fee to be retained by the clerk of the court shall be established by resolution of the board of county commissioners.

Section 11. Severability

If any word, sentence, clause, phrase or provision of this ordinance, for any reason is held to be unconstitutional, void, or invalid, the validity of the remainder of the ordinance shall not be affected thereby.

Section 12. Effective Date

This Ordinance shall take effect immediately upon passage.

PASSED on first reading this 8th day of January 2008

PASSED AND CERTIFIED AS TO PASSAGE on the second reading this the 12th day of February 2008.

City Council of the City of Polk City

Donald L. Penton, Mayor

ATTEST

Sylvia S. Sims, City Clerk

APPROVED AS TO CONTENT AND FORM

Jeff Sullivan, City Attorney