

ORDINANCE ENACTING
TITLE 5, CHAPTER 7 "MALFUNCTIONING ALARM
SYSTEMS AND FALSE ALARMS "
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section Title 5, Chapter 7 "Malfunctioning Alarm Systems and False Alarms" be added as follows:

SECTION 5-7-1: PURPOSE

The City Council hereby finds that malfunctioning alarm systems, and the false alarms associated with them, constitute a hazard to public safety personnel and the public in general. The regulation of alarm systems and false alarms is necessary to promote the health, safety, and welfare of City citizens. False alerts of intrusions or robberies increase the City's public safety costs, divert public safety resources from other critical areas of work and burden the Harrisonburg-Rockingham Emergency Communications Center. In order to preserve the integrity and efficiency of the City's police and fire and rescue emergency services, those who utilize automatic alarm systems must be required to maintain those systems in good working order, to familiarize themselves with the proper operation of those systems, and to promptly repair any defects which may cause those systems to trigger false alarms.

SECTION 5-7-2: DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Alarm Administrator means a person or persons designated by the City to administer, control and review false alarm reduction efforts and administers the provisions of this ordinance.

Alarm Company means a person or entity subject to the licensing requirements for a company engaged in selling, leasing, installing, servicing or monitoring alarm systems; this person or entity shall be licensed in compliance with City and Commonwealth laws.

Alarm permit means a permit issued by the City allowing the operation of an alarm system within the City.

Alarm signal means a detectable signal; audible or visual, generated by an alarm system, to which law enforcement is requested to respond.

Alarm system means any single device or assembly of equipment designed to signal the occurrence or presence of a hazard requiring urgent attention and to which a police or fire and rescue response is expected, but does not include motor vehicle or boat alarms, domestic violence alarms, or alarms designed to elicit a medical response other than fire and rescue services.

Alarm user means any person, corporation, partnership, proprietorship or any other entity owning, leasing or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises. An "alarm user" shall not include the United States, the Commonwealth of Virginia, or their respective agencies or political subdivisions.

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.

Automatic dial protection device means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the ECC a recorded message or code signal indicating a need for law enforcement or fire and rescue response.

Cancellation means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Harrisonburg Police Department, Harrisonburg Fire Department, or ECC after an alarm dispatch request, but prior to police or fire and rescue arriving at the scene, that there is not an existing situation at the alarm site requiring police or fire and rescue response. ~~If cancellation occurs prior to police or fire and rescue arriving at the scene, this is not a false alarm for the purpose of civil penalty, and no penalty will be assessed.~~ During any permit year, the first five (5) cancellations will not constitute a false alarm for the purpose civil penalty, and no penalty will be assessed. Each cancellation in excess of five (5) per permit year by an alarm user shall constitute a false alarm.

City means the City of Harrisonburg, Virginia or its agent.

ECC means the Harrisonburg-Rockingham Emergency Communications Center.

False alarm means an alarm that causes a police or fire and rescue response when there is no actual or threatened criminal activity, fire, or other emergency requiring an immediate police or fire and rescue response. False alarms shall include, but not be limited to: negligently or accidentally activated signals; signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals which are purposefully activated to summon a police or fire and rescue response in nonemergency situations; and alarms for which the actual cause is not determined. False alarms shall not include any alarms caused by failure of the equipment of the ECC, or any alarms determined by the responding police or fire and rescue officer to have been triggered by criminal activity, activity unauthorized by the alarms system user, or activity outside the control of the alarm system user.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote monitoring facility, whether installed by an alarm company or user.

Permit year means a 12-month period beginning on the day and month on which an alarm permit is issued.

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

Verify means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this ordinance, telephone verification shall require, as a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch. Fire alarms shall not be verified before requesting fire and rescue dispatch.

SECTION 5-7-3: ALARM REGISTRATION

- (1) Registration required. No person shall use an alarm system without first registering such alarm system with the City. A fee may shall not be required for the initial registration and annual renewals. Each alarm registration shall be assigned a unique registration number, and the user shall provide the registration number to the alarm company to facilitate police and fire and rescue dispatch.
- (2) Registration Form. Every alarm system shall be registered on a registration form provided by the City. An alarm user has the duty to obtain a registration form from the City.
- (3) Transfer of possession. When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file a new registration form for an alarm permit within 30 days of obtaining possession of the property. Alarm system registrations are not transferable.
- (4) Reporting updated information. Whenever the information provided on the alarm registration changes, the alarm user shall provide correct information to the City within 30 days of the change. In addition, each year after the registration of the alarm system, the alarm system user will receive from the City a form requesting updated information. The alarm system user shall complete and return this form to the City when any of the requested information has changed. Failure to comply will constitute a violation of this ordinance and may result in a civil penalty.

- (5) Multiple alarm systems. If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, separate registration shall be required for each structure and/or tenant.

SECTION 5-7-4: DUTIES OF THE ALARM USER

(1) Alarm system users shall:

- a. Maintain their alarm systems in good working order.
- b. Provide the alarm company the registration number.
- c. Respond and cause a representative to arrive to the alarm system's location within thirty (30) minutes when notified by the ECC.
- d. Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report, or for a scheduled fire drill or alarm testing. The alarm user shall notify the ECC prior to conducting a fire drill or alarm testing.
- e. Obtain a new registration and pay any associated fees if there is a change in address or ownership of a business or residence.

SECTION 5-7-5: DUTIES OF THE ALARM COMPANY

(1) Any person engaged in the alarm business in the City shall:

- a. Obtain and maintain the required Commonwealth and City license(s).
- b. Be able to provide name, address, and telephone number of the license holder or a designee, who can be called in an emergency, 24 hours a day; and be able to respond to an alarm call, when notified, within 2 hours.
- c. Be able to provide the most current contact information for the alarm user.

- (2) Ninety (90) days after enactment of this Ordinance the alarm installation companies shall, on all new and upgraded installations, use only alarm control panel(s) which meet SIA Control Panel Standard CP-01.

- (3) Prior to activation of the alarm system, the alarm company must provide instructions explaining the proper operation of the alarm system to the alarm user.

- (4) Provide written information of how to obtain service from the alarm company for the alarm system to the alarm user.

(5) An alarm company performing monitoring services shall:

- a. In the event of an alarm requiring police response, attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, EXCEPT in the case of a panic or robbery-in-progress alarm, or in cases where a crime-in-progress has been verified by video and/or audible means. Fire alarms shall not be verified prior to requesting fire and rescue dispatch.
- b. Provide alarm user registration number to the ECC to facilitate dispatch and/or cancellations.
- c. Communicate any available information about the alarm to the ECC.
- d. Communicate a cancellation to the ECC as soon as possible following a determination that response is unnecessary.

SECTION 5-7-6: MAINTENANCE OF ALARM SYSTEMS; DISCONNECTION OF ALARM SYSTEMS; REDUCED RESPONSE TO ALARMS

(1): Alarm system users shall maintain their alarm systems in good working order. Because alarm systems that generate multiple false alarms within a short period of time may be malfunctioning, the Chief of Police or his designee shall have the discretion to suspend response to an alarm system after the second false alarm generated within a twenty-four (24) hour period, such suspension to last the remainder of the twenty-four (24) hour period. The Fire Chief or his designee shall have the discretion to order a reduced response in the event an alarm system generates two or more false alarms within a twenty-four (24) hour period.

(2): An alarm system user shall disconnect or disable any alarm system upon a written determination and notice by the Chief of Police or his designee that the use or operation of the alarm system would constitute an unreasonable burden on police resources provided, however, that the Chief of Police shall not direct an alarm user to disconnect or disable a dual purpose system which is used for both police and fire and rescue purposes. Upon a written determination and notice to the alarm system user by the Fire Chief or his designee that the use or operation of the alarm system would constitute an unreasonable burden on fire and rescue resources, the Fire Chief or his designee shall have the discretion to order a reduced response to alarms generated by the alarm system. An alarm system which generates eight (8) or more false alarms within any four (4) day period shall be deemed an unreasonable burden on police or fire and rescue resources. An alarm system user required to disconnect or disable an alarm system shall be entitled to register a new or repaired system at any time in accordance with Section 4 above.

SECTION 5-7-7: PROHIBITED ACTS

It shall be unlawful to activate an alarm system for the purpose of summoning police or fire and rescue personnel when there is no hazard requiring urgent attention of police or fire and rescue resources, or otherwise to cause a false alarm. Alarm testing or drills for which alarm user has provided notice to the ECC does not constitute a prohibited act under this section.

SECTION 5-7-8: ENFORCEMENT OF PROVISIONS

- (1) *Excessive false alarms/Failure to register.* It is hereby found and determined that three or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for false alarms within a permit year shall be assessed against an alarm user as follows:

Third, fourth and fifth false alarm . . . \$50.00
 Sixth and seventh false alarm. \$100.00
 Eighth and ninth false alarm \$250.00
 Tenth and over false alarms \$500.00
 Failure to Register.....\$100.00

- (2) *Other Civil Penalty.* Any other violations of this ordinance will be enforced through the assessment of a civil penalty in the amount of \$100.00 per violation.
- (3) *Payment of Civil Penalty(ies).* Civil penalty(ies) shall be paid within (30) days from the date of the invoice.
- (4) *Civil Non criminal violation.* A violation of any of the provisions of this ordinance shall be a civil violation and shall not constitute a misdemeanor or infraction. Notwithstanding any other provision of this ordinance, it shall be a class 1 misdemeanor for any person to knowingly and without just cause to activate an alarm system to summon police or fire and rescue where there is no actual or threatened criminal activity, fire, medical emergency, or other emergency that requires police or fire and rescue response.

SECTION 5-7-9: ALARM USER AWARENESS CLASS.

- (1) *Alarm User Awareness Class.* The City may create and implement an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms. The City may grant the option of attending a class in lieu of paying one assessed fine.

SECTION 5-7-10: APPEALS

- (1) *Appeals process for alarms requiring a police response.* Assessment of a civil penalty and other enforcement decisions made under this ordinance for alarms requiring a police

response may be appealed by filing a written notice of appeal with the Chief of the Harrisonburg Police Department, using forms provided by the Harrisonburg Police Department, within 10 days after the date of notification of the assessment of civil penalty or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty or other enforcement decision. Upon receipt of such appeal, the Chief of Police or his designee may grant relief from the fee or decision, or affirm the fee or decision. Should the fee or decision be affirmed by the Chief of Police, the alarm user may appeal the decision of the Chief of Police or his designee to the City Manager by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the City Manager or his designee may grant relief from the fee or decision, or affirm the fee or decision. The decision of the City Manager or his designee shall be final.

- (2) *Appeals process for alarms requiring a fire and rescue response.* Assessment of a civil penalty and other enforcement decisions made under this ordinance for alarms requiring a fire and rescue response may be appealed by filing a written notice of appeal with the Chief of the Harrisonburg Fire Department, using forms provided by the Harrisonburg Fire Department, within 10 days after the date of notification of the assessment of civil penalty or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty or other enforcement decision. Upon receipt of such appeal, the Fire Chief or his designee may grant relief from the fee or decision, or affirm the fee or decision. Should the fee or decision be affirmed by the Fire Chief or his designee, the alarm user may appeal the decision of the Fire Chief or his designee to the City Manager by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the City Manager or his designee may grant relief from the fee or decision, or affirm the fee or decision. The decision of the City Manager or his designee shall be final.
- (3) *Appeal standard.* The Chief of Police or his designee, the Fire Chief or his designee, or the City Manager or his designee, as the case may be, shall review an appeal from the assessment of a civil penalty or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of a civil penalty or other enforcement decision, the Chief of Police, Fire Chief, or City Manager, or their respective designees, shall have the discretion to dismiss or reduce the civil penalty or reverse any other enforcement decision where warranted.

SECTION 5-7-11: CONFIDENTIALITY

In the interest of public safety, all information contained in and gathered through the alarm registration applications, no response records, applications for appeals and any other alarm records shall be held in confidence by all employees and/or representatives of the City and ECC.

SECTION 5-7-12: GOVERNMENT IMMUNITY

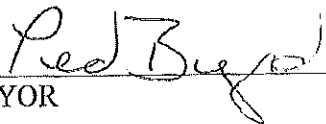
Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the Harrisonburg Police Department or Harrisonburg Fire Department response may be influenced by factors such as: the availability of police or fire and rescue units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

SECTION 5-7-13: SEVERABILITY

The provisions of this ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

This ordinance shall be effective September 1, 2014.

ADOPTED and APPROVED this 8 day of July, 2014.


MAYOR

ATTESTE:


Clerk of the Council