

CITY OF NEWPORT

ORDINANCE NO. 2143

AN ORDINANCE ADDING SECTION 8.40
TO THE NEWPORT MUNICIPAL CODE
RELATING TO FALSE ALARMS

WHEREAS, the City of Newport receives multiple false alarm calls annually, which require public safety response; and

WHEREAS, the cost of response to these false alarm calls has increased exponentially over the years; and

WHEREAS, the Fire and Police Departments of the City of Newport have conducted research to determine how false alarm calls are handled by other jurisdictions, and learned that some jurisdictions are charging callers for repeated false alarm calls.; and

WHEREAS, the City Council of the City of Newport has reviewed this issue during several work sessions, and directed staff to prepare an ordinance addressing repeated false alarm calls, and the imposition of fees associated with these types of calls.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Section 8.40 of the Newport Municipal Code, related to false alarms, is hereby adopted as outlined in Attachment A.

Section 2. This ordinance shall take effect 30 days from the date of adoption.

Adopted by the Newport City Council on November 5, 2018.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

ATTACHMENT A

8.40.005 Definitions

As used in this Section, unless the context otherwise requires, the following words shall have the following meanings:

- A. "Alarm system" means any device, whether silent or audible, intended to signal the occurrence of an event that places property or human life at risk under circumstances that reasonably justify an urgent response by police, fire or emergency medical personnel.
- B. "Emergency center" means the 9-1-1 emergency communications center serving the City of Newport.
- C. "False alarm" means an alarm signal that elicits an urgent response by police, fire or emergency medical personnel, when in fact, circumstances reasonably justifying such response are found not to exist at the time the alarm signal was transmitted.
- D. "Owner" means the person recognized by the law as having the ultimate control over, and right to use, property as long as the law permits and no agreement limits his or her rights.
- E. "Protected premises or premises" means any building, property or location protected by an alarm system.

8.40.010 Responsibility for Maintaining and Operating Alarm Systems

An owner is responsible for the operation and condition of all alarm systems located on the protected premises. Owners shall train all individuals having regular access to owners' alarm systems, in the proper maintenance, operation and avoidance of false alarms for all alarm systems to which the individual has regular access to. An owner shall not maintain any automatic dialing device on the premises capable of directly soliciting a police or fire response, including dialing the local 9-1-1 emergency center.

8.40.020 Authority of Emergency Response Personnel

A police officer or firefighter may enter any building and cause an alarm system to be disabled if the owner or other

authorized user of the alarm system does not respond within thirty minutes after being requested by the police or fire department; or if the alarm system has transmitted a signal for more than fifteen minutes after the arrival of police fire or emergency medical personnel and the person responsible for the alarm system is unable to respond or cannot be found. In order to accomplish entry into any building for this purpose, a police officer or firefighter shall be permitted to forcibly open locked doors and windows. The city shall not be responsible for any property damage or other expense resulting from such entry.

8.40.030 Report of False Alarms

- A. The police or fire personnel responding to a false alarm shall file a false alarm report identifying:
1. The location from which the alarm was emitted;
 2. The name and address of the owner of the premises from which the alarm was emitted;
 3. The date and time the alarm was relayed;
 4. The type of alarm (police or fire) indicated;
 5. The total number of false alarms for emergency police services recorded year-to-date for the subject system; and
 6. The total number of false alarms for emergency fire services recorded year-to-date for the subject system.
- B. A summary of the report required in the above Subsection A, along with a copy of this Section 8.40, shall be mailed to the owner of the premises at the address where the alarm system was located at the time of the response, and to any other known address of the owner.

8.40.040 Imposition of Fees; Payment; Interest

- A. For the third, fourth, and fifth false alarm for emergency police or fire services, responded to at the same location (excepting public and private schools while they are in session) in any calendar year, the owner shall be charged a fee, as set by Council resolution, which shall be considered partial reimbursement of the costs of such

police response or fire response to the alarm. For the sixth and each subsequent false alarm for emergency police or fire services, responded to at the same location (excepting public and private schools while they are in session) in any calendar year, the owner shall be charged a fee as set by Council resolution for full reimbursement of the cost of such police response or fire response.

- B. An invoice for the fee imposed under the above Subsection A, shall be included with the summary report sent to the owner as outlined in 8.40.030. Such statement shall identify the address to which payment of the fee will be received.
- C. Payment of the false alarm fee shall be due thirty (30) days after the date of the statement unless the owner files a written appeal under 8.40.060.
- D. Unless the amount of fee imposed under this Section is paid within thirty (30) days after notice of fee or the order becomes final by operation of law or after appeal, the order shall constitute a lien on the owner's property and shall be recorded in the city lien docket. Where the notification has been made by certified mail or other means providing a receipt, the returned receipt shall be attached to and made a part of the order recorded. The service fee provided in the order, so recorded become a lien upon the real property. That lien shall have priority over all other liens and encumbrances of any character. The lien shall accrue interest at the rate applicable for municipal assessment liens from the date of docketing until clearance. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.595.
- E. Any lien for a service fee may be released when the full amount determined to be due has been paid to the city; and the owner or person making such payment shall receive a receipt therefor, stating that the full amount of service fee, interest, recording fees, and service costs have been paid and that the lien is thereby released and the record of the lien satisfied.

8.40.050 Application of Fees

- A. A false alarm fee, and any interest thereon, shall be applied to offset the expenses of the department that

responded to the false alarm and to reimburse the city for the cost of sending false alarm notices and collecting the associated fees.

- B. Separate fees shall be set for police response and for fire response to false alarms in an amount based on 100% of the costs of such response and administering the provisions of this section. Such costs of response shall include, but not be limited to, the costs of communications and emergency response personnel for the average or actual time required for the alarm response and investigation, costs of equipment mobilization and operation, and administrative and collection expenses.

8.40.060 Right to Appeal

- A. Any owner who has been notified of a false alarm or invoiced for a false alarm fee, may appeal to the City Manager by giving written notice of appeal within fifteen days of the date of such notice or invoice. The notice of appeal shall explain the reason why the owner believes the alarm was not false, and be accompanied by payment of the false alarm fee as invoiced by the city, if applicable, and an appeal fee as set by Council resolution. The false alarm fee (when applicable) and the appeal fee shall be refunded to the owner if the City Manager determines the alarm was not a false alarm as defined by this section. The burden of proof shall be upon the owner to show by a preponderance of evidence that the alarm signal was not false.
- B. The City Manager shall fix the time and place of the appeal hearing no more than fifteen (15) days after receipt of the notice of appeal. The City Manager shall give the appellant at least five (5) days notice of the appeal hearing. Failure of the owner to appear at the hearing shall result in forfeiture of the false alarm fee (when applicable) and the appeal fee.
- C. After hearing all the evidence, the City Manager shall render a decision within five (5) days of the date of the hearing. The City Manager's decision shall be in writing, supported by findings of fact and shall be final. If the City Manager determines the owner has met the burden of proof in showing that the alarm was not false, the false alarm determination shall be rescinded and the false alarm fee (when applicable) and appeal fee shall be refunded to

the owner. If the owner fails to meet the burden of proof that the alarm was not false, the false alarm fee (if applicable) and the appeal fee as paid by the owner shall be applied as provided by this section.

8.40.070 Intentional Violation of False Alarm Regulations

It shall be considered a crime, punishable as provided in ORS 166.023 (1), for any person to intentionally violate any provision of this section.