Ord. #5527

AN ORDINANCE TO AMEND CHAPTER 28, ARTICLE VI, DIVISIONS 2, 3 and 5 OF THE CODE OF ORDINANCES SO AS TO AMEND FEES AND FALSE ALARMS ALLOWABLE AND DIVIDES ANY ANNUAL SURPLUSES OF THE ALARM OFFICE ON A PRO RATA BASIS

WHEREAS, the City of Memphis and Shelby County Governments have jointly operated an alarm services office since 1987; and

WHEREAS, the purpose of the office was to operate void of taxpayer funding and to be self-sustaining with a primary purpose of reducing the number of false alarms throughout the City and County; and

WHEREAS, the office has been very successful in reducing the number of false alarms through penalties, enforcement and education, yet there are still 48,000 false alarms annually; and

WHEREAS, the Memphis City Council recognizes the amount of man hours dedicated by the Memphis Police Department for investigating crimes is significantly impacted by the number of false alarms received daily; and

WHEREAS, the cost of the Memphis Police Department to respond to a false alarm is a minimum of $90 per call and the recent PERF report recommended taking action to address false alarms; and

WHEREAS, the Alarm Service Office is self-sustaining and has amassed a surplus of more than $1.9 million that could benefit local law enforcement and emergency responders; and

WHEREAS, fines, fees and costs associated with enforcing the alarm ordinance are lower than other major cities; and

WHEREAS, the Memphis City Council deems it appropriate to amend this ordinance to ensure the health, safety and welfare of the citizens of Memphis are protected by the Memphis Police Department and Memphis Fire Department.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 28, Article VI, Division 2, Section 28-128, 3 (a) is hereby amended to delete the current language and insert the following

Sec.28 -128. Alarm user permits; responsibilities.

(3) *Fees.*

(a) All fees owed by an applicant must be paid before a permit may be issued or renewed. The permit fee shall be issued by the alarm administrator, or his designee, upon the following conditions:

1. There shall be a thirty dollar ($30) permit fee for the first year for residential customers. There shall be a sixty dollar ($60) permit fee for the first year for commercial customers.

2. There shall be an annual renewal fee of five dollars ($5) for residential customers and twenty-five dollars ($25) for commercial customers.

3. Permits shall not be renewed if outstanding fines or penalties which have been incurred as a result of the use of the system have not been paid. If the fines or penalties are being processed through administrative channels or a court system, then a permit may be issued or renewed.

SECTION 2. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS that Chapter 28, Article VI, Division 3, Section 28-130, 1 (b) is hereby amended to delete the current language and insert the following

(b) An alarm user shall be subject to fines, warnings, and suspensions or revocation of permit after the third false alarm dispatch within the twelve-month period based upon the following schedules:

Number of False Alarm Dispatches	Action Taken	Fines
1	On-site written notice and warning letter #1.	No Fine
2	On-site written notice and warning letter #2.	No Fine
3	On-site written notice, warning letter #3 and mandatory alarm users class.	No Fine
4	On-site written notice, letter to user requiring alarm inspection from metro alarm review board, certified inspection letter from alarm company to board and mandatory fine.	$25.00
5	On-site written notice, letter to user requiring alarm inspection from metro alarm review board, certified inspection letter from alarm company to board and mandatory fine.	$25.00
6	On-site written notice, letter to user requiring alarm inspection from metro alarm review board, certified inspection letter from alarm company to board and mandatory fine and service fee.	$25.00

7	On-site written notice, letter to user requiring alarm inspection, mandatory fine and service fee.	$25.00
8 or more	On-site written notice, mandatory fine, service fee and revocation of permit	$25.00

1. Failure to comply with the above conditions will result in alarm operator being summoned into city court, or a court of competent jurisdiction, by issuance of a mandatory court summons issued by authorized officers. In accordance with City Code section 1-8, Fine and Penalties, violators are subject to a fine of up to fifty dollars ($50.00), for each separate violation, with each day constituting a separate offense.

2. Any owner, user or operator of any alarm system, as defined in § 28-126 found to have violated this section six times or more in any twelve-month period shall also be liable for a service fee to the city for the actual cost of any response by law enforcement or emergency personnel, and for the actual cost to the city for any interruption of public services or closure of public facilities reasonably necessitated by response to such false alarm, in an amount up to the maximum allowed by state law.

3.Except for fire or mechanically-activated water flow alarm devices and alarm systems owned and operated by any governmental entity or subdivision, upon a finding that an owner, user or operator has violated this section eight times in any twelve-month period, said owner, user or operator shall further be prohibited from operating the alarm system at issue in such a manner as to be the sole basis for a request for response by law enforcement personnel for a period of one (1) year from the date of the finding.

4. In the event an alarm user is experiencing maintenance issues with his alarm, the alarm company may contact the Alarm Administrator and inform him that the company is currently working to correct system problems. The Alarm Administrator with notice to the Metro Alarm Review Board and Memphis Police Department shall note on the alarm users file that the system is currently under maintenance and any false alarms incurred during a thirty (30) day period after notification from the alarm company shall not be counted against the alarm user. The alarm company shall have the responsibility of notifying the Alarm Administrator in writing that the problem has been resolved. Should the alarm problem persist for a period longer than thirty (30) days then the Alarm Administrator with approval from the Metro Alarm Review Board shall have the option to remove the exception or extend the maintenance period for an additional period of time.

SECTION 3. BE IT FURTHER ORDAINED that Chapter 28, Article VI, Division 3, Section 28-130 (c) is hereby amended to delete the current language and insert the following

(c) Any person operating a non-permitted alarm system (whether revoked or suspended) will be subject to a citation and a false alarm penalty (as defined in section 28-137) in addition to any other fines. Persons operating an alarm system that was never permitted shall receive a citation and will have ten (10) business days after such violation to apply for a permit. The Metro Alarm Office shall send a certified letter to users that have not applied within the ten (10) days notifying alarm user that a false alarm fine and service fees will be levied if application is not complete a total of thirty (30) days after the original violation. In addition, alarm user will further be prohibited from operating the alarm system at issue in such a manner as to be the sole basis for a request by

law enforcement personnel until application has been submitted and all fees and fines have been paid.

SECTION 4. BE IT FURTHER ORDAINED that Chapter 28, Article VI, Division 3, Section 28-130 (d) is hereby amended to read as follows:

An alarm user with three (3) false alarm dispatches shall be required to attend the false alarm user class. Failure to attend the class shall result in a one hundred fifty dollars ($150.00) penalty.

SECTION 5. BE IT FURTHER ORDAINED that Chapter 28, Article VI, Division 3, Section 28-130 is hereby amended to add sections g and h:

(g) The Memphis Police Director shall submit to the Memphis City Council an amount commensurate to the cost of officers answering false alarms for approval by resolution on or before the second Council meeting in May of each year. The cost for Fiscal Year 2014 is $90 for a Police false alarm.

(h) The Memphis Fire Director shall submit to the Memphis City Council an amount commensurate to the cost of the Fire Department answering false alarms for approval by resolution on or before the second Council meeting in May of each year. The cost for Fiscal Year 2014 is $250 for a Fire false alarm.

SECTION 6. BE IT FURTHER ORDAINED that Chapter 28, Article VI, Division V, Section 28-137 is hereby amended by deleting the paragraph and substituting the following:

"There is established the office of alarm administrator, under the supervision of the City Treasurer, to oversee the installation, service, maintenance and use of alarm security systems in the City and unincorporated areas of the County of Shelby, who shall be in charge of operations. The office shall be operated as a self-funding unit and revenues received by such office are to be used exclusively for the continued operation of the office, except that any surplus funds at the end of each fiscal year shall be divided on a pro rata basis between the Memphis Police Department, Shelby County Sheriff's Office, Memphis Fire Department and Shelby County Fire Department to off-set the costs of responding to false alarms. This provision shall include any surplus that currently exist in the accounts of the office at the time of adoption of this amendment. For purposes of this section, the term pro rata shall mean the percentage of false alarms answered by the Memphis Police Department and Memphis Fire Department in the city limits of Memphis versus the percentage of false alarms answered by the Shelby County Sheriff's Office and the Shelby County Fire Department outside the Memphis City Limits.

SECTION 7. BE IT FURTHER ORDAINED, that the increase in permit and renewal fees shall take effect January 1, 2014.

SECTION 8. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 9. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

Myron Lowery
Council Member

Edmund H. Ford, Jr., Ed.D.
Council Chairman

Attest:
Patrice Thomas, Comptroller

THE FOREGOING ORDINANCE
5527 PASSED
1st Reading 6-18-2013
2nd Reading 7-02-2013
3rd Reading 7-16-2013
Approved Edmund H. Ford, Jr.
Chairman of Council
Date Signed: 8/6/2013

Approved: 8/8/13
Mayor, City of Memphis
Date Signed: 8/8/13

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.
Valerie C. Snipes
Comptroller