

THIS MEMORANDUM IS A COMMUNICATION FROM COUNSEL TO AGENTS AND REPRESENTATIVES OF THE CITY OF FORT PIERCE IN AN ATTORNEY/CLIENT RELATIONSHIP AND IS THEREFORE CONFIDENTIAL AND IS FURTHER PROTECTED BY FLORIDA STATUTE SECTION 119.07 AS IT CONTAINS WORK PRODUCT OF THE ATTORNEY PREPARED IN ANTICIPATION OF, OR IN CONNECTION WITH, POTENTIAL OR PENDING ADVERSARIAL ADMINISTRATIVE PROCEEDINGS AND/OR CIVIL LITIGATION.

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Diane Hobley-Burney, Chief of Police (*via email*)
FROM: Robert V. Schwerer, City Attorney
SUBJECT: Alarm Ordinance
DATE: June 15, 2015

As you are aware, we have completed our legal review of the proposed Alarm Ordinance which was developed by a joint committee of staff from St. Lucie County, Fort Pierce, and Port St. Lucie, the attached being the County's ordinance which is intended to apply countywide. Legal has determined the ordinance to be technically sufficient. In order for the County's ordinance to be applied in Fort Pierce, we will need to adopt a special ordinance, and can assist in the preparation of such ordinance once you confirm that the County has adopted the ordinance and is asking Fort Pierce and Port St. Lucie to make it applicable within their respective city limits.

Upon detailed review of the proposed Alarm Ordinance, notwithstanding its technical sufficiency we would offer the following comments and suggestions.

First, there are no appeal provisions within the ordinance. Ordinarily, in situations where fines of this nature are levied, the alarm owner should be provided some mechanism to challenge the imposition of a fine if they have a factual or legal defense. We have brought this to the attention of both the County and PSL. The County indicates they are working toward adopting some form of appeal procedure, possibly by resolution. PSL legal is concerned about the absence of an appeal provision, but is uncertain what their approach to the issue will be. Our suggestion is that Fort Pierce should consider

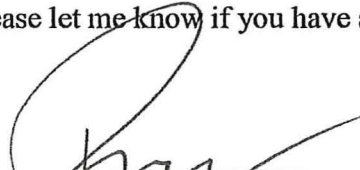
Frank Amandro, Deputy Police Chief
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providing for an appeal procedure that would provide for appeals to be considered by one of our Special Magistrates who preside over code cases. The procedure for such appeals can be developed separate from the ordinance text itself.

Second, we note this is intended to be a countywide ordinance applicable to both Fort Pierce and PSL. However, we would be remiss in not pointing out the substantial changes from the previous ordinance especially the amount of the fines. Previously, the homeowner was permitted up to three (3) false alarms before being subjected to fines. Now there is only one. Additionally, the amount of the fine is substantially increased, and can be "stacked" (i.e. doubled in amount) if both Law Enforcement and Fire respond to the same false alarm. These are policy decisions to be decided by the Commission and Management.

Finally, we recommend that someone be prepared to show the amount and number of false alarms occurring in Fort Pierce from previous years to document the need for increased fines which are being imposed presumably to cover costs of needless responses.

Please let me know if you have any questions concerning the above.



Robert V. Schwerer, Esq.
City Attorney

/mlp
Attachment

cc: Fort Pierce Mayor and Commissioners (*via email*)
Robert J. Bradshaw, City Manager (*via email*)
Nicholas Mimms, Deputy City Manager (*via email*)
Frank Amandro, Deputy Police Chief (*via email*)
James T. Walker, Assistant City Attorney (*via email*)
Karen Emerson, Assistant City Attorney (*via email*)