

**ORDINANCE
NO. 05-02**

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, ADOPTING PROVISIONS FOR THE REGULATION OF ALARMS; PROVIDING FOR RATIFICATION; PURPOSE AND INTENT; DEFINITIONS; PERMIT REQUIREMENT; PERMIT DURATION AND RENEWAL; SYSTEM OPERATION AND MAINTENANCE; MONITORING; APPEALS OF DETERMINATIONS AND FINES; VIOLATIONS; PROVIDING FOR CONFLICT; SEVERABILITY; INCORPORATION IN CODE AND AN EFFECTIVE DATE.

WHEREAS, there are a growing number of alarm systems being installed in residential and business establishments within the City; and

WHEREAS, the limited resources of the Police Department are being used to respond to an increasing number of false alarms; and

WHEREAS, the City Council has determined that in order to protect the health, safety and welfare of the residents that it is necessary to regulate existing and newly installed alarm systems.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

SECTION 1. RATIFICATION. The above recitals are hereby ratified and confirmed.

SECTION 2. PURPOSE AND INTENT. This Ordinance is intended to protect the health, safety and welfare of the residents of the City of Fellsmere by preventing misuse of Police Department resources caused by false alarms, thereby allowing these resources to be accessible and available in the event these resources are truly needed by members of the community.

SECTION 3. DEFINITIONS. The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Ordinance except where the context clearly indicates a different meaning:

Alarm Administrator means a person or persons designated by the City Manager to administer, control and review alarm applications, permits and alarm dispatch requests.

Alarm System means a device or series of devices, including, but not limited to, systems interconnected with radio frequency signals, which are designed to discourage crime, by emitting or transmitting a remote or local audible, visual or electronic signal indicating an alarm condition. Alarm system does not include:

- (1) An alarm installed on a vehicle unless the vehicle is permanently located at a site; or
- (2) An alarm designed to alert only the inhabitants of a premises that does not have a sounding device which can be heard on the exterior of the alarm site.

Alarm Business means any person engaged in the business of selling, leasing, monitoring, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system for any building, place or premises.

Alarm User means any person using an alarm system or occupying and controlling a premises or building, or a portion of any premises or building, serviced by an alarm system.

Class "A" Alarms means all those alarms activated by illegal entry, in response to criminal activity, presence of smoke, fire, or an actual medical emergency and includes alarms activated solely by an act of

nature not contributed to by faulty design, maintenance, installation or use.

False Alarms shall mean all activated alarms responded to by the police department which do not qualify as a Class "A" alarm, including, but not limited to, alarms activated through inadvertence, neglect, accident, alarm testing, faulty installation or maintenance.

SECTION 4. PERMIT REQUIREMENT.

- (a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit issued by the alarm administrator. A separate permit is required for each alarm site.
- (b) The application fee for a permit for a residential or commercial alarm site will be as established by resolution adopted by the City Council; no refund of a permit fee will be made. Failure by an alarm business to provide information to the user that registration by the user is required will result in a fine to that alarm business as established by resolution adopted by the City Council.
- (c) Upon receipt of a completed application form and the permit fee, the alarm administrator shall issue an alarm permit to an applicant unless the applicant has failed to pay a fine assessed under Section 8.
- (d) Each permit application, either existing structure or new construction, must include the following information:
 - (1) The name, address, and all telephone numbers of the alarm user who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this Ordinance;
 - (2) The address of the location of the alarm;
 - (3) The classification of the alarm site as either residential or business;
 - (4) For each alarm system located at the alarm site, the type of alarm system, i.e., intrusion, panic, medical, robbery, or other;
 - (5) The date of installation, conversion or takeover of the alarm system, whichever is applicable;
 - (6) The name, address, and phone number of the alarm business performing the alarm system installation, conversion or alarm system takeover and responsible for providing repair service to the alarm system;
 - (7) The name, address, and phone number of the alarm business monitoring the alarm system if different from the installing alarm business;
 - (8) Any hazards at the alarm site, i.e., dogs, chemicals, hazardous materials, or others.
- (e) Any false statement of a material matter made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit and shall fall under Section 10, Violations, and subject to fine as set forth therein.

- (f) Alarm users are responsible for informing the alarm administrator of any changes that alter any information listed on the permit application within thirty (30) calendar days of such change(s).
- (g) All fees owed by an applicant must be paid before a permit may be issued or renewed.
- (h) An alarm permit cannot be transferred to another person and no portion of the permit fees are refundable.
- (i) Information contained in permit applications shall be held in confidence by all employees or representatives of the city with access to such information.

SECTION 5. PERMIT DURATION AND RENEWAL.

A permit shall have a term of one year from the date of issuance, said term to begin October 1 and end on September 30. Any permit issued after October 1 will be valid through September 30 next following. All permits must be renewed annually by submitting an updated application and a permit renewal fee to the alarm administrator. There shall be no fee for renewal of an active and valid permit if there has been no false alarm at the alarm site during the previous twelve months; otherwise the renewal fee shall be as established by resolution adopted by the City Council. It is the responsibility of the alarm user to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a non-permitted alarm system, and citations and penalties will be assessed.

SECTION 6. SYSTEM OPERATION AND MAINTENANCE.

- (a) An alarm user shall:
 - (1) Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm dispatches; and
 - (2) Make every reasonable effort to respond or cause a representative to respond to the alarm system's location within one hour when notified by the city to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises; and
 - (3) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.
- (b) An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 15 minutes after being activated.
- (c) An alarm user shall have a properly licensed alarm business inspect his alarm system after three false alarm dispatches in a one-year period. After a fourth false alarm dispatch, the alarm user must have a properly licensed alarm business modify the alarm system to be more false alarm resistant and/or provide additional user training, as appropriate. The alarm user shall provide the alarm administrator with a corrective action report signed by the qualifying agent for the alarm company; a copy will be forwarded to the police department.

SECTION 7. MONITORING.

- (a) No person shall use or cause to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the police department or any other department or bureau of the city, and then reproduces any prerecorded message to report any burglary, unauthorized entry, or other emergency.
- (b) No person shall provide a private alarm service system programmed to a central alarm reception office unless such a central office is staffed at all times, 24 hours a day, including holidays.
- (c) Any staff member of a private alarm service system reporting an alarm activation to which the police department response is requested shall identify himself and state the name and telephone number of the alarm business by which such response is requested.

SECTION 8. FINES.

- (a) An alarm user shall be subject to fines and warnings depending on the number of false alarm dispatches emitted from an alarm system within a 12-month period pursuant to resolution adopted by City Council.
- (b) In addition, any person, operating a non-permitted alarm system, whether the alarm proves to be real or false will be subject to a citation and fine pursuant to resolution adopted by City Council.
- (c) For the first such dispatch, the alarm administrator shall waive this additional fine for a non-permitted system, if the alarm user applies for a permit within 10 calendar days after such violation. Any subsequent false alarm dispatches will continue to be fined pursuant to the schedule.

SECTION 9. APPEALS OF DETERMINATIONS AND FINES.

- (a) An alarm user may appeal the determination of a false alarm dispatch or assessment of a fine to the code enforcement special master by filing a written request for hearing setting forth the reasons for the appeal within 10 calendar days after receipt of the fine. The filing of a request for an appeal hearing with the code enforcement special master stays the assessment of the fine until the special master makes a final decision.
- (b) The code enforcement special master shall conduct a formal hearing and consider the evidence by any interested person(s). The special master shall make a decision on the basis of the preponderance of evidence presented at the hearing including, but not limited to, evidence that a false alarm dispatch was caused by a defective part that has been repaired or replaced or that an alarm dispatch request was caused by a criminal offense. The special master shall reserve the right to call upon the respective alarm company to provide a representative in order to verify attempts to correct/not correct a failed system. The special master shall affirm, reverse or modify the assessment of the fine. If the decision of the special master is to affirm, the order shall include administrative hearing costs. The decision of the special master is final as to administrative remedies. An alarm user or the city may appeal a final administrative order of the special master to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special master. An appeal shall be filed within 30 days of issuance of the final order.

SECTION 10. VIOLATIONS AND ENFORCEMENT. A person commits an offense if he violates by commission or omission any provision of this ordinance that imposes upon him a duty or responsibility and is subject to a fine, the amount of which to be established by resolution adopted by the city council. In addition to other methods of enforcing City ordinances, the City may initiate action before the code enforcement special master to obtain compliance with this ordinance and payment of all charges assessed by the City. The order of the code enforcement special master shall constitute a lien against the property served by an alarm system.

SECTION 11. CONFLICT. All previous ordinances, resolution or motions of the City which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 12. SEVERABILITY. If any section, part of a sentence, paragraph, phrase or word of this ordinance is for any reason held to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this ordinance without such unconstitutional, invalid or inoperative part.

SECTION 13. INCORPORATION IN CODE. The provisions of this ordinance may be incorporated into the Code of Ordinances of the City of Fellsmere, Florida, and the word "ordinance" may be changed to "section", "article", or other appropriate word, and the sections of the ordinance may be re-titled, re-numbered or re-lettered, to accomplish such codification.

SECTION 14. EFFECTIVE DATE. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was moved for adoption by Council Member Barone Tyson. The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Councilman Michael E. Barone
Councilman Joel Tyson
Council Member Sara J. Savage
Council Member Fernando Herrera
Mayor John A. McCants

yeas
yeas
yeas
yeas
yeas

The Mayor thereupon declared this Ordinance fully passed and adopted this 7th day of April, 2005.

CITY OF FELLSMERE, FLORIDA

John A. McCants
John A. McCants, Mayor

ATTEST:

Deborah C. Krages
Deborah C. Krages, City Clerk

(SEAL)

I HEREBY CERTIFY that notice of the public hearing on this Ordinance was published in the Press Journal as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the 7th day of April, 2005, and the first reading was held on the 1st day of March, 2005, and that the public hearing was held on the 7th day of April, 2005, and that the second and final reading was held on the 7th day of April, 2005.

Deborah C. Krages
Deborah C. Krages, City Clerk

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