

ORDINANCE No. 03-08

AN ORDINANCE TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH FALSE ALARM ORDINANCE; PROVIDING AUTHORITY; SHORT TITLE; DEFINITIONS; ALARM PERMIT AND FEE; FALSE ALARM PENALTIES; REVOCATION AND REINSTATEMENT OF ALARM PERMIT; APPEALS OF FINES AND REVOCATIONS; RESPONSE TO ALARM; DEACTIVATION OF AUDIBLE ALARMS; ALARM MONITORING COMPANIES; ALARM VERIFICATION CALLS REQUIRED; ALARM SYSTEM CONTRACTORS; AUTOMATIC DIALING DEVICES PROHIBITED; MODIFICATION OF EXISTING ALARM SYSTEMS; AUXILIARY POWER SUPPLY; NO PUBLIC DUTY; ADMINISTRATION AND ENFORCEMENT; DISPOSITION OF FEES AND FINES; REPORTING; CONFLICTS OF LAW; SEVERABILITY AND PROVIDING EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. SHORT TITLE. This Ordinance will be known and cited as the Town of Fort Myers Beach False Alarm Ordinance.

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

A. *Alarm Monitoring Company* (monitoring company) means a person or entity performing the service of monitoring as defined in §489.505, Florida Statutes, as may be amended from time to time, and having customers within the territorial jurisdiction of this Ordinance.

B. *Alarm Operator* means any owner, tenant or other person or entity that uses or is in control of an alarm system.

C. *Alarm Review Authority (ARA)* shall mean the Sheriff or his designee(s).

D. *Alarm Site* means the individual location of each alarm system.

E. *Alarm System* means any device that emits, transmits or relays a signal intended to summon, or that would reasonably be expected to summon, law enforcement services to the site of the alarm system. Alarm system does not include:

1. a device installed on a vehicle, unless the vehicle is permanently located at the site; or
2. a device designed to alert only the inhabitants of the device site, and that is not audible or visible from the exterior of the structure; or
3. a device designed for a purpose other than to alert for intrusion, burglary or robbery.

F. *Alarm System Contractor* means a person licensed under Chapter 489, Florida Statutes, as an electrical or alarm system contractor.

G. *Automated Dialing Device* means an alarm system which automatically sends, via telephone, a prerecorded voice message or coded signal indicating the existence of an emergency situation.

H. *Commercial Premises* means any structure or area which is not defined in this section as governmental or residential premises, including but not limited to, religious and not for profit organizations, hotels, motels and educational institutions.

I. *Deactivated Alarm* means an alarm system that has the primary and secondary power and the telephone line disconnected at the alarm control panel.

J. *False Alarm* means the activation of an alarm system for any reason other than a bonafide incident, such as a burglary or unauthorized entry, and a subsequent response by the Sheriff to that alarm site. A false alarm does not include:

1. an alarm caused by physical damage to the alarm system as a result of lightning, wind, or other meteorological event, where there is clear evidence of physical damage to the alarm system; or
2. an alarm caused by disconnection of a telephone circuit beyond the control of the alarm operator or his agents; or
3. an alarm caused by continuous electrical power disruption in excess of four (4) hours.

K. *Governmental Premises* means a structure or area owned and operated by a government entity.

L. *Permit Year* means the period starting from the date of issuance of a permit and ending twelve (12) months from date of issuance.

M. *Residential Premises* means any structure serving as a home, residence, or sleeping place by one person or by two or more persons who maintain a common household.

N. *Sheriff* means the Lee County Sheriff or his designee(s).

O. *Sheriff's Office* means the designated authority charged with administration and enforcement of the Town of Fort Myers Beach False Alarm Ordinance.

P. *Verification* 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 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 determine whether an alarm signal is valid before requesting law enforcement dispatch.

SECTION 4. ALARM PERMIT AND FEE

A. Except as otherwise provided under the definition of permit year, every alarm operator shall annually apply to the Sheriff for a nontransferable alarm permit. The permit shall be valid for one permit year and then expire.

B. A fee of \$25.00, which may be revised by Resolution adopted by the Town Council, shall accompany each application or renewal for alarms on residential, commercial or governmental premises.

C. The owner or manager of any residential or commercial premises that are rented to others and which have alarm systems provided by the owner or manager shall:

1. explain the operation of the alarm system to the alarm operator; and
2. explain the alarm operator's financial responsibilities for false alarms; and

3. obtain the alarm operator's signature on a form in which the alarm operator acknowledges having received and understood the information provided in (1) and (2) above; and
 4. furnish a blank alarm permit application to the tenant. The Sheriff shall provide the owner or manager with forms upon request.
- D. No permit shall be required for a deactivated alarm system.
- E. The alarm operator shall provide the following information:
1. the name, telephone number, and current mailing address to include any forwarding addresses necessary to receive correspondence; and
 2. the address of the alarm site; and
 3. the classification of the alarm site as residential, commercial, or governmental; and
 4. the type of system, such as burglary, robbery, fire, or panic; and
 5. the names, addresses and telephone numbers of two persons who have access to the premises, the ability to reset the alarm, and who, upon request of the Sheriff, will respond to the alarm site with thirty (30) minutes of notification; and
 6. the name, address and telephone number of the alarm monitoring company, if any; and
 7. the name, address, and telephone number of the installer and date of installation, if known; and
 8. the name, address and telephone number of the alarm system contractor that last performed maintenance on the alarm system , if known; and
 9. any dangerous or special conditions present at the alarm site; and
 10. other information as required by the Sheriff.
- F. No permit will be issued when a fine is outstanding, when a reason for a previous revocation has not been corrected, or if the applicant provides false information.
- G. The alarm operator shall submit interim updated application information within fifteen (15) days of when the on file information has changed. A permit may be revoked if it is found to contain inaccuracies.

SECTION 5. FALSE ALARM PENALTIES

- A. Responsibility for false alarms shall be borne by the permit holder.
- B. The following fines shall be required for each false alarm per alarm system within one permit year:
1. first and second false alarms \$25.00 each; however, if the alarm operator has a valid alarm permit, then there is no fine for the first false alarm; and
 2. third and fourth false alarms \$50.00 each; and
 3. fifth and sixth false alarms \$100.00 each; and
 4. seventh and eighth false alarms \$200.00 each; and
 5. ninth and above false alarms \$400.00 each; and
 6. the additional fine for false alarms from a non-permitted alarm system, or from an alarm system with a revoked permit is \$200.00. The Sheriff may reduce this amount to \$50.00 if the alarm system is permitted within ten days of the false alarm.
- C. The Sheriff may offer an alarm awareness class to alarm operators. Alarm operators may attend the class in lieu of paying one fine per permit year.

SECTION 6. REVOCATION AND REINSTATEMENT OF ALARM PERMIT

- A. The sheriff may revoke an alarm permit if it is determined that:

1. there is a false statement of a material matter in the permit application; or
 2. ten or more false alarms have been received by the Sheriff from the alarm site within a permit year; or
 3. there is a permit that has not been renewed or fines have not been paid at the time of renewal.
- B. An alarm operator whose alarm permit has been revoked may be issued a new permit if that alarm operator:
1. submits an updated application and pays a \$50.00 permit fee; and
 2. pays all fines issued to the alarm operator under this Ordinance; and
- C. The Sheriff shall notify the alarm monitoring company of a revocation, or reinstatement.
- D. The alarm monitoring company shall not telephone the Sheriff's Office if a permit has been revoked, or a \$100.00 fine may be assessed against the alarm monitoring company.

SECTION 7. APPEALS OF FINES AND REVOCATIONS

- A. An alarm operator may appeal a fine or revocation under this Ordinance. The alarm operator shall notify the Sheriff in writing within ten (10) days of receipt of notice of fine or revocation. Proper notification of the Sheriff shall stay the imposition of a fine, or revocation, until adjudication by the Alarm Review Authority.
- B. The Alarm Review Authority (ARA) shall conduct a hearing and consider evidence presented by the alarm operator and by other interested persons. The ARA shall make a decision based on the preponderance of the evidence standard. The decision of the ARA is the final administrative remedy as to the Town.

SECTION 8. RESPONSE TO ALARM. The alarm operator or a responder listed on the alarm permit shall respond to the alarm site within thirty (30) minutes from the time of notification by the Sheriff of the activation of the alarm, whether false or not. The failure to respond, when directed by the Sheriff, may be deemed a violation by the alarm operator and a \$50.00 fine may be assessed by the Sheriff's Office.

SECTION 9. DEACTIVATION OF AUDIBLE ALARMS

The alarm operator shall deactivate the alarm within fifteen (15) minutes or adjust the alarm to automatically deactivate within fifteen (15) minutes of activation. § 489.530 Florida Statutes, audible alarms.

SECTION 10. ALARM MONITORING COMPANIES

- A. All alarm monitoring companies shall register annually with the Sheriff. Failure to register annually with the Sheriff's Office may result in a \$125.00 fine and/or any other administrative action against the alarm monitoring company. Each registration shall be valid for twelve (12) months. The alarm monitoring company shall provide the following information:
1. the name, telephone number, and current mailing address to include any forwarding addresses necessary to receive correspondence; and
 2. names, street addresses, and telephone numbers of all alarm operators contracted with, within the territorial jurisdiction of this Ordinance; and

3. the procedure used to verify the legitimacy of an alarm prior to notification of the Sheriff; and
 4. name, street address and telephone number of the qualifying agent.
- B. Upon registration, the monitoring company shall be provided with a telephone number for alarm reporting.
- C. Monitoring companies shall maintain, for a period of at least one (1) year, records relating to alarm notification and shall provide such records to the Sheriff within three (3) business days. Failure to maintain such records may result in a \$125.00 fine.
- D. Monitoring companies shall ensure that their databases of contracted alarm operators reflect current, accurate names, street addresses, telephone numbers and operational status. If an alarm systems contractor provides notice of disconnection to a monitoring company, the monitoring company shall modify its database within five (5) calendar days. The monitoring company may be fined \$125.00 if the Sheriff is telephoned after a disconnection notice is received.

SECTION 11. ALARM VERIFICATION CALLS REQUIRED. All burglary or intrusion alarm systems that have a central monitoring shall have central monitoring verification calls made to the alarm site, prior to alarm monitoring personnel contacting a law enforcement agency for alarm dispatch as per § 489.529, Florida Statutes, alarm verification. However, if the alarm has properly operating visual or auditory sensors that enable the monitoring to verify the alarm signal, verification calling is not required. Failure by the alarm system contractor or alarm monitoring company to make the verification calls may result in a \$125.00 fine.

SECTION 12. ALARM SYSTEM CONTRACTORS

- A. All alarm system contractors shall register annually with the Sheriff. Failure to register annually with the Sheriff may result in a \$125.00 fine and/or any other administrative action against the alarm system contractor. Each registration shall be valid for twelve (12) months. The alarm systems contractors shall provide the following information:
1. the name, telephone number, and current mailing address to include any forwarding addresses necessary to receive correspondence; and
 2. names, street addresses, and telephone numbers of all alarm operators contracted with, within the territorial jurisdiction of this Ordinance; and
 3. name, street address and telephone number of the qualifying agent.
- B. No person shall install, maintain, repair, alter, service or monitor alarm systems for compensation without being a licensed alarm system contractor. Performance of alarm work without a license may result in a fine of \$125.00.
- C. All alarm system contractors shall ensure that each of its agents are in compliance with § 489.518, Florida Statutes.
- D. Alarm system contractors shall provide initial/new installation registration information, collect the fees and forward to the Sheriff in a computerized format specified by the Sheriff.
- E. Alarm system contractors shall not install new systems or equipment or use methods of installation that do not meet or exceed minimum Underwriters Laboratories or American National Standards Institute requirements for the appropriate installation and

which do not use control panels tested for conformance to the Security Industry Association's Control Panel Standard, C.P.-01, (or equivalent listing), or a fine of \$125.00 may be assessed.

F. Alarm system contractors shall not cause a false alarm during the servicing, repairing, testing or inspection of an alarm system, or a fine of \$125.00 may be assessed. The alarm operator shall not be charged with such false alarms.

G. Alarm system contractors shall complete the application, collect the registration fees, and forward the application to the Sheriff's Office, whenever installing, maintaining, repairing, altering or servicing an alarm system, unless the alarm system contractor reasonably believes that the system is permitted. Failure of the alarm system contractor to provide the application and registration fees to the Sheriff's Office, may result in a fine of \$125.00.

SECTION 13. AUTOMATIC DIALING DEVICES PROHIBITED. The alarm operator shall not operate an alarm system equipped with an automatic dialing device programmed to connect directly to the Sheriff, or a fine of \$125.00 may be assessed.

SECTION 14. MODIFICATION OF EXISTING ALARM SYSTEMS. Whenever an existing alarm system is serviced, modified, or inspected, the following features shall be removed by the alarm system contractor, or a fine of \$50.00 may be assessed:

- A. single action, non-recessed switches that activate a panic alarm; and
- B. duress or "one-plus" programming that activates a panic alarm.

SECTION 15. AUXILIARY POWER SUPPLY. An alarm operator shall not operate an alarm system which does not have a minimum four (4) hour auxiliary power supply, or a fine of \$125.00 may be assessed.

SECTION 16. NO PUBLIC DUTY. The permitting of an alarm system 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 registering the alarm system, the alarm operator acknowledges that law enforcement response may be based on factors such as: availability of law enforcement units, priority calls, weather conditions, traffic conditions, emergency conditions and staffing levels.

SECTION 17. ADMINISTRATION AND ENFORCEMENT

- A. The Sheriff shall be responsible for the administration and enforcement of this Ordinance.
- B. The Sheriff has the authority to compromise assessments of fines.
- C. The Sheriff may use any legal means to collect unpaid fees or fines.

SECTION 18. DISPOSITION OF FEES AND FINES. Fees and fines collected by the Sheriff pursuant to this Ordinance shall be deposited by the Sheriff into a Town of Fort Myers Beach general revenue fund to be used exclusively for the administration and operations of this Ordinance.

SECTION 19. REPORTING. The Sheriff's Office shall provide a semi-annual monitoring report to the Town of Fort Myers Beach showing performance/activity for the False Alarm Ordinance.

SECTION 20. CONFLICTS OF LAW. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive requirements shall apply.

SECTION 21. SEVERABILITY. The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers herein provided for. If any provision of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

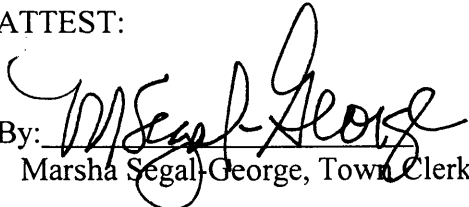
SECTION 22. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Bill VanDuzer and seconded by Council Member Terry Cain and, upon being put to a vote, the result was as follows:

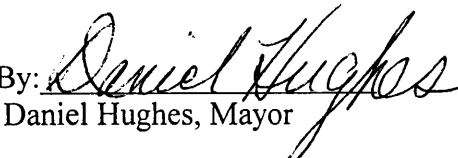
Howard Rynearson	<u>aye</u>
Daniel Hughes	<u>aye</u>
Bill Thomas	<u>aye</u>
W. H. "Bill" Van Duzer	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 23 day of June, 2003.

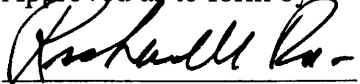
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney