

ORDINANCE NO. 09-14

AN ORDINANCE OF THE CITY OF KEY WEST,
FLORIDA, ADDING CHAPTER 31 OF THE CODE
OF ORDINANCES ENTITLED "LAW ENFORCEMENT
ALARM REGULATION" BY ADDING SECTIONS 31-
1 THROUGH 31-10 TO PROVIDE REGULATIONS
AND FEES PERTAINING TO FALSE ALARMS;
PROVIDING FOR SEVERABILITY; PROVIDING
FOR REPEAL OF INCONSISTENT PROVISIONS;
PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission finds that excessive false alarms unduly burden the law enforcement resources of the Key West Police Department. The purpose of this ordinance is to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for their use of alarm systems.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Chapter 31, in the separate sections 31-1 to 31-10 set forth below, is hereby added to the Code of Ordinances as follows:

CHAPTER 31

LAW ENFORCEMENT ALARM REGULATION

Sec. 31.1. Definitions.

The following words, terms and phrases, when used in this chapter of the code of ordinances only, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Alarm administrator means a person or persons designated by the City to administer, control and review false alarm reduction efforts and administer the provisions of this ordinance.

Alarm company means a person subject to the licensing requirements, and/or a company engaged in selling, leasing, installing, servicing or monitoring alarm systems.

Alarm permit means a permit issued by the City allowing the operation of an alarm system within the City.

Alarm signal means a detectable signal; audible or visual, generated by an alarm system, to which law enforcement is requested to respond.

Alarm system means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other activity requiring immediate attention and to which law enforcement is requested to respond, but does not include motor vehicle or boat alarms, fire alarms, domestic violence alarms, or alarms designed to elicit a medical response.

Alarm user means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning, leasing, or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.

Alarm user awareness class means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.

Automatic dial protection device means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the Key West Police Department a recorded message or code signal indicating a need for law enforcement response.

Cancellation means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Key West Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of civil/criminal penalty, and no penalty will be assessed.

City means the City of Key West or its agent.

False alarm means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, and signals activated to summon law enforcement personnel unless law enforcement response was cancelled by the alarm user or his/her agent before law enforcement personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the Key West Police Department, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm which can reasonably be determined to have been caused or activated by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies and receives permission from the user's alarm company, or designee, to test the system.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote

monitoring facility, whether installed by an alarm company or user.

Permit year means a 12-month period beginning on the day and month on which an alarm permit is issued.

Runaway alarm means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action.

SIA Control Panel Standard CP-01 means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by a nationally recognized testing organization, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction".

Verify 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 attempt 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 attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch.

Sec. 31-2. Alarm permit.

(a) **Permit required.** No person shall use an alarm system without first obtaining a permit for such alarm system from the City. A fee of \$50 is required for the initial registration ~~and annual renewals.~~ There will be no charge for the mandatory annual renewals if there have been no false alarms during the 12 month permit period. A fee of \$50 is required for annual renewal if there has been any false alarm during the 12 month permit period. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch. This permit shall be in addition to all electrical and other applicable authorizations required by the Key West Code of ordinances and attendant regulations.

(b) **Application.** The permit shall be requested on an application form provided by the City. An alarm user has the duty to obtain an application from the City.

(c) **Transfer of possession.** When the possession of the premises at which an alarm system is maintained is transferred, the person obtaining possession of the property shall file an application for an alarm permit within 30 days of obtaining possession of the property. Alarm permits are not transferable and require a new registration and fee upon a change in possession or alarm companies.

(d) **Reporting updated information.** Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the City within 30 days of the change. Failure to comply will constitute a violation and may result in a fine.

(e) **Multiple alarm systems.** If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

Section 31-3. Duties of the alarm user.

(a) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms; and

(b) Provide the alarm company the permit number (the number must be provided to the communications center by the alarm company to insure dispatch).

(c) Make a solemn endeavor to respond or cause a representative to respond to the alarm system's location within thirty (30) minutes when notified by the Key West Police Department to deactivate a malfunctioning alarm system, to provide right of entry to the premises, or to provide alternative security for the premises; and

(d) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report or to perform routine maintenance as prescribed by alarm system provider.

(e) An alarm user must obtain a new permit if there is a change in address or ownership of a business or residence. Additionally, any change in the alarm service provider requires a new permit. Any new permit will be considered an initial registration and require payment of the applicable fee.

Section 31-4. Duties of the alarm company.

(a) No person shall engage in the alarm business in the city, except in compliance with:

(1) Florida State Statute, Chapter 489

(2) Obtain and maintain the required state, county and/or city license(s).

(3) Be able to provide name, address, and telephone number of the alarm company license holder or a

designee, who can be called in an emergency, 24 hours a day; and be able to respond to an alarm call, when notified, within 2 hours.

(4) Be able to provide the most current contact information for the alarm user.

(b) Ninety (90) days after enactment of this ordinance the alarm installation companies shall, on all new and upgraded installations, use only alarm control panel(s) which meet SIA Control Panel Standard CP-01.

(c) Prior to activation of the alarm system, the alarm company must provide instructions explaining the proper operation of the alarm system to the alarm user.

(d) Provide written information of how to obtain service from the alarm company for the alarm system.

(e) An alarm company performing monitoring services shall:

1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. 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 attempt to determine whether an alarm signal is valid, EXCEPT in the case of a panic or robbery-in-progress alarm,

or in cases where a crime-in-progress has been verified by video and/or audible means.

2) Provide alarm user registration number to the communications center to facilitate dispatch and/or cancellations.

3) Communicate any available information about the location of the alarm.

4) Communicate a cancellation to the law enforcement communications center as soon as possible following a determination that response is unnecessary.

Section 31-5. Prohibited acts.

(a) It shall be unlawful to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.

(b) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than 10 minutes.

(c) It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Key West Police Department.

Section 31-6. Enforcement of provisions.

(a) **Excessive false alarms/Failure to register.** It is hereby found and determined that three or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for false alarms within a permit year may be assessed against an alarm user as follows:

Third, fourth and fifth false alarm\$50.00	<u>\$150.00</u>
Sixth and seventh false alarm.\$100.00	<u>\$200.00</u>
Eighth and ninth false alarm\$250.00	<u>\$350.00</u>
Tenth and over false alarms\$500.00	<u>\$600.00</u>
Failure to Register\$100.00	<u>\$200.00</u>

(b) **Other civil penalty(ies).** Violations other than those listed in paragraph 31-6(a) above shall be enforced through the assessment of civil penalty(ies) in the amount of \$100.00.

(c) **Payment of civil penalty(ies).** Civil penalty(ies) shall be paid within (30) days from the date of the invoice.

(d) **Civil Non criminal violation.** A violation of any of the provisions of this ordinance shall be a civil violation and shall not constitute a misdemeanor or infraction.

Section 31-7. Alarm user awareness class.

(a) **Alarm User Awareness Class.** The City may create and implement an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms. The City may grant the option of attending a class in lieu of paying one assessed fine.

Section 31-8. Appeals.

(a) **Appeals process.** Assessments of civil penalty(ies) and other enforcement decisions made under this ordinance may be appealed by filing a written notice of appeal with the Key West Police Department within 10 days after the date of notification of the assessment of civil penalty(ies) or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty (ies) or other enforcement decision. Appeals shall be heard by the special magistrate or other individual ("hearing officer") hired by the City of Key West to rule

upon code compliance citations. The hearing officer's decision is subject to review in the manner provided by law in the circuit court.

(b) **Appeal standard.** The hearing officer shall review an appeal from the assessment of civil penalty(ies) or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalty(ies) or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalty(ies) or reverse any other enforcement decision where warranted. Upon any appellate finding that a violation of this chapter has occurred, the hearing officer may also assess a reasonable administrative fee based upon the evidence produced.

Section 31-9. Confidentiality

To the extent allowed by Florida's public records laws, and in the interest of public safety, all information contained in and gathered through alarm registration applications, no response records, applications for appeals and any other alarm records shall be held in confidence by all employees and/or representatives of the City.

Section 31-10. Government immunity.

Alarm registration 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 applying for an alarm registration, the alarm user acknowledges that the Key West Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

Additions from 1st reading are underlined.
Deletions from 1st reading are ~~struck through~~.
Additions from 2nd reading are double underlined.
Deletions from 2nd reading are ~~double struck through~~.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

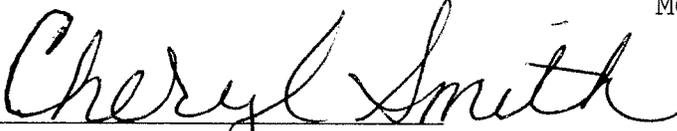
Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

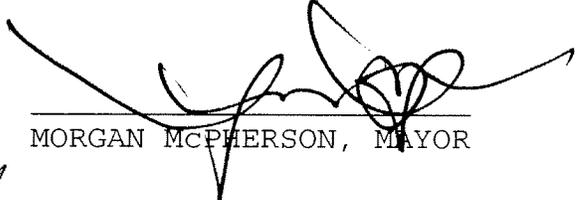
Read and passed on first reading at a regular meeting held this 18th day of November, 2008.

Read and passed on final reading at a regular meeting held this 2nd day of June, 2009.

Authenticated by the presiding officer and Clerk of the Commission on 3rd day of June, 2009.

Filed with the Clerk June 3, 2009.


CHERYL SMITH, CITY CLERK


MORGAN MCPHERSON, MAYOR

Donald J. Lee, Jr.
Chief of Police



Key West
POLICE DEPARTMENT

To: Mr. Jim Scholl, City Manager
From: Donald J. Lee Jr., Chief of Police
Date: May 8, 2009
Subject: Executive Summary – Alarm Ordinance

ACTION STATEMENT

Our proposed amendment to the False Alarm Reduction Ordinance is the result of the concerns expressed from the dais at the previous readings of the ordinance, as well as conversations with commissioners on a one on one basis. I believe the proposed amendment with annual renewal at no fee if there have not been any false alarms will address the commission's concerns for innocent permit holders. At the same time the increase of the fines issued to the offenders should offset the administrative costs of maintaining the program. I have had this proposal reviewed by national experts within this field and they concur. This proposed amendment will keep the program financially attractive enough to third party service providers for competitive bidding.

II. BACKGROUND

At the first reading of the ordinance, the annual renewal was removed and appears "struck through" in the attachment. The advantages of a mandatory annual renewal make it essential to the success of the program. Without up to date information, that is confirmed annually, the program will fail and become unenforceable within one to two years. In addition there is the greatest likelihood of reducing the number of false alarms in the city as proven by the "IACP Model States Report" where 78% of the law enforcement agencies that required registration experienced a decrease in false alarms, which is the goal of this program.



RESPECT - INTEGRITY - FAIRNESS

Key West Police Department 1604 N. Roosevelt Blvd. Key West, FL 33040 (305) 809-1111
www.keywestcity.com



III. **OPTIONS / ADVANTAGES / DISADVANTAGES**

- By not reinstating an annual renewal the program can not succeed, as has been proven by other jurisdictions that have not required it.
- The KWPD does not have the resources to administer this program in house and intends to outsource those duties to a third party service provider chosen through a competitive bidding process.
- If administered successfully the national average reduction in false alarms is between 72 to 75%. There is also the equivalent reduction in revenue from fines. Sustainability of the program requires some revenue from renewal and this amendment puts that burden on permit holders that have received a free response from the KWPD on at least one occasion within the permit year.
- Mandatory renewal without any fee for all permit holders, even those that have had one free false alarm responses, will make the program less attractive to third party service providers and threaten sustainability of the program.

IV. **RECOMMENDATION**

This proposed amendment clearly provides the greatest likelihood of achieving the desired effect to significantly reduce the number of false alarm responses by our officers. The proposed amendment was reviewed by the Security Industry Alarm Coalition and the False Alarm reduction Association. They concurred that the adjustments were a workable solution to addressing the concerns expressed at the previous readings and still able to sustain the program. I recommend that the proposed amendment be approved and incorporated into the ordinance.



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Shawn D. Smith

From: Frank Sauer
Sent: Wednesday, April 29, 2009 5:46 PM
To: Commissioners
Cc: Donald Lee; Jim Scholl; Shawn D. Smith
Subject: False Alarm Ordinance

Attachments: FARO 2nd Reading Ammendments.doc

Commissioners, Mayor and City Manager

Attached please find our proposed amendment to the False Alarm Reduction Ordinance. At the first reading, the annual renewal was removed and appears "struck through" in the attachment. I have spoken with commissioners on a one on one and heard the concerns expressed from the dais at the meetings. I believe the proposed amendment with annual renewal at no fee if there have not been any false alarms will address your concerns for innocent permit holders. At the same time the increase on the offenders should offset the administrative costs of maintaining the program. I have had this proposal reviewed by the nation experts within this field and they concur with that propose amendment would keep the program attractive enough to third party service providers for competitive bidding for services. I would like to have the ordinance second reading at the May 19th commission meeting.

Please feel free to contact me if you have any questions.

Frank Sauer
Administrative Captain
KWPD
809-1084
fsauer@keywestcity.com



FARO 2nd Reading
Ammendments.d...

Sec. 31-2. Alarm permit.

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