

ORDINANCE 2012-12

AN ORDINANCE OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AMENDING CHAPTER 11 ½ OF THE *MUNICIPAL CODE OF ORDINANCES* RELATING TO FIRE ALARMS; PROVIDING FOR REGULATIONS AND FEES AND CHARGES PERTAINING TO FALSE OR NUISANCE FIRE ALARMS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Daytona Beach Shores to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, the City of Daytona Beach Shores finds that a high incidence of false fire alarms and nuisance fire alarms is detrimental to the public interest and detracts from the ability of emergency personnel to devote all of their efforts in addressing bona fide calls for emergency assistance; and

WHEREAS, the purpose of this Ordinance is to encourage property owners and fire alarm companies to be diligent in the prevention and minimization of false and nuisance fire alarms; and

WHEREAS, this Ordinance governs fire alarm systems intended to summon the City's emergency response and public safety personnel to properties and to ensure, to the maximum extent feasible, the loss of resources resulting from false or nuisance fire alarms; and

WHEREAS, the City Council of the City of Daytona Beach Shores finds it is in the best interest and welfare of the citizens of the City to enact this ordinance; and

WHEREAS, the City of Daytona Beach Shores has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, although not a land development regulation, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Daytona Beach Shores* and advances the public health, safety and welfare; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAYTONA BEACH SHORES, FLORIDA THAT:

SECTION ONE: REGULATION OF FALSE FIRE ALARMS/AMENDMENT OF SECTION 11 ½ OF CITY CODE. Section 11 1/2, *Code of Ordinances of the City of Daytona Beach Shores*, is amended to read as follows:

Sec. 11½-1. - Definitions.

For the purpose of this chapter, whenever any of the following words or terms are used herein, they shall have the meanings ascribed to them in this section:

~~Alarm shall mean:~~ Any device which is used in a building or premises for the detection of unauthorized entry, burglary, fire, rescue, or any other emergency activity, and which, when activated, emits a sound, signal, or message to alert others, whether emitted on or off the premises or to the central office of an alarm business.

~~Alarm business shall mean:~~ Any person engaged in the business of selling, leasing, monitoring, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm for any building, place, or premises.

~~Alarm system:~~ Any device, mechanical or electrical, which is installed or used to warn or signal emergency response or public safety department personnel of danger to persons or property.

~~Alarm user shall mean:~~ Any person using an alarm or occupying and controlling a building or premises, or a portion of a building or premises, served by an alarm.

~~Class "A" alarms shall mean:~~ All those alarms activated by entry in response to criminal activity, fire, rescue, and alarms activated solely by an act of nature, act of God, or act of a regulated utility company completely out of the control of the alarm owner or user and not contributed to by faulty design, maintenance, installation, or use.

~~False alarms shall mean:~~ All activated alarms, responded to by the ~~City public safety department~~, which do not qualify as class "A" alarms, including, but not limited to, alarms activated through inadvertence, neglect, accident, unannounced testing, and faulty installation, or maintenance. False alarms are also known as nuisance alarms in that they detract from the ability of emergency services personnel to devote all of their efforts to addressing bona fide emergency situations and circumstances.

~~Persons shall mean:~~ An individual partnership, association, or corporation.

~~Response:~~ Arrival of the ~~City of Daytona Beach Shores' Department of Public Safety~~ personnel at a location as a result of the activation of an alarm system at the location.

~~Unit of real property:~~ Any contiguous lands within the city, which are under common ownership, or are devoted to a single use, whichever is greater. Common ownership shall include all entities from which the same natural or fictitious person or people have ultimate benefit. Contiguous lands shall include those separated by easements, sidewalks, alleys, rights of way, and water bodies.

~~Public Safety Personnel:~~ ~~One (1) or more employees of the City of Daytona Beach Shores' Department of Public Safety.~~

Sec. 11½-2. - Alarm permit required.

It is prohibited and unlawful for a ~~No person to have shall have~~ an alarm installed to be operational, or use an existing alarm serving a building or premises, or portion thereof,

occupied or controlled by such person, unless an alarm permit in the form of a decal in a form determined by the City Manager, or designee, has been issued hereunder, and is in force, authorizing the use of such alarm. ~~Said alarm permit shall constitute a regulatory license. For any alarm existing prior to the effective date of this chapter (January 13, 1999), an alarm permit application shall be made within thirty (30) days of the effective date hereof.~~

Sec. 11½-3. - Application for alarm permit.

(a) Applications for alarm permits shall be made to the City Manager, or designee, ~~public safety department~~ on forms provided by the City of ~~Daytona Beach Shores~~. The application shall be in a form approved by the City Manager, or designee, ~~signed by the alarm user and shall provide the following information:~~

- ~~(1) Name, address, and telephone number of the alarm user;~~
- ~~(2) Address and telephone number of the alarm user's premises or building to be served by the alarm;~~
- ~~(3) The name, address, and telephone number of the person or persons in charge of the premises or building served by the alarm;~~
- ~~(4) The name, address, and telephone number of the person or entity installing such alarm;~~
- ~~(5) The name, address, and telephone number of the person or entity monitoring such alarm;~~
- ~~(6) The name, address, and telephone number of the person or entity providing maintenance and repair service to such alarm;~~
- ~~(7) An agreement by the alarm user binding upon the alarm user's heirs and successors in interest, to promptly pay or lawfully contest any penalties assessed against the alarm user for an excessive number of false alarms as described in this Chapter.~~

(b) An amended application shall be filed within ten (10) days after any change in the information provided in the original such application or the most recent amendment to the original application.

Sec. 11½-4. - Term of permit; nontransferability; permit fees.

(a) Term. All alarm permits shall have a term of one (1) year from October 1 to September 30. Any permit issued after October 1 shall also expire on September 30, regardless of the date of issuance. No discount in fees shall be granted for any permit that is valid for less than one (1) year.

(b) Nontransferability. No alarm permit shall be transferable or assignable or cover more than one (1) building or premises.

(c) Permit fees. Permit fees shall be established by resolution adopted by the City Council. ~~The initial fee for an alarm permit shall be twenty dollars (\$20.00) to be paid at the time of the issuance of the permit. The permittee shall pay an annual renewal fee of ten dollars (\$10.00) for the permit not later than September 30 prior to expiration of the permit. Any permittee who fails to pay the renewal fee on or before its due date shall pay in addition to the renewal charge of ten dollars (\$10.00), a monthly late fee of ten dollars (\$10.00). 15%.~~

~~Sec. 11½-5. - Issuance and denial of alarm permits.~~

~~(a) Permits to be picked up. All initial and renewal permits shall be picked up by the permittee, or the designee of the permittee, at the City of Daytona Beach Shores' Public Safety Department. Renewal decals will be delivered by the Department of Public Safety.~~

~~(b) Denial of permits. An alarm permit shall be denied if:~~

~~(1) The requested information is not supplied on the application.~~

~~(2) Material information on the application is incorrect.~~

~~(3) Any person or entity listed on the application pursuant to subsections (a)(2), (a)(3) or (b) of section 11½-3 who does not possess the required occupational or regulatory license to conduct the activities on the premises in question.~~

Sec. 11½-6. - Decal posting required.

Each alarm permit holder shall be issued a numbered alarm decal and an expiration date sticker by the city, which shall be displayed in a visible location near the alarm panel ~~in a conspicuous place near the entrance to the premises and visible from the outside of the premises on a window or door near, or on the external door covered by the permit.~~ These decals shall have a serial number to identify the system and/or ownership shall indicate the name of the business, alarm company and emergency contact information and the permittee shall also post with the decal, the phone number of a person who may be contacted in the case of an emergency at the premises. It is prohibited and ~~shall be~~ unlawful for any person to display any permit decal or expiration date sticker that has expired. ~~In the event that a replacement decal is needed, due to a broken window or door, one (1) may be obtained for a five dollar (\$5.00) fee.~~

Sec. 11½-7. - Excessive false alarms declared a public nuisance.

The emission of more than three (3) ~~six (6)~~ false alarms within any three hundred sixty-five (365) day period of time is excessive and constitutes a serious public nuisance, and is hereby declared to be unlawful and a violation of this section.

Sec. 11½-8. - False ~~Public Safety Department's~~ false alarm service charge; collection.

(a) For response to excessive false alarms by the City public safety department, the alarm user shall be charged a service fee by the city as established by resolution of the City Council of fifty dollars (\$50.00) for the first false alarm in excess of three (3) ~~six (6)~~ false alarms in any twelve (12) month period, and as established by resolution of the City Council for the second and each successive false alarm in excess of four (4) ~~six (6)~~ in any twelve (12) month period.

(b) If any person shall fail to appear and reset any such alarm within one (1) hour after being notified by the City public safety department to do so, then the owner or manager of the premises shall be charged a fee as established by resolution of the City Council of twenty dollars (\$20.00) for the first such occurrence, and a fee as established by resolution of the City Council of fifty dollars (\$50.00) for each succeeding occurrence, within twelve (12) months of the last failure to appear.

(c) The fees assessed in this Section shall be subject to the nuisance abatement special assessment provisions of this Code.

~~Sec. 11½-9. — Fire/rescue alarm service charge; collection.~~

~~(a) For response to excessive false alarms by the public safety department, the alarm user shall be charged a service fee by the city of fifty dollars (\$50.00) for the first false alarm in excess of six (6) false alarms in any twelve (12) month period, and one hundred dollars (\$100.00) for the second and each successive false alarm in excess of six (6) in any twelve (12) month period.~~

~~(b) If any person shall fail to appear and reset any such alarm within one (1) hour after being notified by the public safety department to do so, then the owner or manager of the premises shall be charged a fee of twenty dollars (\$20.00) for the first such occurrence, and a fee of fifty dollars (\$50.00) for each succeeding occurrence, within twelve (12) months of the last failure to appear.~~

Sec. 11½-10. - Corrective action report.

For each response by the City of ~~Daytona Beach Shores' Public Safety Department~~ to an alarm, the owner or manager of the premises shall, within five (5) working days, make a written report to the City Manager, or designee ~~director of the public safety department~~, on forms provided by the City department, setting forth the cause of the alarm, the corrective action taken, the name and address of the service company, if any, by whom the alarm system has been inspected or repaired, and such other information as the City department may reasonably require to determine the cause of the alarm, and what corrective action has been taken or may be necessary. After ~~Within seven (7) working days after the receipt of the owner's report, the City director of the public safety department will make a determination as to the alarm being class "A" or false, and notify the owner accordingly in writing. Failure to file a corrective action report shall result in assessment of an additional fee as established by resolution of the City Council.~~

~~Sec. 11½-11. — Grace period.~~

~~Owners or managers of premises will have a thirty (30) day grace period from the date the alarm system is installed or a substantial change in the system is made before the provisions of this chapter take effect. Any response to a premises, which has changed ownership shall be considered a first response excluding multi family dwellings.~~

Sec. 11½-12. - Interference with City's Public Safety Department's telephone trunk lines prohibited; alarm business central office required; identification required.

(a) No person shall use, or cause to be used, any telephone, or electronic device, communication networks or attachment that automatically selects a public primary telephone trunk line of ~~the public safety office or any other department or bureau of the city~~, and then, reproduces any prerecorded message to report any burglary, unauthorized entry, fire, rescue, or other emergency. No prerecorded messages shall report any burglary, unauthorized entry, fire, rescue or other emergency to the local dispatch center.

(b) No person shall provide a private alarm service system programmed to a central alarm reception office unless it shall have the central office staffed at all times, twenty-four (24) hours a day, including holidays.

(c) Any staff member of a private alarm service system reporting an alarm activation to which City ~~the public safety department/rescue~~ response is requested shall identify

himself and state the name and telephone number of the alarm business by which such response is requested.

Sec. 11½-13. - Audible alarms.

(a) All alarm sounders, which may be heard in any public place, shall be equipped and maintained to automatically cut off no longer than thirty (30) minutes after emitting audible sounds except for fire alarms, and any others required by a regulatory agency to sound longer.

(b) The City Manager, or designee, director of the public safety department may require the external sounders of an alarm system, found to be a nuisance, disconnected, and the alarm permit revoked until the appropriate corrective action has been taken. A fee, in an amount established by resolution of the City Council, shall be assessed for any such action.

~~Sec. 11½-14. -- Enforcement through code enforcement board.~~

~~(a) The director of the public safety department may initiate action before the code enforcement board of the city to obtain compliance with this chapter, and payment of the service charges and permit fees provided for in this chapter. Alternatively, upon authorization of the city council, the city attorney may enforce these provisions under the authority of section 16-13 of this Code.~~

~~(b) The City of Daytona Beach Shores, Department of Public Safety, shall semi-annually identify each property, which is the site of more than six (6) false alarm responses, and shall report the identity of the property, and the number of responses to the finance department within fifteen (15) days after the false alarm responses have exceeded six (6) in any yearly period. For the purposes of computing false alarm responses, a response by the public safety department to the same incident shall be considered a response. Within ten (10) days of identifying such properties the Department of Public Safety shall mail an invoice receiving such report, the finance department shall mail an invoice to the unit of real property as it appears in the most recent tax roll prepared by the county property appraiser, and to the occupational license holder for the business on the property.~~

~~(c) If any property shall fail to pay in full within (30) days, a lien is hereby created in favor of the city upon the property, in accordance with the state law.~~

~~(d) The City of Daytona Beach Shores may notify the alarm owner's insurance company of the alarm malfunction.~~

~~(e) The City of Daytona Beach Shores has the option of responding to nuisance burglary alarms.~~

~~(f) For each response by the public safety department to a false alarm, the owner or manager of the premises shall be required within five (5) working days to make a written report to the public safety department, setting forth the cause of the alarm, the corrective action taken, the name and address of the service company, by whom the alarm system has been inspected, and tested or repaired. Failure to comply shall result in an additional fine of one hundred dollars (\$100.00).~~

Sec. 11½-15. - Exemptions.

This chapter shall not apply to motor vehicle alarms ~~attached to motor vehicles~~ or to any alarm system located on premises occupied by an agency of the federal, state, county, or city government.

SECTION THREE: ENFORCEMENT AND PENALTIES.

(a). It is prohibited and unlawful for any person to fail to comply with the requirements of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any lawful means available to the City under the controlling provisions of State law.

(c). The penalties for violation of this Ordinance shall be as set forth in the code enforcement method asserted by the City under the *Code of Ordinances of the City of Daytona Beach Shores, Florida* or as may be available under the controlling provisions of State law.

(d). The fees and charges which are assessed under the provisions of this Ordinance are determined to be reasonable fees to address nuisance abatement and the service provided to property owners in responding to alarms which originate on their properties.

SECTION FOUR: SAVINGS. The prior actions of the City of Daytona Beach Shores relating to the regulation of interior storage and related matters are hereby ratified and affirmed.

SECTION FIVE: CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Daytona Beach Shores, Florida* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections Four, Five, Six, Seven and Eight shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION SIX: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION SEVEN: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION EIGHT: EFFECTIVE DATE. This Ordinance shall take effect immediately upon enactment.

CITY OF DAYTONA BEACH SHORES, FLORIDA

HARRY JENNINGS, MAYOR

MICHAEL T. BOOKER, CITY MANAGER

CHERI SCHWAB, CITY CLERK

Approved as to form and legality:

LONNIE GROOT, CITY ATTORNEY

Passed on first reading this _____ day of _____, 2012.

Adopted on second reading this _____ day of _____, 2012.