

## **ORDINANCE NO. 3862**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, CHAPTER 34 EMERGENCY SERVICES, ARTICLE II ALARM SYSTEMS, SECTION 34-53 ALARM REGISTRATIONS REQUIRED, SECTION 34-60 FALSE ALARM FINES, SECTION 34-62 ALARM REGISTRATION SUSPENSION, FEES, FINES, VIOLATION TO MAKE ALARM DISPATCH REQUEST FOR SUSPENDED ALARM SITE AND SECTION 34-63 APPEALS OF DETERMINATIONS REGARDING ALARM REGISTRATIONS, FEES AND FINES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS:** Most false alarms are the result of improper maintenance or improper or careless use of an alarm system; and

**WHEREAS:** The public and police officers are subjected to needless danger when the police officers are called to respond to false alarms; and

**WHEREAS:** Police officers responding to false alarms are not available for other duties; and

**WHEREAS:** In the interest of utilizing police resources more effectively and efficiently, the number of false alarms can and must be reduced.

**WHEREAS:** The City Council of the City of Fort Myers finds that this Ordinance promotes the public health, safety and welfare of the citizenry.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA,** that:

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance and adopted as legislative findings.

**SECTION 2. Amending City Code Section 34-53.** The City Code of the City of Fort Myers, Florida Chapter 34, Emergency Services, Article II, Alarm Systems, Sections 34-53 Alarm registrations required, 34-60 False alarm fines and 34-63 Appeals of determinations regarding alarm registrations, fees and fines

## **ORDINANCE NO. 3862**

are hereby amended to read as follows:

### **Sec. 34.53. Alarm registrations required.**

(a) An alarm user shall not operate, or cause to be operated, any alarm system without a valid alarm registration. A separate alarm registration is required for each alarm site having a distinct address or business name. A registration fee including a completed alarm registration application shall be received and approved by the alarm administrator prior to any alarm system activation. There shall be reduced residential registration fees for senior citizens age 65 or older. The city council shall establish such classes of persons by resolution.

(b) Owners of local alarm systems are required to adhere to all sections of this chapter and are subject to all fees, fines, suspensions, penalties or other requirements that are applicable.

(c) The fee for a new alarm registration ~~and the alarm registration renewal fee~~ shall be collected by the alarm administrator.

(d) Existing alarm systems:

1. Any alarm system that has been installed before the effective date of this chapter shall be registered and a registration fee collected by the alarm administrator.

i. The alarm agreement holding company shall provide, within forty (40) days of the effective date of this chapter, an alarm user list of existing alarm users in the City, in a format approved by the alarm administrator, including name, address, billing address and telephone number to the alarm administrator.

**ORDINANCE NO. 3862**

- ii. The alarm agreement holding company may apply to the alarm administrator for an extension of the time limit in subsection (a) based on extenuating circumstances.
  - 2. The alarm agreement holding company may, through a mutual written agreement, have another alarm company provide the alarm user's list.
  - 3. The alarm user list in subsection (a) shall be provided to the alarm administrator on an annual selected date in order to keep current the existing alarm systems within the City limits.
- (e) New alarm systems:
- 1. Any alarm installation company that installs an alarm system on premises located within the City shall notify the alarm administrator within thirty (30) days that an alarm system has been installed and send the alarm administrator the required information.
  - 2. In the case of self-installed alarm systems that are to be monitored by a monitoring company, the monitoring company shall have the same duties as imposed on an alarm installation company under this section.
  - 3. Failure of an alarm installation company to notify the alarm administrator of a new alarm system installation within thirty (30) days of installation shall result in a fine as established by resolution of the city council to be imposed on the alarm installation company. If the alarm installation company has a history of compliance and is otherwise in good standing, the Chief of Police or his/her representative shall have the authority to waive (or not impose) this fine. In all cases, the alarm

## ORDINANCE NO. 3862

installation company/alarm monitoring company shall be notified of the unregistered site.

4. The initial alarm registration fee shall be collected by the alarm administrator. Failure of the alarm user to submit an application and registration fee within the thirty (30) days after notice shall result in the alarm system being classified as non-registered and late charges being assessed.

(f) Alarm registration ~~and renewal fees~~.

1. An alarm registration shall expire one year from the date of issuance, and must be renewed annually by the alarm user. The alarm administrator shall notify the alarm user of the need to renew their registration thirty (30) days prior to the expiration of the registration. It is the responsibility of the alarm user to submit the updated information ~~and renewal fees~~ prior to the registration expiration date. Failure to renew shall be classified as use of a non-registered alarm system and subject the alarm site to a suspension and late charge.

~~2. Registration fees shall be collected annually based on a one year registration period. The amounts of the registration and renewal fees required are established by resolution of the city council.~~

~~3. Late charge. Alarm users who fail to make payment for an alarm registration prior to the registration's expiration date will be assessed a late charge as established by resolution of the city council.~~

~~4.2.~~ Refunds. No refund of a registration fee ~~or registration renewal fee~~ will be made.

## ORDINANCE NO. 3862

~~5.3.~~ Upon receipt of a completed alarm registration application form and the alarm registration fee, the alarm administrator shall issue a registration number or alarm registration renewal to the applicant unless:

- i. The applicant has failed to pay any fee or fine assessed under this chapter; or
- ii. An alarm registration for the alarm site has been suspended, and the condition causing the suspension has not been corrected; or
- iii. Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm registration shall be sufficient cause for refusal to issue an alarm registration.

(g) Exceptions.

1. Government entities, including but not necessarily limited to the City, County, State, Federal and School Districts, must obtain alarm registrations for all alarm systems on property under their control within the boundaries of the City, but are exempt from payment of alarm registration ~~and renewal~~ fees.
2. All registration-fee-exempted alarm sites are required to obtain and maintain a valid alarm registration for a police response and are subjected to all other fees, fines and suspension enforcements.

### **Sec. 34-60. False alarm fines.**

- (a) The alarm administrator may assess the alarm user a fine for a false alarm occurring at that alarm user's alarm site. The amount of said fines for the listed categories shall be established by city council and may be subsequently amended by resolution of the city council.

**ORDINANCE NO. 3862**

1. Burglar false alarm fines: See fee and fine schedule  
Robbery false alarm fines: See fee and fine schedule
  3. Panic false alarm fines: See fee and fine schedule
- (b) If a false alarm fine is not paid within thirty (30) days after the invoice is mailed, a late charge as established by resolution of the city council shall be imposed.
- (c) Fines for false alarms from non-registered alarm systems. For person(s) operating a non-registered alarm system incurring a false alarm, fines shall be imposed as established by resolution of the city council.
- (d) No monitoring company after five (5) business days of receiving notice from the alarm administrator that an alarm user's registration status is that of non-registered shall make a burglar alarm dispatch request from that alarm user.
- (e) If cancellation of a police response occurs prior to the officer's arrival at the alarm site, the response is not considered a false alarm and no false alarm fine will be assessed.
- (f) The alarm installation company shall be assessed a fine in an amount established by resolution of the city council if the officer responding to a false alarm determines that an on-site employee of the alarm installation company directly caused the false alarm. Such false alarms are not included in the total number of false alarms for the alarm user, nor is the alarm user to be held liable for any false alarm fine resulting from such alarm activation.
- (g) A fine in an amount established by resolution of the city council shall be imposed against any monitoring company that fails to verify alarm system signals as required in subsection Sec. 34-58(c)2 of this chapter.
- (h) Notice of the right of appeal under this ordinance will be included with

## **ORDINANCE NO. 3862**

notice of any fine.

(i) All registration fees, ~~renewal registration fees~~ or fines assessed under this section are due within thirty (30) days of written notice unless otherwise noted.

A late charge in an amount established by resolution of the city council shall be imposed for each individual fee or fine due that is not paid within thirty (30) days.

(j) The alarm administrator may waive the false alarm fine for the first chargeable false alarm during each one (1) year registration period, upon the alarm user's successful completion of the online alarm user awareness class available through the alarm administrator. In order to have the fine waived, the alarm user shall be in possession of a valid registration, and have successfully completed the class within thirty (30) days of the fine notice. Alarm users without online access may request the online class material and test be mailed to them. Reasonable additional time to complete the alarm user awareness class shall be allowed for mail delivery.

### **Sec. 34-62. Alarm registration suspension, fees, fines, violation to make alarm dispatch request for suspended alarm site.**

(a) The alarm administrator shall notify the Police Department of each alarm user whose alarm registration qualifies for suspension under this section. The alarm administrator may suspend an alarm registration if it is determined that:

1. There is a false statement of a material fact in the registration application;
2. The alarm user has had six or more false burglar alarms at a single alarm site within the one-year registration period, except that the alarm administrator may waive a suspension upon receipt of documented work orders showing reasonable attempts to repair the alarm system prior to

**ORDINANCE NO. 3862**

the notice of suspension.

3. The alarm user has failed to make timely payment of any fee, fine or charge assessed under this section.

4. There is a violation of this chapter by the alarm user and the condition causing the violation was not corrected within thirty (30) days after written notice from the alarm administrator.

(b) It is a violation of this section for a person to operate a burglar alarm system during the period in which the alarm registration is suspended.

(c) It is a violation of this chapter for a monitoring company to make an alarm dispatch request to a burglar alarm site after the monitoring company's alarm response manager (ARM) has been notified by the alarm administrator that the registration for that alarm site has been suspended. A grace period of five (5) business days after the ARM's notification shall be granted the monitoring company to comply.

(d) False alarm fines under suspension status. In addition to the fines set forth in subsection Sec. 34-60(a), a supplemental fine is hereby imposed upon any person operating a suspended burglar alarm system. The amount of said fines shall be established by resolution of the city council.

(e) It shall be the responsibility of the alarm user to notify their respective alarm monitoring company of their suspension status. An alarm user shall be held financially accountable for all false alarm fines incurred.

(f) The police department may refuse a law enforcement response to an alarm dispatch request at an alarm site for which the alarm registration has been suspended or classified as non-registered pursuant to this chapter, unless the alarm company has a verified response request from the alarm user.



**Sec. 34-63. Appeals of determinations regarding alarm registrations, fees and fines.**

(a) If the alarm administrator assesses a fee or fine, suspends an alarm registration or denies the issuance, renewal or reinstatement of an alarm registration, the alarm administrator shall send written notice of the action and a statement of the right to appeal to the affected applicant, alarm user, alarm installation company or alarm monitoring company.

(b) The applicant, alarm user, alarm installation company or alarm monitoring company may appeal any action described in subsection (a) to the Chief of Police (or designee) by setting forth in writing the reasons for the appeal and delivering the appeal to the Chief of Police (or designee) within twenty (20) days after receipt of notice of the action. Failure to deliver the appeal within that time period is a waiver of the right to appeal.

(c) The procedure for an appeal to the Chief of Police (or designee) is as follows:

1. The applicant, alarm user, alarm installation company or monitoring company may file a written request for appeal by paying an appeal fee and setting forth the reasons for the appeal. The appeal must be entitled "Appeal from Alarm Administrator's Action." The appeal fee shall be in an amount established by resolution of the city council and will be returned to the appealing party if the appeal is successful.

2. The Chief of Police (or designee) shall conduct a hearing on the appeal within thirty (30) days after the police department's receipt of the request for appeal and appeal fee and shall consider the evidence submitted by the appealing party and the alarm administrator. The Chief

## **ORDINANCE NO. 3862**

of Police (or designee) must base the decision on the preponderance of evidence presented at the hearing and must render a decision within fifteen (15) days after the date of the hearing. The decision shall affirm or reverse the decision or action taken by the alarm administrator.

3. Filing of an appeal stays any action by the alarm administrator to suspend an alarm registration or require the payment of a fee or fine until the appeal process has been exhausted. This provision applies only to the action of the alarm administrator that is the subject of the appeal. This provision does not operate as a bar to enforcement action on violations of this section that occur thereafter.

(d) The alarm administrator or the Chief of Police, or their respective designees, may adjust the count of false alarms or assessed fees based on:

1. Evidence that a false alarm was caused by action of a communications services provider (i.e. telephone, cellular, cable company);

2. Evidence that a false alarm was caused by a power outage of more than four (4) hours or severe weather such as a tornado or earthquake;

3. Evidence that an alarm dispatch request was not a false alarm; or

4. The occurrence of multiple alarms within a 24-hour period, which may be considered as one false alarm if the alarm user has taken corrective action, unless the false alarms are directly caused by the alarm user.

(e) The alarm administrator may waive all or part of a false alarm fine due to extenuating circumstances or to encourage corrective action with supervisor approval.

**ORDINANCE NO. 3862**

<b>ALARM USERS</b>	<b>FEES</b>
Registration <del>and Renewal</del>	\$25.00
Senior Residential 65+ Registration <del>and Renewal</del>	\$12.00
Appeal fees per request	\$25.00
	<b>FINES</b>
<del>Registration late charge</del>	<del>\$25.00</del>
<del>Alarm fee—late charge</del>	\$25.00
All fees and fines late <u>charge</u>	
Reinstatement Fee	\$50.00
Burglar False Alarm	<b>Registered</b>  1 –Free  2 – \$50.00 or alarm school  3 – \$75.00  4 – \$100.00  5 – \$150.00  6 or more \$200.00
Burglar False Alarm	<b>Non-Registered</b>  1 - \$50.00  2 - \$150.00  3 - \$175.00  4 - \$200.00  5 - \$250.00

**ORDINANCE NO. 3862**

	6 or more \$300.00
Robbery False Alarm	1 - \$100.00 2 or more \$200
Panic False Alarm	\$100.00
Operating Suspended Alarm System	1 – \$200 2 or more \$300
<b>ALARM COMPANY</b>	<b>FINES</b>
Failure to report new install	\$50.00
False Alarm caused by Alarm Company	\$100.00
Failure to use Alarm Call Verification procedures	\$50.00
All late charges	\$25.00
Suspension reinstatement fee and mailing costs	\$200.00 and \$10.00 per customer if contacted
	<b>FEES</b>
Appeal fee per request	\$25.00

**SECTION 3. Codification.** This Ordinance shall be incorporated into the City of Fort Myers Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance or the City Code may be freely made.

**SECTION 4. Notices.** Notices of public hearings were published in a newspaper of general circulation in accordance with the law.

**ORDINANCE NO. 3862**

**SECTION 5. Severability.** If for any reason any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately upon adoption.

**ORDINANCE NO. 3862**

**PASSED IN PUBLIC SESSION** of the City Council of the City of Fort Myers,  
Florida, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
Teresa Watkins Brown

\_\_\_\_\_  
Johnny W. Streets, Jr.

\_\_\_\_\_  
Terolyn P. Watson

\_\_\_\_\_  
Kevin Anderson

\_\_\_\_\_  
Fred Burson

\_\_\_\_\_  
Gaile H. Anthony  
Councilpersons

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019 at \_\_\_\_\_ o'clock p.m.

\_\_\_\_\_  
Randall P. Henderson, Jr.  
Mayor

**FILED** in the Office of the City Clerk this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
Gwen Carlisle, MMC  
City Clerk