

ORDINANCE NO. 06-28

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR REPLACEMENT OF SECTION 21-276 "BURGLAR ALARMS" OF THE MIAMI-DADE COUNTY CODE TO THE EXTENT APPLICABLE; REQUIRING REGISTRATION OF BURGLAR ALARM SYSTEMS; IMPOSING AN ANNUAL REGISTRATION FEE; REQUIRING PERMITS FOR THE INSTALLATION OF BURGLAR ALARM SYSTEMS; PROVIDING FOR PENALTIES FOR FALSE ALARMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay, Florida (the "Town"), has determined that it is in the best interest of the Town to adopt a Burglar Alarm Ordinance as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recital is true and correct and is incorporated herein by reference.

Section 2. Burglar Alarms. Miami-Dade County Code Chapter 21, "Offenses and Miscellaneous," Article XVI, "Burglar Alarms," Section 21-276 "Burglar Alarms," to the extent deemed to be applicable to the Town, is hereby repealed. The Town hereby adopts the following procedures:

Burglar Alarms.

(1) **Purpose of regulations.** The purpose of this section is to place responsibility on the alarm user to prevent, by use of appropriate mechanical, electrical, or other means, false burglar alarms.

(2) **Definitions.**

(a) *Alarm Company* means any person licensed pursuant to Chapter 489, Florida Statutes to engage in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring any alarm system or causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in, or on, any building, structure or facility.

(b) *Alarm User* means any person or other entity that owns, possesses, controls, occupies, or manages any Premises.

(c) *Burglar Alarm System* means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the Town's Police Department may reasonably be expected to respond, but does not include fire alarms or alarms installed in motor vehicles.

(d) *False Alarm* means a signal from a Burglar Alarm System that elicits a response by the Town's Police Department when no emergency or actual or threatened criminal activity requiring an immediate response including a signal activated by negligence, accident, mechanical failure, and electrical failure; signals activated intentionally in non-emergency situations; and signals for which the actual cause of activation is unknown.

(e) *Premises* means the building or structure or portion of a building or structure upon which is installed or maintained a Burglar Alarm System.

(3) Permits required for installation or modification of Burglar Alarm Systems. All Alarm Companies installing or modifying Burglar Alarm Systems which shall operate at any Premises located within the Town shall obtain a Burglar Alarm Permit from the Town Building Department. Only Alarm Companies may apply for, be issued, and perform the work authorized under the Burglar Alarm Permit.

(4) Registration of alarm system and fee.

(a) *Registration of Burglar Alarm Systems.* All Burglar Alarm Systems which operate at any Premises located within the Town shall be registered with the Town by the Alarm User. The Alarm User shall complete and submit to the Town an annual registration for each Burglar Alarm System together with the appropriate fee. A new registration fee shall be necessary upon a change in the Alarm User. Failure to register a Burglar Alarm System shall constitute a violation of this Ordinance.

(b) Alarm System registration shall be made upon forms prescribed by the Town Manager. Each application shall include:

- (1) The name, address and telephone number of the applicant.
- (2) The make and type of alarm system and date of original installation.
- (3) Whether the Premises on or in which the alarm system is located are residential or nonresidential.
- (4) The name, address and telephone number of the alarm business or person which installed the alarm system.
- (5) The name, address and telephone number of the alarm business(es) with which the applicant has a maintenance or service contract, if any, or a central station hookup.
- (6) The names, addresses and telephone number of no less than three persons or entities to be contacted in the event of a false alarm.
- (7) The signature of the applicant and date of application.

(c) *Change in registration information.* In the event of a change in any of the information required as part of the annual registration, the Alarm User shall notify the Town of the change. An updated registration shall be filed with the Town within ten (10) days of any change.

(d) *Annual Registration Fee.* Effective November 1, 2006, there shall be an annual registration fee of twenty-five dollars (\$25.00) for all alarm registrations. Each separate alarm system shall require a separate registration. The registration period will be for one year. Upon renewal for registration periods beginning on or after November 1, 2007, the fee will be reduced to fifteen dollars (\$15.00) if the Burglar Alarm System has had no False Alarms requiring police dispatch during the prior registration period. For the registration period beginning November 1, 2006, the registration deadline shall be extended until January 1, 2007 provided however that the registration period shall still be deemed to run from November 1, 2006 to November 1, 2007.

(5) Required Equipment in a Burglar Alarm. An Alarm User shall not use a Burglar Alarm System unless that Burglar Alarm System is equipped with:

(a) A backup power supply that will become effective in the event of power failure or outage; and

(b) A device that automatically silences the alarm within fifteen (15) minutes after activation.

(6) False Alarms Prohibited. It is the responsibility of each Alarm User to monitor the occurrences of False Alarms on its premises. No burglar alarm user shall cause, allow, or permit the Burglar Alarm System to give a False Alarm. The Town Police Department shall notify the Alarm User of each False Alarm. Such notice shall be provided by posting a notice of violation on the premises; or by mailing a notice of violation to the Alarm User.

(7) Alarm Verification Calls Required. Except for panic or holdup type alarms, all residential or commercial intrusion/burglar alarms that have central monitoring must have a central monitoring verification call made to the premises generating the alarm signal, prior to alarm monitor personnel contacting the Town's Police Department for dispatch. This does not apply to panic or holdup type alarms. Alarm monitoring companies will make available to the Town Police Department, upon request, records providing proof that the monitoring company made the verification calls.

(8) Canceling False Alarm Calls. It shall be a violation of this Ordinance for an Alarm Company to fail to notify the Town Police Department of the cancellation of a false alarm within 10 minutes of being notified that the alarm is false by the Alarm User or his authorized representative. However, the Town's Police Department will not cite the Alarm Company for failure to meet the 10-minute criterion if notification of a False Alarm is received before an officer arrives on the scene. Alarm Companies will make available to the Town's Police Department records providing proof that the Police Department was contacted within the 10-minute criterion. If a fire alarm system is connected to a burglar alarm system, this section shall not apply to false alarms that the Alarm User proves were generated by the fire alarm portion of the system.

(9) Penalties.

(a) Each violation of either subsection (3), (4) or subsection (5) of this Ordinance shall be punished as follows:

1. For a first violation, by a fine of fifty dollars (\$50.00).

2. For a second and each additional violation, by a fine of one hundred dollars (\$100.00).

(b) Each violation of subsection (6) of this Ordinance shall be punished as follows:

1. For the first false burglar alarm in the user's registration period, the user shall be issued a one-time courtesy warning.

2. For a second, third and fourth false burglar alarm in the user's registration period, by a fine of one hundred dollars (\$100.00).

3. For the fifth and each additional false burglar alarm in the user's registration period, by a fine of two hundred dollars (\$200.00).

(c) Each violation of subsection (7) or subsection (8) of this Ordinance shall be punished as follows:

1. By a fine of one hundred dollars (\$100.00).

(d) An alarm is not a False Alarm if the Alarm User proves that (1) an individual activated the alarm based upon a reasonable belief that an emergency or actual or threatened criminal activity requiring immediate response existed; or (2) the Burglar Alarm System was activated by lightning or an electrical surge that caused physical damage to the system, as evidenced by the testimony of a licensed Alarm Company who conducted an on-site inspection and personally observed the damage to the system; or (3) if the Alarm User experienced a power outage of four or more hours, causing the alarm to activate upon restoration of power, as evidenced by written documentation provided by Florida Power and Light Company or other applicable provider. Fines may be mitigated by the Hearing Officer after presentation of evidence by the Alarm User indicating that mitigation is appropriate.

(10) Enforcement. In addition to all remedies otherwise available, this section shall be enforced by the code enforcement provisions set forth in the Town Code.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it

being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

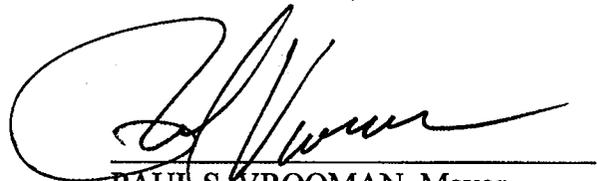
Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED and ADOPTED on first reading this 18th day of October, 2006.

PASSED and ADOPTED on second reading this 15th day of November, 2006.



PAUL S. VROOMAN, Mayor

Attest:



ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk



APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:



WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman **YES**

Vice Mayor Edward P. MacDougall **YES**

Councilmember Peggy R. Bell **YES**

Councilmember Timothy J. Meerbott **YES**

Councilmember Ernest N. Sochin **YES**