VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 10

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, ESTABLISHING THE VILLAGE OF ESTERO FALSE ALARM ORDINANCE; PROVIDING FOR SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ALARM PERMIT AND FEE; PROVIDING FOR FALSE ALARM PENALTIES; PROVIDING FOR REVOCATION AND REINSTATEMENT OF ALARM PERMIT; PROVIDING FOR APPEALS OF FINES AND REVOCATIONS; PROVIDING FOR RESPONSE TO ALARM; PROVIDING FOR DEACTIVATION OF AUDIBLE ALARMS; PROVIDING FOR ALARM MONITORING COMPANIES; PROVIDING FOR ALARM VERIFICATION CALLS REQUIRED; PROVIDING FOR ALARM SYSTEM CONTRACTORS; PROVIDING FOR AUTOMATIC DIALING DEVICES PROHIBITED; PROVIDING FOR MODIFICATION OF EXISTING ALARM SYSTEMS; PROVIDING FOR AUXILIARY POWER SUPPLY; PROVIDING FOR NO PUBLIC DUTY; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR DISPOSITION OF FEES AND FINES; PROVIDING FOR REPORTING; PROVIDING FOR ANNUAL AUDIT; CONFLICTS OF LAW; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero Council is the governing body in and for the incorporated area comprising the Village of Estero; and

WHEREAS, the Village of Estero Council recognizes that false alarms cause a misuse of the resources of the Lee County Sheriff's Office by causing the dispatch of units to the scene of a false alarm that renders these units unavailable to respond to legitimate emergency situations; and

WHEREAS, the Village Council finds that the continued high incidence of false alarms is a threat to the health, safety, and welfare of the Village of Estero.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

Section 1. Short Title, Purpose and Territorial Scope.

A. This Ordinance will be known and cited as the Village of Estero False Alarm Ordinance.

B. The provisions of this Ordinance will apply to all the incorporated areas of the Village of Estero, Lee County, Florida.

Section 2. 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.

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 Village of Estero 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 3. Alarm Permit and Fee.

A. Every alarm operator shall apply through the Lee County Sheriff's Department for a nontransferable alarm permit. The permit shall be valid for so long as the operator uses or controls the alarm system at the property identified in the alarm permit. In the event the alarm operator sells, relocates from, or in any other way no longer uses or controls the alarm at the property identified in the alarm permit, then the alarm permit shall be deemed to be terminated, invalid and in no further force or effect. The alarm operator shall notify the Lee County

Sheriff's Department with any change that will affect the validity of the alarm permit within fifteen (15) days of the change(s) taking place. If, for any reason, an alarm permit becomes invalid or is revoked then the alarm operator of the alarm system shall be responsible for applying for a new, non-transferable permit.

B. A fee of $25.00, which may be revised by Resolution adopted by the Village of Estero 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 4. False Alarm Penalties.

A. Responsibility for false alarms shall be borne by the permit holder.

B. The following civil 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 5. 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 civil 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 Lee County Sheriff's Office if a permit has been revoked, or a $100.00 fine may be assessed against the alarm monitoring company.

Section 6. Appeals of Fines and Revocations.

A. An alarm operator may appeal a civil 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.

Section 7. 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 8. 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, consistent with §489.530 Florida Statutes, audible alarms.

Section 9. 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 10. 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 the Verification Standard, Exhibit A of this document, §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 11. 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 12. 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 13. 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 14. Auxiliary Power Supply. An alarm operator shall not operate an alarm system that does not have a minimum four (4) hour auxiliary power supply, or a fine of $125.00 may be assessed.

Section 15. 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 16. 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 civil fines.

C. The Sheriff may use any legal means to collect unpaid fees or civil fines.

Section 17. **Disposition of Fees and Fines.** Fees and fines collected by the Sheriff pursuant to this Ordinance shall be deposited by the Sheriff into the general revenue fund to be used exclusively for the administration and operation of this Ordinance.

Section 18. **Reporting.** The Lee County Sheriff's Office shall provide a semi-annual monitoring report to the Village of Estero Council showing performance/activity for the False Alarm Ordinance.

Section 19. **Annual Audit.** These monies will be audited in compliance with Florida Statutes Chapter 219.

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. **Codification Scrivener's Errors.** The Village of Estero Council intends that this Ordinance will be made part of the Village of Estero Municipal Code; and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section", "Article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified. The Ordinance can be renumbered or relettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Village Manager or his designee, without the need for public hearing.

Section 23. **Effective Date.** This Ordinance shall take effect immediately upon adoption.

PASSED on first reading this 7th day of October, 2015

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 21st day of October, 2015.

Attest:	**VILLAGE OF ESTERO, FLORIDA**
By: Kathy Hall	By: Nicholas Batos
Kathy Hall, MMC	Nicholas Batos
Village Clerk	Mayor

Reviewed for legal sufficiency:

By: _____
Burt Saunders, Esq.
Village Attorney

Vote:	AYE	NAY
Mayor Batos	✓	____
Vice Mayor Levitan	✓	____
Councilmember Boesch	✓	____
Councilmember Brown	✓	____
Councilmember Errington	✓	____
Councilmember Ribble	✓	____
Councilmember Wilson	✓	____

EXHIBIT A

ENHANCED TELEPHONE VERIFICATION
OF BURGLAR ALARM SIGNALS

A. EXTENDED TIME

The time permitted for enhanced verification of non-certificated system may be extended beyond the time constraints imposed for certificated systems defined in UL Standard 827 as appropriate under the facts known by monitoring center personnel.

B. PROCEDURE

For alarm signals received from non-certificated commercial burglar alarm systems or any residential alarm system signal such as a burglar, duress, or panic, the following procedures shall be followed:

1. **CALL 1**
   The monitoring facility shall attempt telephone verification to the protected premises after receipt of the alarm signal.

2. **CALL 2**
   If a monitoring facility operator gets a busy signal or no answer on the first call to the protected premises, a second call or calls shall be made to an alternate phone number such as a cellular, work, or second number at the protected premises.

3. **ANSWERING MACHINES**
   If the first or second call reaches an answering machine, a message should be left clearly stating that it is the alarm company calling and leaving necessary information for the alarm user to promptly contact the monitoring facility.

4. **PERSON ON PREMISES WITHOUT PROPER CODE**
   If the operator reaches the protected premises on the first or second call and the person answering the phone does not have the proper pass code, then the operator shall attempt to make a 3-way call with the premises person retained as a party to the call. The 3-way call shall attempt to reach others on the call list to verify the authenticity of the person on the protected premises. If this process fails to resolve the issue, then the operator should proceed to notify the dispatch authority.

5. **SCHEDULED EVENTS**
   If an alarm signal is received in connection with a scheduled opening or closing event, additional numbers shall be called on the call list in order to determine whether an opening or closing error caused the alarm signal.

6. **VERIFIED FALSE**
If the alarm is verified as being false during the first, second, or succeeding call as a result of getting a valid pass code, the operator shall suspend activities relating to the specific signal being worked.

7. **NOTIFICATION CALL**
Call to the law enforcement authority such as 911.

8. **CALL LISTS AND PRIORITY**
Following notification of law enforcement authorities, attention shall be placed on completing the entire emergency call list with priority to achieve a cancellation of the dispatch if it is verified that no emergency exists. Subsequent to dispatch of a sworn officer, the priority of notification calls to phone numbers in the customer's database shall be first to numbers where there is a high probability of reaching an alarm user. The succeeding calls shall be made next to neighbors, then to non-premises people such as relatives or secondary key holders.

9. **VERIFICATION PHONE ACCESSIBILITY GUIDELINE**
Care shall be taken to verify that the emergency call list phone numbers are to phones without call waiting, or alternately that *70 is programmed in front of the monitoring center phone number in the electronic digital communicator. The verification phones at the monitored premises shall be accessible after normal business hours (not locked up in an office), such as in the vicinity of commonly used entrances. The verification phones shall not direct callers to voice mail so that employees and cleaning people who are working after normal business hours may hear and answer the phone.

C. **ADDITIONAL METHODS**

Audio verification, video verification, or cross zoning shall be permitted in place of, or in addition to, the second verification call and shall be considered in compliance with this enhanced verification standard.