ORDINANCE NO. _____

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, RELOCATING ARTICLE V, ENTITLED "BURGLAR ALARMS" FROM CHAPTER 12 OF THE CODE OF ORDINANCES TO CHAPTER 13, ENTITLED "OFFENSES"; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 13 of the City of North Miami ("City") Code of Ordinances ("Code") establishes offenses regulated and prosecuted by the City; and

WHEREAS, Ordinance No. 1376 adopted on July 8, 2014 provided for the relocation of the section regulating the operation of burglar alarms within the City to Chapter 13 of the Code; and

WHEREAS, "Burglar Alarms" was previously located in Chapter 12, entitled Nuisances; and

WHEREAS, that "Burglar Alarms" is more appropriately placed in Chapter 13 of the Code as it addresses the problem of excessive false alarms which unduly burden the North Miami Police Department's limited law enforcement resources; and

WHEREAS, the Vice Mayor as Acting Mayor and City Council of the City of North Miami have determined that the proposed amendment to Chapter 13 of the Code of Ordinances are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. **Amendment to City Code.** Chapter 13 of the City Code of Ordinances entitled "Offenses" is amended to read as follows:

CHAPTER 13 - OFFENSES

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ARTICLE 5. BURGLAR ALARMS

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Sec. 13-35. Definitions.

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

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 North Miami Police Department 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 including nonmonitored alarms, 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.

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 North Miami 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 North Miami Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request.

City means the City of North Miami 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 company before law enforcement personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the North Miami 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.

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

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.

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.

Sec. 13-36. Alarm Permit.

(a) *Permit required.* No person shall use an alarm system, monitored or non-monitored, without first obtaining a permit for such alarm system from the North Miami Police Department. A fee may be required for the initial registration and annual renewals. Alarm permit fee amounts may be amended from time to time by resolution of the city council. 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.

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

(c) *Transfer of possession.* When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property. Alarm permits are not transferable.

(d) *Reporting updated information.* Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the North Miami Police Department within ten (10) days of the change. In addition, each year after the issuance of the permit, permit holders will receive from the North Miami Police Department a form requesting updated information. The permit holder shall complete and return this form to the North Miami Police Department when any of the requested information has changed; failure to comply will constitute a violation and may result in a civil penalty.

(e) *Multiple alarm systems.* If an alarm user has one (1) or more alarm systems protecting two (2) or more separate structures having different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

Sec. 13-37. Duties of the alarm user.

(a) An alarm user must do the following:

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

(2) Provide the alarm company the permit number, (the number must be provided to the communications center by the alarm company to ensure dispatch).

(3) Respond or cause a representative to respond to the alarm system's location within one (1) hour when notified by the North Miami Police Department.

(4) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report

(5) Obtain a new permit and pay any associated fees if there is a change in address or ownership of a business or residence.

(b) It is the responsibility of each alarm user to monitor the occurrences of false alarms on its premises.

Sec. 13-38. Duties of the alarm company.

(a) Any person engaged in the alarm business in the city, shall comply with the following:

(1) F.S., Ch. 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, twenty-four (24) hours a day; and be able to respond to an alarm call, when notified.

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

(b) Ninety (90) days after enactment of this article 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 before requesting law enforcement dispatch, 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.

Sec. 13-39. 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 ten (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 North Miami Police Department.

Sec. 13-40. Enforcement of provisions.

(a) *Excessive false alarms.* It is hereby found and determined that three (3) 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 shall be assessed against an alarm user as per current fee schedule.

(b) *Failure to register.* It shall be unlawful to operate a burglar alarm system within the City of North Miami without an alarm permit.

(c) *Other civil penalty(ies).* violations will be enforced through the assessment of civil penalty(ies).

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

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

(f) *Discontinuance of law enforcement response.* Police are not required to respond:

(1) To burglar alarms at locations where six (6) or more false alarms occurred in the user's registration period.

(2) To burglar alarms at locations where a burglar alarms civil penalty(ies) was not paid within thirty (30) days of a civil violation penalty notice.

(3) To locations where the required alarm permit has not been obtained.

(g) *Notice of discontinuance of law enforcement response.* A notice that police response will be discontinued, for any of the above reasons, will accompany a civil violation notice, be posted at the affected locations, or be sent to the user by certified mail at least thirty (30) days prior to discontinuing service.

(h) *Restoring police response to terminated locations.* To regain police response to burglar alarms at terminated locations, the alarm user must:

(1) Submit a written report from a licensed burglar alarm company certifying that the system has been inspected, repaired if required, and that it is functioning properly.

(2) Pay all outstanding burglar alarm civil penalties.

(3) Apply for and obtain an alarm permit.

Sec. 13-41. Appeals.

All civil penalties for violations set forth in this section shall be issued and may be appealed, in accordance with, and shall be governed by the procedures set forth in sections 2-111 through 2-115 of the North Miami Code of Ordinances.

Sec. 13-42. 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 North Miami 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.

Sec. 13-43. Severability.

If any section, subsection, sentence, clause or provision of this article is held invalid, the remainder of this article shall not be affected by such invalidity.

Sec. 13-44. Fee schedule.

(a) The table contained herein prescribes the dollar amount of civil penalty for the violation of these sections. The fine amounts may be amended from time to time by resolution of the city council:

Alarm permit registration fee	$ 25.00
Third false alarm	25.00
Fourth and fifth alarm	50.00
Sixth and seventh alarm	100.00
Eighth and ninth alarm	250.00
Tenth alarm and over	500.00
Penalty for failure to register	100.00

(b) Any violation of the "burglar alarms" ordinance that is not specified within this section, shall be assessed a civil penalty of one hundred dollars ($100.00).

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

Section 3. **Conflict.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section 4. **Severability.** If any word, clause, phrase, sentence, paragraph or Section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or Section of this Ordinance.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

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

PASSED AND ADOPTED by a 4 - 0 vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on first reading this 9th day of September, 2014.

PASSED AND ADOPTED by a _____ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of September, 2014.

_____
PHILIPPE BIEN-AIME
VICE MAYOR AS ACTING MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Vice Mayor as Acting Mayor Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.