**ITEM 13A**

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| To: | Honorable Mayor and Village Council | Date: | September 29, 2014 |
| From: | Ron E. Williams, Village Manager | Re: | Revising Ordinance 2004-10 as amended by 2011-03 "Burglar Alarms" – 2nd Reading |

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CHAPTER 14[1], DIVISION II, RELATING TO BURGLAR ALARMS; UPDATING AND AMENDING THE CODE FOR CLARIFICATION PURPOSES TO REFLECT A CHANGE FROM A CALENDAR YEAR TO AN ANNUAL REGISTRATION PERIOD FROM REGISTRATION DATE, AND REQUIRING ALARM MONITORING COMPANIES TO REGISTER; AND PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**BACKGROUND & ANALYSIS:**

The Mayor and Village Council enacted Ordinance No. 2004-10 on July 6, 2004 entitled "Burglar Alarms" and amended by Ordinance No. 2011-0. Prior to incorporation of the Village of Palmetto Bay all alarm registration, permitting, fines, and appeals of false alarm reports was accomplished under the jurisdiction of Miami-Dade County pursuant to Section 21-276 of the Miami-Dade County Code (burglar alarm code). The Mayor and Village Council enacted a municipal burglar alarm code tailored to the Village' needs by creating Chapter 14, Article II, of the Village's Code Ordinances, which code is to be uniformly enforced through the Village and which code provides for a registration period, registration fee, and false alarm report, fine, and appeal process.

To better serve the alarm applicants during the annual renewal period, the alarm renewal date is being changed from January 1 to an applicant's application date. This will allow the alarm renewals to be spread out throughout the year instead of all on the same date. Additionally the Village is adding the requirement for alarm companies to register with the Village so accurate information is maintained and State license information can be verified.

[1] In 2007, the Village enacted the Burglar Alarm Code under Chapter 7. Municode eventually codified the Code and renumbered the provision under Chapter 14 relating to Emergency Services and naming the ordinance Article II relating to "Burglar Alarms."

**BUDGET & FISCAL IMPACT:**
There should not be any major budgetary impact as the changes are for efficiency of the department and better service to the customers.

**RECOMMENDATION:**
Approval is recommended.

**ORDINANCE NO. 2014-**

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CHAPTER 14[1], DIVISION II, RELATING TO BURGLAR ALARMS; UPDATING AND AMENDING THE CODE FOR CLARIFICATION PURPOSES TO REFLECT A CHANGE FROM A CALENDAR YEAR TO AN ANNUAL REGISTRATION PERIOD FROM REGISTRATION DATE, AND REQUIRING ALARM MONITORING COMPANIES TO REGISTER; AND PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Mayor and Village Council enacted Ordinance No. 2004-10 on July 6, 2004 entitled "Burglar Alarms"; and amended by Ordinance No. 2011-03, and,

**WHEREAS**, prior to incorporation of the Village of Palmetto Bay all alarm registration, permitting, fines, and appeals of false alarm reports was accomplished under the jurisdiction of Miami-Dade County pursuant to Section 21-276 of the Miami-Dade County Code (burglar alarm code) and,

**WHEREAS**, the Mayor and Village Council enacted a municipal burglar alarm code tailored to the Village' needs; and,

**WHEREAS,** the Village has tailored the alarm code by creating Chapter 14, Article II, of the Village's Code Ordinances, which code is to be uniformly enforced through the Village and which code provides for a registration period, registration fee, and false alarm report, fine, and appeal process.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

**Section 1.** Chapter 14 entitled "Emergency Services" at Sections 14-19 through 14-30 at Article II entitled "Burglar Alarms" of the Code of Ordinances of the Village of Palmetto Bay is amended to read as follows:

* * *

[1] In 2007, the Village enacted the Burglar Alarm Code under Chapter 7. Municode eventually codified the Code and renumbered the provision under Chapter 14 relating to Emergency Services and naming the ordinance Article II relating to "Burglar Alarms."

# CHAPTER 14

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## ARTICLE II

## BURGLAR ALARMS[2]

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### SEC. 14-19. DESIGNATION, PURPOSE AND SCOPE OF REGULATION.

(a) *Designation.* This chapter shall be designated and known as the Village of Palmetto Bay Burglar Alarm Code. This chapter shall be applicable to all burglar alarm systems within village limits.

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

(c) *Scope of regulations.* This section will apply to all properties located within village limits.

### 14-20 DEFINITIONS.

*Alarm company* shall mean any person engaged 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. An alarm company and, or, alarm monitoring company shall obtain an occupational license as required by F.S. ch. 489.

*Alarm owner* shall mean the person designated in the application process as responsible for responding to alarms and giving access to the site, and who is responsible for proper maintenance and operation of the alarm and payment of penalties and fees relating to the operation of the alarm system, and specifically includes the term alarm user.

*Alarm notification* shall mean a notification intended to summon the police, which is designed either to be initiated purposefully by a person or by an alarm system that responds to stimulus characteristic of unauthorized intrusion.

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[2] Although the entire chapter is new and therefore should be underlined, I have only underlined changes from the original ordinance found at chapter 14.

*Alarm user* shall mean any person or other entity that owns, possesses, controls, occupies, or manages any premises as defined below; shall specifically include the property owner if the premises is leased, occupied and/or managed by third persons; and/or the registered owner designated in the application process.

*Burglar alarm system* shall mean any assembly of equipment, mechanical, wireless, or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the Police Department may reasonably be expected to respond, but does not include fire alarms or alarms installed in motor vehicles. 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.

*False burglar alarm or false alarm notification* shall mean a signal from a burglar alarm system that elicits a response by the police when no emergency or actual or threatened criminal activity requiring immediate response exists. This definition includes signals activated by negligence, accident, mechanical failure, and electrical failure; signals activated intentionally in non-emergency situations; and signals for which the actual case of activation is unknown. It is a rebuttable presumption that a burglar alarm is false if personnel responding from the police department do not discover any evidence of unauthorized entry, criminal activity, or other emergency after following normal police procedures in investigating the incident. An alarm is not false 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 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 system contractor who conducted an on-site inspection and personally observed the damage to the system; or

(3) If the 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.

*Person* shall mean an individual, corporation, partnership, association, organization or similar entity.

*Premises* shall mean the building or structure or portion of a building or structure upon which is installed or maintained a burglar alarm system.

*Property owner* shall mean the person or entity listed as owner with the Miami-Dade County Property Appraiser's office and/or listed on the deed to the property as owner.

## 14.21 REGISTRATION OF ALARM SYSTEM AND ALARM FEES.

(a) Registration of burglar alarm systems. All burglar alarm systems which operate at locations within Village limits shall be registered by the alarm user with the Village of Palmetto Bay, Finance Department. The user shall complete and submit an initial registration or an annual registration renewal with the appropriate fee. Initial registration shall be necessary to register any system which is not currently registered or upon a change in the users of an alarm. A separate registration is required for each alarm system.

(b) Annual registration fee. Annual registration shall be ~~for~~ each ~~calendar~~ year ~~from the date of application~~. New alarm installations or new home owners with an existing alarm system have 30 calendar days to register the alarm system with the Village. For those registrants with a false alarm call during the year, the registration fee shall be $25.00. Registration not renewed ~~by February 1st of the applicable year~~ within 30 days from anniversary date shall be considered delinquent and the owner/user shall be subject to an enforcement action as is necessary to gain compliance with this Chapter.

(c) Change in registration information. In the event of a change in any of the information required as part of the initial or annual registration, the user shall notify the Village, Department of Finance, of the change. An updated registration shall be filed within 10 days of any change.

(d) *Application of funds.* Funds collected under this chapter shall be applied to the operational costs and enforcement of this article, to reduce the number of false alarms received by the police department, and to reduce the time spent by police officers handling false alarm calls.

(e) *Registration form.* The owner/user shall complete and submit to the village finance department an emergency contact registration form and thereafter an annual renewal registration form, with the appropriate fee(s), for each alarm in use in the village on the premises. ~~Upon receipt of a completed registration form and collection of the registration fee or renewal fee, the village shall issue a numbered alarm registration permit to the applicant to facilitate retrieval of registration information.~~ The registration form shall include:

(1) The name, address and daytime and evening telephone numbers of at least one alternative person who can be contacted in the case of activation of the alarm system in the event that the alarm owner/user cannot be contacted;

(2) The classification of the alarm site as residential ~~commercial or apartment~~ business.

(3) When required by this chapter, certification by a person licenses by the State of Florida to install or design alarm systems stating: the date of installation or maintenance of the alarm system, whichever is applicable; the current Florida State License of the person performing or directly supervising the installation or maintenance of the alarm system; and any other information that may be required by the finance director in order to obtain compliance with this chapter.

(f) *Transferability.*

(1) An alarm registration cannot be transferred to another person. When there is a change of property ownership or business ownership a new registration form with updated information must be completed by the new owner/user and a new registration fee shall be applied.

(2) An alarm company and/or alarm monitoring company shall be properly licensed in accordance with F.S. ch. 489. An alarm company shall have an appropriate ~~occupational license~~ business tax receipt pursuant to F.S. ch. 489, pt. II.

(3) It shall be the duty of all alarm companies, property owners, and/or alarm owner/users to apply for and obtain any required permits for the installation of any alarm system from the Village of Palmetto Bay.

(g) Any false statement of a material matter made by an applicant for the purpose of registering an alarm shall be a violation of this chapter and subject the violator to the appropriate enforcement action.

**Sec. 14-22. ALARM DISPATCH RECORDS.**

(a) The police officer responding to a dispatch resulting from any alarm covered by this chapter shall record the information as necessary to permit the village police department and finance director to maintain records, including but not limited to the following:

(1) The identification of the registered owner or, if no registration exists the owner or person in charge of the premises, if known;
(2) The exact address of the alarm site;
(3) The dispatched received date, time and arrival time;
(4) The weather conditions;
(5) The area of the premises involved, if known; and
(6) The name of the registered owner's representative, if on the premises.

(b) The responding police officer shall indicate on the dispatch record whether the notification was caused by criminal offense, attempted criminal offense or was a false alarm/alarm notification.

(c) In the case of an assumed false alarm or alarm malfunction, the responding police officer shall leave notice at the alarm site that the police department has responded to a false alarm or alarm malfunction notification. The notice shall include the following information:

(1) Date and time of the police department response to the false alarm notification;

(2) The identification number of the responding police officer; and

(3) A statement that shall, in substance, urge the registered owner to ensure that the alarm system is properly operated and maintained to avoid service fees.

(d) The Miami-Dade Police Department and/or the village police department shall forward a copy of the police incident report/dispatch report to the village finance department of any necessary follow-up action required under this chapter.

**Sec. 14-23. ALARM SYSTEMS IN MULTIPLE-FAMILY/HIGH-DENSITY RESIDENTIAL PREMISES AND BUSINESSES.**

(a) The owner or property manager of any apartments, apartment hotels, hotels, condominiums and/or other similar multiple-family/high-density residential and business premises shall obtain a master alarm registration form from the Village if any alarm system is operated on the multi-family/high-density premises.

(b) The individual or entity named in the master alarm registration form is responsible for false alarm notifications emitted from unoccupied residential units or business units.

(c) The owner or property manager of any building identified in subsection (a), above, shall provide a separate completed registration form for any alarm system operated in a non-residential area of the apartment complex, including, but not limited to common tenant areas, offices, storage, and equipment areas.

(d) A tenant or unit owner in any building identified in subsection (a), above, shall also obtain an alarm registration form from the village before obtaining or causing the operation of an alarm system in the tenant's residential unit.

**Sec. 14-24. REQUIRED EQUIPMENT IN A BURGLAR ALARM AND PROPER OPERATION OF ALARM SYSTEM.**

(a) A burglar alarm user shall not use a burglar alarm system unless that burglar alarm system is equipped with:

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

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

(b) A registered alarm owner/user shall:

(1) Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm notifications;

(2) Respond or cause the representative to appear at the systems location within a reasonable period of time when notified by the village police department to deactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises;

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

(4) Any and all alarm owners/users shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations or passwords should not be included in these instructions; and

(5) It shall be the duty of every person owning, operating using, or purchasing any business premises within the village limits to comply with the requirements of this chapter prior to operating an alarm system.

**14-25. ALARM COMPANIES RESPONSIBILITIES.**

(a) It shall be the responsibility of any licensed person selling and, or, monitoring an alarm system to provide the user with the registration form and the "Village of Palmetto Bay Burglar Alarm Ordinance Information" form. The registration form provided to the user shall include the person's name, address, and State of Florida burglar alarm contractor's license number, and other information required on the registration form. An alarm company may not charge a customer a fee, other than the required registration fee, to register any alarm system with the village.

(b) Any person testing and/or working on an alarm system shall promptly cancel any activation so that police will not be dispatched.

(c) All alarm companies and/or monitoring companies shall be properly licensed as required by the State of Florida and any jurisdiction in which they have an actual place of

business; and shall communicate alarm notifications to the village in a manner and form determined by the village. Additionally, no alarm company, monitoring company, and/or person in charge of a local alarm or alarm system shall permit an alarm indication from such alarm to be sent directly to the village.

(d) All companies that monitor alarms installed upon properties within the boundaries of the city shall be required to register with the city. The initial registration fee shall be one hundred dollars ($100.00). The annual registration renewal fee thereafter shall be one hundred dollars ($100.00). The registration is good for one (1) year from the registration date, and each one (1) year period thereafter with renewal. The registration form shall contain the following but is not limited to:

(1) The name, address and telephone number of the alarm monitoring company.

(2) The corporate officers or owners of the alarm monitoring company and their title or relationship to the company.

(3) The type(s) of alarm system(s) it monitors.

(4) State license number.

## 14-26 ALARM CALL VERIFICATION, CANCELING FALSE ALARMS AND FALSE ALARM PROHIBITION.

(a) Alarm call verification. All residential or commercial intrusion and/or, 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 Police Department for dispatch. This does not apply to panic or holdup type alarms. Alarm monitoring companies will make available to the Police Department upon request, records providing proof that the monitoring company made the verification calls.

(b) Canceling false burglar alarm calls. Alarm monitoring companies that notify the Village Police Department prior to the arrival of an officer shall be considered a canceled false alarm. Alarm monitoring companies will make available to the Police Department records providing proof that the Police Department was contacted prior to the arrival of the officer. An emergency line has been provided by the Police Department to call in and, or, cancel panic or holdup type alarms. Use of this line for non-emergency alarm calls is prohibited.

(c)False burglar alarms prohibited. No burglar alarm user shall cause, allow, or permit the burglar alarm system to give four or more false alarms in any registration period.

## 14-27 PENALTIES.

(a) The owner/user of an alarm or the person in control of an alarm system shall be subject to fees or penalties concerning their alarm depending upon the number of false alarm

notifications emitted from an alarm system covered by this Chapter within the registration period of each calendar year. Each violation of this section shall be punished as follows:

(1) A fine of $100.00 for each false alarm for each violation of section 14-21, 14-23, 14-24, 14-25, 14-28.

(2) For the fourth false burglar alarm in the user's registration period, by a fine of $50.00.

(3) For the fifth false burglar alarm in the user's registration period, by a fine of $100.00.

(4) For the sixth and each additional false burglar alarm in the user's registration period, by a fine of $200.00.

**14-28. APPEAL PROCESS.**

All citations for violations under this chapter may be appealed within 20 days of the issued citation, to the special master, as provided in section 2-205 of the Village of Palmetto Bay Code of Ordinances. Police response will continue while an appeal is pending.

**14-29 PROCEDURE FOR FALSE ALARMS.**

(a) *Notification of false alarms.* It is the responsibility for each alarm user and owner to monitor the occurrences of false alarms on its premises. The Village shall notify the alarm user of each false alarm. Whenever an alarm is activated requiring response to a location by the police or fire department, a police officer or firefighter on the scene of the activated alarm system will inspect the area protected by the system and shall determine whether the emergency response was, in fact, required as indicated by the alarm system or whether the same was a false alarm.

(1) If the police officer or firefighter at the scene of the activated alarm system determines the alarm to be false, such police officer or firefighter shall make a report of the false alarm, a notification of which shall be mailed, delivered, or posted to the alarm user, at the address of the alarm system installation location. Where the user is not the owner, then the owner will also be notified at the address furnished by the alarm user certificate application or recorded in the current property ownership records maintained by the Village. The alarm user and/or property owner will be advised of the false alarm and any applicable charges therefore. The notification shall be sent by certified mail or posted at the property.

(2) Once there have been six or more false alarm within a calendar year, the alarm user shall be required to have a licensed alarm contractor complete the Village

prescribed alarm affidavit confirming that appropriate action has been taken to correct any possible defects. The affidavit shall be filed with the Finance Department within 30 days from notice, and will state that the alarm system has been inspected and is functioning properly, and in accordance with this Chapter. Failure to comply with the above may result in a revocation of the alarm user certificate and a penalty charge as established by a civil citation.

(b) *Limitations to police response.* Police are not required to respond:

(1) To burglar alarms at locations where six or more false alarms occurred in the user's annual registration period. After sustaining the first police response termination in a registration period for accruing six false alarms, the alarm user may, at the discretion of the police department, sustain subsequent response terminations for every three additional false alarms occurring in the same registration period. Should the police continue to respond to false alarms, the fine established under section 14-27(a)(5) shall apply.

(2) To burglar alarms at locations where a burglar alarm fine was not paid within 60 days of a civil violation notice; or

(3) To locations where required alarm registration information was not filed within 30 days of a civil violation notice for failure to file alarm information.

(c) *Nothing in this chapter shall:*

(1) Preclude the police department from responding to panic or ambush alarm signals, calls describing emergencies or crimes in progress, or routine calls for service;

(2) Limit the police department from issuing civil violation notices for alarms in violation of this chapter; or

(3) Be construed to create a duty to respond in any circumstances where such a duty does not exist pursuant to the statutory or common law of Florida. This chapter imposes or creates no duties on the part of the village or its departments and employees, and the obligation of complying with the requirements of the chapter, and any liability for failing to do so is placed upon the parties responsible for owning, operating, monitoring and maintaining security alarms.

(4) Preclude the police department from responding to any alarm signal at the discretion of the police commander.

(d) *Notice of discontinued service:* A notice that police response will be discontinued will accompany a civil violation notice, be posted at the affected location, or be sent to the user by certified mail at least 30 days prior to discontinuing service.

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

(1) When police response has been discontinued pursuant to subsection 14-29(b)(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. In addition, the alarm user must pay all outstanding burglar alarm ordinance fines; or

(2) When police response has been discontinued pursuant to subsection 14-29(b)(2) and (3), submit burglar alarm registration information and pay all outstanding burglar alarm ordinance fines.

**14-30. FALSE ALARMS AND REPORTS.**

(a) *False alarms.* It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or a false alarm of the need for police or ambulance assistance; and it shall be unlawful for any person to aid or abet in the commission of any such act.

(b) *False reports.* It shall be unlawful to make or file with the police department any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime, or offense, occurring within the county or any municipality within the county.

* * *

**Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

**Section 3.** This ordinance shall be codified and included in the Village of Palmetto Bay Code of Ordinances.

**Section 4.** If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

**Section 5.** This ordinance shall take effect immediately upon enactment.

PASSED AND ENACTED this ___ day of October, 2014.

First reading: _September 8, 2014_____

Second reading:_____

Attest: _____ _____

Meighan Alexander — Shelley Stanczyk

Village Clerk — Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:

_____

Dexter W. Lehtinen

Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Joan Lindsay _____

Council Member Tim Schaffer _____

Vice-Mayor John DuBois _____

Mayor Shelley Stanczyk _____



Additions shown by underlining and deletions shown by ~~overstriking~~.