VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael W. Davey, *Vice Mayor*
Theodore J. Holloway
Michael E. Kelly
Mayra P. Lindsay
Ed London
James S. Taintor

Village Manager
John C. Gilbert

DATE: February 25, 2014

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Amendment Chapter 17 Noise of the Village Code, deleting Section 17-8 of Ordinance 2005-7, Burglar Alarms

It is recommended that the Village Council consider the Police Department's request to delete Section 17-8 of the Noise Ordinance that addresses the regulation of; registration and penalties for non-compliance of all Commercial and Residential Alarm Systems located within the Village of Key Biscayne.

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MISSION STATEMENT: "TO PROVIDE A SAFE, QUALITY COMMUNITY ENVIRONMENT FOR ALL ISLANDERS THROUGH RESPONSIBLE GOVERNMENT."
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ORDINANCE NO. 2014 -

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 17 BY DELETING REFERENCE TO SECTION 17-8 IN SECTIONS 17-2(19) AND 17-7(D), AND REPEALING SECTION 17-8 "BURGLAR ALARMS" IN ITS ENTIRETY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 17-8 of the Village Code regulates the registration of burglar alarm systems, required equipment in burglar alarm systems, and false burglar alarms; and

WHEREAS, the Village Council desires to no longer regulate and require registration of alarm systems within the Village; and

WHEREAS, as such, the Village Council finds that removal of Section 17-8 from the Village Code is in the best interest of the residents of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

Section 1. **Recitals.** That the above stated recitals are hereby confirmed and adopted.

Section 2. **Amendment of Chapter 17.** That Chapter 17 of the Code of Key Biscayne, Florida, is hereby amended as follows:

Sec. 17-2. Prohibited noise disturbances.

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(19) False burglar alarms. ~~False Burglar Alarms as defined in section 17-8.~~

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Sec. 17-7. Penalties.

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[1] Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text.

~~(d) Violations of subsection 17-2(1). Violations of subsection 17-2(19) concerning Burglar Alarms are subject to the penalties set forth in section 17-8.~~

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~~**Section 17-8. Burglar alarms.**~~

~~(1) *Definitions.*~~

~~(a) *Burglar Alarm System.* 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 Police Department may reasonably be expected to respond, but does not include fire alarms or alarms installed in motor vehicles.~~

~~(b) *Burglar Alarm User*. Any person or other entity that owns, possesses, controls, occupies, or manages any Premises as defined in subsection (d) below.~~

~~(c) *False Burglar Alarm.* A signal from a Burglar Alarm System that elicits a response by the Police Department 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 nonemergency situations; and signals for which the actual cause 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 Department procedures in investigating the incident. A burglar alarm is not false if the Burglar Alarm User proves that (1) an individual activated the burglar alarm based upon a reasonable belief that an emergency or~~

~~actual or threatened criminal activity requiring immediate response existed; (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 Burglar 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 burglar alarm to activate upon restoration of power, as evidenced by written documentation provided by Florida Power and Light Company or other applicable provider; or (4) the alarm was activated by vandals.~~

~~(d) *Premises*. The building or structure or portion of a building or structure upon which is installed or maintained a Burglar Alarm System.~~

~~(2) *Registration of a Burglar Alarm System and fee.*~~

~~(a) *Registration of Burglar Alarm Systems*. All functioning Burglar Alarm Systems which operate at locations within the Village of Key Biscayne shall be registered with the Key Biscayne Police Department by the user within 60 days of the effective date of this section or installation of a new Burglar Alarm System. The Burglar Alarm User shall complete and submit to the Police Department an initial registration or an annual registration renewal with the appropriate fee. Initial registration shall be necessary to register any functioning Burglar Alarm System which is not currently registered with the department or upon a change in the user of a Burglar Alarm System. The registration shall indicate the name and telephone~~

~~number of the owner of the Premises and a person who the Village may contact to disengage a ringing Burglar Alarm System.~~

~~(b) *Registration fee*. There shall be an annual registration fee and renewal registration fee of $25.00 for all Burglar Alarm System registrations. Separate Burglar Alarm Systems require separate registrations. The registration period will be for one year. No registration fee shall be required for a replacement Burglar Alarm System where there is no change of owner. A Burglar Alarm User shall conspicuously display on the front door or window closest to the door, if accessible from the front door area, a current registration decal. The fine for failure to timely register, renew or display a current decal shall be $100.00.~~

~~(c) *Change in registration information*. In the event of a change in any of the information required as part of the registration, the user shall notify the Key Biscayne Police Department of the change. An updated registration shall be filed within ten days of any change. The fine for failure to timely notify the Village of a change shall be $100.00.~~

~~(3) *Required equipment in a Burglar Alarm System*. A Burglar Alarm System 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 15 minutes after activation.~~

~~(4) *False Burglar Alarm Prohibited; Penalties*. No Burglar Alarm User shall cause, allow, or permit the Burglar Alarm System to give a false alarm. Any authorized Village employee who finds a violation of this subsection shall issue a verbal or written~~

~~warning to the violator for the first three violations. After the third violation in a calendar year, the authorized Village employee shall issue a citation or civil violation notice imposing a fine in the amount of $250.00.~~

Section 3. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 25th day of February, 2014.

PASSED AND ADOPTED on second reading this _____ day of _____, 2014.

_____
MAYOR FRANKLIN H. CAPLAN

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY