

ORDINANCE NO. 2005-7

**AN ORDINANCE OF VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 17 ANOISE@ OF THE VILLAGE CODE BY CREATING SECTION 17-8<sup>A</sup> BURGLAR ALARMS@; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, the Village Council wishes to reduce noise disturbances caused by false burglar alarms; and

WHEREAS, the Village Council appointed a Noise Ordinance Review Committee (Athe Committee@) to consider noise issues and accept public comment;

WHEREAS, the Committee has completed its task and has made its recommendations;

**IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

**Section 2.**     **Code Amended.** That the Village Code of the Village of Key Biscayne, Florida, is hereby amended by creating Section 17-8<sup>A</sup> Burglar Alarms,@ to read as follows:<sup>1</sup>

Sec. 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

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<sup>1/</sup> Proposed deletions from existing Village Code text are indicated by ~~strike through~~; proposed additions to existing Village Code text are indicated by underline.

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 twenty-five dollars (\$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 (10) 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 fifteen (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. Severability.** That 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 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.** That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Key Biscayne; that the sections of this Ordinance may be renumbered or relettered to

accomplish such intentions; and that the word AOrdinance@ shall be changed to ASection@ or other appropriate word.

**Section 5.**    **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 26th day of April, 2005.

PASSED AND ADOPTED on second reading this 24th day of May, 2005.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY