

ORDINANCE NO. 2011-09-251

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, REPEALING ARTICLE II OF CHAPTER 10 RELATING TO ALARM SYSTEMS; ENACTING NEW PROVISIONS RELATING TO ALARM SYSTEMS; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGULATIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR FEES AND FINES; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the improper use and maintenance of alarm systems within the City has resulted in a significant number of false alarms, the response to which has placed an unnecessary burden upon the resources of the City's Police Department, and

WHEREAS, the City Council has deemed it necessary to create a mechanism that allows the City to provide an incentive to the owners of alarm systems, to ensure that their alarm systems are functioning properly, and

WHEREAS, this Ordinance, by the creation of a cost recovery mechanism, shall serve to mitigate the financial harm which is caused to the City's law enforcement resources by having to respond to false alarms, while also providing an incentive to owners and operators of alarm systems to ensure that alarm systems function properly, and

WHEREAS, the City Council finds that this proposed Ordinance serves to enhance the protection of the public health, safety and welfare and to protect and preserve limited public resources,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. REPEAL: Article II of Chapter 10 of the Code of Ordinances is hereby repealed in its entirety.

Section 3. CREATION OF NEW ORDINANCE: Article II of Chapter 10 of the Code of Ordinance is hereby adopted as follows:

Section 1. Findings. The City council has determined that it is in the best interest of the city to adopt an alarm ordinance to protect the health and safety of its residents.

Section 2. Purpose. The purpose of this ordinance is to place responsibility on users and operators of alarm systems to ensure that alarm systems function properly.

Section 3. Definitions.

The following words, when used in this section, shall have the meanings ascribed herein unless the context indicates otherwise:

- a. Agreement means a contract with a billing/collection contractor to provide false alarm billing and collection services.
- b. Alarm business means any business which engages in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling,

servicing or responding to an alarm system, or which causes any of these activities to take place.

- c. Alarm signal means an audible sound and/or silent transmission of a signal or a message as the result of the activation of an alarm system.
- d. Alarm system means an audible sound or a transmission of a signal or a message, as the result of the activation of an alarm system.
- e. Alarm user means any person on whose premises an alarm system is maintained within the city and is properly registered with the city or its billing/collection contractor as defined below.
- f. Audible alarm means an alarm system, which generates an audible sound when it is activated.
- g. Burglar alarm system means any mechanical or electrical device sold or installed, which is designed for the detection of an unauthorized entry into a building, structure, facility, or enclosed area, or for alerting others of the commission of an unlawful act within a building, structure, facility or enclosed area, and which transmits a signal or message when activated. Excluded from the definition of "burglar alarm system" are devices, which are not designated to generate, directly or indirectly, a police response to the protected building, structure, facility or enclosed area; audible alarms installed in motorized conveyances; auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service; or alarm systems.
- h. Contractor means any person authorized by the city to act for it in the alarm permit process by providing billing and collection services.
- i. Enforcement officer means the police chief or any person serving under the direction of the police chief who responds to alarm incidents within the City.
- j. False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the alarm user or his or her agents and employees, or the negligence of any alarm business associated with the maintaining, leasing, or generating responses to such alarm system. Such terminology does not include alarms caused by hurricanes, tornadoes, lightning or other similarly violent conditions, which are identified and determined by the enforcement officer of the City to be beyond the control of the user.

- k. Medical alert/panic alarm system means any mechanical or electrical device, which is principally designed or used to generate a police response because of a perceived medical or criminal emergency by the alarm user. Excluded from the definition of a "medical alert/panic alarm system" is any mechanical or electrical device, which is principally designed or used to generate only a medical (i.e., private ambulance or public emergency medical service) response, with no police response, to a perceived medical emergency.
- l. Notice unless otherwise specified, means written notice, given either by first class mail, or by personal or electronic delivery upon the addressee, or by posting at last known address or location of the alarm registration. There is hereby created a presumption of receipt of the notice within three (3) days of posting. The notice required by this section is not that which shall be required for a notice of violation issued for a code enforcement hearing before a special master.
- m. Police-response commercial alarm permit means a permit intended to be used for a business, office, retail, or other commercial use.
- n. Police-response residential alarm permit means a permit intended to be used for single family residences, multifamily residences, houses of worship, public schools and other publicly owned buildings, or other noncommercial uses.
- o. Telephone alarm device means any device which, when activated, automatically transmits by telephone line a recorded alarm message or electronic mechanical alarm signal to any telephone instrument installed at the office of the enforcement officer.
- p. Unregistered Alarm User means any person on whose premises an alarm system is maintained within the city and who does not have a valid alarm permit issued by the city or its billing/collection contractor as described in Section 4.

Section 4. Registration.

(a) Required permit registration. Before placing an alarm system into operation, every alarm user shall obtain from the City or its billing/collection contractor an alarm user permit the registration of which shall be completed for each alarm system to be operated by such alarm user within the City.

(b) Application process. Applications for a police-response burglar alarm system permit or a medical/alert panic alarm system permit may be made on registration forms in a manner and format provided for by the City or its billing/collection contractor.

1) Registration for alarm permits shall include the following alarm types:

(a) Police-response commercial alarm registration is for business, office, retail, and other commercial uses; such commercial permits shall be renewed on an annual basis and the alarm user shall certify that the registration information is current.

(b) Police-response residential alarm registration is for single-family residences, multifamily residences, houses of worship, public schools and other publicly owned buildings, and other noncommercial uses; such residential permits shall be renewed on an annual basis.

2) Subject to paragraph C below, the City or the billing/collection contractor shall issue or renew the police-response alarm permit only after receiving the completed application and payment of the applicable fee ("registration").

3) The alarm user applying for any alarm permit registration required in this section shall state on an application to be provided or made available online by the city or billing/collection contractor, his/her name; the address of the residence or the business or businesses in or on which the alarm system has been or will be installed; his/her telephone number; his/her address, if different than the premises serviced by the alarm system; the name, address, and telephone number of the lessor of the system if leased; whether the system was installed by the alarm user and, if not installed by the alarm user, the State of Florida certificate of competency number of the business installing the alarm system. In the event that an alarm business is going to install, maintain, repair, replace, service, lease, respond, monitor, or sell the alarm system to the alarm user, the application will require the name and address of the alarm business to be disclosed. The applicant shall give the name and telephone number of at least two (2) persons who can be reached at any time, day or night, and is authorized to respond to an alarm signal and who may enter the premises in which the alarm system is installed. The application shall also provide the city with the specific authority to enter the premises wherein the alarm system is installed whenever responding to such alarm and, further, shall contain an appropriate hold harmless and indemnity provision for any property damage deemed reasonably necessary by the city in order to respond adequately to such alarm.

4) The alarm user applying for a permit for an alarm system shall further state in the permit alarm registration application the following information:

- a) That the alarm system has the capacity to prevent false alarms by the use of a backup owner supply; and
- b) That the alarm system annunciator (for a burglar alarm system and medical alert/panic alarm system only) has the capacity to automatically silence within fifteen (15) minutes for noncommercial permitted systems and thirty (30) minutes for commercial permitted systems after activation, and such alarm system will not sound again unless a new criminal act or emergency triggers the alarm or causes the same to be activated.

5) Alarm permits issued by the City cannot be assigned or transferred, and are issued and effective only for the alarm system and alarm user identified in the alarm system registration and permit.

6) Every alarm user permitted under this section is required to provide the city or its billing/collection contractor with any changes in the information required to be submitted on the permit application when such changes occur.

(c) Alarm permit issuance.

(1) Single-family residence. An alarm permit for a single-family residence may be issued upon satisfactory completion of the application required above.

(2) Buildings or structures other than single-family residences. In addition to satisfactory completion of the application required above, an alarm permit for a location which is not a single-family residence location may be issued only upon the applicant submitting evidence acceptable to the City of certification by an alarm business or other competent person that the alarm system meets the minimum standards as set forth in this article. Furthermore, all alarm system installations must comply with the Florida Building Code.

(3) Notwithstanding subsections (1) and (2) above, no permit shall be issued if the application for that permit discloses use of an alarm business, which has an outstanding fine because of a violation of this Ordinance.

(d) Notice by Alarm Businesses. This Section does not require that an alarm business obtain a permit under this section when it leases or provides service to an alarm system user. If an alarm business, however, uses an alarm system to protect its own premises, it shall obtain a permit for such system as required in

this section. All alarm businesses installing, leasing, maintaining, or monitoring alarm systems in the City shall, not later than the time of installation, furnish written notice to all persons and businesses for whom an alarm is installed, maintained, or monitored by it of the regulations in this section and of the requirement for permitting their alarm system; however, failure to receive this notice shall not excuse an alarm user from any provisions of this section.

e) *Registration fees.* All alarm permit registration fees are to be set by separate resolution, approved by the City Council.

Section 5. *Alarm system-operating standards and authorized disconnection.*

1) Audible burglar alarm systems and audible medical alert/panic alarm systems shall be modified to include a timer to prevent the alarm from ringing from the time the premises are entered by an authorized person until the system is shut off.

2) The alarm system annunciator (for police-response burglar and medical alert/panic alarm systems only) must automatically silence within fifteen (15) minutes for noncommercial permitted systems and thirty (30) minutes for permitted registered commercial systems after activation, and such alarm systems shall not sound again unless a new criminal act or emergency triggers the alarm or causes the same to be activated.

Section 6. *Presumed false alarms.*

a) There is a presumption of a false alarm created under the following circumstances:

- 1) When an alarm signal is investigated by any enforcement officer and there is no sign of an unauthorized attempted entry or crime in progress evident to the officer, or
- 2) There is no sign of a medical emergency.

b) For the first presumed false alarm, the City or its billing/collection contractor shall give notice to the residential or commercial alarm user of the conditions and requirements of this section. Such notice shall advise the registered alarm user that the alarm system has had a presumed false alarm and that the third false alarm in any twelve-month period for an alarm user will result in the imposition of a fine as outlined in the False Alarm Fee Schedule, outlined in Section 10. For unregistered alarm users the notice shall advise the unregistered alarm user that the alarm system has had a presumed false alarm and is subject to the fine as outlined in the False Alarm Fee Schedule. Additionally, and upon said second occurrence, each unregistered alarm user

shall be informed that any subsequent false alarm in any twelve-month period will result in an additional fine as outlined in the False alarm Fee Schedule.

Section 7. Alarm user violations.

An alarm user shall violate this section when any of the following occurs:

(1) The alarm user or designated agent has failed to respond to the premises within a one-hour period following the activation of the alarm system when notified to do so by the enforcement officer.

(2) The alarm user has falsified any information contained in the alarm user permit registration application.

(3) The alarm user has failed to immediately inform the city or the billing/collection contractor of any and all changes in the information required in the alarm user permit registration application.

(4) The alarm user operates an alarm system without an appropriate building permit or alarm system permit registration as required.

(5) The alarm user has not paid when due any fee, fine or penalty imposed herein for alarm system permit registration or false alarms. In the event a code enforcement special master or a court of competent jurisdiction determines that a false alarm was clearly the fault of an alarm business, such finding shall preclude a finding that the alarm user violated this section for such false alarm.

(6) The alarm system does not meet the operating standards established in Section 5 of this Ordinance.

(7) The alarm user installs, maintains, operates or uses any telephone alarm device regulated or programmed to make connection with any telephone installed in any facility of any law enforcement office. Telephone alarm devices are permitted when not connected directly to such enforcement offices, but they are subject to all other provisions of this section.

Section 8. Alarm business violations.

- a) Alarm businesses that lease an alarm system and are responsible for the maintenance of the system and alarm businesses responsible for generating appropriate responses to an alarm system shall also be

responsible to ensure that false alarms do not occur. False alarm responses create an unnecessary risk of injury to persons and property and an unnecessary expenditure of police resources. If more than three false alarms occurs in any twelve-month period, then, in addition to imposing a fine on the alarm user, the enforcement officer may also cite any responsible alarm business, which failed to ensure that false alarms did not occur.

- b) Each false alarm in excess of three per twelve-month period shall be deemed a violation of this Ordinance by an alarm business.

Section 9. City Contracting Authority. The City may adopt a contract or enter into an agreement to oversee false alarm billing and collection services.

Section 10. Fines for violations.

- a) The following fines for violations are hereby established.

<u>FALSE ALARM FEE SCHEDULE</u>		
	<u>Registered</u>	<u>* Unregistered</u>
<u>1st</u>	<u>Free</u>	<u>\$50</u>
<u>2nd</u>	<u>Free</u>	<u>\$100</u>
<u>3rd - 4th</u>	<u>\$50</u>	<u>\$250</u>
<u>5th - 6th</u>	<u>\$100</u>	<u>\$500</u>
<u>7th- 10th</u>	<u>\$200</u>	<u>\$500</u>
<u>>10th</u>	<u>\$500</u>	<u>\$500</u>

- b) In addition, to any fine, each violator may be subject to imprisonment for a term not exceeding 60 days, or both such fine and imprisonment in the discretion of the Court. Each violation shall be considered a separate offense.

Section 11. Enforcement.

- a) This Ordinance shall be enforced in accordance with the City's Code of Enforcement regulations, as outlined in Chapter 8 of the Code of Ordinances.

- b) Evidence of Violation - In the event there is evidence of operation of an alarm system without a permit or evidence of a false alarm as required by this Ordinance, a violation of this section shall be presumed, and the enforcement officer need not present any additional evidence for the code enforcement special master or court to conclude by competent substantial evidence that a violation of the article occurred. In the event the evidence of unauthorized alarm operation or activation of a false alarm is determined by something other than an alarm signal, the enforcement officer shall cite such facts giving rise to the violation, and request the alleged violator to prove that the alarm system was disconnected at the time of the violation. Absent proof of disconnection by the requested date, a violation of the article shall be presumed and the enforcement officer need not present any additional evidence of unauthorized alarm operation for the special master or court to find by competent substantial evidence that a violation has occurred.

Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

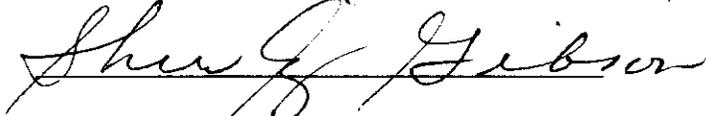
Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13TH DAY OF APRIL, 2011.

PASSED ON SECOND READING ON THE 27TH DAY OF APRIL, 2011.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 27TH DAY OF APRIL, 2011.


SHIRLEY GIBSON, MAYOR

ATTEST:



RONETTA TAYLOR, MMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.

City Attorney

SPONSORED BY: Danny Crew, City Manager

Moved by: Councilwoman Davis

Second by: Councilwoman Robinson

VOTE: 4-0

Mayor Shirley Gibson	<u> </u> (Yes)	<u> </u> (No)(not present)
Vice Mayor Aaron Campbell, Jr.	<u> </u> (Yes)	<u> </u> (No)(not present)
Councilman David Williams Jr	<u> </u> (Yes)	<u> </u> (No)(not present)
Councilwoman Lisa Davis	<u> X </u> (Yes)	<u> </u> (No)
Councilman Oliver Gilbert, III	<u> X </u> (Yes)	<u> </u> (No)
Councilwoman Felicia Robinson	<u> X </u> (Yes)	<u> </u> (No)
Councilman Andre' Williams	<u> X </u> (Yes)	<u> </u> (No)