Condensed Title:

An ordinance amending Chapter 50 of the Code of the City of Miami Beach, "Fire Prevention and Protection," proposing enforcement procedures and fines for false fire alarms generated from commercial buildings.

Key Intended Outcome Supported:

Ensure Compliance with code within reasonable time frame
Ensure safety and appearance of building structures and sites

Supporting Data (Surveys, Environmental Scan, etc.): The City survey conducted in 2012 indicates that 93% of those surveyed rated the fire department as excellent/good. Respondents ranked improving firefighting at 14% when asked how the City should focus resources to improve safety, but it was a noticeable increase from 2% in the last survey.

Item Summary/Recommendation:

FIRST READING

This ordinance establishes an enforcement procedure and fine schedule for building owners having a high frequency of false fire alarms. The City of Miami Beach has provisions for fines of police related false alarms, but currently nothing in place for fire alarms. The other cities in the county already have an ordinance providing for a fine when there is a false fire alarm. The fire department has received over 700 false alarms during the last fiscal year, which translates to the fire department utilizing resources when no emergency existed. In addition, the constant false alarms create dangerous conditions in the buildings because occupants no longer take proper action in the event of a real alarm.

The purpose of the fines is to encourage compliance, and revenue of these fines will be expected to decrease from year to year. The cost associated with responding to a fire alarm signal involves personnel and equipment responding to the call; however, this cost is funded from the general fund as standard fire department function. The revenue projected from these fines ranges from $20,000 to $90,000, but it is difficult to predict without an established ordinance and track record.

Advisory Board Recommendation:

The Finance and Citywide Projects Committee discussed this item during the meeting on April 25, 2013. The Committee voted to move the recommendation by the Fire Department.

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary: Projected revenue up to $90,000 per year.

City Clerk's Office Legislative Tracking:

Javier Otero, Fire Chief

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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MIAMIBEACH

AGENDA ITEM R5V
DATE 9-11-13

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: September 11, 2013 **FIRST READING**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 50 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "FIRE PREVENTION AND PROTECTION," BY CREATING SECTION 50-8 THEREOF, TO BE ENTTITLED "FIRE ALARMS, REGULATIONS, PENALTIES, ENFORECEMENT" TO ESTABLISH REQUIREMENTS AND FINES FOR FALSE FIRE ALARMS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends approving the ordinance on first reading and scheduling a second reading public hearing.

KEY INTENDED OUTCOME SUPPORTED

Ensure Compliance with code within reasonable time frame.
Ensure safety and appearance of building structures and sites.

BACKGROUND

The Miami Beach Fire Department responds to all fire alarms initiated electronically by any building fire alarm system. The initial response consists of an engine company or ladder company and up to including a full alarm assignment. Many of these fire alarms are determined to be false fire alarms where there was no fire and no emergency. This is attributed mainly to poorly maintained fire alarm systems that generate a false alarm signal. When the fire department responds to a false fire alarm, resources are utilized when no emergency exists. This scenario can cause a delay to an actual fire emergency occurring somewhere else in the city.

A false fire alarm is defined as a signal from a fire alarm system that elicits a response by the Fire Department when no actual or threatened fire-related emergency exists. Currently, the City of Miami Beach Code does not include provisions for enforcing false fire alarms with a citation and fines. The current process is to write a notice of violation to the building owner to repair the fire alarm system. Many times, more false alarms are generated before the system can be repaired. The current enforcement process is not encouraging building owners to take more immediate action and comprehensive evaluation of the fire alarm systems.

More importantly, the constant fire alarms in a building have created an unhealthy and dangerous attitude from the occupants. The occupants assume that the alarm signal is going to be "false" and are refusing to evacuate the building. In the event of a real fire alarm, this behavior can lead to devastating consequences of occupant injury or death.

In order to promote compliance and improve overall safety, the Fire Department staff is recommending establishing a fine schedule for false fire alarms, as is in place in Miami-Dade County and neighboring cities. The table below shows the current fines in the county for false fire alarms. The City of Miami Beach is one of two municipalities that do not currently have a false fire alarm ordinance.

COMPARISON TO OTHER MUNICIPALITIES IN THE COUNTY

Miami-Dade	City of Hialeah	City of Miami	City of Coral Gables
First two false alarms – no fine	First three false alarms – no fine	First two false fire alarms – no fine	First two false fire alarms – no fine
3rd false alarm $500.00	4th false alarm in one calendar year - $50.00	3rd and 4th false fire alarms $250.00 per incident	3rd false fire alarm in calendar year - $60.00
4th and each additional false fire alarm in one calendar yr. -$1,000.00	5th false alarm in one calendar year - $100.00	5th and any subsequent false fire alarm – $500.00 per incident	4th false fire alarm in calendar year - $110.00
	6th false alarm in one calendar year - $200.00	6th or subsequent false fire alarm – cert. of occupancy could be revoked.	False fire alarm after 4th incident in calendar year - $210.00
			$25.00 past due fees after 41-60 days ; $25.00 every 30 days.

ANALYSIS

The fire department has analyzed the fire response calls during the last fiscal year (10/1/2011 to 9/30/2012) and identified eighty (80) buildings that reported 10 or more false alarms. The statistics are shown in the first two columns of the table below. The table also shows an estimate of the fines if the false alarm ordinance were in effect during this time period. The intent of the ordinance is to obtain compliance before the fines are issued to the violator. However, there will be some building owners that will not follow through in repairing the problems with the fire alarm system. It is estimated that some owners will obtain compliance by the 5th false alarm and other owners may reach up to the 10th false alarm. It is estimated that the fines issued will be less and less from year to year.

FALSE FIRE ALARMS IN THE CITY OF MIAMI BEACH FROM 10/1/2011 TO 9/30/12

# of Bldgs	# of false alarms in FY 11/12 (only showing 10 or more)	Potential fines for 3rd false alarm ($250 x # of Bldgs)	Assume compliance on 5th false alarm ($750 x # of Bldgs)	Assume compliance on the 10th false alarm ($2,500 x # of Bldgs)
15	10	$3,750		
6	11	$1,500	$4,500	
8	12	$2,000	$6,000	
6	13	$1,500		
1	14	$250	$750	
7	15	$1,750	$5,250	
2	16	$500	$1,500	$5,000
6	17	$1,500	$4,500	
3	18	$750		
5	20	$1,250	$3,750	
1	21	$250	$750	$2,500
3	23	$750		
2	25	$500	$1,500	$5,000
1	28	$250		
1	30	$250		
1	31	$250	$750	$2,500
2	32	$500	$1,500	
1	33	$250	$750	
2	34	$500		
1	38	$250	$750	$2,500
2	42	$500	$1,500	$5,000
1	44	$250	$750	$2,500
1	50	$250	$750	$2,500
1	54	$250	$750	$2,500
1	108	$250	$750	$2,500
Total = 80	Total = 739	Total = $20,000	Total = $36,750	Total = $32,500
			Total Estimate of Fines First Year	$89,250

PROPOSED NEW CITATIONS WITH FINES

The Fire Department would like to establish an enforcement process that includes a fine ranging from ($250 to $1,000) in order to encourage the repeat offenders to achieve compliance as at faster pace than current procedures. The fines will not start until the third false alarm in a calendar year, which gives the building owner two opportunities to correct any deficiencies in the system.

Frequency	*Current Fine*	*New Fine*
1st False Alarm	$ 0	$ 0
2nd False Alarm	$ 0	$ 0
3rd False Alarm	$ 0	$250.00
4th False Alarm	$ 0	$250.00
5th False Alarm	$ 0	$500.00
6th False Alarm	$ 0	$500.00
7th False Alarm	$ 0	$500.00
8th False Alarm	$ 0	$500.00
9th False Alarm	$ 0	$500.00
10th False Alarm	$ 0	$500.00
11th False Alarm	$ 0	$500.00
12th False Alarm	$ 0	$500.00
13th False Alarm and subsequent	$ 0	$1000.00

FISCAL IMPACT

The purpose of the fines is to encourage compliance and revenue of these fines will be expected to decrease from year to year. The cost associated with responding to a fire alarm signal involves personnel and equipment responding to the call; however, this cost is funded from the general fund as standard fire department function. The revenue projected from these fines ranges from $20,000 to $90,000, but it is difficult to predict without an established ordinance and track record.

FINANCE AND CITYWIDE PROJECTS COMMITTEE

This item was discussed in the Finance and Citywide Projects Committee on April 25, 2013. The Fire Chief presented the current situation and consequences of so many false fire alarms in the City. The Committee members voted to move the recommendation of the fire department with some minor changes in the fine schedule.

CONCLUSION

The new fines and enforcement process will help achieve compliance and promote safety of the occupants. As mentioned above, the constant false alarms have created an unsafe environment in these buildings where occupants are not taking appropriate action in the event of a real fire alarm. This behavior must be corrected before we have devastating results of occupant injury or death.

JLM/JO/SFM

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 50 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "FIRE PREVENTION AND PROTECTION", BY CREATING SECTION 50-8 THEREOF, TO BE ENTITLED "FIRE ALARMS, REGULATIONS, PENALTIES, ENFORCEMENT" TO ESTABLISH REQUIREMENTS AND FINES FOR FALSE FIRE ALARMS; PROVIDING FOR REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach Fire Department is responsible for responding to all fire alarm signals generated from any building within City limits; and

WHEREAS, several buildings in the City have generated a total of 739 false alarms in the last fiscal year (10/1/2011 – 9/30/12), which resulted in the unnecessary use of fire department resources not available for true emergencies; and

WHEREAS, constant false fire alarms have created an environment of unsafe practices from occupants who refuse to evacuate the building, which could lead to injury or death in the event of a true emergency; and

WHEREAS, the City of Miami Beach Fire Department is only one of two fire departments in Miami-Dade County that does not current have a false fire alarm enforcement procedures and fines; and

WHEREAS, the City of Miami Beach Fire Department has determined that establishing new enforcement procedures and fines will reduce the false alarms and thereby increase the level of safety for residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 50 of the Code of the City of Miami Beach, Florida, entitled "Fire Prevention and Protection," is hereby amended as follows:

Chapter 50
Fire Prevention and Protection

* * *

Sec. 50-8. - Fire Alarms, Regulations, Penalties, Enforcement.

(a) *Purpose of regulation.* The purpose of this section is to place responsibility on the alarm user to prevent, by use of appropriate mechanical, electrical, or other means, false fire alarms.

(b) *Scope of regulations.* The provisions of this section shall apply throughout the geographical area serviced the Miami Beach Fire Department.

(c) *Definitions.*

(1) *Alarm user* means the person or other entity that owns, possesses, controls, occupies or manages any premises as defined below.

(2) *False fire alarm* means a signal from a fire alarm system that elicits a response by the Fire Department when no actual or threatened fire-related emergency 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 cause of activation is unknown. It is a rebuttable presumption that a fire alarm is false if personnel responding from the Fire Department do not discover any evidence of fire or other emergency after following normal Fire Department operating procedures in investigating the incident. An alarm is not false if the alarm user provides evidence that (1) an individual activated the alarm based upon a reasonable belief that a fire-related emergency existed; (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) the alarm was activated by vandals.

(3) *Fire alarm system* means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of fire-related emergency requiring urgent attention and to which Fire Department personnel may reasonably be expected to respond, but does not include household fire alarm systems installed in one-or-two family dwellings.

(4) *Household fire alarm system* means a system of devices that is listed for residential use and installed in a one-or-two family dwelling other than facilities that are required to be licensed.

(5) *Premises* means the building or structure, or portion of a building or structure, upon which a fire alarm system is installed or maintained.

(6) *Vandals* means a person or persons who willfully cause damage to the fire alarm system which results in the activation of a fire alarm.

(d) *Fire alarms; posting requirements.* A fire alarm user shall conspicuously post at the main entrance to the alarm user's premises a notice stating (1) the name of an individual or alarm company able and authorized to enter the premises and deactivate the alarm; (2) emergency telephone numbers by which those individuals can be reached at all times; and (3) the name and address of the alarm user. The information must be kept current and failure to update this information within forty-eight (48) hours of any change constitutes a violation of this section.

(e) *False fire alarms prohibited.* No fire alarm user shall cause, allow, permit or suffer the fire alarm system to emit three (3) or more false alarms in any calendar year.

(f) *Inspection requirements/Post activation.* After the second and each additional false fire alarm in one (1) calendar year, the alarm user shall, within thirty (30) days, after the second or subsequent fire alarm activation, file a written inspection and test report with the Fire Department from a licensed fire alarm contractor stating that the fire alarm system has been inspected and tested since the last false fire alarm. The report shall set forth the probable cause of the activation, description of any repairs, modifications made or actions taken to prevent additional false alarm activations. The inspection and test report shall also state that the system is currently fully functional without deficiencies.

(g) *Penalties.* A violator of this section shall receive a fine(s) as follows:

(1) For the first false alarm within a calendar year, a notice of violation with no fine.

(2) For the second false alarm within a calendar year, a notice of violation with no fine.

(3) For the third and fourth false alarm within a calendar year, a citation with a fine of $250.00.

(4) For the fifth false alarm and subsequent false alarms including the twelfth false alarm within a calendar year, a citation with a fine of $500.00.

(5) For the thirteenth and subsequent false alarms within a calendar year, a citation with a fine of $1,000.00.

(h) *Enforcement.* The fire inspector shall issue a citation for each false alarm. A violator who has been issued a citation under this section shall elect either to:

(1) Pay the civil fine in the manner indicated on the citation; or

(2) Request an administrative hearing before a special master to appeal the decision of the fire inspector which resulted in the issuance of the citation.

(i) *Appeal of a citation.* The violator may appeal the citation by requesting an administrative hearing within 10 days from the date of issuance. The procedures for appeal of the citation shall be as set forth in Chapter 30, as may be amended from time to time.

(j) *Failure to appeal.* Failure of the named violator to appeal the citation within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the citation, and fines are owed to the City. Unpaid fines may result in the imposition of larger fines and/or further enforcement as set forth in this Chapter.

(k) *Appeal of special master's decision.* Any party aggrieved by the decision of a special master may appeal that decision as provided by applicable Florida

Statutes and Florida Rules of Appellate Procedure.

(l) *Imposition of civil fines.* The City may institute proceedings in a court of competent jurisdiction to compel payment of civil fines. A certified copy of an order imposing a civil fine may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator, and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien which remains unpaid, the City may institute proceedings to foreclose or otherwise execute on the lien.

SECTION 4. REPEALER

All ordinances or parts of ordinances in conflict therewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, provision or phase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. CODIFICATION

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 6. EFFECTIVE DATE

This Ordinance shall take effect on the _____ day of_____, 2013 which is 10 days after adoption.

PASSED and ADOPTED this _____day of _____, 2013.

_____
Matti Herrera Bower
MAYOR

ATTEST:

_____
Rafael Granado
CITY CLERK

Underline denotes additions; ~~Strikethrough~~ denotes deletions

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 9/3/13 Date

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