ORDINANCE NO. _____

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 12 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "NUISANCES" TO ENHANCE CURRENT PROVISIONS FOR THE ABATEMENT OF PUBLIC NUISANCES; INSERTING ARTICLE III, ENTITLED "ABANDONED REAL PROPERTY REGISTRATION" FROM CHAPTER 5; CREATING ARTICLE IX, ENTITLED "SQUATTERS" BY DECLARING SQUATTING AS A PUBLIC NUISANCE WITHIN THE CITY OF NORTH MIAMI AND ESTABLISHING REMEDIES FOR ADDRESSING SQUATTERS; AND FURTHER PROVIDING FOR THE RELOCATION OF ARTICLE V ENTITLED "BURGLAR ALARMS" TO CHAPTER 13 OF THE CODE OF ORDINANCES; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") is desirous of updating its nuisance regulations to address the deterioration and blight of City neighborhoods caused by public nuisances as well as enhance the health, safety, and welfare of the community; and

WHEREAS, the City is also interested in enacting legislation to address the issue of squatters which has become an increasing problem due to the numerous vacant and abandoned properties within the City; and

WHEREAS, the unauthorized occupation of a residence by squatters poses numerous public safety concerns to the lawful owner or lessee and to the surrounding community, and as such is a public nuisance; and

WHEREAS, the City wishes to prevent squatting in North Miami and ensure that provisions are in place to remove squatters from properties being unlawfully occupied; and

WHEREAS, the Vice Mayor as Acting Mayor and City Council of the City of North Miami have determined that the proposed amendments to Chapter 12 of the City Code of Ordinances are in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. **Amendment to City Code.** Chapter 12 of the City Code of Ordinances entitled "Nuisances" is amended to read as follows:

* * * * *

Chapter 12 - **NUISANCES**

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

Abatement means the removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.

Owner means ~~the owner of record based on the Miami-Dade Property Appraiser's record or any person with legal, financial or equitable interest in the property on which the alleged public nuisance exists at the time of the violation.~~ any person, firm, corporation or legal entity who individually or jointly with others:

(a) Has legal or beneficial title to any building arranged, designed or used, in whole or in part, to house one (1) or more dwelling units; or

(b) Has charge, care or control of any building arranged, designed or used, in whole or in part, to house one (1) or more dwelling units, as owner or agent of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court. Any such person thus representing the actual owner shall be bound to comply with the terms of this chapter and any notice of rules and regulations issued pursuant thereto, to the same extent as if he were the owner; or

(c) Has been shown to be the property owner in the records of the Miami-Dade County property appraiser's office; has been identified on the city's abandoned/vacant real property registration form; has been a mortgagee in possession of real property or has been the plaintiff in a mortgage foreclosure claim, in which the abandoned real property is the subject of the lis pendens and foreclosure lawsuit. Any such person, persons, or entity shall have joint and independent obligations for compliance with the provisions of this chapter.

~~*Property* means any real property, premises, structure or location on which a public nuisance is alleged to exist.~~

Nuisance means any one or combination of the following:

(a) Any nuisance known at common law or in equity jurisprudence or as provided by statute, administrative rule or ordinances of the city, including this chapter;

(b) Any attractive nuisance which may prove detrimental to health or safety;

(c) Physical conditions dangerous to human life or property or detrimental to health or property values or which tend to degrade the appearance of a neighborhood;

(d) Conditions relating to private or public property which impede: the free passage of persons on a public or private sidewalk, ingress or egress to property, or safe passage of vehicles on a public alley or street;

(e) Fire hazards.

~~*Public nuisance* means any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, sidewalk subspace, dock or landing dock; or any lot, land, yard, premise or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one (1) or more individuals in the city, in any one (1) or more of the following particulars:~~

~~(1) By reason of being a menace, threat and/or hazard to the general health and safety of the community.~~

~~(2) By reason of being a fire hazard.~~

~~(3) By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.~~

~~(4) By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.~~

Property means any real property, premises, structure or location on which a public nuisance is alleged to exist.

~~(5)~~ *Summary abatement* means abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair, or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this chapter.

Sec. 12-2. Nuisances prohibited.

No person, owning, leasing, renting or occupying land in the city shall permit or maintain any nuisance as defined by this chapter which tends to annoy the community or injure the health of the citizens. ~~Nuisances shall include but not be limited to pets of any kind or any other animal or insect that unreasonably causes annoyance to neighbors or other persons, or constitutes a health hazard.~~

Sec. 12-3. Purpose.

The purpose of this chapter is to provide for the abatement of hazardous or unsanitary conditions which affect the life, limb, health, property, safety and welfare of the general public in such a way as to constitute a nuisance.

~~Sec. 12-3. Nuisances pertaining to vacant stores and offices, enumerated; abatement; penalty.~~

~~(a) Any owner or lessee shall keep clean the inside and outside of premises of vacant stores and offices. Such owner or lessee shall keep the premises clean and free from any accumulation of debris, rubbish or trash including keeping the outside of the premises painted and in good state of repair and the windows clean and free from any lettering or sign advertising of the previous business or profession.~~

~~(b) If any commercial property is vacant for more than fifteen (15) days, all glass surfaces visible to the public shall be kept clean and the interior of such vacant store shall be screened from public view in one (1) of the following ways until the property is occupied:~~

~~(1) All glass surfaces visible to the public shall be covered with white sixty-pound weight paper; or~~

~~(2) Decorative displays of merchandise currently available within the city, merchandise of the future tenant of the vacant store, public service displays, or festival and current holiday displays, provided that screening of the remainder of the vacant store shall be placed immediately behind the decorative display.~~

~~(c) Outdoor signs painted on or affixed to such premises advertising a previous business or profession shall be removed or completely obliterated after the premises become occupied once more, and new identification is erected. "Completely obliterated" means not only complete removal of old signage such that it will not be visible once the new signage is erected, but also that restoration of the wall area upon which the signage was affixed shall be in the same color, texture, materials, etc. as the rest of the wall. The building official shall make the removal or obliteration of previous signage a permit condition for the new signage.~~

~~(d) All sidewalk overhangs attached to commercial buildings shall be structurally sound and free of rust, discoloration, peeling, chipping, cracking, fading, sagging or dirt. All awnings shall be without tears or holes and free of dirt, discoloration, fading, or cracking. All lettering or signage on overhangs shall conform to the requirements provided in the sign code of Miami-Dade County and the city's land development regulations.~~

~~(e) Noncompliance with the provisions set forth in this section, is hereby declared to be a public nuisance or constituting a menace to life, property, public health, public welfare and a fire hazard.~~

~~(f) The owner or lessee shall within fifteen (15) days after written notice by the building department of the city of the existence of the condition described in [subsection] (a) above comply with the terms and provisions of this section.~~

~~Sec. 12-3.1. Graffiti and commercial exterior maintenance standards.~~

~~(a) All exterior surfaces of structures used for non-residential purposes, whether vacant or occupied, shall be painted as often as necessary with a protective coating, which is designed for exterior use or is approved by the building official, so that deterioration or peeling shall not occur.~~

~~(b) The existence of deteriorated, peeling or improperly maintained paint on such exterior surfaces is declared to be a public nuisance.~~

(c) The maintenance or allowance of graffiti to exist for more than forty-eight (48) hours on a non-residential property and/or fixtures, or seven (7) calendar days on a residential property and/or fixture, is prohibited.

(d) Whenever the city becomes aware of the existence of graffiti on any property, a code enforcement officer is authorized, upon such discovery, to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(1) Non-residential property. For non-residential property, the property owner or the property owner's agent or manager shall take corrective action within forty-eight (48) hours from the receipt or delivery of the notice given pursuant to this section.

(2) Residential property. For residential property, the property owner, or property owner's agent shall take corrective action within seven (7) days from the receipt or delivery of the notice given pursuant to this section.

(3) Declaration of emergency. The city manager is authorized to declare an emergency due to increased gang activity in defacing property and/or fixtures in the city with graffiti. Upon the declaration of an emergency by the city manager the time period for abating graffiti shall be shorten to twenty-four (24) hours for both non-residential and residential property and fixtures.

(4) City's abatement of graffiti. Pursuant to this section, the city may enter on to the private property for the purpose of abating the nuisance created by the graffiti and may abate the graffiti by painting over such graffiti. Entry on private property by the city to abate the graffiti shall not constitute trespass nor subject the city to any liability.

(e) The city will waive painting permit requirements for abating graffiti, subject to the use of the same colored exterior paint to correct the violation.

(f) Graffiti abatement will consist of:

(1) Painting of the wall as it pertains to the area cited, and/or non-permanent structure defaced or affected by graffiti, provided the area cited matches the pre-existing texture of the entire wall.

(2) Pressure cleaning or any other method that will successfully remove graffiti from a wall, and/or non-permanent structure, without causing damage to the exterior of the structure.

(g) Notice of a violation shall be given as provided under Florida Statutes and shall have substantially the following form:

DATE

NOTICE TO REMOVE GRAFFITI

TO THE OWNER, AGENT OF THE OWNER, OR PERSON MANAGING THE PROPERTY DESCRIBED BELOW:

YOUR ATTENTION IS DIRECTED TO THE PROVISIONS OF CHAPTER 12, ARTICLE I, SECTION 12-3.1 OF THE CITY CODE OF NORTH MIAMI, FLORIDA. YOU ARE NOTIFIED THAT GRAFFITI WHICH IS DECLARED A NUISANCE IN THE CITY OF NORTH MIAMI EXISTS ON PREMISES SPECIFICALLY DESCRIBED AS _____.

~~YOU ARE ADVISED THAT WITHIN (48 HOURS COMMERCIAL, OR 7 CALENDAR DAYS RESIDENTIAL) FROM THE RECEIPT OF THIS NOTICE, YOU MUST REMOVE THE GRAFFITI FROM THE PROPERTY AND THEREAFTER TO KEEP THE PROPERTY FREE FROM GRAFFITI.~~

~~DATED AT NORTH MIAMI, FLORIDA THIS _____ DAY OF _____ 20_____.~~

~~_____~~
~~OFFICER~~

~~(h) The owner or lessee of such structures used for commercial or residential purposes shall within ten (10) days after written notice by the code enforcement department of the city of the existence of the condition described in [subsection] (b) above, comply with the terms and provisions of this section or the nuisance may be abated by the city. On expiration of the ten (10) days the city may cause all remaining graffiti to be removed, and shall file with the finance department a statement showing the charges to be assessed against the property for payment of the work including ten (10) percent or ten dollars ($10.00), whichever is the greater amount, for notice, inspection, and incidentals. The total amount assessed shall become a lien against the property enforceable under the laws of the State of Florida.~~

~~(i) Penalties. Violations of this section shall be subject to civil penalties pursuant to chapter 2, division 5.3 of the Code.~~

~~Sec. 12-4. Nuisance caused by swimming pools prohibited.~~

~~(a) It is hereby declared a nuisance for any person to have, keep, maintain, cause or permit within the city a swimming pool which does not meet the water clarity standard which allows clear visibility from the water's surface to the pool bottom. It shall be unlawful for any such person to maintain such swimming pool in such a manner as to create a breeding ground for mosquitoes.~~

~~(b) All swimming pools shall be maintained to ensure the disinfection of all pool water pursuant to applicable health standards under state law and county ordinance.~~

~~(c) Barrier specifications: No swimming pool shall be installed, constructed, reconstructed or structurally altered unless there is erected a safety barrier as hereinafter provided:~~

~~(1) The safety barrier shall take the form of a wooden fence, a wire fence, a rock wall, a concrete block wall, or other materials so as to enable the owner to blend the same with the style of architecture planned or in existence on the property.~~

~~(2) The height of the safety barrier shall be not less than four (4) feet and not higher than five (5) feet. The safety barrier shall be erected either around the swimming pool or around the premises on which the swimming pool is erected; in either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Provided, however, swimming pools located at multifamily dwelling uses as defined in chapter 29, article 4, shall have safety barriers erected around such swimming pools.~~

~~(3) Gates shall be of the spring lock type and shall be equipped with a safety lock and shall be locked when the swimming pool is not in use.~~

(4) In the wooden type fence, the boards, pickets, louvers, or other such members, shall be spaced, constructed and erected, so as to make the fence unclimbable and impenetrable. The term "unclimbable", as used herein means any fence normally unable to be ascended by a toddler.

(5) Walls, whether of rock or block type, shall be erected to make them unclimbable, as defined in subsection (4) above. Provided, however, broken glass or other sharp materials shall not be used in the wall.

(6) Wire fences shall be the two-inch chain link or diamond weave unclimbable type, as defined in subsection (4) above, or of an approved equal, with top rail. They shall be of a heavy, galvanized material and may be vinyl coated. Provided, however, barbed wire shall not be used.

(7) If premises where the swimming pool is located or to be installed is already enclosed in substantial conformity with this section, it shall not be necessary to erect any additional safety barriers around the pool; however, the plans submitted shall show such existing enclosure in detail and in the event the building inspector finds, upon actual inspection, that the enclosure is not adequate to prevent small children gaining access to the pool, the plans shall be revised and an adequate barrier provided before a certificate of occupancy is issued.

(8) It shall be the responsibility of both the owner and the occupant (if different from the owner) of the premises upon which the swimming pool is located to maintain the same and the safety devices required by this section in good and safe condition at all times. Provided, however, with regard to swimming pools located at multifamily dwelling uses as defined in chapter 29, article 4, it shall be the sole responsibility of the owner and manager of the premises upon which the swimming pool is located to maintain the same and the safety devices required by this section in good and safe condition at all times.

(9) It shall be within the discretion of the building official to refuse approval of any barrier which, in his opinion, does not furnish the safety requirements in this article, that it is high enough and so constructed to keep children from getting over or through it.

(d) Upon complaint, if the code enforcement officer finds and determines that a swimming pool within the city does not meet the standard set out in [subsections] (a) and (b) above, the code enforcement officer shall notify the property owner in the manner prescribed for notice pursuant to F.S. Ch. 162 and section 2-104 of the Code of Ordinances of the City of North Miami. Such notice shall demand that the property owner cause the condition to be remedied. If the property owner is not in possession of the property, a notice shall also be sent to the lessee, tenant, occupant or possessor of the property.

(e) In addition to the notice, the code enforcement officer shall cause to be posted in a conspicuous place upon the lot, lots, or tract of land, vacant or occupied, a notice to serve as warning that a swimming pool hazard exists.

(f) The person notified by the code enforcement officer shall within ten (10) days after written notice by the code enforcement officer of the conditions described in [subsections] (a) and (b) above comply with the terms and provisions of this same section.

(g) Any person, natural or corporate, who fails to comply with the terms and provisions of [subsections] (a) and (b) within ten (10) days of the date the notice was served shall be in violation of this section of the Code.

(h) Should such person, natural or corporate, fail to remedy the condition, the building official shall have the power to declare such swimming pool a hazard to the health, safety, and welfare of the citizens of the city and shall be authorized to cause the condition to be remedied by either cleaning, boarding, or taking any other action necessary to correct the hazard and the reasonable costs thereof shall be a lien against the property upon which such swimming pool is located. Such lien shall be handled and collected in the manner prescribed for the collection of liens pursuant to article IV of chapter 2 of the Code of Ordinances of the City of North Miami.

(i) Nothing in this section shall prevent the city from taking immediate action to abate any public nuisance and the city is hereby authorized (but not required) to take such action where there is a public health or public safety issue.

(j) This section may also be enforced in conjunction with the minimum housing standard of the city as set forth in chapter 5, article III, housing standards.

Sec. 12-5. Trash, debris, garbage disposal in canals prohibited.

It shall be unlawful for the owner or occupant of any lot or any other person to dump, dispose or otherwise place in any canal, bay or other waterway in the city any trash, debris, garbage or any other type of waste material.

Sec. 12-6. Replacement of storefronts.

(a) *Restrictions.*

(1) It shall be unlawful for any person owning, leasing, renting or occupying a business premises in the City of North Miami to fail to repair, place or rebuild the plate glass window or other storefront of any such business premises which has been broken, damaged, destroyed or removed within a period of ten (10) days after such breakage, damage, destruction or removal occurs.

(2) Business establishments may have installed thereon securely fastened plywood boarding to temporarily cover up the broken, damaged, destroyed or removed plate glass window or storefront for a period of time not to exceed ten (10) days, provided that the repair or replacement of such glass and storefront is timely made in compliance with subsection (1) above.

(3) It shall be unlawful for any person enumerated in subsection (1) above, to install or maintain or to cause or allow the installation or maintaining of any plywood or other boarding or covering in place of any such plate glass window or storefront for a period of more than ten (10) days.

(b) *Computation of time.* In computing the ten-day period of time prescribed or allowed by this section, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a

Saturday, Sunday or legal holiday in which event the ten-day period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

(c) *Incentive.* As an incentive to timely compliance with this section, applicable routine building permit fees of the city may be waived by the building official for repair or replacement timely undertaken and completed pursuant to this section.

Sec. 12-7. Prohibition of vegetable gardens located in front yards of residential property.

(a) No person owning, leasing, renting or occupying any premises in the city shall cause, allow or permit the planting, cultivation, growth or maintenance of a vegetable garden in the front yard of any such premises which is used, intended to be used or occupied as a residence.

(b) For the purposes of this section, front yard shall be defined as a yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.

Sec. 12-8. Regulations regarding the distribution of unsolicited printed matter on private residential property.

(a) It shall be unlawful for any person, firm, corporation, or any agent or employee of any person, firm, or corporation to distribute or deliver or cause the distribution or delivery to the yards or grounds of any house, or multifamily residential structure, or any porch, or doorstep or vestibule, or any public hallway, thereof, or upon any other residential property in the city, any unsolicited handbill, circular, booklet, poster or any other advertising literature of any kind where the owner or occupant of such residential property has either:

(1) Previously expressed his or her desire, orally or in writing, to such person, firm or corporation, not to receive such unsolicited printed matter); or

(2) Posted a sign conspicuously on the residential property which clearly indicates that the occupant or owner does not desire to receive such unsolicited printed matter. Provided, however, that such printed matter may be personally delivered or handed to such owners or occupants of such residential property who are willing to accept the same.

(b) It shall be unlawful for any person to distribute or place any unsolicited handbill, circular, booklet, flyer, or any other advertising literature on any motor vehicle by any means whatsoever, when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot, or place.

(c) It shall be unlawful for any person to knowingly authorize or employ any person to distribute or place any handbill on any motor vehicle by any means whatsoever when such motor vehicle is parked, standing, stopped or located in a public street, highway, parking lot, or place.

Sec. 12-9. Unsafe building and structures nuisance abatement.

(1) *Nuisances described—Authority to abate.*

(a) The existence of any condition of blight, including but not limited to, an abandoned building or structure, an attractive nuisance, a building or structure in a state of disrepair sufficient to result in inadequate weather protection or so deteriorated as to foster decay or termite infestation, inadequate maintenance such that the property constitutes a fire hazard or other dangerous condition or is likely to harbor vermin, or an accumulation of solid waste or of discarded or unused materials or equipment stored so as to be visible from a public right-of-way or neighboring property.

(b) Any condition pertaining to building maintenance or upkeep that violates any provision of the currently adopted uniform building, housing, mechanical, plumbing, or national electrical code, the uniform code for the abatement of dangerous buildings, or any other federal, state or local codes.

(c) Failure to exterminate building or structure on a regular basis to eliminate the presence of vermin, rodents, insects, termites, and other pests in such a manner that it affects neighboring buildings and structures.

(2) *Notice to abate.*

(a) The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE
OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building or premises at, you are hereby notified that the undersigned pursuant to section 12-9(1) of the City of North Miami Municipal Code has determined that there exists upon or adjoining the building or premises the following condition(s) contrary to the provisions of section 12-9(1).

You are hereby notified to abate the condition(s) to the satisfaction of the undersigned within days of the date of this notice or to appear at the office of the at, North Miami, Florida, on _____, 20_____, at o'clock_____.m., and show cause, if any you have, why the condition(s) should not be abated by the city, and the expenses thereof charged to you as a personal obligation and/or made a lien upon the property. Abatement is to be accomplished in the following manner:

Dated:

By:

(3) *Notice to property owner.*

(a) The property owner shall be given notice of the unsafe condition of the building or structure and shall have 72 hours to either remove, or cause or contract to be removed such building or structure or to abate, or case or contract to be abated, any such nuisance. The code enforcement officer shall notify the property owner in the manner prescribed for notice pursuant to F.S. Ch. 162, and section 2-104 of the Code of Ordinances of the City of North Miami. The owner of real property as shown on the

~~latest equalized assessment roll shall be conclusively deemed to be the proper person and address for mailing of notice of any hearing or order pursuant to this chapter and the failure of any addressee to receive notice shall not invalidate any notice or order so issued. Any duly issued notice or order shall be conclusively deemed to be adequate notice to any and all occupants, users, or possessors of the property or its contents, and the failure of any such person to see, read, understand or otherwise receive the notice shall not invalidate any of the proceedings.~~

~~(b) Condemnation of unsafe buildings and structures. In case of failure of the owner, agent, or occupant to take the steps required in this article to secure, make safe or removed the building or structure or abate the nuisance as herein required, the building official shall condemn the building or structure and serve notice of such condemnation upon the proper owner and/or occupants. The building official shall commence condemnation proceeding in accordance with the Miami-Dade County Code of Ordinances to proceed with the removal of such building or structure or to abate any such nuisance. Cost of such removal or abate shall be the responsibility of the property owner.~~

~~(c) Emergency action. When in the opinion of the building official, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he may order the occupants to vacate, temporarily close for use or occupancy the rights of way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing the building or structure, as he may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of such emergency work shall be recorded as a lien against the property involved.~~

~~(4) *Violation—Penalties.*~~

~~[(a)]*Civil.* The director of code enforcement, or the building official, may issue a notice of civil penalty and/or administrative fine to be levied against any person or entity which has maintained, created, caused, permitted or violated any condition set forth in subsection 12-9(1) or any order of the city department with respect to the property, pursuant to the procedures set forth in the North Miami Code of Ordinances.~~

ARTICLE II. WEEDS, ~~BRUSH AND~~ RUBBISH AND WASTE

Sec. 12-~~21~~4. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accumulated trash shall mean any trash, garbage, rubbish~~,~~ or filth~~,~~ which is allowed or caused to be accumulated upon any public or private property.

Rubbish shall mean any unsightly material, waste product, refuse, trash or waste lumber left, piled or scattered that may become a breeding place for flies, mosquitoes or vermin or that may give off unpleasant odors or create a health or fire hazard where located.

Untended vegetation shall mean grass, weeds, underbrush, overgrown landscaping, dead landscaping or other vegetation in excess of ~~twelve (12)~~ eight (8) inches in height from the ground.

Sec. 12-~~22~~5. Declaration of nuisance.

Untended vegetation, rubbish and accumulated trash as defined in ~~section 12-21~~ this chapter ~~is~~ are hereby declared to be a nuisance~~;~~ dangerous to the public health and safety~~;~~ and in violation of this article and subject to imposition of penalties ~~as set forth in~~ section 12-23.

Sec. 12-~~23~~6. Notice for removal.

(a) Notice shall be given by the code enforcement officer to the last known owner, of any lot, lots or tract of land occupied or vacant within the city which has untended vegetation, rubbish, or accumulated trash in violation of ~~section 12-22~~ this article, that all overgrown grass, sod or weeds must be cut and that all dry brush accumulated trash or rubbish must be removed. Such owner or occupant shall be given ten (10) days from the mailing of such notice to abate the nuisance or the nuisance will be abated by the city. The entire cost thereof, plus ten (10) percent or ten dollars ($10.00) whichever is the greater amount for notice, inspection and incidentals, will be assessed against the property.

(b) In addition to the notice prescribed herein, the city shall cause to be posted in a conspicuous place on the lot, lots or tract of land vacant or occupied a notice as herein prescribed. The posting of notice shall be done not less than ten (10) days prior to the city's removal or cutting of such weeds, brush, grass and rubbish.

(c) Authority to enter upon. Specific authority is granted to the city to enter upon the property upon the expiration of the ten (10) days ~~and cause all such untended vegetation, accumulated trash or rubbish not cut or removed~~ to ~~be~~ cut or removed ~~untended~~ vegetation, accumulated trash or rubbish and ~~shall~~ file with the finance department a statement showing the charges to be assessed against such lot, or tract of land, vacant or occupied for payment of the work including ten (10) percent or ten dollars ($10.00) whichever is the greater amount to cover cost of notice, inspection and incidentals.

~~(c) In addition to the notice prescribed herein, the city shall cause to be posted in a conspicuous place on the lot, lots or tract of land vacant or occupied a notice as herein prescribed. The posting of notice shall be done not less than ten (10) days prior to the removal, cutting of such weeds, brush, grass and rubbish by the city.~~

Sec. 12-~~24~~7. Cost.

(a) The cost incurred or expended by the city for cutting and removing high grass and weeds, accumulated trash, and rubbish shall be levied and imposed against lots and parcels on which such cuttings and removal is done by the city pursuant to a fee schedule on file in the city clerk's office.

(b) The sum shall include labor, equipment utilized and administrative costs for each cutting and shall have the same effect as a lien for services against the property.

(c) The City shall have a lien upon the property in such amount until paid, which lien shall be prior to all other liens on the property, except taxes. Such lien, when delinquent for thirty (30) days, may be foreclosed in the manner provided for the foreclosure of mortgages on the property.

Sec. 12-8. Trash, debris and garbage disposal in canals prohibited.

It shall be unlawful for the owner or occupant of any lot or any other person to dump, dispose or otherwise place in any canal, bay or other waterway in the city any trash, debris, garbage or any other type of waste material.

ARTICLE III. MAINTENANCE OF SWALE AREAS

~~*DIVISION 1. GENERALLY*~~

~~*DIVISION 2. SWALE AREAS*~~

Sec. 12-~~46~~9. Duty of abutting owner to maintain swale area.

It shall be the duty and obligation of all owners and/or occupants of lots in the city to maintain and keep in a clean, litter-free and mowed condition, the swale areas between the public right-of-way and the property line which includes the sidewalk adjacent and contiguous to their lots. The duty hereby imposed upon such a property owner shall not extend to any property other than that included within the lot lines of the property owned by him as projected to include the swale area.

Sec. 12-~~47~~10. Standard of maintenance.

(a) Swale areas will be considered maintained if all of the following requirements are met:

(1) Areas must be kept free from any accumulation of debris, litter, decayed vegetable matter, filth, rubbish, trash, discarded building materials, glass, or any other materials which are dangerous to the public health, safety and welfare;

(2) Areas must not be allowed to become overgrown with untended vegetation as defined in ~~section 12-21~~ in this chapter.

(b) Sodding of the swale area shall be permitted ~~in accordance with section 17-51~~. All such ~~paved~~ sodded areas shall be kept in good condition. The paving of any swale shall be prohibited.

(c) Owner shall only permit parking of motor vehicles in swale area if it does not damage the sod or paved material on the swale.

(d) No more than two (2) motor vehicles shall be allowed to park on the swale area at a time. Said parking shall be parallel to roadside and in the direction of the authorized traffic movement.

Sec. 12-~~48~~11. Declaration of nuisance.

Swale areas which are not maintained in accordance with the provisions set forth in ~~section 12-47~~ this article are hereby declared to be nuisances; detrimental and dangerous to the public health, safety and welfare; in violation of this article and subject to penalties.

Sec. 12-~~49~~12. Removal; publication of notice; work by city; assessing costs and expenses.

(a) The city shall cause notice to be given to the abutting property owner and/or occupant that all untended vegetation, ~~must be removed in the swale areas, and that all~~ debris, trash, and litter shall be removed from the swale area. The notice shall state that if abutting property owner fails to do so within ten (10) days of the mailing of such notice, the same will be removed by the city and the entire cost thereof, plus ten (10) percent or ten dollars ($10.00) whichever is the greater amount for notice, inspection and incidentals, will be assessed.

(b) On the expiration of the time, the city shall then perform the necessary removal operations and shall assess the cost of said removal against the property. Such assessment, if not paid, shall become a lien against the property.

(c) In the event motor vehicles are allowed to park on the swale area which damages the sod and/or paved material, the city shall give notice that all motor vehicle parking in the swale area must cease until such time as the swale area is returned to the proper conditions. Continued parking of motor vehicles on damaged swale areas will subject motor vehicles to be towed at the owner's expense and could result in penalties to property owner.

(d) If any tree, shrub, or other obstruction on a swale area within the city creates an emergency situation involving a potential danger to the health, safety, and welfare of the community, the city shall perform removal operations immediately.

ARTICLE IV. NOISES

Sec. 12-~~51~~13. ~~Noise control regulations~~ Definitions and standards.

~~(a) *Definitions and standards.*~~

~~*Terminology.*~~ All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

~~*Ambient noise* shall mean the all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources near and far.~~

~~*A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or DBA.~~

Commercial area means any area designated for commercial uses under the zoning ordinance of the city.

Commercial purpose ~~shall~~ means and includes the making of noise for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to or advertising for, or soliciting patronage of customers to or for any performance, show,

entertainment, exhibition, or event, or for the purpose of demonstrating any sound producing equipment, or for the purpose of conducting a business.

Construction means any site preparation, assembly erection, substantial repair, alteration, or similar action, but excluding demolition.

~~*Decibel (Db)* means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).~~

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces~~,~~ or similar property.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Fixed mechanical equipment ~~shall~~ means mechanical equipment, such as an air conditioning unit, water cooling tower, swimming pool pump, irrigation pump, well water pump, fan, power generator or other similar power source equipment, permanently affixed to real property, as distinguished from temporary, portable, non-fixed mechanical equipment.

Noise disturbance means any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

Noise sensitive zone means any area designated pursuant to this ordinance for the purpose of ensuring exceptional quiet.

Noncommercial purpose ~~shall~~ means the making of noise for other than a commercial ~~prose~~ purpose. ~~Noncommercial purpose shall mean and~~ includeing, but ~~shall~~ not ~~be~~ limited to, philanthropic, political, patriotic, and charitable purposes.

Person means any individual, firm, association, partnership, joint venture or corporation.

Real property boundary means a line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.

Residential area means an area designated and used for any residential use under the zoning ordinance of the city or an area within which are situated conforming, or legal nonconforming residential uses.

Sound-amplifying equipment shall mean any machine or device for the amplification of the human voice, music, or any other sound including, but not limited to, public address systems. The term sound-amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this chapter, shall not include warning devices of authorized emergency vehicles or horns or other warning devices or any vehicle used only for traffic safety purposes or security alarm systems of any vehicle.

~~*Sound level meter* shall mean an instrument or apparatus including a microphone, an amplifier, an output meter, and weighting networks for the measurement of sound pressure. The output~~

~~meter accurately reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute Publication S1.4-1971.~~

Sound truck shall mean any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon, or attached thereto, any sound-amplifying equipment.

Weekday means any day Monday through Friday, which is not a legal holiday.

Sec. 12-~~52~~14. Noise disturbances Prohibited ~~acts~~.

Noise disturbances are prohibited and are declared a nuisance. No person shall knowingly make, continue, or cause to be made or continued, or permit any other person on his property to ~~do so,~~ make or continue any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the ~~operation~~ enforcement of this section.

Sec. 12-~~53~~15. Specific prohibitions.

The following acts, and the causing thereof, are declared to be in violation of this section:

a. *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, ~~phonograph, drum,~~ stereo, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

   1. Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone;

   2. In such a manner as to create a noise disturbance at twenty-five (25) feet when operated in or on a motor vehicle on a public right-of-way or public space;

   3. This section shall not apply to noncommercial spoken language covered under paragraph b. below.

b. *Loudspeakers and public address systems.* Using or operating for any purpose any loudspeaker, sound amplifying equipment, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or (2) between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space, not including any city sponsored or sanctioned activity.

c. *Deliveries.* Delivery of goods, materials, wares, merchandise and articles of like nature for resale to any business, store or commercial enterprise located within one hundred (100) feet of any residential area between the hours of 10:00 p.m. and 7:00 a.m. daily.

d. *Loading and unloading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

e. *Construction.* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 9:00 p.m. and 8:00 a.m. the following day on weekdays or at any time on weekends or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities.

f. *Boat repairs and testing.* Repairing, rebuilding, modifying, or testing any boat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone between the hours 10:00 p.m. and 7:00 a.m. daily.

g. *Mechanical Devices.* Operateing any machinery, equipment, pump, fan, air-conditioning apparatus, or similar mechanical device in any manner so as to create any noise which is unreasonably loud and raucous and can be heard ~~would cause the noise level~~ across the property line of any residential property ~~to exceed the ambient noise level by more than five (5) decibels based on a reference sound pressure of 0.0002 microbars as measured in any octave band center frequency, in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000, and 8,000, and for the combined frequency bands, "A" band. No permanent standby generator shall be operated at a decibel level which exceeds seventy-two (72).~~

h. *Commercial maintenance equipment.* The commercial operation of maintenance equipment (including but not limited to pressure cleaners, blowers, sweepers, or vacuums) which creates a plainly audible sounds within one hundred (100) feet of any residential area between the hours of 10:00 p.m. and 7:00 a.m.

i. *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, chippers, leaf blowers, chain saws, power tools, and other ~~noice~~noise-producing tools used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

j. ~~*Vehicle r*~~*Repairs and maintenance.* Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

k. *Sound amplifying equipment.*

1. Operation or use of sound amplifying equipment, whether such equipment is fixed or movable, or is mounted upon any sound truck, so as to cause a noise disturbance across a residential real property boundary. Noncommercial public speech and public assembly activities conducted on any public right-of-way shall be exempt from the operation of this subsection unless such speech or assembly activity tends to incite an immediate breach of the peace;

~~2. The production of any amplified noise, as measured by a sound level meter using the A-weighting scale, which exceeds an ambient noise level of fifty (50) dBA at the nearest property line of the impacted residential property by more than five (5) decibels for more than one (1) continuous minute out of a ten (10) minute period, shall be prima facie evidence that such noise constitutes a "noise disturbance" as defined above.~~

32. ~~In any event,~~ tThe volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing, or a nuisance to reasonable persons of normal sensitiveness within the area of audibility.

l. *Sound trucks prohibited.* Operating or using the sound amplification devices of any sound truck upon any public street or right-of-way between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the next day.

m. *Motorboats.* Operating or permitting the operation of any un-muffled motorboat in any lake, river, stream, intracoastal waters, or other waterway in such manner which creates unnecessary or unreasonable noise which unreasonably disturbs the peace and comfort of adjacent residents or businesses.~~and as to not exceed a sound level of ninety (90) dBA at fifty (50) feet or fifteen (15) meters of the nearest shoreline, whichever distance is less~~.

n. *Canals.* Canals are hereby declared noise sensitive zones and noise restrictions provided within this chapter shall apply in canals.

o. *Movable mechanical equipment.* Operating or permitting the operation of any such equipment including trucks, portable generators, forklifts, cranes, pile drivers and commercial machinery and vehicles of any kind, in such a manner as to create any noise which would unreasonably loud and raucous and can be heard ~~cause the noise level~~ across the property line of any residential property ~~to exceed the ambient noise level by more than five (5) decibels based on a reference sound pressure of 0.0002 microbars as measured in any octave band center frequency in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000 and 8,000, and for the combined frequency bands, "A" band~~ between 8:00 p.m. and 7:00 a.m.

p. *Horns, signaling devices, etc.* The sounding of any horn, signaling device, or alarm on any motor vehicle, motorcycle or motorboat for any unnecessary and unreasonable period of time.

q. *False burglar alarms.* False burglar alarms as defined in ~~article V~~ this code.

r. *Yelling, shouting and similar activities.* Yelling, shouting, hooting, whistling or singing in residential or noise-sensitive areas or in public places between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to unreasonably disturb the quiet, comfort or repose of reasonable persons of ordinary sensitivities.

Sec. 12-~~54~~16. Exemptions.

This chapter shall not be applicable to the activities of law enforcement personnel in the discharge of their duties.

Sec. 12-~~55~~17. ~~Enforcement~~ Penalties.

~~(a) *Noise measurement.* For the purpose of determining and classifying any noise as excessive and unnecessary noise, or as an unusually loud noise, which is hereby declared to be unlawful and prohibited under this chapter, test measurements using a sound level meter may be applied; provided, however, a violation of this chapter may occur without the occasion of the measurements being made as therein provided.~~

~~(b) *Penalties.*~~ Violation of these chapter provisions shall constitute a ~~public~~ nuisance and shall be subject to ~~the issuance of a civil violation ticket~~ enforcement in accordance with ~~section 2-109~~ chapter 21 of the city code.

Sec. 12-~~56~~18. Railroad signals prohibited at designated crossings during certain hours.

(a) It shall be unlawful and a public nuisance for any person operating a railroad train of a railroad company operating wholly within this state to blow or activate or permit to be blown or activated any horn or whistle from the railroad train after 10:00 p.m. and before 6:00 a.m. on any day when the railroad train is within the city.

(b) The provisions of this section shall be applicable only to railroad train crossings at grade which are equipped with train-activated automatic control devices which shall include an operating ringing bell, flashing light signals and automatic crossing gates on both sides of the railroad train tracks.

(c) If any person violates any of the provisions of this section, such person, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500.00) in the discretion of the court. Each day or portion thereof of continuing violation shall be deemed a separate violation of this section.

(d) Signs shall be posted by the city for pedestrians and motor vehicles at each railroad grade crossing stating: "Caution Trains Do Not Sound Horns or Whistles from 10:00 p.m. to 6:00 a.m."

ARTICLE V. ~~BURGLAR ALARMS~~ COMMERCIAL MAINTENANCE STANDARDS

Sec. 12-19. Nuisances pertaining to vacant stores and offices, enumerated; abatement; penalty.

(a) Any owner or lessee shall keep clean the inside and outside of premises of vacant stores and offices. Such owner or lessee shall keep the premises clean and free from any accumulation of debris, rubbish or trash including keeping the outside of the premises painted and in good state of repair and the windows clean and free from any lettering or sign advertising of the previous business or profession.

(b) If any commercial property is vacant for more than fifteen (15) days, all glass surfaces visible to the public shall be kept clean and the interior of such vacant store shall be screened from public view in one (1) of the following ways until the property is occupied:

(1) All glass surfaces visible to the public shall be covered with white sixty-pound weight paper; or

(2) Decorative displays of merchandise currently available within the city, merchandise of the future tenant of the vacant store, public service displays, or festival and current holiday displays, provided that screening of the remainder of the vacant store shall be placed immediately behind the decorative display.

(c) Outdoor signs painted on or affixed to such premises advertising a previous business or profession shall be removed or completely obliterated after the premises become occupied once more, and new identification is erected. "Completely obliterated" means not only

complete removal of old signage such that it will not be visible once the new signage is erected, but also that restoration of the wall area upon which the signage was affixed shall be in the same color, texture, materials, etc. as the rest of the wall. The building official shall make the removal or obliteration of previous signage a permit condition for the new signage.

(d) All sidewalk overhangs attached to commercial buildings shall be structurally sound and free of rust, discoloration, peeling, chipping, cracking, fading, sagging or dirt. All awnings shall be without tears or holes and free of dirt, discoloration, fading, or cracking. All lettering or signage on overhangs shall conform to the requirements provided in the sign code of Miami-Dade County and the city's land development regulations.

(e) Noncompliance with the provisions set forth in this section, is hereby declared to be a public nuisance or constituting a menace to life, property, public health, public welfare and a fire hazard.

(f) The owner or lessee shall within fifteen (15) days after written notice by the building department of the city of the existence of the condition described in [subsection] (a) above comply with the terms and provisions of this section.

Sec. 12-20. Graffiti and commercial exterior maintenance standards.

(a) All exterior surfaces of structures used for non-residential purposes, whether vacant or occupied, shall be painted as often as necessary with a protective coating, which is designed for exterior use or is approved by the building official, so that deterioration or peeling shall not occur.

(b) The existence of deteriorated, peeling or improperly maintained paint on such exterior surfaces is declared to be a public nuisance.

(c) The maintenance or allowance of graffiti to exist for more than forty-eight (48) hours on a non-residential property and/or fixtures, or seven (7) calendar days on a residential property and/or fixture, is prohibited.

(d) Whenever the city becomes aware of the existence of graffiti on any property, a code enforcement officer is authorized, upon such discovery, to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(1) Non-residential property. For non-residential property, the property owner or the property owner's agent or manager shall take corrective action within forty-eight (48) hours from the receipt or delivery of the notice given pursuant to this section.

(2) Residential property. For residential property, the property owner, or property owner's agent shall take corrective action within seven (7) days from the receipt or delivery of the notice given pursuant to this section.

(3) Declaration of emergency. The city manager is authorized to declare an emergency due to increased gang activity in defacing property and/or fixtures in the city with graffiti. Upon the declaration of an emergency by the city manager the time period for abating graffiti shall be shortened to twenty-four (24) hours for both non-residential and residential property and fixtures.

(4) City's abatement of graffiti. Pursuant to this section, the city may enter on to the private property for the purpose of abating the nuisance created by the graffiti and may abate the graffiti by painting over such graffiti. Entry on private property by the city to abate the graffiti shall not constitute trespass nor subject the city to any liability.

(e) The city will waive painting permit requirements for abating graffiti, subject to the use of the same colored exterior paint to correct the violation.

(f) Graffiti abatement will consist of:

(1) Painting of the wall as it pertains to the area cited, and/or non-permanent structure defaced or affected by graffiti, provided the area cited matches the pre-existing texture of the entire wall.

(2) Pressure-cleaning or any other method that will successfully remove graffiti from a wall, and/or non-permanent structure, without causing damage to the exterior of the structure.

(g) Notice of a violation shall be given as provided under Florida Statutes and shall have substantially the following form:

DATE

NOTICE TO REMOVE GRAFFITI

TO THE OWNER, AGENT OF THE OWNER, OR PERSON MANAGING THE PROPERTY DESCRIBED BELOW:

YOUR ATTENTION IS DIRECTED TO THE PROVISIONS OF CHAPTER 12 OF THE CITY CODE OF NORTH MIAMI, FLORIDA. YOU ARE NOTIFIED THAT GRAFFITI WHICH IS DECLARED A NUISANCE IN THE CITY OF NORTH MIAMI EXISTS ON PREMISES SPECIFICALLY DESCRIBED AS _____. YOU ARE ADVISED THAT WITHIN (48 HOURS-COMMERCIAL, OR 7 CALENDAR DAYS-RESIDENTIAL) FROM THE RECEIPT OF THIS NOTICE, YOU MUST REMOVE THE GRAFFITI FROM THE PROPERTY AND THEREAFTER TO KEEP THE PROPERTY FREE FROM GRAFFITI.

DATED AT NORTH MIAMI, FLORIDA THIS _____ DAY OF _____ 20_____.

_____

OFFICER

(h) The owner or lessee of such structures used for commercial or residential purposes shall within ten (10) days after written notice by the code enforcement department of the city of the existence of the condition described in [subsection] (b) above, comply with the terms and provisions of this section or the nuisance may be abated by the city. On expiration of the ten (10) days the city may cause all remaining graffiti to be removed, and shall file with the finance department a statement showing the charges to be assessed against the property for payment of the work including ten (10) percent or ten dollars ($10.00), whichever is the greater amount, for notice, inspection, and incidentals. The total amount assessed shall become a lien against the property enforceable under the laws of the State of Florida.

(i) Penalties. Violations of this section shall be subject to civil penalties pursuant to chapter 21 of the Code.

Sec. 12-21. Replacement of storefronts.

(a) *Restrictions.*

(1) It shall be unlawful for any person owning, leasing, renting or occupying a business premises in the City of North Miami to fail to repair, place or rebuild the plate glass window or other storefront of any such business premises which has been broken, damaged, destroyed or removed within a period of ten (10) days after such breakage, damage, destruction or removal occurs.

(2) Business establishments may have installed thereon securely fastened plywood boarding to temporarily cover up the broken, damaged, destroyed or removed plate glass window or storefront for a period of time not to exceed ten (10) days, provided that the repair or replacement of such glass and storefront is timely made in compliance with subsection (1) above.

(3) It shall be unlawful for any person enumerated in subsection (1) above, to install or maintain or to cause or allow the installation or maintaining of any plywood or other boarding or covering in place of any such plate glass window or storefront for a period of more than ten (10) days.

(b) *Computation of time.* In computing the ten-day period of time prescribed or allowed by this section, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the ten-day period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

(c) *Incentive.* As an incentive to timely compliance with this section, applicable routine building permit fees of the city may be waived by the building official for repair or replacement timely undertaken and completed pursuant to this section.

~~Sec. 12-81. Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:~~

~~*Alarm company* means a person subject to the licensing requirements, and/or a company engaged in selling, leasing, installing, servicing or monitoring alarm systems.~~

~~*Alarm permit* means a permit issued by the North Miami Police Department allowing the operation of an alarm system within the city.~~

~~*Alarm signal* means a detectable signal, audible or visual, generated by an alarm system, to which law enforcement is requested to respond.~~

~~*Alarm system* means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other activity requiring immediate attention and to which law enforcement is requested to respond including nonmonitored alarms, but does not~~

~~include motor vehicle or boat alarms, fire alarms, domestic violence alarms, or alarms designed to elicit a medical response.~~

~~*Alarm user* means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning, leasing, or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.~~

~~*Automatic dial protection device* means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the North Miami Police Department a recorded message or code signal indicating a need for law enforcement response.~~

~~*Cancellation* means the process where response is terminated when the alarm company (designated by the alarm user) notifies the North Miami Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request.~~

~~*City* means the City of North Miami or its agent.~~

~~*False alarm* means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, and signals activated to summon law enforcement personnel unless law enforcement response was cancelled by the alarm company before law enforcement personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the North Miami Police Department, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm which can reasonably be determined to have been caused or activated by unusually violent conditions of nature nor does it include other extraordinary circumstances not reasonably subject to control by the alarm user.~~

~~*Permit year* means a twelve-month period beginning on the day and month on which an alarm permit is issued.~~

~~*SIA Control Panel Standard CP-01* means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms.~~

~~*Verify* means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request.~~

~~Sec. 12-82. Alarm permit.~~

~~(a) *Permit required.* No person shall use an alarm system, monitored or non-monitored, without first obtaining a permit for such alarm system from the North Miami Police Department. A fee may be required for the initial registration and annual renewals. Alarm permit fee amounts may be amended from time to time by resolution of the city council. Each alarm~~

permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.

(b) *Application.* The permit shall be requested on an application form provided by the North Miami Police Department. An alarm user has the duty to obtain an application from the North Miami Police Department.

(c) *Transfer of possession.* When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property. Alarm permits are not transferable.

(d) *Reporting updated information.* Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the North Miami Police Department within ten (10) days of the change. In addition, each year after the issuance of the permit, permit holders will receive from the North Miami Police Department a form requesting updated information. The permit holder shall complete and return this form to the North Miami Police Department when any of the requested information has changed; failure to comply will constitute a violation and may result in a civil penalty.

(e) *Multiple alarm systems.* If an alarm user has one (1) or more alarm systems protecting two (2) or more separate structures having different addresses and/or tenants, a separate permit shall be required for each structure and/or tenant.

Sec. 12-83. Duties of the alarm user.

(a) An alarm user must do the following:

(1) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms.

(2) Provide the alarm company the permit number, (the number must be provided to the communications center by the alarm company to ensure dispatch).

(3) Respond or cause a representative to respond to the alarm system's location within one (1) hour when notified by the North Miami Police Department.

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

(5) Obtain a new permit and pay any associated fees if there is a change in address or ownership of a business or residence.

(b) It is the responsibility of each alarm user to monitor the occurrences of false alarms on its premises.

Sec. 12-84. Duties of the alarm company.

(a) Any person engaged in the alarm business in the city, shall comply with the following:

(1) F.S., Ch. 489.

(2) Obtain and maintain the required state, county and/or city license(s).

(3) Be able to provide name, address, and telephone number of the alarm company license holder or a designee, who can be called in an emergency, twenty-four (24) hours a day; and be able to respond to an alarm call, when notified.

(4) Be able to provide the most current contact information for the alarm user.

(b) Ninety (90) days after enactment of this article the alarm installation companies shall, on all new and upgraded installations, use only alarm control panel(s) which meet SIA Control Panel Standard CP-01.

(c) Prior to activation of the alarm system, the alarm company must provide instructions explaining the proper operation of the alarm system to the alarm user.

(d) Provide written information of how to obtain service from the alarm company for the alarm system.

(e) An alarm company performing monitoring services shall:

(1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, EXCEPT in the case of a panic or robbery in progress alarm, or in cases where a crime in progress has been verified by video and/or audible means.

(2) Provide alarm user registration number to the communications center to facilitate dispatch and/or cancellations.

(3) Communicate any available information about the location of the alarm.

(4) Communicate a cancellation to the law enforcement communications center as soon as possible following a determination that response is unnecessary.

Sec. 12-85. Prohibited acts

(a) It shall be unlawful to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.

(b) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than ten (10) minutes.

(c) It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the North Miami Police Department.

Sec. 12-86. Enforcement of provisions.

(a) *Excessive false alarms.* It is hereby found and determined that three (3) or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. Civil penalties for false alarms within a permit year shall be assessed against an alarm user as per current fee schedule.

(b) *Failure to register.* It shall be unlawful to operate a burglar alarm system within the City of North Miami without an alarm permit.

(c) *Other civil penalty(ies).* violations will be enforced through the assessment of civil penalty(ies).

(d) *Payment of civil penalty(ies).* Civil penalty(ies) shall be paid within thirty (30) days from the date of the invoice.

(e) *Civil noncriminal violation.* A violation of any of the provisions of this ordinance shall be a civil violation and shall not constitute a misdemeanor or infraction.

(f) *Discontinuance of law enforcement response.* Police are not required to respond:

(1) To burglar alarms at locations where six (6) or more false alarms occurred in the user's registration period.

(2) To burglar alarms at locations where a burglar alarms civil penalty(ies) was not paid within thirty (30) days of a civil violation penalty notice.

(3) To locations where the required alarm permit has not been obtained.

(g) *Notice of discontinuance of law enforcement response.* A notice that police response will be discontinued, for any of the above reasons, will accompany a civil violation notice, be posted at the affected locations, or be sent to the user by certified mail at least thirty (30) days prior to discontinuing service.

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

(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.

(2) Pay all outstanding burglar alarm civil penalties.

(3) Apply for and obtain an alarm permit.

Sec. 12-87. Appeals.

All civil penalties for violations set forth in this section shall be issued and may be appealed, in accordance with, and shall be governed by the procedures set forth in sections 2-111 through 2-115 of the North Miami Code of Ordinances.

Sec. 12-88. Government immunity.

Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the North Miami Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

Sec. 12-89. Severability.

If any section, subsection, sentence, clause or provision of this article is held invalid, the remainder of this article shall not be affected by such invalidity.

~~Sec. 12-90. Fee schedule.~~

~~(a) The table contained herein prescribes the dollar amount of civil penalty for the violation of these sections. The fine amounts may be amended from time to time by resolution of the city council:~~

~~Alarm permit registration fee~~	~~$ 25.00~~
~~Third false alarm~~	~~25.00~~
~~Fourth and fifth alarm~~	~~50.00~~
~~Sixth and seventh alarm~~	~~100.00~~
~~Eighth and ninth alarm~~	~~250.00~~
~~Tenth alarm and over~~	~~500.00~~
~~Penalty for failure to register~~	~~100.00~~

~~(b) Any violation of the "burglar alarms" ordinance that is not specified within this section, shall be assessed a civil penalty of one hundred dollars ($100.00).~~

ARTICLE VI. NUISANCES CAUSED BY SWIMMING POOLS

Sec. 12-22. Nuisance caused by swimming pools prohibited.

(a) It is hereby declared a nuisance for any person to have, keep, maintain, cause or permit within the city a swimming pool which does not meet the water clarity standard which allows clear visibility from the water's surface to the pool bottom.

(b) It shall be unlawful for any such person to maintain such swimming pool in such a manner as to create a breeding ground for mosquitoes. All swimming pools shall be maintained to ensure the disinfection of all pool water pursuant to applicable health standards under state law and county ordinance.

(c) Barrier specifications: No swimming pool shall be installed, constructed, reconstructed or structurally altered unless there is erected a safety barrier as hereinafter provided:

(1) The safety barrier shall take the form of a wooden fence, a wire fence, a rock wall, a concrete block wall, or other materials so as to enable the owner to blend the same with the style of architecture planned or in existence on the property.

(2) The height of the safety barrier shall be not less than four (4) feet and not higher than five (5) feet. The safety barrier shall be erected either around the swimming pool or around the premises on which the swimming pool is erected; in either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Provided, however, swimming pools located at multifamily dwelling uses as defined in Chapter 29 of the Code, shall have safety barriers erected around such swimming pools.

(3) Gates shall be of the spring lock type and shall be equipped with a safety lock and shall be locked when the swimming pool is not in use.

(4) In the wooden type fence, the boards, pickets, louvers, or other such members, shall be spaced, constructed and erected, so as to make the fence unclimbable and impenetrable. The term "unclimbable", as used herein means any fence normally unable to be ascended by a toddler.

(5) Walls, whether of rock or block type, shall be erected to make them unclimbable, as defined in subsection (4) above. Provided, however, broken glass or other sharp materials shall not be used in the wall.

(6) Wire fences shall be the two-inch chain link or diamond weave unclimbable type, as defined in subsection (4) above, or of an approved equal, with top rail. They shall be of a heavy, galvanized material and may be vinyl coated. Provided, however, barbed wire shall not be used.

(7) If premises where the swimming pool is located or to be installed is already enclosed in substantial conformity with this section, it shall not be necessary to erect any additional safety barriers around the pool; however, the plans submitted shall show such existing enclosure in detail and in the event the building inspector finds, upon actual inspection, that the enclosure is not adequate to prevent small children from gaining access to the pool, the plans shall be revised and an adequate barrier provided before a certificate of occupancy is issued.

(8) It shall be the responsibility of both the owner and the occupant (if different from the owner) of the premises upon which the swimming pool is located to maintain the same and the safety devices required by this section in good and safe condition at all times. Provided, however, with regard to swimming pools located at multifamily dwelling uses as defined in Chapter 29, it shall be the sole responsibility of the owner and manager of the premises upon which the swimming pool is located to maintain the same and the safety devices required by this section in good and safe condition at all times.

(9) It shall be within the discretion of the building official to refuse approval of any barrier which, in his opinion, does not furnish the safety requirements in this article, that it is high enough and so constructed to keep children from getting over or through it.

(d) Upon complaint, if the code enforcement officer finds and determines that a swimming pool within the city does not meet the standard set out in [subsections] (a) and (b) above, the code enforcement officer shall notify the property owner in the manner prescribed for notice pursuant to F.S. Ch. 162 and chapter 21 of the Code of Ordinances of the City of North Miami. Such notice shall demand that the property owner cause the condition to be remedied. If the property owner is not in possession of the property, a notice shall also be sent to the lessee, tenant, occupant or possessor of the property.

(e) In addition to the notice, the code enforcement officer shall cause to be posted in a conspicuous place upon the lot, lots, or tract of land, vacant or occupied, a notice to serve as warning that a swimming pool hazard exists.

(f) The person notified by the code enforcement officer shall within ten (10) days after written notice by the code enforcement officer of the conditions described in [subsections] (a) and (b) above comply with the terms and provisions of this same section.

(g) Any person, natural or corporate, who fails to comply with the terms and provisions of [subsections] (a) and (b) within ten (10) days of the date the notice was served shall be in violation of this section of the Code.

(h) Should such person, natural or corporate, fail to remedy the condition, the building official shall have the power to declare such swimming pool a hazard to the health, safety, and welfare of the citizens of the city and shall be authorized to cause the condition to be remedied by either cleaning, boarding, or taking any other action necessary to correct the hazard and the reasonable costs thereof shall be a lien against the property upon which such swimming pool is located. Such lien shall be handled and collected in the manner prescribed for the collection of liens pursuant to the Code of Ordinances of the City of North Miami.

(i) Nothing in this section shall prevent the city from taking immediate action to abate any public nuisance and the city is hereby authorized (but not required) to take such action where there is a public health or public safety issue.

(j) This section may also be enforced in conjunction with the minimum housing standard of the city as set forth in chapter 5.

ARTICLE VII. UNSAFE BUILDINGS AND STRUCTURES

Sec. 12-23. Nuisances and authority to abate.

(a) The existence of any condition of blight, including but not limited to, an abandoned building or structure, an attractive nuisance, a building or structure in a state of disrepair sufficient to result in inadequate weather protection or so deteriorated as to foster decay or termite infestation, inadequate maintenance such that the property constitutes a fire hazard or other dangerous condition or is likely to harbor vermin, or an accumulation of solid waste or of discarded or unused materials or equipment stored so as to be visible from a public right-of-way or neighboring property.

(b) Any condition pertaining to building maintenance or upkeep that violates any provision of the currently adopted uniform building, housing, mechanical, plumbing, or national electrical code, the uniform code for the abatement of dangerous buildings, or any other federal, state or local codes.

(c) Failure to exterminate building or structure on a regular basis to eliminate the presence of vermin, rodents, insects, termites, and other pests in such a manner that it affects neighboring buildings and structures.

Sec. 12-24. Notice to abate.

(a) The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE
OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building or premises at, you are hereby notified that the undersigned pursuant to chapter 12 of the City of North Miami Code has determined that there exists upon or adjoining the building or premises the following condition(s) contrary to the provisions of chapter 12.

You are hereby notified to abate the condition(s) to the satisfaction of the undersigned within ten (10) days of the date of this notice or to appear at the office of the _____ at, North Miami, Florida, on _____, 20_____, at o'clock_____.m., and show cause, if any you have, why the condition(s) should not be abated by the city, and the expenses thereof charged to you as a personal obligation and/or made a lien upon the property. Abatement is to be accomplished in the following manner:

Dated:

By:

Sec. 12-25. Notice to property owner.

(a) The property owner shall be given notice of the unsafe condition of the building or structure and shall have seventy-two (72) hours to either remove, or cause or contract to be removed such building or structure or to abate, or cause or contract to be abated, any such nuisance. The code compliance officer shall notify the property owner in the manner prescribed for notice pursuant to F.S. Ch. 162, and chapter 21 of the Code of Ordinances of the City of North Miami. The owner of real property as shown on the latest equalized assessment roll shall be conclusively deemed to be the proper person and address for mailing of notice of any hearing or order pursuant to this chapter and the failure of any addressee to receive notice shall not invalidate any notice or order so issued. Any duly issued notice or order shall be conclusively deemed to be adequate notice to any and all occupants, users, or possessors of the property or its contents, and the failure of any such person to see, read, understand or otherwise receive the notice shall not invalidate any of the proceedings.

(b) Condemnation of unsafe buildings and structures. In case of failure of the owner, agent, or occupant to take the steps required in this article to secure, make safe or remove the building or structure or abate the nuisance as herein required, the building official shall condemn the building or structure and serve notice of such condemnation upon the proper owner and/or occupants. The building official shall commence condemnation proceeding in accordance with the Miami-Dade County Code of Ordinances to proceed with the removal of such building or structure or to abate any such nuisance. Cost of such removal or abatement shall be the responsibility of the property owner.

(c) Emergency action. When in the opinion of the building official, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he or she may order the occupants to vacate, temporarily close for use or occupancy the rights of way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing the building or structure, as he may deem necessary under the

circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of such emergency work shall be recorded as a lien against the property involved.

Sec. 12-26. Penalties.

The director of code compliance or the building official, may issue a notice of civil penalty and/or administrative fine to be levied against any person or entity which has maintained, created, caused, permitted or violated any condition set forth in this article or any order of the city department with respect to the property, pursuant to the procedures set forth in the North Miami Code of Ordinances.

ARTICLE VIII. ABANDONED REAL PROPERTY REGISTRATION

Sec. 12-27. Abandoned real property; purpose and intent.

It is the purpose and intent of the city to establish a process to address the amount of abandoned real property located within the city. It is the city's further intent to establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance of abandoned properties.

Sec. 12-28. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any property that is vacant and is subject to a mortgage under a current notice of default and/or notice of mortgagee's sale, pending tax assessors lien sale and/or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to: overgrown and/or dead vegetation, accumulation of abandoned personal property, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

Mortgagee means the person or entity who holds mortgaged property as security for repayment of a loan.

Owner means any person, persons, or entity having legal or equitable title, or any real or contingent interests in any real property; being shown to be the property owner in the records of the Miami-Dade County property appraiser's office; being identified on the abandoned/vacant real property registration form pursuant to this article; being a mortgagee in possession of real property; or the plaintiff in a mortgage foreclosure claim, in which the abandoned real property is

the subject of the lis pendens and foreclosure lawsuit. Any such person, persons, or entity shall have joint and several obligations for compliance with the provisions of this article.

Property management company means a property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

Vacant means any building/structure that is not legally occupied.

Sec. 12-29. - Applicability.

This section shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the city above and beyond any other state, county and/or local provisions for same.

Sec. 12-30. Penalties; schedule of civil penalties.

Any person who shall violate the provisions of this section shall, upon conviction, be punished as provided in this section.

(1) The following table shows the sections which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

(2) The "description of violations" below are for informational purposes only and the civil penalties attached are meant only as proposed figures not intended to limit the nature, number of or amount of fines to be imposed for the violations that may be cited in this section. To determine the exact nature of the activity prescribed or required by this Code, the relevant code section, ordinance or treatise cited in the specific violation must be examined.

Code Section	Description of Violation	Civil Penalty
5-70	Failure to register abandoned real property	$500.00
5-70(d)	Failure to post property with contact information for property management company	500.00
5-70(c)	Failure to report change of information or change of status of property	500.00
5-71(g)	Failure to properly maintain abandoned real property	500.00
5-72(e)	Failure to properly secure abandoned real property	500.00
5-74	Interference with code enforcement officer	500.00

Sec. 12-31. Nuisance.

All abandoned real property is hereby declared to be a nuisance or public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the city.

Sec. 12-32. Registration of abandoned real property.

(a) Any mortgagee who holds a mortgage on real property located within the city shall upon default by the mortgagor and prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property and the mortgagee shall, within ten (10) days of the inspection, register the property with the code enforcement manager, or his or her designee, on forms provided by the city. A registration is required for each vacant property.

(b) If the property is occupied but the mortgage on the property remains in default, the property shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall within ten (10) days of that inspection, register the property with the code compliance manager, or his or her designee, on forms provided by the city.

(c) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee, a facsimile number and e-mail address for mortgagee, and the name and 24-hour contact phone number of the property management company responsible for the security and maintenance of the property. A non-refundable annual registration fee in the amount of two hundred dollars ($200.00) per property, shall accompany the registration form(s).

(d) At such time that property becomes abandoned property, the mortgagee shall promptly post it with the name and contact phone number of the local property manager. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches, and shall be clearly visible and legible from an adjacent street. The posting shall contain the following language: THIS PROPERTY IS MANAGED BY: _____ TO REPORT PROBLEMS OR CONCERNS CALL: (XXX)XXX-XXXX.

(e) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(f) Properties subject to this section shall remain under the registration requirement, security and maintenance standards of this section as long as they remain vacant.

(g) Any person or corporation that has registered a property under this section must report any change of information contained in the registration, including change in status of property from vacant to occupied, in writing within ten (10) days of the change to the code enforcement manager, or his or her designee.

(h) Failure of the mortgagee and/or property owner of record to properly register or to revise the registration to reflect a change in circumstances as required by this chapter is a violation of the city's codes and may result in issuance of a civil violation ticket.

Sec. 12-33. Maintenance requirements.

(a) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers,

circulars, flyers, notices (except those required by federal, state, or local law), abandoned vehicles, portable storage devices, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the city's Code of Ordinances.

(d) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.

(e) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing of required ground cover and/or landscape and removal of all trimmings.

(f) Pools and spas shall be maintained so that the water remains free and clear of pollutants and debris. Pools and spas shall comply with all requirements of the city Code of Ordinances and Florida Building Code, as amended from time to time.

(g) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the city code and issuance of a civil violation ticket, citation or notice of violation/notice of hearing by a city code enforcement officer. Pursuant to a finding and determination by the city's special magistrate, the city may take the necessary action to ensure compliance with this section.

(h) In addition to the above, the property is required to be maintained in accordance with all applicable code(s) provisions.

Sec. 12-34. Security requirements.

(a) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing of the window.

(c) If the property is owned by a corporation and/or mortgagee that is unable or unwilling to perform maintenance and inspections itself, a property management company shall be contracted to perform bi-weekly inspections to verify compliance with the requirements of this section, and any other applicable laws.

(d) The mortgagee shall inspect or have inspected the property on a bi-weekly basis to ensure that the property is in compliance with this section.

(e) Failure of the mortgagee and/or property owner of record to properly maintain the property may result in a violation of the city code and issuance of a civil violation ticket, citation, or notice of violation/notice of hearing by a city code enforcement officer. Pursuant to a

finding and determination by the city's special magistrate, the city may take the necessary action to ensure compliance with this section.

Sec. 12-35. Enforcement.

(a) If the owner fails to comply with the requirements of this ordinance, the city may, pursuant to F.S. § 162.09, secure or cause to be secured and make all reasonable repairs to such vacant, blighted, unsecured or abandoned structures, which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this ordinance. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith.

(b) If the work is done or caused to be done by the city, the enforcement officer shall keep an itemized accounting of expenses of the work done and the cost thereof and notify the owner of said expenses. If the statement is not paid within ten (10) days after the owner is notified, interest shall begin to accrue annually at the statutory rate until paid in full.

(c) Any and all liens referenced or imposed based on the foregoing provisions shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles, and claims in, to or against the real property involved. The maximum rate of interest allowable by law shall accrue to such delinquent accounts.

Sec. 12-36. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any persons authorized by the enforcement office in the discharge of duties as provided in this section, upon conviction shall be punished by the imposition of a civil penalty in the amount of five hundred dollars ($500.00).

Sec. 12-37. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.

Sec. 12-38. Additional authority.

The city manager, or his or her designee, shall have authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property.

ARTICLE IX. SQUATTERS

Sec. 12-39. Definitions.

(a) Squatting is defined as the occupation of private property without authorization from the owner or lessee.
(b) Squatters are defined as occupants of private property without authorization from the owner or lessee.
(c) Lessee is defined to include the lessee, any sublessee, or any other legal occupant of the premises.

Sec. 12-40. Squatting prohibited.

Squatting is a public nuisance and is prohibited in the City of North Miami.

Sec. 12-41. Purpose.

The purpose of this article is to proactively address the issue of squatting as a public nuisance and provide remedies for its occurrence. Unauthorized occupation of a residence by squatters poses numerous public safety concerns to the lawful owner or lessee and to the community as a whole. This article is intended to prevent future instances of squatting and to ensure that provisions are in place to remove squatters promptly from properties.

Sec.12-42. Action to remove squatters.

A property owner or lessee is required to take all lawful measures to prevent or remove squatters.

Sec. 12-43. Penalties.

Any violation of this article may be enforced under any code enforcement provision in the Code of Ordinances.

Sec. 12-44. Notice.

The city shall provide notice to the property owner and post a notice at the property indicating its intent to enforce criminal trespass statutes, remove squatters and secure the property at least five (5) days prior prior to taking any such action.

Sec. 12-45. Evidentiary hearing.

If the alleged squatter(s) remain at the property after written notice, a hearing shall be held to determine whether the whether the occupants of the property have been authorized by the property owner to remain at the property, as follows:

(a) Written notice to appear and show cause why the occupants are entitled to remain at the property shall be delivered to the property owner and the occupants of the property in accordance with the notice provisions provided in Chapter 162, Florida Statutes.

(b) The hearing shall be held no sooner than five (5) days after service of the notice to show cause. The hearing shall be conducted by the special magistrate in accordance with the procedures set forth in chapter 2 of this code.

(c) The special magistrate shall consider all evidence and testimony to determine whether the property owner has authorized the occupant to remain in the property.

(d) Squatting may be presumed where the occupant of the property is unable to produce a written document, such as a lease, license, or other written proof of authorization from the property owner or lessee, demonstrating that the occupant has permission to be on the property. Squatting may also be presumed where a property is listed as vacant on the abandoned property registry, and yet is occupied. Such presumptions may be rebutted if the occupant provides competent, substantial evidence demonstrating authorization to be in the premises. The presumptions stated herein are not the exclusive method for determining whether squatting is occurring on a specific property.

(e) If the special magistrate finds that the occupants are legally authorized by the property owner to remain in the property, that no threat to public safety or public nuisance exists, or that the property owner is in the process of taking legal action to remove the squatters, the action shall be dismissed.

(f) If the special magistrate finds that property owner has not authorized the occupants of the property to remain in the property, or that a threat to public safety or public nuisance exists and has not been corrected, an order shall be issued determining that the occupants are squatters, and ordering the squatters to depart from the premises.

(g) If the squatters refuse to depart after being issued an order by the special magistrate, they may be prosecuted for criminal trespass and the city may file a civil action in the appropriate court to enforce the order of the special magistrate or take any other action provided by law.

12-46. Enforcement of Criminal Trespass Statutes and Removal of squatters.

The North Miami Police Department may be authorized by the property owner to issue trespass warnings to persons who are not authorized to remain at the property. Persons who have been issued a warning by the North Miami Police Department to depart and refuse to do so, will be arrested and prosecuted for criminal trespass under F.S. 810.08.

12-47. Other remedies.

These remedies are cumulative with other remedies, including remedies for trespass, and are not exclusive. The city may remove trespassers pursuant to state law, including in cases where a lawful trespass warning has been provided and the occupants refuse to vacate the property.

12-48. Immunization.

Law enforcement officers and code enforcement officers, as well as city staff and agents, are immunized from civil or criminal liability for actions taken to remove squatters and secure property pursuant to the authority provided herein.

ARTICLE ~~VII~~ X. PUBLIC NUISANCES UNDER F.S. §893.138

Sec. 12-~~91~~49. Public nuisances.

Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of F.S. §796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03; or

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property.

(f) Any pain-management clinic, which has been used on more than two occasions within a 6-month period as the site of a violation of:

(1) F.S. Sections 784.011, 784.021, 784.03 or 784.045 relating to assault and battery;

(2) F.S. Section 810.02 relating to burglary;

(3) F.S. Section 812.014 relating to dealing in theft;

(4) F.S. Section 812.131 relating to robbery by sudden snatching; or

(5) F.S. Section 893.13 relating to the unlawful distribution of controlled substances.

~~(1) On more than two (2) occasions within a six-month period as the site of a violation of F.S. § 796.07;~~

~~(2) On more than two (2) occasions within a six-month period as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;~~

~~(3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;~~

~~(4) On more than two (2) occasions within a six-month period, as the site of a violation of [F.S.] § 812.019 relating to dealing in stolen property; or~~

~~(5) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity, as defined by F.S. § 874.03, may be declared to be a public nuisance, and such nuisance may be abated as provided by this Code.~~

As used in this Code, the term "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563, or any imitation controlled substance defined in F.S. § 817.564.

Sec. 12-~~92~~50. Nuisance abatement board.

(a) (1) The nuisance abatement board ~~is to~~ serves as a quasi-judicial forum in which controversies over the existence of public nuisances may be resolved in the public interest while according due process of law. The board shall consist of five (5) individuals whose residences are located within the city and/or who own businesses within the city and who are appointed by the city council. ~~All members shall serve a term of two (2) years.~~ The mayor and each city councilmember may each nominate one (1) member for appointment to the board. Each appointed board member's term shall be coterminous with the appointing city council member's term of office. Upon expiration of a term, subsequent appointments ~~for two (2) years~~ shall be made. Any member may be reappointed by the city council for not more than four (4) consecutive terms. Appointments to fill a vacancy shall be for the remainder of the unexpired term.

(2) Three (3) affirmative votes of the city council shall be required to remove any board member, and no cause need be shown for removal. Any board member who has two (2) consecutive unexcused absences shall automatically forfeit board membership.

(3) Members shall serve without compensation but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city manager.

(b) (1) The members of the board shall elect a chairperson who shall be a voting member from among the members of the board. The presence of three (3) members shall constitute a quorum of the board. The board is authorized to establish its own rules of procedures.

(2) The chairperson of the board may call hearings of the board. Hearings may also be called by written notice signed by at least three (3) members of the board. The clerk of the board may also set future hearing dates. The board shall attempt to convene no less frequently than once every month but may meet more frequently than once every month as the board may deem necessary.

(3) Any aggrieved person may request a continuance of the hearing. The board may grant a continuance of any hearing for good cause.

(4) Minutes shall be kept of all hearings and all hearings shall be open to the public. The city council, by and through the city manager shall provide all necessary clerical and administrative staff support to the board, including space and necessary expenses which may be reasonably required by the board for the proper performance of its duties, including retaining special counsel to represent the administration in the prosecution of any action.

(5) The city manager shall designate clerical and administrative personnel as may be reasonably required for the proper performance of the board's duties. The clerk so designated in writing by the city manager shall be the custodian of all board case files and documents pertaining thereto and shall have the authority to certify orders and other documents issued by the board; the clerk shall adopt and use an official seal for this

purpose; and the clerk is also empowered to administer an oath to witnesses appearing before the board.

(6) The city attorney or designee shall represent the board.

Sec. 12-~~93~~51. Procedures.

(1) Any employee, officer, or resident of the municipality may bring a complaint before the board after giving not less than three (3) days' written notice of such complaint to the owner of the place or premises at his last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his defense, the board may declare the place or premises to be a public nuisance ~~as described in section 12-91~~ .

"Notice" as used in this subsection shall be given to the owner at the owner's last known address by mailing through the use of certified mail of written material informing the owner of the complaint to be filed, or by hand delivery. Where hand delivery or such mail notice is not feasible, notice shall be by posting at the premises. A certificate of hand delivery or posting completed by a city employee or officer shall be prima facie evidence of compliance with this notice provision.

(2) The complaint shall state facts that reasonably tend to establish the existence of a public nuisance located within the city. Such complaint of a public nuisance shall only be for those matters as enumerated within ~~section 12-91~~ this article.

(3) The notice of hearing shall include:

a. Statement of the time, place and nature of the hearing;

b. Statement of the legal authority and jurisdiction under which the hearing is to be held;

c. Reference to the particular sections of the statutes and/or ordinances involved; and

d. A short and plain statement of facts summarizing the incidents complained of.

Sec. 12-~~94~~52. Conduct of hearings.

(a) All parties shall have an opportunity to present evidence and argument on all issues involved, conduct cross-examination and submit rebuttal evidence, and to be represented by counsel retained by such parties.

(b) The board may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be given under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings. ~~Orders of the board shall be based upon competent and substantial evidence.~~

(c) ~~[Reserved.]~~ Orders of the board shall be based upon competent and substantial evidence.

(d) If the alleged violator(s) has been properly noticed in regard to the hearing before the board and fails to appear, the board may proceed with a hearing in absentia, on the merits of the alleged violation. Any findings or orders resulting from such hearing are valid and binding upon the violator(s) to the same extent as if the violator had been present.

Sec. 12-~~95~~53. Post hearing.

(a) At the conclusion of the hearing and after considering all evidence presented at such hearing, the board is authorized to issue findings of fact based upon the evidence presented and made part of the record that a public nuisance does not exist or that an unlawful public nuisance does exist. Upon finding that an unlawful public nuisance does exist, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be appropriate under the circumstances to abate such nuisance or it may enter an order immediately prohibiting:

(1) The maintaining of the nuisance;

(2) The operating or maintaining of the place or premises, including requiring the closure of the place or premises or any part thereof; or

(3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance. Any order entered shall expire after one (1) year or at such earlier time as is stated in the order.

(b) The board may establish additional penalties for public nuisances including fines not to exceed two hundred fifty dollars ($250.00) per day; provide for the payment of reasonable costs, including reasonably attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of one (1) year over any place or premises that has been or is declared to be a public nuisance, and establish penalties, including fines not to exceed five hundred dollars ($500.00) per day for recurring public nuisances. Total fines imposed by this section shall not exceed the statutory limit provided in F.S. § 893.138.

(c) The city shall provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances constitute liens against the real property that is the subject of the order, and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney's fees, associated with the recording of orders and foreclosure. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under § 4, Art. X of the State Constitution. The total fines imposed pursuant to the authority of ~~section 12-95~~ this article shall not exceed fifteen thousand dollars ($15,000.00). Nothing contained within this ~~section 12-95~~ article prohibits the city from proceeding against a public nuisance by any other means.

(d) Where a local government seeks to bring an administrative action, based on a stolen property nuisance against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail business, the property owner shall not be subject to a lien against his property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(e) The findings and orders shall be by motion approved by a majority of those present and voting.

(f) The board or city may bring a complaint seeking a temporary or permanent injunction against any public nuisance.

Sec. 12-~~96~~54. Collection by department of finance.

The department of finance shall be responsible for billing and collecting fees under this chapter and shall keep such records as will reasonably be sufficient to support the fees charged. The department of finance is authorized to include the fees on the water bill of the owner or occupant of the premises served. The fee shall be itemized separately.

Sec. 12-~~97~~55. Appeals.

An aggrieved party, including the city, may appeal a final order of the nuisance abatement board to the appellate division of the circuit court of the eleventh judicial circuit. This action shall not be a hearing de novo. This action shall be filed within thirty (30) days of the rendition of the written order of the board.

Sec. 12-~~98~~56. Legal action.

The city attorney may institute appropriate action to restrain, prevent, enjoin, abate or correct any and all violations under this article, and to take such other legal action as may be necessary to carry out the terms and provisions of this article. Nothing in this article shall prohibit the city from instituting a civil action in a court of competent jurisdiction to seek injunctive relief to enjoin any nuisances ~~which are not listed in section 12-91~~.

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Section 2. **Repeal.** All ordinances or parts of ordinances in conflict or inconsistent are repealed.

Section 3. **Conflict.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section 4. **Saving Clause.** Article V entitled "Burglar Alarms" which is repealed by this ordinance shall remain in force and effect until it is replaced in chapter 13 of the Code.

Section 5. **Severability.** If any word, clause, phrase, sentence, paragraph or Section of this Ordinance is held to be invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other word, clause, phrase, sentence, paragraph or Section of this Ordinance.

Section 6. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the

Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2014.

PASSED AND ADOPTED by a _____ vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2014.

_____
PHILIPPE BIEN-AIME
VICE MAYOR AS ACTING MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Vice Mayor as Acting Mayor Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.