

CITY OF CONCORD, NORTH CAROLINA
ALARM ORDINANCE

WHEREAS, the City Council finds that excessive false alarms unduly burden the Concord Police Department's limited law enforcement resources; and

WHEREAS, the City Council desires to reduce the number of false alarms and enhance valuable law enforcement and law enforcement communication resources by establishing clear standards for the use of alarms, and clear disincentives for the negligent and inappropriate use of alarms. To that end, several of the purposes of this ordinance are to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for their use of alarm systems;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord, North Carolina:

SECTION 1: That the following Chapter 36 be added to the Code of Ordinances of the City of Concord:

**CHAPTER 36
FALSE ALARMS****Sec. 36-1. - Definitions.**

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

Alarm Administrator means a person or persons designated by the chief of police, and under his or her direct supervision, to administer, control and review false alarm reduction efforts and administer the provisions of this chapter.

Alarm Company means any individual, partnership, corporation or other entity subject to the licensing requirements of the G.S. Chapter 74D, et. seq., and/or engaged in selling, leasing, installing, servicing or monitoring alarm systems.

Alarm Permit means a permit issued by the City of Concord allowing the operation of an alarm system by a specified alarm user and at a specified location within the City of Concord.

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, but does not include alarms installed in motor vehicles, 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 or leasing 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 Concord Police Department a recorded message or code signal indicating a need for law enforcement response.

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

False Alarm means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the intentional acts or negligence of the alarm user, his/her employees or agents, to summon law enforcement personnel, unless law enforcement response was cancelled by the alarm company (designated by the alarm user) prior to law enforcement personnel arrival on the scene. An alarm is false within the meaning of this chapter when, upon inspection by the Concord Police Department, evidence indicates that no unauthorized entry, robbery, or other 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 by the investigating officer to have been caused or activated by a violent condition of nature including but not limited to flood, hurricane, lightning, blizzard or other similar condition outside the alarm user's control. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies the Concord Police Department and notifies and receives permission from the user's alarm company, or designee, to test the system.

Permit Year means a 12-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. Control panels built and tested to this standard by a nationally recognized testing organization, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard features for false alarm reduction."

Verify means an attempt by the monitoring alarm 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. For the purpose of this chapter, 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.

Sec. 36-2. - Alarm Permit.

- (a) **Permit Required.** No person shall use an alarm system without first obtaining an alarm permit for such alarm system from the City of Concord. Each alarm permit shall be assigned a unique permit number, and the alarm user shall provide the permit number to the alarm company to facilitate law enforcement dispatch. The cost for permitting an alarm system shall be \$10.00 per location.
- (b) **Penalty for Failure to Obtain a Permit.** Any person(s) operating an alarm system without an alarm permit (whether the permit was revoked or not acquired) shall be subject to a civil penalty for violation of this chapter of \$200.00 for each false alarm, including the first and second false alarms notwithstanding any other provision of this chapter to the contrary, except subject to subsection 36-2(g). Any penalty assessed for operation of an alarm system without an alarm permit shall be in addition to any other fines assessed pursuant to any other sections of this chapter.
- (c) **Application.** The alarm permit shall be requested on an application form provided by the City of Concord. An alarm user has the duty to obtain an application from the city.

- (d) **Transfer of Possession Not Permitted.** When the possession of the premises at which an alarm system is maintained is transferred, by sale, lease or any other method, the person (the new alarm user) obtaining possession of the property shall file a new application for an alarm permit within 30 days of obtaining possession of the property. Alarm permits are not transferable.
- (e) **Reporting Updated Information.** Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the City of Concord within ten days of the change. In addition, each year after the issuance of the alarm permit, permit holders will receive from the city a form requesting updated information. The permit holder shall complete and return this form along with the renewal fee to the City of Concord whether or not any of the requested information has changed. Failure to comply with the requirements of this subsection shall constitute a violation of this chapter enforceable in accordance with section 36-7 hereof.
- (f) **Multiple Alarm Systems.** If an alarm user has one or more alarm systems protecting two or more separate structures having different addresses and/or tenants, a separate alarm permit shall be required for each structure and/or tenant.
- (g) **Written Warning and Grace Period.** Alarms in use at the time of adoption shall be registered and permitted immediately or as soon as practicable. No person shall be fined for operation of an alarm without a permit without first being given a written warning specifying steps necessary to register the alarm, receive a permit and otherwise comply with the requirements of this chapter. If the alarm user registers the alarm and applies for a permit within 15 days of receipt of the warning, then no fines or fees, other than the permit fee, shall be assessed based upon the specific incident resulting in the warning, nor shall that specific incident be included when determining fees for any future false alarms. Should the alarm user fail to register the alarm and apply for a permit within the 15-day grace period, then the fine for operating an alarm without a permit shall be assessed in accordance with section 36-2(b), and shall be in addition to any other applicable fines resulting from the incident that gave rise to the written warning. In no case shall any alarm user receive more than one warning and opportunity to comply regardless of whether the use of any unpermitted alarm occurs at the same or at a different location owned, operated or otherwise controlled by that alarm user.

Sec. 36-3. - Duties of the Alarm User.

- (a) Maintain the premises and the alarm system in a manner that will reduce or eliminate false alarms.
- (b) Provide the alarm company the alarm permit number, (the number must be provided to the communications center by the alarm company to ensure dispatch).
- (c) Request that the alarm company attempt to call at a minimum two different numbers, 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.
- (d) Respond or cause a representative to respond to the alarm system's location within 30 minutes when notified by the Concord Police Department to deactivate a malfunctioning alarm system, to provide right of entry to the premises, or to provide alternative security for the premises.
- (e) Not manually activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report or to perform routine maintenance as prescribed by alarm system provider, and only after notice to and permission for such testing from the alarm company and the Concord Police Department.

- (f) Prior to activation of the alarm system, the alarm user shall request instructions explaining the proper operation of the alarm system from the alarm company.
- (g) An alarm user must obtain a new alarm permit if there is a change in location, possession or ownership of a business or residence.
- (h) Failure to respond in accordance with the requirements of this section shall result in a fine of \$200.00 per occurrence. This fine shall be assessed in addition to any other fines assessed under other sections of this chapter. In addition to this fine, neither the responding officer, nor the Concord Police Department shall have, nor assume any responsibility for securing, guarding or otherwise protecting of any real or personal property that may have become exposed during the event resulting in the alarm. In addition to any fines under this section, the property owner and/or alarm user may be prosecuted for violation of section 30-201, et. seq. of this Code regarding prohibited noises.

Sec. 36-4. - Duties of the Alarm Company.

- (a) Any person engaged in the alarm business in the City of Concord, shall comply with the following:
 - (1) Obtain and maintain the required state, county and/or city license(s).
 - (2) Be able to provide name, and telephone number of the permit holder or a designee, who can be called in an emergency, 24 hours a day; and who is able to respond to an alarm call, when notified, within 30 minutes.
 - (3) Be able to provide the most current contact information for the alarm user.
- (b) As of the effective date of this chapter, alarm companies shall be encouraged, on all new installations, to 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 should provide instructions explaining the proper operation of the alarm system to the alarm user.
- (d) Provide written information, as required by Alarm Licensing Board Rule 12 NCAC 11.0123, to the alarm user of how to obtain service from the alarm company for the alarm system.
- (e) Before the City of Concord Police Department will respond to a reported alarm signal, the 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, 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 permit number to facilitate police dispatch.
 - (3) Communicate any available information about the exact location or other specifics of the alarm.
 - (4) Communicate a cancellation to the law enforcement communications center as soon as possible following a determination that response is unnecessary.
- (f) No emergency services response shall be dispatched under circumstances where the alarm company has failed or refused to comply with the provisions of this section. No penalties shall be assessed against the alarm company for such failure or refusal. Any affected alarm user may be informed of the specific failure or refusal by the alarm company that resulted in nonresponse by emergency services.

Sec. 36-5. - 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, and use an audible alarm system which can sound continually for more than ten minutes during any individual alarm incident.
- (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 Concord Police Department.
- (d) Violation of any of the prohibitions listed in subsections (a), (b) or (c) of this section shall result in a fine of \$200.00 per occurrence. Any fines resulting from any violation of the prohibitions of this section shall be in addition to any other fines assessed pursuant to this chapter.

Sec. 36-6. - Alarm Cancellation Determination.

- (a) **Cancellation.** If cancellation occurs prior to police arriving at the scene, this shall not be a false alarm for the purpose of this chapter, and no penalty will be assessed. A cancellation occurs "prior to" police arrival if it occurs at any time before responding officers report that they have arrived on the scene. The time of such report of arrival and the time of any attempted cancellation shall be verifiable by review of the Computer Aided Dispatch (CAD) system in which incoming calls for service and status of responders are recorded.
- (b) **Resolution of Dispute.** In the event of a dispute as to whether the alarm was cancelled prior to the arrival of police on the scene, the alarm administrator shall review the CAD system and make a determination based upon the information therein contained. Should CAD provide indeterminate information, or should review of CAD show that the call attempting to cancel the alarm and the confirmation of arrival on the scene by responding police personnel occurred within one minute or less of each other, then the dispute shall be resolved by the alarm administrator in favor of the alarm user.

Sec. 36-7. - Enforcement of Provisions.

The violation of each section and subsection of this chapter is a separate violation, subject to a separate fine. Fines shall be aggregated for each ordinance section violated for each incident. No penalties shall be assessed against a company licensed by the North Carolina Alarm Systems Licensing Board.

- (a) **Operating an Alarm Without a Permit.** \$200.00 fine. (See 36-2 (b) above)
- (b) **Excessive False Alarms.** It is hereby found and determined that three 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 may be assessed against an alarm user as follows:
 - 3rd – 5th False Alarm \$50.00 per occurrence
 - 6th & 7th False Alarm \$100.00 per occurrence
 - 8th & 9th False Alarm \$250.00 per occurrence
 - 10+ False Alarms \$500.00 per occurrence and revocation of Alarm Permit

- (c) **Other Civil Penalty(ies).** Violations of any other requirement or prohibition of this chapter shall be enforced through the assessment of civil penalty(ies) in the amount of \$200.00 for each violation. No penalties shall be assessed against a company licensed by the North Carolina Alarm Systems Licensing Board.
- (d) **Payment of Civil Penalty(ies).** Civil penalty(ies) shall be paid within 30 days from the date of the notice.
- (e) **Discontinuance of Law Enforcement Response.** The failure of an alarm user to make payment of any civil penalty(ies) assessed under this chapter within 30 days from the date of the notice shall result in discontinuance of law enforcement response to alarm signals that may occur at the premises described in the alarm user's permit until payment is received.
- (f) **Civil Violation.** A violation of any of the provisions of this chapter shall be a civil violation and shall not constitute a misdemeanor or infraction. No penalties shall be assessed against a company licensed by the North Carolina Alarm Systems Licensing Board.

Sec. 36-8. - Appeals.

- (a) **Appeals Process.** Assessments of civil penalty(ies) and other enforcement decisions made under this chapter may be appealed by filing a written notice of appeal with the Alarm Administrator within ten calendar days after the date of notification of the assessment of civil penalty(ies) or other enforcement decision. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty(ies) or other enforcement decision. An administrative hearing shall be scheduled and heard by the alarm administrator within 15 calendar days after receipt of the written notice of appeal. The Alarm Administrator shall render his decision in writing not later than seven business days after the hearing.

The Alarm Administrator's decision shall be subject to review by the City Manager, or his designee, by filing written notice on a form provided by the city with the Alarm Administrator within five business days of the date of receipt of the Alarm Administrator's written decision. Upon receipt of such written notice, the Alarm Administrator shall provide such notice and any and all evidence in his possession to the City Manager's office and the City Manager, or his designee, shall review the decision of the Alarm Administrator in no more than 15 business days, hear the written or oral statements of the appellant, and then render a decision in writing, not later than seven days from the date of the hearing. Appeal of the decision of the City Manager, or his designee, may be taken in the General Courts of Justice in Cabarrus County, North Carolina.

- (b) **Appeal Standard.** The Alarm Administrator shall review an appeal from the assessment of civil penalty(ies) or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalty(ies) or other enforcement decision, the Alarm Administrator shall have the discretion to dismiss or reduce civil penalty(ies) or reverse any other enforcement decision where warranted by specific facts and circumstances. The Alarm Administrator shall specify in his written decision the facts and/or circumstances upon which his decision is based. The City Manager, or his designee, shall review an appeal of the Alarm Administrator's decision using a preponderance of the evidence standard and shall consider all evidence submitted by the Alarm Administrator and/or the appealing alarm user.

Sec. 36-9. - Revocation and Suspension of Permit.

The Alarm Administrator may suspend or revoke an alarm permit if he/she determines that:

- (1) False representation of a material matter exists in the alarm permit application; or
- (2) The alarm permit holder has failed to make timely payment of assessed fees or fines assessed in accordance with this chapter;
- (3) The alarm permit holder has made more than nine false alarms in a permit year;
- (4) An alarm permit was reinstated following previous revocation, and three subsequent false alarms occurred within 60 days following the date of the reinstatement; or
- (5) An alarm user fails to maintain updated information with the alarm company.

Sec. 36-10. - Reinstatement of Permit.

An alarm permit that has been revoked may be reissued if the alarm user:

- (1) Submits an updated application and pays a \$100.00 administrative fee, and;
- (2) Pays or otherwise resolves all fees and fines assessed in accordance with this chapter; and
- (3) Submits a letter from their alarm company that the alarm system has been inspected and repaired (if necessary) by the alarm company.

Sec. 36-11. - Government Immunity.

Alarm permitting 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 any alarm signal or other notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that the Concord Police Department response may be influenced by factors such as: the availability of police officers and units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history and therefore do not promise to provide any particular level or speed of response.

Sec. 36-12. - Severability.

The provisions of this chapter are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

SECTION 2: That this Ordinance be effective January 1, 2008. Adopted in open session this 9th day of November, 2007,

CITY COUNCIL
CITY OF CONCORD
NORTH CAROLINA