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by Temele T. Baker
Register of Deeds
BOOK 342 PAGE 41

ALARM ORDINANCE

AN ORDINANCE TO REGULATE THE INSTALLATION AND OPERATION OF BURGLARY, ROBBERY AND FIRE ALARM SYSTEMS

BE IT ORDAINED BY THE
BOARD OF COMMISSIONERS OF AVERY COUNTY:

Section 1.1 Title

This Ordinance shall be known and cited as the Alarm Systems Ordinance for Avery County, North Carolina.

Section 1.2 Purpose

In the public interest and the promotion of the public health, safety, welfare and convenience, the County of Avery allows property owners to have alarm systems installed to enhance protection for their property. It has been determined that, if unregulated and improperly maintained, such alarms can create a severe disturbance to other citizens and residents in the area and drain the resources of responding agencies. Therefore, the following regulations are adopted to eliminate disturbances caused by the malfunction of such alarms.

Section 1.3 Authority

This Ordinance is hereby adopted under the authority and provisions of the North Carolina General Statutes, §153A, Articles II and IV.

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Section 2. Definitions

- A. *Alarm Administrator.* A person or persons selected by the Avery County Fire Marshal or his designee, is to administer, control, and review alarm applications and false alarm notifications.
- B. *Alarm Agent.* Any person employed by an alarm business whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing, responding to, or causing others to respond to an alarm system.
- C. *Alarm Business.* Any person, firm, corporation, or other business entity which installs and/or services and/or responds to alarm signal devices or other electrical, mechanical, or electronic devices used to prevent or detect burglary, theft or other losses.
- D. *Alarm Notification.* A notification intended to summons law enforcement or fire personnel. At the discretion of the Alarm Administrator, multiple false alarm or alarm malfunction notifications within a 24-hour period of time may be counted as only one false alarm notification.
- E. *Alarm Review Board.* A committee appointed by the Alarm Administrator consisting of the Fire Marshal and the involved agency, i.e., law enforcement, fire department.
- F. *Alarm Site.* A single premises or location served by an alarm system or systems.
- G. *Alarm System.* Any electronic or mechanical device which emits any signal, whether electronic, audible or silent and used for the detection of unauthorized entry into a building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure or facility, or for alerting others of any circumstances which may cause loss. An alarm system does not include an alarm system installed on a vehicle unless the vehicle is permanently located at a site, or an alarm designed to

alert only the inhabitants of a structure that does not summons neighbors or outside agencies for assistance.

H. *County*: County of Avery.

I. *False Alarm*. The activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employees or agents. False alarm does not include alarms caused by hurricanes, tornadoes, earthquakes or other unusual, violent conditions, or disruption of the telephone circuits beyond the control of the alarm company and/or alarm user.

J. *Local Alarm*. An alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.

K. *Permit Holder*. The person designated in the application as required by this Ordinance who is responsible for proper maintenance and operation of the alarm system and payment of fees. The Permit Holder may also be referred to as a subscriber elsewhere in this Ordinance.

L. *Person*. An individual, corporation, partnership, association, organization, or similar entity.

Section 3. Permit Required for Alarm System

A. Any person, firm or corporation installing, maintaining, operating or having installed, maintained or operated an alarm system within their house, business or property must apply to the Avery County Inspections Department for a permit to operate such alarm systems, on a form to be furnished by the Avery County Inspections Department. Failure to apply and receive a permit from the Avery County Inspections Department to operate an alarm system constitutes a violation of this Ordinance. Prior to issuance of said permit, the following information must be provided and conditions met:

1. Subscriber shall provide sufficient proof that the person, firm or corporation engaging in an alarm business has a North Carolina State License, pursuant to N C G S 74B, to engage in said business
 2. Subscriber shall provide the name, address, and current telephone number of at least two persons for a single residence, and three persons for all other property, who will be available at all times for the purpose of responding to alarms by personally appearing within thirty (30) minutes at the protected building following an alarm of any kind.
 3. Subscriber shall accept responsibility for any malfunctions of the alarm system and accept responsibility for the maintenance and service of the alarm system equipment, and shall provide the name, address, and telephone numbers of the person who will be the Permit Holder and so responsible
 4. The date of installations/activation of the alarm system.
 5. Subscriber shall pledge to report any change in the application information to the enforcement official within fifteen (15) days of the change.
- B. There will be a one time fee assessed for each permit issued. Exception will be if the property owner changes. The new property owner must then reapply for a new permit if the alarm system is still maintained. The fee schedule will be as follows: Single family dwelling \$50.00; multiple family dwelling \$100.00 for first two (2) units, then \$5.00 for each additional unit; business \$100.00. Payments for all permits shall be made to the Avery County Inspections Department, Avery County Courthouse, Newland, North Carolina 28657.
- C. No permit issued pursuant to this chapter may be transferred or assigned.

- D Those alarm systems presently in operation may continue in operation only upon the condition that the provisions of this ordinance are complied with within sixty (60) days of the effective date of this ordinance
- E In no event may a permit be issued to an applicant if the applicant has failed to pay any fees or penalties assessed under this Ordinance, has had an alarm permit for the alarm site revoked, and the violation causing the revocation has not been corrected; or has failed to provide on-site alarm system agent credentials as required by this Ordinance.

Section 4. False Alarms. Fee Charges, Multiple Law Enforcement and Fire Alarm Malfunctions

- A No fee shall be assessed for the first false law enforcement or false fire alarm at the same premises, within a sixty (60) day period. The Fire Marshal shall, however, send the subscriber owning or leasing the alarm system a letter by certified mail apprising him or her of each false alarm and the consequences of future false alarms, and directing him or her to rectify the situation. Thereafter, the following fees shall be paid by the owner for each false alarm responded to by either law enforcement or fire department personnel at the same premises during the sixty (60) days.

Number of False Fire Alarm Fees per False Fire Alarm

Second.....	\$100.00
Third.....	\$100.00
Fourth.....	\$100.00
Fifth.....	\$100.00
Sixth and above.....	\$200.00

Number of False Law Enforcement Fees per False Law Enforcement Alarm:

Second.....	\$ 50.00
Third.....	\$ 50.00
Fourth.....	\$ 50.00
Fifth.....	\$ 50.00
Sixth and above.....	\$100.00

- B. Payments for violations shall be made to the Avery County Finance Office, 175 Linville Street, North Carolina 28657
- C. The Fire Marshal may deny or revoke any permit required by this Ordinance for failure to pay the civil penalty required by this Ordinance
- D. Fines collected by the Avery County Finance Office will be allocated at the Board of Commissioners' discretion through the normal budgetary process.

Section 5. Failure to Pay Civil Penalty

The Fire Marshal may deny or revoke any permit required by this ordinance of the County of Avery for failure to pay the civil penalty required by these rules and regulations

Section 6. Entry and Inspection

Any authorized personnel, representative, or official of the County charged with the enforcement of this ordinance shall have the right, after exhibiting proper identification, to peacefully enter and inspect property for the purpose of determining if a violation or violations of such ordinance exist due to conditions existing upon property; provided that such entry shall be with the permission, freely given, of the owner or occupant of said property; and if such owner or occupant shall refuse to grant the right to enter and inspect, said personnel, representative, or official of the County shall have all the remedies allowed and provided by law, including Article 4A of Chapter 15 of the North Carolina General Statutes entitled "Administrative Search and Inspection Warrants" and any amendments or successor statutes thereto. No application for a warrant shall be made under this section without the approval of the County Attorney.

Section 7. Criminal Penalty; Continuing Violations

Wherever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a Class 3 misdemeanor, the violation shall be punished by a fine or not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each separate violation. Each day of any violation of this ordinance shall continue shall constitute a separate offense, unless otherwise specified. The Avery County Sheriff's Department shall administer enforcement through the issuance of a civil citation. Criminal violation punishment set forth in the state law, in addition to the above fines, shall also apply to violations of this Ordinance as provided in applicable provisions of the North Carolina General Statutes, Chapter 539, based on the misdemeanor offense class.

Section 8. Alternate Remedies for Enforcement

Any provision of this code or other ordinance of the County may be enforced by any one or more of the remedies authorized by Section 153A-123, General Statutes of North Carolina.

Section 9. Civil Penalty in the Alternative to Criminal Penalties

Each violation of this ordinance shall, for each day or portion thereof the ordinance is violated, constitute a separate offense. In addition thereto, the violation of this section shall subject the offender to a civil penalty in the amount of one thousand dollars (\$1,000.00) to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty within a period of thirty (30) days after the offender has been cited for violation of this section. The County shall additionally be entitled to recover all costs associated with such civil action.

Section 10. Injunctions

Any provision of this ordinance which makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement. When a violation of such a provision occurs, the enforcement officer through either the County Attorney or applicable municipality attorney, or any resident of the County or applicable municipality, may apply to the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful use of the property.

Section 11. Notice of Hearing and Appeal

- A. Prior to the Alarm Administrator revoking a permit pursuant to this Ordinance or if an appeal is taken from a decision of the Alarm Review Board denying an application for a permit, the Alarm Administrator shall cause a written notice to be sent by certified mail to the Permit Holder or applicant affected at the address stated on the permit or application. This notice shall give the affected party notice of their right to appear before the Board of Commissioners, with or without legal counsel, at a stated time and place for the purpose of presenting any evidence relative to such revocation or denial, and for the purpose of hearing all evidence submitted in examining or cross-examining any person providing such evidence. The decision of the Board of Commissioners shall be final.
- B. Any alarm system user who has been assessed a civil penalty under this Ordinance may request, in writing, a hearing with the Alarm Review Board. The decision of the Alarm Review Board may be appealed by either party to the Board of Commissioners. In such a case, the notice of appeal shall be in writing and filed with the Clerk to the Board of Commissioners within twenty (20) days of the issuance of the final decision by the Alarm Review Board. The Board of Commissioners will schedule a hearing on the matter within thirty (30) days from the date the

notice of appeal is filed Failure to perfect an appeal within the time and in the manner provided for in this Ordinance shall constitute a waiver of the right to appeal.

Adopted this the 17th day of April, 2001

Kenneth R. Polant
Chairman
Avery County Board of Commissioners



Attest:

Nancy H. Cool
Clerk to the Board

AVERY CO. N. C. } OFFICE OF REGISTER OF DEEDS
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