THE CITY OF ASHEVILLE

Staff Report

City Council Meeting Date: June 22, 2021

Subject: Revised Alarm Ordinance (Ord. No. 2951 under Chapter 13, Article II, § 31-39)

Staff Resource(s): David Zack, Chief of Police
Dan Lemley, Police Administrative Services Manager

Action Requested: Approval of revisions to the alarm ordinance; and an amendment to the Fiscal Year 2021-22 Fees & Charges Manual.

Background:

- Pursuant to N.C. Gen. Stat. § 74D-11(c), the City of Asheville has authority to require an alarm systems business operating within its jurisdiction to register and to supply information regarding its license, and adopt an ordinance to require users of alarm systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law-enforcement agency.
- Accordingly, on August 29, 2002, the City of Asheville adopted an Alarm ordinance (Ord. No. 2951 under Chapter 13, Article II, § 31-39).
- Since January 1, 2018 to May 12, 2021, officers from the Asheville Police Department (APD) have responded to 15,682 business and residential burglar alarms, of which 97% were false alarms.
- The revised Alarm Ordinance drafted by APD is based upon best law enforcement and security alarm industry practices, with a goal of increasing efficiency, managing its alarm permitting process, and reducing false alarms.
- Various best practices have been written into the revised Alarm Ordinance, to include, but not limited to:
    - New registration and renewal fees:
        - Alarm System Permit Fee: $25.00
        - Alarm System Renewal Fee: $10.00
        - Late Fee after 30 days: $25.00
        - Appeal Hearing Fee: $50.00 (reimbursed if appeal is upheld)
        - Reinstatement of response fee: $50.00
    - The continuation of graduated civil penalties for false alarms
    - New equipment standards
    - The gold standard of Enhanced Call Verification by the alarm companies shown to reduce false alarms by 40%

Council Goal(s):
- Smart City

Committee(s):
- Public Safety Committee - June 1, 2021 - unanimous vote to move to City Council.

Pro(s):
- More efficient and effective policing through less time and resources spent on the response to false alarms.

Con(s):

- None

Fiscal Impact:

- Proposed new fees will have a minimal fiscal impact.

Motions:

- Motion to adopt the revisions to the Rules & Regulations for Police Alarms and an amendment to the Fees & Charges Manual.

Attachment(s)

- Alarm Ordinance
- Amendment to Fees & Charges Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 13, ARTICLE II, REGARDING RULES AND REGULATIONS FOR POLICE ALARMS

WHEREAS, the City of Asheville has authority pursuant to N.C. Gen. Stat. § 74D-11(c) to require an alarm systems business operating within its jurisdiction to register and to supply information regarding its license, and may adopt an ordinance to require users of alarm systems to obtain revocable permits when alarm usage involves automatic signal transmission to a law-enforcement agency; and

WHEREAS, on August 29, 2002, the City of Asheville adopted an Alarm ordinance (Ord. No. 2951 under Chapter 13, Article II, § 31-39); and

WHEREAS, between January 1, 2018, to May 12, 2021, officers from the Asheville Police Department (“the APD”) responded to 15,682 business and residential burglar alarms, of which 97% were false alarms; and

WHEREAS, the APD has drafted a revised ordinance based on best law enforcement and security alarm industry practices, with a goal of increasing more efficiency, managing its alarm permitting process, and reducing false alarms;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Chapter 13, Article II, Rules and Regulations for Police Alarms, of the Code of Ordinances of the City of Asheville is hereby repealed in its entirety and a new Article II be inserted as follows:

Sec. 13-31. Definitions.

Alarm means any electronic or mechanical device which emits any signal (electronic, visible, audible, silent, recorded or otherwise), which is designed, intended, or used to detect unauthorized entry into a building, structure, or premises, to signal an attempted robbery or holdup, or the commission of an unlawful act in or around a building, structure, or premises that is intended to elicit a response by the police.

Alarm Administrator means a person,persons, firm, partnership, association or corporation designated by the City of Asheville’s chief of police to administer the provisions of this ordinance.

Alarm business means any person, firm, partnership, association or corporation subject to Chapter 74D of the North Carolina General Statutes engaged in selling, leasing, installing, servicing or monitoring of alarms.

Alarm systems coordinator (herein "ASC") means an employee of the City of Asheville or its alarm administrator designated by the chief of police to administer this article.

Alarm permit means a permit issued to an alarm user by the City of Asheville and/or its alarm administrator allowing the operation of an alarm system within the City.

Alarm system means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular, private radio signals, or internet, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon a city emergency service response, including local alarm systems. Alarm system does not include an alarm installed in a vehicle or on someone's person unless the vehicle or the personal alarm is permanently located at a site.

Alarm user means any person, corporation, partnership, governmental or educational entity owning, leasing, or occupying a property utilizing an alarm.

Asheville Police Department (herein "APD") means a department of the city or its consolidated call center that receives telephone or signal requests for police, fire, ambulance, rescue, or other emergency service within the city.

Automatic dial protection device means an automatic dialing device, automatic telephone dialing alarm system or any system which, upon being activated, automatically initiates a recorded message or code signal indicating a need for an emergency response.

Cancellation means termination of response by an emergency service when the alarm company notifies the responding agency or department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arriving at the scene, this is not a false alarm and no penalty will be assessed.

Compliance Standards means equipment and installation methods shall comply with all appropriate nationally recognized testing laboratories and American National Standards Institute (ANSI) requirements.

Enhanced Call Confirmation (ECC), means an attempt by the alarm system monitoring company to contact the alarm site and/or alarm user by telephone and/or other means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement response. A second call shall be made to an alternate number provided by the alarm user if the first attempt fails. EXCEPT in case of a fire, panic or robbery-in-progress alarm or in cases where a crime-in-progress has been verified as defined in ANSI/CSAA CS-V-01-2016 or an equivalent standard.

False alarm means activation of an alarm by any means that elicits a response by a city emergency service when no situation requiring such a response does, in fact, exist. This includes accidental, avoidable, and unnecessary alarm activation due to user error, equipment malfunction, improper or unsuited equipment, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user or alarm business.

False alarm day means any 24-hour period that begins with the occurrence of a false alarm.

Local audible alarm means any alarm owned by an alarm user that, by sound of a whistle, bell, buzzer, siren or other noise generator, alerts those outside the home or building, of a break-in or robbery, but does not transmit a signal by telephone or other communications device.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a remote monitoring facility, whether installed by an alarm company or user.

Permit year means a 12-month period beginning on the day and month on which an alarm permit is issued.

Police chief means the chief of police for the City of Asheville or his/her designee.

Runaway alarm means an alarm system that produces three (3) or more unfounded alarm signals in a twenty-four (24) hour period. City emergency services may, at their discretion, discontinue responding to these alarm signals until the alarm system is corrected.

Registered alarm means an alarm that has been listed with the Asheville Police Department or its designee in accordance with the application and permitting requirements of this article.

Verify means an attempt by the alarm system monitoring company to contact the alarm site and/or alarm user by telephone and/or other electronic means, regardless of whether actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement response A second call shall be made to an alternate number provided by the alarm user if the first attempt fails.

Sec. 13-32. Requirements for alarm users.

(a) Permit and application.

(1) Every alarm user shall obtain a permit for each alarm that operates within the city from the Alarm System Coordinator (herein “ASC”). An alarm business must obtain a permit under this section only if an alarm is used to protect the premises in which the business is located. The ASC will provide the permit application form. No other permit application form will be accepted.

(2) All alarm businesses doing business in the city shall provide the ASC a current copy of its license pursuant to Chapter 74D of the North Carolina General Statutes and the contact person's name, address and telephone number for the alarm business.

(3) A permit application shall be submitted within thirty (30) days of installation of an alarm system. The ASC shall approve such application if the application complies with the provisions set forth in this article. During this 30-day period, the alarm user will not be subject to the provisions of section 13-32(e) (1).

(4) The person applying for the permit at the time of application shall pay the application set forth in the City's fees and charges manual.

(5) When possession and/or control of a premises with an alarm is transferred, the person obtaining possession and/or control of the premises is required to file an application for a new alarm permit within ten (10) business days of obtaining possession of the property. Permits are not transferable.

(6) Whenever the information provided on the permit application changes, the alarm user must notify the ASC within thirty (30) days of the change. In addition, on an annual basis, after the issuance of the permit, the alarm user will receive from the ASC a form requesting updated information. The permit holder shall complete and return this form to the ASC.

(7) In the interest of public safety, all information contained in and gathered through the alarm permit application(s) and application(s) shall not be considered public records per N.C. Gen. Stat. 132-1.7 and other applicable law.

(b) Denial and revocation.

(1) The ASC may revoke a permit where it is found that the alarm user provided false information on the permit application.

(2) The ASC may revoke a permit if the alarm user does not respond to an alarm activation as required in section 13-34.

(3) The ASC may revoke a permit if the alarm user fails to comply with the provisions in this article.

(c) Permit required. Each permit for a business shall be available at the premises wherein the alarm is installed and shall be available for inspection by the police chief during normal business hours.

(d) Multiple 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 permit shall be required for each structure and/or tenant.

(e) Failure to obtain a permit.

(1) Any alarm user who operates an alarm without a permit or who has not applied for a permit under this section as required by this article shall be assessed a civil penalty of as stated below:

(a) First alarm to which police respond--$0.00 (a warning will be issued and the alarm holder will have ten working days to secure a permit).

(b) Second and subsequent alarms to which police respond--$100.00 per occurrence.

(2) The above civil penalty is in addition to those civil penalties listed in section 13-37(b).

Sec. 13-33. Automatic dialing protection devices prohibited.

No automatic dial protection device shall be used to report, or cause to be reported, any recorded message to the APD. Police will not respond to recorded messages.

Sec. 13-34. Alarm user response to alarms.

(a) The alarm user, or a representative thereof, shall be available at all times for the purpose of responding to alarms by personally appearing at the structure designated in the permit following an alarm activation.

(b) If, in the event of any alarm, the APD or other agency is unable to notify the alarm user or a representative thereof or if the alarm user or a representative thereof fails to appear at the home or structure designated in the permit within 30 minutes after notification, the permit may be revoked.

Sec. 13-35. False alarms.

(a) Whenever an alarm is activated in the city and the APD responds, a police officer on the scene of the activated alarm system shall inspect the area and determine whether the police response was in fact necessary as indicated by the alarm system or whether the alarm was a false alarm.

(b) If the police officer at the scene of the activated alarm system determines the alarm to be false, the alarm user shall be notified.

(c) The ASC may require the inspection of an alarm system for which there have been five (5) false alarm days within a twelve (12) month period. A representative of an alarm business selected by the alarm user must perform the inspection. Any cost associated with the inspection will be beared by the alarm user. The ASC must have proof of the inspection within thirty (30) days after the alarm user receives notice. Failure to provide proof of inspection may result in revocation of the alarm permit.

(d) All local audible alarms shall be equipped with an automatic reset device that will reset and cease to sound the alarm after fifteen (15) minutes of continuous activation. The alarm user shall be assessed an additional civil penalty of fifty ($50.00) dollars for each violation of a continuing local audible alarm activation. This penalty is in addition to any false alarm penalty as set forth in section 13-37.

(e) Signals or messages transmitted by the alarm during alarm testing procedures shall not be considered false alarms provided the APD is notified of the testing and the APD does not respond.

(f) 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.

(g) The City may discontinue response of city emergency services if the City determines that:

(1) There is any violation of this article

(2) There is a false statement of material matter in the application of permit.

(3) An alarm system has generated in excess of ten (10) false alarms during any twelve (12) month period.

(4) The alarm holder has failed to make payment of any service fee, permit fee, late fee or suspension fee assessed under this article within ninety (90) days of the assessment.

(h) Reinstatement of response: the City may resume City emergency services response upon the alarm holder submitting satisfactory proof of compliance of one or more of the following:

(1) Proof the alarm system has been inspected and the City has been provided evidence of adequate measures to ensure the alarm system is in good working order. Measures taken may require the alarm user repair, upgrade or modify the alarm system to be compliant with this chapter.
(2) Proof the alarm user has been retrained on the use of the alarm system and procedures for contacting the alarm company in the case of false activation.
(3) The alarm user successfully completes an on-line alarm awareness class and test.
(4) All fees and fines are paid in full including the reinstatement fee of fifty ($50.00) dollars.

Sec. 13-36. Review of false alarm determinations.

The ASC shall, when requested by an alarm user, review the determination that an alarm was false. The ASC shall conduct such review only if the alarm user requests in writing such a review within ten (10) days of the date that the false alarm occurred. The written request for review of a false alarm determination by the ASC shall include the following information:

(1) Alarm user name;

(2) Address where alarm is installed;

(3) Date of contested false alarm;

(4) Alarm user permit number;

(5) Factual basis for review request.

Sec. 13-37. Service charge assessment for false alarms and reinstatement of alarm user permits.

(a) Three (3) or more false alarm days within any twelve (12) month period is excessive and constitutes a public nuisance.

(b) Civil penalties. The alarm user shall be assessed the following civil penalties based on the number of false alarm days in one year. The civil penalties are as follows:

3-5 false alarm days--$50.00

6th false alarm--$100.00

7th false alarm--$100.00

8th false alarm--$250.00

9th false alarm--$250.00

10th and over false alarm--$500.00

Sec. 13-38. Appeal.

(a) Any alarm user assessed a civil penalty or whose application for a permit has been denied, or whose permit has been revoked under this article may request, in writing,

a hearing with the police chief. In such a case, the notice of appeal shall be in writing and filed in the police chief's office within ten (10) days of the issuance of a final decision by the ASC. The police chief, or designee, shall schedule a hearing on the matter within a reasonable time from the date the notice of appeal is filed.

(b) Failure to perfect an appeal within the time and in the manner provided for in this section shall constitute a waiver of the right to appeal.

(Ord. No. 2951, § 1, 8-29-02)

Sec. 13-39. Notice and hearing.

Before the ASC revokes a permit pursuant to this article, or if an appeal is taken pursuant to section 13-32 from a decision of the ASC denying an application for a permit, the ASC shall cause a written notice to be sent by first class mail, return postage guaranteed, to the permittee or applicant affected, at the address stated on the permit or application thirty (30) days in advance of revocation or denial. This notice shall advise the affected party of a right to appear before the police chief, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation or denial, or for the purpose of hearing all evidence submitted and examine or cross-examining any person providing such evidence. The decision of the police chief shall be final. An administrative fee for each appeal to the police chief, in an amount set out in the City's fees and charges manual, will be assessed. Should the appeal be successful, the administrative fee shall be reimbursed to the alarm user.

(Ord. No. 2951, § 1, 8-29-02)

Sec. 13-40 Fee Schedule

Fee schedule set forth in the City's fees and charges manual.

Sec. 13-41 Alarm Business Duties

(a) Any person, firm, partnership, association or corporation engaged in the alarm business in the City of Asheville shall comply with the following:

(1) Obtain and maintain the required state, county and/or city license(s).
(2) Provide name, address, and telephone numbers of the alarm company license holder or a designee who can be called in an emergency, 24 hours a day; and be able to respond to an alarm call, when notified, within a reasonable amount of time.
(3) Be able to provide the most current contact information for the alarm user; and to contact a key holder for a response, if requested.
(4) Provide new and cancelled alarm sites in the format required by the City every thirty (30) days or upon request by the City.

(b) An alarm installation company and/or monitoring company that purchases alarm system accounts from another person shall notify the City of such purchase and provide details as may be requested by the City.

(1) 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. Ensure that all alarm users of alarm systems equipped with a duress, holdup or panic alarm are given adequate training as to the proper use of the duress, holdup or panic alarm.

(2) After completion of the installation of an alarm system, the alarm company employee shall review with the alarm user the customer false alarm prevention checklist approved by the City or its designated administrator. The alarm company employee shall complete, sign and date the alarm prevention checklist and maintain a copy for a period of two (2) years.

(3) An alarm company performing monitoring services shall:

(i) Attempt to confirm, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone confirmation shall require, as a minimum, that a second call also known as Enhanced Call Confirmation (ECC), 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 case of a fire, panic or robbery-in-progress alarm or in cases where a crime-in-progress has been verified as defined in ANSI/CSAA CS-V-01-2016 or an equivalent standard.

(ii) Provide alarm user registration number to facilitate dispatch and/or cancellations.

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

(iv) Communicate a cancellation as soon as possible following a determination that response is unnecessary.

(c) Maintain for a period of at least one (1) year from the date of the alarm dispatch request, records relating to the alarm dispatch. Records must include name, address and telephone number of the alarm user, the alarm system zones activated, the time of alarm dispatch request and evidence of an attempt to verify the alarm. The alarm administrator may request copies of such records for individually named alarm users. If the request is made, the alarm monitoring company shall provide requested information within (10) business days of receiving the request.

2. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

3. This ordinance shall become effective upon adoption.

Read, approved and adopted this 22nd day of June, 2021.

_____ _____

City Clerk Mayor

APPROVED AS TO FORM:

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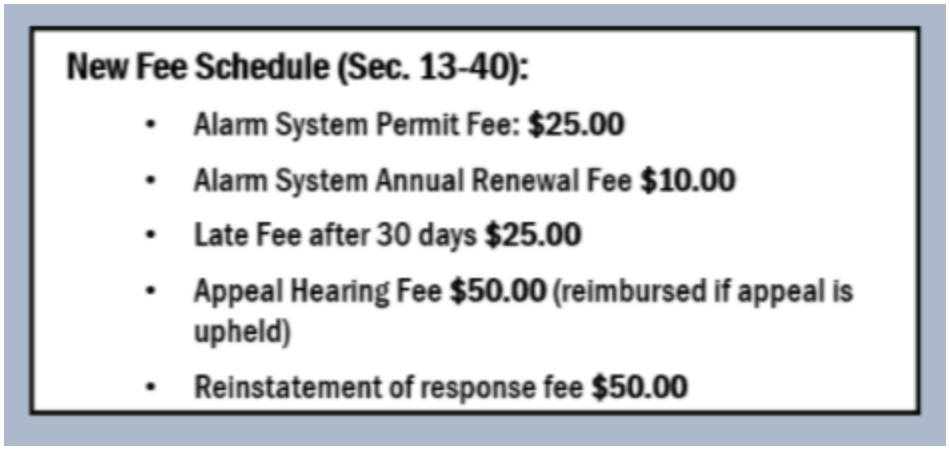
City Attorney

ORDINANCE NO. _____

ORDINANCE AMENDING THE FISCAL YEAR 2021-22 FEES & CHARGE MANUAL

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The Fiscal Year 2021-22 Fees & Charges Manual be amended as follows:



That this amendment shall be in full force and effective upon adoption.

Read, approved and adopted this 22nd day of June, 2021.

_____ _____

City Clerk Mayor

Approved as to form:

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City Attorney