

ALARM ORDINANCE

WHEREAS, the Town Council finds that excessive false alarms unduly burden the law enforcement officers within the Town of Indian Trail and waste its limited law enforcement resources. The purpose of this ordinance is to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for their use of alarm systems; and

WHEREAS, the Town Council adopted an ordinance to regulate the use of alarm systems within the Town of Indian Trail in June, 2007; and

WHEREAS, the Town Attorney has received input regarding the initial Alarm Ordinance adopted in June, 2007 from the representatives of the North Carolina Alarm Systems Licensing Board; and

WHEREAS, the Town wishes to conform the Alarm Ordinance to the existing regulations and statutes of the North Carolina Alarm Systems Licensing Board.

NOW THEREFORE, BE IT ORDAINED that the Alarm Ordinance adopted in June, 2007 is hereby repealed and the Code of Ordinances, of Town of Indian Trail, North Carolina, is hereby amended by adding a new chapter, to be numbered Chapter 93A, which sections shall read as follows:

SECTION 93A-1: DEFINITIONS

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

(a)*Alarm Company* means a person engaged in selling, leasing, installing, servicing or monitoring alarm systems in the Town of Indian Trail; this person shall be in compliance with and licensed by the North Carolina Alarm Licensing Board.

(b)*Alarm permit* means a permit issued by the Town allowing the operation of an alarm system within the Town.

(c)*Alarm signal* means a detectable signal, audible or visual, generated by an alarm system, to which law enforcement are expected to respond.

(d)**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.

(e)**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 expected to respond, but does not include alarms installed in motor vehicles, fire alarms, domestic violence alarm, or alarms designed to elicit a medical response.

(f)**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.

(g)**Alarm User Awareness Class** means a class conducted for the purpose of educating alarm users about the responsible use, operation, and maintenance of alarm systems and the problems created by false alarms.

(h)**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 Law enforcement officers assigned to the Town of Indian Trail a recorded message or code signal indicating a need for law enforcement response.

(i)**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 the alarm user or his/her agent canceled law enforcement response before law enforcement personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the law enforcement officers within the Town of Indian Trail, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises that would have activated a properly functioning alarm system.

Notwithstanding the foregoing, a false alarm shall not include an alarm that 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. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first

notifies and receives permission from the user's alarm company, or designee, to test the system.

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

(k) **Runaway alarm** means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action.

(l) **Town** means the Town of Indian Trail or its agent.

(m) **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. For the purpose of this ordinance, telephone verification shall require, as a minimum that a second call be attempted 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.

SECTION 93A-2: ALARM PERMIT

(a) **Permit required.** No person shall use an alarm system without first obtaining a permit for such alarm system from the Town. Each alarm permit shall be assigned a unique permit number.

(b) **Application.** The permit shall be requested on an application form provided by the Town. An alarm user has the duty to obtain an application from the Town. In applying for and obtaining an alarm permit, the Permit User certifies that such permit constitutes a request and authorization to the Alarm Company that such Alarm Company provide the services set forth in Section 5: Request and Authorization.

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

(d) **Annual Update of Alarm Permit and Information.** Permit holders shall be notified annually for renewal and update of their issued permit. The permit renewal form and fee must be returned within the time specified by the notification. The alarm user shall provide corrected information to the Town within 30 days whenever the information

provided on the alarm permit application changes. Failure to reregister and update information will result in permit revocation.

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

SECTION 93A-3: DUTIES OF THE ALARM USER

An Alarm User Shall:

(a) Maintain the premises and the alarm system in a manner that will reduce or eliminate false alarms; and

(b) Make a solemn endeavor to respond or cause a representative to respond to the alarm system's location within thirty (30) minutes when notified by law enforcement officers within the Town of Indian Trail to deactivate a malfunctioning alarm system, to provide right of entry to the premises, or to provide alternative security for the premises; and

(c) Not manually activate an alarm 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.

(d) Obtain a new permit if there is a change in address or ownership of a business, institution or residence.

(e) Comply with the requirement for annual renewal and update of their assigned permit.

SECTION 93A-4: DUTIES OF THE ALARM COMPANY

An Alarm Company operating within the Town of Indian Trail shall register with the Town or its designee, and supply to the Town evidence that said company is duly licensed by the North Carolina Alarm Systems Licensing Board .

SECTION 93A-5: REQUEST AND AUTHORIZATION

By its application for and receipt of an Alarm Permit, the alarm user certifies that it has requested of and/or authorized that the Alarm Company:

(a) Prior to activation of the alarm system, request that the alarm company provide instructions explaining the proper operation of the alarm system to the alarm users;

(b) Request that the alarm system supplier provide written information of how to obtain service from the alarm company for the alarm system to the alarm users;

(c) If obtaining monitoring services:

1) request that the alarm system supplier 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 attempted 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 where an audio or visual verification has/is confirming a crime is in progress.

2) request that the alarm system supplier communicate a cancellation to the law enforcement communications center as soon as possible following a determination that response is unnecessary.

3) request that the alarm system supplier communicate any available information about the location of the alarm.

4) Provide the alarm user registration number to the alarm system supplier.

(d) Request that the alarm system supplier provide the permit number for the alarm system that produced the alarm signal at the time the alarm company notifies law enforcement officers within the Town of Indian Trail of an alarm signal to facilitate dispatch.

SECTION 93A-6: PROHIBITED ACTS

(a) It shall be a violation of this ordinance 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 a violation of this ordinance to install, maintain, or use an audible alarm system that can sound continually for more than 15 minutes.

(c) It shall be a violation of this ordinance to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to law enforcement officers assigned to the Town of Indian Trail.

SECTION 93A-7: ENFORCEMENT OF PROVISIONS

(a) ***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, enforceable by an equitable action, and shall be unlawful and a violation of this ordinance by the alarm user. Civil penalties for false alarms within a permit year may be assessed against an alarm user in the amounts set by the Annual Schedule of Fees and Charges adopted by the Town Council in conjunction with the Annual Budget.

(b) Other ***Civil Penalty(ies).*** Violations of Section 2 and Section 3 may be enforced through the assessment of civil penalty(ies) in the amounts set by the Annual Schedule of Fees and Charges adopted by the Town Council in conjunction with the Annual Budget..

(c) Payment ***of Civil Penalty(ies).*** Civil penalty(ies) shall be paid within (30) days from the date of the invoice.

(d) ***Discontinuance of law enforcement response.*** The failure of an alarm user to make payment of any civil penalty(ies) assessed under this ordinance within 30 days from the date of the invoice may 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. The law enforcement officers within the Town of Indian Trail may in their discretion discontinue police responses to alarm signals from what appears to be a runaway alarm.

(e) ***Civil Noncriminal violation.*** A violation of any of the provisions of this ordinance shall be a civil violation against the alarm user and shall not constitute a misdemeanor or infraction, enforceable under North Carolina General Statute Section 14.4, which expressly shall not apply.

(f) ***Additional Remedies.*** In addition to collecting unpaid penalties in a civil action, the Town may enforce the provisions of this ordinance by applying to a court of competent jurisdiction for an injunction, abatement order or other appropriate equitable remedy against the alarm user.

(g) ***Inapplicable to Alarm System Suppliers.*** No penalty or enforcement action shall be assessed or action taken against an Alarm Company that supplies service to an alarm user within the Town, except that the Town or its officers may initiate a report of problems or concerns with any Alarm Company that supplies service to an alarm user within the Town to the North Carolina Alarm Systems Licensing Board.

(h) ***Collection Actions.*** Unpaid past due civil penalties shall be collected by civil action in the appropriate division of the General Court of Justice. Reasonable attorney's fees shall be awarded against the alarm user to reimburse the Town for the cost of collection. Unpaid past due civil penalties shall constitute a lien against the real property of the alarm user located within the Town.

SECTION 93A-8: ALARM USER AWARENESS CLASS.

(a) ***Alarm User Awareness Class.*** The Town of Indian Trail may create and implement an Alarm User Awareness Class. The Town of Indian Trail may request the assistance of the area alarm companies to assist in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms.

SECTION 93A-9: APPEALS

(a) ***Appeals process.*** Assessments of civil penalty(ies) and other enforcement decisions made under this ordinance may be appealed by filing a written notice of appeal with the Town of Indian Trail within 10 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 shall constitute a waiver of the right to contest the assessment of penalty (ies) or other enforcement decision. Appeals shall be heard through an administrative process established by the Town of Indian Trail. The hearing officer's decision is subject to review in the district court by proceedings in the nature of certiorari.

(b) ***Appeal standard.*** The hearing officer 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 hearing officer shall have the discretion to dismiss or reduce civil penalty(ies) or reverse any other enforcement decision where warranted.

SECTION 93A-10: EFFECTIVE DATE

This section shall become effective immediately upon adoption.

This the 11th day of December, 2007

Sandy Moore
Honorable Sandy Moore, Mayor

Peggy Piontek
Attest: Peggy Piontek, Town Clerk