

ORDINANCE NO. 02-10**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
NAVAJO COUNTY, ARIZONA, REGULATING ALARM
SYSTEMS PURSUANT TO A.R.S. § 11-251(55) AND
SPECIFYING CIVIL PENALTIES FOR EXCESSIVE
FALSE ALARMS IN ANY 365-DAY PERIOD.**

WHEREAS, Section 11-251(55) of the Arizona Revised Statutes authorizes the Board of Supervisors to "enact ordinances prescribing regulation of alarm systems and providing for civil penalties to reduce the incidence of false alarms at business and residential structures relating to burglary, robbery, fire and other emergencies not within the limits of an incorporated city or town;" and

WHEREAS, false alarms place a strain on the limited resources of the Navajo County Sheriff's Office and hinder the ability of the Sheriff's Office to respond to actual crimes and matters of public safety,

NOW, THEREFORE, BE IT ORDAINED by the Navajo County Board of Supervisors as follows:

Section 1: Short title and area of jurisdiction

This ordinance may be cited as the "Navajo County False Alarm Ordinance." It applies in the unincorporated area of Navajo County.

Section 2: Purpose and intent

This ordinance is intended to encourage improvement in the reliability of alarm systems and diligence on the part of persons responsible for alarm systems and to ensure that Sheriff's Office personnel will not be diverted by false alarms from responding to actual crimes and matters of public safety. The conduct prohibited by this ordinance is *malum prohibitum*; no knowledge or lack of due care is required to prove a violation.

Section 3: Findings

False alarms and false robbery alarms constitute a substantial public danger and a substantial public expense. Of alarm notices received by the Sheriff's Office, experience has shown that a large majority are false. Law enforcement resources are diverted from other duties by these false alarms. Law enforcement personnel and the public are endangered by the need for urgent responses to these false alarms.

Section 4: Definitions

The following words and phrases, whenever used in this ordinance, shall be construed as defined in this section unless the context requires otherwise:

- A. **"Alarm system"** means any mechanical or electrical device used to help protect persons, buildings or premises in emergencies through the emission of a sound or the transmission of a signal or message.
- B. **"False alarm"** means an alarm signal or message, other than a robbery alarm, that indicates an emergency and causes a Sheriff's Deputy to respond and that is not caused by or the result of an actual emergency.
- C. **"False robbery alarm"** means an alarm signal or message that indicates a robbery and causes a Sheriff's Deputy to respond and that is not caused by or the result of an actual or attempted robbery.
- D. **"Person"** means any natural person, employee, firm, partnership, association, corporation or other legal entity.
- E. **"Responsible person"** means the person with possession and control of the premises where the alarm system generating a false alarm or false robbery alarm is installed.
- F. **"Common cause"** means a technical difficulty or malfunction that causes an alarm system to generate a series of false alarms.
- G. **"Emergency"** means the commission or attempted commission of an offense in violation of Title 13 of the Arizona Revised Statutes or a medical emergency.

Section 5: Exemptions

- A. **Motor vehicles.** This ordinance does not apply to alarms affixed to motor vehicles.
- B. **Public agencies.** This ordinance does not apply to alarm systems operated by public agencies.
- C. **Newly installed or reinstalled systems.** False alarms and false robbery alarms generated by newly installed and newly reinstalled alarm systems shall not be counted for purposes of this ordinance for a period of 30 days after the system becomes operational if the responsible person notifies the Sheriff's Office in writing within ten days after the installation or reinstallation. The written notice shall specify the date the system was installed or reinstalled.

Section 6: Excessive false alarms prohibited

It shall be unlawful for any person to have possession and control of premises with an alarm system that generates four or more false alarms within any consecutive 365-day period. Each false alarm generated in excess of three within any consecutive 365-day period is a separate violation of this section.

Section 7: Excessive false robbery alarms prohibited

It shall be unlawful for any person to have possession and control of premises with an alarm system that generates four or more false robbery alarms within any consecutive 365-day period. Each false alarm generated in excess of three within any consecutive 365-day period is a separate violation of this section.

Section 8: Penalties for excessive false alarms and false robbery alarms

A. False alarms

1. A person responsible for a fourth false alarm in violation of Section 6 shall pay a civil penalty of \$150.00.
2. For each false alarm in violation of Section 6 after the fourth, the civil penalty shall increase in increments of \$200 (e.g., \$350.00 for the fifth, \$550.00 for the sixth, etc.).

B. False robbery alarms

1. A person responsible for a fourth false robbery alarm in violation of Section 7 shall pay a civil penalty of \$500.00.
2. For each false robbery alarm in violation of Section 7 after the fourth, the civil penalty shall increase in increments of \$300.00 (e.g., \$800.00 for the fifth, \$1100.00 for the sixth, etc.).

Section 9: Establishing violation of ordinance; rights of appeal

- A. An official report from the Sheriff's Office documenting a response to an alarm and an investigation revealing no actual emergency as the cause shall constitute prima facie evidence of a false alarm or false robbery alarm.
- B. The Sheriff shall personally deliver or mail (by certified mail, return receipt requested) to the responsible person a copy of the official reports establishing the violation and a demand for payment of the appropriate civil penalty as set forth in Section 8. If within 20 days after receipt of the Sheriff's demand for payment the responsible person has

not made payment or requested a meeting with the Sheriff pursuant to paragraph C below, the Sheriff may initiate proceedings in the appropriate Justice Court to recover the civil penalty.

- C. No later than 20 days after receiving the Sheriff's demand for payment as set forth in paragraph B above, the recipient may request an informal meeting with the Sheriff or the Sheriff's designee to explain any extenuating circumstances as to why the recipient is not responsible and/or why the civil penalty should not be imposed or should be reduced. Within five days after any such meeting, the Sheriff or the Sheriff's designee shall personally deliver or mail (by certified mail, return receipt requested) to the recipient a written decision, which shall be the final decision of the Sheriff.

- D. If the recipient of the Sheriff's demand for payment has exercised the right to request a meeting with the Sheriff or the Sheriff's designee pursuant to paragraph C above and is dissatisfied with the Sheriff's final decision, the recipient may appeal the decision to the Board of Supervisors within ten days after receiving it. Notice of appeal must be in writing and must be received by the Clerk of the Board of Supervisors within the ten-day period. The appeal shall be limited to whether the Sheriff's final decision was arbitrary, capricious or contrary to law. The decision of the Board of Supervisors shall be final. If the Board of Supervisors affirms the civil penalty in whole or in part and the penalty remains unpaid ten days after the Board meeting at which the appeal was heard, the Sheriff may initiate proceedings in the appropriate Justice Court to recover the civil penalty.

Section 10: Common cause exception

False alarms or false robbery alarms generated by a common cause shall be counted as one false alarm if, and only if, the false alarms occurred within a 72-hour period, prompt corrective action was taken, prompt notice of such corrective action was provided to the Sheriff's Office, and during the next 30-day period there were no false alarms generated by the same cause.

Section 11: No violation if dispatch of deputy is avoided through prompt notice

No violation of this ordinance shall occur if a Sheriff's Deputy did not actually respond to an alarm because the responsible person or any other person provided timely notice to the Sheriff's Office that the alarm was false.

Section 12: Alarm operator duties

- A. The company or service responsible for the operation of any alarm system, whether at a business or residence, shall instruct all persons who are authorized to place the system into operation in the appropriate method of operation, shall inform them of the provisions of this ordinance, and shall emphasize the importance of avoiding false alarms.

- B. The company or service responsible for the operation of any alarm system, whether at a business or residence, shall conspicuously place on the premises a notice identifying the alarm company or service that is available to respond to an alarm activation, or a notice approved by the Sheriff's Office containing all relevant contact information for the primary person available to respond to an alarm activation and at least one alternate.

Section 13: Alarm company duties

- A. When the Sheriff's Office is notified of an alarm activation by an alarm company, service or operator, the notifying party shall advise the Sheriff's Office if an authorized representative will respond to the alarm and, if so, whether the representative will arrive within 30 minutes at the location of the alarm. If the Sheriff's Office is advised that there will be a response within 30 minutes, a failure to respond within 30 minutes shall be a violation of this ordinance.
- B. If an alarm signal is received at a central station, the alarm company or service operating the central station shall, when it advises the Sheriff's Office of the alarm, also immediately notify the operator of the alarm system.
- C. An alarm company or service shall inform purchasers of alarm systems or services of the provision of this ordinance. This provision shall not apply to alarm systems that generate only an audible alarm at the location of the alarm.
- D. An alarm company or service shall maintain a record of alarm activation notifications for a one-year period following each notification. Records shall include the name and phone number of the person notified of the alarm activation and the time notification was given.

Section 14: Penalties for violations of alarm operator or alarm company duties

- A. An alarm operator, company or service materially fails to perform any obligation imposed by Section 12 or 13 shall be subject to a civil penalty of \$100.00.
- B. The civil penalty shall be imposed in the same manner, and the alarm operator, company or service shall have the same rights, as set forth in Section 9.

SO ORDAINED by the Navajo County Board of Supervisors at Holbrook, Arizona, on March 9, 2010, by a vote of 4 ayes and 0 nays. 1 absent.

NAVAJO COUNTY BOARD OF SUPERVISORS

By Jesse Thompson
Jesse Thompson
Chairman of the Board

Attest:

Melissa W. Buckley
Melissa Buckley, Clerk of the Board