

ARTICLE II. RULES AND REGULATIONS FOR POLICE ALARMS*

***Editor's note:** Ord. No. 2951, § 1, adopted Aug. 29, 2002, repealed Art. II, §§ 13--31--13-36, which pertained to alarm systems and enacted provisions designated as a new Art. II to read as herein set out. Ord. No. 2951 will be effective February 29, 2002. See the Code Comparative Table for full derivation.

Cross references: Licenses, permits and business regulations, ch. 9; subdivisions, ch. 17.

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 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 designated by the chief of police to administer this article.

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 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 to the Asheville Police Department, a recorded message or code signal indicating a need for police response.

False alarm means activation of an alarm by any means that elicits a response by police 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 cause 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.

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

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

(Ord. No. 2951, § 1, 8-29-02)

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 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. The alarm business must have a current privilege license to do business in the city.

(3) A permit application shall be submitted within 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 no fee.

(5) When a premises with an alarm is transferred, the person obtaining the premises is required to file an application for a new alarm permit. Permits are not transferable.

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

(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 difference addresses, a separate permit will be required for each structure.

(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.

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

(Ord. No. 2951, § 1, 8-29-02)

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.

(Ord. No. 2951, § 1, 8-29-02)

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.

(Ord. No. 2951, § 1, 8-29-02)

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 false alarm days within a 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 born by the alarm user. The ASC must have proof of the inspection within 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 15 minutes of continuous activation. The alarm user shall be assessed an additional civil penalty of \$50.00 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 do not respond.

(Ord. No. 2951, § 1, 8-29-02)

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 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 at which alarm is installed;

(3) Date of false alarm that is being contested;

(4) Alarm user permit number;

(5) Facts upon which the request for review of the false alarm determination is made.

(Ord. No. 2951, § 1, 8-29-02)

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

(a) It is hereby found and determined that three or more false alarm days within any 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

(Ord. No. 2951, § 1, 8-29-02)

Sec. 13-38. Appeal.

(a) Any alarm user who has been assessed a civil penalty or whose application for a permit has been denied, or whose permit has been revoked under this article may request, orally or 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 days of the issuance of a final decision by the ASC. The police chief 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 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 the amount of \$50.00 or as set by the Asheville City Council, 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)