

## TOWN OF NEW DURHAM

### ALARM ORDINANCE

TO.03.009

The Town of New Durham through the Board of Selectmen ordain that:

WHEREAS, the Town of New Durham is aware of hazards posed by the fiscal impact of false alarms, and

WHEREAS, needless false alarms can often be reduced via proper maintenance, education and concern for their prevention;

NOW, THEREFORE BE IT RESOLVED that this Ordinance will establish a penalty assessment for unreasonable numbers of false alarms and will be administered in the Town of New Durham as follows:

#### SECTION 1. DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

- A. **ALARM SYSTEM:** shall mean any assembly of equipment or device whose purpose is to signal the presence of a hazard requiring urgent attention to which the Police and/or the Fire Department is expected to respond.
- B. **FALSE ALARM:** shall mean the activation of an alarm system through a mechanical failure, accidental tripping, mis-operation, malfunction, misuse, neglect or some other unintentional act when an emergency response is not required, as indicated upon the failure of the Police and/or Fire Department to find any evidence of intrusion or other legitimate need or cause for the alarm system to have been activated. False alarms caused by an Act of God, such as severe storms, shall not be counted for the purpose of this ordinance.

#### SECTION 2. APPLICATION

- A. Alarm users shall ensure that all information submitted in an alarm user permit application is kept current. Any changes made to any alarm system equipment, termination point or list of persons to be notified in the event of an alarm shall be reported to the Chief of Police in writing, on the attached form within ten (10) days of such change.
- B. The alarm user applying for the permit shall state on a permit application prescribed by the Chief of Police, his name, the address of the residence or business or businesses where the alarm system has been or will be installed, his telephone number, the type of alarm system (local, direct, connect, central station, etc.,) the alarms company selling, installing, monitoring, inspecting and/or maintaining the alarm system and the name and telephone number of

at least one (1) other person (in the case of a corporate alarm user application, at least three (3) persons) who can be reached anytime day or night, who is authorized to respond to an alarm signal and who can open the premises in which the system is installed.

- C. Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining a user's permit or renewal of while making a change thereto shall be sufficient cause for refusal to grant or revoke a permit.
- D. An alarm user applying for a permit in which the user will utilize only a central station monitoring system shall be required to sign a waiver from the Police Department, or before a notary public, relieving the Town, its officer, agents (including the personnel of the Strafford County Dispatch Center) servants and employees from any liability in connection with an alarm response or lack thereof. No alarm permit shall be issued for a central station alarm unless the waiver form is signed and approved by the Chief of Police or his designee.

#### 2-1 Required Inspections:

- A. Every alarm user licensed under this Ordinance shall be required to have their alarm system inspected at least once a year by a licensed alarm company and to post a certificate of inspection on the premises where the alarm system is maintained. The certificate shall state that in the opinion of the alarm company, the alarm system complies with the applicable installation standards and is safe and reliable.
- B. The information contained in the alarm user permit application and other information received by the Chief of Police through correspondence or communications with the alarm user shall be securely maintained and restricted to inspection by the Chief of Police or certain Police Officer or Town employees specifically assigned the responsibility for handling and processing alarm user permits in the course of their duties. If one of these persons is found to have purposely or knowingly revealed the information contained in an alarm user permit application or in correspondence or communications with an alarm user to any person for any purpose not related to this Ordinance or official law enforcement matters or without the express written consent of the alarm user supplying such information, he shall be guilty of a violation and shall be fine one hundred dollars (\$100).

#### 2-2 Operation without permit; violation and penalties:

- A. Any alarm system user who operated and alarm system without first obtaining a permit as required by this Ordinance or who operates an alarm system when such permit has expired shall be guilty of a violation and, upon conviction, shall be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500).

- B. Any alarm system user who, after having a permit revoked and after exhausting his right a hearing, fails to disconnect his alarm system shall be guilty of a violation and, upon conviction, shall be fined one hundred dollars (\$100).

2-3 False alarms; civil assessments and revocation of permit:

- A. For the purpose of this Ordinance, a “false alarm” shall be defined as an alarm signal eliciting a response by Police when a situation requiring a response by the Police does not in fact exist, but does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user.
- B. Except during the first thirty-day period following the installation of an alarm system, there shall be a service charge of fifty dollars(\$50) for each false alarm in excess of four (4) in a calendar year, which shall be paid to the Town of New Durham. For purposes of this section, a “calendar year” shall be defined as the period from January 1 through December 31. In addition, false alarms may form the basis for revocation of an alarm user’s permit as provided in Section 2-4 of the Ordinance. If the false alarm is due to an alarm system malfunction which is in the process of being repaired or where immediate steps are taken to identify or correct the problem(s), the Chief of Police may waive the service charge. Refusal to pay the service charge within thirty (30) days may be punishable as a violation and maybe cause for revocation of the alarm users permit.
- C. In any case when an alarm is received by the Police and the Police Department is unable to locate or make contact with the persons responsible for the alarm system, as designated by the alarm user on the application form, or in case the person responsible do not expeditiously respond when notified, the Town of New Durham, its Officer, agents, servants and employees shall be exempt from any and all liability for any claim or loss or damage, personal or property, which may result, and a service charge of ten dollars (\$10) shall be paid to the Town of New Durham by the alarm user. This service charge shall be in addition to any other service charge that may be imposed pursuant to this Ordinance.
- D. In any case where a false alarm is received in excess of six (6) per calendar year from an alarm system for which an alarm user permit has been obtained, the Chief of Police may require the alarm user to produce a certificate from the alarm company maintaining the equipment indicating that the system has been inspected and is in reliable working order. Failure to produce the above certificate within thirty (30) days of request shall be punishable as a violation and may be cause for revocation of the alarm user’s permit.

2-4 Revocation procedure:

- A. If the Police Department has recorded false alarms as stated in 2-3, the Chief of Police shall notify the permit holder to submit a report within fifteen (15)

days describing efforts to discover and eliminate the cause of the false alarms. If the alarm user requests an extension of time to file this report based on some extraordinary circumstances, the Chief of police may extend the fifteen day period for a reasonable time. If the permit holder fails to submit his report within the specified period, the Chief of Police shall notify the alarm user that his permit to operate an alarm system has been revoked, and, under these circumstances, the user shall not be entitled to a hearing.

- B. If the alarm user submits a report as required by subsection A of this section, but the Chief of Police finds the report unsatisfactory, then the Chief of Police may issue a written notice of his intent to revoke the alarm user's permit.
- C. If, after the submission of a report required by Subsection A of this section which is satisfactory to the Chief of Police, the alarm system of the permit holder incurs two (2) or more false alarms during the same calendar year, the Chief of Police may issue written notice of his intent to revoke the alarm user's permit.
- D. Upon receipt of a notice of intent to revoke an alarm user's permit, the permit holder may within ten (10) days of such receipt submit a written request for a hearing before the Chief of Police, setting forth the reasons that his permit should not be revoked. Written notice of the time and place of the hearing shall be served on the permit holder by the Chief of Police at least five (5) days prior to the date set for the hearing.
- E. At the hearing before the Chief of Police, the holder of the permit or his authorized representative shall have the right to be made aware of the circumstance leading to revocation of the alarm permit and to present evidence on his own behalf. After the hearing, the Chief of Police may either issue an order of revocation, withdraw the notice of revocation or allow a reasonable time, not to exceed fifteen (15) days, in which the alarm user must take action to eliminate the cause(s) of the false alarms to the satisfaction of the Chief of Police.

#### 2-5 Restoration of a revoked permit:

- A. An alarm user whose permit has been revoked may apply for a revoked user's permit as provided in Section 2 of this article. The Chief of Police shall not be required to issue a revoked user permit unless he is satisfied that the user's system has been properly serviced and its deficiencies corrected. The Chief of Police may also impose reasonable restrictions and condition upon the user before issuing a revoked user permit, and these restrictions and/or conditions shall appear on the permit and shall provide for automatic revocation on the occurrence of four (4) false alarms in the remaining permit year.
- B. In situations where a user permit is revoked under the conditions in Subsection A of this section, there shall be no appeal to the Chief of Police, and this revocation shall remain in effect for the remainder of the calendar year.
- C. The fee for re-issuance of the user permit shall be fifty dollars (\$50).

2-6 Service of notice:

When any town official has the right or is required to act within a prescribed period pursuant to the Ordinance, and service is made by mail, one (1) day shall be added to the prescribed period. In lieu of service by mail, deliver may be made by hand by any person eighteen or older.

2-7 Administrative rules:

The Chief of Police shall promulgate such rules as may be necessary for the implementation of the Ordinance and for determination of grounds for clerical revocation of any permit required by this Ordinance pursuant to RSA 41:8.

2-8 Failure to comply

Failure of any person to comply with the requirements of written notice of a violation of any provision of this Ordinance within three (3) days of receipt of such notice, exclusive of Saturdays, Sundays and holidays, shall constitute a violation of the Ordinance. Such notice shall continue in force and effect until full compliance with the requirements stated therein, and each and every failure to comply with such notice within twenty four (24) hours after the three (3) days allowed for the compliance shall constitute a separate offense.

2-9 Violations and penalties

Unless otherwise provided, any person, firm or corporation within the boundaries of the Town of New Durham who violates any provision of this Ordinance shall be guilty of a violation and, upon conviction, shall be punished by a fine of five hundred dollars (\$500). Each day during which a violation continues shall be considered a separate offense.

### SECTION 3. FIRE ALARMS

3-1 Purpose

It is the purpose of this Ordinance to establish criteria for installation and maintenance of private fire alarm systems.

3-2 Procedure

Upon installation of any private fire alarms system an individual or corporation must make application with the Fire Chief. The application shall indicate the location of the system and the means by which the Town will be notified upon activation of the system.

3-3 Maintenance

It shall be the responsibility of the property owner to maintain and repair the fire alarm system.

3-4 Street Numbers Required

The property where the alarm is utilized shall be identified with a house number designated by the Chief of Police.

3-5 Notification

It shall be the responsibility of the alarm user to notify the Fire Chief as to the pertinent information contained in the application section of this Ordinance.

SECTION 4. ADMINISTRATION

- A. TITLE. The title of this document shall be the "Town of New Durham Alarm Ordinance."
- B. PURPOSE. The purpose of this Ordinance is the reduce undesirable environmental, medical, burglar or security and fire alarm activation's which tax the Fire and Police Departments ability to provide adequate services for true emergencies and other essential business operations. Additionally, it is the intent of this Ordinance to reduce the fiscal impact false alarms have upon the Town.
- C. SCOPE. This Ordinance applies to all alarm systems in the Town of New Durham, regardless of reporting method, in which more than four (4) false alarms are received in the twelve (12) month period of January 1 to December 31 inclusively.
- D. Whenever possible, given the available resources at the time, it shall be the policy of the Town to have appropriate Police and/or Fire Department personnel respond whenever an alarm system indicates the need for an emergency response. However, nothing in this Ordinance shall be presumed to obligate the Town to respond when an alarm system is activated, nor does the Town accept any liability for any damages which may result due to a failure of the Town to respond in a timely manner. Furthermore, it shall be expressly understood that the Town reserves for itself, the right to exercise whatever judgements it deems necessary for the protection of Town employees, agents and other members of the general public when it receives an indication that an alarm system has been activated, without any liability for any damages whatsoever.
- E. The Chief of Police and/or Fire Department responding to an activated alarm system shall be entitled to make a conclusive presumption of a false alarm using his/her sole discretion.
- F. The provisions of this Ordinance shall not apply to the person who intentionally reports a false police or fire alarm, whether said person does so

through the use of an alarm system or by some other means. Individuals who knowingly report any alarms to the Police and/or Fire Department which is false will be prosecuted to the fullest extent permitted by law, in accordance with the provisions of RSA 641 and/or RSA 644.

## SECTION 5. PENALTY ASSESSMENT

- A. The Town shall impose the following penalties on property owners whenever a false alarm is activated in a one year period from January 1 to December 31 inclusive.

1-4	No penalty
5-10	\$50 each
11+	\$100 each

- B. All penalties shall be made payable to the Town of New Durham.
- C. The Police Department shall forward bills to property owners for all false alarm charges within thirty (30) days of the violation. A person being billed for false alarm charges shall have thirty (30) days to submit payment in full, otherwise he/she may be guilty of a violation.
- D. The Town may prosecute the property owner for all violations of this Ordinance. A violation may result in court imposed fines of up to five hundred dollars (\$500) per day, for every day or portion thereof, for as long as the violation continues.
- E. Whenever a particular alarm system has resulted in twelve (12) or more false alarms during a period of twelve (12) consecutive months, the Police Department shall send to the property owner responsible for the alarm system, a seven (7) day written notice that the alarm will be disconnected from the police or fire alarm system.
- F. New alarm installations shall be granted a waiver period of forty-five (45) days following initial completion of the alarm system installation to provide for necessary maintenance, adjustments, etc. to the system.
- G. The Police Department will notify applicable property owner after the adoption of the Ordinance by sending a letter explaining the reason for this Ordinance and a copy of the adopted Ordinance.

## SECTION 6. APPEALS

- A. Any person who is aggrieved by the enforcement of any provision of this Ordinance may submit a written request to the Board of Selectmen for a hearing. Hearing shall be held at the Selectmen's earliest convenience in a public session, with written notification to the aggrieved party of the date and time of the hearing.
- B. During such time as an appeal is pending, the Town shall not disconnect any alarm systems, but a violation may continue for every day or portion thereof while a bill remains unpaid. To avoid this the Town recommends that the

payment be submitted with a request for appeal. In the event the aggrieved party prevails at the hearing, the Town shall refund any payments received along with interest at a rate of 0.03% per day, for every full day during which the Town possessed the payment.

- C. A statement which describes a summary of the appeal process shall accompany every bill and notification of impending action by the Town.
- D. All property which is owned by the Town of New Durham, including public school buildings, shall be exempt from the administration and fee procedures as described herein.

This Ordinance is hereby enacted this 13<sup>th</sup> day of May 1998, May 1, 2003

New Durham Board of Selectmen

Don J. ...  
Philip J. ...  
William ...

Cecile M. Ingham  
Town Clerk