

ORDINANCE NO. 1086

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA AMENDING THE TOWN OF WICKENBURG CODE CHAPTER 10 OFFENSES TO ADD NEW ARTICLE 10-7 ALARM SYSTEMS TO PROVIDE FOR THE REGULATION OF ALARMS WITHIN THE TOWN; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY

WHEREAS, the Wickenburg Police Department and Wickenburg Fire Department expend a significant amount of resources responding to false fire and burglar alarms; and

WHEREAS, the Town is often unable to locate responsible persons to address the false alarms resulting in disturbance of the peace and limiting the availability of necessary public safety resources; and

WHEREAS, providing for the registration and regulation of alarm systems in Wickenburg is in the best interests of the Town of Wickenburg.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, Arizona as follows:

Section 1. In General.

The Code of Wickenburg, Chapter 10 Offenses is hereby amended by adding new Article 10-7 Alarm Systems to read as follows (new text shown in ALL CAPS):

ARTICLE 10-7 ALARM SYSTEMS

Section 10-7-1 REGISTRATION OF ALARM SYSTEMS

- A. IT SHALL BE UNLAWFUL TO OPERATE, OR CAUSE TO BE OPERATED, AN ALARM SYSTEM AT AN ALARM SITE WITHOUT A VALID ALARM PERMIT BEING REGISTERED. A SEPARATE ALARM PERMIT REGISTRATION IS REQUIRED FOR EACH ALARM SYSTEM. ALARM PERMITS MUST BE OBTAINED PRIOR TO THE INSTALLATION AND/OR ACTIVATION OF AN ALARM SYSTEM. AN ALARM USER WITH AN ALARM SYSTEM IN OPERATION AT THE TIME OF THE EFFECTIVE DATE OF THIS ARTICLE MUST REGISTER THE ALARM WITHIN THIRTY (30) DAYS OF NOTIFICATION BY THE ALARM ADMINISTRATOR, AS DESIGNATED BY THE TOWN MANAGER.
- B. THE APPLICATION FOR AN ALARM PERMIT REGISTRATION SHALL BE MADE ON A FORM APPROVED BY THE ALARM ADMINISTRATOR AND BE ACCOMPANIED BY THE REQUIRED FEE(S) IF APPLICABLE. THE APPLICATION MUST BE COMPLETED IN FULL AND SHALL INCLUDE AT A MINIMUM:

1. ADDRESS OF THE ALARM SITE;
 2. THE NAME, ADDRESS (INCLUDING APARTMENT/SUITE NUMBER), AND TELEPHONE NUMBERS FOR THE ALARM PERMIT HOLDER;
 3. THE CLASSIFICATION OF THE ALARM SITE AS EITHER RESIDENTIAL (INCLUDES APARTMENT, CONDO, MOBILE HOME, ETC.) OR COMMERCIAL;
 4. THE CLASSIFICATION OF EACH ALARM SYSTEM LOCATED AT THE ALARM SITE (I.E. BURGLARY, HOLDUP, DURESS, PANIC ALARMS OR OTHER) AND WHETHER THE ALARM IS AUDIBLE OR SILENT;
 5. MAILING ADDRESS, IF DIFFERENT FROM THE ADDRESS OF THE ALARM SITE;
 6. ANY DANGEROUS OR SPECIAL CONDITIONS PRESENT AT THE ALARM SITE;
 7. NAMES AND TELEPHONE NUMBERS OF AT LEAST TWO INDIVIDUALS WHO HAVE AGREED TO ACT AS PRIMARY OR SECONDARY RESPONDER TO:
 - (a) RECEIVE NOTIFICATION OF ALARM SYSTEM ACTIVATION AT ANY TIME;
 - (b) RESPOND TO THE ALARM SITE AS REQUIRED BY WICKENBURG PERSONNEL NO LATER THAN FIFTEEN (15) MINUTES DURING NORMAL BUSINESS HOURS (8:00 AM TO 5:00 PM MONDAY-FRIDAY) AND TWENTY-FIVE (25) MINUTES DURING ALL OTHER TIMES; AND
 - (c) GRANT ACCESS TO THE ALARM SITE AND DEACTIVATE THE ALARM SYSTEM IF NECESSARY.
 8. THE TYPE OF BUSINESS CONDUCTED AT A COMMERCIAL ALARM SITE;
 9. DATE OF ALARM SYSTEM INSTALLATION OR ACTIVATION, WHICHEVER IS APPLICABLE;
 10. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE ALARM BUSINESS; AND
 11. THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE MONITORING COMPANY, IF DIFFERENT FROM THE ALARM BUSINESS.
- C. AN ALARM USER'S PERMIT SHALL BE AVAILABLE WITHIN THE ALARM SITE FOR INSPECTION BY THE ALARM ADMINISTRATOR.
- D. ALARM PERMITS ARE NOT TRANSFERABLE FROM ONE ALARM USER TO ANOTHER ALARM USER OR FROM ONE ALARM SITE TO ANOTHER ALARM SITE. AN ALARM USER SHALL INFORM THE ALARM ADMINISTRATOR OF ANY CHANGE THAT ALTERS ANY OF THE INFORMATION LISTED ON THE ALARM PERMIT REGISTRATION APPLICATION WITHIN FIVE BUSINESS DAYS OF SUCH CHANGE.
- E. ALARM PERMITS SHALL BE ISSUED FOR A CALENDAR YEAR ("PERMIT YEAR").
- F. ALL FINES AND FEES OWED BY AN ALARM PERMIT APPLICANT MUST BE PAID BEFORE AN ALARM PERMIT MAY BE ISSUED OR RENEWED.

Section 10-7-2 FALSE ALARMS AND PERMIT REVOCATION

- A. ANY ALARM SYSTEM WHICH HAS THREE OR MORE FALSE ALARMS WITHIN A PERMIT YEAR SHALL BE SUBJECT TO ASSESSMENT AS PROVIDED IN THIS SUBSECTION.
- B. IF THE POLICE AND/OR FIRE DEPARTMENT RECORDS THREE OR MORE FALSE ALARMS WITHIN THE PERMIT YEAR:
 - 1. THE ALARM ADMINISTRATOR SHALL NOTIFY THE ALARM USER BY CERTIFIED MAIL OF SUCH FACT AND DIRECT THAT A REPORT BE SUBMITTED TO THE ALARM ADMINISTRATOR WITHIN TEN DAYS OF THE DATE OF THE NOTICE. THE REPORT SHALL CONTAIN:
 - A. A DESCRIPTION OF THE ACTION TAKEN OR TO BE TAKEN TO DISCOVER AND ELIMINATE THE CAUSE OF THE FALSE ALARMS; AND
 - B. SPECIFIC DEFENSES, IF ANY, WHY THE ALLEGED FALSE ALARMS SHOULD NOT BE CONSIDERED FALSE ALARMS. EVIDENCE THAT A FALSE ALARM WAS CAUSED BY AN ACT OF GOD, COMMON CAUSE OR ACTION OF THE TELEPHONE COMPANY SHALL CONSTITUTE AFFIRMATIVE DEFENSES TO AN ASSESSMENT FOR THE PARTICULAR FALSE ALARM.
 - 2. IF THE REPORT IS NOT TIMELY RECEIVED BY THE ALARM ADMINISTRATOR, ANY NOTIFIED PARTY SHALL BE DEEMED TO HAVE WAIVED THEIR RIGHT TO ANY FURTHER REVIEW OR HEARING AS PROVIDED IN THIS SUBSECTION, AND THE ALARM USER OPERATING THE ALARM SYSTEM GENERATING THE FALSE ALARMS WILL BE ASSESSED PURSUANT TO SUBSECTION 5 OF THIS SECTION.
 - 3. IF THE REPORT REQUIRED BY SUBSECTION B OF THIS SECTION IS SUBMITTED, THE ALARM ADMINISTRATOR SHALL REVIEW THE CORRECTIVE ACTION TAKEN OR TO BE TAKEN TO DISCOVER AND ELIMINATE THE CAUSE OF THE FALSE ALARMS AND THE SPECIFIC DEFENSES, IF ANY, SET FORTH IN THE REPORT. IF IT IS DETERMINED THAT THE CORRECTIVE ACTION TAKEN OR TO BE TAKEN WILL SUBSTANTIALLY REDUCE THE LIKELIHOOD OF FALSE ALARMS OR THAT A VALID DEFENSE TO THE INITIAL DETERMINATION OF FALSE ALARMS HAS BEEN ACCEPTED, A NOTICE WILL BE SENT TO THE ALARM USER THAT NO ASSESSMENT WILL BE MADE AT THAT TIME. THE NOTICE SHALL SPECIFICALLY SET FORTH THE FINDINGS AND CONCLUSIONS OF THE ALARM ADMINISTRATOR WITH RESPECT TO THE REVIEW OF THE REPORT SUBMITTED.
 - 4. IF THE ALARM ADMINISTRATOR DETERMINES THAT THE ACTION TAKEN OR TO BE TAKEN WILL NOT SUBSTANTIALLY REDUCE THE LIKELIHOOD OF FALSE ALARMS OR THAT A DEFENSE TO THE INITIAL DETERMINATION OF FALSE ALARMS HAS NOT BEEN ALLEGED OR ACCEPTED, A NOTICE SHALL BE SENT BY CERTIFIED MAIL TO THE ALARM USER THAT THEY WILL BE

ASSESSED A FALSE ALARM ASSESSMENT PURSUANT TO SUBSECTION 5 OF THIS SECTION. THE NOTICE OF DECISION SHALL CONTAIN THE SPECIFIC FINDINGS AND CONCLUSIONS OF THE ALARM ADMINISTRATOR WITH RESPECT TO THE REVIEW OF THE REPORT SUBMITTED.

5. ASSESSMENTS IMPOSED PURSUANT TO THIS SECTION SHALL BE IN AN AMOUNT OF \$100.00 PER FALSE ALARM UPON THE FOURTH (4TH) AND ANY SUBSEQUENT FALSE ALARMS WITHIN A PERMIT YEAR. THE ALARM USER SHALL BE RESPONSIBLE FOR THE IMMEDIATE PAYMENT OF ASSESSMENTS.
6. IF THE ALARM USER FAILS TO PAY THE ASSESSMENT WITHIN THE TIME PROVIDED AFTER RECEIPT OF WRITTEN NOTIFICATION FROM THE ALARM ADMINISTRATOR AS PROVIDED IN THIS SECTION, THE ALARM PERMIT MAY BE REVOKED. A REVOKED PERMIT MAY BE REINSTATED UPON PAYMENT OF A REGISTRATION FEE AND PAYMENT OF ALL OUTSTANDING ASSESSMENTS.

SECTION 10-7-3 APPEAL PROCEDURES.

- A. ANY ALARM USER AGGRIEVED BY A DECISION OF THE ALARM ADMINISTRATOR MADE PURSUANT TO THIS SECTION, MAY WITHIN TEN (10) DAYS OF RECEIPT OF NOTICE OF THE DECISION, APPEAL TO A HEARING OFFICER DESIGNATED BY THE TOWN MANAGER. A COPY OF THE APPEAL REQUEST SHALL BE SENT TO THE ALARM ADMINISTRATOR.
- B. THE REQUEST FOR AN APPEAL SHALL SET FORTH THE SPECIFIC OBJECTIONS TO THE DECISION OF THE ALARM ADMINISTRATOR WHICH FORM THE BASIS OF THE APPEAL.
- C. THE HEARING OFFICER SHALL SET A TIME AND PLACE FOR THE HEARING AS SOON AS PRACTICABLE.
- D. THE DECISION OF THE HEARING OFFICER SHALL BE BASED UPON THE EVIDENCE PRESENTED AND IT SHALL:
 1. AFFIRM THE DECISION OF THE ALARM ADMINISTRATOR, IN WHICH CASE ANY ASSESSMENT OR PERMIT REVOCATION IMPOSED PURSUANT TO THIS SECTION SHALL BE SUSTAINED; OR
 2. REVERSE THE DECISION OF THE ALARM ADMINISTRATOR, IN WHOLE OR PART, IN WHICH CASE NO ASSESSMENT SHALL BE IMPOSED.

SECTION 10-7-4 PENALTIES.

ANYONE FOUND GUILTY OF VIOLATING ANY PROVISION OF THIS ARTICLE, EXCEPT FOR THE PROVISIONS OF SECTION 10-7-2, SHALL BE GUILTY OF A CLASS ONE MISDEMEANOR AND SUBJECT TO THE PENALTIES SET FORTH IN ARTICLE 1-8.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

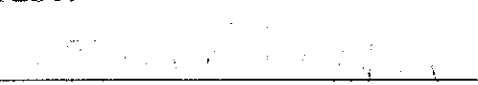
PASSED AND ADOPTED by the Town Council of the Town of Wickenburg,

Arizona, this _____ day of _____, 2011.

By: 

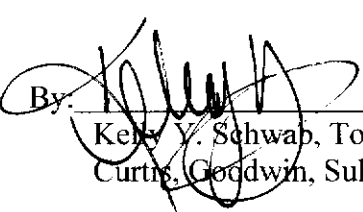
KELLY C. BLUNT, MAYOR

ATTEST:

By: 

Donna Riffel, Town Clerk

APPROVED AS TO FORM:

By: 

Kelly Y. Schwab, Town Attorney
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.,

Number of Councilmembers Present: _____

Number of Votes For: _____

Number of Votes Against: _____

Number of Abstentions: _____

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 1086 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the _____ day of APRIL 2011, and that a quorum was present at the meeting.

Donna Riffel, Town Clerk