

**BOROUGH OF NESQUEHONING**  
**ORDINANCE NO. 2017-5**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, SPECIFICALLY CHAPTER 44, "ALARM SYSTEMS", AND MAKING UNLAWFUL THE STARTING OR SPREADING OF ANY FALSE ALARM OR POLICE, FIRE OR EMERGENCY MEDICAL SERVICES (EMS) ALARM, INCLUDING AVOIDABLE ALARMS CAUSED BY IMPROPERLY MAINTAINED OR DEFECTIVE ALARMS SYSTEMS OR THE NEGLIGENT OR CARELESS TRIGGERING OF SAME AND PROVIDING PENALTIES FOR THE VIOLATION HEREOF AND PROVIDING FOR SEVERABILITY.**

**WHEREAS**, police and fire departments servicing the Borough of Nesquehoning receive certain emergency police, fire and EMS alarms through the Carbon County 911 Center; and,

**WHEREAS**, avoidable or false police, and/or EMS alarms are periodically received as a result of improperly maintained or defective alarm systems, and also as a result of persons improperly placing or triggering such alarms, the result of which often is that police, fire, or EMS personnel and equipment are unnecessarily called out to the detriment and expense of the citizens of the Borough of Nesquehoning.

**WHEREAS**, the key lock box system will eliminate the need for forced entry into structures thereby avoiding costly and time-consuming efforts in gaining access to locked structures during an emergency.

**NOW THEREFORE**, the Borough Council of the Borough of Nesquehoning hereby **ORDAINS** as follows:

**SECTION 1. Definitions**

Whenever used in this ordinance, the following terms shall have the following meanings:

1. **Alarm** - a communication to the police, fire, EMS department or 911 Center indicating that a crime, fire or other emergency situation warranting immediate action by the police, fire, or EMS departments has occurred or is occurring;
2. **Alarm Device** - a device designed to automatically transmit an alarm directly to a public safety agency or to a person who is instructed to notify the public safety agency of the alarm;
3. **Alarm System** - a device or an assembly of equipment which emits an audible sound, which is intended to alert emergency agencies by automatically dialing emergency agency, or which contacts an alarm company, thereby causing the alarm company to contact an emergency agency or which is directly connected to the Carbon County Communications Center;
4. **Alarm User** - any person, who owns, leases or uses an alarm system within the Borough of Nesquehoning;
5. **Avoidable Alarm** - the activation of an alarm system through mechanical failure, malfunction, improper installation, improper maintenance, defective equipment, near miss fire incidents – cooking, cooking, steam, dust, smoking, burglar, panic or hold up, medical assistance, water leaking cause or related to negligence of the owner, user custodian or lessee of an alarm system, or his or her employees or agents, or through any other cause, which indicates that an emergency situation exists requiring

response within the Borough of Nesquehoning when, and emergency situation does not exist. And avoidable alarm also includes the knowing and intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. And avoidable alarm also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. Avoidable alarm - does not include alarms activated by violent conditions or nature, such as hurricanes, tornadoes, earthquakes or any similar cause beyond the control of the alarm system. Activation of an alarm system under any circumstances under which the activator reasonably believes that an emergency situation exists is not an avoidable alarm. Notwithstanding any language to the contrary, the defective installation of alarm system, the failure to repair or cause to be repaired an alarm system or the use of defective equipment in connection with an alarm system shall not constitute an extraordinary circumstance beyond the reasonable control of the alarm user;

6. **Borough** - Borough of Nesquehoning;

7. **Conduct** - an act or omission and its accompanying state of mind or, where relevance, a series of acts or omissions;

8. **Emergency Agency** -any Police Department, Fire Department, EMS Department or other law enforcement or ambulance company (public or private) or other agency summoned to respond to an emergency situation, and any other public safety answering point serving the Borough of Nesquehoning;

9. **False Alarm** - an alarm to which the police, fire, or EMS department response when a crime, fire or other emergency has not occurred;

10. **Knowingly** - a person or entity asked knowingly when he/she/it is aware of particularly certain that his/her conduct will result in producing the result which is prohibited herein;

11. **Intentional** - a person or entity acts intentionally if it is his/her/its conscious object to engage in conduct of the nature prohibited herein or to cause such a result;

12. **Notice Address** - the address which an alarm user designates to the Borough to be used for sending notices;

13. **Nuisance Alarm** - the activation of any alarm system or automatic telephone dialer alarm due to other than the said purpose for which the alarm system is designed. Any activation of any alarm system or automatic telephone dialer alarm that is caused by violent natural catastrophic conditions, including electrical storms or power outages, or conditions beyond the control of the permit holder will not constitute a nuisance alarm;

14. **Person** -an individual, corporation, partnership, Incorporated Association, or other similar entity;

15. **Public Safety Agency** - the Pennsylvania State Police or any municipal police, fire, or emergency medical service department or volunteer fire companies and emergency services;

16. **Purposely or With Purpose** - intentionally.

## **SECTION 2. False or Avoidable Alarms Prohibited**

It shall be unlawful for the property owner, lessee, or any person occupying, in control of or otherwise on any premises with the Borough of Nesquehoning, to make or cause to be made, a false or

avoidable alarm, directly or indirectly to any fire Department, public safety agency or emergency response agency responding to alarms within the Borough.

### **SECTION 3. False or Avoidable Alarm Service Fees**

A. Upon the determination that a false or avoidable alarm, as defined herein, has occurred, the Borough shall notify the person responsible for the alarm device from which the false or avoidable alarm emanated as to the occurrence of the false or avoidable alarm in writing within fourteen (14) days of the date of the false or avoidable alarm. Within fourteen (14) days thereafter, the property owner, lessee, or person in control of the property shall make a written report to the Chief of police and the Fire Chief as to what steps have been taken to prevent or eliminate future false or avoidable alarms.

B. In the event of a second false alarm from the same location in any twelve (12) month period, the property owner, lessee, or person in control of the property from which the false alarm originated shall be subject to a service fee of Five Hundred (\$500.00) Dollars plus the cost of the dispatch of any emergency vehicles or personnel as per the schedule of fees attached hereto as Exhibit "A". These fees may be changed hereafter by Council from time to time by Resolution.

C. In the event of a second avoidable alarm in any calendar year, the person responsible will be required to install a Knox Box at the premises from which the avoidable alarm issued at the direction of the fire department.

D. In the event of a third false alarm occurring in any twelve (12) month period, the property owner, lessee or person in control of the property from which the false alarm originated shall be subject to a service fee of One Thousand (\$1,000.00) Dollars plus the cost of the dispatch of any emergency vehicles or personnel as per the schedule of fees attached hereto as Exhibit "A". These fees may be changed hereafter by Council from time to time by Resolution.

E. In the event of a third or subsequent avoidable alarm emanating from a premises in any calendar year, the person responsible would be subject to a civil penalty fee of not less than One Hundred (\$100.00) Dollars. The Borough Secretary shall notify the alarm user of any avoidable alarm charges by mail. The alarm user shall have the right to appeal to the Borough Council the assessment of his civil penalty within fifteen (15) days of receipt of the notice of assessment. If there is no appeal, or if the appeal is denied by Borough Council, the alarm user shall be required to make payment of the civil assessment within thirty (30) days of notice of the assessment; if there is no appeal and in the event of an appeal, within thirty (30) days of any denial of an appeal. If payment is not made by the alarm user within the aforesaid time period of the civil penalty, then the alarm user will be subject to the enforcement remedies provided herein, in Section 5.

(1) In the event that a civil penalty for an avoidable alarm remains unpaid, the Borough shall have the option of placing a lien upon the premises from which the avoidable alarm emanated together with the filing fees and the cost for same.

F. In the event of a fourth false alarm originating from any one location in any twelve (12) month period, the property owner, lessee or person in control of said property shall be subject to a service of One Thousand (\$1,000.00) Dollars plus the cost of the dispatch of any emergency vehicles or personnel as per schedule of fees attached hereto as Exhibit "A". These fees may be changed hereafter by Council from time to time by Resolution.

G. A fifth or subsequent false alarm. And any one calendar year originating from any single location or draw shall subject the property owner, lessee or person in control of said property shall be subject to a service fee of One Thousand (\$1,000.00) Dollars plus prosecution in accordance with the articles herein plus the cost of the dispatch of any emergency vehicles for personnel as per the schedule of fees attached hereto as Exhibit "A". These fees may be changed hereafter by Council from time to time by resolution

H. Three (3) or more "nuisance alarms" in any twelve (12) month period, which originate from any single location. Our address is hereby deem to be declared a nuisance. Pursuant to the, Pennsylvania Borough Code and the Borough may proceed to abate the nuisance by any and all means available.

#### **SECTION 4. Operational Standards**

A. If alarm devices designed to cause a bell, siren, or sound making device to be activated on or near the premises on which the alarm is installed, at the time it gives an alarm, said alarm device shall be equipped with a timing mechanism that will discharge the audible alarm after a maximum period of ten (10) minutes, other than fire alarms. Exceptions shall be made for certified systems requiring longer sounding alarms for insurance purposes, providing that certification and policy requirements are documented with the Borough and maintained and further providing that these devices are equipped with timers to disengage the audible alarm after the minimum time required for certification. All existing audible alarms. Without such a timing mechanism, other than fire alarms, shall be disconnected by the owner or lessee or person in control of said premises within ninety (90) days of the effective date of this Ordinance.

B. The sensory mechanism used in conjunction with alarm must be adjusted to suppress false indications of fire or intrusion, so that the alarm device will not be activated by impulse due to transient pressure in water lines, short flashes of light, wind noises such as rattling or vibrating of doors or windows, vehicle or noise adjacent to the premises or other forces unrelated to genuine alarm situations.

C. The alarm device must be maintained in good repair to assure reliability of operation.

D. No person shall conduct any testing upon any alarm device without first notifying the Carbon County 911 Center and the Nesquehoning Borough Police Department. Where the equipment is keyed through an intermediary, no such permission is necessary, unless the alarm or signal is to be relayed to the 911 Center or the Nesquehoning Borough Police, Fire or EMS Departments.

**SECTION 5. Penalties and Remedies for Violations**

A. In the event a violation of this Ordinance occurs, in addition to such other remedies as may be available under existing law, the Borough may institute an action in equity, to prevent, restrain, correct or enjoin such violation.

B. Any person, whether as principal or agent, who violates this Ordinance or assigns or abets it's violation, shall, upon conviction thereof, before any Magisterial District Judge, be sentenced to pay a fine not to exceed One Thousand (\$1,000.00) Dollars, together with the costs of prosecution. Each violation shall constitute a separate offense, for which a summary conviction may be sought.

C. The Borough Police Department shall be responsible for the enforcement of this Ordinance.

**SECTION 6. Severability**

if any part of this Ordinance is in conflict or inconsistent with applicable provisions of Federal or State statutes, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable laws or regulations, and the remainder of this Ordinance shall not be affected thereby.

**SECTION 7. Repealer**

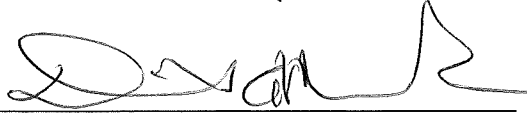
Any ordinances or part of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.


**SECTION 8. Effective Date**

This Ordinance shall become effective upon adoption hereof.


ORDAINED AND ENACTED BY THE Council OF THE Borough OF Nesquehoning, this 26<sup>th</sup> day of July, 2017

**BOROUGH OF NESQUEHONING**

By:   
Council President

ATTEST:   
Secretary

Examined and Approved, this 26<sup>th</sup> day of July, 2017.

  
Mayor