

ORDINANCE NO. 2009-3

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 FALSE ALARMS CAUSED BY IMPROPERLY MAINTAINED OR DEFECTIVE ALARM SYSTEMS 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, false police, fire 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 such alarms, the result of which often is that police, fire or EMS personnel and equipment is unnecessarily called out to the detriment and expense of the citizens of the Borough of Nesquehoning.

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:

"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.

"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.

"Borough" – Means the Borough of Nesquehoning.

"Conduct" – Means an act or omission and its accompanying state of mind or, where, relevant, a series of acts or omissions.

"False Alarm" – An alarm to which the police, fire or EMS department responds when a crime, fire or other emergency has not occurred.

"Knowingly" – A person or entity acts knowingly when he/she/it is aware or practically certain that his/her conduct will result in producing the result which is prohibited herein.

"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.

“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”.

“Person” – An individual, corporation, partnership, incorporated association or other similar entity.

“Public Safety Agency” – The Pennsylvania State Police, or any municipal police, fire or emergency medical service department or volunteer fire companies and emergency services.

“Purposely” or “With purpose” – Means intentionally.

Section 2. False 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 alarm, directly or indirectly to any fire department, public safety agency or emergency response agency responding to alarms with the Borough.

Section 3. False Alarm Service Fees

(a) Upon the determination that a false alarm, as defined herein, has occurred, the Borough shall notify the person responsible for the alarm device from which the false alarm emanated as to the occurrence of the false alarm in writing within fourteen (14) days of the date of the false 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 as to what steps have been taken to prevent or eliminate future false 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 costs 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 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 costs 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.

(d) 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 fee of One Thousand (\$1,000.00) Dollars plus the costs 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) A fifth or subsequent false alarm in any one calendar year originating from any single location or address shall subject the property owner, lessee or person in control of said property to a service fee of One Thousand (\$1,000.00) Dollars plus prosecution in accordance with the articles herein plus the costs 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.

(f) Three (3) or more "nuisance alarms" in any twelve (12) month period which originate from any single location or address is hereby deemed 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 an alarm device is 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 an 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, vehicular noises 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 its 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 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

All 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 24th day of June, 2009.

BOROUGH OF NESQUEHONING

By: *Donato DeMarco*.
President of Council

ATTEST: *RoniSue Ahner*.
Secretary/Treasurer

Examined and Approved this 24th day of June, 2009.

K. Tony Walck.
Mayor