



ORDINANCE NO. 2017-06

Lincoln County Alarm System Ordinance

AN ORDINANCE ESTABLISHING REQUIREMENTS FOR SECURITY ALARM SYSTEMS AND ALARM DEVICES THAT EMIT A SOUND AT THE ALARM SITE AND/OR ARE COMMUNICATED TO LAW ENFORCEMENT SERVICES; REQUIRING USER PERMITS AND REGISTRATION OF ALARM SYSTEM BUSINESSES; RESTRICTING AUTOMATIC DIALING TELEPHONE SYSTEMS; REQUIRING RESPONSE OF KEYHOLDER TO ALARM ACTUATION; REQUIRING PROPER ALARM SYSTEM OPERATION, MAINTENANCE, AND DISPATCH RECORDS; REGULATING ALARM MALFUNCTIONS, FALSE ALARMS, AND FINES THEREFORE; PROVIDING FOR APPEAL OF FINES, REVOCATION OF PERMITS, DISCONNECTION AND RE-CONNECTION OF ALARM SYSTEMS; REQUIRING USE OF LICENSED CONTRACTORS; ESTABLISHING PENALTIES FOR VIOLATIONS; REQUIRING CONFIDENTIALITY OF INFORMATION OBTAINED IN PERMIT AND APPEAL APPLICATIONS; PROVIDING GOVERNMENTAL IMMUNITY IN REGARD TO EXPRESSED OR IMPLIED CONTRACTUAL AGREEMENT WHEN AN ALARM PERMIT HAS BEEN ISSUED; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT AND SEVERABILITY OF PARTS HEREOF; PROVIDING AN EFFECTIVE DATE AND REPEAL OF ORDINANCE NO. 2011-04.

WHEREAS, privately owned alarm systems and alarm devices are causing substantial misuse of manpower and resources of the Lincoln County Sheriff's Department by causing them to respond to numerous false alarms and alarm malfunctions; and

WHEREAS, telephone alarm systems and alarm devices regulated or programmed to make connection with law enforcement can seize and hold Sheriff's Department telephone lines to the exclusion of other calls; and

WHEREAS, in order to promote public health, safety, and welfare the Board of County Commissioners finds that regulation of private alarm systems and alarm devices is a valid public purpose; and

WHEREAS, the regulation of alarm systems and alarm devices is a reasonable and proper exercise of the County's police power.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF LINCOLN, NEW MEXICO:

Section 1. Short Title.

This Ordinance may be cited as the “Lincoln County Alarm System Ordinance.”

Section 2. Authority.

The Board of County Commissioners enacts this Ordinance pursuant to its police powers to provide for the health, safety and welfare of the general public.

Section 3. Purpose; intent.

The purpose of this Ordinance is to maintain and promote the public health, safety, and welfare of the citizens of the County of Lincoln by:

- A. Regulating activities and establishing the responsibilities of persons and/or alarm businesses who use, install and/or provide alarm devices and systems; and
- B. Providing minimum standards and regulations applicable to alarm devices, systems and services.
- C. This Ordinance shall not apply to public fire alarms, nor shall it regulate any alarm devices or systems that will not be seen or heard by the general public and/or which will not be communicated or transmitted, either directly or indirectly, to the Sheriff’s Department.

Section 4. Words and terms defined.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Activated alarm means an alarm or alarm system that is installed, connected to a power source and stands at the ready for detection of the activity it is designed to detect.

Actuated alarm means an alarm or alarm system or device that has been triggered by any means and is emitting a sound and/or transmitting a signal.

Alarm device means an ***alarm system*** as defined below.

Alarm malfunction means the actuation of any security alarm which results in a response by law enforcement, caused by mechanical or electrical failure, improper installation or lack of proper maintenance, or any other response for which law enforcement personnel are unable to gain access to the premises for any reason, or are unable to determine the apparent cause of the alarm activation.

Alarm site means a single premise or location served by an alarm system or systems.

Alarm system, security alarm system or burglar alarm system means any mechanical or electrical device which is designed primarily for the detection of an unauthorized entry into or burglary of a building, structure, facility, or the commission of an unlawful act within a building or structure, which device either emits a sound at the alarm site and/or transmits a signal or message when actuated, which causes notification to be made directly or indirectly to a central monitoring station of the occurrence of a police emergency requiring immediate attention and to which police units are expected to respond, or both. Without limiting the generality of the foregoing, burglar alarm systems shall be deemed to include audible alarms at the site of the installation of the detection device, proprietor alarms and automatic telephone direct dial devices or digital alarm communicator systems. An alarm system does not include:

- (1) an alarm installed on a vehicle unless the vehicle is permanently located at a site; or
- (2) a single station alarm device as defined herein.

Alarm business means any person, individual, corporation, partnership, association, organization or similar entity that provides alarm installation, repair, or monitoring services or provides technicians that sell, install, inspect, repair, service, or maintain alarm systems, or any person or entity that provides telecommunications relay, answering or monitoring services, or that provides protective services incidental or in response to an activated alarm device or system, and is licensed by the Construction Industries Division of the Regulation and Licensing Department of the State of New Mexico as an alarm contractor.

Alarm user means any person, individual, corporation, partnership, association, organization or similar entity that has contracted for monitoring, repair, installation or maintenance service from an alarm business for an alarm system, or any person that owns or operates an alarm system which is not monitored, maintained or repaired under contract.

Automatic telephone dialing device or digital alarm communicator system means an alarm system that automatically sends a coded signal or prerecorded voice message over regular telephone lines by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

Central station refers to a facility that houses the alarm receiving equipment, annunciators, recording equipment and associated test and power supplies; is staffed at all times by competent and experienced personnel who supervise the circuits and investigate signals.

County shall mean the County of Lincoln, New Mexico.

County Manager shall mean the County Manager of the County of Lincoln, or designee, who shall act as an impartial arbitrator at hearings related to the enforcement of this ordinance.

Disconnected/deactivated alarm system means an alarm system whose signals have been ordered to be turned off or have been turned off pursuant to the County's order to the owner or alarm contractor.

Enforcement officer means the Sheriff of Lincoln County or designated representative.

False alarm means an alarm notification to the Sheriff's department whereby, upon investigation, the responding officer finds no evidence of a criminal offense or attempted criminal offense. Excluded from this definition are:

- (1) alarms occurring during violent conditions of nature, including electrical storms, tornados, and other acts of God, where there is clear evidence of physical damage to the system; or,
- (2) the intermittent or continuous disruption of telephone circuits beyond the control of the alarm company and/or alarm user; or
- (3) electrical power disruption or failure in excess or two (2) hours; or
- (4) alarms caused by a failure of the equipment at the alarm business with written verification.

Keyholder means any person authorized to enter the premise who can disable/reset the system.

Local Alarm means a *Single station alarm device*, defined below.

Ordinance Administrator means the County Manager or his designated representative.

Person means an individual, corporation, partnership, association, organization, or similar entity.

Premise means any structure or combination of structures and curtilage thereof, or any other area within the structure wherein an alarm system is installed.

Personal alarm system refers to any duress, holdup, personal robbery, hostage, or panic alarm system that emits a sound and/or transmits a signal or message when activated that is carried on the person. e.g. a remote automobile opening device with an alarm function.

Single station alarm device is an alarm designed to alert only the inhabitants of a premise that does not have a burglar or other alarm system on the premises, e.g. a smoke alarm or a hotel door travel alarm.

Section 5. Alarm system registration and renewal requirements.

A. Every person who owns, leases, possesses or operates an activated alarm system within the unincorporated areas of the County of Lincoln, excluding alarm systems or devices that, will not be seen or heard by the general public and will not communicate or transmit, directly or indirectly, to the Sheriff's Department, shall obtain an annual permit

issued by the County. It shall be a violation of this Ordinance for any person to operate or permit the operation of a security alarm system without a valid alarm user permit.

1. Prior to the activation of a security alarm system after the effective date of this Ordinance, and each calendar year thereafter, the person in control of the property on which the security alarm system is installed shall obtain an annual alarm user permit by filing an application therefore.
2. There shall be a separate registration required for each alarm site.
3. Upon receipt of a completed registration form and a non-refundable refundable permit fee the County shall issue an alarm permit to the applicant unless the applicant has:
 - a. failed to pay any fees assessed under any section hereof; and/or
 - b. had a security alarm permit revoked for the alarm site, and the violation(s) causing the revocation has not been corrected.
4. A permit shall expire on December 31 of each calendar year, regardless of the date of issuance, and shall be renewed for a new one-year period by the submission of an updated application to the County between December 1 and December 31 of each year thereafter for the succeeding calendar year.
5. The Ordinance Administrator shall notify each alarm user of the need to renew their registration within forty-five (45) days prior to the expiration of the registration. It is the responsibility of the alarm user to submit an application for renewal prior to the registration expiration date. Failure to renew will be classified as use of a non-registered alarm system and penalties shall be assessed without waiver.
6. A County representative shall issue a decal specifying the permit number with each permit issued. The alarm user shall post the initial decal and subsequent renewal decals prominently on or near the front entrance to the premises, such that information provided on the decal is visible from outside the structure.
7. An alarm registration permit cannot be transferred to another person or alarm site.

8. Any false statement of a material matter made by the applicant for the purpose of obtaining an alarm permit shall be deemed sufficient cause for refusal to issue a permit or revocation thereof.

B. Each permit application must include the following information:

1. The name(s), complete physical address, mailing address, and home telephone number of the alarm user who shall be responsible for the proper maintenance and operation of the alarm system and payment of all fees assessed under this article;
2. Any business name used for the premises on which the alarm system is to be installed and operated;
3. The classification of the alarm site as either residential or a business;
4. The classification of each alarm system on site (burglary, fire, holdup, duress, panic or other) and for each classification whether such alarm is audible or silent;
5. Information regarding any dangerous or special conditions present at the alarm site;
6. The name and telephone number(s) of at least one (1) person who is a keyholder to the property and who, if contacted at any time, will respond to the alarm site within thirty (30) minutes after receiving a request from the Sheriff's Department;
7. If applicable, the name and phone number of the alarm company and the central station;
8. When any of the information required in subsection B has been changed, the alarm user shall report the change(s) in writing to the County within fifteen (15) days of such change(s).

Section 6. Failure to Pay Fees; Failure to Renew Permit; Lien.

A. All fees arising under this Ordinance shall become due and payable by the responsible party of the tract or parcel of land being served, at the time the permit or renewal of permit is applied for, and the County of Lincoln shall be entitled to a lien upon the tract or parcel of land being served pursuant to the authority granted under §§3-36-1 *et seq.* NMSA 1978, and §4-37-1 *et seq.* NMSA 1978, which lien shall be a first and prior lien on the property, coequal with municipal liens pursuant to §3-26-2 NMSA 1978, but subject only to the lien of general state and county taxes.

B. The lien provided for in this Section shall be enforced in the manner

prescribed in §§3-36-1 through 3-36-7 NMSA 1978. For purposes of this Section, such action shall be taken by the Lincoln County Chair of the Board of County Commissioners upon a majority vote of Commissioners. In any proceedings where pleadings are required, it shall be sufficient to declare generally for the fees assessed for the issuance of a permit, a permit renewal or false alarm. Notice of the lien shall be filed in the manner provided in § 3-36-1 NMSA 1978, and the effect of such filing shall be governed by §3-36-2 NMSA 1978.

C. The charges and fees imposed herein are the responsibility of the party responsible for the premises, regardless of whether occupied by an owner, tenants or others, and the County may file a lien against the property for such charges, penalties and attorney's fees incurred for the cost of filing the lien, except as provided in paragraph D, below.

D. Paragraph C of this section shall not apply if an owner notifies the County of Lincoln or its designee that charges that may be incurred by a tenant shall not be the responsibility of the owner. Such notification shall be given in writing prior to the initiation of the debt and shall include the location of the rental property.

Section 7. Alarm businesses required to register.

Any alarm business that provides alarm installation, repair, or monitoring services shall register with the County of Lincoln prior to doing business within the County. The registration must be presented to a law enforcement officer, and to the County Manager or his designated representative upon request.

Each alarm business shall designate one individual as the alarm response manager for the business who will manage alarm related issues and act as the point of contact for the Ordinance Administrator. The alarm response manager shall be knowledgeable of the general provisions of the Ordinance, as well as have the knowledge and authority to deal with false alarm issues and respond to requests from the Ordinance Administrator. The name, phone number, and email address of the designated alarm response manager shall be provided to the Ordinance Administrator.

Section 8. Alarm businesses required to report client information to County.

All alarm businesses shall report client information to the County of Lincoln as described below, with the understanding that any and all information regarding the business and its clients shall remain confidential and is to be used by the County only for the purposes of enforcing this Ordinance.

A. All alarm businesses shall provide a complete client list report to the Ordinance Administrator within ten (10) business days from the date of request of all alarm systems located within the County (not to include clients located in incorporated municipalities). Each report shall include at the minimum the name, mailing address, and

phone number of the alarm user, complete physical address of the alarm site and activation date.

B. All alarm businesses shall provide a monthly report to the Ordinance Administrator by the twenty-fifth day (25th) of the month listing all new alarm systems, newly deactivated alarm systems, or a statement of no changes, located within the County (not to include clients located in incorporated municipalities), which the alarm business contracted to do so during the previous month. Each report shall include at the minimum the name, mailing address, and phone number of the alarm user, complete physical address of the alarm site and activation date. Requests for information may be made as needed at the discretion of the Ordinance Administrator.

C. All alarm businesses that purchase alarm system accounts from another alarm business shall assist the Ordinance Administrator by notifying the alarm users that the alarm users need to notify the Ordinance Administrator that the alarm registration needs to be updated with the name and contact information of the new alarm business that is servicing the alarm site.

Section 9. Automatic dialing telephone systems prohibited; exceptions.

It shall be unlawful for any individual, partnership, corporation, or other form of association to sell, offer for sale, install, maintain, operate, or assist in the operation of any alarm system with an automatic dialing or digital alarm communicator feature that automatically calls the Sheriff's Department in the event of an alarm actuation, providing, however, that financial institutions required to have an alarm system pursuant to the provisions of the Bank Protection Act of 1968 (12 USC 1882) may install, with permission of the Sheriff, a signal line directly to the Sheriff's Department for the purpose of reporting burglaries and robberies.

Section 10. Response to alarm actuations, malfunctions, and false alarms

A. An alarm user shall not activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report.

B. An alarm user shall maintain the alarm site and alarm system in a manner that will minimize or eliminate false alarms.

C. The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal will sound for no longer than five (5) minutes after being actuated and will not automatically repeat its alarm signal without having been reset manually.

D. An alarm business shall verify every alarm signal, except a duress or holdup alarm actuation, before requesting the response of law enforcement to an alarm system signal, and shall communicate any and all available information (north, south, front, back, floor, etc.) about the location, regarding all alarm signals, devices or systems related to the

dispatch request, as well as the type of alarm actuation (burglary, fire, holdup, duress, panic or other, silent or audible, interior or perimeter), and if the alarm business knows that the alarm user or a keyholder is on the way to the alarm site.

E. Alarm businesses shall communicate cancellations of alarm signals to law enforcement in a timely manner.

F. An alarm user shall respond or cause a keyholder to appear at the alarm site within thirty (30) minutes when notified of an alarm actuation. The inability of either the alarm business's central station or the law enforcement communications center to notify an alarm user or keyholder, after making a reasonable attempt to do so, will be considered a failure to respond within thirty (30) minutes. If, after 30 minutes, an alarm user or keyholder fails to respond to the site of an audible alarm, a Sheriff's deputy may disconnect the alarm system.

G. Any alarm user who operates a newly installed system will not be subject to the false alarm fines set forth herein for a period of thirty (30) days following the system's activation. The installation date shall be the date of activation as documented by the currently licensed person who installed the alarm system, or the date of the purchase receipt for a self-installed system. The exemptions set forth in this subsection shall not apply to any person who has failed to comply with Section 10 hereof.

H. Alarm actuations caused by actual criminal offenses or with evidence of a criminal attempt shall not be counted nor a false alarm actuation accumulated.

Section 11. Alarm dispatch records.

The officer responding to a dispatch resulting from a fire, burglary, robbery or duress alarm notification shall record such information as necessary to permit the alarm business to maintain records, including but not limited to the following information:

1. identification of the alarm user;
2. identification and address of the alarm site;
3. permit number if visible;
4. time of day and date;
5. name and address of the keyholder on premises at the alarm site;
6. arrival time and time the Deputy cleared from the alarm site; and
7. whether the alarm notification was caused by a false alarm or alarm malfunction.

Section 12. Revocation of permit; suspension of response; disconnection of alarm system.

A. Except for premises protected by an alarm system required by law, the County's representative is hereby authorized to order the suspension of response, and/or disconnection or deactivation of any alarm system, by written notice served on the alarm

user, its designee, or an occupant or employee at the alarm site, for violation of any Section of this Ordinance.

B. The written notice to disconnect or deactivate shall specify the date by which the alarm user is required to disconnect or deactivate the alarm systems. Said date shall be at least fifteen (15) days following the date of the notice. The alarm user may appeal the order of the County pursuant to Section 15, hereof.

C. Unless there is separate indication that a crime is in progress, law enforcement may refuse to respond to an alarm site for which the alarm permit has been revoked.

Section 13. Failure to disconnect or unauthorized reconnection of alarm system.

It shall be unlawful for any person to fail to disconnect or deactivate an alarm system when ordered to do so pursuant to Section 13 hereof. It shall be unlawful for any person to reconnect an alarm system which has been disconnected or deactivated pursuant to an order of the County.

Section 14. Reconnection of alarm systems.

Any order to disconnect or deactivate an alarm system may be rescinded by the County's representative upon a finding by the County that the alarm user of the premises has taken corrective action from which it is reasonable to conclude that the cause of the false alarms or alarm malfunctions at the premises will be remedied before any reconnection of an alarm system.

Section 15. Appeal.

Any alarm user shall be entitled to appeal a fine or order to the County Manager. An appeal must be in writing, setting forth the reasons for the appeal, filed within fifteen (15) days of the receipt of the notice. The County Manager shall review the facts and circumstances and determine whether the alarm user has shown good cause why the fine or order should be withdrawn. A decision shall be rendered in writing by the County Manager within ten (10) days after the appeal is received. The decision of the County Manager is final as to administrative remedies within the County. The exclusive remedy for parties dissatisfied with the action of the County Manager shall be the filing of an appeal with the Twelfth Judicial District Court within thirty (30) days of the date the decision of the County Manager was rendered, pursuant to NMRA Rule 1-074.

Section 16. Use of licensed contractors.

An alarm user may install his/her own alarm system, provided all requirements of this Ordinance are met. An alarm user shall not contract with or retain an alarm business that is not properly licensed pursuant to and in compliance with §60-13-1 *et seq.* NMSA 1978 for the purposes of installation or monitoring of an alarm system.

Section 17. Alarm system operations; limitations.

The county, its officers, employees and agents, shall not assume any duty or responsibility for the installation, maintenance, operation, repair, or effectiveness of any privately-owned alarm system, those duties or responsibilities being solely those of the alarm user of the alarm site.

Section 18. Government Immunity.

Alarm Registration is not intended to nor will it create a contract, duty or obligation, either expressed or implied, for response to notification of an actuated alarm. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that law enforcement response may be influenced by factors as including, but not limited to: the availability of Deputies, priority of calls, weather conditions, emergency conditions, staffing levels, and prior response history.

Section 19. Conflict Clause.

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 20. Fees, Fines and Penalties.

Any person violating this Ordinance shall be subject to the specific penalties set forth below for specific violations as follows:

- \$25 Fee to alarm user for alarm registration.
- \$25 Fee to alarm user for alarm registration renewal.
- \$25 Fee to alarm user for alarm reconnection after Order to disconnect.
- \$100 Fine to alarm user for failure to maintain a valid alarm registration permit.
- \$50 Fine to alarm user for failure or refusal of the alarm user or keyholder to respond within thirty (30) minutes of an alarm actuation.
- \$0 Fine to alarm user for Sheriff's Department response to first false alarm within a calendar year.
- \$0 Fine to alarm user for Sheriff's Department response to second false alarm within a calendar year.

- \$0 Fine to alarm user for Sheriff's Department response to third false alarm within a calendar year.
- \$25 Fine to alarm user for Sheriff's Department response to fourth false alarm within a calendar year.
- \$25 Fine to alarm user for Sheriff's Department response to fifth false alarm within a calendar year.
- \$250 Fine to alarm user for Sheriff's Department response to sixth or more false alarm(s) within a calendar year.

In lieu of the fines specified in this article, the County may file a complaint against any person, firm, corporation, partnership or other entity that violates any provisions of this Ordinance. Each violation is a separate and distinct offense.

Any alarm business that fails to comply with the requirements in Section 8 and 9 may be restrained from conducting business in Lincoln County, New Mexico by the filing of a Temporary Restraining Order, Preliminary and Permanent Injunction with the Twelfth Judicial District Court in accordance with NMRA Rule 1-066.

If violations and penalties are not specifically identified herein, then any person who intentionally violates the provisions of this Ordinance shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00) or imprisonment in the County Detention Center for not more than ninety (90) days, or both, in accordance with Section 4-37-3, NMSA 1978.

The alarm user shall also be responsible for any legal fees or costs incurred by the County in enforcement of this Ordinance.

Section 21. Severability Clause.


It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance shall be deemed severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases hereof.

Section 22. Effective Date and Repeal of Ordinance No. 2011-04.

This Ordinance shall take effect thirty days after recording in the Public Records of Lincoln County, at which time Lincoln County Ordinance No. 2011-04 shall be repealed.

PASSED, APPROVED, and ADOPTED this 21st day of November, 2017.

**BOARD OF COMMISSIONERS OF
THE COUNTY OF LINCOLN,
NEW MEXICO**



Preston Stone, Chair



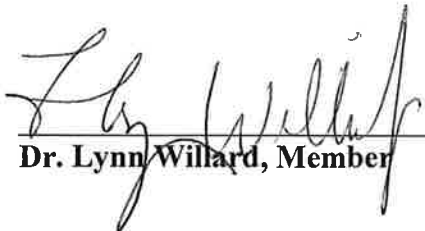
Dallas Draper, Vice Chair



Elaine Allen, Member



Thomas F. Stewart, Member



Dr. Lynn Willard, Member

Attest:



Rhonda Burrows, County Clerk

