

Chapter 5.06 ALARM SYSTEMS

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5.06.010 Definitions.

- A. "Alarm Coordinator's office" means those persons designated by the Chief of Police to administer and enforce the provisions of this ordinance.
- B. "Alarm school" means a course of instruction sponsored and jointly conducted by the Overland Park Police Department and the alarm industry.
- C. "Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police would be expected to respond.
- D. "Alarm user" means any person, firm, partnership, association, corporation, business, company or organization of any kind in control of any building, structure, premise or facility on which an operating alarm system is located.
- E. "Answering service" means a telephone answering business providing among its services the service of receiving on a continuous basis through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the communication center of the Overland Park, Kansas, Police Department.
- F. "Automatic dial protection device" means an electrically operated instrument composed of sensory apparatus and related hardware which automatically sends over telephone lines a prerecorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a force or condition characteristic of an unauthorized intrusion or an emergency message indicating a need for emergency response.
- G. "Burglary alarm system" means an automated alarm system signaling an entry or attempted entry into an area protected by the system.

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- H. "Central station protective system" means a system or group of systems operated by a person, firm or corporation in which the operations of electrical protection circuits and devices are transmitted to, recorded in, maintained and supervised from a central station having operators in attendance at all times.
- I. "Chargeable false alarm" means a false alarm which is counted against the permittee for the purpose of determining when and the amount of any alarm fee to be assessed pursuant to O.P.M.C. 5.06.050.
- J. "City" means the City of Overland Park, Kansas.
- K. "False alarm" means an alarm signal, eliciting an urgent response by police when a situation requiring an urgent response does not, in fact, exist, but does not include an alarm signal caused by violent conditions of nature. A false alarm may be the result of, but not limited to, mechanical or electronic failure, malfunction, improper installation, improper adjustment, accidental tripping, misoperation, misuse, defect or negligence of a person. The burden of proving that such alarm was not a false alarm shall be on the alarm user.
- L. "Local alarm system" means an alarm system which when activated causes an audible and/or visual signaling device to be activated and is intended to be seen and/or heard by others outside of the protected premises.
- M. "Nonchargeable false alarm" means a false alarm that, due to type, cause or circumstance, will not be counted against the permittee for the purpose of determining when and the amount of any false alarm fee to be assessed pursuant to O.P.M.C. 5.06.050.
- N. "Non-response" means police officers will not be dispatched to investigate a report of a burglary alarm system alarm signal.
- O. "Notice" means, unless otherwise specified herein, written notice, given by personal service upon the addressee, or given by United States mail, postage prepaid, addressed to the persons to be notified at his or her last known address. Service of such notice shall be effective upon completion of personal service, or upon placing of the same in the custody of the United States Postal Service.
- P. "Panic Alarm" means an alarm device or system designated to be victim activated to alert others to the existence of an emergency.
- Q. "Permit year" means a twelve-month period beginning on January 1 of each year and ending on December 31 of the same year.
- R. "Police Chief" means the Chief of Police of the City of Overland Park, Kansas, or his or her designee.
- S. "Primary trunkline" means a telephone line leading into the communications center of the Overland Park, Kansas Police Department that is for the purpose of handling emergency calls on a person-to-person basis and which line is identified by a specific listing among the emergency numbers in the telephone directory issued by the telephone company serving the City.

- T. "Proprietary system" means an alarm system sounding and/or recording alarm and supervisory signals to a control center located within the protected premises, the control center being under the supervision of the proprietor of the premises. If a proprietary system includes a signal line connected directly or by means of an automatic dialing device to a police communications system, a central station protective system or answering service, it thereby becomes an "alarm system" as defined in this section.
- U. "Robbery alarm system" means an alarm system designed to be person-activated signaling a robbery or attempted robbery.
- V. "Secondary trunkline" means a telephone line leading into the central switchboard in the Overland Park City Hall that is identified by a specific listing in the telephone directory for handling administrative and other calls on a person-to-person basis.

(History: Ord. APD-1982 §1, 96; APD-1957 §1, 95; APD-1809 §1, 93; APD-1336 §1, 85; APD-1140 §1, 81; APD-713)

5.06.020 Permit required; Unlawful acts; Exception.

- A. It is unlawful for any person, firm, partnership, association, corporation, business, company or organization of any kind to be in control of any building, structure, premise or facility on which an operating alarm system is located without first obtaining a permit for such alarm system. Provided, the provisions of this Section are not applicable to local alarm systems affixed to motor vehicles.
- B. A permit fee of \$10.00 will be charged for each alarm permit issued. This fee shall be paid to the City Clerk prior to issuance of the permit. All valid alarm permits in effect on December 31, 1995, and all alarm permits issued after that date shall be valid as long as the permit holder continuously operates an alarm system at the same location. Permit holders are required to verify the continued operation of the permitted alarm when such information is requested by the City staff either orally or in writing. Alarm users who fail to secure an alarm permit prior to placing it in operation shall be charged a \$25.00 late fee if the alarm user has not secured an alarm permit within 15 days of receipt of notice from the City that an alarm permit is required, unless the Chief of Police or his designee waives the late fee for good cause shown. This late fee shall be in addition to and separate from the \$10.00 alarm permit fee. Nonpayment of the \$25.00 late fee is a violation of this ordinance. An alarm permit will not be issued until both the \$25.00 late fee and the \$10.00 alarm permit fee are paid. Failure to secure an alarm permit within 15 days of receipt of notice that an alarm permit is required shall also result in the Chief of Police or his or her designee directing that police response to future burglar alarms be terminated, until both the \$10 license fee and the \$25 late fee are paid in full. The alarm coordinator's office shall send notification of the "non-response" order to the alarm user by regular mail. Alarm users may appeal the "non-response" order to the Overland Park Municipal Court in writing within 15 days of the date the order was mailed. The hearing on appeal shall be as provided in O.P.M.C. 5.06.05. During the pendency of any appeal the "non-response" order shall remain in effect. Upon payment of the required fees the order of "non-response" shall be terminated, provided nothing contained in this paragraph or Section shall imply or otherwise convey the impression

that there exists a duty or a duty is created that would require a law enforcement response to any alarm received by the police department upon payment of the required fees. It is a violation of this ordinance to operate an alarm without a permit. Violations may be prosecuted in the municipal court. Upon request, applicants for an alarm permit shall provide proof of alarm system acquisition and installation.

(History: Ord. APD-2811 §1, 2009; APD-2120 §1, 98; Ord. APD-2104 §1, 98; Ord. APD-2063A §1, 97; APD-2063 §1, 97; APD-1982 §2, 96; APD-1957 §2, 95; APD-1897 §1, 94; APD-1809 §2, 93; APD-1140 §2, 81)

5.06.030 Application for permit; Non-transferability; Exceptions.

- A. In accordance with O.P.M.C. 5.06.020, every alarm user or operator shall obtain an alarm permit from the Police Department Alarm Coordinator's office prior to operation or activation of an alarm system. Alarm permits are non-transferable. Each separate building, structure, business, premise or facility maintaining one or more alarm systems must obtain an alarm user's permit. Each permit shall bear the signature of the Chief of Police or his or her designee and shall be physically kept upon the premises using the alarm system and shall be available for inspection by the Chief of Police, his or her designee or any police officer upon request.
- B. An alarm user which is a governmental political unit shall be subject to this ordinance; but such governmental political unit shall not be subject to the payment of any fees.
- C. An alarm user which temporarily and in cooperation with the Overland Park Police Department possesses, maintains, or controls an alarm system owned by the Overland Park Police Department shall be subject to this ordinance; provided however, such alarm user shall not be subject to the payment of any fees.

(History: Ord. APD-1982 §3, 96; APD-1957 §3, 95; APD-1897 §2, 94; APD-1809 §3, 93; APD-1336 §2, 85; APD-1140 §3, 81)

5.06.040 Regulations; Requirements; Duties; Unlawful acts.

- A. The Chief of Police or his or her designee may require inspection of any or all alarm systems installed within the City.
- B. Local alarm systems shall not emit a sound similar to that of an emergency vehicle siren or a civil defense warning system.
- C. Local alarm systems shall be equipped to automatically discontinue emitting an audible sound within 15 minutes of activation.
- D. Whenever a change occurs relating to the written information required by this ordinance, the alarm user shall give written notice thereof to the Alarm Coordinator's office within 15 days after such becomes effective.

- E. Alarm users shall notify the police communications center prior to any service, test, repair, maintenance, adjustment, alteration or installation of a local or police monitored alarm system which might activate a false alarm. Upon the completion of such service, test, repair, maintenance, adjustment, alteration or installation, the alarm user shall notify the police communications center of such completion. The police communication's officer shall forward this information to the Alarm Coordinator's office as requested.
- F. An alarm business, alarm user, employee of a central station protective system or employee of an answering service charged with the responsibility of relaying a live voice request for police response upon the activation of an alarm system shall give the following information to the police communications center at the time of such request: address of alarmed location; type of alarm system that has been activated; name of commercial business or full first and last name of resident; specific location of the building, structure or facility protected by the activated alarm; name of the alarm business making request if applicable; name of person making the request; and a phone number where the requesting party can be contacted. It is the sole responsibility of the person making such request to notify authorized persons in control of such alarmed building, structure or facility that such alarm has been activated.
- G. The Alarm Coordinator's office shall be responsible for determining which alarms constitute false alarms as defined by Section 5.06.010. A record of all false alarms shall be maintained by the Alarm Coordinator's office.
- H. At the time of the first and second chargeable false alarms for any permittee within any permit year, the Alarm Coordinator's office will notify the permittee by first class mail of such occurrence and that additional chargeable false alarms during the permit year will require the payment of fees as per Section 5.06.050 of this Code.
- I. It is unlawful for any person to activate any burglary, robbery or residential emergency alarm for the purpose of summoning police except in the event of an actual or attempted burglary, robbery or medical emergency or for such person notifying the police of an activated alarm and having knowledge that such activation was apparently caused by an electrical or other malfunction of the alarm system to fail to notify the police communications center of such malfunction.
- J. It shall be unlawful to have or maintain an alarm system on any premise without providing address numbers which are clearly visible from the roadway abutting the property. For residential premises, the address numbers shall be placed in a position on the building or on any structure, mail box, sign or monument on the property that is securely fixed to the ground to be plainly legible and visible from the street or road fronting the property. For Commercial premises, the address numbers shall be posted to the left, right or overhead to the main entrance of the building, structure or facility and if such building, structure or facility is on a corner lot, address numbers shall face the street named in the official address as designated by the United States Postal Service.

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- K. The Chief of Police shall establish, distribute and cause the enforcement of Rules and Regulations, subject to the provisions of this chapter, as from time to time he/she deems it necessary for the implementation of this ordinance.

(History: Ord. APD-2735 §1, 2008; APD-1982 §4, 96; APD-1957 §4, 95; APD-1897 §3, 94; APD-1809 §4, 93; APD-1336 §3, 85; APD-1140 §4, 81)

5.06.050 False alarms; Fees required; Grace period; Right of Appeal.

- A. The following fees shall be assessed alarm users who have recorded "chargeable" false alarms within a permit year:
1. There shall be no fees assessed for the first and second chargeable false alarms.
 2. There shall be a fee of \$50.00 assessed for the third chargeable false alarm.
 3. There shall be a fee of \$100.00 assessed for the fourth chargeable false alarm.
 4. There shall be a fee of \$150.00 assessed for the fifth chargeable false alarm.
 5. There shall be a fee of \$200.00 assessed for the sixth chargeable false alarm.
 6. There shall be a fee of \$250.00 assessed for the seventh chargeable and each subsequent chargeable false alarm.
- B. The payment of the fees provided for in paragraph (a)(1-6) of this section shall be submitted to the City Clerk's office within 30 days of receiving notice that such fee is due.
- C. Failure to pay false alarm fees is a violation of this ordinance. Violations may be prosecuted in the municipal court.
- D. If within the first 45 days of use, a permittee's alarm system signals a false alarm, the first false alarm during this period shall be considered a nonchargeable false alarm. This one-time-nonchargeable false alarm is intended to afford the permittee the opportunity to make adjustments and corrections in the alarm system. This nonchargeable false alarm shall be in addition to the two chargeable false alarms permitted each permit year that are not assessed false alarm fees. Provided, the provisions of this paragraph are not applicable to alarm users operating an alarm system without a permit. Upon request, permittees shall provide proof of alarm system acquisition and installation.
- E. Any alarm user who has been notified that a chargeable false alarm has been recorded and assessed against him/her may appeal such assessment of false alarm to the Chief of Police or his or her designee by filing a written notice of appeal with the Chief of Police within 15 days of the date of the notice of such assessment of false alarm. The filing of such notice shall stay the effect of the assessment and false alarm fee until a decision on the appeal is rendered by the Chief of Police or his or her designee.
- Subsequent to considering the statements and other evidence of the person appealing, the Chief of Police or his or her designee shall have the power to uphold or set aside the assessment of chargeable false alarm and fees. Any person aggrieved by or dissatisfied with the decision of the Chief of Police or his or her designee, may within 15 days of the

date of the decision, file a written notice or statement of appeal from said decision, to the Overland Park Municipal Court for an administrative hearing. The written notice shall be filed with the clerk of the municipal court and a copy of the notice of appeal delivered to the Chief of Police.

The filing of a written appeal under this subsection shall stay any false alarm fee assessed by the Chief of Police or his or her designee.

(History: Ord. APD-1982 §5, 96; APD-1957 §5, 95; APD-1912 §1, 95; APD-1897 §4, 94; APD-1809 §5, 93; APD-1403 §1, 86; APD-1336 §4, 85; APD-1140 §5, 81)

5.06.052 Police non-response to alarms and permit revocation.

- A. Subsequent to the ninth false alarm during the calendar year, the Alarm Coordinator's office shall send notification to the alarm user by regular mail of the following information:
That if an additional false alarm occurs during the calendar year, the Alarm Coordinator's office will review the alarm user's history to include past and ongoing efforts to eliminate false alarms. Based on this review, the Alarm Coordinator's office will make a recommendation to the Chief of Police as to whether the police should terminate its response to future burglar alarms and to revoke the alarm user's permit.
- B. Upon receipt of a recommendation of non-response and permit revocation, the Chief of police shall review the recommendation and may direct the non-response to any subsequent burglar alarms and revocation of alarm permit. Only the Chief of Police or the Acting Chief of Police may direct the non-response to burglar alarms and revocation of permit. The police non-response to burglar alarms and revocation of permit shall remain in effect until the alarm user meets the requirements for reinstatement of response and reissuance of revoked alarm permit as set forth herein. Only the Chief of Police or the Acting Chief of Police may direct the reinstatement of response to burglar alarms and reissuance of alarm permit.
- C. Alarm users may appeal a non-response order and permit revocation to the municipal court in writing within 15 days after receipt of the notice of non-response from the Chief of Police. Police response and active status of alarm permit will continue while an appeal is pending. Appeals of non-response orders and permit revocation shall be conducted in accordance with the procedures set forth in O.P.M.C. 5.06.055.
- D. Non-response orders, notice of permit revocation and information concerning the right to appeal the non-response order and permit revocation will be sent to the alarm user by certified mail at least thirty days prior to the effective date of the non-response order and permit revocation.
- E. Alarm users may apply for reinstatement of police response to burglar alarms and reissuance of alarm permit by applying in writing on a form provided by the Alarm Coordinator's office. The Chief of Police may set aside the non-response order and reissue the alarm permit upon finding that reasonable efforts have been made to correct the alarm user's problem with false alarms. Reasonable efforts shall include but not be limited to:

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1. Submission of a written report from the alarm company servicing the alarm, certifying that the system has been inspected, repaired if required and that it is functioning properly.
2. Payment of all license permit and false alarm fees.
3. Proof of a valid alarm permit.
4. If a residence, the alarm user must show proof that the alarm user and all adults residing in the household where the alarm is located have attended and successfully completed the alarm school. The Chief of Police may waive this requirement if valid and compelling reasons preclude attendance as required.
5. If a commercial establishment, the alarm user must show written proof that all supervisory personnel working on the alarmed premises have attended and successfully completed the alarm school. The Chief of Police may waive this requirement if valid and compelling reasons preclude attendance as required.
6. Submission of a false alarm prevention report that clearly sets forth the actions taken to discover and eliminate false alarms and what actions will be taken in the future to eliminate false alarms. False alarm prevention report forms will be provided by the Alarm Coordinator's office.
7. Payment of a fifty dollar administrative review fee.

If the Alarm Coordinator's office determines that the required corrective action has been taken, the office will submit a report to the Chief of Police documenting the corrective action and recommending whether the alarm user should be reinstated to response status and the user's permit reissued. Subsequent to reviewing the reinstatement recommendation of the Alarm Coordinator's office, the Chief of Police may reinstate police response to burglar alarms and reissue the user's alarm permit or may after consultation with the Alarm Coordinator's office, establish additional requirements to substantiate that "reasonable efforts" are being made to correct the problem with false alarms.

Activation of the alarm system during the period an alarm permit has been revoked shall constitute a violation of this ordinance. Violations may be prosecuted in the municipal court. (History: Ord. APD-1982 §6, 96)

5.06.054 No duty created.

Nothing contained herein, to include but not limited to, non-response to burglar alarm orders, permit revocation or reinstatement orders issued by the Chief of Police, shall:

- A. Preclude the police department from responding on a discretionary basis to panic alarms, ambush alarms, telephonic or other communications describing emergencies or crimes in progress, or routine calls for service, or
- B. Be construed in any fashion to create a duty for the police to respond under any circumstance, or
- C. Limit the police department from assessing fees for false alarms or issuing notices to appear for violations of this ordinance.

(History: Ord. APD-1982 §7, 96)

5.06.055. Appeals, administrative hearing.

The hearing on appeal provided for in O.P.M.C. 5.06.050 shall be conducted by an Overland Park Municipal Court judge who shall sit as an administrative judge for purposes of this chapter. The hearing on appeal shall be scheduled and held by the municipal court no later than ten business days after the notice of appeal is filed with the clerk of the court. The time of the hearing shall be set by the clerk of the municipal court. The sole issue for determination by the court shall be whether the decision of the Chief of Police or his or her designee was within the scope of his/her authority, supported by substantial evidence and not arbitrary and capricious. The Court shall make specific findings of fact and conclusions of law in each case.

Pursuant to its role as administrative judge, the Court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued hereunder or to testify in any matter regarding which he or she may be lawfully questioned, the Court may order such person to comply with such subpoena and testify; and failure to obey the Court's order may be punished by the Court as contempt.

(History: Ord. APD-1912 §2, 95)

5.06.060 User Instructions.

Repealed.

(History: Ord. APD-1336 §5, 85; APD-1140 §6, 81)

5.06.070 Automatic dialing devices; Certain interconnections prohibited; Exceptions.

- A. It is unlawful for any person to program an automatic dialing device to select a primary trunk line; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device within 12 hours of receipt of written notice from the Alarm Coordinator's office that it is so programmed.
- B. It is unlawful for any person to program an automatic dialing device to select a secondary trunk line; and it is unlawful for an alarm user to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the Alarm Coordinator's office that an automatic dialing device is so programmed.

(History: Ord. APD-1982 §8, 96; APD-1140 §7, 81)

5.06.075 Alarm school.

The Chief of Police shall establish rules and regulations for the implementation and operation of an alarm school to be operated in cooperation with the alarm industry. The alarm school will provide instruction and information to alarm users to help eliminate false alarms. Alarm users that successfully complete alarm school will be issued a completion certificate that shall be worth \$50.00 toward any chargeable false alarm fees pending at the time the user attended the school.

(History: Ord. APD-1982 § 9, 96)

5.06.080 Confidentiality; statistics.

- A. All information submitted in compliance with this ordinance shall be held in strictest confidence subject to the provisions of the Kansas Open Records Act; shall be deemed a public record exempt from disclosure; and shall be kept so that the contents thereof shall not be known except to persons authorized with the administration and enforcement of this ordinance. The Alarm Coordinator shall be charged with the sole responsibility for the maintenance of all records of any kind whatsoever under this ordinance.
- B. Subject to the requirements of confidentiality and the provisions of the Kansas Open Records Act, the Alarm Coordinator shall develop and maintain statistics having the purpose of assisting alarm system evaluation for use by members of the public and Governing Body.

(History: Ord. APD-1809 §6, 93; APD-1140 §8, 81)

5.06.090 Penalty.

Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of this ordinance shall be guilty of a public offense and punished by a fine of not more than \$500 or by imprisonment not to exceed six months or by both such fine and imprisonment. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the City ordinance is committed, continued or permitted by any such person.

(History: Ord. APD-1140 §9, 81)

5.06.100 Severability.

If any part or parts of this ordinance shall be held to be invalid, such invalidity shall not effect the validity of the remaining parts of this ordinance. The Governing Body declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts thereof would be declared invalid.

(History: Ord. APD-1140 §10, 81)

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