

CHAPTER 139

False Alarms

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139.01 PURPOSE AND SCOPE.

The purpose of this chapter is to protect the emergency services of the Police Department of the City of Beavercreek from misuse, by responding to defective alarm systems and excessive false alarms. This chapter governs and regulates alarm systems, alarm users and alarm businesses. It provides the licensing of alarm businesses, establishes fees, provides for suspension and revocation of licenses and provides penalties for violations and penalties for excessive false alarms. This chapter shall not have any application to fire alarm systems.

139.02 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings indicated:

- (a) "Alarm Business" means the business owned by any individual, partnership, corporations or other entity of maintaining, servicing, repairing or installing any alarm system in or on any building, structure or facility and or monitoring or reporting alarm calls.
- (b) "Alarm System" means any assembly of equipment, mechanical or electrical, arranged to signal. The occurrence of any unauthorized entry or robbery. "Alarm System" does not include equipment to which the Fire Department is expected to respond or any equipment signaling a medical emergency or vehicle alarm.
- (c) "Alarm User" means the person or entity of any kind who or which is:
 - (1) An owner (or lessee) and also the user of an alarm system, as the occupant of the premises where the system is installed (the "premises");
 - (2) The owner (or lessee) of such a premises which is occupied by another person or entity, if there is no written contract stating that the occupant (rather than the owner or lessee of the premises) is to be responsible for the alarm system;

- (3) The occupant of such a premises, if there is a written agreement stating that the occupant is responsible for the alarm system.
- (d) “Automatic Dialing Device” means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by a voice message or code signal an emergency message indicating the need for an emergency response.
- (e) “False Alarm” means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system, or his employees or agent. Such false alarms do not include any force majeure.
- (f) “Interconnect” means to connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that utilizes the telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.
- (g) “Permit Year” means a twelve month period beginning with the first day of January and ending on the last day of December each year.
- (h) “Local Alarms” means those alarms which activate an audible signal within the proximity of the premises only.
- (i) “Emergency Panic Alarm Button” means an automatic alarm system signaling a police response, such as holdups alarms at financial institutions, or personal protection devices.
- (j) “Police Alarm Administrator” is the employee(s) of the Police Department designated by the Chief of Police, whose responsibility is to coordinate the administration and documentation of the alarm business and alarm systems performance as it relates to the effective enforcement of the provisions of this chapter.
- (k) “Chief of Police” means not only the Chief of Police but also his designee.

139.03 ALARM BUSINESS LICENSE.

No person shall engage in the alarm business within the City whether personally, by agents or employees, singularly, or along with some other business or enterprise, without having first obtained a license to do so in accordance with the provisions of this chapter.

139.04 APPLICATION FOR ALARM BUSINESS LICENSE.

An application for an alarm business license shall be made on an application form obtainable from the Police Department. The license shall expire annually on January 31st of each year.

139.05 ALARM BUSINESS APPLICATION FEE.

An annual fee from January 1, 2008, shall be paid by an alarm business company doing business in the City, whether it is a corporation, proprietorship or individual. If a new company registers for business in the City after July 1st and prior to January 31st of the following year, the fee shall be \$75.00. Thereafter, the fee annually shall be \$150.00 per year, due and payable January 31st, and to continue thereafter until January 31st of the following year. All fees are to be paid to the City Finance Administrative Service Director. Failure to register or reregister will result in the inability to operate an alarm business within the City.

139.06 CONTENTS OF LICENSE APPLICATION.

An Alarm Business Application shall contain the following information:

- (a) The name, residence address, telephone number, date of birth, and social security number of each individual, owner, partner, or if a corporation, each officer thereof, and the name, residence address and telephone number of the manager or person to be responsible for the operation of the business if different from such individual owner, partner or officers. Application will have an attached list of names, addresses, telephone numbers and date of birth of every employee of the business who will engage in the installing, repairing, servicing, selling, leasing or maintaining an alarm system.
- (b) A description of the alarm systems and/or devices offered for sale or lease to the public and descriptions of any services relating to alarm devices offered to the public. Each alarm system shall comply with applicable building codes, fire codes and current City Ordinances for electrical wiring and alarm installation.
- (c) Trade names used during the previous five years by the applicant or such person signing the application along with the location of other business establishments operated in the State currently or during the previous five years.
- (d) A list of all felony and misdemeanor convictions of individual proprietors, partners, or directors, principal officers and employees of the applicant business. The date and location of each conviction shall also be included.
- (e) A statement as to whether the applicant has ever been denied a license or permits in any jurisdiction to engage in the alarm business or has had such license or permit revoked and the reason for the revocation.
- (f) A statement as to the length of time the applicant has been engaged in the alarm business and where engaged.
- (g) The trade name, business address and telephone number on behalf of which the application is made.
- (h) A statement that the applicant agrees to update the above information by written notice within ten days after substantial change in information required by this section.

- (i) License applications shall be accompanied by such fee as provided by ordinance.
- (j) Alarm businesses already engaged in providing services and/or alarm system equipment in the City, on the effective date of this chapter shall submit an application for a license no later than sixty days after the effective date. Said applicant may continue to do business while their license application is being processed. An applicant not previously engaged in providing services as an alarm business in the City, on the effective date of this chapter shall not commence doing business until his application is approved.
- (k) The Chief of Police shall review each license application and, if necessary, conduct an investigation to determine whether the facts set forth in the application are true. He shall, within fifteen days after receipt of an application for such license, either approve or deny issuance of same and, accordingly forward written notification to the applicant of said decision. A written notification of denial shall include the basis for said finding and if the grounds for denial are subject to correction, applicant shall be given ten days after receipt of such notice within which to make the required correction. The notice of denial shall inform the applicant that he may appeal the denial.
- (l) The Chief of Police shall deny the application for an alarm business license if he finds that the applicant or the individual having the authority and responsibility for the management and operation of the applicant's alarm business within the City or any of the applicants, owners, partners or principal corporate officers have:
 - (1) Committed any act which, if committed by a licensee, would be grounds for revocation of a license under this chapter, or
 - (2) While unlicensed, knowingly and willfully committed or aided and abetted in the commission of any act for which a license is required by this chapter, or
 - (3) Been convicted in any jurisdiction of a felony or misdemeanor if the Chief of Police finds that such conviction reflects unfavorably on the fitness of the applicant to engage in the alarm business.
- (m) The applicant will be notified in writing of the approval or disapproval of the application.

139.07 RENEWAL OF ALARM BUSINESS LICENSE.

Licenses for alarm businesses shall not be renewed by the Chief of Police in the manner of hereinafter set forth if the licensee or any of the owners, partners, principal corporate officers or the individual having the authority and the responsibility for the management and operation of the alarm business within the City are:

- (a) Found to have violated any of the provisions of this chapter, any rule or regulation as set forth by the Chief of Police which violation the Chief of Police determines to reflect unfavorably upon the fitness of the licensee to engage in the alarm business;

- (b) Found to have knowingly and willfully given any false information or information of a material nature in connection with an application for a license or a renewal or reinstatement of a license;
- (c) Found to have been convicted in any jurisdiction of a felony or a misdemeanor if the Chief of Police determines that such conviction reflects unfavorably on the fitness of the applicant to engage in the alarm business;
- (d) Found to have committed any act while the license was not in effect which would be cause for revocation of a license. This would be grounds for the denial of an application for a license.
- (e) Application for a renewal of an alarm business license shall be due on January 31 of each year and shall be accompanied by a nonrefundable fee as provided by ordinance.

139.08 LICENSE NOT TRANSFERABLE.

No license issued under the provisions of this chapter shall be transferred, or used by any person other than the one to whom it was issued.

139.09 SUSPENSION AND REVOCATION OF LICENSE.

- (a) An alarm business license may be suspended or revoked by the Chief of Police for any of the following causes:
 - (1) The license was knowingly obtained through any fraud or misstatement.
 - (2) The business transactions of the alarm business have been marked by a practice of failure to perform contracts.
 - (3) Licensee fails to comply with any provisions of this chapter which the Chief of Police deems contrary to the intent and purpose of this chapter.
 - (4) Conviction of any felony or misdemeanor reflecting on his suitability for a license.
- (b) The suspension or revocation shall not take place until the Chief of Police has notified the licensee in writing of the cause or causes for such revocation or suspension which notice shall:
 - (1) Contain a brief statement of the facts relating to the revocation or suspension;
 - (2) Advise the licensee of the procedure for appeal; and
 - (3) Be served upon the licensee in person or by leaving it at his address as stated in the application for a license or at the business address on file with the Chief of Police or by regular U.S. Mail addressed to the licensee at such address.

139.10 APPEAL PROCEDURE.

- (a) Any person aggrieved by the denial of application or renewal or by notice of suspension or revocation as provided in this chapter, may appeal and shall be granted a hearing on the matter by submitting a written request to the City Manager within fifteen days after the service of the denial, suspension or revocation notice.
 - (1) If a hearing is requested, written notice of the time and place of the hearing shall be served on the user by regular U.S. mail at least ten days prior to the date set for the hearing.
 - (2) The hearing shall be before the City Manager, or his designee.
 - A. The Chief of Police or his designee and the applicant shall have the right to present written and oral evidence.
 - B. The failure of the applicant or his representatives to appear and state his case at such hearing shall have the same effect as if no appeal was filed.
- (b) The proceedings at such hearings, including the findings and decisions of the City Manager or his designee, and the reasons for the decision shall be summarized and reduced to writing and entered as a matter of public record in the Police Department. The record shall also include a copy of every notice or connection with the matter. After the hearing, the City Manager or his designee may sustain, modify or reverse the decision appealed in writing.

139.11 ALARM USER'S PERMIT.

Within ninety days after the effective date of this chapter, every alarm user shall obtain an alarm user permit for each alarm system within the City of Beavercreek from the Chief of Police. An alarm user's permit application shall contain; names and address of the alarm user and of the residence or business or businesses in or upon which the alarm system has been or will be installed, and telephone number. The type of alarm system (local, direct connect, central station), the alarm business company name, address and telephone, installing, monitoring, inspecting, responding to or maintaining the alarm system. The names, addresses, telephone numbers of three persons who can be contracted twenty-four hours a day, seven days a week, to turn off or deactivate the alarm system when the alarm user cannot be contacted. It shall be the responsibility and obligation of the alarm user to keep the above information current and accurate by notifying the Police Department in writing within ten days after a change occurs.

139.12 EXCESSIVE FALSE ALARMS.

If any alarm system produces three false alarms in any twelve consecutive month period, written notice of that fact shall be given by regular mail or delivery to the subscriber.

- (a) If more than three false alarms are produced by any alarm system in a twelve month period, an administrative fee of \$50.00 shall be assessed against the alarm user for the fourth false alarm; \$100.00 for the fifth false alarm and an administrative fee of \$200.00 shall be assessed for each successive false alarm thereafter. These fees shall be in addition to any criminal penalties imposed under Section 139.99. Such charges shall continue for each successive false alarm until twelve consecutive months have elapsed during which time no false alarms have been recorded. At that time the record will be cleared and the next false alarm shall be deemed to be the first such incident. The question of whether a false alarm has occurred may be appealed by the alarm user under the applicable procedures set forth later in Section 139.18 by an alarm user who has been assessed a false alarm administrative fee.
- (b) The permit issued to an alarm user may be revoked with the result that the alarm user may be required to disconnect the alarm system in such fashion that signals are not emitted so as to notify the Police Department either directly or indirectly. The procedure for such orders to disconnect is set forth in Section 139.17.
- (c) For the purposes of this section, a false alarm shall not be deemed to have occurred:
 - (1) If caused by some factor not within the control of the alarm user, e.g. equipment malfunction, phone line disruption, extremely severe weather.
- (d) An alarm system may be reconnected only if satisfactory evidence is provided to the Chief of Police that the alarm system has been repaired so that it does not emit further false alarms and upon payment of all delinquent charges assessed for false alarms.

139.13 SPECIFIC ALARM PROVISIONS.

- (a) Entrance – Exit Device. All alarm installations incorporating an entrance/exit device must permit a delay of twenty seconds minimum before actual activation of the system.
- (b) Automatic Dialing or Calling Devices. Alarm systems that automatically dial or call the Police Department must be called on a special telephone line designated by the Police/Fire Department and shall comply with the following:
 - (1) Total length of the recorded message being transmitted to the Department of Police (including repetition of message) shall not exceed forty-five seconds duration.
 - (2) The recorded message transmitted shall be repeated not less than three or more than four times and shall have an automatic abort feature to ensure this requirement.
 - (3) The recorded message being transmitted shall incorporate language specifically identifying the message as a “recording” with the balance of the message identifying by street number and street name the location of the emergency and the nature of the event which caused the alarm system to activate. If the location of the event signaled by the alarm system is in a multi-family building, the message shall also identify by

number and by floor this particular dwelling unit, office unit, or commercial unit in which the event occurred.

- (4) The recorded message being transmitted to the Department shall be appropriate for the purpose for which the alarm system was installed and the message in its entirety shall be intelligible and spoken in the English language.
- (c) Local Alarm. Alarm shall not resemble the sound of any emergency signal or civil defense alarm or siren. All local alarms shall have the capacity to reset themselves within fifteen minutes from the time it was activated.
- (d) Instructions. Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located within the City shall furnish the user with instructions that provide information to enable the user to operate the alarm system properly and to obtain service for the alarm system at any time.
- (1) It shall be deemed a violation of this chapter if a panic device is activated for anything other than that specified in this section.

139.14 APPLICATION OF STANDARDS TO EXISTING AND FUTURE ALARM SYSTEMS.

- (a) Every new system installed after the effective date of this chapter shall comply with the above standards within thirty days.
- (b) Every alarm system existing before the effective date of this chapter shall be placed in compliance with the above standards no later than thirty days after such effective date.

139.15 LIMITATION OF LIABILITY.

The City shall not be liable for any failure or neglect to respond appropriately upon receipt of an alarm from such a device, nor for the failure or neglect of any person with a license issued pursuant to this chapter or with a franchise, in connection with the installation and operation of equipment, nor for the failure of the transmission of alarm signals and pre-recorded alarm messages, or the relaying of such signals and messages. In the event that the City finds it necessary to disconnect a defective automatic dialing system or signaling device, the City shall incur no liability by such action.

139.16 SURRENDER OF LICENSE / APPLICATION

If any license / permit is revoked pursuant to this chapter, the licensee shall surrender said license to the Chief of Police.

139.17 EXCEPTION.

Any federal installation which demonstrates to the Police Department that this City is required to allow an alarm system at such installation to be interconnected to the Police Department shall be exempt from the revocation and disconnect order sections of this chapter but shall be subject to

the administrative fee assessments as described in Section 139.11 and shall also be subject to the criminal penalties for violation of this chapter as provided in Section 139.99.

139.18 ORDER TO DISCONNECT.

(a) In addition to the administrative fees described in Section 139.11 and in addition to any criminal penalties imposed under Section 139.99, an alarm user who has more than twelve false alarms in a twelve month period (calculated as described in Section 139.11) and who is deemed by the Police Department not to have made reasonable efforts toward correction of the false alarm situation shall be issued an order to disconnect the alarm system so that signals are not emitted to notify the Police Department either directly or indirectly.

A similar order to disconnect shall be issued to any alarm user who has failed to deliver to the City full payment for any administrative fee levied under section 139.11 (for excessive false alarms) within thirty days after written notice of that fee has been mailed or otherwise delivered to the last known address of the alarm user or to the address at which the alarm system is located. Further, a disconnect order shall be issued to any alarm user who has failed to obtain a user's permit as required by Section 139.10.

(b) The disconnection is to be completed by the alarm user within ten days after the written disconnect order is mailed or otherwise delivered to the last known address of the alarm user or to the address at which the alarm system is located.

(c) An alarm user subject to an order to disconnect has the right to appeal under the procedures set forth below in Section 139.18. Any disconnect order must refer to this right to appeal. If such an appeal is filed; the disconnection is to be completed within ten days after similar delivery of notice of the appellate decision, if that decision sustained the disconnect order.

(d) Once disconnected, an alarm system may be reconnected only if so ordered by the Chief of Police in a decision on an appeal or if a preponderance of the credible evidence available to the Chief of Police indicates:

- (1) That the alarm system has been repaired so it will not emit further false alarms; or
- (2) If the disconnect order was based on failure to pay assessments when due, that all delinquent false alarm fees have been paid in full; or
- (3) If the disconnect order has been based upon failure to register or re-register so as to obtain a permit and keep it in effect as required by Section 139.10, that registration had been completed so as to obtain an original or renewal of a user's permit.

139.19 APPEALS FROM FALSE ALARM FEES AND DISCONNECT ORDERS.

(a) The following persons may appeal under this section:

(1) An alarm user who has been assessed a false alarm administrative fee may appeal the question of whether or not a false alarm has occurred.

(2) An alarm user subject to an order to disconnect for failure to make reasonable efforts toward correction of a false alarm situation may appeal the determination that such reasonable efforts were not made.

(3) An alarm user subject to an order to disconnect for failure to obtain or renew a user's permit as required by Section 139.10 may appeal the issue of whether or not that user had a permit in effect for the location in question or was required by this chapter to have such a permit.

(4) An alarm user subject to an order to disconnect for failure to pay when due an administrative fee assessed under Section 139.11 for excessive false alarms may appeal the issue of whether or not such payment was made on time.

(b) A written request for an appeal must be submitted to the Chief of Police within ten days after notice of the false alarm administrative fee or of a disconnect order was mailed or otherwise delivered to the last known address of the alarm user or to the address at which the alarm system is located. The alarm user-appellant shall have the right to present written and oral evidence to the Chief of Police at a hearing on the appeal and shall have the burden of proving his or her case by a preponderance of the credible evidence. Notice of the hearing date, hour and place shall be mailed or otherwise delivered to the last known address of the appellant or to the address at which the alarm system is located at least ten days prior to the hearing. The Police Chief may sustain, modify or reverse the decisions appealed from and the decision of the Chief of Police shall be made in writing and shall constitute a final administrative order.

139.99 ENFORCEMENT AND PENALTY.

(a) Enforcement of any of the provisions of the chapter may be by civil action and/or criminal prosecution.

(b) Failure or omission to comply with any section or provision of this chapter shall be deemed a violation. Each day such a failure or omission continues to exist after written notice of that failure or omission is mailed or otherwise delivered to the last known address of the alarm user or to the address at which the alarm system is located shall constitute a separate violation.

(c) Each violation of any section or provision within this chapter shall be a fourth degree misdemeanor.