

ORDINANCE NO. 1448-20

AN ORDINANCE RELATING TO ALARM SYSTEMS; AMENDING TUALATIN MUNICIPAL CODE CHAPTER 6-6; AND CREATING NEW PROVISIONS.

WHEREAS, Tualatin Municipal Code Chapter 6-6 established an Alarm System Permit for the installation of alarms on private property where police response is required; and

WHEREAS, the City wishes to update and amend Tualatin Municipal Code Chapter 6-6;

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** Tualatin Municipal Code Chapter 6-6 is amended to read as follows:

~~TMC 6-6-010- Title.~~

~~This ordinance shall be known as the "Alarm System Control Ordinance" for the City of Tualatin.~~

**TMC ~~6-6-020~~ 6-6-010- Purpose, Construction and Scope.**

(1) The occupants of numerous residential, commercial, and industrial establishments within the corporate limits of the City of Tualatin have found it desirable to make provisions for the installation upon their premises, at their own cost and expense, of alarm systems for emergencies requiring police response.

(2) There is a growing number of private enterprises that have embarked upon the business of selling or leasing such alarm systems, entering into contract with such occupants for the installation, operation, and maintenance of such alarm systems, and providing, either individually or in concert with other private business enterprises an alarm device or devices installed in various alarm monitoring centers. Likewise, there is a growing number of private enterprises that have embarked upon the business of selling such alarm systems where the installation is completed by the purchaser or the user.

(3) The proliferation of the number of private enterprises engaged in the distribution of alarm systems, and the number of commercial and residential users of such systems has resulted in conditions that, if not remedied, will lead to an unnecessary drain on the manpower, time, space, facilities, and finances of the City and its police services, and a deterioration of the quality of police service to the City's residents.

(4) The public interest, therefore, requires the enactment of rules, regulations, standards, and procedures to regulate and control the private alarm business within the corporate limits of the City of Tualatin for the following purposes:

- (a) The Tualatin Police Department may efficiently and economically coordinate its functions with the various alarm services to which the public within the City may subscribe;
- (b) The quality of the alarm services rendered to the public may be improved and maintained at a high level;
- (c) The excessive number of false alarms which require expenditure of police resources must be reduced so that those limited resources may be more efficiently utilized;
- (d) Those private enterprises engaged in the alarm business and persons who utilize alarm systems should help support the administration of the alarm system, and where alarm users are responsible for an excessive number of false alarms, they should pay additional charges, which relate to the additional responses by the police and motivate alarm users to reduce the number of false alarms; and
- (e) Those ~~alarms~~ alarm users who are responsible for excessive false alarms and who fail or refuse to remedy the cause of excessive false alarms demonstrate their indifference to limited police resources being devoted to unnecessary emergency responses, and such users should be treated by punitive measures. By the time an alarm user's system has generated ten false alarms within a permit year, the police response by way of notices will have provided the user with ample warning of the consequences and, therefore, it is presumed the alarm user has failed to take adequate steps to remedy the problem and maintain the alarm system.

(5) The purpose of this ~~ordinance~~ Chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby protect the emergency response capability of the City from misuse.

(6) Except where otherwise expressly provided, this ~~ordinance~~ Chapter governs all alarm systems eliciting a police response, requires annual permits, establishes fees and charges, and provides for the enforcement of violations.

**~~TMC 6-6-030~~ 6-6-020- Definitions.**

For the purpose of this ordinance, the following definitions apply:

City Manager means the City Manager or City Manager's designee authorized to issue permits and administer this ordinance.

*Alarm Business* means a person, firm, partnership, corporation, association, or other legal entity, engaged in the profit-oriented selling, leasing, maintaining, servicing,

repairing, altering, replacing, moving, or installing of an alarm system in or on a building, structure, facility.

Alarm Dispatch means the initiation of a communication to dispatch, by an alarm business indicating an alarm has been activated, and requesting police response to the alarm site.

*Alarm System* means an assembly or equipment, mechanical or electrical, or both, designed and used to signal the occurrence of an illegal or unauthorized entry or attempted entry or other illegal activity on the premises of the alarm user, which requires or solicits urgent attention and to which the police are expected to respond.

*Alarm User* means a person, firm, partnership, corporation, association, or other legal entity in control of a building, structure, facility, or portion thereof within the City of Tualatin in which an alarm system is used.

*Automatic Dialing Device* means a device ~~which that~~ is interconnected to a telephone line, internet connection, or cell connection and is programmed to select a predetermined telephone number, electronic signal, or internet location (URL) and to transmit by voice message or code signal an emergency message indicating a need for emergency response. An automatic dialing device is an alarm system.

~~"Council" means the Tualatin City Council, the governing body of the City of Tualatin, Oregon.~~

Current Alarm Permit means an alarm permit that is not expired, not revoked, and has no outstanding fees, penalties, or fines.

Dispatch Center means the facility used to receive emergency and general information from the public

Enhanced Call Confirmation means an attempt by the alarm system monitoring company to contact the alarm site and/or alarm user by telephone and/or other means, whether or not the actual contact with a person is made, to determine whether an alarm signal is valid before requesting law enforcement response. It is required that a second call, also known as Enhanced Call Confirmation (ECC), be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, EXCEPT in the case of a fire, panic, or robbery-in-progress alarm or in cases where a crime-in-progress has been verified.

~~Coordinator~~ means the individual, designated by the Chief of Police for the Tualatin Police Department to issue permits and administer this ordinance.

*Excessive False Alarm* means a false alarm which that occurs following after two previous false alarms within one permit year. ~~More than one false alarm in a 24-hour~~

~~period, beginning with the first alarm in that 24-hour period, is counted as one false alarm.~~

*False Alarm* means a signal or activation by an alarm system which elicits a response by the Tualatin Police Department when a situation requiring a response does not in fact exist. "False alarm" does not include an alarm signal by an alarm system, which is caused by violent and extraordinary conditions of nature or other extraordinary circumstances not reasonably anticipated or subject to control by the alarm business operator or the alarm user.

~~*Governmental Political Unit Governmental Entity* means the federal government, State of Oregon, any county, city, special district, or any other tax supported public agency.~~  
~~*Handicap Disabled* means any person with a physical or mental impairment which for the individual constitutes or that results in a functional limitation to substantially limits one or more major life activities.~~

*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 a telephone for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

*Monitoring Center* means a facility used to receive emergency and general information from an alarm user and to direct an emergency response.

~~*Primary Trunk Line* means a telephone line serving the Police Dispatch Center that is designated to receive police calls.~~

*Permit* means an alarm user permit, issued by the City of Tualatin ~~under this ordinance.~~

*Permit Renewal* means the act of applying for a new permit to take the place of an expired permit, where the alarm system under both permits is designed and used for substantially the same building, structure, or facility.

~~**TMC 6-6-040 -- Alarm User Permits Required, Payment of Permit Fees Required.**~~

~~(1) Except as provided in TMC 6-6.120, every alarm user shall obtain an alarm user permit for each alarm system proposed to be used by the alarm user from the Coordinator within 30 days after July 12, 1989, or at the time an alarm system is activated.~~

~~(2) Every alarm user shall complete and submit an application form and pay all required fees and charges as established by the City Council by resolution.~~

~~(3) The Chief of Police shall prescribe the form of the permit application, but it shall consist of at least the following parts. Additional parts may be inserted for administrative purposes:~~

~~(a) The name of the alarm user;~~

~~(b) The address of the alarm user and the address where the alarm system has been or will be installed and used;~~

- ~~(c) The name of the current emergency notification persons and their telephone numbers;~~
- ~~(d) The justification, if any, for requesting a waiver of application and renewal fees; and~~
- ~~(e) The name of the current alarm business responsible for operating a monitoring center for the alarm system, if any.~~
- ~~(4) Each permit shall bear the signature of the Chief of Police and shall be valid for one year from the date of issuance. The permit will show the date of expiration on its face.~~
- ~~(5) The permit shall be physically kept upon the premises where the alarm system is located and shall be available for inspection by the Chief of Police or the Chief's designee upon request. An alarm permit is valid only for the permittee and is not transferable from one person to another or from one address to another.~~
- ~~(6) A residential alarm user who lives on the premises, who owns or is the named lessee on the property in which the alarm system is located, who conducts no profit-oriented business on the premises, and who is 65 years of age or older or is handicapped shall be entitled to a waiver of application and renewal fees, but not excessive alarm and late charges. An alarm user permit shall be obtained.~~
- ~~(7) It is unlawful and a civil infraction for a person, firm, or corporation to use, operate or maintain an alarm system within the City without obtaining and maintaining a current, valid alarm user permit, paying all required fees, and charges and complying with all provisions of this ordinance.~~
- ~~(8) Except as otherwise provided in TMC 6-6.120, a late charge in an amount adopted by Council resolution will be imposed and added to the permit fee and paid by an alarm user who fails to obtain a permit within 30 days after such permit is required or by an alarm user who fails to renew a permit within 30 days after a permit has expired.~~
- ~~(9) An alarm user which is a governmental political unit shall obtain and maintain a permit and is subject to the requirements of this ordinance; however, permit application and renewal fees shall be waived, but not excessive false alarm and late charges.~~

**TMC 6-6-030 – Alarm Permit Required.**

- (1) Every alarm user must obtain an alarm user permit prior to installing an alarm system.
- (2) The Alarm Permit is valid for a period of one year, and may be renewed annually.
- (3) An alarm permit is valid only for the permittee and is not transferable from one person to another or from one address to another.

**TMC 6-6-040 - Permit Application; Renewal; Denial.**

- (1) Application. An application for an alarm permit must include the following:
- (a) The name of the alarm user;
- (b) The address of the alarm user and the address where the alarm system has been or will be installed and used;

(c) The name of the two emergency notification persons and their telephone numbers, other than the alarm user, who have access to keys to the premises and would be available to assist the police to secure the premises or reset a malfunctioning alarm;

(d) The name of the current alarm business responsible for operating a monitoring center for the alarm system, if any;

(e) The payment of the licensing fee, as established by resolution of the Council; and

(f) If the person believes the person qualifies for an exemption from the application fee, under TMC 6-6-050, all information proving the qualifications are met.

(2) Any changes in the information contained on the permit application must be promptly submitted to the City Manager within ten days of any such change. The alarm registration shall be in a form prescribed by the chief, and shall include the name, address and telephone number(s) of individual(s) authorized by the alarm user to act on their behalf in case of emergencies, alarms and false alarms.

(3) Renewal. An application for a renewal must provide the same information as provided in subsection (1).

(4) Denial. An initial application or a renewal application may be denied for any of the following reasons:

(a) The application materials contain inaccurate, misleading, or incomplete statements;

(b) The applicant previously failed to comply with the conditions of the permit issued; or

(c) Other activity by the person seeking the license that presents reasonable doubt about the person's ability to comply with the license conditions or otherwise endanger the health, safety, or welfare of the public.

(5) If a request for a hearing is pending at the time a permit expires and is subject to renewal, the alarm user must pay the appropriate permit renewal and other charges owing at the time renewal is required, together with any then required charges for excessive false alarms. If the City should determine that a false alarm within the prior permit year has occurred and such determination would have resulted in a higher fee upon renewal than was paid by the alarm user or applicant due to an excessive false alarm, the alarm user shall pay an appropriate additional false alarm charge upon being notified of the City's determination.

**TMC 6-6-045 - Late Fee.**

(1) An alarm user failing to timely file an initial application or renewal application is subject to a late fee in an amount established by resolution of the Council.

(2) An alarm user is subject to a late fee for any of the following reasons:

(a) Failing to submit a completed initial application for an alarm permit within 60 days of the installation of the alarm; and

(b) Failing to submit a renewal application within 30 days after the alarm permit has expired.

**TMC 6-6-050 Persons Exempt from Permit Application Fee.**

(1) The following persons are exempt from paying the Alarm Permit Application Fee and Annual Alarm Renew Fee:

(a) A residential alarm user who:

(i) Lives on the premises where the alarm system is located and either owns or is the named lessee on the premises;

(ii) Conducts no profit-oriented business on the premises; and

(iii) Is 65 years of age or older or disabled.

(b) An alarm user that is a governmental entity.

(2) A person meeting the conditions of subsection (1) must still obtain a permit and is still subject to all other provisions of this Chapter.

**TMC 6-6-050 - User Instructions.**

~~Every alarm business, which operates as such on behalf of alarm users within the City, shall furnish the user with instructions which enable the user to operate the alarm system properly without false alarms and to obtain service for the alarm system.~~

**TMC 6-6-060 - Conditions of Permit.**

Every alarm user must comply with the following conditions at all times:

(1) The alarm user must maintain its alarm system in good operating condition and free of false alarms.

(2) The alarm user must ensure that all persons with access to the premises have an adequate understanding of the alarm system so as to prevent unintended activation of the alarm system.

(3) The alarm system must use an Enhanced Call Verification that will attempt a verification call to the alarmed premise and if no responsible party is located on the

initial verification call, a second verification call will be made prior to the alarm business requesting a police alarm dispatch request.

(4) An alarm user must make available at all times a representative of the alarm user to assist the police to secure the premises or reset a malfunctioning alarm.

**TMC 6-6-070 – Protective Sweep; Inspection of Premises; Administrative Warrant.**

(1) Consent for Protective Sweep. Any person who obtains or renews an alarm permit will be provided with a form requesting consent for the police to enter and perform a protective sweep of any building or residence where an alarm is activated, the building or residence is unsecured or shows signs of forcible entry, and no responsible person is immediately available to give or refuse consent to enter. Upon receipt of the signed consent, the Police Department may enter any premises authorized by the consent.

(2) Warrantless Entry. The Police Department may enter any premises when exigent circumstances exist, or when any other circumstance exist that allows lawful entry consistent with warrant exceptions under state and federal law.

(3) Inspections. When it is necessary to inspect the premises to investigate or enforce the provisions of this Chapter, the City Manager may, with the owner's or occupant's permission, enter the premises at reasonable times to inspect or perform the duties imposed by this Chapter. If the premises is unoccupied, the City Manager must make a reasonable effort to locate the owner or person in charge of the premises and request permission to enter. If entry is refused by the owner or person in charge or the premises are unoccupied, and no exigency exists, the City Manager must obtain an administrative warrant before entry or inspection of the premises.

**TMC 6-6-080 – Alarm Business Requirements.**

(1) Every alarm business selling, leasing, or furnishing an alarm system installed in the City of Tualatin must:

(a) Provide the City with a list of all alarm users, and the contact information of the alarm user, that are using the alarm business's services within the City;

(b) Provide the alarm user with operating instructions for the alarm system;

(c) Provide written information of how to obtain service from the alarm company for the alarm system;

(d) Provide contact information for the monitoring company;

(e) Provide information on how to cancel an alarm request;

(f) Notify the alarm user of the City's alarm permit requirement and fee schedule and provide information on how to obtain a City alarm permit;



(g) Provide an accurate and up to date alarm permit application and a fee schedule, as set forth on the City's website; AND

(h) Install only dual-activation button robbery/holdup devices for appropriate applications of commercial accounts.

(2) All alarm businesses monitoring alarm systems in the City of Tualatin must attempt a verification call to the alarmed premise and if no responsible party is located on the initial verification call, a second verification call must be made prior to the alarm business requesting a police alarm dispatch request, EXCEPT, this provision does not apply in the case of a fire, panic, or robbery-in-progress alarm, or in cases where a crime-in-progress has been verified as defined in ANSI/CSAA CS-V-01-2016 (or current version).

(3) An alarm business must communicate the following information to the City's law enforcement dispatch center upon activation of an alarm:

(a) The alarm user permit number, when available;

(b) All pertinent available information about the location of the alarm; and

(c) Cancellation information, as soon as possible following a determination that an emergency response is unnecessary.

(4) An alarm business must not activate an alarm signal that results in a false alarm. Alarm system testing must be reported in advance to the dispatch or law enforcement communications center designated by the City.

(5) An alarm business must maintain records demonstrating compliance with this section, and provide documentation to the City upon request. Calls for emergency response to an alarm event by an alarm business must include the corresponding alarm permit number.

### **TMC 6-6-090 Nuisance Alarms**

(1) An alarm user must not permit the user's alarm system to disturb, injure, or endanger the peace, quiet, comfort, repose, health, or safety of the public or any person by continuous activation or reactivation due to false alarms. The following are examples of disturbing alarm noises:

(a) The continuous sounding of a false alarm which is audible for a distance of 100 feet or more from the source of the alarm, for more than 15 minutes duration;  
or

(b) The sounding of a false alarm which is audible for a distance of 100 feet or more from the source of the alarm, for more than 20 minutes within a one hour period. The sounding in this instance need not be continuous.

(2) Notwithstanding any other provision of law, a City officer responding to an alarm may disable the alarm when no responsible person is readily available to silence the alarm and the alarm is disturbing the peace, health, or repose of the neighbors. Such alarms are deemed public nuisances, and City officers are hereby authorized to immediately abate such nuisances by disabling the alarm. The City officer must use the least destructive method available to disable the alarm, and must provide notice to the owner of the time and reason the alarm was disabled. The notice may be posted upon the main entrance of the premises. If the City officer forced entry into a building or residence to disable an alarm, prior to leaving, the City officer will take responsible steps to secure the business or residence from further entry or damage, unless the owner or other responsible person is present on the scene prior to the departure of the officer.

**~~TMC 6-6-060~~ 6-6-100 - Automatic Dialing Device ; ~~Certain Interconnections~~ Prohibited.**

(1) It is unlawful for a person to utilize an automatic dialing device to transmit by voice message or code signal an emergency message indicating a need for emergency response from the Tualatin Police Department.

(2) 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 City, directing a person to disconnect or reprogram an automatic dialing device.

~~(1) Except as provided in subsection (4) of this section, it is unlawful for a person to program an automatic dialing device to select a primary trunk line or any 911 trunk line, capable of signaling a need for police response; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within 12 hours of receipt of written notice from the Tualatin Police Department, directing that such disconnection or reprogramming occur.~~

~~(2) Within 60 days after July 12, 1989, all existing automatic dialing devices programmed to select a primary trunk line shall be reprogrammed or disconnected.~~

~~(3) Except as provided in subsection (4) of this section, it is unlawful for a person to program an automatic dialing device which selects a telephone line assigned to the City of Tualatin; and it is unlawful for an alarm user to fail to disconnect or reprogram such a device within 12 hours of receipt of written notice from the Tualatin Police Department that such automated dialing device should be disconnected or reprogrammed.~~

~~(4) (3) The City of Tualatin and other governmental entities that provide providers of emergency and critical municipal services, including but not limited to water, sewer, and streets are exempt from this section.~~

**~~TMC 6-6-070~~ 6-6-110- False Alarms; Notices; Penalty.**

~~(1) When an officer the City responds to a reported alarm and establishes that the alarm is a false alarm, the City must provide officer shall conspicuously affix a notice of that a false alarm response occurred on at the premises. The notice shall contain the address~~

of the premises, the date and time of the response, and the officer's name and identification number. The notice must advise the alarm user of the date and time of the false alarm, whether it is a first, second, third, or subsequent false alarm, for the alarm system during the permit year. The notice must also advise that upon the occurrence of three or more false alarms during the permit year, the alarm user will be charged a false alarm fee. The notice must also advise of the right to an appeal a false alarm determination. The City Manager may prescribe the form of the notices to be used in this section.

(2) The City must serve the alarm user with the notice of violation by personal delivery or regular mail. Failure of a person to receive an actual notice does not invalidate any proceeding in connection with a false alarm or in the imposition of additional charges upon license renewal resulting therefrom.

(3) False alarms violations will result in the following:

(a) The first false alarm in a permit year will result in a warning only;

(b) The second false alarm in a permit year will result in the alarm user having to pay a false alarm violation fee or enter into a compliance program, as established by resolution of the Council.

(c) The third false alarm, and all subsequent false alarms, in permit year will result in the alarm user having to pay a false alarm fee.

(4) The false alarm fees provided in this section will be as established by resolution of the Council.

~~(2) After the first false alarm during a permit year, the alarm coordinator shall send by regular mail a notice of false alarm to the alarm user at the address listed on the user's permit application. The notice shall advise the alarm user of the date and time of the false alarm and that it is the first false alarm recorded by the coordinator for the alarm system during the permit year. The notice shall also advise that upon the occurrence of a third false alarm during the permit year, the alarm user will be charged a fee upon renewal of the permit for each excessive false alarm.~~

~~(3) If the Police Department responds to a second false alarm during the permit year, the alarm coordinator shall send by regular mail a notice to the alarm user at the address listed on the user's permit application that the police have responded to two false alarms at the address where the alarm system is located. This notice shall also advise that the occurrence of any additional false alarms at the address where the alarm system is located during the permit year, the alarm user will be charged a fee upon renewal of the permit for excessive false alarms.~~

~~(4) If the Police Department responds to a third or subsequent false alarm during a permit year, the alarm coordinator shall forward by regular mail a notice to the alarm user at the address listed on the alarm user's permit a notice which advises the alarm user that the police have responded to excessive false alarms at the alarm location, and~~

~~as a result the alarm user shall upon renewal of the alarm system permit be charged in accordance with a schedule of charges for excessive false alarms. Any person found to have violated the false alarm provisions by the municipal court or found in default must pay the fines. The failure of the person to pay on or before a renewal date prohibits the alarm user from receiving a new or renewed alarm permit. An alarm user, whose alarm system has three or more false alarms within a permit year shall be subject to and pay at or before permit renewal in addition to any other charges a charge for excessive false alarms in an amount established by City Council resolution. Excessive false alarm charges shall be established in an amount to encourage correction in an alarm system or in operation of an alarm system, to discourage false alarms and to reimburse the City for the use of its police resources. No permit for substantially the same alarm system or for a different alarm system which is designed and used for substantially the same building, structure, facility, or portion thereof, shall be issued or renewed for the same alarm user unless such excessive false alarm charge is first paid. Excessive false alarm charges are the responsibility of the alarm user notwithstanding an agreement or claim of liability which holds an alarm business responsible for such charges.~~

~~(5) The Police Chief shall prescribe the form of the notices to be used in this section. The notices provided by this section may be used for purposes of complying with the Uniform Civil Infractions Procedure, TMC Chapter 7-1. For purposes of determining which form of mailing and notice to use, any alleged false alarm, which is disputed as provided in this section and for which a final determination has not been made, shall be treated as having occurred. The Police Chief shall provide for the supervision of the City Manager to insure that adequate records of notices being sent to alarm users and alarm businesses are maintained by the Police Department. Failure of a person to receive a notice shall not invalidate any proceeding in connection with a false alarm or in the imposition of additional charges upon license renewal resulting therefrom.~~

~~(6) An alarm user or alarm business who is aggrieved by the determination that a particular false alarm has occurred may request a hearing. The request shall be made in writing, and filed with the Chief of Police and the Municipal Court within ten days of the date on which the alarm user is sent the notification of false alarm for which a hearing is requested. Unless a request for a hearing is made in accordance with this section, an alarm user or alarm business shall have waived any right to challenge the decision whether a particular false alarm occurred and the false alarm shall thereafter be treated as having occurred on the date and time alleged. If a hearing is requested in accordance with this subsection, the Municipal Court shall notify by regular mail the person requesting the hearing of the time and place of the hearing.~~

~~(7) Every hearing to determine whether a false alarm has occurred shall be held before the Tualatin Municipal Court without a jury. The court may, in the interest of justice, consolidate hearings which involve the same alarm user or alarm system and false alarms within the same permit year. In addition, the hearing provided by this subsection may be consolidated with a hearing on an alleged civil infraction, provided the parties in each proceeding are the same, or the alarm system in each case is the same. The person requesting the hearing may be represented by counsel, but counsel shall not be provided at public expense. If counsel is to appear, written notice shall be provided to the Municipal Court and Chief of Police not less than five business days~~

prior to the hearing date. The Chief of Police, or the City's designated representative and the person requesting the hearing shall have the right to present written and oral evidence. Oral testimony shall be taken only on oath or affirmation and shall be subject to the right of cross-examination. If the person requesting a hearing wishes that witnesses be ordered to testify, he or she must request the court to order the desired witness subpoenaed, which request shall be at least five business days prior to the scheduled hearing. A deposit for each witness shall accompany the request and such deposit shall be refunded, if it is determined the alleged false alarm did not occur. The deposit for subpoenas shall be in an amount equal to witness fees provided by statute in other courts of this State. At the hearing any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. However, irrelevant and unduly repetitious evidence shall be excluded. The City has the burden of proving that a false alarm occurred by a preponderance of the evidence. Within 30 days after the hearing, the Municipal Court shall determine whether the alleged false alarm has occurred and shall so advise the parties. The decision of the Municipal Court is final.

(8) — If a request for a hearing or a decision by the Municipal Court is pending at the time a permit expires and is subject to renewal, the alarm user shall pay the appropriate permit renewal and other charges owing at the time renewal is required, together with any then required charges for excessive false alarms. If the Court should determine that a false alarm within the prior permit year has occurred and such determination would have resulted in a higher fee upon renewal than was paid by the alarm user or applicant due to an excessive false alarm, the alarm user shall pay an appropriate additional false alarm charge upon being notified of the Court's determination.

#### **TMC 6-6-115 – Notice of Appeal on False Alarm Determination.**

(1) An alarm user who receives a notice of false alarm from the City Manager may file a Notice of Appeal requesting a hearing of the false alarm determination by submitting a petition to the City. The Notice of Appeal must be filed with the City within ten days of the notice of false alarm violation being served on the alarm user. Filing a Notice of Appeal is a prerequisite to seeking judicial review and the determination is final if a petition for is not timely filed.

(2) The Notice of Appeal must contain the following:

(a) A request for a hearing or request for written review without a hearing;

(b) A statement setting forth the reason(s) that the false alarm determination is invalid, otherwise improper, or why it should be modified; and

(c) Full payment of the false alarm fees determined by the City Manager to be due in the false alarm determination.

(3) If a Notice of Appeal is filed within the allowable period and the alarm user requests a hearing, the City Manager must grant the alarm user an oral hearing and provide at least ten days' notice of the time and place of the hearing, unless the City

Manager and petitioner agree otherwise. The City Manager may continue the hearing from time to time as may be necessary.

(4) At the hearing, the City has the burden of proving the alarm violation occurred by a preponderance of the evidence standard. Upon conclusion of the hearing, and after considering the testimony and all evidence presented at the hearing, the City Manager must issue a decision and mail the decision to the alarm user. If the City Manager determines the false alarm violation was not proven by the City, the City Manager must refund the amount of the fees paid by the alarm user. A decision on a hearing must be mailed within 30 days of the date of the hearing.

(5) The decision of the City Manager is final and not appealable to Council. Appeals from any determination made by the City Manager are solely and exclusively by writ of review to the Circuit Court of Washington County, as provided in ORS 34.010 to 34.100.

**~~TMC 6-6-100 – Duty to Maintain Alarm System, Permit Information.~~**

~~(1) An alarm user shall maintain its alarm system in good operating condition and free of false alarms. In addition the alarm user shall insure that all persons with access to the premises have an adequate understanding of the alarm system so as to prevent unintended activation of the alarm system.~~

~~(2) The alarm user shall provide the City Manager with complete current information on the permit application. On each permit application alarm users must provide names of at least two persons other than the alarm user who have access to keys to the premises and would be available to assist the police to secure the premises or reset a malfunctioning alarm. Any changes in the information contained on the permit application shall be promptly submitted to the City Manager within ten days of any such change.~~

~~(3) An alarm user whose alarm system generates ten or more false alarms within a permit year is considered an excessive number of false alarms and is prima facie evidence of a violation of this ordinance.~~

**~~TMC 6-6-110 - Violation of Ordinance, Penalties.~~**

~~(1) A violation of this ordinance is a civil infraction, punishable in accordance with the civil infractions ordinance of the City of Tualatin. Every day that a violation is found to exist constitutes a separate civil infraction.~~

~~(3) It is a violation of this ordinance if there is no representative of the alarm user available to assist the police to secure the premises or reset a malfunctioning alarm.~~

~~(4) Violation of this ordinance shall be punishable upon conviction by a fine of not less than \$50.00 nor more than \$500.00 per violation. Penalties or forfeitures imposed as a result of civil infraction proceedings shall be in addition to any fees and charges required to obtain a permit.~~

**~~TMC 6-6-120 - Administration.~~**

~~Alarm user permits which have been issued under Ordinance 601-83 shall continue in effect until such permits expire in accordance with their term pursuant to Ordinance 601-83.1, and shall thereafter upon expiration be renewed in accordance with this~~

ordinance. Except as otherwise provided in this section, all other provisions of this ordinance shall become operative on the effective date of this ordinance.

**TMC 6-6-120 No Duty to Respond; Government Immunity.**

An alarm permit does not create any contract, duty, or obligation, either expressed or implied, of the City's response to an alarm. Nothing in this Chapter creates, or is intended to create, a special relationship, as that term is defined under Oregon law, between any person and the City. All liability and consequential damage resulting from the failure to respond to a notification is disclaimed and all governmental immunity as provided by law is retained. The alarm user acknowledges that law enforcement response may be influenced by factors such as availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, and prior response history.

**TMC ~~6-6-080~~ 6-6-130 - Confidentiality, Statistics.**

(1) Except as otherwise required by law, if an alarm user requests that information submitted by the user as part of an application be kept in confidence, such information shall be held in confidence and ~~shall be deemed a public record exempt from disclosure under Oregon's Public Records Laws to the extent allowed by Oregon law. The Police Department shall be responsible for maintenance of records created under this ordinance.~~

(2) Notwithstanding the requirements of subsection (1) the ~~Police Department~~ City shall may develop and maintain statistics for purposes of evaluating alarm systems.

**TMC ~~6-6-090~~ 6-6-140- Allocation of Revenues.**

All fees and charges collected pursuant to this ordinance shall be deposited in the general fund in the City of Tualatin, and are nonrefundable.

**TMC 6-6-200- Violation is Civil Infraction.**

(1) In addition to any other remedy provided by law and this Chapter, a person who violates or refuses to comply with this Chapter commits a civil infraction and shall be is subject to a fine of up to \$500.00. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

(2) In addition to any other remedy provided by law and this Chapter, a person that commits more than two violations of this Chapter within any six-month period may have their license revoked for up to one year.

(3)The civil infraction procedures in TMC 7-01 apply to the prosecution of any violation of this Chapter.

**Section 2. Severability.** Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

**Section 3. Effective Date.** As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this 23<sup>rd</sup> day of November, 2020.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder