

CHAPTER 10.

POLICE

- Article 1. Department Regulations
- Article 2. Property in Police Custody
- Article 3. Law Enforcement Trust Fund
- Article 4. Alarm Systems

ARTICLE 1. POLICE DEPARTMENT**10-101. POLICE FORCE.**

The regular police force of the city shall consist of the chief of police, assistant chief of police and such law enforcement personnel as the governing body may provide. The chief of police under direction of the **mayor**, shall have supervision and be in charge of the police department and any law enforcement personnel appointed by the **governing body**. (Code 1970, 9-101; Code 2008, § 10-101)

10-102. DUTIES OF CITY CHIEF OF POLICE AND ASSISTANTS.

It shall be the duty of the chief of police and the assistant chief of police and other police officers, to see that the laws of the State of Kansas and all ordinances of the city and all resolutions of the governing body are properly enforced and obeyed within the police jurisdiction of the city. Whenever an arrest is made they shall attend all trials in municipal court unless excused by the municipal judge. They shall promptly serve all process papers, notices or orders required by law **or as directed by the mayor**. They shall also perform such other duties as may be required by **the mayor, or by ordinances of the city**. (Code 1970, 9-102; Code 2008, § 10-102)

10-103. CHIEF OF POLICE: POWERS. ¹

The chief of police shall at all times have power to make or order an arrest, with a warrant ~~proper process~~, for any offense against the laws of the state or of the city, and bring the offender for trial before the proper officer of the city, and to arrest without ~~process~~ a warrant in all cases where any such offense shall be committed, or attempted to be committed, in his or her presence and such other powers as provided by law. The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department.

¹ **Legal analysis: 10-103. CHIEF OF POLICE: POWERS.** Revise to conform to K.S.A. 22-2401, and to avoid potential constitutional concerns, as the terminology "without process" could be interpreted to indicate a lack of constitutional due process following an arrest.

(Code 1970, 9-103; Code 2008, § 10-103)

10-104. ARRESTS BY LAW ENFORCEMENT PERSONNEL.

The law enforcement personnel of the city shall have power to arrest all offenders against the laws of the state, or of the city, by day or night, in the same manner as the chief of police, and keep them in the city **prison**, or other place to prevent their escape, until a trial can be had before the proper officer.

(Code 1970, 9-104; Code 2008, § 10-104)

10-105. MAYOR: COMMAND; STATE OF EMERGENCY.

The mayor, and in the absence of the mayor the president of the council, shall assume command of the police department when and only when a state of emergency exists within the city. If a state of emergency is declared to exist by the mayor, he or she shall submit to the governing body at its next meeting a written report stating the cause of the emergency and its duration. Emergency as used herein is defined as a major crime or a public disaster.

(Code 1970, 9-105; Code 2008, § 10-105)

10-106. EMERGENCY TEMPORARY LAW ENFORCEMENT PERSONNEL.

The mayor may appoint qualified temporary law enforcement personnel in the event of an emergency or other exigent circumstances, or as soon as it is practicable whenever a vacancy occurs in the police department. Such personnel shall serve at the pleasure of the mayor. Should the mayor desire to appoint any temporary law enforcement personnel or any other person to a permanent position of law enforcement personnel, he or she shall submit the appointment to the city council for approval as provided by law. ²

(Code 1970, 9-108; Code 2008, § 10-106)

10-107. RULES OF CONDUCT.

The "Westwood Policy and Procedures Manual" is hereby incorporated by reference, as if the same were set out in full herein, for the purpose of providing rules and regulations governing all members of the police department of the City of Westwood, Kansas. Copies of the Department Operation Manual are available from the department. ³

(Code 2008, § 10-107)

10-108. REWARD MONIES; DISPOSITION.

All money due to or received by the chief of police or any law enforcement personnel on account of any reward accruing to him or her in consequence of any action in the line of duty shall be deposited to the credit of a fund for aid of law enforcement personnel of the city in payment of benefits for sickness and injury and allied uses. If no such fund has

² **Legal analysis: 10-106. EMERGENCY TEMPORARY LAW ENFORCEMENT PERSONNEL.** Revise to avoid potential liability issues.

³ **Legal analysis: 10-107. RULES OF CONDUCT.** Please advise whether the same Policy and Procedures Manual is still the applicable document for the rules of conduct.

been established by the police department, said monies shall be deposited with the city treasurer and shall become general funds of the city.
(Code 1970, 9-111; Code 2008, § 10-108)

10-109. CANINE CORPS.

Any dog used by the city whether owned, leased, rented or borrowed, for the purpose of performing duties with the police department shall be commissioned as a member of the Canine Corps and shall perform such duties as may be designated by the chief of police or the officer in charge of such unit and who has been designated the responsibility for the handling and supervision of such animal.
(Code 1993; Code 2008, § 10-109; Ord. 598, Sec. 6.15-1)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

10-201. REGULATIONS.

The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner.
(Code 2008, § 10-201)

10-202. DISPOSITION.

Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund.
(Code 2008, § 10-202)

10-203. SAME; EXEMPT PROPERTY.

The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

- (a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
- (b) Firearms which are available for disposition may be dealt with in the following manner:
 - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
 - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
 - (3) They may be destroyed.

- (4) In no case shall firearms be sold at public auction.
- (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
- (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
- (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
- (f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
- (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
- (h) Items with a value in excess of \$500.00 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.
- (i) Property which was seized under a warrant, or otherwise as part of a criminal investigation, will be disposed of according to the provisions of K.S.A. 22-2512. ⁴
- (j) Abandoned vehicles in police custody that remain unclaimed will be disposed of according to the procedures provided by K.S.A. 8-1102.
(Code 2008, § 10-203)

10-204. CLAIMING PROPERTY.

The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner.
(Code 2008, § 10-204)

10-205. PROOF OF OWNERSHIP.

Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented.
(Code 2008, § 10-205)

10-206. AUCTION.

At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least

⁴ **Legal analysis: 10-203. SAME; EXEMPT PROPERTY.** Revise for clarity and to conform to state law.

twice in a **general circulation newspaper** prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Code 2008, § 10-206)

ARTICLE 3. LAW ENFORCEMENT TRUST FUND

10-301. ESTABLISHED.

There is hereby established a fund in the city treasury entitled "Special Law Enforcement Trust Fund." The purpose of this fund is to provide for depository for the proceeds of sale and any monies forfeited to the city police department pursuant to Kansas statutes relating to controlled substance investigation forfeitures. **5**
(Code 1993, 10-201; Code 2008, § 10-301; Ord. 732, Sec. 1)

10-302. PROCEEDS OF SALES.

Any proceeds of sales and any monies forfeited to the city police department pursuant to the provisions of Kansas statutes shall be deposited in the "Special Law Enforcement Trust Fund".
(Code 1993, 10-202; Code 2008, § 10-302; Ord. 732, Sec. 2)

10-303. USE OF MONIES.

(a) All monies in the trust fund shall be expended only upon approval of the governing body and only for the following law enforcement purposes:

- (1) To defray costs of prorated or complex investigations.
- (2) Providing additional technical equipment or expertise.
- (3) To provide matching funds to obtain federal grants.
- (4) Other law enforcement purposes deemed appropriate by the governing body.

(b) No monies in the trust fund shall be used for payment of normal operating expenses of the police department or for any other expense or non-law enforcement expense of the city.

(Code 1993, 10-203; Code 2008, § 10-303; Ord. 732, Sec. 3)

10-304. QUARTERLY REPORT.

The police department shall submit a quarterly report to the governing body specifying the type and approximate value of any forfeited property received and the amount of any proceeds **received**. Neither the police department nor governing body shall anticipate

⁵ Legal analysis: 10-301. ESTABLISHED. Please confirm that said Special Law Enforcement Trust Fund still exists as described and under the same name.

future forfeitures or proceeds therefrom in the adoption and approval of its annual budgets.

(Code 1993, 10-204; Code 2008, § 10-304; Ord. 732, Sec. 4)

10-305. CONSTRUCTION OF ARTICLE.

The provisions of this article shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

(Code 1993, 10-205; Code 2008, § 10-305; Ord. 732, Sec. 5)

ARTICLE 4. ALARM SYSTEMS

10-401. PERMIT REQUIRED; UNLAWFUL ACTS; EXCEPTION.

No person shall possess or operate an alarm system designed with the intent of eliciting a police response 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.

(Code 1993, 5-901; Code 2008, § 10-401; Ord. 700, Sec. 1)

10-402. APPLICATION FOR PERMIT; NON-TRANSFERABILITY; EXCEPTIONS. ⁶

Every alarm user shall obtain an alarm users permit from the chief of police within 30 days after the effective date of this article or prior to use of an alarm system. Alarm permits are nontransferable. Each building, structure or facility maintaining one or more alarm systems must obtain an alarm users permit. Each permit shall bear the signature of the chief of police and shall be physically upon the premises using the alarm system and shall be available for inspection by the chief of police, his or her designate or any officer. An alarm user which is a governmental political unit shall be subject to this article; but such governmental unit shall not be subject to any fees or the imposition of any penalty as provided herein.

(Code 1993, 5-902; Code 2008, § 10-402; Ord. 700, Sec. 2)

10-403. REGULATIONS; REQUIREMENTS AND DUTIES.

(a) Any seller, vendor or installer of any type of alarm system shall obtain a permit from the chief of police prior to the selling or installing of any alarm system within the city.

(b) The chief of police or his or her designate may require inspection of any and all alarm systems installed within the city.

(c) Local alarm systems shall be equipped to automatically discontinue emitting an audible sound within 15 minutes after activation.

⁶ **Legal analysis: 10-402. APPLICATION FOR PERMIT; NON-TRANSFERABILITY; EXCEPTIONS.** Please clarify whether these provisions apply to all alarm systems (10-402), or only those that will directly notify police if activated (10-401). Also please advise if any of these provisions need to be updated in light of the growing presence of DIY alarm systems that can be purchased online.

(d) The chief of police or his or her designate shall have the right to discontinue any alarm emitting an audible sound.

(e) Alarm users shall submit with their permit application to the chief of police a release of liability releasing the city, any police officer or any other city employee from damages caused either personally or to any property when in response to the activation of such alarm system and also release the city, any police officer or other city employee from damages from disconnecting, resetting or not resetting the alarm system.

(Code 1993, 5-903; Code 2008, § 10-403; Ord. 700, Sec. 3)

10-404. NUISANCE ALARM SYSTEMS PROHIBITED.

It shall be unlawful for any person or business to own or operate any burglary, robbery, fire, medical, or panic alarm system deemed to be a nuisance. Nuisance alarm systems shall be defined as follows:

(a) False Alarms. - Any alarm which elicits a response from the police and/or fire departments more than six times in any 12 month period when no emergency exists. Exempt from this definition are newly installed systems, which shall receive a grace period of 30 days or four false alarms, whichever occurs first; alarm signals caused by violent conditions of nature or other extra-ordinary circumstances beyond control of the owner or operation; alarm systems owned or operated by any governmental political unit.

(b) Direct Telephone Alarms. - Any alarm which is programmed to automatically dial any telephone number, listed or unlisted, directly into any city building for the purpose of transmitting a voice recording of an emergency message.

(c) Disturbing Alarms. - Any alarm which emits an audible signal which is not automatically discontinued within 15 minutes of activation.

(Code 1993, 5-904; Code 2008, § 10-404; Ord. 700, Sec. 4)

10-405. DIRECT ALARM SYSTEMS TO BE DISCONNECTED.

It shall be unlawful for any alarm user to fail to disconnect any direct telephone alarm as defined in section 10-404 within 72 hours of receipt of written notice from the police department that such a programmed connection exists.

(Code 1993, 5-905; Code 2008, § 10-405; Ord. 700, Sec. 5)

10-406. DISTURBING ALARMS TO BE DISCONNECTED OR MODIFIED.

It shall be unlawful for any alarm user to fail to disconnect or modify any disturbing alarms as defined in section 10-404 within 72 hours of receipt of written notice from the police department that such a condition exists.

(Code 1993, 5-906; Code 2008, § 10-406; Ord. 700, Sec. 6)

10-407. NOTIFICATION OF NUISANCE ALARMS.

At the time of the sixth false alarm in any 12 month period, the city shall notify the responsible party by first class mail of such occurrence and that additional false alarms

shall require the payment of fees as per section 10-409 of this article. Such written notification shall be assumed to have been delivered three days after mailing.
(Code 1993, 5-907; Code 2008, § 10-407; Ord. 700, Sec. 7)

10-408. RESPONSIBLE PARTY.

The responsible party shall be the resident for a residential alarm system and the business owner or manager for a business alarm system, regardless of whether such system is owned, leased, rented, or otherwise controlled.
(Code 1993, 5-908; Code 2008, § 10-408; Ord. 700, Sec. 8)

10-409. FALSE ALARMS; FEES REQUIRED. ⁷

Any alarm system which has recorded more than six false alarms within any 12 month period shall be subject to the following fees:

- (a) Seven through 10 false alarms - \$25.00 each.
- (b) Eleven through 14 false alarms - \$50.00 each.
- (c) Fifteen through 18 false alarms - \$75.00 each.
- (d) Nineteen and each subsequent alarm - \$100.00 each.

The payment of the fee provided for shall be submitted to the city within 10 days of receiving notice that such fee is due.
(Code 1993, 5-909; Code 2008, § 10-409; Ord. 700, Sec. 9)

10-410. DESIGNATION OF ALARM COORDINATOR; DUTIES. ⁸

There is hereby established the position of alarm coordinator. The alarm coordinator shall:

- (a) Maintain records necessary to carry out the terms of this article; such records shall be confidential.
- (b) Make notifications as outlined in section 10-407.
- (c) Establish, distribute, and enforce such rules and regulations as may be necessary for implementation of this article, and make same available upon request.
- (d) Determine which alarms constitute false alarms as defined in section 10-404.
(Code 1993, 5-910; Code 2008, § 10-410; Ord. 700, Sec. 11)

10-411. PENALTY.

⁷ **Legal analysis: 10-409. FALSE ALARMS; FEES REQUIRED.** Please review the fee amounts listed herein and advise as to any changes.

⁸ **Legal analysis: 10-410. DESIGNATION OF ALARM COORDINATOR; DUTIES.** Please advise whether this designation still exists as described and under the same title. Revise if needed.

Any person convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of this article shall be guilty of a public offense and punished by a fine of not more than \$500.00 or by imprisonment not to exceed 30 days 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 ordinances is committed, continued or permitted by any such person.
(Code 1993, 5-911; Code 2008, § 10-411; Ord. 700, Sec. 12)