

<b>TITLE XIII GENERAL OFFENSES</b> <b>CHAPTER 130: OFFENSES AGAINST MUNICIPAL REGULATIONS</b>
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**CHAPTER 130 OFFENSES AGAINST MUNICIPAL REGULATIONS**

**ARTICLE I  
GENERAL PROVISIONS**

**130.01 Adoption Of State Criminal Code  
By Reference**

Those portions of the Arkansas Criminal Code, as said code was enacted or may hereafter be amended, setting forth offenses which constitute misdemeanors or violations and which prescribe penalties for such offenses are hereby adopted as a part of this Code as if set out fully herein; provided, no fine in excess of that authorized by said Arkansas Criminal Code shall be inflicted.

(Ord. No. 2192, 2-3-76; Code 1991, §130.01)

**State law reference(s)**--State law to be followed, A.C.A. §14-55-502.

**ARTICLE II  
LOWEST LAW ENFORCEMENT AND  
PROSECUTORIAL PRIORITY POLICY**

**130.02 Arrests and Prosecution of  
Marijuana Cases**

(A) *Title.* This chapter shall be known as the Lowest Law Enforcement and Prosecutorial Priority Policy Ordinance.

(B) *Purpose.* The purpose of this chapter is:

- (1) to make investigations, citations, arrests, property seizures, and prosecutions for misdemeanor marijuana offenses, where marijuana was intended for adult personal use, the City of Fayetteville's lowest law enforcement and prosecutorial priority; and
- (2) to transmit notification of the enactment of this initiative to state and federal elected officials who represent the City of Fayetteville.

(C) *Findings.*

- (1) Decades of arresting millions of marijuana users have failed to control marijuana use or reduce its availability.
- (2) Otherwise law-abiding adults are being arrested and imprisoned for nonviolent

marijuana offenses, which is clogging courts and jails in Arkansas.

- (3) Marijuana arrests prosecuted as criminal offenses result in loss of important job and educational opportunities.
- (4) In 2005 alone, over 402 marijuana arrests were booked by the City of Fayetteville.
- (5) Each year, Arkansas spends more than \$30 million of taxpayer money enforcing marijuana laws.
- (6) Law Enforcement resources would be better spent fighting serious and violent crimes.
- (7) Making adult marijuana offenses Fayetteville's lowest law enforcement priority will reduce the City's spending on law enforcement and punishment.

(D) *Definitions.* For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) *Adult* is defined as per Arkansas state law for the purposes of this ordinance, as persons eighteen (18) or older.
- (2) *Fayetteville law enforcement officer* means a member of the Fayetteville Police Department or any other city agency or department that engages in law enforcement activity with the City's jurisdiction.
- (3) *Lowest law enforcement priority* means a priority such that all law enforcement and prosecutorial activities related to all offenses other than adult, personal-use marijuana offenses shall be a higher priority than all law enforcement and prosecutorial activities related to marijuana offenses, where the marijuana was intended for adult personal use, other than the exceptions designated in this chapter.
- (4) *Marijuana* means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its

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resin.

(E) Lowest Law Enforcement Priority Policy

- (1) Fayetteville law enforcement officers shall make law enforcement activity relating to marijuana offenses, where the marijuana was intended for adult personal use, their lowest law enforcement priority. Law enforcement activities relating to marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.
- (2) Fayetteville's prosecuting attorney shall make marijuana offenses, where the marijuana was intended for adult personal use, the lowest prosecutorial priority.
- (3) This lowest law enforcement priority policy shall not apply to driving under the influence.

(F) *Notification of Federal and State Officials.*

- (1) Beginning three months after the enactment of this chapter, the city clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to Fayetteville voters' U.S. representative or representatives, both of Arkansas's U.S. senators, Fayetteville voters' senators and Assembly members in the Arkansas State Legislature, the governor of Arkansas, and the president of the United States. This letter shall state, "The citizens of Fayetteville have passed an initiative to de-prioritize adult marijuana offenses, where the marijuana is intended for personal use, and request that the federal and Arkansas state governments take immediate steps to enact similar laws." This duty shall be carried out until state and federal laws are changed accordingly.

(G) *Enforceability.* All sections of this chapter are mandatory. If any provision of this chapter is not carried out properly, any person who is registered to vote in Fayetteville may seek a writ of mandate to ensure the law is fully implemented.

(H) *Severability.* If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

- (I) *Effective Date.* This initiated ordinance was effective when passed by the city voters on November 4, 2008.

**Editor's Note from City Attorney:** § 130.02 is the result of an initiated ordinance which is subject to the same constitutional and legal constraints as any ordinance passed by the City Council. This ordinance may be in violation of the Mayor's statutory power (A.C.A. § 14-43-504) as chief executive officer and supervisor of the Police. City Attorney.

**130.03-130.14 Reserved**

**ARTICLE III  
OFFENSES AGAINST  
PUBLIC ORDER AND SAFETY**

**130.15 False Fire Alarms By 9-1-1 Calls  
And Other Emergency Calls**

It shall be unlawful for any person to make or give any false alarm of fire, false 911 calls, or any false calls requiring emergency response. In addition to any penalty imposed for the violation of this section any person convicted of such a violation shall be liable for the cost incurred by the city in answering any false fire alarm.

(Code 1965, §9-15; Code 1991, §130.15)

**Cross reference(s)--Penalty, §130.99.**

**130.16 False Bomb Reports**

It shall be unlawful for any person to knowingly give or make to any city department, officer, or employee, or to any other person, any false report as to the location or existence of any bomb or other explosive device or material in or at any building or other premises within the city. In addition to any penalty imposed for the violation of this section, the person responsible for such violation shall be liable to the city for any cost incurred in investigating such false report.

(Code 1965, §13-6; Code 1991, §130.16)

**Cross reference(s)--Penalty, §130.99.**

**130.17 Discharge Of Firearms Prohibited;  
Exceptions**

- (A) It shall be unlawful for any person to discharge any pistol, rifle, gun, or other firearm within the city. This section shall not apply to any law enforcement officer in the discharge of his official duties, firearms qualification at the police pistol/rifle range, and practice at same with official permission.

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(B) This section shall not apply to the firing of rifles and pistols by members of organized rifle or pistol clubs or associations provided the following conditions are met:

- (1) All firing of rifles and pistols shall be on an indoor range, which facility shall first be approved in writing by the chief of police, or at the police department's outdoor range.
- (2) One or more certified instructors, as may be reasonably necessary for safe operation of such range, shall be present at all times during operation of the range and firing of rifles or pistols. Instructors shall be currently certified either by a branch of the armed forces of the United States or by a recognized, accredited, national rifle or pistol association.
- (3) The organized rifle or pistol club or association shall keep and maintain at all times in full force and effect a policy of public liability insurance issued by an insurance company authorized to do business in the state, insuring against bodily injury, death and property damage in minimum limits of \$20,000.00 per person, and \$50,000.00 per accident for death and bodily injury, and \$10,000.00 for property damage. Current certificates of insurance evidencing such coverage will be provided to the chief of police.
- (4) The location and operation of such rifle or pistol ranges shall at all times be consistent with the zoning ordinances of the city, and shall be conducted in such a manner as not to constitute a disturbance of the public peace.

(Code 1965, §13-7; Ord. No. 17; Ord. No. 1620, 9-3-68; Code 1991, §130.17)

**Cross reference(s)**--Penalty, §130.99.

### 130.18 Air, Spring Or BB Guns

It shall be unlawful for any person to discharge or cause to be discharged, so as to cause damage to real or personal property, any air rifle, spring gun, BB gun, or air gun within the corporate limits of the city.

(Code 1965, §13-5; Ord. No. 1016, 2-11-52; Code 1991, §130.18)

**Cross reference(s)**--Penalty, §130.99.

### 130.19 Unlawful Assemblies

It shall be unlawful for persons to assemble or collect in

bodies or crowds on the sidewalks or in the streets or alleys of the city in such a manner as to obstruct the same. It shall likewise be unlawful for any person to employ any device, noise, or performance tending to the collection of persons on the streets or sidewalks in such manner as to obstruct the same.

(Code 1965, §18-6; Ord. No. 67; Ord. No. 179; Code 1991, §130.19)

**Cross reference(s)**--Penalty, §130.99.

### 130.20 Picketing Of Residences Prohibited

It shall be unlawful for any person to picket before or about a residence which is located in a residential area and used exclusively for residential purposes.

(Code 1965, §13-15; Ord. No. 3125, 9-17-85; Ord. No. 3293, 9-15-87; Code 1991, §130.20)

**Cross reference(s)**--Penalty, §130.99.

### 130.21 Barbed Wire Fences

It shall be unlawful for any person to build or maintain a barbed wire fence in such a manner that said fence poses a hazard to pedestrian traffic. For the purpose of this section, "barbed wire fence" shall mean a fence any portion of which consists of barbed wire.

(Code 1965, §18-8; Ord. No. 191; Ord. No. 2835, 7-20-82; Code 1991, §130.21)

**Cross reference(s)**--Penalty, §130.99.

### 130.22 Multiple False Fire Alarms; Fees

(A) Any person, firm or corporation having a fire alarm, smoke detector or other type of alarm, and which alarm has a direct or indirect connection which calls for a response from the fire department shall be charged a fee as follows for multiple false fire alarms responded to by the fire department within a calendar year:

- (1) For each response after the sixth response in any calendar year \$50.00; and
- (2) For each response after the tenth response in any calendar year \$100.00.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Multiple false fire alarm.* A false fire alarm calling for a response from the fire department occurring on

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more than six occasions within a calendar year.

*False fire alarm.* An alarm calling for a response from the fire department which is malicious, caused by a malfunction of the alarm device or system or an alarm transmitted due to negligence or carelessness of any person, firm or corporation or their employees or agents having such an alarm.

(Ord. No. 3526, 12-18-90; Code 1991, §130.22)

### 130.23 False Alarm Reduction

(A) Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Alarm Administrator* means a Person or Persons designated by the Chief of Police to administer, control and review False Alarm reduction efforts and administer the provisions of this Section.

*Alarm Dispatch Request* means a notification to the Fayetteville Police that an alarm, either manual or automatic, has been activated at a particular Alarm Site.

*Alarm Installation Company* means a Person who sells, provides, maintains, services, repairs, alters, replaces, moves, and/or installs an Alarm System at an Alarm Site.

*Alarm User Permit* means a permit issued by the City to the Alarm User to operate an Alarm System, obtained after the Alarm User makes written application to either the Alarm Installation Company, Alarm Monitoring Company, or in the case of a Local Alarm, the Alarm Administrator.

*Alarm Site* means a single fixed premise or location served by an Alarm System or Systems. Each unit, if served by a separate Arming Station in a multi-unit building or complex, shall be considered a separate Alarm Site.

*Alarm System* means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon a police response, including Local Alarm Systems. Alarm System does not include an alarm installed in a vehicle or on someone's person.

*Alarm User Awareness Class* means a class conducted for the purpose of educating Alarm Users about the responsible use, operation, and maintenance of Alarm Systems and the problems created by False Alarms.

*Alarm User* means any Person, who operates an Alarm System.

*Arming Station* means a device that allows control of an Alarm System.

*Automatic Voice Dialer* means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio, or other communications system, to the Fayetteville Police requesting dispatch.

*Burglar Alarms* – means any system or device detecting and reporting any unauthorized entry or attempted entry or property damage upon real property. Alarms on automatic teller machines are included in this definition.

*Cancellation* means the process where a dispatch is terminated when an Alarm Installation Company or Alarm Monitoring Company for the Alarm Site notifies the Fayetteville Police before their arrival that there is not an existing situation at the Alarm Site requiring response after an Alarm Dispatch Request.

*Conversion* means the transaction or process by which one Alarm Installation Company or Monitoring Company begins the servicing, monitoring or both of a previously unmonitored Alarm System, or an Alarm System previously serviced or monitored or both by another Alarm Company.

*Dispatch* means the process in which the Fayetteville Police is instructed to respond to an alarm.

*False Alarm* means an Alarm Dispatch Request to summon the Fayetteville Police to a non-emergency situation. For enforcement purposes, any Dispatch Request cancelled prior to the arrival of the Fayetteville Police at the Alarm Site will still not be counted as a False Alarm.

*Grace Period* means a specified length of time from the date of installation or Conversion/Takeover during which no occurrence, fine or penalty is assessed for False Alarms.

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*Local Alarm System* means any Alarm System, which is not monitored, that emits or transmits a local audible, visual or electronic signal indicating an alarm condition only at the Alarm Site.

*Monitoring Company* means a Person in the business of providing Alarm Monitoring services.

*Monitoring* means the process by which a Monitoring Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the Fayetteville Police for the purpose of summoning a police response to an Alarm Site.

*Purchase* means the transaction or process by which an Alarm Company assumes control or possession of an existing alarm account.

*Response* means the dispatch of Fayetteville Police personnel to the premises where an Alarm System has been activated.

*Responsible Individual* means an individual who is able and has agreed to:

- receive notification of an Alarm System activation at any time;
- respond to the Alarm Site within 30 minutes at any time; and,
- grant access to the Alarm Site and deactivate the Alarm System upon request.

*Robbery alarm* (also hold-up alarm or panic alarm) means an alarm signal generated by the manual or automatic activation of a device, or any system, device, or mechanism on or near the premises intended to signal that a robbery or other crime is *in progress*, and that one or more persons are in need of immediate police assistance in order to avoid injury, serious bodily harm or death at the hands of the perpetrator of the robbery or other crime

*Takeover* means the transaction or process by which an Alarm User takes over control of an existing Alarm System, which was previously controlled by another Alarm User.

*Verify* means an attempt by the Monitoring Company, or its representatives, to contact the Alarm Site by telephonic or other electronic means, whether or not actual contact with a Person is made, to determine whether an alarm signal is valid before requesting a police dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request.

For purposes of this Section, "verify" requires, that if the initial call to the Alarm Site is unanswered, the Monitoring Company must make a second call to reach a Responsible Individual at a different number than the one listed as the Alarm Site telephone number. This process is known as "ECV," or Enhanced Call Verification.

*Zones* mean division of devices into which an Alarm System is divided to indicate the general location from which an Alarm System signal is transmitted.

(B) *Administration and funding.*

- (1) Responsibility for administration of this Chapter is vested with the Chief of Police
- (2) The Chief of Police designates an Alarm Administrator to carry out the duties and functions described in this Chapter.
- (3) Monies generated by false alarm service fees pursuant to this Chapter shall be dedicated for use by the Department directly for administration of the alarm program and for recovery of general police services lost to false alarm response.
- (4) The Alarm Administrator shall conduct an annual evaluation and analysis of the effectiveness of this Chapter and identify and implements system improvements, as warranted.

(C) *Permit required; Application; Transferability; False Statements.*

- (1) No Alarm User shall operate, or cause to be operated, an Alarm System at its Alarm Site without a valid Alarm Permit. A separate Alarm Permit is required for each Alarm Site.
- (2) Existing Alarm System. Any alarm system which has been installed before the effective date of this chapter shall be registered by the Alarm User within 120 (One Hundred Twenty) days of such effective date.
- (3) Alarm Systems. Any Alarm System that is installed on a protected premises located within the City of Fayetteville, the Alarm User shall have ten (10) days from the date of the installation to notify the Alarm Administrator that an alarm system has been installed and the send the Alarm Administrator the name and address of the Alarm User and a copy of

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the Customer False Alarm Prevention Checklist. Failure of an Alarm User to notify the Alarm Administrator of a new Alarm System installation within ten (ten) days following installation shall result in a fee of \$100.00.

- (4) The Alarm Permit application must be submitted by the Alarm User to the Alarm Administrator at the time of an Alarm System installation or Takeover. All Local Alarm System applications must be submitted to the Alarm Administrator at the time of an Alarm System installation or Takeover by the next business day. The Alarm Permit shall be effective until such time as the registered Alarm User no longer occupies the Alarm Site.
- (5) An Alarm Monitoring Company or Alarm Installation company may provide the information for an Alarm Permit to the Alarm Administrator on behalf of the Alarm User.
- (6) Each Alarm Permit application must include the following information:
  - (a) the name, complete current address, (including apartment or suite number), and telephone numbers of the Person who will be the Permit holder and be responsible for the proper maintenance and operation of the Alarm System;
  - (b) the classification of the Alarm Site (e.g. single or multi-family residential, commercial, warehouse, governmental, etc.);
  - (c) mailing address, if different from the address of the Alarm Site;
  - (d) the date of installation, Conversion or Takeover of the Alarm System;
  - (e) the name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System installation, Conversion or Takeover, and of the Alarm Installation Company responsible for providing repair service to the Alarm System;
  - (f) the name, address, and telephone number of the monitoring Company, if different from the Alarm Installation Company; any protective / reactive systems , and,

(g) signed certification from the Alarm User stating that:

- (i) a set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, have been left with the applicant by the Alarm Installation Company;
- (ii) the Alarm Installation Company has trained the applicant in the proper use of the Alarm System, including instructions on how to avoid False Alarms; and,
- (iii) the Alarm User is aware of the fact that a police response may be influenced by factors including, but not limited to, the availability of police units, priority of calls, weather conditions, traffic conditions, and staffing levels.

(7) Any false statement of a material fact made by an applicant for the purpose of obtaining an Alarm Permit shall be sufficient cause for imposition of a fee prior to the issuance of a Permit by the Alarm Administrator.

(8) An Alarm Permit cannot be transferred to another Person or Alarm Site. An Alarm User shall inform the Alarm Installation or Alarm Monitoring Company, in case of a monitored Alarm System, or the Alarm Administrator, in the case of a non-monitored Alarm System, of any change to any of the information on the Alarm Permit application within five (5) business days of such change.

(9) An Alarm Permit is good for two (2) years from the issued date.

(10) The Alarm User is solely responsible for the payment of any fee for services.

(11) Per A.C.A. § 17-40-106, the Alarm Permit will be given at no cost to the Alarm User.

(D) *Duties of the Alarm User.*

(1) An Alarm User shall:

- (a) maintain the Alarm Site and the Alarm System in a manner that will minimize or eliminate False Alarms;

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- (b) make every reasonable effort to have a Responsible Individual available at the Alarm Site within 30 minutes after an Alarm Dispatch Request; and,
- (c) not activate an Alarm System for any reason other than an occurrence of an event that the Alarm System was intended to report.

- (2) An Alarm User shall have a Licensed Alarm Installation Company inspect the Alarm System after three (3) False Alarms within a revolving three-month period. The Alarm Administrator may waive a required inspection if (s)he determines that a False Alarm(s) could not have been related to a defect or malfunction in the Alarm System.
- (3) An Alarm User shall not use Automatic Voice Dialers to notify the Fayetteville Police Department.
- (4) An Alarm User shall maintain at each Alarm Site an Alarm Permit and a set of written operating instructions for each Alarm System.
- (5) Alarm Users may agree with their Alarm Installation Company or Monitoring Company to go through a "grace period" for the first seven (7) days after installation of an Alarm System during which time neither the Alarm Installation Company nor the Monitoring Company will have any obligation to respond to any Alarm Signal from the Alarm Site. If the Alarm Signal is the result of an actual alarm event, the Alarm Installation Company or the Monitoring Company shall send an Alarm Dispatch to the Fayetteville Police.

(E) *Duties and Authority of the Alarm Administrator.*

- (1) The Alarm Administrator shall establish a procedure for notification to the Alarm User of the occurrence of a False Alarm. Such notice shall include:
  - (a) the date and time of police response to the False Alarm;
  - (b) the response incident number; and,
  - (c) a statement urging the Alarm User to ensure that the Alarm System is properly operated, inspected, and serviced in order

to avoid False Alarms and resulting fee for service.

- (2) The Alarm Administrator or the Fayetteville Police may create and implement an Alarm User Awareness Class. The Alarm Administrator may request the assistance of False Alarm Associations, alarm companies and emergency service agencies in developing and implementing the class. The class shall inform Alarm Users of the problems caused by False Alarms and teach Alarm Users how to avoid False Alarms.

(F) *Fees for Service.*

- (1) An Alarm User shall be subject to a fee for service, depending on the number of False Alarms within a calendar year based upon the following schedule:

<b># of False Alarms</b>	<b>Fee for Service</b>
1	\$0.00
2	\$75.00
3	\$100.00
4	\$150.00
5	\$200.00
6 or more	\$250.00

- (2) In addition, any Person operating a non-permitted Alarm System will be subject to an additional fee for service of \$250.00. The Alarm Administrator may waive the additional fee for non-permitted Alarm Systems, if the Alarm User submits an application for Alarm Permit within ten (10) days after notification of such a violation.
- (3) An audible alarm that has not been called into the Fayetteville Police Department by an Alarm Monitoring Service shall not constitute a false alarm under this section.
- (4) Notice of the right of Appeal under this ordinance shall be included with any fee for service.
- (5) A \$25.00 late fee will be assessed for each false alarm invoice not paid within 30 days of notice.

(G) *Robbery Alarm.*

Activation of a robbery alarm shall be deemed an intentional act for which a required fee shall be deemed imposed for false alarms. Any alarm user

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of such alarms shall pay the city a fee for each and every false robbery alarm to which police respond.

# of False Alarms	Fee for Service
1	\$0.00
2-3	\$100.00
4 or more	\$200.00

The higher fee will continue to be assessed until the alarm user submits a certification from an Alarm Installation Company, stating that the Alarm System has been inspected and repaired (if necessary) by the Alarm Installation Company and proper training has been provided to the alarm user.

A \$25.00 late fee will be assessed for each false alarm invoice not paid within 30 days of notice.

(H) *Alarm Cancellations.*

- (1) The Monitoring Company shall communicate Verified Cancellations of Alarm Dispatch Requests to the Fayetteville Police in a manner and form prescribed by this Section.
- (2) In order for the Fayetteville Police to verify the identity of the Monitoring Company and to confirm that the correct Alarm Dispatch Request is Cancelled, Monitoring Companies must use the Incident Number given to them by the Fayetteville Police when the alarm call was first made.
- (3) For Alarm Systems that utilize a Monitoring Company, a request for Cancellation of an Alarm Dispatch Request will only be accepted from the Monitoring Company and only after the Incident Number has been reported to the Fayetteville Police.
- (4) If a cancellation occurs prior to law enforcement arriving at the scene, this is not a False Alarm for the purpose of fees for service and no fee will be assessed.
- (5) Robbery alarms from financial institutions cannot be canceled and an officer response is mandatory per the Policies and Procedures of the Fayetteville Police Department. In this situation, if a financial institution employee contacts the Fayetteville Police Department to notify of a false alarm prior to the Alarm Monitoring Company notifying of an alarm dispatch request, then this will be considered a cancellation request and no fee will be assessed.

(I) *Suspension of Response.*

- (1) The Alarm Administrator may suspend police response to an Alarm Site by revoking the Alarm Permit if it is determined that:
  - (a) The Alarm User has 6 or more False Burglary Alarms within a twelve (12) month period; or,
  - (b) There is a statement of a material fact known to be false in the application for a permit; or,
  - (c) The Alarm User has failed to make timely payment of a fee for service assessed; or,
  - (d) The Alarm User has failed to submit a written certification from an Alarm Installation Company that complies with the requirements of this article, stating that the Alarm System has been inspected and repaired (if necessary) and/or additional training has been conducted by the Alarm Installation Company.
- (2) A Person commits an offense if he/she operates an Alarm System during the period in which the alarm permit is suspended and is subject to enforcement and Fees.
- (3) Unless there is separate indication that there is a crime in progress, the Fayetteville Police Department may refuse a officer response to an Alarm Dispatch Request at an Alarm Site for which the Alarm Permit is suspended.
- (4) If the Alarm Permit is reinstated the Alarm Administrator may again suspend police response to the Alarm Site by again suspending the Alarm Permit if it is determined that two (2) False Alarms have occurred within one hundred eighty (180) days after the reinstatement date.

(J) *Appeals.*

- (1) If the Alarm Administrator assesses a Fee for Service, the Alarm Administrator shall send written notice of the action and of the right to appeal to the Alarm User.
- (2) The Alarm User may appeal an assessment to the Alarm Administrator by setting forth in

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writing the reasons for the appeal within fifteen (15) business days after receipt of the fee for service or a notice of revocation.

(3) The Alarm User may appeal an adverse decision of the Alarm Administrator to the False Alarm Appeals Panel as follows:

(a) The Alarm User may file a written request for review of an adverse decision of the Alarm Administrator by paying an appeal fee of \$25.00, and setting forth the reasons for the appeal within fifteen (15) business days after the date of notification of an adverse decision from the Alarm Administrator. Appeal fees shall be fully refunded if the appeal is granted.

(b) The False Alarm Appeals Panel shall be comprised of five (5) members, each to be appointed by the Chief of Police, to serve a term of three (3) years. The panel will consist of an alarm industry representative, a member of the Fayetteville Police Department, and an at large citizen of Fayetteville.

(c) The False Alarm Appeals Panel shall conduct a review within thirty (30) days of the receipt of the request, and consider all evidence presented by any interested Person(s). The False Alarm Appeals Panel shall make its decision based upon the preponderance of the evidence presented. The False Alarm Appeals Panel shall render its decision to either affirm or reverse the decision of the Alarm Administrator no later than ten (10) days after the date of the hearing.

(4) The filing of a request for appeal shall stay enforcement and collection of any fee for service assessed, until such time as the False Alarm Appeals Panel renders its decision. If a request for appeal is not made within the fifteen (15) business day period set forth at subsection (J)(3) (a) above, the action of the Alarm Administrator shall be deemed final.

(5) The Alarm Administrator or the False Alarm Appeals Panel may adjust the accrued number of False Alarms based on evidence that:

(a) a False Alarm was caused by the actions of the telephone company, Alarm Installation Company, and/or the Monitoring Company; or,

(b) a False Alarm was caused by a power outage lasting longer than four (4) hours; or,

(c) shows that the Alarm Dispatch Request was not a False Alarm; or,

(d) the officer response was not completed in a timely fashion; and/ or,

(6) In determining the number of False Alarms, multiple alarms occurring in any twenty-four (24) hour period may be counted as one False Alarm: to allow the alarm use time to take corrective action unless the false alarms are directly caused by the alarm user.

(K) *Reinstatement.*

(1) A Person whose Alarm Permit has been revoked may, at the discretion of the Alarm Administrator or the Chief of Police have the Alarm Permit reinstated by the Alarm Administrator or the Chief of Police if the Person:

(a) Submits a new application; and,

(b) pays, or otherwise resolves, all outstanding citations, fees and fines; and,

(c) submits a certification from an Alarm Installation Company, stating that the Alarm System has been inspected and repaired (if necessary) by the Alarm Installation Company;

(2) In addition, the Alarm Administrator may require one or more of the following as a condition to reinstatement:

(a) proof that an employee of the Alarm Installation Company or Monitoring Company caused the False Alarm;

(b) upgrade the alarm control panel to CP-01 Compliant Panel;

(c) a written statement from an independent inspector designated by the Chief of police that the Alarm System has been inspected and is in good working order;

(d) confirmation that all motion detectors are "dual technology" type;

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- (e) confirmation that the Alarm System requires two independent zones to trigger before transmitting an alarm signal to the Monitoring Company;
- (f) confirmation that the Alarm System requires two independent detectors to trigger before transmitting an alarm signal to the Monitoring Company;
- (g) certification that the Monitoring Company will not make an Alarm Dispatch Request unless the need for a officer is confirmed by a listen-in device;
- (h) certification that the Monitoring Company will not request an Alarm Dispatch unless the need for a officer/deputy is confirmed by a camera device; or
- (i) certification that the Monitoring Company will not make an Alarm Dispatch Request unless the need for a officer is confirmed by a Person at the Alarm Site.
- (j) alarm user successfully completes an on-line alarm awareness class and test.

(L) *Government Immunity.*

An Alarm Permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an Alarm Permit, the Alarm User acknowledges that Fayetteville Police Department response may be influenced by factors such as: the availability of officers, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

(Ord. 5083, 11-20-07)

**130.24-130.34 Reserved**

**ARTICLE IV  
OFFENSES AGAINST PROPERTY**

**130.35 Damaging Or Defacing Property**

It shall be unlawful for any person to cut, write upon, deface, disfigure, destroy, mutilate, or otherwise damage any building, fence, sign, billboard, wire, pole, or any other property belonging to another, whether

such property is public or private.

(Code 1965, §13-4; Ord. No. 17; Ord. No. 99; Ord. No. 146; Ord. No. 241; Code 1991, §130.35)

**Cross reference(s)**--Penalty, §130.99.

**130.36 Unlawful Entry Upon Railroad Trains**

It shall be unlawful for any person who is not a regular passenger or employee of a railroad company to enter upon a railroad train, engine, or caboose or to hang or swing thereto with his hands or to hold on to any such train, engine or caboose when the same is in motion within the city.

(Code 1965, §13-9; Ord. No. 26; Code 1991, §130.36)

**Cross reference(s)**--Penalty, §130.99.

**130.37 Failure To Return Library Book And Property**

(A) It shall be unlawful for any person to injure, or to fail to return to the public library of the city, after written demand therefor mailed to the last known address of such person, any book, periodical, or property belonging to said library. Said written demand shall state that demand is being made pursuant to the authority contained in this section, and that failure to return the book, periodical or property specified within 10 days from the date shown on said written demand shall be considered a violation of this section resulting in prosecution thereof.

(B) Nothing herein shall be construed as in any way affecting or terminating the system of civil fines and administrative sanctions now or hereafter employed by said library in connection with its program of lending books, periodicals, and other property, but shall be supplementary thereto.

(Code 1965, §13-7.1; Ord. No. 1527, 1-16-67; Code 1991, §130.37)

**Cross reference(s)**--Penalty, §130.99.

**130.38 Use Of City Flag**

(A) It shall be unlawful for any person to place or cause to be placed upon the official city flag advertising material of any nature whatsoever.

(B) It shall be unlawful for any person to sell, offer for sale, or have in his possession an official city flag

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on which is placed advertising material of any nature whatsoever.

(Code 1965, §13-11; Ord. No. 2273, 9-7-76; Code 1991, §130.38)

**Cross reference(s)**--Penalty, §130.99.

### **130.39 Graffiti**

- (A) *Definition.* For purposes of this section, the term "graffiti" shall mean any inscription, word, figure, design, symbol or insignia which is marked, etched, scratched, drawn, painted or otherwise affixed to or placed upon public or private property located within the city to the extent that the same was not authorized in advance by the owner.
- (B) *Unlawful to apply graffiti; penalty.* It shall be unlawful for any person to apply graffiti upon any public and privately owned structure located on public or privately owned real property within the city, and any person who is found guilty of affixing graffiti to private or public property shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Nothing contained herein shall prevent the city from pursuing any other remedy available for redress of any damage or injury caused by the action of any such person.

(Ord. No. 3818, §§1, 2, 8-2-94; Code 1991, §130.39)

### **130.40-130.98 Reserved**

### **130.99 Penalty**

- (A) Whoever violates any provision of this chapter for which another penalty has not been provided, shall be fined not more than \$500.00 or double that sum for each repetition of each offense or violation.
- (B) Any person violating the provisions of §130.37 shall upon conviction of same be guilty of a misdemeanor, and shall be fined in an amount not less than \$25.00 nor more than \$100.00.
- (C) Any person violating a provision of §130.38 shall be punished by a fine of not more than \$100.00.

(Code 1965, §§13-7.1, 13-11; Ord. No. 1527, 1-16-67; Ord. No. 2273, 9-7-76; Code 1991, §130.99)

