

ORDINANCE NUMBER O- 19321 (New Series)

ADOPTED ON NOV 08 2004

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 3, DIVISION 37 OF THE SAN DIEGO MUNICIPAL CODE; BY REPEALING SECTIONS 33.3700, 33.3706.1, 33.3706.2, AND 33.3707.1; AMENDING SECTIONS 33.3701 THROUGH 33.3715; AND ADDING SECTIONS 33.3716 THROUGH 33.3723; RELATING TO BURGLARY, ROBBERY AND EMERGENCY ALARM SYSTEMS

WHEREAS, the majority of burglar and robbery alarms that the San Diego Police Department responds to are false, resulting in an enormous waste of resources, and may lull some police officers into an unwarranted sense of security; and

WHEREAS, alarm systems that automatically and directly dial an emergency telephone number can be activated by an electrical failure or other event not connected to any criminal activity, and tie up the emergency telephone lines, rendering them unavailable for genuine emergency calls; and

WHEREAS, *false alarms* create an unnecessary danger to citizens and police officers by requiring the Police Department to effect an emergency response; and

WHEREAS, the use of tax dollars to respond to *false alarms* is excessive and unnecessary, and must be reduced; and

WHEREAS, the City Council of the City of San Diego finds and declares that the purpose of this ordinance is:

- (1) to protect the citizens of the City of San Diego by ensuring that public safety

resources are available to respond to protect the public's safety and welfare rather than needlessly responding to false alarm activations;

(2) to reduce the costs and expenses associated with public safety responses to false alarm activations and

(3) to ensure that alarm business and alarm users abide by all laws relevant to the use of alarm systems, thus reducing false alarm activations; NOW THEREFORE, BE IT

ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 3, Article 3, Division 37 of the San Diego Municipal Code, titled "Burglary, Robbery and Emergency Alarm Systems," is amended by repealing Sections 33.3700, 33.3706.1, 33.3706.2, and 33.3707.1, and amending Sections 33.3701 through 33.3715 to read as follows:

§ 33.3701 **Definitions**

Defined words appear in italics. Except as otherwise provided, for purposes of this Division:

"*Alarm agent*" means any *person* who is directly or indirectly employed by an *alarm business*, and whose duties include selling any *alarm system*.

"*Alarm business*" means any person engaged in the enterprise of selling, installing or monitoring any *alarm system*. It does not include the owner or property manager of an apartment complex that provides *alarm systems* in each residential unit as an amenity.

"*Alarm System*" means any mechanical or electrical device used to detect unauthorized entry into any building or other structure, or to alert others to

the possible commission of an unlawful act within a building or other structure, that when triggered emits a sound or transmits a signal or message that is intended to evoke a law enforcement response.

"Alarm User" means any *person* who possesses or controls an operating *alarm system*, or who occupies, controls, or possesses the building or structure protected by an *alarm system*.

"Audible alarm system" means any *alarm system* that when triggered can or is intended to be heard from the exterior of any building or other structure.

"Burglary alarm system" means any *alarm system* that is triggered upon detection of unauthorized entry into any building or other structure and thereby causes a local audible alarm or the transmission of a signal or message intended to evoke a law enforcement response.

"Business tax certificate" has the same meaning as *"Certificate"* as defined in Municipal Code section 31.0110(a).

"Chief of Police" has the same meaning as used in Municipal Code section 33.0201.

"Conversion" means the assumption by one *alarm business* of the duty to monitor an *alarm system* previously monitored by another *alarm business*.

"Duress alarm" means a silent alarm signal generated by the manual activation of a device which is designed to signal a life threatening situation or a crime in progress requiring law enforcement response.

"*Emergency situation*" means any circumstance in which there is reason to believe that (1) a *person* not authorized to do so entered or attempted to enter, or is entering or attempting to enter, any building or other structure protected by an *alarm system*; (2) a *person* committed or attempted to commit, or is committing or attempting to commit, an unlawful act within a building or other structure protected by an *alarm system*; or (3) there is an identifiable risk of harm to a *person* or property within or on the premises of a building or other structure protected by an *alarm system*.

"*Exempt user*" means any municipal, county, state, federal, or other government agency, or any institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

"*False alarm*" means any triggering of an *alarm system* that results in a response by law enforcement personnel where an *emergency situation* does not exist. It includes activations caused by mechanical failure, malfunction, accidental tripping, misuse, or negligent maintenance by an *alarm business*, *alarm agent*, or *alarm user*. It does not include activations caused by weather conditions, telephone line problems, or any other factor over which the *alarm business*, *alarm agent*, or *alarm user* do not have direct or indirect control.

"*Person*" has the same meaning as in Municipal Code section 11.0210.

"*Robbery alarm system*" means any *alarm system* used to directly or indirectly alert law enforcement personnel to the possible commission of an unlawful act within a building or other structure.

"*Seil*" means to furnish, give, exchange, transfer, deliver, distribute, supply, maintain, lease, service, repair, alter, replace, move, install or monitor in exchange for money or other consideration.

"*Takeover*" means the assumption by one *alarm user* of the control of an *alarm system* previously controlled by another *alarm user*.

§ 33.3702 Alarm Business Requirements and Responsibilities

- (a) It is unlawful for any *person* to operate an alarm business without a *business tax certificate*.
- (b) It is unlawful for any *person* to operate an *alarm business* not registered as required by the State of California.
- (c) Any *alarm business* that sells any *alarm system* shall do the following:
 - (1) Obtain an *alarm user* permit, using the *alarm user* permit application provided by the Chief of Police, on behalf of the *alarm user* before putting the *alarm system* into service;
 - (2) Collect the *alarm user* permit application and permit fee from each *alarm user*;

- (3) Mail or hand deliver the completed *alarm user* permit application and permit fee to the Chief of Police before putting the *alarm system* into service.
- (d) Any *person* or business that sells at retail any *alarm system* and does not personally or through an agent install, maintain, service, inspect and monitor, or plan the *alarm system* for any location, shall provide to the purchaser at the time of the sale an *alarm user* permit application and certification form, as provided in Municipal Code section 33.3708.

§ 33.3703 Alarm Agent Responsibilities

- (a) It is unlawful for any person not registered as an *alarm agent* with the State of California to perform any duties of an *alarm agent*.
- (b) Any *Person* performing the duties of an *alarm agent* shall carry on his person a valid *alarm agent* registration card issued by the State of California.

§ 33.3704 Alarm System Conversion

- (a) Prior to the Conversion of any *alarm system* the *alarm business* transferring the duty to monitor shall ensure that the *alarm user* has a valid *alarm user* permit for the *alarm system* being converted.
- (b) If the *alarm user* does not have a valid *alarm user* permit for the *alarm system* being converted, the *alarm business* transferring the

duty to service, maintain or monitor shall obtain the *alarm user* permit on behalf of the *alarm user*.

§ 33.3705 Alarm System Takeover

- (a) Upon any takeover of an *alarm system* maintained, serviced, inspected or monitored by an *alarm business*, the *alarm business* shall determine whether an *alarm user* permit has been issued to the *alarm user* assuming control of the *alarm system*.
- (b) Upon a determination that an *alarm user* permit has not been issued to the *alarm user* assuming control of the *alarm system*, the *alarm business* shall obtain an *alarm user* permit on behalf of the *alarm user*.
- (c) Nothing in this Division prohibits the *alarm business* from recovering from an *alarm user* the amount of the *alarm user* permit fee.

§ 33.3706 Alarm User Permit Required; Violation

- (a) It is unlawful for any *alarm user* to operate, activate, or control any *alarm system* unless the *alarm user* has a current valid *alarm user* permit issued by the *Chief of Police* for that *alarm system*.
- (b) The *Chief of Police* will collect *alarm user* permit applications and permit application fees from any *alarm user* whose *alarm system* is not covered by the duties imposed on *alarm businesses*.

§ 33.3707 Application for Alarm User Permit

- (a) Any *person* applying for an *alarm user* permit shall submit to the *Chief of Police*, on a form provided by the *Chief of Police*, a legibly written application containing the following information:
- (1) Name, address and telephone number of the *alarm user* (including separate mailing address if applicable);
 - (2) Classification of the alarm location as residential or commercial;
 - (3) *Alarm system* type (e.g., burglary, robbery, silent, audible);
 - (4) Area covered by *alarm system*;
 - (5) Name, address and telephone number of *person* authorized to respond to alarm signals and to allow law enforcement personnel access to the protected residence or commercial building; and
 - (6) Name, address and telephone number, *City Business Tax Certificate* and state license number of the *alarm business* that will monitor the *alarm system*, if any.
- (b) All fees must be paid at the time the *alarm user* permit application is filed.
- (c) Each alarm user permit application must be accompanied by a signed certification by the user and alarm business stating the following:

- (1) The date of the installation, *conversion*, or *takeover*, whichever is applicable;
 - (2) The name, address and telephone number, City *Business Tax Certificate* number and state license of the *alarm business* installing the *alarm system*, or performing the *conversion* or *takeover* of the *alarm system*, if any.
 - (3) The name, address and telephone number of the *alarm business* or *alarm agent* responsible for providing repair service to the *alarm system*, if any;
 - (4) That written operating instructions for the *alarm system*, including written guidelines regarding how to avoid *false alarms*, have been provided to the *alarm user* applying for the permit; and
 - (5) That the *alarm business* has provided to the *alarm user* applying for the permit all necessary information regarding the proper use of the *alarm system*, including instruction on how to avoid *false alarms*.
- (d) Failure to provide any of the required information is sufficient cause to deny the application for an *alarm user* permit.
- (e) An application will not be considered complete if at the time the application is being considered any fines assessed to the applicant

under Municipal Code section 33.3717 or penalty fees under Municipal Code section 33.3711 have not been paid.

§ 33.3708 Responsibility of Responding Person

Upon request of the Police Department, the *person* identified pursuant to Municipal Code section 33.3707(a)(5) in an *alarm user* permit application, shall appear at the location of the *alarm system* no later than thirty minutes after being advised that the Police Department has received a signal or message indicating that the *alarm system* has been activated, and shall allow law enforcement personnel access to the premises, deactivate the *alarm system*, and provide security for the premises. Failure to respond will result in the revocation of the alarm permit.

§ 33.3709 Expiration of Alarm User Permits

- (a) An *alarm user* permit shall expire on the last day of the twenty-fourth month following the issuance of the permit.
- (b) The renewal of an *alarm user* permit upon the permit's expiration shall be the responsibility of the *alarm user*.

§ 33.3710 Alarm User Permits Not Transferable

Alarm user permits shall not be transferable from one *person* to another or from one location to another.

§33.3711 Fees and Penalties for Alarm User Permit

- (a) Except as otherwise specifically provided in this Division, any *person* who files an application for an *alarm user* permit shall at

the time of filing the application pay a fee in accordance with Municipal Code section 33.0307 and any outstanding penalty fee.

- (b) Any *alarm user* whose *alarm system* generates a police call for service without first obtaining an *alarm user* permit within fifteen days of notification, will be assessed a penalty fee of \$100.00 per police call for service until the permit is obtained.

§ 33.3712 Responsibility for Alarm Systems in Apartments

- (a) If the owner or property manager of an apartment complex or similar multi-unit residential building provides *alarm systems* in each residential unit, the owner or property manager shall ensure that an *alarm user* permit has been obtained for each *alarm user* prior to the activation of the *alarm system*. If a unit is vacant and the *alarm system* is active the owner or property manager must obtain the *alarm user* permit.
- (b) The tenant of each residential unit in any apartment complex or similar multi-unit residential building is responsible for any activation of the *alarm system* in that tenant's residential unit.

§ 33.3713 Alarm System Direct Dial Prohibition

- (a) It is unlawful for any *person* to program any *alarm system* to direct dial any emergency or "call for service" number serving the San Diego Police Department's Communications Center.

- (b) It is unlawful for any *person* to install or use any *alarm system* that is programmed to dial any emergency or "call for service" number serving the San Diego Police Department's Communication Center.

§ 33.3714 Automatic Shut-off of Audible Alarm Systems

- (a) All *audible alarm systems* when installed must be equipped with a mechanism by which the alarm when sounded will automatically shut off after no more than **fifteen** minutes and will not reactivate audibly until manually reset.
- (b) All *audible alarm systems* installed prior to JUN 0 1 2005, must within 180 days of that date, be equipped with a mechanism by which the alarm when sounded will automatically shut off after no more than fifteen minutes.

§ 33.3715 Procedures for Alarm Verification

- (a) Prior to requesting a police response to an alarm signal, an *alarm business* shall make a reasonable attempt to contact an *alarm user* in *person*, by telephone, or by other electronic means, in order to verify that the alarm signal is not false.
- (b) The requirement set forth in Section 33.3715(a) shall not apply to a *duress* or *robbery alarm* signals.

Section 2. That Chapter 3, Article 3, Division 37 of the San Diego Municipal Code, titled "Burglary, Robbery and Emergency Alarm Systems," is amended by adding Sections 33.3716 through 33.3723, to read as follows:

§ 33.3716 **Revocation Alarm User Permit**

- (a) The *Chief of Police* has the authority to revoke any *alarm user* permit for any *alarm* system that has had false alarms in excess of the number permitted as set forth in Municipal Code section 33.3716(d). A violation of any of the provisions of this Division shall constitute grounds for revocation of an *alarm user* permit.
- (b) An alarm will be presumed false if the responding law enforcement officers do not find evidence that an *Emergency Situation* was the cause of the alarm being triggered. The *Chief of Police* has the authority to amend the *alarm user's* records to indicate that the alarm activation was not a *false alarm* if within ten days of the alarm being triggered the *Chief of Police* receives satisfactory evidence to that effect. The *Chief of Police* will issue written findings of his decision within five days of receipt of the evidence offered.
- (c) Upon revocation of any *alarm user* permit, the *Chief of Police* will notify the holder of the permit in writing of the revocation.
- (d) Upon the first *false alarm*, the *Chief of Police* will issue a letter warning the alarm user of the *false alarm*. Thereafter, the number

of *false alarms* permitted for each alarm system following the issuance or most recent reinstatement of the *alarm user* permit shall be as follows:

- (1) One *false alarm* in any 30 day period;
 - (2) Two *false alarms* in any 90 day period;
 - (3) Three *false alarms* in any 180 day period; and
 - (4) Four *false alarms* in any one-year period.
- (e) An *alarm user* permit that has been revoked pursuant to this Division is not a current valid *alarm user* permit.

§ 33.3717 Fines for Alarm User Permit Revocations

- (a) The holder of an *alarm user* permit shall pay a fine according to the following schedule for each revocation of that permit:
- (1) First revocation of *alarm user* permit in initial two-year period.....\$75.00
 - (2) Second revocation of *alarm user* permit in initial two-year period.....\$150.00
 - (3) Third revocation of *alarm user* permit in initial two-year period.....\$300.00
 - (4) Fourth and each additional revocation of an *alarm user* permit in initial two year-period.....\$1500.00

- (b) Obtaining *alarm user* permits on behalf of *alarm users* will not impose upon an *alarm business* liability for any fine imposed upon an *alarm user* for exceeding the permitted number of *false alarms*.

§ 33.3718 Reinstatement of Revoked Permit; Alarm User Permit Appeal

- (a) The holder of an *alarm user* permit that has been revoked pursuant to Municipal Code section 33.3716 may apply for reinstatement of the permit by submitting to the *Chief of Police* all fines due pursuant to Municipal Code section 33.3717, and satisfactory written evidence that the cause of the *false alarms* has been identified and corrected.
- (b) The *Chief of Police* has the authority to reinstate an *alarm user* permit revoked pursuant to Municipal Code section 33.3716 upon the receipt of all fines due pursuant to Municipal Code section 33.3717 and satisfactory evidence that the cause of the *false alarms* has been corrected. The *Chief of Police* may also require such other conditions as may be appropriate to reinstate a revoked *alarm user* permit.
- (c) The holder of an *alarm user* permit may appeal a decision by the *Chief of Police* to revoke the permit in accordance with Section 33.0501.

§ 33.3719 Use of Alarm System after Permit Revocation as Public Nuisance

- (a) The *Chief of Police* has the authority to declare an *alarm system* a public nuisance when all of the following conditions are present:
- (1) The *alarm user* permit has been revoked due to *false alarms*;
 - (2) The revoked *alarm user* permit has not been reinstated;
 - (3) The cause of the *false alarms* has not been corrected; and
 - (4) If revoked, the decision of the *Chief of Police* to revoke the permit is not currently on appeal pursuant to Section 33.0501.
- (b) The *Chief of Police* has the authority to suspend response by Police Department personnel to *burglary alarm system* dispatches at the location of any alarm declared a public nuisance.
- (c) This section does not apply to duress, robbery, call for help, or panic alarm dispatches.
- (d) The *Chief of Police* has the authority to remove a public nuisance designation and resume response by Police Department personnel when the alarm user permit has been reinstated and the cause of the *false alarms* has been corrected.

§ 33.3720 Exceptions

The prohibitions and mandates of this Division do not apply to:

- (a) *Persons* engaged solely in the manufacture, repair or sale of *alarm systems* or *alarm system* components from a fixed location who do not personally or through an agent install, maintain, service, inspect, or plan the *alarm system* for any location, except as provided in Municipal Code section 33.3702(d).
- (b) *Alarm systems* that do not directly alert law enforcement agencies or others outside the protected building, structure, or facility, but are designed solely to alert security personnel or others directly connected with or employed by the owner or operator of the protected building, structure, or facility.
- (c) *Exempt users* as defined in Section 33.3701.

§ 33.3721 Confidentiality of Records

- (a) The information furnished and secured pursuant to this Division shall be confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known or disclosed except to *persons* charged with the administration of this Division.
- (b) An *alarm user* shall have the right to information regarding the administration of that user's permit.

- (c) Information discussed in Section 33.3721(a), may be disclosed when required by State or Federal law or lawful court order.

§ 33.3722 Enforcement Authority

The *Chief of Police*, or any other director authorized by the *City Manager*, is authorized to administer and enforce the provisions of this Division.

The *Chief of Police* may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter 1 of this Code.

§ 33.3723 Enforcement Remedies

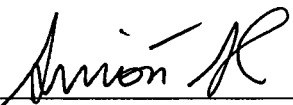
Except as otherwise specifically provided, violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The *Chief of Police* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue any administrative remedy provided in Chapter I of this Code.

Section 3. The City Clerk is instructed to insert the effective date of this ordinance in the blank space provided in Municipal Code section 33.3714(b).

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. Section 33.3706.2 shall be repealed on the thirtieth day after the passage of the ordinance. Section 33.3717, added by the ordinance, shall take effect on the thirtieth day after the passage of the ordinance. The remainder of the ordinance shall take effect one hundred and eighty days after the passage of the ordinance.

APPROVED: CASEY GWINN, City Attorney

By 
Simon Silva
Deputy City Attorney

SS:jp:als
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Or.Dept: Police
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