

RESOLUTION NUMBER R- 304861

DATE OF FINAL PASSAGE MAY 12 2009

A RESOLUTION APPROVING THE REVISED FIRE-RESCUE DEPARTMENT FEE SCHEDULE FOR FISCAL YEAR 2010 FOR THE FIRE COMPANY INSPECTION PROGRAM; COMBUSTIBLE EXPLOSIVE AND DANGEROUS MATERIALS [CEDMAT] PERMITS AND INSPECTIONS; TECHNICAL SERVICES PERMITS AND INSPECTIONS; HIGH-RISE INSPECTIONS; BRUSH AND WEED INSPECTIONS, LIFEGUARD SERVICES, MISCELLANEOUS INSPECTION SERVICES, AND AMENDING THE CITY OF SAN DIEGO RATEBOOK

WHEREAS, the San Diego Fire-Rescue Department [SDFD] charges application, inspection and other regulatory fees for SDFD regulated properties and buildings; and

WHEREAS, the SDFD conducted a full evaluation of the costs and revenues associated with providing City services, in accordance with the California Constitution as well as the state law, which authorize local jurisdictions to impose fees, charges, and rates in order to recover costs associated with provided services; and

WHEREAS, it is the policy of the City of San Diego [City] to establish fees to recover the costs of providing services in accordance with the City of San Diego Administrative Regulation 95.25; and

WHEREAS, Administrative Regulation 95.25 encourages transferring specific fee schedules listed in the San Diego Municipal Code and Council Resolutions to the standardized Ratebook maintained by the City Clerk; and

WHEREAS, the City has an adopted User Fee Policy dated March 10, 2009; and

WHEREAS, the 2007 California Fire Code, Chapter 1, adopted by reference in San Diego Municipal Code section 55.0104, and San Diego Municipal Code section 25.0201 et seq.

provides the authority for the Fire-Rescue Department to inspect all buildings and premises under the City's Fire Company Inspection Program [FCIP]; and

WHEREAS, the 2007 California Fire Code, Chapter 1, adopted by reference in San Diego Municipal Code section 55.0104, authorizes the City to charge and collect a fee not to exceed the estimated reasonable cost of providing the service for which the fee is charged, for the enforcement of building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire and panic; and

WHEREAS, the 2007 California Fire Code, Chapter 1, adopted by reference in San Diego Municipal Code section 55.0104, and the 2007 California Fire Code, Chapter 34, adopted by reference in San Diego Municipal Code section 55.3401, provides the authority for the City of San Diego to charge reasonable inspection fees related to mobile re-fueling tanker site permits; and

WHEREAS, the 2007 California Fire Code, Chapter 1, adopted by reference in San Diego Municipal Code section 55.0104, provides the authority for the City to charge and collect a reasonable fee sufficient to pay for the costs of inspecting all high-rise structures for compliance with building standards and applicable law, including both residential and commercial high-rise structures; and

WHEREAS, the City imposes reasonable fees for cost recovery for inspection services of occupancies storing, handling or processing combustible, explosive or dangerous materials [CEDMAT] pursuant to San Diego Municipal Code section 55.2701 et seq.; and

WHEREAS, the assessment of a fee is an appropriate method to recover costs incurred by SDFD regulated buildings and premises related to third and subsequent non-compliance re-inspections associated with technical services performed by the SDFD pursuant to San Diego Municipal Code section 13.0101 et seq.; and

WHEREAS, the assessment of a fee is an appropriate method to recover costs incurred by SDFD regulated buildings and premises for third and subsequent non-compliance re-inspections concerning brush and weed management violations pursuant to San Diego Municipal Code section 13.0101 et seq.; and

WHEREAS, the assessment of a fee is an appropriate method to recover costs incurred by SDFD regulated buildings and premises related to third and subsequent fire hazard complaint non-compliance re-inspections pursuant to San Diego Municipal Code section 13.0101 et seq.; and

WHEREAS, the assessment of a reasonable fee is an appropriate method to recover costs incurred by SDFD regulated buildings and premises for third and subsequent non-compliance re-inspections of all high-rise buildings pursuant to San Diego Municipal Code section 13.0101 et seq.; and

WHEREAS, the City imposes an inspection and permit fee for the use of explosives within City limits pursuant to San Diego Municipal Code section 53.01 et seq., California Health and Safety Code section 12101 et seq. and the 2007 California Fire Code, Chapter 1, adopted by reference in San Diego Municipal Code section 55.0104; and

WHEREAS, the municipal jurisdiction of the City extends to the limits and boundaries of said City and over the tidelands and waters of the Bay of San Diego, and into the Pacific Ocean to the extent of one Marine League pursuant to San Diego City Charter section 3; and

WHEREAS, the City has the right and power to prepare and adopt such rules and regulations as it may deem necessary for the regulation, use, and government of the water system of the City, both within and without the territorial limits of said City, and such rules and regulations having been adopted by Ordinance, shall have the force and effect of law pursuant to San Diego City Charter section 3; and

WHEREAS, the Director of the Park and Recreation Department [Director] is responsible for the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned property, golf courses, playgrounds, recreation centers, recreation camps, and recreation activities held on any City playgrounds, parks, beaches and piers which may be owned, controlled or operated by the City pursuant to San Diego Municipal Code section 22.1502; and

WHEREAS, San Diego Municipal Code section 22.1503 provides, in part, the authority for the Director to establish fees for issuance of use and occupancy permits, rental charges, and the use of park and recreation facilities and services; and

WHEREAS, these services include, but are not limited to, pumping salvage and diving operations, non-emergency lifeguard safety protection, surf rescue vessel with crew, fire rescue vessel with crew, and foaming of boat bilges [Services]; and

WHEREAS, San Diego Municipal Code section 22.1503 provides the authority for the Fire Chief to advise, in conjunction with the Director, with respect to, among other matters, the supervision and management of property, facilities, personnel, programs and activities of a park

and recreational nature which are under the cognizance of other City departments or divisions, and which was intended to included advising with respect to setting fees relating to such purposes; and

WHEREAS, pursuant to San Diego Municipal Code section 22.1503, the Director represents the City Manager, in conjunction with other department heads, in advising with respect to, among other matters, the supervision and management of property, facilities, personnel, programs and activities of a park and recreational nature which are under the cognizance of other City departments or divisions; and

WHEREAS, pursuant to San Diego City Charter section 28, the City Manager is empowered to direct any Department or Division to perform work for any other Department or Division; and

WHEREAS, the functions of the City Manager have been transferred to the Mayor under the Strong Mayor Form of Governance pursuant to San Diego City Charter section 265; and

WHEREAS, pursuant to the above stated San Diego Municipal Code and City Charter sections, the duties and powers of the lifeguards have been transferred from the Park and Recreation Department to the Fire-Rescue Department; and

WHEREAS, pursuant to this legal authority and transfer of duties, the Fire Chief is empowered to set fees for Services performed by the Fire-Rescue Department; and

WHEREAS, it is unlawful to allow vessels, boats, vehicles, or trailers to remain unattended in any beach area, including the waters thereof and Mission Bay Park without authorization under the San Diego Municipal Code or permission from the Director pursuant to San Diego Municipal Code section 63.20.22; and

WHEREAS, it is unlawful to moor or anchor any vessel, or for the owner thereof to allow it to be moored or anchored between the hours of 10:00 p.m. and 7:00 a.m. in any area of Mission Bay Park without authorization under the San Diego Municipal Code or permission from the Director pursuant to San Diego Municipal Code section 63.20.22; and

WHEREAS, San Diego Municipal Code section 63.20.22 authorizes the City to recover the cost of towing and impounding vessels, boats, vehicles or trailers left in violation of this Section; and

WHEREAS, the 2007 California Fire Code, Chapter 5, Section 506, adopted by reference in San Diego Municipal Code section 55.0501, provides the authority for the City to require a key box [Knox Box] be installed in an approved location; and

WHEREAS, the California Constitution and state law provides the authority for the City to charge and collect a reasonable fee sufficient to pay for the costs of performing Knox Box inspections; and

WHEREAS, the 2007 California Fire Code, Chapter 5, Section 503, adopted by reference in San Diego Municipal Code section 55.0501, provides the authority for the City to require approved fire apparatus access roads [Fire Lanes] comply with certain requirements and specifications; and

WHEREAS, the California Constitution and state law provide the authority for the City to charge and collect a reasonable fee sufficient to pay for the costs of inspecting Fire Lanes; and

WHEREAS, the California Constitution and state law provide the authority for the City to charge and collect a reasonable fee sufficient to pay for the cost of performing special surveys at the request of the public; and

WHEREAS, the California Constitution and state law provide the authority for the City to charge and collect a reasonable fee sufficient to pay for costs incurred by SDFD regulated buildings and premises related to overtime inspections for businesses desiring expedited inspection services; and

WHEREAS, more than ten days prior to the public hearing, City Council Report No. 09-023, dated March 11, 2009, regarding Approval of the Revised Fiscal Year 2010 SDFD Fees, was made available to the public that included a detailed explanation of the proposed revisions to the fees to be considered at the public hearing; and

WHEREAS, SDFD submitted full cost recovery fees related to SDFD regulated properties and buildings to the Committee on Budget and Finance on March 12, 2009; and

WHEREAS, the SDFD Fees for Special Events was heard and approved by City Council in a separate action on April 20, 2009; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the fees related to SDFD regulated buildings and premises, reflected in the summary and table which are included as Attachments 1 and 2 to the Report to City Council No. 09-023, on file with the City Clerk as Document No. R- 304861, are hereby approved, with the exception of fees for special events, Fire Lanes, Knox Box inspections, special survey inspections and overtime inspections.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to amend the City Ratebook to include the new and increased fees reflected in the summary and table which are included as Attachments 1 and 2 to the Report to City Council No. 09-023, on file with the City

Clerk as Document No. R- 304861, with the exception of fees for special events, Fire Lanes, Knox Box inspections, special survey inspections and overtime inspections.

BE IT FURTHER RESOLVED, that the new and increased fees, as set forth in Attachments 1 and 2 to the Report to City Council No. 09-023, on file with the City Clerk as Document No. R- 304861, with the exception of fees for special events, Fire Lanes, Knox Box inspections, special survey inspections and overtime inspections, are to be effective beginning on July 1, 2009.

BE IT FURTHER RESOLVED, that the Office of the San Diego City Attorney is directed to prepare, and revise if required, the necessary Ordinance(s) to effectuate the fees for Fire Lanes, Knox Box inspections, special survey inspections and overtime inspections.

BE IT FURTHER RESOLVED, that the fees for Fire Lanes, Knox Box inspections, special survey inspections and overtime inspections with be effective once an Ordinance is enacted that authorizes the San Diego Fire-Rescue Department to charge reasonable cost recovery fees for certain services.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Rachel C. Lipsky
Rachel C. Lipsky
Deputy City Attorney

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4/21/09 COR.COPY
Or.Dept:Fire-Rescue
R-2009-1019

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 04 2009.

ELIZABETH S. MALAND
City Clerk

By *Mary Zuma*
Deputy City Clerk

Approved: 5-12-09
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor