

ORDINANCE NUMBER O- 20819 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 05 2017

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 3, DIVISION 37 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING THE DIVISION; BY ADDING A NEW SECTION 33.3701; BY AMENDING AND RENUMBERING SECTION 33.3701 TO SECTION 33.3702, SECTION 33.3702 TO SECTION 33.3703, AND SECTION 33.3703 TO SECTION 33.3704; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3704 TO SECTION 33.3705, SECTION 33.3705 TO SECTION 33.3706, SECTION 33.3706 TO SECTION 33.3707, AND SECTION 33.3707 TO SECTION 33.3708; BY AMENDING AND RENUMBERING SECTION 33.3708 TO SECTION 33.3709; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3709 TO SECTION 33.3710, SECTION 33.3710 TO SECTION 33.3711, AND SECTION 33.3711 TO SECTION 33.3712; BY AMENDING AND RENUMBERING SECTION 33.3712 TO SECTION 33.3713, SECTION 33.3713 TO SECTION 33.3714, SECTION 33.3714 TO SECTION 33.3715, AND SECTION 33.3715 TO SECTION 33.3716; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3716 TO SECTION 33.3717, SECTION 33.3717 TO SECTION 33.3718, AND SECTION 33.3718 TO SECTION 33.3719, SECTION 33.3719 TO SECTION 33.3720, SECTION 33.3720 TO SECTION 33.3721, SECTION 33.3721 TO SECTION 33.3722, SECTION 33.3722 TO SECTION 33.3723, AND SECTION 33.3723 TO SECTION 33.3724; BY ADDING NEW SECTIONS 33.3725 AND 33.3726; BY ADDING NEW SECTIONS 33.3725 AND 33.3726; AMENDING CHAPTER 5, ARTICLE 5, DIVISION 99 BY AMENDING SECTION 55.9902, ALL RELATING TO ALARM REGULATIONS

WHEREAS, the San Diego Police Department (Police Department) issues permits, conducts regular inspections, and enforces regulations on a variety of businesses, occupations and activities collectively referred to as Police Regulated Businesses; and

WHEREAS, the Police Department regulates the use and operation of burglary and emergency panic alarm systems within the City of San Diego (City); and

WHEREAS, in 2011, both the San Diego County Grand Jury and the City Auditor for the City performed audits of the Police Department's Permits and Licensing Unit's police permit regulations for alarm systems and made recommendations; and

WHEREAS, in response to the recommendations, the Police Department obtained new false alarm tracking and management system software, reviewed the San Diego Municipal Code (Municipal Code) and recommended changes that would better regulate the alarm system industry and reduce false alarms, conducted a fee analysis of regulatory permit costs, and conducted a survey of penalty fees for operating an alarm system without a permit, and fines imposed for false alarms; and

WHEREAS, the vast majority of alarm system calls for service that law enforcement responds to are false alarms generated by improper maintenance or careless use of an alarm system; and

WHEREAS, to help reduce the number of false alarms and burden on law enforcement, and to use law enforcement resources most effectively and efficiently, the City wishes to make changes to the Municipal Code to regulate alarm systems; and

WHEREAS, requiring alarm businesses to provide current customer information to the Police Department will allow better regulation of alarm system installations and reduce the number of alarm users operating without a permit; and

WHEREAS, issuing an alarm system permit with a term of twelve months and requiring each location with a separate address to obtain a separate permit conforms with industry standards and is consistent with other police permits; and

WHEREAS, “enhanced call verification,” where an alarm monitoring service makes two attempts to contact the alarm user to determine whether an alarm activation is valid before a request for law enforcement service is made, helps reduce the number of false alarms; and

WHEREAS, compliance with “enhanced call verification” will be monitored by the Police Department and upon request alarm businesses will provide proof that two attempts to contact the alarm user was completed; and

WHEREAS, if a false alarm is canceled prior to law enforcement arrival to the location, the call will not be considered a false alarm; and

WHEREAS, to obtain compliance from alarm users and to encourage them to take action to remedy the cause of the false alarm, each false alarm will be assessed an escalating fine and the permit revoked after the sixth false alarm; and

WHEREAS, the current alarm system permit is valid for two years and the fee includes responding to at least one false alarm; and

WHEREAS, the current two year alarm system permit will remain valid until its original expiration date and a written warning will be issued upon the first false alarm at which time notice will be given of the new false alarm penalty structure; and

WHEREAS, the appeal process for fines and penalty fees will give consumers an avenue to have assessed fines or fees removed, waived, reversed or modified if appropriate; 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 is amended by retitling the Division; by adding a new section 33.3701; by amending and renumbering section 33.3701 to section 33.3702, section 33.3702 to section 33.3703, and

section 33.3703 to section 33.3704; by retitling, amending, and renumbering section 33.3704 to section 33.3705, section 33.3705 to section 33.3706, section 33.3706 to section 33.3707, and section 33.3707 to section 33.3708; by amending and renumbering section 33.3708 to section 33.3709; by retitling, amending, and renumbering section 33.3709 to section 33.3710, section 33.3710 to section 33.3711, and section 33.3711 to section 33.3712; by amending and renumbering section 33.3712 to section 33.3713, section 33.3713 to section 33.3714, section 33.3714 to section 33.3715, and section 33.3715 to section 33.3716; by retitling, amending, and renumbering section 33.3716 to section 33.3717, section 33.3717 to section 33.3718, and section 33.3718 to section 33.3719, section 33.3719 to section 33.3720, section 33.3720 to section 33.3721, section 33.3721 to section 33.3722, section 33.3722 to section 33.3723, and section 33.3723 to section 33.3724; by adding a new sections 33.3725 and 33.3726, all relating to police regulated burglary and panic alarm systems to read as follows:

Article 3: Police Regulated Occupations and Businesses

Division 37: Police Regulated Burglary and Panic Alarm Systems

§33.3701 Purpose

The *Council* encourages citizens to take proactive safeguards to protect life and property from harm, damage, or theft, and recognizes that *alarm systems* help achieve this goal. The *Council* further recognizes the vast majority of responses to *alarm systems* by law enforcement are *false alarms*. Most *false alarms* are the result of improper maintenance or careless use of an *alarm system*. Police officers responding to *false alarms* are not available to carry out other law enforcement duties. The *Council* finds that excessive *false alarms* unduly burden law enforcement resources. In the interest of using law enforcement resources most

effectively and efficiently, the number of *false alarms* can and must be reduced.

The purpose of this Division is to preserve public health, safety, and welfare by providing regulation over *alarm systems*. It is also the purpose of this Division to reduce annoyances associated with *false alarms*, to establish reasonable expectations of *alarm businesses* and *alarm users*, to encourage *alarm users* to maintain their *alarm systems* in good working condition and to use them properly, and to ensure that *alarm users* are held responsible for their *alarm systems*.

§33.3702 Definitions

For purposes of this Division, defined words appear in italics. The following definitions apply in this Division:

Alarm agent means any *person* who is directly or indirectly employed by an *alarm business*, and whose duties include selling, installing, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving, converting, or taking over any *alarm system*.

Alarm business means any *person* engaged in the enterprise of selling, installing, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving, converting, taking over, or responding to any *alarm system*. It does not include the *property owner* or *property manager* of an apartment complex that provides *alarm systems* in each residential unit as an amenity.

Alarm system means any single 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. This includes any *audible alarm* or other *alarm system* whether or not it is monitored by an *alarm business*, *alarm agent*, or *alarm user*, or installed by an *alarm business* or *alarm user*.

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

Authorized responder means a *person* who is authorized by the *alarm user* to cancel a law enforcement response, respond to the alarm site when requested by law enforcement to deactivate the *alarm system*, provide access to the alarm site, and provide alternative security for the alarm site.

Burglary alarm 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).

Call for service means any call made to the Police Department requesting police services and includes officer initiated calls.

Conversion means the assumption by one *alarm business* of the duty to service, maintain, or monitor an *alarm system* previously serviced, maintained, or monitored by another *alarm business*.

Distress alarm means any *alarm system* with an alarm signal generated by manual activation of a device to summon immediate medical help.

Duress alarm means any *alarm system* with a silent alarm signal generated by manual activation of a device to signal a life threatening situation or a crime in progress requiring law enforcement response.

Emergency situation [No change in text.]

Enhanced call verification means two attempts are made by an *alarm business* or *alarm agent* to contact an *alarm user in person*, by telephone, or by other electronic means, to verify that the alarm signal activation is not false before a *call for service* is made.

Exempt user [No change in text.]

False alarm means any activation of an *alarm system* that results in a *call for service* where an *emergency situation* does not exist. It includes activations caused by mechanical or electrical failure, malfunction, improper installation, sensor sensitivity, accidental tripping, misuse, or negligent maintenance by an *alarm business*, *alarm agent*, or *alarm user*. It does not include activations caused by extreme weather conditions, telephone line problems, or any other extraordinary factors over which the *alarm business*, *alarm agent*, or *alarm user* has no direct or indirect control. It does not include activations where the *call for service* is cancelled by an *alarm user*, *authorized responder*, or *alarm agent*, and law enforcement does not arrive at the alarm site.

Fee means a *permit fee*, *penalty fee*, or *fine*.

Fine means money assessed when an *alarm system* generates *false alarms*.

Panic alarm means a *duress alarm*, *distress alarm*, or *robbery alarm*.

Penalty fee means money assessed when an *alarm system* without a *permit* generates a *call for service*.

Permit has the same meaning as in Municipal Code section 33.0201.

Permit fee means money assessed to process the *alarm system permit* application.

Robbery alarm means any *alarm system* with an alarm signal generated by manual activation of a device to alert law enforcement to the possible commission of an unlawful act within a building or other structure.

Sell 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 [No change in text.]

§33.3703 Alarm Business Requirements and Responsibilities

- (a) It is unlawful for any *person* to operate an *alarm business* without a *business tax certificate*.
- (b) [No change in text.]
- (c) Any *alarm business* that *sells* any *alarm system* shall do the following:
 - (1) Obtain an *alarm system permit*, using the *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 system permit* application and *permit fee* from each *alarm user*;

- (3) Mail, electronically file online, or hand deliver the completed *permit* application and *permit fee* to the *Chief of Police* before putting the *alarm system* into service; and
 - (4) When requested by the *Chief of Police*, provide its most current customer information on any *alarm user* and *alarm system* installed by the *alarm business* in the City of San Diego.
- (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 system permit* application and certification form, as provided in Municipal Code section 33.3708.

§33.3704 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) [No change in text.]

§33.3705 Alarm System Conversion By Alarm Business

- (a) Prior to the *conversion* of any *alarm system*, the *alarm business* transferring the duty to service, maintain, or monitor shall ensure that the *alarm user* has a valid *permit* for the *alarm system* being converted.
- (b) If the *alarm user* does not have a valid *permit* for the *alarm system* being converted, the *alarm business* transferring the duty to service, maintain, or monitor shall obtain the *permit* on behalf of the *alarm user* as provided in Municipal Code section 33.3703.

- (c) Nothing in this Division prohibits the *alarm business* from recovering from an *alarm user* the amount of the *permit fee*.

§33.3706 Alarm System Takeover By Alarm User

- (a) Upon any *takeover* of an *alarm system* maintained, serviced, inspected, or monitored by an *alarm business*, the *alarm business* shall determine whether a *permit* has been issued to the *alarm user* assuming control of the *alarm system*.
- (b) Upon a determination that a *permit* has not been issued to the *alarm user* assuming control of the *alarm system*, the *alarm business* shall obtain a *permit* on behalf of the *alarm user* and comply with Municipal Code section 33.3703.
- (c) Nothing in this Division prohibits the *alarm business* from recovering from an *alarm user* the amount of the *permit fee*.

§33.3707 Alarm System Permit Required

- (a) It is unlawful for any *alarm user* to operate, activate, or control any *alarm system* unless the *alarm user* has a current, valid *permit* issued by the *Chief of Police* for that *alarm system*.
- (b) Any *alarm user* whose *alarm system* is not covered by the duties imposed on *alarm businesses* shall submit an *alarm system permit* application and *permit fee* to the *Chief of Police*.

§33.3708 Application for Alarm System Permit

- (a) Any *person* applying for an *alarm system 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)-(4) [No change in text.]
- (5) Name, address, and telephone number of an *authorized responder*;
and
- (6) Name, address, and telephone number, *Business Tax Certificate*, and state license number of the *alarm business* that will monitor the *alarm system*, if any.
- (b) All *permit fees* must be paid at the time the *alarm system permit* application is filed.
- (c) Each *permit* application must be accompanied by a signed certification by the *alarm user* and *alarm business* stating the following:
- (1)-(2) [No change in text.]
- (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*, and all necessary information regarding the proper use of the *alarm system* have been provided to the *alarm user* applying for the *permit*; and

- (5) That the *alarm business* has provided to the *alarm user* instruction on how to avoid *false alarms*, including instruction on *enhanced call verification*, and the possible consequences of *false alarms*.
- (d) Failure to provide any of the required information is sufficient cause to deny the application for a *permit*.
- (e) An application will not be considered complete if at the time the application is being considered any *fees* assessed in accordance with this Division have not been paid.
- (f) If an *alarm user* has one *alarm system* protecting more than one address, a separate *permit* shall be required for each address.

§33.3709 Responsibility of Responding Person

Upon request of law enforcement, an *authorized responder* shall appear at the location of the *alarm system* no later than thirty minutes after being advised that law enforcement 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 may result in the revocation of the *alarm system permit*.

§33.3710 Expiration of Alarm System Permits

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

§33.3711 Alarm System Permits Not Transferable

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

§33.3712 Penalty Fees and Fines for Not Obtaining an Alarm System Permit

- (a) Any *alarm user* whose *alarm system* generates a *call for service* without first obtaining an *alarm system permit* will be assessed a *penalty fee* for each *call for service* until the *permit* is obtained. The *alarm user* will also be assessed a *fine* for each *false alarm*. The *penalty fees* and *finest* will be assessed according to the established rates kept in the fee schedule on file in the Clerk's Office.
- (b) Except as otherwise specifically provided in this Division, any *person* who files an application for an *alarm system permit* shall at the time of filing the application pay a *permit fee* and any outstanding *fees*.

§33.3713 Responsibility for Alarm Systems in Apartments

- (a) If the *property 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 system 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 *property owner* or property manager must obtain the *alarm system permit*.
- (b) [No change in text.]

§33.3714 Alarm System Direct Dial Prohibition

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

§33.3715 Automatic Shut-off of Audible Alarm Systems

- (a) All *audible alarms*, 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 automatic shut off mechanisms for *audible alarms* shall be in working order and shall not be disconnected.

§33.3716 Procedures for Alarm Verification

- (a) Prior to requesting a law enforcement response to an alarm signal, an *alarm business* or *alarm agent* shall perform *enhanced call verification* to verify that the alarm activation is not false.
- (b) When requested by the *Chief of Police* or *alarm user*, the *alarm business* or *alarm agent* shall provide evidence that *enhanced call verification* was used on any specific alarm activation.
- (c) The requirement set forth in this section shall not apply to *panic alarms*.

§33.3717 Alarm System Permit False Alarms and Fines

- (a) *An alarm system shall not have false alarms.*
- (b) *The Chief of Police has the authority to assess a fine and revoke any permit for any alarm system for false alarms.*
- (c) *The penalty for false alarms occurring within twelve months following the issuance, renewal, or most recent reinstatement after revocation of the alarm system permit, shall be as follows:*
 - (1) *First through fifth false alarm, a notice of violation will be issued and a fine will be assessed;*
 - (2) *Sixth false alarm, the alarm system permit will be revoked, a notice of revocation will be issued, and a fine will be assessed; and*
 - (3) *For each additional false alarm after notice of revocation, a fine will be assessed; this includes false alarms that occur when the alarm system permit is in the process of reinstatement and during the time when the revocation of the permit is appealed in accordance with section 33.0501.*
- (d) *Fines will be assessed according to the established rates kept in the fee schedule on file in the Clerk's Office.*
- (e) *Fines will not be assessed against an alarm business based on the fact that the alarm business obtained the alarm system permit on behalf of the alarm user.*

- (f) Notice of *violation* of a *false alarm* or assessment of a *fine* or *penalty fee* may be appealed to the *Chief of Police* in accordance with section 33.3725.

§33.3718 Alarm System Permit Revocation

- (a) A *violation* of any of the provisions of this Division shall constitute grounds for revocation of an *alarm system permit*.
- (b) Upon revocation of any *alarm system permit*, the *Chief of Police* will notify the holder of the *permit* in writing of the revocation in accordance with section 33.0404, and explain the authority of the *Chief of Police* to suspend response in accordance with section 33.3720.
- (c) An *alarm system permit* that has been revoked is not a current valid *permit*.
- (d) The holder of an *alarm system permit* may appeal a decision by the *Chief of Police* to revoke the *permit* in accordance with section 33.0501 or apply for reinstatement of the *permit* in accordance with section 33.3719.

§33.3719 Reinstatement of Revoked Permit

- (a) The holder of an *alarm system permit* that has been revoked may apply for reinstatement of the *permit* by submitting to the *Chief of Police* all *fees* due in accordance with this Division, and satisfactory written evidence that the cause of the *false alarms*, or other reason for the revocation, has been identified and corrected.
- (b) The *Chief of Police* has the authority to reinstate an *alarm system permit* that has been revoked upon the receipt of all *fees* due in accordance with

this Division, and satisfactory evidence that the cause of the *false alarms*, or other reason for the revocation, has been corrected. The *Chief of Police* may also require such other conditions as may be appropriate to reinstate a revoked *alarm user permit*.

§33.3720 Use of Alarm System after Permit Revocation

- (a) Along with the other enforcement authority and remedies provided in this Division, the *Chief of Police* has the authority to suspend response by Police Department personnel to *burglary alarm* dispatches at the location of any *alarm system* when all of the following conditions are present:
- (1) The *alarm system permit* has been revoked due to *false alarms*;
 - (2) The revoked *alarm system permit* has not been reinstated in accordance with section 33.3719.
 - (3) The decision of the *Chief of Police* to revoke the *permit* is not currently on appeal in accordance with section 33.0501.
- (b) This section does not apply to *panic alarms*.
- (c) The *Chief of Police* has the authority to resume response by Police Department personnel when the *alarm system permit* has been reinstated in accordance with section 33.3719.

§33.3721 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, and

monitor, or plan the *alarm system* for any location, except as provided in Municipal Code section 33.3703(d).

- (b) [No change in text.]
- (c) *Exempt users* as defined in section 33.3702.

§33.3722 Confidentiality of Records

- (a) [No change in text.]
- (b) An *alarm user* is entitled to information regarding the administration of that user's *permit*.
- (c) Information furnished and secured in accordance with this Division may be disclosed when required by state or federal law or lawful court order.

§33.3723 Enforcement Authority

[No change in text.]

§33.3724 Enforcement Remedies

Except as otherwise specifically provided, *violations* of this Division may be prosecuted as misdemeanors subject to the *finest* and custody in accordance with 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 1 of this Code.

§33.3725 Appeal of Fines and Penalty Fees

- (a) An *alarm user* who has either received notice of *violation* of a *false alarm* or has been assessed a *fine* or *penalty fee*, may request a hearing with the *Chief of Police*.

- (b) The hearing must be requested within ten days of receipt of the notice of *violation* or assessment of *fine* or *penalty fee*. Failure to submit a timely request terminates the *alarm user's* right to contest the *false alarm* or the *fine* or *penalty fee*, and constitutes a failure to exhaust administrative remedies.
- (c) The hearing will be set no more than 30 business days from the date of receipt of the request, unless otherwise agreed to by the parties.
- (d) The hearing is an informal administrative review to determine the validity of the notice of *violation* or assessed *fine* or *penalty fee*. Formal rules of evidence and discovery do not apply.
- (e) At the hearing, the *Chief of Police* will only consider evidence that is relevant to whether the alarm activation triggered a *false alarm* or whether an *alarm user* had a valid *alarm system permit* at the time of the *call for service*.
- (f) There shall be a rebuttable presumption affecting the burden of producing evidence that an alarm activation is a *false alarm* if the responding law enforcement officers did not find evidence that an *emergency situation* triggered the alarm. An *alarm user* has the burden to present evidence sufficient to negate the presumption.
- (g) After an evaluation of the evidence presented, the *Chief of Police* may amend an *alarm user's* records to indicate that an alarm activation was not a *false alarm* or did not generate a *call for service*, and waive, reverse, or modify any *fine* or *penalty fee*.

- (h) The *Chief of Police* will issue a *written* decision within 15 business days after completing the hearing. The decision shall be final.

§33.3726 Transition of Existing Two-Year Alarm System Permits; False Alarms and Fines

An *alarm system permit* issued before [JUN 04 2017] for a two-year period shall remain valid until its stated expiration date, unless it is revoked. For the first *false alarm* after [JUN 04 2017], a warning letter will be issued referencing application of section 33.3717 to future *false alarms*. Only one warning letter will be issued for a two-year period. The *false alarm* that resulted in the issuance of a warning letter will not constitute a *violation* under section 33.3717(c). After the issuance of a warning letter, section 33.3717 shall apply to existing two-year *permits* as follows:

- (a) The first *false alarm* after the issuance of a warning, will be treated as the first *false alarm* under section 33.3717(c)(1).
- (b) Additional *false alarms* will constitute *violations* subject to penalties as set forth in section 33.3717(c).
- (c) The one-year anniversary date after the issuance of the two-year *alarm system permit* begins a new twelve-month period for accrual of *violations* under section 33.3717(c). This new twelve-month period is a new *violation period*.
- (d) During the new *violation period*, the first *false alarm* will be treated as the first *false alarm* under section 33.3717(c)(1).

This section shall remain in effect until [**JUN 04 2019**], at which time
this section shall automatically be repealed.

Section 2. That Chapter 5, Article 5, Division 99 of the San Diego Municipal Code relating to Fire and Harmful Gas Emergency Alarms is amended by amending section 55.9902 to read as follows:

Article 5: Fire Protection and Prevention

Division 99: Fire and Harmful Gas Emergency Alarms

§55.9902 Definitions

Defined terms appear in italics. The following definition apply in this Division:

Alarm agent through *Emergency situation* [No change in text.]

Exempt user has the same meaning as in Municipal Code section 33.3702.

False alarm through *Person* [No change in text.]

Sell has the same meaning as in Municipal Code section 33.3702.

Takeover [No change in text.]

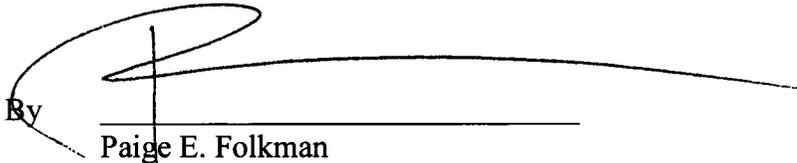
Section 3. The City Clerk is instructed to insert the effective date of this ordinance, once known, in the first two blank spaces provided in San Diego Municipal Code section 33.3726.

Section 4. The City Clerk is instructed to insert a date 24 months from the effective date, once known, in the third blank space provided in San Diego Municipal Code section 33.3726.

Section 5. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from
and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 

Paige E. Folkman
Deputy City Attorney

PEF:amt:jvg
March 28, 2017
05/25/2017 Cor. Copy
Or.Dept:Police
Doc. No.: 1015278_16

(See attached memo and signature page.)

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: May 31, 2017
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Corrected Clean and Strikeout Ordinance O-2017-123

On April 10, 2017, City Council introduced an ordinance amending Chapter 3, Article 3, Division 37 of the San Diego Municipal Code, Burglary and Panic Alarm Systems. The final passage was on May 5, 2017.

This memo is to inform the City Clerk of a few corrections to the ordinance. The ordinance does not need to go in front of Council again. Pursuant to San Diego City Charter section 275, a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney. We have enclosed a corrected strikeout and corrected clean version of the ordinance described above. The digest is also attached although there are no corrections made to the digest.

If possible, please make the corrections prior to June 4, 2017, which is the effective date of the ordinance. The corrections made to the strikeout and clean version of the ordinance are as follows:

A. Strikeout Ordinance dated March 28, 2017

1. Removing the italicized word *fee* from page 14, section 33.3717(c), as follows:

~~Thereafter, the number of~~The penalty *fee* for *false alarms* . . .

To now read,

~~Thereafter, the number of~~The penalty *for false alarms* . . .

2. Adding a period after 33.0501 from page 15, section 33.3717(c)(3), as follows:

section 33.0501

To now read,

section 33.0501.

3. Italicizing word penalty from page 15, section 33.3717(f), as follows:

Notice of *violation* of a *false alarm* or assessment of a *fine* or *penalty fee* . . .

To now read,

Notice of *violation* of a *false alarm* or assessment of a *fine* or *penalty fee* . . .

4. Adding a coma on page 22, Section 4 after word date, as follow:

The City Clerk is instructed to insert a date 24 months from the effective date once known, in the third blank space provided in San Diego Municipal Code section 33.3726.

To now read,

The City Clerk is instructed to insert a date 24 months from the effective date, once known, in the third blank space provided in San Diego Municipal Code section 33.3726.

B. Clean Ordinance dated March 28, 2017

1. Changing the italicized word *penalty* to non-italicized word penalty and removing the italicized word *fee* on page 15, section 33.3717(c), as follows:

The *penalty fee* for *false alarms* occurring within twelve months following . . .

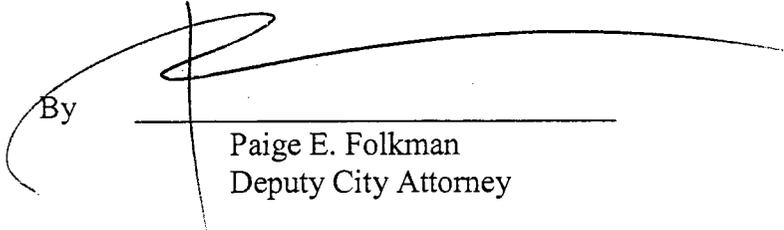
To now read,

The penalty for *false alarms* occurring within twelve months following . . .

C. There were no changes to the Digest.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Paige E. Folkman
Deputy City Attorney

PEF:amt:jvg
March 28, 2017
Or.Dept:Police
Doc. No.: 1015278_15

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 25 2017.

ELIZABETH S. MALAND
City Clerk

By  _____
Deputy City Clerk

Approved: 5/5/17
(date)



KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 25 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 05 2017

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 10 2017

MAY 05 2017

, and on _____.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

20819

Ordinance Number O-_____

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 3, DIVISION 37 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING THE DIVISION; BY ADDING A NEW SECTION 33.3701; BY AMENDING AND RENUMBERING SECTION 33.3701 TO SECTION 33.3702, SECTION 33.3702 TO SECTION 33.3703, AND SECTION 33.3703 TO SECTION 33.3704; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3704 TO SECTION 33.3705, SECTION 33.3705 TO SECTION 33.3706, SECTION 33.3706 TO SECTION 33.3707, AND SECTION 33.3707 TO SECTION 33.3708; BY AMENDING AND RENUMBERING SECTION 33.3708 TO SECTION 33.3709; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3709 TO SECTION 33.3710, SECTION 33.3710 TO SECTION 33.3711, AND SECTION 33.3711 TO SECTION 33.3712; BY AMENDING AND RENUMBERING SECTION 33.3712 TO SECTION 33.3713, SECTION 33.3713 TO SECTION 33.3714, SECTION 33.3714 TO SECTION 33.3715, AND SECTION 33.3715 TO SECTION 33.3716; BY RETITLING, AMENDING, AND RENUMBERING SECTION 33.3716 TO SECTION 33.3717, SECTION 33.3717 TO SECTION 33.3718, AND SECTION 33.3718 TO SECTION 33.3719, SECTION 33.3719 TO SECTION 33.3720, SECTION 33.3720 TO SECTION 33.3721, SECTION 33.3721 TO SECTION 33.3722, SECTION 33.3722 TO SECTION 33.3723, AND SECTION 33.3723 TO SECTION 33.3724; BY ADDING NEW SECTIONS 33.3725 AND 33.3726; AMENDING CHAPTER 5, ARTICLE 5, DIVISION 99 BY AMENDING SECTION 55.9902, ALL RELATING TO ALARM REGULATIONS

Article 3: Police Regulated Occupations and Businesses

Division 37: Police Regulated Burglary, Robbery and Emergency Panic

Alarm Systems

§33.3701 Purpose

The Council encourages citizens to take proactive safeguards to protect life and property from harm, damage, or theft, and recognizes that alarm systems help achieve this goal. The Council further recognizes the vast majority of responses to alarm systems by law enforcement are false alarms. Most false alarms are the result of improper maintenance or careless use of an alarm system. Police officers responding to false alarms are not available to carry out other law enforcement duties. The Council finds that excessive false alarms unduly burden law enforcement resources. In the interest of using law enforcement resources most effectively and efficiently, the number of false alarms can and must be reduced. The purpose of this Division is to preserve public health, safety, and welfare by providing regulation over alarm systems. It is also the purpose of this Division to reduce annoyances associated with false alarms, to establish reasonable expectations of alarm businesses and alarm users, to encourage alarm users to maintain their alarm systems in good working condition and to use them properly, and to ensure that alarm users are held responsible for their alarm systems.

§33.37012 Definitions

Defined words appear in italics. Except as otherwise provided, For purposes of this Division, defined words appear in italics. The following definitions apply in this Division:

Alarm agent means any *person* who is directly or indirectly employed by an *alarm business*, and whose duties include selling, installing, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving, converting, or taking over any alarm system.

Alarm business means any *person* engaged in the enterprise of selling, installing, monitoring, leasing, maintaining, servicing, repairing, altering, replacing, moving, converting, taking over, or responding to any alarm system. It does not include the ~~owner~~ property owner or property manager of an apartment complex that provides *alarm systems* in each residential unit as an amenity.

Alarm System means any single 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. This includes any audible alarm or other alarm system whether or not it is monitored by an alarm business, alarm agent, or alarm user, or installed by an alarm business or alarm user.

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.

Authorized responder means a *person* who is authorized by the *alarm user* to cancel a law enforcement response, respond to the alarm site when requested by

law enforcement to deactivate the alarm system, provide access to the alarm site, and provide alternative security for the alarm site.

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~~ 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).

Call for service means any call made to the Police Department requesting police services and includes officer initiated calls.

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 service, maintain, or monitor an alarm system previously serviced, maintained, or monitored by another alarm business.

Distress alarm means any *alarm system* with an alarm signal generated by manual activation of a device to summon immediate medical help.

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

Emergency situation [No change in text.]

Enhanced call verification means two attempts are made by an *alarm business* or *alarm agent* to contact an *alarm user* in person, by telephone, or by other

electronic means, to verify that the alarm signal activation is not false before a call for service is made.

Exempt user [No change in text.]

False alarm means any ~~triggering~~ activation of an *alarm system* that results in a response by law enforcement personnel call for service where an *emergency situation* does not exist. It includes activations caused by mechanical or electrical failure, malfunction, improper installation, sensor sensitivity, accidental tripping, misuse, or negligent maintenance by an *alarm business, alarm agent, or alarm user*. It does not include activations caused by extreme weather conditions, telephone line problems, or any other extraordinary factors over which the *alarm business, alarm agent, or alarm user* ~~do not have~~ has no direct or indirect control. It does not include activations where the call for service is cancelled by an alarm user, authorized responder, or alarm agent, and law enforcement does not arrive at the alarm site.

Fee means a permit fee, penalty fee, or fine.

Fine means money assessed when an alarm system generates false alarms.

Panic alarm means a duress alarm, distress alarm, or robbery alarm.

Penalty fee means money assessed when an alarm system without a permit generates a call for service.

Permit has the same meaning as in Municipal Code section 33.0201.

Permit fee means money assessed to process the alarm system permit application.

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

Robbery alarm-system means any *alarm system* with an alarm signal generated by manual activation of a device used to ~~directly or indirectly~~ alert law enforcement ~~personnel~~ to the possible commission of an unlawful act within a building or other structure.

Sell 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 [No change in text.]

§33.37023 Alarm Business Requirements and Responsibilities

- (a) It is unlawful for any *person* to operate an ~~alarm business~~ *alarm business* without a *business tax certificate*.
- (b) [No change in text.]
- (c) Any *alarm business* that ~~sells~~ *sells* any *alarm system* shall do the following:
 - (1) Obtain an ~~*alarm user permit*~~ *system permit*, using the ~~*alarm user permit*~~ *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*~~ *system permit* application and ~~permit fee~~ *permit fee* from each *alarm user*;
 - (3) Mail, electronically file online, or hand deliver the completed ~~*alarm user permit*~~ *permit* application and ~~permit fee~~ *permit fee* to

the *Chief of Police* before putting the *alarm system* into service;
and

(4) When requested by the *Chief of Police*, provide its most current customer information on any *alarm user* and *alarm system* installed by the *alarm business* in the City of San Diego.

- (d) Any *person* or business that ~~sell~~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~~system permit application and certification form, as provided in Municipal Code section 33.3708.

§33.37034 Alarm Agent Responsibilities

- (a) It is unlawful for any ~~person~~person not registered as an *alarm agent* with the State of California to perform any duties of an *alarm agent*.
- (b) [No change in text.]

§33.37045 Alarm System Conversion By Alarm Business

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

service, maintain, or monitor shall obtain the ~~alarm user permit~~ permit on behalf of the *alarm user* as provided in Municipal Code section 33.3703.

- (c) Nothing in this Division prohibits the *alarm business* from recovering from an *alarm user* the amount of the permit fee.

§33.37056 Alarm System Takeover By Alarm User

- (a) Upon any ~~takeover~~ takeover of an *alarm system* maintained, serviced, inspected, or monitored by an *alarm business*, the *alarm business* shall determine whether an ~~alarm user permit~~ permit has been issued to the *alarm user* assuming control of the *alarm system*.
- (b) Upon a determination that an ~~alarm user permit~~ permit has not been issued to the *alarm user* assuming control of the *alarm system*, the *alarm business* shall obtain an ~~alarm user permit~~ permit on behalf of the *alarm user* and comply with Municipal Code section 33.3703.
- (c) Nothing in this Division prohibits the *alarm business* from recovering from an *alarm user* the amount of the ~~alarm user permit fee~~ permit fee.

§33.37067 Alarm User System 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~~ permit issued by the *Chief of Police* for that *alarm system*.
- (b) ~~The *Chief of Police* will collect~~ Any *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* shall submit an *alarm system permit* application and permit fee to the *Chief of Police*.

§33.37078 Application for Alarm ~~User~~ System Permit

(a) Any *person* applying for an *alarm user permit* ~~system 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)-(4) [No change in text.]

(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 an authorized responder; 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 permit fees must be paid at the time the *alarm user permit* ~~system permit~~ application is filed.

(c) Each ~~alarm user permit~~ permit application must be accompanied by a signed certification by the ~~user~~ alarm user and ~~alarm business~~ alarm business stating the following:

(1)-(2) [No change in text.]

(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, and all~~

necessary information regarding the proper use of the alarm system

have been provided to the *alarm user* applying for the

~~permit~~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, including instruction on enhanced call verification, and the possible consequences of false alarms.

- (d) Failure to provide any of the required information is sufficient cause to deny the application for an *alarm user* ~~permit~~permit.
- (e) An application will not be considered complete if at the time the application is being considered any ~~finer~~fees assessed to the applicant under Municipal Code section 33.3717 or penalty fees under Municipal Code section 33.3711 in accordance with this Division have not been paid.
- (f) If an alarm user has one alarm system protecting more than one address, a separate permit shall be required for each address.

§33.37089 Responsibility of Responding Person

Upon request of the ~~Police Department~~law enforcement, the ~~person~~ identified pursuant to Municipal Code section 33.3707(a)(5) in an *alarm user* permit application, an authorized responder shall appear at the location of the *alarm system* no later than thirty minutes after being advised that the ~~Police Department~~law enforcement has received a signal or message indicating that the *alarm system* has been activated, and shall allow law enforcement personnel

access to the ~~premises~~premises, deactivate the *alarm system*, and provide security for the ~~premises~~premises. Failure to respond ~~will~~may result in the revocation of the ~~alarm permit~~alarm system permit.

§33.370910 Expiration of Alarm ~~User System~~ Permits

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

§33.37101 Alarm ~~User System~~ Permits Not Transferable

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

§33.37142 ~~Penalty Fees and Penalties~~ Fines for Not Obtaining an Alarm User System 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~~call for service without first obtaining an ~~alarm user permit~~system permit ~~within fifteen days of notification,~~ will be assessed a ~~penalty fee~~penalty fee ~~for each~~ per ~~police call for service~~call for service until the ~~permit~~permit is obtained. The alarm user will also be assessed a fine for each false alarm. The penalty fee schedule shall be penalty fees and fines will be assessed according to the established rates kept in the City of

~~San Diego Ratebook~~ fee schedule on file in the Clerk's Office.

- (b) Except as otherwise specifically provided in this Division, any person who files an application for an alarm system permit shall at the time of filing the application pay a permit fee and any outstanding fees.

§33.37123 Responsibility for Alarm Systems in Apartments

- (a) If the ~~owner~~ property 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 system 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~~ property owner or property manager must obtain the *alarm user permit system permit*.
- (b) [No change in text.]

§33.37134 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~~" non-emergency 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~~" non-emergency number serving the San Diego Police Department's Communications Center.

§33.37145 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 June 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. Automatic shut off mechanisms for audible alarms shall be in working order and shall not be disconnected.

§33.37156 Procedures for Alarm Verification

- (a) Prior to requesting a police law enforcement response to an alarm signal, an *alarm business* or *alarm agent* shall ~~make a reasonable attempt to contact an alarm user in person, by telephone, or by other electronic means, perform enhanced call verification in order to verify that the alarm signal activation is not false.~~
- (b) ~~The requirement set forth in section 33.3715(a) shall not apply to a duress or robbery alarm signals. When requested by the Chief of Police or alarm user, the alarm business or alarm agent shall provide evidence that enhanced call verification was used on any specific alarm activation.~~
- (c) The requirement set forth in this section shall not apply to panic alarms.

§33.37167 ~~Revocation Alarm User System Permit False Alarms and Fines~~

- (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. An *alarm system* shall not have *false alarms*.~~
- (b) ~~An alarm will 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 assess a *fine* and revoke any *permit* for any *amend the alarm system for 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 The penalty for *false alarms* permitted for each alarm system occurring within twelve months following the issuance, *renewal*, or most recent reinstatement after *revocation* of the *alarm user* permit shall be as follows:~~

- (1) ~~One false alarm in any 30 day period~~First through fifth false alarm, a notice of violation will be issued and a fine will be assessed;
 - (2) ~~Two false alarms in any 90 day period~~Sixth false alarm, the alarm system permit will be revoked, a notice of revocation will be issued, and a fine will be assessed; and
 - (3) ~~Three false alarms in any 180 day period; and~~For each additional false alarm after notice of revocation, a fine will be assessed; this includes false alarms that occur when the alarm system permit is in the process of reinstatement and during the time when the revocation of the permit is appealed in accordance with section 33.0501.
 - (4) ~~Four false alarms in any one year period.~~
- (ed) ~~An alarm user permit that has been revoked pursuant to this Division is not a current valid alarm user permit~~Fines will be assessed according to the established rates kept in the fee schedule on file in the Clerk's Office.
- (e) Fines will not be assessed against an alarm business based on the fact that the alarm business obtained the alarm system permit on behalf of the alarm user.
- (f) Notice of violation of a false alarm or assessment of a fine or penalty fee may be appealed to the Chief of Police in accordance with section 33.3725.

§33.37178 ~~Fines for Alarm User System Permit Revocation~~

- (a) ~~The holder of an *alarm user* permit shall pay a fine, according to the established rates kept in the City of San Diego Ratebook on file in the Clerk's Office, for each revocation of that permit~~ A violation of any of the provisions of this Division shall constitute grounds for revocation of an *alarm system permit*.
- (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*~~ Upon revocation of any *alarm system permit*, the *Chief of Police* will notify the holder of the *permit* in writing of the revocation in accordance with section 33.0404, and explain the authority of the *Chief of Police* to suspend response in accordance with section 33.3720.
- (c) An *alarm system permit* that has been revoked is not a current valid *permit*.
- (d) The holder of an *alarm system permit* may appeal a decision by the *Chief of Police* to revoke the *permit* in accordance with section 33.0501 or apply for reinstatement of the *permit* in accordance with section 33.3719.

§33.37189 ~~Reinstatement of Revoked Permit; Alarm User Permit Appeal~~

- (a) ~~The holder of an *alarm user permit system permit* that has been revoked pursuant to Municipal Code section 33.3716 may apply for reinstatement of the *permit permit* by submitting to the *Chief of Police* all ~~fin~~ fees due pursuant to Municipal Code section 33.3717~~ in accordance with this

Division, and satisfactory written evidence that the cause of the *false alarms*, or other reason for the revocation, has been identified and corrected.

- (b) The *Chief of Police* has the authority to reinstate an *alarm user permit* ~~system permit~~ that has been revoked pursuant to ~~Municipal Code section 33.3716~~ upon the receipt of all ~~fin~~~~es~~ fees due pursuant to ~~Municipal Code section 33.3717~~ in accordance with this Division, and satisfactory evidence that the cause of the *false alarms*, or other reason for the revocation, has been corrected. The *Chief of Police* may also require such other conditions as may be appropriate to reinstate a revoked *alarm user permit* ~~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.~~

§33.371920 Use of Alarm System after Permit Revocation as ~~Public Nuisance~~

- (a) ~~¶~~ Along with the other enforcement authority and remedies provided in this Division, the *Chief of Police* has the authority to ~~declare an alarm system a public nuisance~~ suspend response by Police Department personnel to burglary alarm dispatches at the location of any alarm system when all of the following conditions are present:
- (1) The *alarm user permit* ~~system permit~~ has been revoked due to *false alarms*;
 - (2) The revoked *alarm user permit* ~~system permit~~ has not been reinstated in accordance with section 33.3719;
 - (3) ~~The cause of the false alarms~~ alarms has not been corrected; and

- (4) ~~If revoked, t~~The decision of the *Chief of Police* to revoke the ~~permit~~ permit is not currently on appeal pursuant to in accordance with 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.~~
- (eb) This section does not apply to duress, robbery, call for help, or panic alarm ~~dispatches~~ panic alarms.
- (c) 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~~ system permit has been reinstated and ~~the cause of the false alarms has been corrected~~ in accordance with section 33.3719.

§33.37201 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, and monitor, or plan the *alarm system* for any location, except as provided in Municipal Code section 33.37023(d).
- (b) [No change in text.]
- (c) *Exempt users* as defined in section 33.37042.

§33.37212 Confidentiality of Records

- (a) [No change in text.]
- (b) An *alarm user* ~~shall have the right~~ is entitled to information regarding the administration of that user's ~~permit~~ permit.
- (c) Information furnished and secured ~~pursuant to~~ in accordance with this Division may be disclosed when required by state or federal law or lawful court order.

§33.37223 Enforcement Authority

[No change in text.]

§33.37234 Enforcement Remedies

Except as otherwise specifically provided, ~~violations~~ violations of this Division may be prosecuted as misdemeanors subject to the ~~finer~~ finer and custody ~~provided in accordance with~~ 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 1 of this Code.

§33.3725 Appeal of Fines and Penalty Fees

- (a) An alarm user who has either received notice of violation of a false alarm or has been assessed a fine or penalty fee, may request a hearing with the Chief of Police.
- (b) The hearing must be requested within ten days of receipt of the notice of violation or assessment of fine or penalty fee. Failure to submit a timely request terminates the alarm user's right to contest the false alarm, or the

fine or penalty fee, and constitutes a failure to exhaust administrative remedies.

- (c) The hearing will be set no more than 30 business days from the date of receipt of the request, unless otherwise agreed to by the parties.
- (d) The hearing is an informal administrative review to determine the validity of the notice of violation or assessed fine or penalty fee. Formal rules of evidence and discovery do not apply.
- (e) At the hearing, the Chief of Police will only consider evidence that is relevant to whether the alarm activation triggered a false alarm or whether an alarm user had a valid alarm system permit at the time of the call for service.
- (f) There shall be a rebuttable presumption affecting the burden of producing evidence that an alarm activation is a false alarm if the responding law enforcement officers did not find evidence that an emergency situation triggered the alarm. An alarm user has the burden to present evidence sufficient to negate the presumption.
- (g) After an evaluation of the evidence presented, the Chief of Police may amend an alarm user's records to indicate that an alarm activation was not a false alarm or did not generate a call for service, and waive, reverse, or modify any fine or penalty fee.
- (h) The Chief of Police will issue a written decision within 15 business days after completing the hearing. The decision shall be final.

§33.3726 Transition of Existing Two-Year Alarm System Permits; False Alarms and Fines

An alarm system permit issued before [_____] for a two-year period shall remain valid until its stated expiration date, unless it is revoked. For the first false alarm after [_____], a warning letter will be issued referencing application of section 33.3717 to future false alarms. Only one warning letter will be issued for a two-year period. The false alarm that resulted in the issuance of a warning letter will not constitute a violation under section 33.3717(c). After the issuance of a warning letter, section 33.3717 shall apply to existing two-year permits as follows:

- (a) The first false alarm after the issuance of a warning, will be treated as the first false alarm under section 33.3717(c)(1).
- (b) Additional false alarms will constitute violations subject to penalties as set forth in section 33.3717(c).
- (c) The one-year anniversary date after the issuance of the two-year alarm system permit begins a new twelve-month period for accrual of violations under section 33.3717(c). This new twelve-month period is a new violation period.
- (d) During the new violation period, the first false alarm will be treated as the first false alarm under section 33.3717(c)(1).

This section shall remain in effect until [_____], at which time this section shall automatically be repealed.

Section 2. That Chapter 5, Article 5, Division 99 of the San Diego Municipal Code relating to Fire and Harmful Gas Emergency Alarms is amended by amending section 55.9902 to read as follows:

Article 5: Fire Protection and Prevention

Division 99: Fire and Harmful Gas Emergency Alarms

§55.9902 Definitions

Defined terms appear in italics. The following definition apply in this Division:

Alarm agent through *Emergency situation* [No change in text.]

Exempt user has the same meaning as in Municipal Code section 33.370+2.

False alarm through *Person* [No change in text.]

Sell has the same meaning as in Municipal Code section 33.370+2.

Takeover [No change in text.]

Section 3. The City Clerk is instructed to insert the effective date of this ordinance, once known, in the first two blank spaces provided in San Diego Municipal Code section 33.3726.

Section 4. The City Clerk is instructed to insert a date 24 months from the effective date, once known, in the third blank space provided in San Diego Municipal Code section 33.3726.

PEF:amt;jvg
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