



THE CITY OF SAN DIEGO

## Report to the City Council

REPORT NO: 17-014

DATE ISSUED: February 17, 2017

ATTENTION: Honorable Council President Myrtle Cole and Members of the City Council

SUBJECT: Police Department's Proposed Burglary and Panic Alarm Systems Ordinance Changes and Fee, Fine, and Penalty Schedule Modifications.

REFERENCE: None

### REQUESTED ACTION:

Approve an Ordinance to amend Chapter 3, Article 3, and Division 37 of the San Diego Municipal Code, Police Regulated Occupations and Businesses; Burglary and Panic Alarm Systems as listed in Subitem-A of this report.

Adopt the revised alarm system permit fees, fines, and penalties for the purpose of recovering costs incurred by the Police Department in providing the regulation of alarms and to secure compliance to the regulation of alarms; or as otherwise permitted under articles XIII. A. and XIII. C. of the California Constitution, as listed in Subitem-B of this report.

Authorize the City Clerk to amend the fee schedule maintained in the Office of the City Clerk to include the fees described in this report.

### STAFF RECOMMENDATION:

Approve Requested Actions.

### EXECUTIVE SUMMARY OF ITEM BACKGROUND:

The San Diego Police Department is responsible for issuing permits and regulating a variety of businesses and occupations collectively referred to as Police-Regulated Businesses. One such permit is the alarm system permit. Permits for residential and commercial alarms are issued by the Police Department. Responses to all alarm calls are a necessary function of public safety. California Government Code section 845 indicates that a police department shall not fail to respond to an alarm call solely on the basis of the user not having a city permit.

On June 1, 2011, after an audit of the Police Department's Permits and Licensing Unit, the San Diego County Grand Jury published a report entitled "No Cost for Alarm?". The audit revealed a significant loss of income to the City due to uncollected fees and penalties that generated a written response from the City. The Grand Jury made seven recommendations, four of which directly impacted the regulation and enforcement of alarms. In summation, it

was recommended an alarm permit be issued prior to the alarm system activation, a more substantial fine be levied against alarm systems without a permit, the alarm permit tracking system be updated, and the regulations regarding permits and fees be better adhered to.

The San Diego County Grand Jury's report can be read in its entirety at the following address: <http://www.sandiegocounty.gov/content/dam/sdc/grandjury/reports/2010-2011/AlarmsFinalReport.pdf>

In October 2011, the Office of the City Auditor published the results of a performance audit of the Police Department's Permits and Licensing Unit in accordance with the City Auditor's Fiscal Year 2011 Audit Work Plan. Of the fifteen recommendations, three directly addressed the alarm permit program. It was recommended the Municipal Code be amended to reduce the number of repeat false alarms and ensure alarm systems operate with proper permits. It was further recommended that a more effective false alarm penalty program be implemented, national strategies to reduce false alarms be adopted, and reduce the inclusion of false alarm costs from the calculation of an alarm permit fee. Lastly, it was recommended to review the calculation of permit fees and assess the effectiveness of the alarm data system to better track and collect expenses and fees.

The City Auditor's report can be viewed in its entirety at the following address: <https://www.sandiego.gov/sites/default/files/111031pdaudit.pdf>

To address the recommendations made by both the Grand Jury and the City Auditor, the Police Department purchased a new software program (CryWolf) for the tracking and management of false alarms which is currently in the implementation phase. The Police Department also reviewed the San Diego Municipal Code and made changes to the current Ordinance to better regulate the alarm industry and reduce the number of false alarms. In addition, the Police Department completed a fee analysis to determine appropriate regulatory permit costs and conducted a survey of what other cities charge for false alarms and alarms without permits.

**Subitem-A: Approve an Ordinance to amend Chapter 3, Article 3, and Division 37 of the San Diego Municipal Code, Police Regulated Occupations and Businesses; Burglary, and Panic Alarm Systems**

The Police Department's goal is to operate efficiently within the alarm industry and to minimize officer out-of-service time by reducing the number of false alarm calls. This will be accomplished, in part, by shifting to a penalty based system to gain compliance. The following proposed Ordinance amendments are as follows:

- A Purpose section was added to the Ordinance to provide the citizens of San Diego with a better understanding of the need and intent of alarm regulations (§33.3701).
- Definitions were added for Authorized Responder, Call for Service, Distress Alarm, Enhanced Call Verification, Panic Alarm, Penalty Fee, Permit Fee, and Fine. Minor changes were made and clarifying language was added to the definitions of Alarm Business, Alarm Systems, Audible Alarm Systems, and False Alarm (§33.3702).
- Alarm businesses will be required to provide their most current customer information on alarm users and alarm systems installed in the City of San Diego when requested

by the Chief of Police. This requirement will assist the Police Department with holding alarm businesses and users accountable for new alarm installations (§33.3703).

- Alarm users will be required to obtain a separate permit if their alarm system is protecting multiple structures at the same location which have separate addresses. This will assist in more accurate monitoring of alarm systems while increasing the ability to direct police officers to the exact location of the distress signal. In addition, alarm businesses must provide a signed certification that includes instructions on Enhanced Call Verification and the possible consequences of false alarms. (§33.3708).
- The alarm system permit term will be reduced from 24 months to 12 months. A one-year permit term is an industry standard and will bring the alarm permit term in alignment with all other police-regulated permits (§33.3710).
- A penalty fee will be assessed for each false alarm without a valid permit (§33.3712). This will be discussed further in Subitem-B.
- All automatic shut off mechanisms for audible alarms shall be in working order and shall not be disconnected. This amendment provides an additional level of clarification and compliance for those alarms that ring endlessly and disturb others (§33.3715).
- Businesses are required to employ “Enhanced Call Verification” prior to requesting a response from law enforcement. “Enhanced Call Verification” requires an alarm monitoring service to make two attempts to contact the alarm user to determine if the alarm activation is valid before a request for law enforcement service is made. 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 were completed. “Enhanced Call Verification” is accepted as an industry standard and has proven to reduce the number of false alarm responses by law enforcement (§33.3716).
- Each false alarm will be assessed an escalating fine and the permit will be revoked on the sixth false alarm (§33.3717). This will be discussed further in Subitem-B.
- The appeal process for fines and penalty fees was added to give alarm users an avenue to have assessed fines/fees removed, waived, reversed or modified if appropriate (§33.3725).
- A two-year alarm system permit obtained prior to the passage of this new Ordinance will be valid until its original expiration date, unless it is revoked. Only one warning letter will be sent to the permit holder for the first false alarm referencing application of the new penalty structure for future false alarms as outlined in section 33.3717.

Permit holders will then be assessed fines, fees and penalties for subsequent false alarms as set forth in section 33.3717. For escalating penalty purposes, existing two-year permits will reset on their one year anniversary date. This gives both existing two-year permits and all new permits the same opportunity to erase previous false alarms and start over after one year. (§33.3726).

- Sections with non-substantive changes will be amended to conform to the formatting standards of the San Diego Municipal Code and to make the subsections more consistent with one another.

**Subitem-B: Adopt the revised Alarm System Permit Fees, Fines, and Penalties and to authorize the City Clerk to amend the Ratebook of City Fees and Charges maintained in the Office of the City Clerk as described below.**

*Permit Fees*

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 (§33.3707). 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).

On November 2, 2010, California voters approved Proposition 26, a ballot initiative that limits the ability of local government agencies to impose certain fees and charges. Per the City Attorney's Office, regulatory costs are exempt from Proposition 26 if they bear relation to reasonable costs of the government expense in regulating or permitting the activity. The City's Cost of Service Study (COSS) assumes full cost recovery of City services. The alarm system permit fee adjustment recommended in this report has been reviewed by the City Attorney's Office for compliance with Proposition 26.

The current alarm permit fee was calculated to include cost recovery fees associated with responding to at least one false alarm. The Police Department is now proposing to charge fines and penalties associated with false alarms separately to gain compliance. Therefore, the permit fee would only include the direct costs associated with processing the permit. The proposed permit fee will be much lower than the current permit fee. This proposed adjustment to the alarm permit fee calculation is in line with recommendations made by the City Auditor.

*Fines and Penalties*

The amended Ordinance grants the Chief of Police the authority to fine and eventually revoke any permit for any alarm system producing false alarms (§33.3717). False alarms account for the vast majority of alarm calls for service and diminish police resources. A false alarm is when an alarm system is triggered where an emergency situation does not exist. In order to have an impact on this problem, alarm users will be assessed fines and penalty fees for false alarms that result in a response by law enforcement personnel. A fine is assessed when an alarm system generates a false alarm. A penalty fee is assessed when an alarm system with no permit generates a call for service.

Per the City Attorney’s Office, fines, penalties, or other monetary charges imposed by a local government, as a result of a violation of law or a City Ordinance, regulation, or policy are exempt from Proposition 26. Fines and penalty fees are imposed as a means of securing obedience to regulations. These charges may be imposed without regard to actual damages that may have been sustained.

Any alarm user whose system generates a call for service without first obtaining a permit will be assessed a penalty fee until the permit is obtained (§ 33.3712). Additionally, alarm users with valid permits will be charged an escalating fine for each false alarm and after the sixth false alarm, the permit will be revoked (§ 33.3717). The penalty fee and fine are assessed to obtain compliance from alarm users and to encourage them to take action to remedy the cause of the false alarm. The penalty fee and fine are separate from the regulatory costs captured in the permit fee.

Proposed fines and penalty fees are comparable to those of similar sized agencies across the nation and jurisdictions in close proximity to San Diego. Refer to Attachment-A for a listing of alarm fines and penalties charged by other agencies.

Alarm system permit fees, fines, and penalties will be assessed according to the established rates kept in the City of San Diego’s fee schedule on file in the Clerk’s Office.

Proposed Fee Schedule

The following table summarizes the proposed fee schedule related to permit fees, fines, and penalty fees as compared to the current system:

<b>Police Alarm Related Fees</b>		
<b>Type of Fee</b>	<b>Current</b>	<b>Proposed</b>
Residential Permit	\$100.25 for 2 yrs.	\$10.00 for 1 year
Commercial Permit	\$173.25 for 2 yrs.	\$10.00 for 1 year

  

<b>False Alarms</b>	<b>Current Fine</b>	<b>Proposed Fine</b>
1 <sup>st</sup>	Included in Permit Fee	\$100.00
2 <sup>nd</sup>	False alarms or “grace” calls for service with no assessed fine include:  1 false alarm in any 30 day period 2 false alarms in any 90 day period 3 false alarms in any 180 day period 4 false alarms in any 1-year-period	\$200.00
3 <sup>rd</sup>		\$300.00
4 <sup>th</sup>		\$400.00
5 <sup>th</sup>		\$500.00
6 <sup>th</sup> *		\$500.00
7 <sup>th</sup> & up **	If false alarms exceed the above count, the below revocation fees apply.	\$500.00
1 <sup>st</sup> Revocation	\$110	N/A
2 <sup>nd</sup> Revocation	\$220	N/A
3 <sup>rd</sup> Revocation	\$440	N/A
4 <sup>th</sup> Revocation	\$2,200	N/A

  

No Permit Penalty ***	\$146.75	\$300.00
-----------------------	----------	----------

- \* *Permit will be revoked and a false alarm fine will be assessed*
- \*\* *Alarm system may be declared a public nuisance and a false alarm fine will be assessed*
- \*\*\* *Alarm users who do not obtain a permit, will be assessed a \$300 penalty and a false alarm fine, if applicable, as displayed in the table above, until the permit is obtained.*

The Police Department recognizes the value of alarms in protecting people and property by discouraging criminal activity and alerting the police when it is occurring. Through the amendments to the Municipal Code, the Police Department anticipates a decrease in false alarms because of the penalties imposed when they occur.

Ensuring the safety and security of all residents and visitors to San Diego remains the Police Department's highest priority. The implementation of this proposed alarm system permit fee, fine, and penalty structure will help accomplish this goal.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #1: Provide high quality public service.

Objective #1: Promote a customer-focused culture that prizes accessible, consistent, and predicable services.

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.

Objective #1: Protect lives, property, and the environment through timely and effective response to all communities.

Objective #2: Reduce and prevent crime.

FISCAL CONSIDERATIONS:

Revenue Impact from Proposed Alarm Permit Fees, Fines and Penalties Changes:

The Police Department's current General Fund revenue budget for alarm permit fees, fines and penalties is \$2.7 million. The Department estimates the proposed changes in permit fees, fines and penalties would cause a reduction in revenue of approximately \$600,000.

The decrease in revenue can be primarily attributed to the decrease in residential and commercial alarm permit fees; which currently includes costs associated with responding to one false alarm. The reduction in permit fees are predominantly offset with additional revenue associated with imposing a higher penalty for all false alarm calls, as well as for repeat false alarms. There is also a new penalty for those who do not have the required alarm permit. The proposed alarm permit fee has been adjusted to be in compliance with the recommendation from the City Auditor; that a more effective false alarm penalty program be implemented, national strategies to reduce false alarms be adopted, and reduce the inclusion of false alarm costs from the calculation of an alarm permit fee.

Additionally, the Police Department is proposing a new process, the "Enhanced Call Verification", to successfully reduce false alarms. The "Enhanced Call Verification" requires an alarm monitoring service to make two attempts to contact the alarm user to determine if the alarm activation is valid before a request for law enforcement service is made. "Enhanced Call Verification" is accepted as an industry standard and has proven to reduce the number of false alarm responses by law enforcement. The Department estimates a reduction of a least 70% in false alarms due to "Enhanced Call Verification", which is

estimated at an additional \$1.1 million reduction in revenue but also serves as an enhanced public safety benefit by allowing sworn officers to be present in the community versus responding to false alarms.

Overall Revenue Impact:

As shown in the table below, the Police Department estimates all proposed changes would cause an overall reduction in revenue of approximately \$1.7 million. This includes a reduction in revenue from the proposed permit, fees, fine and penalties changes and the estimated reduction associated with “Enhanced Call Verification.” Although this is a significant revenue budget impact, the Police Department’s goal is to operate more efficiently, improve public safety and minimize officer out-of-service time by reducing false alarms. A primary goal of the Police Department’s Permits and Licensing Unit is to gain compliance through education, community partnerships and regulatory enforcement. In the specific area of alarm permitting, the resulting benefit of compounding compliance is the reduction of unnecessary and wasted police response time. In turn, this allows patrol officers to redirect their time to other calls of equal or higher priority and/or proactive community responsive policing. Therefore, while the reduction of revenue is significant, it is mitigated by the priority of effective community policing and ultimate goal of reducing crime, apprehending those who commit crime and protecting the citizens and visitors of the communities the Department serves.

	Actual FY 2016 Revenue	Proposed Revenue from Proposed fee, fine & penalty changes	Proposed Revenue from Proposed fee, fine & penalty and “Enhanced Call Verification” changes
Alarm Permit Revenue	\$2,626,056	\$400,000	\$400,000
Alarm Fine & Penalty Revenue	\$135,883	\$1,767,900	\$600,090
Total Revenue	\$2,761,939	\$2,167,900	\$1,000,090

If the proposed alarm permit fees, fines and penalties are approved, the Police Department will work with the Financial Management Department to adjust the Police Department’s budget to reflect the proposed revenue budget.

Alarm Permit Fee:

In accordance with Council Policy 100-05 “User Fee Policy” the proposed permit fee is 95% cost recoverable. Program cost estimates include the administrative costs associated with administering the program and processing a permit. This includes personnel and related non-personnel that includes the online alarm system. The proposed fee of \$10.00 also assumes 40,000 permits issued annually. This estimate is based on current alarm permits issued by San Diego Police.

Estimated Alarm Permit Fee Calculation:

Personnel Expenditures (PE) - \$413,025  
 Non-Personnel Expenditures (NPE) - \$10,000  
 Total PE/NPE - \$423,025

Annual Permits – 40,000  
Estimated Permit Cost (\$423,025/40,000) – \$10.58  
Proposed Permit Fee – \$10.00

EQUAL OPPORTUNITY CONTRACTING INFORMATION (if applicable):

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

Audit Committee – November 7, 2011 – Report from City Auditor: PERFORMANCE AUDIT OF THE SAN DIEGO POLICE DEPARTMENT’S PERMITS AND LICENSING UNIT.

Audit Committee – March 5, 2012 – Update from Police Department’s Permits and Licensing Unit: ALARM PROGRAM ADMINISTRATION OUTSOURCING PROPOSAL.

Audit Committee – June 11, 2012 – Update from Police Department – IMPLEMENTING RECOMMENDATIONS FROM CITY AUDITOR’S PERFORMANCE AUDIT OF THE SAN DIEGO POLICE DEPARTMENT’S PERMITS AND LICENSING UNIT.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS:

Notices of the changes to the San Diego Municipal Code sections §33.3701 – §33.3726 will be posted at all San Diego Police Department facilities, social media platforms and the City’s website. The Police Department will be working with representatives from the alarm industry to encourage notification of these changes to their customers. The Police Department will also continue to provide updated information to business interest groups as needed.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include the San Diego Police Department, alarm businesses, alarm agents, residential and commercial alarm users, and community groups from around the City.



---

Originating Department

---

Deputy Chief/Chief Operating Officer

Attachment(s):      1. Attachment A: Alarm Permit Fees and Penalties for Comparable Cities to the City of San Diego