



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Rod Uyeda, Chief of Police
Bruce Moe, Finance Director
Robert V. Wadden Jr., City Attorney
Derrick Abell, Captain
Nan Rados, Lieutenant
Julie Dahlgren, Management Analyst

DATE: September 7, 2010

SUBJECT: Adoption of Ordinance No. 2134 Amending Chapter 3.56 of the Manhattan Beach Municipal Code Regarding Alarm Systems.

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2134 amending Manhattan Beach Municipal Code Chapter 3.56 regarding regulation of alarm systems.

FISCAL IMPLICATION:

As part of the Fiscal Year 2010-2011 Adopted Budget, City Council approved a resolution adjusting the fee schedule for the False Alarm Program, charging alarm users for the second false burglary alarm activation rather than the third. The adoption of Ordinance No. 2134 will complete the administrative steps necessary to begin billing for the second false alarm should users fail to take steps to reduce them. These billings may result in approximately \$45,000 in additional revenue to the City.

BACKGROUND:

On August 3, 2010, City Council introduced Ordinance 2134 amending Manhattan Beach Municipal Code Chapter 3.56 to impose fines after the first false alarm offense and to clarify certain terms and conditions of the original ordinance.

DISCUSSION:

With the passage of the Fiscal Year 2010-2011 Budget, City Council adopted Resolution 6262 which adjusted the fee schedule of the false alarm program. The previous false alarm fee schedule imposed fines on repeat offenders by charging on the third false alarm activation in a calendar year, with increased fines for additional false alarms. Beginning July 1, 2010, the new fee schedule allows the City to charge on the second false alarm activation, with increased fines for additional false alarms. By reducing the number of free false alarms from two to one, the

City hopes that residents and businesses will be encouraged to increase their operational knowledge of their alarm system and ensure proper alarm system maintenance - thereby, ultimately reducing false alarm activations and needless police response.

Although the new fee schedule was already adopted, language in the Municipal Code (Chapter 3.56.070) specifies that the alarm user is not charged until the third false alarm. Proposed Ordinance No. 2134 would solve the discrepancy between Resolution 6262 and Chapter 3.56.070 and allow the City to charge on the second false alarm as directed by City Council.

Additionally, staff worked with the City Attorney to refine some of the verbiage in the Municipal Code about the administration of the program in order to clarify areas which were vague or no longer viable. Having managed the False Alarm Program for over five years, staff formulated amendments to clarify certain terms and conditions of the original ordinance.

The False Alarm Program operates on a calendar year basis, from January 1st to December 31st. In Chapter 3.56.030, staff recommends correcting the permit expiration to be December 31st, rather than January 1st. Each year, per code, the City Alarm Administrator mails renewal documentation to the alarm user thirty days prior to the expiration of the permit. Code establishes that the City may access a late fee for renewals not filed by the permit expiration; however, code currently does not allow the late fee to be accessed until the renewal is more than thirty (30) days late. Staff recommends that thirty days advanced notice is sufficient, and to amend the code to allow assessment of late fees at the start of the new calendar year.

In Chapter 3.56.050, staff recommends removing paragraph C, which indicates that the City "shall prepare and provide to every permitted alarm user and every alarm installer and monitoring company rules and regulations regarding the installation and use of alarm systems within the City." The "rules and regulations" are contained within the Municipal Code, and the presence of this paragraph can be misconstrued, implying that there may be rules and regulations outside of the Municipal Code.

Residents have the option of attending Alarm School (similar to traffic school) to eliminate a false alarm fine. Currently, in Chapter 3.56.080 (Fines), section C, code states that an alarm user may attend Alarm School "in lieu of paying one (1) prescribed fine." Staff has amended the verbiage to read that an alarm user may attend Alarm School "to obtain a refund for one (1) paid false alarm activation fine" and to further clarify that "the alarm user shall be responsible for paying a fee for the alarm user awareness class in the amount established by resolution of the City Council," which is currently set at \$50.

Chapter 3.56.100 (Appeals), has been amended to provide that the City may hire an independent hearing officer to hear appeals of False Alarm fines rather than using the City Manager or his or her designee. This amendment will put the appeals process for the False Alarm Program in line with the appeals processes for parking citations and social host violations.

CONCLUSION:

Staff recommends that the City Council adopt Ordinance No. 2134 amending Manhattan Beach Municipal Code Chapter 3.56 to impose fines after the first false alarm offense and to clarify certain terms and conditions of the original ordinance.

ORDINANCE NO. 2134

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTIONS 3.56.030, 3.56.050, 3.56.070, 3.56.080 AND 3.56.110 REGARDING FALSE ALARM PENALTIES

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Manhattan Beach City Council hereby finds as follows:

- a. False Alarms requiring a police response force the City to incur the cost of the response and divert valuable police resources from other purposes;
- b. The purpose of the Manhattan Beach False alarm ordinance is to encourage residents to properly install and maintain their alarm systems so they function properly thus reducing false alarm calls;
- c. It is therefore necessary and in the interest of the health, safety and welfare of the residents of Manhattan Beach to amend the City's False Alarm ordinance to impose fines after the first offense and to clarify certain terms and conditions of the original ordinance.

SECTION 2. Sections 3.56.030, 3.56.050, 3.56.070, 3.56.080 and 3.56.110 of chapter 3.56 of the Manhattan Beach Municipal Code are hereby amended in their entirety to read as follows:

“3.56.030 - Permit process.

Application for alarm permits shall be made to the Finance Department of the City. The fee for an alarm permit or an alarm permit renewal shall be established by resolution of the City Council and shall be paid by the alarm user. No refund of a permit or permit renewal fee will be made. The initial alarm application (on a form provided by the City) and permit fee must be submitted to the Finance Department prior to the alarm system installation or alarm system takeover. Upon receipt of a completed alarm permit application form and the alarm permit fee, the City shall register the applicant unless the applicant has: failed to pay a fine assessed under Section 3.56.100; or had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected. Copies of all plans and schematics for the alarm system shall be submitted with the application. Any alarm system may be subject to field inspection by City Building Inspectors, Fire Inspectors or representatives of the Police Department. Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit or revocation of permit.

An alarm permit cannot be transferred to another person or alarm site. An alarm user shall inform the City of any change that alters any of the information listed on the alarm permit application within five (5) business days of such change.

All fines and fees owed by an applicant must be paid before an alarm permit may be issued or renewed.

An alarm permit shall expire on December 31st of each year, and must be renewed annually by submitting an updated application and a permit renewal fee to the Finance Department. The City shall notify each alarm user of the need to renew thirty (30) days prior to the expiration of the permit. It is the responsibility of the alarm user to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a non-permitted alarm system and citations and penalties shall be assessed. A late fee, in an amount to be set by resolution of the City Council, may be assessed if the renewal is late.

3.56.050 - Duties of alarm installation company and monitoring company.

A.

An alarm installation company, or agent to the alarm installation company, shall obtain an alarm permit prior to installation or reactivation of any burglar, panic or robbery alarm system.

B.

The alarm installation company for any burglar, panic or robbery alarm system shall provide written and oral instructions to each of its alarm users in the proper use and operation of their alarm systems. Such instructions will specifically include all instructions necessary to turn the alarm system on and off and to avoid false alarms.

3.56.070 - False alarms.

For purposes of this chapter a "false alarm" shall mean the activation of any alarm which results in a response by the Fire Department or Police Department where the activation of the alarm is caused by the failure, malfunction, improper installation, improper or lack of maintenance, negligence or intentional misuse and there is no safety issue and/or no intrusion by unauthorized persons.

In the event the activation of a burglar alarm system is deemed by the Police Department to be a false alarm it shall be documented by the Police Department. Upon accumulation of more than one (1) false alarm within a calendar year, a false alarm activation report and bill shall be generated in the amount reflected in the City of Manhattan Beach Resolution of Fees. Each additional false alarm within that calendar year shall generate additional billing as reflected in the City of Manhattan Beach Resolution of Fees.

In the event any activation of a panic alarm system is deemed by the Police or Fire Department to be a false alarm it shall be documented by the Police Department. Upon a determination that the alarm was false, a false alarm activation report and bill shall be generated in the amount reflected in the City of Manhattan Beach Resolution of Fees. Each additional false panic alarm shall generate additional billing as reflected in the City of Manhattan Beach Resolution of Fees.

In the event the activation of a fire alarm system is deemed by the Fire Department to be a false alarm it shall be documented by the Fire Department. Upon accumulation of more than two (2) false alarms within a 180-day period, a false alarm activation report and bill shall be generated in the amount reflected in the City of Manhattan Beach Resolution of Fees. Each additional false fire alarm within that 180-day period shall generate additional billing as reflected in the City of Manhattan Beach Resolution of Fees.

Receipt of a sixth false burglar, panic or robbery alarm activation report or a third false fire alarm activation report within a one (1) year period shall require the alarm user to return a completed report of service/repair within fifteen (15) days of receipt of the false alarm activation report to verify, to the reasonable satisfaction of the appropriate department, that: (a) the alarm system has actually been examined by a qualified alarm technician for the type of alarm involved; and (b) a bona fide attempt has been made to identify and correct any defect of design, installation or operation of the alarm system which was identifiable as the cause of the false alarm. Failure to return a report of service/repair within said fifteen- (15) day period, which is reasonably satisfactory to the appropriate department, shall be a violation of this chapter.

3.56.080 - Fines.

A.

Charges for false alarms shall be billed to the alarm user in amounts established by resolution of the City Council.

B.

In addition to false alarm fines, any person operating a non-permitted burglar, panic or robbery alarm system will be subject to a fine for operating an unpermitted alarm in an amount established by resolution of the City Council. The City may waive this additional fine for a non-permitted system if the alarm user submits an application for alarm permit within ten (10) days of notification of such violation.

C.

A burglar, panic or robbery alarm user may attend alarm user awareness class to obtain a refund for one (1) paid false alarm activation fine in a calendar year. The alarm user shall be responsible for paying a fee for the alarm user awareness class in the amount established by resolution of the City Council.

D.

If it is determined that an alarm company employee knowingly made a false statement concerning the inspection or the performance of an alarm system that company's Manhattan Beach business license may be suspended for up to ninety (90) days following notice and an opportunity for a hearing as provided for in Section 3.56.110 below.

E.

This section does not apply to any Federal, State, County or City agency, school district, special district or police agency, including the Manhattan Beach Police Department which is engaged in the non-profit installation and maintenance of tactical alarm systems used in crime suppression.

3.56.110 – Appeals

Any person subject to a fine or other administrative penalty pursuant to this Chapter shall have the right to request an administrative hearing before an impartial Hearing Officer within thirty (30) calendar days of notice of the imposition of fines and/or response costs under this chapter. To request such a hearing, the person requesting the hearing shall notify the Manhattan Beach City Clerk's Office in writing by the close of business of the thirtieth (30th) calendar day from the date of issuance of the notice.

The Manhattan Beach City Manager shall assign a neutral Hearing Officer to conduct such administrative hearings as may be required. The City may contract for the services of neutral Hearing Officers as appropriate and the Hearing Officers may be compensated for their services. Notwithstanding any other provision of this Municipal Code the decision of the hearing officer in any such appeal under this Chapter shall be final.

The costs of the administrative hearing shall be assessed to the responsible person in addition to any other fines and penalties in the event that the citation or imposition of costs is upheld.”

SECTION 3. Each and every other provision of Chapter 3.56 shall continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 6. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby

designated for that purpose.

PASSED, APPROVED, and ADOPTED this 7th day of September, 2010.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk