

# ORDINANCE NO. 2011-050

Adopted by the Sacramento City Council

November 22, 2011

## AN ORDINANCE AMENDING SECTIONS 12.72.060 AND 12.72.090 OF, AND ADDING ARTICLE VII TO, CHAPTER 12.72 OF THE SACRAMENTO CITY CODE RELATING TO SPECIAL ACCESS PERMITS FOR PRIVATE PATROL OPERATORS IN CITY PARKS

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

SECTION 1. The City Council finds and determines that:

- A. Many homeowners associations and businesses contract with private patrol operators to provide security guard services to protect their property from vandalism, burglary and other crimes. There are approximately 55 private patrol operators registered to perform security guard services within the city.
- B. In some instances, security guards need access to a city park to conduct their private patrol services. Under the current City Code, security guards are prohibited from entering a park at times when the park is closed to the public, entering a park with a vehicle in areas not designated for such use, and entering a park while carrying a firearm.
- C. Allowing properly licensed and registered private patrol operators and their security guards special access to enter city parks in performance of their contracted security services will benefit the city and improve public safety by increasing the level of surveillance of suspicious and criminal activity which may occur in or near a city park.

SECTION 2. Section 12.72.060 of the Sacramento City Code is amended as follows:

- A. Subsection L of Section 12.72.060 is amended to read as follows:
  - L. Possess, discharge, or shoot:
    - 1. Any bow and arrow in any park, except in areas designated for such use;
    - 2. Any firearm in any park, except in areas designated for such use and except by a peace officer or by a security guard acting under the authority of a special access permit issued pursuant to Article VII of this chapter; and
    - 3. Any slingshots, airguns, fireworks, and other devices potentially harmful to park visitors, which devices are prohibited in all parks;
- B. Except as specifically amended as set forth in subsection A above, Section 12.72.060 remains unchanged and in full force and effect.

SECTION 3. Section 12.72.090 of the Sacramento City Code is amended as follows:

A. Subsection B.4. of Section 12.72.090 is amended to read as follows:

4. To any peace officer or employee of the city while engaged in the performance of his or her duties, or a security guard acting under authority of a special access permit issued pursuant to Article VII of this chapter.

B. Except as specifically amended as set forth in subsection A above, Section 12.72.090 remains unchanged and in full force and effect.

SECTION 4. Article VII is added to Chapter 12.72 of the Sacramento City Code to read as follows:

### **Article VII – Special Access Permits for Private Patrol Operators**

#### **12.72.300 Definitions.**

For purposes of this chapter, the terms “private patrol operator” and “security guard” shall have the same meaning as set forth in Section 5.100.010.

#### **12.72.310 Special access permits for private patrol operators - Scope.**

No security guard shall enter a park when the park is closed to the public, enter a park with a vehicle in areas not designated for such use, or enter a park while carrying a firearm, except when acting under the authority of a special access permit. Issuance of a special access permit conveys no property right to the permit holder, and the permit is not transferrable or assignable.

#### **12.72.320 Special access permit term and renewal.**

A special access permit issued by the director is valid for a term of one year, unless the permit is suspended or revoked prior to the expiration date. A special access permit may be renewed annually. Applications for a renewal of a special access permit shall be filed not later than 30 days prior to the permit expiration date. Late renewal applications are subject to payment of the initial special access permit application fee.

### **12.72.330 Special access permit application fees.**

An application for an initial or renewed special access permit shall be accompanied by a non-refundable application fee in the amount established by resolution of the city council.

### **12.72.340 Special access permit annual fee.**

Prior to issuance of an initial or renewed special access permit, the applicant shall pay an annual fee in the amount established by resolution of the city council. There shall be no refund of all or any portion of the annual fee.

### **12.72.350 Special access permit application.**

Only private patrol operators may apply for and may be issued a special access permit under this Article VII. An application for an initial or renewed special access permit shall be submitted to the director and shall include all of the following:

- A. The name, business address, and telephone number of the applicant, together with the names of all persons employed by the applicant as security guards in conducting private patrol services in the city.
- B. A copy of the applicant's license to operate a private patrol service issued by the state of California pursuant to Business and Professions Code section 7582.
- C. A copy of the applicant's and its security guards' pocket identification cards issued by the state of California pursuant to Business and Professions Code section 7582.13.
- D. For each of the applicant's security guards who carry a firearm, a copy of their firearms qualification card issued by the state of California pursuant to Business and Professions Code section 7583.23.
- E. Proof of registration of the applicant and the applicant's security guards with the Sacramento police department as required under Section 5.100.020.
- F. A copy of the applicant's current business operations tax certificate as required under Chapter 3.08.
- G. A copy of the applicant's current contract to provide private patrol service within the vicinity of a city park, a map of the territory to be patrolled by the applicant, and a letter of support for the issuance of the special access permit by the person or entity under contract with the applicant.
- H. The name and location of the park(s) to which the applicant requests special access and the following information with regard to each park: a description of the areas to be patrolled, the hours of service, the types of patrol services, whether access with vehicles is requested and a depiction of the proposed patrol routes, and a statement indicating whether the applicant's security guards will carry firearms.

- I. Such further information as the director may require.

### **12.72.360 Special access permit insurance and indemnity requirements.**

A. At all times during the term of a special access permit issued pursuant to this Article VII, the permit holder shall continuously maintain in full force and effect general liability insurance and automobile liability insurance. The insurance coverages shall be at no cost to the city and shall comply with all of the following:

1. For the general liability policy, coverage must be at least as broad as ISO CGL Form 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;
2. For the automobile liability policy, coverage must be at least as broad as ISO Form CA 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;
3. Each policy limit per occurrence shall be in an amount as determined by the city's risk manager;
4. Each policy shall cover all losses and damages as specified in subsection D of this section
5. Each policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds; and
6. Each policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss.

B. No person shall exercise the authority under a special access permit without the insurance coverages as required by this section being in full force and effect.

C. The certificates of general liability insurance and automobile liability insurance and endorsements that establish compliance with subsection A of this section shall be maintained by the permit holder for at least three years after the date that the insurance policy expires.

D. The permit holder shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorneys' fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permit holder or the permit holder's officers, employees, or agents directly or indirectly arising from the exercise of the authority under the special access permit.

### **12.72.370 Special access permit requirements regarding reporting and changes in security guards.**

A. The director will require the holder of a special access permit to submit reports as the director determines is necessary regarding the activities of the permit holder's security guards within or near a park.

B. During the term of a special access permit, the permit holder shall notify the director in writing whenever there is any change in the security guards listed in the initial or renewed special access permit application. The permit holder shall submit for the director's approval the required verification of licensing, registration, and firearm qualification as set forth in Sections 12.72.350(C), (D) and (E) for any new security guard before he or she is granted access to a park under the authority of a special access permit.

#### **12.72.380 Director's action on special access permit application.**

A. Upon receipt of a complete application as required under Section 12.72.350 for an initial or renewed special access permit and the application fee as required under Section 12.72.330, the director shall obtain a recommendation and report from the chief of police and conduct an investigation of the application. The director shall take action on the application within 30 days from the date of receipt of the application.

B. Unless the director makes findings for denial of the application under Section 12.72.390, the director shall approve the application, in whole or in part, and shall issue an initial or renewed special access permit upon payment of the annual fee as required under Section 12.72.340 and proof of insurance as required under Section 12.72.360. The director may impose conditions on approval of the application as the director determines to be reasonably necessary to approve the application. The conditions may include, without limitation, the following:

1. Restricting the parks or the area within a particular park where special access is authorized;
2. Restricting the days or time of the day where special access in a park is authorized;
3. Prohibiting or restricting specified patrol and surveillance measures and activities within a park.

#### **12.72.390 Permit denial, suspension, modification or revocation.**

A. If the director finds, from the information contained in an initial or renewed special access permit application, his or her investigation thereof, and/or the report and recommendation of the chief of police, that: (i) approving a special access permit would be contrary to the public interest or to the public health, safety, and welfare; (ii) the applicant is not eligible to operate a private patrol service in the city; (iii) the applicant is not under contract to provide private patrol security services to the person or entity listed in the application; or (iv) the applicant has violated any prior special access permit requirement or condition, or the provisions of this Article VIII; the director shall deny the application and notify the applicant in writing of the reasons for the denial.

B. The director may suspend a special access permit at any time if the director determines that there are grounds for denial of the permit as stated in subsection A, above. The director shall give written notice to the permit holder of the suspension, stating the reasons for the permit suspension and the period of time that special access to the park by the permit holder's security guards is prohibited. The suspension period shall not extend longer than the time necessary to investigate the reasons for the permit suspension. Upon completion of the investigation, the director may modify the permit conditions, impose new permit conditions, or revoke the permit. The director shall give written notice to the permit holder stating the reasons for the change in the permit conditions or the permit revocation and the effective date of the change or revocation.

C. The director may revoke a special access permit at any time on the same grounds as for denial of a permit as stated in subsection A, above. The director shall give written notice to the permit holder stating the reasons for the permit revocation and the effective date that the permit is revoked.

D. The decision of the director to deny, suspend, modify, or revoke a special access permit shall be final and shall not be subject to appeal, but may be subject to City Council call-up review under Section 12.72.400.

**12.72.400 City Council call-up review of director's permit approval, denial or revocation.**

A. The director shall make a report of his or her decision to approve, deny or revoke a special access permit to the mayor and city council as soon as reasonably practicable after the director either issues the permit, or issues the notice of permit denial or revocation.

B. The mayor or councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located shall have the right to call up the decision of the director by filing a written request with the director not later than 10 days from the date of the decision of the director.

C. The mayor or councilmember requesting call-up review of the decision of the director may withdraw that request, provided that the withdrawal shall be noted on the next regularly scheduled meeting of the city council and shall be considered to have occurred on that date. The mayor or the councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located who did not make the request shall have 10 days from the date of the council meeting at which the call-up is considered withdrawn to file a request for call-up review.

D. Upon the filing of a request by the mayor or a councilmember to call up the decision of the director for city council review, the city clerk shall notice and set the matter for a public hearing, which shall be held within 30 days after the request for review has been filed. Notice of the city council hearing shall be given by mail not less than 10 days prior to the council meeting to the special access permit applicant or permit holder, the person or entity under contract with the applicant or permit holder for private patrol services, and the

owners of real property located within 500 feet of the park(s) that is the subject of the application or permit.

E. The hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the director considered the special access permit application or revocation in the first instance. The city council may approve or deny the special access permit application, or may revoke or not revoke the special access permit, and may impose conditions as it determines to be reasonably necessary to approve the application or not revoke the permit. Within 7 days following the conclusion of the hearing, the city council shall render its decision.

F. If the city council does not act within the time limits set forth in this section, the decision of the director shall be final.

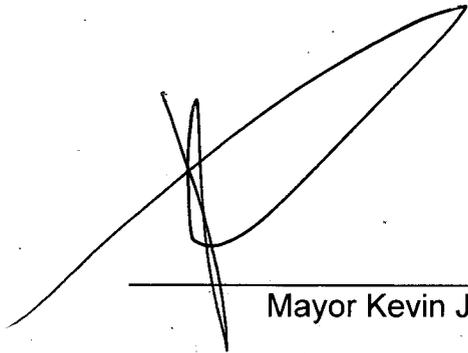
Adopted by the City of Sacramento City Council on November 22, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: Councilmember McCarty.



Mayor Kevin Johnson

Attest:

  
Shirley Concolino, City Clerk

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