

ORDINANCE NO. 9 Series 2004

September 7, 2004: Introduced as Council Bill 07 Series 2004 by Doug Tisdale, seconded Bonnie Blum, and considered by the title only on first reading. Passed unanimously.

September 21, 2004: Considered in full text on second reading. Passed unanimously.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 6, ARTICLE III OF THE CITY CODE AUTHORIZING THE LICENSING OF SECURITY GUARD BUSINESSES

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation organized in accordance with article XX of the Colorado Constitution; and

WHEREAS, the City is authorized to regulate businesses operating within the City for the health, safety and welfare of the citizens of the City by virtue of its home rule authority; and

WHEREAS, the City desires to license security guard businesses operating within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Chapter 6, Article III of the City Code for the City of Cherry Hills Village, Colorado, is hereby repealed in its entirety and replaced by a new Article III to read in full as follows:

Article III

Sec. 6-3-10 Definitions.

When used in this Article, the following words and phrases, unless the context indicates a different meaning, shall be interpreted as follows:

- (a) "Armed Guard" means any Security Guard who is also authorized pursuant to Section 6-3-140 to carry a firearm in the performance of his employment as a Security Guard.
- (b) "Company" means any individual, firm, association, corporation, partnership, school, private club or other entity.
- (c) "Peace Officer" means a sheriff, undersheriff, deputy sheriff, police officer, state patrol officer, coroner, marshal, any officer, guard, or supervisory employee of an institution within the Colorado Department of Institutions, a district attorney or the Attorney General, a probation or parole officer, an officer or member of the National Guard while acting under the call of the Governor in cases of emergency or civil disorder, an agent of the Colorado Bureau of Investigation, or a wildlife conservation officer.
- (d) "Security Guard" shall mean any person employed or retained to provide protection to persons or property of others.
- (e) "Security Guard Business" means (i) any Company that provides protection of persons or property of others with Security Guards, or (ii) any Company that employs Security Guards for the protection of its own property or individuals thereon; provided, that Security Guard Business does not include an individual who employs Security Guards directly for the protection of his or her own person, family, property or individuals thereon.

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Sec. 6-3-20 License Required.

It is unlawful for any Company to carry on, engage in, or conduct a Security Guard Business in the City without first having obtained a license as provided in this Article.

Sec. 6-3-30 Applicability.

The provisions of this Article shall not apply to or regulate activities of:

- (a) Any Peace Officer while acting or employed in his official capacity;
- (b) Any private detective, not engaged in providing Security Guard service;
- (c) Any person engaged in the direction, escort or protection of a funeral procession; or
- (d) Any person engaged in the business of providing to others a pickup and delivery service for the purpose of distributing money or other negotiable securities.

Sec. 6-3-40 Licensing Requirements – Age – Corporate Applicants.

No applicant shall be licensed under the provisions of this Article unless:

- (a) If the applicant is an individual, the applicant is a citizen of the United States at least twenty-one years of age or more; or
- (b) If the applicant is a corporation, partnership or other entity, the applicant is organized or authorized to do business in the state of Colorado.

Sec. 6-3-50 Licensing Requirements – Criminal Convictions.

No individual or entity shall be eligible to obtain or hold any license provided by this Article if the applicant, or any member, partner, officer, director, or the holder of more than a ten percent interest in the corporate applicant, has been convicted of:

- (a) Any crime of murder, first or second degree sexual assault, kidnapping, burglary, assault with a deadly weapon or armed robbery; or
- (b) Any other felony or any crime involving infliction of violence upon the person of another, within the ten years immediately preceding the date of application.

Sec. 6-3-60 License – Application.

Any Company desiring to carry on a Security Guard Business in the City shall make application in writing to the City's police department for a license. The application shall set forth:

- (a) A description of the nature and scope of the Security Guard Business to be conducted;
- (b) The names and places of residence of the persons making such application; or the names and places of residence of the officers and directors, partners or members of a corporation, partnership or other entity making such application, together with the names and addresses of any persons holding more than a ten percent interest of such entity;
- (c) The address of the principal office or place of business of such person or entity;
- (d) The name of the individual in charge of such business;
- (e) The name of the individual in charge of or responsible for the operations of such Security Guard Business within the City;

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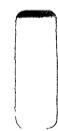
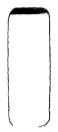
- (f) The names and addresses of not less than three persons, as references, of whom inquiry can be made as to the character, standing and reputation of the person or entity making such application;
- (g) For any Company other than an individual, a duly certified copy of the certificate of good standing, or the qualification to conduct business in the state of Colorado;
- (h) A statement of the number of persons to be employed as Security Guards;
- (i) A statement of the number of vehicles to be used in the conduct of the business and a description thereof;
- (j) The acceptance by the licensee of the condition, to be expressed in the license, that the license may be revoked by the City's police chief or his designee at any time during the term for which the same was issued, upon just cause shown, and after an opportunity, upon reasonable notice, for the licensee to show cause why such license should not be revoked;
- (k) Payment of a nonrefundable license application fee of \$100.00 for the initial application and \$50.00 for each renewal application. The applicant shall also pay with each application, a fee based on the number of Security Guards employed to work within the City. The fee shall be \$50.00 for 1-9 Security Guards, \$100.00 for 10-19 Security Guards and \$150.00 for 20 or more Security Guards; and
- (l) Such further and additional information as the City's police chief or designee may require for the investigation of the application and the enforcement of this Article.

Sec. 6-3-70 License – Issuance.

- (a) After the receipt and investigation of such application, and upon being satisfied that the Company making the same is of good repute, and intends to carry on an honest and legitimate business, and that all requirements of this Article have been met, the City's police chief shall issue a license authorizing the applicant to carry on a Security Guard Business within the City for the period of one year from and after the date of issuance of such license.
- (b) If, after receipt and investigation of any application received pursuant to the terms of this Article, the police chief shall determine the applicant's character or business responsibility is unsatisfactory, or if the applicant fails to meet any of the requirements of this Article, the police chief shall deny the application and shall notify the applicant of such disapproval.
- (c) It shall be the sole and exclusive responsibility of the licensee to investigate and assure the compliance of each of licensee's employees with the requirements of this Article.

Sec. 6-3-80 Security Guard Business Employees.

- (a) No individual shall be employed by any licensee hereunder as a Security Guard in the City unless such individual meets the criteria required of the licensee as set forth in Section 6-3-50 as confirmed by a Colorado Bureau of Investigation background check. Prior to the commencement of the employment of any employee, the licensee shall provide evidence to the City that such background check has been completed for such employee. An off-duty Peace Officer may be employed as a Security Guard and no additional Colorado Bureau of Investigation background check shall be required.
- (b) Licensee shall assure that each Security Guard employed by licensee is in good physical condition, and does not suffer from any psychological or mental impairments which would preclude the employee from performing his duties or which would pose a danger to citizens and residents of the City.



(c) Licensee shall assure that each Security Guard employed or retained by licensee will, at all times he is performing duties of his employment within the City, wear an identification card affixed to his uniform or clothing stating the licensee's name, the Security Guard's name, address, hire number if applicable, date of issue, and licensee's license expiration date. This identification card, which shall have a current picture, physical description, thumb print and signature of the individual employee as part thereof, shall be worn in plain view while working as a Security Guard within the City. If the Security Guard is also functioning as an Armed Guard, the identification card shall be red.

(d) It shall be the duty and responsibility of the licensee to provide a bond for the benefit of the City. The bond shall be issued by a corporate surety company in a form approved by the city attorney, payable to the City and naming the City as obligee, in the amount of ten thousand dollars for each employee who shall act as a Security Guard.

Sec. 6-3-90 Individuals Not Employed or Retained by Licensed Security Guard Business.

Any individual desiring to engage in the occupation of Security Guard in the City without being employed or retained by a Security Guard Business licensed under the provisions of this Article shall make application for and obtain a license as provided in Section 6-3-40 through 6-3-70 of this Article, and shall be subject to all of the duties and requirements of this Article applicable to Security Guard Businesses.

Sec. 6-3-100 Authority – Liability of Sureties.

A license granted under the provisions of this Article shall be sufficient authority for the individual or entity named as licensee to carry on and engage in the Security Guard business in the City, and to employ such Security Guards, Armed Guards, and other employees as such licensee may deem necessary, subject to the licensing requirements of this Article, but the licensee, and the sureties upon the bond of the licensee, shall be liable upon such bond as well for the act of any Security Guards, Armed Guards, or other employee as for the act of the principal obligor in the bond.

Sec. 6-3-110 License Renewal.

In order to renew a license prior to the expiration of the license, a new, complete application must be received by the City at least 30 days prior to such expiration to be processed in accordance with Section 6-3-70 of this Article.

Sec. 6-3-120 Licenses Not Transferable.

No license granted under the provisions of this Article shall be transferable. This Section shall not be construed so as to prevent or prohibit a change by the licensee in the manager, superintendent or other person in charge of the Security Guard Business, provided a certificate setting forth the change, and containing the information required in Section 6-3-60, must first be filed by the licensee with the City's police chief or designee.

Sec. 6-3-130 Vehicle Marking.

Any vehicles used in the conduct of the Security Guard Business within the City by the licensee shall not exhibit colorings, markings, or equipment so similar to marked patrol vehicles of the City or Arapahoe County as to be confused with the City police or Arapahoe County Sheriff vehicles. In addition, the Security Guard Business vehicles shall not be equipped with any lights or sirens in violation of the traffic code of the City, or the laws of the state of Colorado, nor shall any insignia be painted on the sides thereof which are similar to, or which could be confused with, that painted on the sides of the City police vehicles or the Arapahoe County Sheriff vehicles.

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At the time of application for the license identified in Section 6-3-60 of this Article, the applicant shall provide to the police department a picture of a vehicle utilized by Security Guards of the licensee. After issuance of the license provided for herein, no licensee shall change or modify the logo or painting of any such vehicle without the prior authorization of the City's police chief.

Sec. 6-3-140 Armed Guards.

- (a) Before any Security Guard employed or retained by a licensee shall carry a firearm within the City and function as an Armed Guard, the Security Guard shall either (i) obtain a concealed weapon permit pursuant to C.R.S. § 18-12-201, et seq. and maintain such permit in good standing thereafter, or (ii) demonstrate the need for such firearm and proficiency in the use, maintenance and care of such firearm in such manner as the City's police chief shall determine in his sole discretion. In no event shall any individual be deemed proficient in the use, maintenance and care of a firearm unless the individual receives at least eight hours annual training in the use, care, and maintenance of firearms. Any Armed Guard shall wear a red identification card as provided in Section 6-3-80(c). It is a continuing duty of the licensee to comply with the provisions of this Section.
- (b) All Armed Guards employed by the licensee who carry a weapon or firearm within the City other than a concealed weapon licensed under C.R.S. § 18-12-201, et seq. shall provide a certification of the make, model, caliber and type of firearm, and the serial number of the firearm carried, to the City's police chief.
- (c) Nothing contained herein shall be construed to authorize the carrying of a concealed weapon or firearm by any employee of licensee without compliance with all applicable laws and requirements relating to the carrying of such a concealed weapon or firearm.
- (d) Failure of the licensee to comply with, and to ensure that its employees and independent contractors comply with, the provisions of this Section shall constitute a violation of this Article and shall be grounds for revocation of licensee's license, notwithstanding any other provision of this Article.

Sec. 6-3-150 License Revocation.

In addition to the other acts specifically identified and prohibited by this Article, the occurrence of any of the following acts or events shall constitute grounds for revocation of a license.

- (a) Material misrepresentation or concealment of information required in the application for a license;
- (b) Violation of any federal, state or municipal law relating to use or possession of firearms or weapons;
- (c) Impersonation of a peace officer by any employee of licensee;
- (d) Conviction of licensee or any principal owner or officer of licensee, or any employee of licensee, of any felony offense under the laws of Colorado or the United States; or the conviction of any criminal offense or city ordinance violation, except traffic violations, while acting as a merchant patrolman;
- (e) Any violation of the provisions of this Article.

Sec. 6-3-160 Revocation Hearings.

Revocation of a license may occur following a hearing conducted by the City's police chief or his authorized representative, upon not less than five (5) days written notice to licensee. The decision and determination of the City's police chief shall be subject to review or appeal to the City Manager of the City, provided written notice of appeal is filed with the City Manager within ten (10) days following the decision of the City's police chief or authorized representative. Such decision of the City Manager shall be final and subject to review as provided by C.R.C.P. Rule 106(a)(4).

Sec. 6-3-170 Change in Personnel, Place of Business or Vehicles.

- (a) Whenever the employment of a Security Guard is terminated for any reason, the licensee shall immediately notify the City's police chief of such fact and surrender to the City's police chief any and all identification cards issued to such person.
- (b) Any licensee changing place of business shall immediately notify the City's police chief or designee of such fact, together with the address of the new place of business. A change of the place of business shall not be deemed a transfer of license, or require the payment of any additional fees.
- (c) Whenever a vehicle is acquired by a licensee for use in the conduct of his business, the type and description of such vehicle, together with the type and description of any vehicle replaced by it, shall be immediately reported to the City's police chief.
- (d) In addition to any other requirement set forth in this Section, it shall be the duty of the licensee to provide to the police department in connection with each license application a current list of those employees of licensee who are providing Security Guard services within the City.

Sec. 6-3-180 Unlawful Acts.

In addition to the other acts prohibited by this Article, it shall be unlawful:

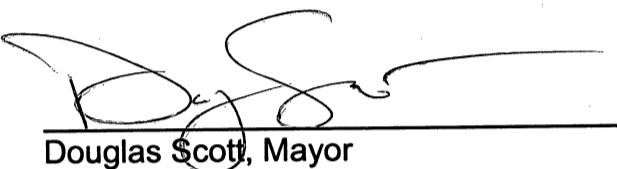
- (a) For any licensee to fail to turn over immediately to the City's police department or other appropriate public law enforcement agency any person arrested by such licensee pursuant to the laws of the state of Colorado. Nothing contained in this Article shall be construed as authorizing any licensee to make an arrest not authorized under the laws of the state of Colorado to be made by a private citizen;
- (b) For any licensee whose employee fires a firearm within the City, to fail to promptly report such incident to the City's police department;
- (c) For any licensee or employee thereof to hinder or interfere with any investigation under the jurisdiction of the City's police department;
- (d) For any licensee or employee thereof to fail to report immediately to the City's police department any known violations of City ordinances or to fail to report to the police department or other appropriate public law enforcement agency any known violations of state of federal laws;
- (e) For any employee of licensee, while engaged in his course of employment, to wear a uniform or insignia similar to that worn by a Peace Officer;
- (f) For any employee of licensee under this Article to represent himself to be an officer of the City police department;
- (g) For any employee of licensee to carry any firearm not registered to the extent required by Section 6-3-140 of this Article;

(h) For any licensee to fail to surrender the licensee's identification card/license after termination of the license;

(i) For any person other than a Peace Officer or member of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of his duties or a person who has a valid permit and license pursuant to the Federal Code for such weapon to knowingly possess an illegal weapon.

Section 2. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Adopted as Ordinance No. 09 Series 2004, by the City Council of the City of Cherry Hills Village, Colorado this 21st day of September, 2004.



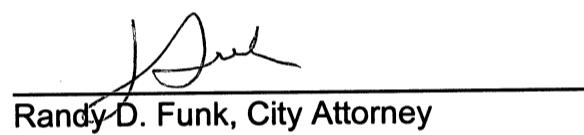
Douglas Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Randy D. Funk, City Attorney

