

CLEAN

ORDINANCE NO. 49-762

5/27/2014

AN ORDINANCE AMENDING SECTIONS 3.72.010, 3.72.015, 3.72.130 AND 3.72.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PRIVATE SECURITY OFFICERS AND PRIVATE SECURITY AGENCIES WITHIN THE CITY, AND REPEALING THE ORIGINAL OF SECTIONS 3.72.005, 3.72.010, 3.72.015, 3.72.130, 3.72.160, 3.72.210, 3.72.220, 3.72.230, 3.72.240, 3.72.250, 3.72.260, 3.72.270 AND 3.72.280.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,

KANSAS:

SECTION 1. Section 3.72.005 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 2. Section 3.72.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: "Definitions.

For the purpose of this chapter, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(1) "Agency" means an establishment engaged in doing business for another.

(2) "Arrest" means the act of stopping, and the taking or detaining in custody by authority of law.

(3) "Authorized equipment and duty gear" means equipment and duty gear authorized by the Chief of Police that may be carried or used by private security officers permitted under this chapter.

(4) "Basic responsibilities of a private security officer" means to observe and report crimes and incidents; on occasion to stop and question; to provide security against loss from fire or mechanical equipment failure and enforce property rules and

regulations; to control access to specific areas of a facility or building; and to act occasionally as a crowd monitor or to maintain order. These responsibilities shall include vehicle patrol when an approved classroom course on defensive driving has been completed. These responsibilities shall not include: authority beyond that of a private citizen, the right to use physical force in the performance of these duties except to protect the private security officer and others from clear and immediate threat of serious bodily harm, or acting in the capacity of a private security officer for other than a client for which the private security officer is contracted to provide services.

(5) "Business" means commercial, industrial or professional dealings, activity or the supply of services engaged in as a means of livelihood.

(6) "Client" means any person who engages the services of a private security agency.

(7) "Chief of Police" as used in this chapter means the Chief of the Wichita Police Department or his or her authorized designee.

(8) "Citizen's arrest" or "Arrest by a private person" shall have the meaning as set forth in K.S.A. 22-2403 and any amendments thereto, which states that a person who is not a law enforcement officer may arrest another person when: (1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or (2) any crime, other than a traffic infraction, has been or is being committed by the arrested person in the view of the person making the arrest.

(9) "For hire" includes all compensation paid directly or indirectly.

(10) "License" means the authority to conduct business by a private security agency within the city limits.

(11) "Licensee" means any person to whom a current license has been issued under this chapter authorizing such person to conduct business as a private security agency within the city limits.

(12) "Person" means any natural person, corporation, partnership or association.

(13) "Permit" means the authority to work as a private security officer in the city limits, and pursuant to the following classifications:

(a) "Temporary basic private security permit" means the permit issued to a person who meets the qualifications required of a private security officer but who has not yet completed the basic private security course. A person with a temporary basic permit may carry out the basic responsibilities of a private security officer, but is not authorized to carry any equipment ~~weapons~~, including handcuffs.

(b) "Basic private security permit" means the permit issued to a person having completed the basic private security course, including a defensive driving classroom course given by either the city of Wichita or a private driving instructor approved in writing by the Chief of Police, and meeting the qualifications required of a private security officer. This permit shall allow the person to perform the basic duties of a private security officer including vehicle patrol. This permit shall not allow the person to carry any equipment other than handcuffs.

(c) "Advanced private security permit" means the permit issued to a person who has completed both the basic and advanced private security courses and meets the qualifications required of a private security officer. This permit shall allow the individual to perform the basic duties of a private security officer to include vehicle patrol and the carrying of authorized equipment as approved in writing by the Chief of Police.

(14) "Private detective" and "Private detective agency" shall have the meaning ascribed to said terms by K.S.A. 75-7b01(b) and (c) and any amendments thereto.

(15) "Private security officer" means any person regularly employed by a person, firm or corporation, and whose duties, in addition to patrolling, guarding, transporting and watching the property of the employer or any client of the employer, include conducting investigations concerning the reputation or character of employees or prospective employees, and investigations concerning the location of property of the employer that becomes lost or stolen. For the purposes of this chapter, "private security officer" shall not include persons working for an armored car service.

(16) "Private security agency" means any person, firm or corporation who engages in a business for hire to provide a protective service for the property of others, and whose duties and activities in that connection include patrolling, guarding, transporting or watching the property of a subscriber, purchaser or client under a contract or agreement to provide a protective service. For the purposes of this chapter, "private security agency" shall not include armored car services."

SECTION 3. Section 3.72.015 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “Scope of regulations, authority of licensees and permittees.

(1) The provisions of this Chapter are intended to regulate uniformed private security officers as that term is defined in Section 3.72.010(15) herein.

(2) It is not the intent of this Chapter to regulate any of the following:

(a) activities performed in a non-uniformed or plain-clothes capacity;

or

(b) activities that fall under the regulation of the statutes of this state or any similar laws from other jurisdictions regulating private investigators;

or

(c) activities that are allowed pursuant to the right to carry a firearm recognized pursuant to any federal, state or local law; or

(d) The business of transporting prisoners under a contract with any state or county government or the federal government.

(3) No license or permit issued pursuant to this Chapter provides the holder thereof with any authority to direct traffic on the streets or highways of the City of Wichita.

(4) A licensee or permittee under this Chapter who engages in any activity or business that involves the wearing of non-uniformed or plain clothing must have legal authority for such activity independent of the license or permit issued pursuant to this Chapter.”

SECTION 4. Section 3.72.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “Application for private security permit—Approval of issuance.

- (1) The application for a private security permit shall contain:
 - (a) A full set of the applicant’s fingerprints;
 - (b) Two passport-sized color photographs of the applicant taken within the preceding 30 days;
 - (c) Proof of age and identity which must be provided by presentation of a government-issued or other official or apparently official document that is not encrypted, containing a photograph and signature of the application;
 - (d) A letter from the agency stating that the applicant is being considered for employment;
 - (e) A drug screening test, the results of which are no older than 30 days preceding the date of application, which has been performed by a licensed laboratory certified to conduct such testing, indicating the applicant is free from the use of amphetamines, barbiturates, benzodiazepines, cannabinoid, cocaine metabolites, opiates and phencyclidine; and
- (2) All questions on the application form shall be answered truthfully and fully in the applicant’s own handwriting. Falsifying or omitting any information requested on the application shall be cause for denying a permit. If a permit is denied for providing false information or making a false statement on an

application, the applicant shall be ineligible to reapply for a permit under this chapter for one calendar year from the date of the permit denial.

(3) Private security officers shall be required to satisfactorily complete the course of study for private security officers which has been approved in writing by the Chief of Police. Said course of study shall be completed within 90 days from the date of application; provided, however, that the Chief of Police may, upon written request and for good cause shown, extend the 90 days course completion requirement, or waive the training requirement. If an applicant has successfully completed the currently approved course or courses of study for private security officers within one calendar year prior to his or her application and can show satisfactory proof thereof, the applicant will be considered to have complied with the training requirement for the category of permit corresponding to the level of training completed.

SECTION 5. Section 3.72.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows: “Fees—Permits and training—New and renewal. The following fees are established for the permitting and training of private security officers. All fees are non-refundable and no fees shall be pro-rated:

- (1) Permit fees:
 - (a) Initial permit: \$45.00; for applications received on or after July 1, 2014, \$50.00.
 - (b) Additional permit (for private security officers employed by more than one agency): \$35.00; for applications received on or after July 1, 2014, \$40.00.

- (c) Permit renewal: \$35.00; for applications received on or after July 1, 2014, \$40.00.
- (d) Additional permit renewal: \$35.00; for applications received on or after July 1, 2014, \$40.00.
- (e) Permit replacement: \$25.00; for applications received on or after July 1, 2014, \$30.00.
- (f) Fingerprinting and criminal history records check: Fee as set by the Kansas Bureau of Investigation

(2) Training fees:

- (a) Basic training: *
- (b) Advanced training: *

*Fees for training courses are set by designated training providers and are subject to review and approval by the Chief of Police.”

SECTION 6. Section 3.72.210 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 7. Section 3.72.220 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 8. Section 3.72.230 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 9. Section 3.72.240 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 10. Section 3.72.250 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 11. Section 3.72.260 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 12. Section 3.72.270 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 13. Section 3.72.280 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 14. The originals of Section 3.72.005, Section 3.72.010, Section 3.72.015, Section 3.72.130, Section 3.72.160, Section 3.72.210, Section 3.72.220, Section 3.72.230, Section 3.72.240, Section 3.72.250, Section 3.72.260, Section 3.72.270 and Section 3.72.280 are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 17th day of June, 2014.

Carl Brewer, Mayor

Attest:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law