

ORDINANCE NO. 5758

AN ORDINANCE TO AMEND THE SECURITY LICENSE REGULATIONS BY AMENDING CHAPTER 5.52 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the City of Rapid City has previously adopted an ordinance setting forth the licensing requirements for security guards; and

WHEREAS the City of Rapid City deems it in the best interest of the City to amend the previously adopted ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 5.52 of the Rapid City Municipal Code be and hereby is amended to read as follows:

**5.52.010 Definitions.**

As used in this chapter:

~~A. — MERCHANT SECURITY. Any person, firm, partnership or corporation engaged in the business of protecting, guarding or watching various property or premises by conducting a regular patrol action with vehicles or employing more than 3 security agents as contracted or subcontracted for by owners of the property.~~

~~B. — PRIVATE SECURITY. Any individual engaged in the business of protecting the premises, enterprises, properties or person of any individual person, firm, partnership or corporation on their premises under their immediate direction and control of their employer or watchman; guards and others who have only 1 employer and who are employed to watch, guard or protect the premises, property or person of that employer or who are employed by 1 or more interstate common carriers to watch, guard or protect the premises, property or persons of the carrier or carriers.~~

~~C. — SECURITY ACTIVITY. Both merchant and private security, and shall also include any person or persons who collect money or examine personal identification as a prerequisite for the entrance into a premises that is licensed to serve alcoholic beverages.~~

~~D. — SPECIAL SECURITY. Persons engaged in security activity as a merchant security agent or private security agent as defined herein, and holding a license issued by the city in 1 or more classifications set forth in this chapter.~~

A. "Security activity" means the protection of persons or property, the prevention of the unlawful taking of goods and merchandise, or the prevention of the misappropriation or concealment of goods, merchandise, money, securities, or other valuable documents or papers, and includes an individual who for hire patrols, watches, or guards a residential, industrial, or business property or district. Persons who verify the age of patrons entering any establishment licensed under the laws of the state of South Dakota for sale of alcohol are engaged in a security

activity, excluding employees whose primary function is bartending or wait staff. Any person engaged in the business of providing investigations for compensation is Private investigators are deemed to be engaging in a security activity. Employees of a government entity, working on property owned, leased or controlled by a government entity are exempted from this chapter. Members of a non-profit organization working on property owned or leased by the non-profit organization at any event sponsored, organized and run for the benefit of the non-profit organization are exempt from this chapter.

B. “Patrol function” is defined as engaging in a security activity in multiple locations, within the same shift, for the purpose of securing properties in diverse locations, regardless of whether or not said properties are owned by the same entity or employer.

C. “Private investigator” means a person who holds himself out to the public as a private investigator or detective, and is engaged in the business of providing investigations for a fee or other consideration.

~~D.~~ “Security guard” means a person who engages in a security activity.

~~DE.~~ “Security business” means a person or entity that engages in the business of furnishing or providing one or more security guards to engage in a security activity.

#### **5.52.020 License—Required.**

It is unlawful for any person to engage in any kind of security activity, as described herein, without first obtaining a license from the city. Each individual person engaged in ~~a special security work~~ activity must obtain an individual license even though employed by ~~an merchant security~~ organization that is licensed ~~as a merchant security work~~ business. Each business, firm, corporation or individual operating as a ~~merchant security organization~~ business, as defined herein, must further obtain a ~~merchant security~~ license authorizing the business even though the individual and his or her employees may each have an individual license and are required by this article to have the individual license. It is unlawful for any person not licensed under this chapter to engage in a security activity. It is unlawful for any person or entity to operate as a security business unless licensed pursuant to this chapter.

#### **5.52.030 License—Applications.**

A. The application for all classes of licenses under this chapter shall include an affidavit setting out the applicant’s full name, age, residence, present occupation and occupation for the preceding 5 years. The affidavit shall show sufficient facts to prove that the applicant has attained the age of 18 and the good character, competence and integrity of the affiant and shall list any previous criminal record.

B. ~~—In addition to the requirements of subsection A of this section, each applicant for merchant security license shall provide the following information:~~

1. ~~—~~ The number of vehicles to be used in the business; and
2. ~~—~~ A description of each vehicle, including the year, make, model and serial number.

**5.52.040** ~~—~~ **License** ~~—~~ **Security instruction requirements** ~~—~~ **Administrative rules.**

All applicants for special security license may be required by the Chief of Police to have basic security instruction for the purpose of improved special security operations. All applicants shall be subject to the administrative rules established by the Chief of Police within the scope of this chapter.

**5.52.0540** **License—Application—Determination—Notice—Appeal.**

A. Each application for a license under this chapter shall be submitted to the Chief of Police or the Chief's designee, along with the fee required under Section 5.52.060 and the fee for the background check and fingerprinting of his or her recommendation of approval or denial. If the Chief or the Chief's designee approves the application, the license may be issued in accordance with Section 5.52.050 of this code.

B. An application ~~must~~ ~~may~~ be denied if within five (5) years of the date of the application the applicant has been convicted of simple assault, disorderly conduct, obstructing a law enforcement officer, firefighter, or emergency management personnel, resisting arrest, theft, or any felony. An application may be denied if, in the Chief's judgment, the applicant has a documented history of behavior that calls into question the applicant's fitness to hold a security license.

~~BC.~~ Any applicant denied a license by the Chief or the Chief's designee shall be notified in writing by the city's Finance Office and within not later than 10 days after notification may request a hearing before the Common Council. ~~Any person aggrieved by any action of the Chief of Police under this chapter may request a hearing before the Common Council.~~

**5.52.0650** **License—Issuance.**

Upon approval by the Chief of Police of an application for a license under this chapter or upon approval by the City Council of an appeal and upon payment of the required fee, a license shall be issued by the city's Finance Officer to the applicant. The license shall expire 24 months after the date of issuance.

**5.52.0760** **License—Fees.**

A. In addition to the fee required by Section 2.20.030, ~~the~~ license fees for security licenses shall be:

1. ~~Individual merchant security and private s~~Security guard:

- a. Initial fee: \$50 per year; and
  - b. Renewal fee: \$25 per year.
2. ~~Merchant s~~Security business:
- a. Initial fee: \$150 per year; and
  - b. Renewal fee: \$100 per year.

B. If any security license application is withdrawn or recommended for denial by the ~~Police Department~~ Chief or denied by the Common Council no portion of the fee ~~shall~~ may be refunded.

**5.52.080 — License — Term.**

~~Every license issued under this chapter shall expire on December 31 of the year next following its issuance; provided, however, any license applied for after October 1 of any calendar year shall remain in effect until December 31 of the succeeding calendar year, unless sooner revoked, canceled or otherwise terminated.~~

**5.52.0970 License—Change of ownership ~~or employer.~~**

Any change in ownership in a business licensed under this chapter shall require a new business license.

**5.52.08100 License—Suspension or revocation.**

A. If, in the discretion of the Chief of Police, a ~~special~~ security license holder will create a risk to the public welfare, the Chief of Police may immediately suspend the license of the licensee until a hearing can be had before the Common Council. The Chief shall provide written notice to the licensee of the suspension. The hearing must be requested by a licensee within 10 days ~~from~~ of the date of the suspension by providing a written request for a hearing to the City Finance Officer. Final determination will be effective on Council's action or upon the expiration of the time to request a hearing.

B. Any ~~continued~~ violation of any provision of this chapter by a holder of a license under this chapter will be cause for suspension or revocation of the license.

**5.52.09110 Uniforms and identification cards and badges.**

A. Uniforms and identification badges worn by ~~special~~ security licensees shall be subject to the approval of the Chief of Police. Uniforms shall be distinctly marked to identify the particular licensee and distinguished from the uniforms ~~city police force~~ of local law enforcement agencies and ~~from the uniforms of any other established special security~~

organization and from other licensees under this chapter. An identification card security license shall be carried by each special security licensee. After January 1, 1977, nNo licensee shall may predominantly display the word POLICE on any uniform, identification card or identification badge.

B. Uniforms and badges shall:

1. Be clearly distinguished from law enforcement agencies; and
2. Display the licensee's company name on any patches or badges worn. Patches shall display the company name in no less than ½ inch lettering. Badges may not contain the seal of any government agency, unless the licensee is directly employed by that agency or a political subdivision thereof. As of the effective date of this ordinance, any business licensed as a "merchant security" entity under the previous ordinance shall not be required to comply with this provision until six (6) months after the effective date of this ordinance; and
3. Display the licensee's name clearly on the front or back of any uniform shirt worn that does not have attached to it the approved patch.

C. Any license holder Licensees' and employees of any person or entity not required to be licensed under this chapter, who are is engaged in a patrol function must wear a uniform that complies with this chapter.

**5.52.120 — Firearms — Permit requirements — Term.**

No special security agent shall carry or use any firearm without a permit therefor as required by the state.

**5.52.1300 Merchant security vehicle identification Security vehicles.**

Vehicles used in any merchant security operation must be distinctly marked and uniform to the licensee operating the vehicles and distinguished from markings of any of the city police force vehicles or vehicles of any other established merchant security business. After January 1, 1977, no licensee shall predominantly display the word POLICE on any merchant security vehicle; provided, however, that, any decal or identification installed prior to that date may be continued until repaired or replaced.

A. The markings on vehicles used in any patrol function must be approved by the Chief of Police.

B. Markings must be distinct to the licensee, or employer not required to be licensed under this chapter, and must be distinguishable from any Law Enforcement Agency vehicles.

C. All marking must include the word “Security” in no less than two (2) inch lettering on both the driver and passenger side of the vehicle.

D. Vehicles used by licensees or designated supervisors, whose primary duties are not an actual patrol function, and vehicles used solely for the couriering of monies, need not be marked.

E. Any vehicle used in a patrol function must comply with the marking requirements of this chapter, regardless of the ownership or registration of the vehicle.

~~5.52.140~~ — ~~Unlawful identification.~~

~~It is unlawful for any person to use or carry identification or badge purporting to indicate that he or she has been appointed to the position of special security agent unless the person’s special security license is valid and subsisting in accordance with the terms of this chapter. It is unlawful for any person to counterfeit, imitate or colorably imitate or cause to be counterfeited, imitated or colorably imitated any identification or badge issued by the Chief of Police to special security agents.~~

**5.52.1510 Impersonating police.**

It is unlawful for any person holding or required to hold a license as a ~~special security agent~~ guard under this chapter to impersonate or intentionally create the impression that he or she is a member of the city police force or is a police official of any county, state or federal agency.

~~5.52.160~~ — ~~Accepting business without license.~~

~~It is unlawful for any person not licensed under this chapter to accept business or employment in the nature of watching, guarding or protecting premises, property or persons.~~

~~5.52.170~~ — ~~City police officers employed as security guards~~ — ~~Applicability of provisions.~~

~~A. This chapter shall apply to any regularly employed member of the city’s Police Department who may, with the approval and concurrence of the Chief of Police, accept employment as a private or merchant security agent, however, any member of the city’s Police Department so employed shall at all times be subject to the supervision, control and immediate call of the Chief of Police of the city.~~

~~B. This chapter shall not apply to any Rapid City police officer or Pennington County Deputy Sheriff when in the employment of a governmental agency.~~

~~C. This chapter shall not apply to any person employed by the city working on property owned or leased by the city.~~

**5.52.120 Insurance required.**

A. It shall be the duty of every security business licensee to continually maintain valid liability insurance in the minimum amount of \$1,000,000 per occurrence. The licensee shall present to the City Finance Office for review a valid certificate of insurance at the time of application and annually thereafter. Said certificate of insurance shall include a statement by the insurance carrier that the insurance coverage as required above is in effect and will not be cancelled or changed until thirty (30) days written notice is given to the City Attorney of the City of Rapid City and shall affirm that coverage for claims alleging false arrest or assault are not excluded by the policy.

B. Any individual or business who provides sixty (60) hours or less of security services per calendar year is exempt from the insurance provisions of this chapter.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: