

CITY OF BOX ELDER

ORDINANCE NO. 173

AN ORDINANCE AMENDING ORDINANCE NO. 62, RELATING TO SPECIAL POLICE BE IT ORDAINED AND ENACTED BY THE CITY OF BOX ELDER OF THE COUNTY OF PENNINGTON, STATE OF SOUTH DAKOTA:

SEC. 1. DEFINITIONS.

(a) Special Police: As used in this article the term "Special Police" means persons engaged in policing activity as a Merchant Policemen or Private Policemen as defined herein, and holding a license issued by the City in one or more of the classifications set forth in this article.

(b) Merchant Police: As used in this article the term "Merchant Police" shall mean 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 as contracted of by owners of the properties so patrolled.

(c) Private Police: For the purpose of this article, the term "Private Police" means any individual engaged in the business of protecting the premises, enterprises properties or person of any individual person, firm, or corporation on their premises, under their immediate direction and control of their employer or watchmen; guards and others who have only one employer and who are employed to watch, guard or protect the premises, property or person of that employer or who are employed by one more interstate common carrier to watch, guard or protect the premises, property or persons of such carrier for such carrier or carriers...

SEC. 2. ARTICLES NOT APPLICABLE TO CITY POLICEMEN EMPLOYED AS PRIVATE OR SPECIAL POLICE OFFICERS.

This article shall not apply to any regularly employed member of the City Police Department who may, with the approval and concurrence of the Chief of Police, accept employment as a private or Special Police Officer. However, any member of the City 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.

SEC. 3. CHANGES OF PERSONNEL.

(a) For the hiring of any new or former employee of any licensee under this article, the applicable provisions of this article shall be followed, except when there has been a leave of absence granted by the employer. such change in personnel shall be granted only by approval of the Chief of Police and the issuance of an appropriate license if necessary.

(b) At the termination of employment, business or the acceptance of employment at another business, notice of such termination or acceptance shall be given by the licensee, in writing, to the Chief of Police.

SEC. 4. FIREARM PERMITS.

No Special Policemen shall carry or use any firearm without a permit thereof as required by law. Any state firearms permit not issued by the Chief of Police under this section, shall not be accepted unless accompanied by a certificate of general liability insurance.

**SEC. 5. REVOCATION OF FIREARM PERMITS.**

(a) The Chief of Police shall have control over the firearm permits provided for by this article, and may revoke any such permit if in his discretion the permit holder will create a risk to the public welfare. Such revocation shall be effective immediately upon notice thereof and the permit holder shall immediately surrender such permit to the Chief of Police.

(b) Any Special Security Agent whose firearm permit is revoked may request a hearing and an opportunity to show cause why such permit should not be revoked before the Chief of Police within five (5) days of the revocation. Such hearing shall be held within ten (10) days of the request for hearing. Upon request for such hearing the Chief of Police shall furnish the Special Security agent involved with a statement with the reason for the revocation. At such hearing the Chief of Police shall hear the presentation to the Special Security Agent and make a final determination of the matter.

**SEC. 6. UNIFORMS, IDENTIFICATION CARDS AND IDENTIFICATION BADGES.**

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 City Police force uniforms and from the uniforms of any other established Special Security Organization, an identification card shall be carried by each Special Security Licensee. After January 1, 1986 no licensee shall predominantly display the word "Police" on any uniform, identification card or identification badge.

**SEC. 7. MERCHANT SECURITY VEHICLE IDENTIFICATION.**

Vehicles used in any Merchant Security Operation must be distinctly marked and uniform to the licensee operating such vehicles and distinguished from markings of any other established Merchant Security business. After January 1, 1986 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.

**SEC. 8. UNLAWFUL IDENTIFICATION.**

It shall be unlawful for any person to use or carry identification or badge purporting to indicate that he has been appointed to the position of Special Security Agent unless such person's Special Security License is valid and subsisting in accordance with the terms of this article. It shall be 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.

SEC. 9. IMPERSONATING CITY, COUNTY OR STATE POLICE.

It shall be unlawful for any person holding a license as a Special Security Agent to impersonate or intentionally create the impression that he is a member of the City Police force or is a Police Official of any County, State or Federal Agency.

SEC. 10. REQUIRED

It shall be 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 special security work must obtain an individual license even though employed by Merchant Security work. Each business firm, corporation, or individual operating as a merchant security organization as defined herein, must further obtain a Merchant Security License authorizing such business even though such individual and his employees may each have an individual license.

SEC. 11. CONTENTS OF APPLICATION.

(a) The application for all classes of licenses under this division shall include an affidavit setting out the applicant's full name, age, residence, present occupation and occupation for the preceding five (5) years. Such affidavit shall show sufficient facts to prove that the applicant has attained the age of majority and the good character, competence, and integrity of the affiant and shall list any previous criminal record. Written references from five (5) individuals certifying that they have personally known the affiant and believe the affiant is competent, honest and of good character shall be submitted by the affiant in support of each affidavit upon making application for a license.

(b) In addition to the requirements of subparagraph (a), each application for Merchant Security License shall provide the following information:

(1) The number of vehicles to be used in the business.

(2) A description of each vehicle, including the year, make, model, and serial number.

SEC. 12. APPLICANTS MAY BE REQUIRED TO HAVE SECURITY INSTRUCTION; APPLICANTS SUBJECT TO ADMINISTRATIVE RULES OF CHIEF OF POLICE.

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 article.

SEC. 13. FEES.

The license application fees and annual license fees for special security shall be:

(a) Individuals:

Application fee-Five dollars (\$5.00)

License fee-Five dollars (\$ 5.00) per year

(b) Merchant security.

Application fee-Ten dollars (\$ 10.00)

License fee-One hundred dollars (\$100.00)

Said license to authorize the business to engage in the activity of Special Security Operations.

SEC. 14. ISSUANCE.

Upon approval of the Chief of Police of an application for a license under this division, the filing of a certificate of insurance, and upon payment of the required application fee and license fee, a license shall be issued by the CITY FINANCE OFFICER to the applicant.

SEC. 15. CHIEF OF POLICE TO APPROVE OR DISAPPROVE APPLICATIONS; GRIEVANCE PROCEDURE.

(a) Each application for a license under this division shall be submitted to the Chief of Police for his recommendation of approval or disapproval.

(b) Any applicant denied a license shall be notified in writing by the City Finance Office and within ten (10) days after notification may request a hearing before the City Council. Any person aggrieved by any action of the Chief of Police under this article may request a hearing before the City Council.

SEC. 16. CHANGE OF OWNERSHIP OF LICENSE TO BUSINESS REQUIRES NEW LICENSE.

Any change of more than five (5) per cent ownership in a business licensed under this division shall require new application and license with payment of fees prescribed in this division. Any change of employment by holder of a private security license will require new application and license.

SEC. 17. All licenses issued under this division shall expire on December 31 of the year in which issued or upon termination of employment, If any certificate of insurance furnished by the holder of a Special Security License or his employer shall expire at a date different than license expiration, the Special Security License holder or his employer under this division, shall furnish a new certificate of insurance or the license will automatically expire on the same date the certificate of insurance expires. If any liability insurance policy which is required to be carried under this article is cancelled

for any reason, the respective license or licenses are hereby automatically revoked.

SEC. 18. 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 such licensee until a hearing can be had before a committee of the City Council, appointed by the Mayor to make recommendations to the Council. Such hearing shall be held upon request of the licensee within ten (10) days from the date of suspension. The committee action will be in the form of recommendation to the City Council on a date certain. Final determination will be effective on Council action.

(b) Any continued violation of any provision of this article by a holder of a license under this division will be cause for suspension or revocation of the license.

SEC. 19. SOLICITATION OR ACCEPTING BUSINESS WITHOUT LICENSE.

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

Sec. 20. LICENSE ISSUED PRIOR TO ENACTMENT OF ARTICLE.

Any applicant or licensee issued a license prior to enactment of this article must obtain a new license and general liability insurance upon expiration of such license.

SEC. 21. Prospective Applicants will be briefed by the Chief of Police prior to applying for a Special Police Business License.

SEC. 22. PENALTY

(a) Any person upon written notice of the violation(s), cure said violation within 30 days of the notice.

(b) Any person failing to cure said default, after notice, shall be in violation of this Ordinance.

(c) Any person found guilty of a violation of this Ordinance shall be guilty of a Class II Misdemeanor.

SEAL:

ATTEST:

*Barbara J. Patenaude*  
Barbara J. Patenaude  
Finance Officer

*Sam Boykin Jr.*  
Sam Boykin Jr.  
Mayor

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