

ORDINANCE NO. 14-_____

AN ORDINANCE CREATING A NEW PART 11 (FUNERAL ESCORTS) OF ARTICLE 3 (SALES OF GOODS AND SERVICES) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATIONS AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO FUNERAL ESCORTS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. A new Part 11 (Funeral Escorts) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulations and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

Section:

- 2.3.1101 PURPOSE**
- 2.3.1102 DEFINITIONS**
- 2.3.1103 LICENSE REQUIRED; EXPIRATION; TRANSFERABILITY; FEES**
- 2.3.1104 APPLICATIONS**
- 2.3.1105 FUNERAL ESCORT AGENCY LICENSE; INSURANCE REQUIREMENTS**
- 2.3.1106 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE**
- 2.3.1107 UNLAWFUL ACTS; VIOLATIONS; PENALTY**

2.3.1101: Purpose:

The City Council hereby declares it to be in the interest of the health, safety and welfare of citizens of the City and a proper exercise of the police power to require the licensing of persons providing funeral escort services.

2.3.1102: Definitions:

FUNERAL ESCORT AGENCY: Any person who, for a fee or other consideration, provides or agrees to provide funeral escort services on a contractual basis to another person or entity.

PERSON: A natural person over the age of eighteen (18), partnership, association, company, corporation, or organization.

FUNERAL ESCORT OFFICER: A person employed or engaged by a funeral escort agency to provide funeral escort services. This definition shall also apply to the owner, agent or principal of a contract funeral escort agency.

FUNERAL ESCORT SERVICES: Those services which include, but are not limited to, escorting funeral processions from funeral homes, mortuaries, residences or other places where the last services are held, to the place of interment, and redirecting traffic at intersections during escorts.

FUNERAL ESCORT AGENCY LICENSE: A license issued by the City Clerk to a funeral escort agency that contains the name under which the licensee is to operate, the address of the principal place of business, the expiration date, the number of the license and any other information the City Clerk's office deems necessary.

FUNERAL ESCORT OFFICER LICENSE: A license issued by the City Clerk that contains the name, a recent photograph of the funeral escort officer, the expiration date, the number of the license, the signature of the officer, and the name of the funeral escort officer's employer.

2.3.1103: License Required; Expiration; Transferability; Fees

A. No person shall operate a funeral escort agency or act as a funeral escort officer within the City limits without first obtaining a license.

B. The provisions of this section shall not apply to the following persons while engaged in the performance of their duties:

1. Sheriffs, undersheriffs, deputy sheriffs, police officers, Colorado State patrol officers, POST certified corrections officers, marshals, deputy marshals, district attorney investigators, investigative agents employed by the Colorado Bureau of Investigation or Federal law enforcement officers who are employed full time in that capacity, including any time that full time law enforcement officers are employed as funeral escort officers with the approval of their departmental superiors

2. A reserve police officer who performs duties for a local unit of government which granted the reserve commission, while within the jurisdiction of that unit of government.

C. No funeral escort license granted or renewed shall be transferable from one person to another.

D. Every applicant for a funeral escort officer license and every principal of a funeral escort agency applying for a funeral escort agency license shall be at least eighteen (18) years of age and shall meet all other requirements specified for the license.

E. The City Clerk's Office shall charge fees for applications for original and renewal licenses, background checks, copies of licenses or identification cards, and for a

change of employer. Fees shall be determined and collected by the City Clerk's Office pursuant to article 1, part 5 of this chapter.

F. A license of a funeral escort service agency or funeral escort service officer shall expire one year from the date of issuance, unless suspended or revoked earlier.

2.3.1104: Applications: Funeral Escort Service Agency, Funeral Escort Service Agency Officers

A. Funeral Escort Service Agency. Every application for a license to operate a funeral escort agency shall contain the following:

1. The full name and any other names under which each principal is or has been known, address and telephone number, date of birth, and social security number of each principal and registered or managing agent for the applicant;
2. The full name and any other names under which the managing principal or managing agent is or has been known, residence address, residence telephone number, date of birth and social security number;
3. The name under which the applicant intends to do business and the address of the principal place of business;
4. A description of the specific types of services to be rendered;
5. One (1) classifiable set of fingerprints of each principal and managing agent;
6. The residence address of each principal and managing agent for the five (5) years prior to the date of the application;
7. A statement containing the date, place and disposition of any criminal history of any principal and managing agent of the applicant; and
8. A release statement signed by the applicant, principal(s) and managing agent allowing the City to check all known records and review any pertinent criminal record.

B. An application for an original or renewal license shall be accompanied by:

1. The fees as established by the City;
2. A trade name registration, if any, and a certificate of good standing from the Colorado Secretary of State;
3. A certificate of the required workers' compensation insurance, or a notarized statement requesting an exemption from this requirement and stating the grounds for the request;

4. A statement of the work history of each principal of the applicant.

C. Funeral Escort Officers. Every application for an original or renewal funeral escort officer license shall contain the following:

1. The applicant's full name and any other names under which the applicant is or has been known, date of birth, social security number and current residence address and a telephone number where the applicant may be contacted;

2. A list of the residence addresses of the applicant for the five (5) years prior to the date of application;

3. A statement of the work history of the applicant for the five (5) years prior to the date of application;

4. A statement containing the date and place of any criminal history of the applicant;

5. A statement containing information relating to the denial, suspension or revocation of any funeral escort officer's driver's license held by the applicant, whether in this State or any other state; and

6. A release statement signed by the applicant allowing both the City and employer to check all known records of the applicant and review any criminal record pertaining to the applicant.

7. Documentary evidence that the applicant possesses a valid Colorado driver's license.

2.3.1105: Funeral Escort Agency License; Insurance Requirements; Training

A. Each funeral escort license shall specify the name under which the licensee is to operate, the address of the principal place of business, the expiration date, the number of the license and any other information the City Clerk's Office deems necessary.

B. A license of a funeral escort agency shall expire one year from the date of issuance, unless suspended or revoked earlier.

C. The funeral escort agency license shall be at all times posted in a conspicuous place in the licensee's principal place of business. (Ord. 01-42)

D. Every licensed funeral escort agency shall keep the City Clerk's Office informed of the address of the principal place of business. A licensed funeral escort agency shall notify the City Clerk's Office within ten (10) days of any change of address of the principal place of business.

E. Each licensed funeral escort agency shall notify the City Clerk's Office within ten (10) days after the removal, replacement or addition of any principal. Every new principal shall complete an application with the City Clerk's Office.

F. Every licensed funeral escort agency shall be responsible for returning, if possible, to the City Clerk's Office the license of any funeral escort officer employed by the funeral escort agency if that funeral escort officer's license is suspended or revoked.

G. It shall be the responsibility of the funeral escort agency to notify the City Clerk's office within seventy two (72) hours of the resignation, termination or suspension of any funeral escort officer sponsored under the funeral escort agency license and to give special cause for the resignation, termination or suspension. This notice shall be made by written instrument and shall be signed by a listed principal or managing agent with the funeral escort agency.

H. The following insurance requirements shall be met by each licensed funeral escort agency:

1. Workers' compensation and employers' liability as required by statute. Employers' liability coverage is to be carried for a minimum limit of one hundred thousand dollars (\$100,000.00).

2. Automobile liability for limits not less than five hundred thousand dollars (\$500,000.00) combined single limit for bodily injury and property damage for each occurrence. Coverage shall include owned, nonowned and hired automobiles.

3. Commercial general liability for limits not less than one million dollars (\$1,000,000.00) combined single limit for bodily injury and property damage for each occurrence. Coverage shall include blanket contractual, broad form property damage, products and completed operations endorsements.

4. Certificates of insurance shall be submitted before the license is issued or renewed.

5. Each policy of insurance shall contain an endorsement requiring the insurance carrier to notify the City of the effective date of any reduction or cancellation or change of the policy. All policies shall be kept in force and effect for the period of the license.

6. The licensee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the license. The licensee shall indemnify and save harmless the City and its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or persons or property on account of any act or omission of the licensee, its agents or employees, or due to the failure of the licensee to observe the provisions of this section.

7. The cancellation or reduction of insurance shall be cause for automatic suspension of the license until the coverage shall be reinstated. All policies shall be kept in force and effect for the period of the license.

I. Funeral Escort Officer Training: Every funeral escort agency shall be responsible for ensuring that all funeral escort officers have received adequate, basic training necessary to perform funeral escort services.

2.3.1106: Denial, Suspension, or Revocation of License

A. In addition to the grounds set forth in article 1 of this chapter, a funeral escort officer license or a funeral escort agency license may be denied, suspended or revoked if the applicant or a principal of the applicant:

1. Has been convicted of a felony in this State or any other state, or of a crime in any other state which, if committed in this State, would be a felony;
2. Has been convicted of three (3) or more criminal misdemeanor violations within a five (5) year period;
3. Has made a wilful misrepresentation in applying for and obtaining a license;
4. Has been previously denied a license under this part or has had a license issued under this part suspended or revoked;
5. Was a principal of a funeral escort agency whose license was revoked, unless the Deputy Licensing Officer determines that the principal was not responsible for the misconduct underlying the revocation;
6. Has been convicted of operating without a license under this part or performing any act for which a license is required under this part; or
7. Has violated any of the provisions of this General Licensing Code.

B. The suspension or revocation of a funeral escort agency license or a funeral escort officer's license shall be subject to the provisions of section 2.1.801 *et seq.*, of this chapter.

C. Upon the suspension or revocation of a funeral escort officer license, the City Clerk's Office shall notify the funeral escort agency employing the suspended or revoked officer of the Licensing Officer's decision. The funeral escort agency employing the suspended or revoked officer shall cooperate with the City Clerk's Office in retrieving the funeral escort officer's license. Upon suspension or revocation of a funeral escort agency's license, each principal of the agency shall immediately return the license and any issued funeral escort officer's license to the City Clerk's Office. (Ord. 01-42)

2.3.1107: Unlawful Acts; Violations; Penalty

A. License Required: No person shall operate a funeral escort agency or act as a funeral escort officer unless licensed.

B. Employment Of Unlicensed Funeral Escort Officers Prohibited: No person shall knowingly employ any individual to perform the duties of a funeral escort officer who is not licensed or whose license has been suspended or revoked.

C. Misrepresentation: No person shall make wilful misrepresentation in applying for or obtaining a license.

D. Surrender Of License: No licensee or principal of a funeral escort agency shall fail to surrender to the employer or to the City Clerk's Office the license or identification card when required.

E. Use Of License: No licensee or principal of a funeral escort agency shall knowingly allow the license to be used by any other person, and no person shall knowingly use a license issued to some other person.

F. Report Of Crimes; Cooperation: It shall be unlawful for any licensee or permittee to fail to report to the Police Department or other public law enforcement agency any crimes or suspected criminal activity as soon as possible and to cooperate with the Police Department or other public law enforcement agency in the investigation of the activity whenever requested.

G. Published Material: No person shall publish, electronically or in print, any advertisement, letterhead, circular or statement of any kind which claims or suggests that a licensed funeral escort agency is a law enforcement agency or an instrumentality, division or agency of the State, County, City or Federal government.

H. Uniform Requirements: It shall be unlawful for any person, while performing the duties of a funeral escort officer, knowingly to wear or display any uniform, badge, insignia, shield, patch or pattern which indicates or is intended to indicate to the public that the person is a sworn peace officer or which contains or includes the word "Police" or the words "Public Safety". It shall be unlawful for any person, while performing the duties of a funeral escort officer, to wear a uniform similar to that worn by a law enforcement agency, military unit or branch having jurisdiction within or located or based within the Pikes Peak Region.

I. Funeral Escort Vehicles and Equipment: Funeral Escort Vehicles are required to display the words "funeral escort" or "funeral escort services" on any vehicle in use for such purposes. It shall be unlawful for any funeral escort car or other vehicle operated by any licensee providing or performing funeral escort services to fail to display the name and telephone number of the licensee on both sides of the car or vehicle in plain and legible letters not less than three inches (3") in height. Lettering shall be maintained as to be readily distinguished and read at a distance of at least sixty feet (60'). It shall be unlawful and grounds for suspension or revocation of the license for a licensee to operate any car or vehicle, or cause any car or vehicle to be operated within the City, unless the licensee's name and telephone number is displayed.

J. No person shall, while performing any funeral escort services, have or utilize any vehicle or equipment displaying the words "Police", "Law Enforcement Officer", "Public Safety", "Canine", "K-9", "Canine Officer", "K-9 Officer", "Canine Unit", or "K-9 Unit", or displaying any sign, shield, marking, accessory or insignia that indicates or is intended to

indicate to the public that the vehicle or equipment is operated by a law enforcement agency, military unit or branch having jurisdiction within or located or based within the Pikes Peak Region. No person shall, while performing any funeral escort services, have a canine within a funeral escort vehicle or within another piece of equipment.

K. Resemblance To Law Enforcement Vehicles Prohibited: It shall be unlawful for any person to equip a vehicle used in the operation of a funeral escort agency, or while performing the duties of a funeral escort officer, in any manner resembling an authorized law enforcement vehicle, including, but not limited to, red and blue flashing lights.

L. Firearms: It shall be unlawful for any funeral escort officer to carry any firearm while performing funeral escort services. It shall be unlawful to carry a concealed weapon while performing funeral escort services or exercising the privileges of licensure.

M. False Statements: When providing funeral escort services, it shall be unlawful for any funeral escort officer to make any verbal or written statement claiming to be a member of, or affiliated with, a law enforcement agency or an instrumentality, division or agency of the State, City or Federal government.

N. Additional Prohibitions: It shall be unlawful for any funeral escort officer, when exercising the privileges of the license, to carry or use any other type of weapon, device, or equipment not set forth in this part, or to violate any local, State or Federal law.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2014.

Finally passed: _____

Keith King, Council President

Delivered to Mayor on _____.

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Steve Bach, Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Keith King, Council President

ATTEST:

Sarah B. Johnson, City Clerk