City of Sacramento
City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: **11/22/2011** **Report Type:** Consent

Title: Ordinance Amendment: Special Access Permits for Private Patrol Operators in City Parks and Establishing Permit Fees (Passed for Publication on 11-15-11, Published on 11-18-11)

Report ID: 2011-00948

Location: Citywide

Recommendation: 1) Adopt an Ordinance amending Sections 12.72.060 and 12.72.090 of, and adding Article VII to, Chapter 12.72 of the Sacramento City Code relating to special access permits for private patrol operators in City parks; and 2) adopt a Resolution a) amending the City of Sacramento Fees and Charges Report, Parks and Recreation Department, as set forth in Exhibit A, to establish the fees authorized by Sections 12.72.330 and 12.72.340 of the Sacramento City Code and b) authorizing the City Manager or designee to adjust the operating revenue and expenditure budgets as necessary.

Contact: Jim Combs, Director of Parks and Recreation, (916) 808-8526, Murray Levison, Administrative Officer, (916) 808-6195, Parks and Recreation Department

Presenter: None

Department: Parks & Recreation Department
Division: Park Safety Services
Dept ID: 19001526

Attachments:

1-Description/Analysis
2-Background
3-Ordinance Redlined Version
4-Ordinance Clean Version
5-Resolution
6-Exhibit A - Proposed Fees

City Attorney Review
Approved as to Form
Sheryl N. Patterson
11/4/2011 9:39:12 AM

City Treasurer Review
Reviewed for Impact on Cash and Debt
Russell Fehr
11/2/2011 10:30:19 AM

Eileen Teichert, City Attorney Shirley Concolino, City Clerk Russell Fehr, City Treasurer
John F. Shirey, City Manager

Approvals/Acknowledgements

Department Director or Designee: Jim Combs - 11/3/2011 3:45:09 PM

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Description/Analysis

Issue: At the April 21, 2011, City Council meeting, Councilmember Ashby asked the Department of Parks and Recreation to investigate a possible ordinance that would allow, under limited circumstances, armed private security guards to enter City parks while acting in accordance with their private security duties. On August 16, 2011, the City Council's Law and Legislation Committee reviewed various elements of a possible ordinance and provided direction to staff to return to City Council with a draft ordinance for review and possible enactment. Committee members requested that the draft ordinance contain a special access permit process to allow armed security guards to enter City parks while responding under contract to calls for service by residential or business customers who live or work adjacent to or near City parks.

Policy Considerations: By enacting the ordinance, the City Council will provide a method to increase the number of people carrying firearms in City parks. The Council may wish to consider whether this is an appropriate outcome.

Environmental Considerations:

California Environmental Quality Act (CEQA): This report concerns administrative activities that will not have any significant effect on the environment and that do not constitute a "project," as defined by CEQA [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

Sustainability Considerations: None

Commission/Committee Action: The Law and Legislation Committee reviewed the concepts of a proposed ordinance at its August 16, 2011, meeting. The Committee gave direction and voted to have the proposed ordinance brought forward to the full City Council for review and possible enactment. The Parks and Recreation Commission reviewed the concepts of a proposed ordinance at its September 1, 2011, meeting and voted to support the special access permit process.

Rationale for Recommendation: The amendment to the City Code will enable licensed private patrol operators - businesses licensed by the State to protect persons or property through the employment of security guards - to apply for a special access permit that would provide exceptions to their security guards to actions normally prohibited when the security guards are working under contract and patrolling around and responding to calls for service from their contracted homes and businesses. The exceptions would allow the security guards to 1) enter City parks with firearms, 2) enter after parks are closed, and 3) enter with vehicles in areas not designated for vehicle use.

Administration of the special access permit process would be by the Parks and Recreation Department, and the Director of Parks and Recreation would have authority to approve, condition, deny, suspend and revoke permits. The Mayor and City Councilmembers would have the right to call up the decision of the Director for City Council review.

Financial Considerations: The proposed amendment to the City's fees and charges report will cover the costs of reviewing permit applications, issuing permits, reviewing incident reports and doing limited field inspections to ensure proper administration of the special access permits.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

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Background

There are 55 private patrol operators - businesses licensed by the State to protect persons or property through the employment of security guards – registered to work in the City. Some of them offer the services of armed security guards. While working under a contract to provide security to a neighborhood or group of businesses, a security guard carrying a firearm may have the need to enter a City park while investigating suspicious activity or responding to an alarm adjacent to or near the park. The security guard would be in violation of the City Code if a firearm was carried into a park. The security guard would be in violation of other City Code sections depending on the time of day or when or how the park entry was made.

Over the last four years, a number of requests have been made to allow armed private security guards in the City's parks. The Department of Parks and Recreation has been approached by several homeowners' associations and business improvement districts with such a request. In each case the desire to limit the number of firearms in parks was given as a reason for turning down the requests.

More recently a security guard company contacted the Department of Parks and Recreation with a request for a solution to City Code sections that make it difficult for the company's employees to lawfully enter City parks by foot and by vehicle to respond to calls for service by its customers who live or work adjacent to or near City parks.

At the request of Councilmember Ashby, the City Attorney's Office reviewed the applicable laws and determined that it is permissible to amend the City Code to create a special access permit process by ordinance that would provide exceptions in the City Code for specific actions that normally would be prohibited. Licensed private patrol operators, operating under the terms of a private contract for security services at properties adjoining or near City parks, would be able to apply for a one-year special access permit to be issued by the Director of Parks and Recreation (Director) that would allow their licensed security guards to enter a specific City park while carrying a firearm, to enter a specific City park while the park is closed at night, and to drive a vehicle in a specific City park into a specific area not designated for vehicular use.

The special access permit process would allow only private patrol operators that are also registered with the Police Department to apply. The names and licenses of all security guards would need to be provided and verified before any security guard would be granted access to a City park under the authority of a specific special access permit.

Applicants would be required to submit a copy of the private security contract with the neighborhood association or business organization that requires them to serve homes or businesses adjacent to or near City parks, a map of the geographic area patrolled, the general patrol routes used, a list of parks for which the special access permit is requested, and evidence of general and automobile liability insurance coverage. The

Director would require a separate application for each private security contract.

Specific grounds are identified under which a special access permit could be suspended or revoked, such as loss of State license, cancellation or expiration of the private security contract, violations of conditions of the special access permit, unsafe or dangerous behavior by the security guards, and other reasons.

As a condition for receiving a one-year permit, the Director would require permit holders to take certain actions, such as regular reporting about incidents in which the special access permit was used, rapid reporting of certain critical incidents that occur when operating under the special access permit, reporting of complaints received about the permit holder's activities in a park, and others. The Director may restrict the permit to only certain areas within a park, may restrict the days or times of day when special access is authorized, and may restrict or prohibit certain activities with a park, such as the use of amplified sound or high intensity spotlights.

Certain actions would be prohibited by the Director by all special access permit holders, such as initiating enforcement actions in a park not related to a specific call for service from the permit holder's customer. For example, permit holders would be prohibited from entering parks to take enforcement action against suspected drug dealing or to resolve a dispute related to a reserved picnic area. Instead, the permit holders would be required to make observations and report them to the proper City enforcement unit.

As soon as practicable after the Director approves, denies or revokes a special access permit, the Mayor and City Council would be notified. The Mayor and Councilmember(s) in whose district(s) the park(s) subject to the application or revocation is located would have the right to call up the decision of the Director for City Council review. A public hearing would be set at which the City Council would hear all matters considered by the Director in his/her decision. The Council would be able to approve or deny an application, revoke or not revoke a permit, and impose conditions determined to be reasonably necessary to approve an application or not revoke a permit. If the City Council does not act with the time limits specified, the Director's decision would be final.

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ORDINANCE NO. 2011 -____

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING SECTIONS 12.72.060 AND 12.72.090 OF, AND ADDING ARTICLE VII TO, CHAPTER 12.72 OF THE SACRAMENTO CITY CODE RELATING TO SPECIAL ACCESS PERMITS FOR PRIVATE PATROL OPERATORS IN CITY PARKS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. The City Council finds and determines that:

A. Many homeowners associations and businesses contract with private patrol operators to provide security guard services to protect their property from vandalism, burglary and other crimes. There are approximately 55 private patrol operators registered to perform security guard services within the city.

B. In some instances, security guards need access to a city park to conduct their private patrol services. Under the current City Code, security guards are prohibited from entering a park at times when the park is closed to the public, entering a park with a vehicle in areas not designated for such use, and entering a park while carrying a firearm.

C. Allowing properly licensed and registered private patrol operators and their security guards special access to enter city parks in performance of their contracted security services will benefit the city and improve public safety by increasing the level of surveillance of suspicious and criminal activity which may occur in or near a city park.

SECTION 2. Section 12.72.060 of the Sacramento City Code is amended as follows:

A. Subsection L of Section 12.72.060 is amended to read as follows:

L. Possess, discharge, or shoot:

1. ~~a~~Any ~~firearm or~~bow and arrow in any park, except in areas designated for such use;

2. Any firearm in any park, except in areas designated for such use and except by a peace officer or by a security guard acting under the authority of a special access permit issued pursuant to Article VII of this chapter; and

3. Any ~~S~~slingshots, airguns, fireworks, and other devices potentially harmful to park visitors, which devices are prohibited in all parks;

B. Except as specifically amended as set forth in subsection A above, Section 12.72.060 remains unchanged and in full force and effect.

SECTION 3. Section 12.72.090 of the Sacramento City Code is amended as follows:

A. Subsection B.4. of Section 12.72.090 is amended to read as follows:

4. To any peace officer or employee of the city while engaged in the performance of his or her duties, or a security guard acting under authority of a special access permit issued pursuant to Article VII of this chapter.

B. Except as specifically amended as set forth in subsection A above, Section 12.72.090 remains unchanged and in full force and effect.

SECTION 4. Article VII is added to Chapter 12.72 of the Sacramento City Code to read as follows:

Article VII – Special Access Permits for Private Patrol Operators

12.72.300 Definitions.

For purposes of this chapter, the terms “private patrol operator” and “security guard” shall have the same meaning as set forth in Section 5.100.010.

12.72.310 Special access permits for private patrol operators - Scope.

No security guard shall enter a park when the park is closed to the public, enter a park with a vehicle in areas not designated for such use, or enter a park while carrying a firearm, except when acting under the authority of a special access permit. Issuance of a special access permit conveys no property right to the permit holder, and the permit is not transferrable or assignable.

12.72.320 Special access permit term and renewal.

A special access permit issued by the director is valid for a term of one year, unless the permit is suspended or revoked prior to the expiration date. A special access permit may be renewed annually. Applications for a renewal of a special access permit shall be filed not later than 30 days prior to the permit expiration date. Late renewal applications are subject to payment of the initial special access permit application fee.

12.72.330 Special access permit application fees.

An application for an initial or renewed special access permit shall be accompanied by a non-refundable application fee in the amount established by resolution of the city council.

12.72.340 Special access permit annual fee.

Prior to issuance of an initial or renewed special access permit, the applicant shall pay an annual fee in the amount established by resolution of the city council. There shall be no refund of all or any portion of the annual fee.

12.72.350 Special access permit application.

Only private patrol operators may apply for and may be issued a special access permit under this Article VII. An application for an initial or renewed special access permit shall be submitted to the director and shall include all of the following:

A. The name, business address, and telephone number of the applicant, together with the names of all persons employed by the applicant as security guards in conducting private patrol services in the city.

B. A copy of the applicant's license to operate a private patrol service issued by the state of California pursuant to Business and Professions Code section 7582.

C. A copy of the applicant's and its security guards' pocket identification cards issued by the state of California pursuant to Business and Professions Code section 7582.13.

D. For each of the applicant's security guards who carry a firearm, a copy of their firearms qualification card issued by the state of California pursuant to Business and Professions Code section 7583.23.

E. Proof of registration of the applicant and the applicant's security guards with the Sacramento police department as required under Section 5.100.020.

F. A copy of the applicant's current business operations tax certificate as required under Chapter 3.08.

G. A copy of the applicant's current contract to provide private patrol service within the vicinity of a city park, a map of the territory to be patrolled by the applicant, and a letter of support for the issuance of the special access permit by the person or entity under contract with the applicant.

H. The name and location of the park(s) to which the applicant requests special access and the following information with regard to each park: a description of the areas to be patrolled, the hours of service, the types of patrol services, whether access with vehicles is requested and a depiction of the proposed patrol routes, and a statement indicating whether the applicant's security guards will carry firearms.

I. Such further information as the director may require.

12.72.360 Special access permit insurance and indemnity requirements.

A. At all times during the term of a special access permit issued pursuant to this Article VII, the permit holder shall continuously maintain in full force and effect general liability insurance and automobile liability insurance. The insurance coverages shall be at no cost to the city and shall comply with all of the following:

1. For the general liability policy, coverage must be at least as broad as ISO CGL Form 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

2. For the automobile liability policy, coverage must be at least as broad as ISO Form CA 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

3. Each policy limit per occurrence shall be in an amount as determined by the city's risk manager;

4. Each policy shall cover all losses and damages as specified in subsection D of this section

5. Each policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds; and

6. Each policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss.

B. No person shall exercise the authority under a special access permit without the insurance coverages as required by this section being in full force and effect.

C. The certificates of general liability insurance and automobile liability insurance and endorsements that establish compliance with subsection A of this section shall be maintained by the permit holder for at least three years after the date that the insurance policy expires.

D. The permit holder shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liability,

costs and expenses of every type and description, including, but not limited to, attorneys' fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permit holder or the permit holder's officers, employees, or agents directly or indirectly arising from the exercise of the authority under the special access permit.

12.72.370 Special access permit requirements regarding reporting and changes in security guards.

A. The director will require the holder of a special access permit to submit reports as the director determines is necessary regarding the activities of the permit holder's security guards within or near a park.

B. During the term of a special access permit, the permit holder shall notify the director in writing whenever there is any change in the security guards listed in the initial or renewed special access permit application. The permit holder shall submit for the director's approval the required verification of licensing, registration, and firearm qualification as set forth in Sections 12.72.350(C), (D) and (E) for any new security guard before he or she is granted access to a park under the authority of a special access permit.

12.72.380 Director's action on special access permit application.

A. Upon receipt of a complete application as required under Section 12.72.350 for an initial or renewed special access permit and the application fee as required under Section 12.72.330, the director shall obtain a recommendation and report from the chief of police and conduct an investigation of the application. The director shall take action on the application within 30 days from the date of receipt of the application.

B. Unless the director makes findings for denial of the application under Section 12.72.390, the director shall approve the application, in whole or in part, and shall issue an initial or renewed special access permit upon payment of the annual fee as required under Section 12.72.340 and proof of insurance as required under Section 12.72.360. The director may impose conditions on approval of the application as the director determines to be reasonably necessary to approve the application. The conditions may include, without limitation, the following:

1. Restricting the parks or the area within a particular park where special access is authorized;

2. Restricting the days or time of the day where special access in a park is authorized;

3. Prohibiting or restricting specified patrol and surveillance measures and activities within a park.

12.72.390 Permit denial, suspension, modification or revocation.

A. If the director finds, from the information contained in an initial or renewed special access permit application, his or her investigation thereof, and/or the report and recommendation of the chief of police, that: (i) approving a special access permit would be contrary to the public interest or to the public health, safety, and welfare; (ii) the applicant is not eligible to operate a private patrol service in the city; (iii) the applicant is not under contract to provide private patrol security services to the person or entity listed in the application; or (iv) the applicant has violated any prior special access permit requirement or condition, or the provisions of this Article VIII; the director shall deny the application and notify the applicant in writing of the reasons for the denial.

B. The director may suspend a special access permit at any time if the director determines that there are grounds for denial of the permit as stated in subsection A, above. The director shall give written notice to the permit holder of the suspension, stating the reasons for the permit suspension and the period of time that special access to the park by the permit holder's security guards is prohibited. The suspension period shall not extend longer than the time necessary to investigate the reasons for the permit suspension. Upon completion of the investigation, the director may modify the permit conditions, impose new permit conditions, or revoke the permit. The director shall give written notice to the permit holder stating the reasons for the change in the permit conditions or the permit revocation and the effective date of the change or revocation.

C. The director may revoke a special access permit at any time on the same grounds as for denial of a permit as stated in subsection A, above. The director shall give written notice to the permit holder stating the reasons for the permit revocation and the effective date that the permit is revoked.

D. The decision of the director to deny, suspend, modify, or revoke a special access permit shall be final and shall not be subject to appeal, but may be subject to City Council call-up review under Section 12.72.400.

12.72.400 City Council call-up review of director's permit approval, denial or revocation.

A. The director shall make a report of his or her decision to approve, deny or revoke a special access permit to the mayor and city council as soon as reasonably practicable after the director either issues the permit, or issues the notice of permit denial or revocation.

B. The mayor or councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located shall have the right to call up the decision of the director by filing a written request with the director not later than 10 days from the date of the decision of the director.

C. The mayor or councilmember requesting call-up review of the decision of the director may withdraw that request, provided that the withdrawal shall be noted on the next regularly scheduled meeting of the city council and shall be considered to have occurred on that date. The mayor or the councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located who did not make the request shall have 10 days from the date of the council meeting at which the call-up is considered withdrawn to file a request for call-up review.

D. Upon the filing of a request by the mayor or a councilmember to call up the decision of the director for city council review, the city clerk shall notice and set the matter for a public hearing, which shall be held within 30 days after the request for review has been filed. Notice of the city council hearing shall be given by mail not less than 10 days prior to the council meeting to the special access permit applicant or permit holder, the person or entity under contract with the applicant or permit holder for private patrol services, and the owners of real property located within 500 feet of the park(s) that is the subject of the application or permit.

E. The hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the director considered the special access permit application or revocation in the first instance. The city council may approve or deny the special access permit application, or may revoke or not revoke the special access permit, and may impose conditions as it determines to be reasonably necessary to approve the application or not revoke the permit. Within 7 days following the conclusion of the hearing, the city council shall render its decision.

F. If the city council does not act within the time limits set forth in this section, the decision of the director shall be final.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:
Noes:
Abstain:
Absent:

_____
MAYOR

Attest:

_____
City Clerk

Passed for Publication:
Published:
Effective:

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ORDINANCE NO. 2011 -____

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING SECTIONS 12.72.060 AND 12.72.090 OF, AND ADDING ARTICLE VII TO, CHAPTER 12.72 OF THE SACRAMENTO CITY CODE RELATING TO SPECIAL ACCESS PERMITS FOR PRIVATE PATROL OPERATORS IN CITY PARKS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. The City Council finds and determines that:

A. Many homeowners associations and businesses contract with private patrol operators to provide security guard services to protect their property from vandalism, burglary and other crimes. There are approximately 55 private patrol operators registered to perform security guard services within the city.

B. In some instances, security guards need access to a city park to conduct their private patrol services. Under the current City Code, security guards are prohibited from entering a park at times when the park is closed to the public, entering a park with a vehicle in areas not designated for such use, and entering a park while carrying a firearm.

C. Allowing properly licensed and registered private patrol operators and their security guards special access to enter city parks in performance of their contracted security services will benefit the city and improve public safety by increasing the level of surveillance of suspicious and criminal activity which may occur in or near a city park.

SECTION 2. Section 12.72.060 of the Sacramento City Code is amended as follows:

A. Subsection L of Section 12.72.060 is amended to read as follows:

L. Possess, discharge, or shoot:

1. Any bow and arrow in any park, except in areas designated for such use;

2. Any firearm in any park, except in areas designated for such use and except by a peace officer or by a security guard acting under the authority of a special access permit issued pursuant to Article VII of this chapter; and

3. Any slingshots, airguns, fireworks, and other devices potentially harmful to park visitors, which devices are prohibited in all parks;

B. Except as specifically amended as set forth in subsection A above, Section 12.72.060 remains unchanged and in full force and effect.

SECTION 3. Section 12.72.090 of the Sacramento City Code is amended as follows:

A. Subsection B.4. of Section 12.72.090 is amended to read as follows:

4. To any peace officer or employee of the city while engaged in the performance of his or her duties, or a security guard acting under authority of a special access permit issued pursuant to Article VII of this chapter.

B. Except as specifically amended as set forth in subsection A above, Section 12.72.090 remains unchanged and in full force and effect.

SECTION 4. Article VII is added to Chapter 12.72 of the Sacramento City Code to read as follows:

Article VII – Special Access Permits for Private Patrol Operators

12.72.300 Definitions.

For purposes of this chapter, the terms “private patrol operator” and “security guard” shall have the same meaning as set forth in Section 5.100.010.

12.72.310 Special access permits for private patrol operators - Scope.

No security guard shall enter a park when the park is closed to the public, enter a park with a vehicle in areas not designated for such use, or enter a park while carrying a firearm, except when acting under the authority of a special access permit. Issuance of a special access permit conveys no property right to the permit holder, and the permit is not transferrable or assignable.

12.72.320 Special access permit term and renewal.

A special access permit issued by the director is valid for a term of one year, unless the permit is suspended or revoked prior to the expiration date. A special access permit may be renewed annually. Applications for a renewal of a special access permit shall be filed not later than 30 days prior to the permit expiration date. Late renewal applications are subject to payment of the initial special access permit application fee.

12.72.330 Special access permit application fees.

An application for an initial or renewed special access permit shall be accompanied by a non-refundable application fee in the amount established by resolution of the city council.

12.72.340 Special access permit annual fee.

Prior to issuance of an initial or renewed special access permit, the applicant shall pay an annual fee in the amount established by resolution of the city council. There shall be no refund of all or any portion of the annual fee.

12.72.350 Special access permit application.

Only private patrol operators may apply for and may be issued a special access permit under this Article VII. An application for an initial or renewed special access permit shall be submitted to the director and shall include all of the following:

A. The name, business address, and telephone number of the applicant, together with the names of all persons employed by the applicant as security guards in conducting private patrol services in the city.

B. A copy of the applicant's license to operate a private patrol service issued by the state of California pursuant to Business and Professions Code section 7582.

C. A copy of the applicant's and its security guards' pocket identification cards issued by the state of California pursuant to Business and Professions Code section 7582.13.

D. For each of the applicant's security guards who carry a firearm, a copy of their firearms qualification card issued by the state of California pursuant to Business and Professions Code section 7583.23.

E. Proof of registration of the applicant and the applicant's security guards with the Sacramento police department as required under Section 5.100.020.

F. A copy of the applicant's current business operations tax certificate as required under Chapter 3.08.

G. A copy of the applicant's current contract to provide private patrol service within the vicinity of a city park, a map of the territory to be patrolled by the applicant, and a letter of support for the issuance of the special access permit by the person or entity under contract with the applicant.

H. The name and location of the park(s) to which the applicant requests special access and the following information with regard to each park: a description of the areas to be patrolled, the hours of service, the types of patrol services, whether

access with vehicles is requested and a depiction of the proposed patrol routes, and a statement indicating whether the applicant's security guards will carry firearms.

I. Such further information as the director may require.

12.72.360 Special access permit insurance and indemnity requirements.

A. At all times during the term of a special access permit issued pursuant to this Article VII, the permit holder shall continuously maintain in full force and effect general liability insurance and automobile liability insurance. The insurance coverages shall be at no cost to the city and shall comply with all of the following:

1. For the general liability policy, coverage must be at least as broad as ISO CGL Form 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

2. For the automobile liability policy, coverage must be at least as broad as ISO Form CA 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

3. Each policy limit per occurrence shall be in an amount as determined by the city's risk manager;

4. Each policy shall cover all losses and damages as specified in subsection D of this section

5. Each policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds; and

6. Each policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss.

B. No person shall exercise the authority under a special access permit without the insurance coverages as required by this section being in full force and effect.

C. The certificates of general liability insurance and automobile liability insurance and endorsements that establish compliance with subsection A of this section shall be maintained by the permit holder for at least three years after the date that the insurance policy expires.

D. The permit holder shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorneys' fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permit holder

or the permit holder's officers, employees, or agents directly or indirectly arising from the exercise of the authority under the special access permit.

12.72.370 Special access permit requirements regarding reporting and changes in security guards.

A. The director will require the holder of a special access permit to submit reports as the director determines is necessary regarding the activities of the permit holder's security guards within or near a park.

B. During the term of a special access permit, the permit holder shall notify the director in writing whenever there is any change in the security guards listed in the initial or renewed special access permit application. The permit holder shall submit for the director's approval the required verification of licensing, registration, and firearm qualification as set forth in Sections 12.72.350(C), (D) and (E) for any new security guard before he or she is granted access to a park under the authority of a special access permit.

12.72.380 Director's action on special access permit application.

A. Upon receipt of a complete application as required under Section 12.72.350 for an initial or renewed special access permit and the application fee as required under Section 12.72.330, the director shall obtain a recommendation and report from the chief of police and conduct an investigation of the application. The director shall take action on the application within 30 days from the date of receipt of the application.

B. Unless the director makes findings for denial of the application under Section 12.72.390, the director shall approve the application, in whole or in part, and shall issue an initial or renewed special access permit upon payment of the annual fee as required under Section 12.72.340 and proof of insurance as required under Section 12.72.360. The director may impose conditions on approval of the application as the director determines to be reasonably necessary to approve the application. The conditions may include, without limitation, the following:

1. Restricting the parks or the area within a particular park where special access is authorized;

2. Restricting the days or time of the day where special access in a park is authorized;

3. Prohibiting or restricting specified patrol and surveillance measures and activities within a park.

12.72.390 Permit denial, suspension, modification or revocation.

A. If the director finds, from the information contained in an initial or renewed special access permit application, his or her investigation thereof, and/or the report and recommendation of the chief of police, that: (i) approving a special access permit would be contrary to the public interest or to the public health, safety, and welfare; (ii) the applicant is not eligible to operate a private patrol service in the city; (iii) the applicant is not under contract to provide private patrol security services to the person or entity listed in the application; or (iv) the applicant has violated any prior special access permit requirement or condition, or the provisions of this Article VIII; the director shall deny the application and notify the applicant in writing of the reasons for the denial.

B. The director may suspend a special access permit at any time if the director determines that there are grounds for denial of the permit as stated in subsection A, above. The director shall give written notice to the permit holder of the suspension, stating the reasons for the permit suspension and the period of time that special access to the park by the permit holder's security guards is prohibited. The suspension period shall not extend longer than the time necessary to investigate the reasons for the permit suspension. Upon completion of the investigation, the director may modify the permit conditions, impose new permit conditions, or revoke the permit. The director shall give written notice to the permit holder stating the reasons for the change in the permit conditions or the permit revocation and the effective date of the change or revocation.

C. The director may revoke a special access permit at any time on the same grounds as for denial of a permit as stated in subsection A, above. The director shall give written notice to the permit holder stating the reasons for the permit revocation and the effective date that the permit is revoked.

D. The decision of the director to deny, suspend, modify, or revoke a special access permit shall be final and shall not be subject to appeal, but may be subject to City Council call-up review under Section 12.72.400.

12.72.400 City Council call-up review of director's permit approval, denial or revocation.

A. The director shall make a report of his or her decision to approve, deny or revoke a special access permit to the mayor and city council as soon as reasonably practicable after the director either issues the permit, or issues the notice of permit denial or revocation.

B. The mayor or councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located shall have the right to call up the decision of the director by filing a written request with the director not later than 10 days from the date of the decision of the director.

C. The mayor or councilmember requesting call-up review of the decision of the director may withdraw that request, provided that the withdrawal shall be noted on the next regularly scheduled meeting of the city council and shall be considered to have

occurred on that date. The mayor or the councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located who did not make the request shall have 10 days from the date of the council meeting at which the call-up is considered withdrawn to file a request for call-up review.

D. Upon the filing of a request by the mayor or a councilmember to call up the decision of the director for city council review, the city clerk shall notice and set the matter for a public hearing, which shall be held within 30 days after the request for review has been filed. Notice of the city council hearing shall be given by mail not less than 10 days prior to the council meeting to the special access permit applicant or permit holder, the person or entity under contract with the applicant or permit holder for private patrol services, and the owners of real property located within 500 feet of the park(s) that is the subject of the application or permit.

E. The hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the director considered the special access permit application or revocation in the first instance. The city council may approve or deny the special access permit application, or may revoke or not revoke the special access permit, and may impose conditions as it determines to be reasonably necessary to approve the application or not revoke the permit. Within 7 days following the conclusion of the hearing, the city council shall render its decision.

F. If the city council does not act within the time limits set forth in this section, the decision of the director shall be final.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:
Noes:
Abstain:
Absent:

_____
MAYOR

Attest:

_____
City Clerk

Passed for Publication:
Published:
Effective:

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RESOLUTION NO. 2011-

Adopted by the Sacramento City Council

ESTABLISHING APPLICATION AND ANNUAL FEES FOR SPECIAL ACCESS PERMITS IN CITY PARKS

BACKGROUND

A. On November 22, 2011, the City Council enacted Ordinance No. 2011-_____, thereby adding Article VII, Sections 12.72.300 through 12.72.400 to the Sacramento City Code. Sections 12.72.330 and 12.72.340 authorize the City Council to establish by Resolution an initial and renewal application fee and an annual fee for a permit allowing special access by private patrol operators and their security guards into City parks.

B. The proposed fees for initial and renewal applications and for annual permits are set forth in Exhibit A.

C. The amount of the proposed fees is no more than necessary to cover the City's reasonable costs to review the initial and renewal applications, receive updates to security guard records during the term of an annual permit, review and respond to incident reports during the term of an annual permit and otherwise administer and enforce Article VII. In addition, the manner in which the costs are allocated to the permittees bears a reasonable relationship to each permittee's burdens on, or benefits received from, the City.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City of Sacramento Fees and Charges Report, Parks and Recreation Department, is hereby amended, as set forth in Exhibit A, to establish the fees authorized by Sections 12.72.330 and 12.72.340 of the Sacramento City Code.

Section 2. The City Manager or designee is authorized to adjust the operating revenue and expense budgets as necessary.

Section 3. The fees described in Section 1 are attached as Exhibit A and made a part of this Resolution.

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Exhibit A - Fees for special access permits

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Exhibit A

Fee Name: Special Access Permits for Private Patrol Operators in City Parks

Current Fee: None

Proposed Fees:

Initial Application Fee ..... $ 112
Renewal Application Fee..... $ 56
Annual Fee ..... $ 672

Justification: The fees recover 100% of estimated costs for reviewing permit applications and administering and enforcing the permit regulations during the one-year permit period.

Reviewing initial and renewal permit applications includes reviewing the applicant's private patrol service license, reviewing the pocket identification cards issued by the State to the applicant and its security guards, reviewing the security guards' firearms qualifications cards, verifying with the Police Department that the applicant and its security guards are all registered as required under City Code Section 5.100.020, reviewing the applicant's business operations tax certificate, reviewing the applicant's certificates of insurance, reviewing the applicant's contract to provide private patrol service within the vicinity of one or more City parks, reviewing the map of the territory to be patrolled by the applicant's security guards, reviewing the names and locations of and the special access requested for the park(s) to which the applicant requests special access, and creating conditions of approval applicable to the specific special access requested and the specific parks for which special access is requested.

The annual fee covers staff time spent reviewing regular reports submitted by the applicant, reviewing and investigating incident reports submitted by the applicant, determining whether the conditions of approval are being followed, reviewing and investigating incident reports submitted by police officers, park safety rangers, park users and/or neighborhood residents about the conduct of the applicant and its security guards in City parks, and conducting any necessary field inspections to view the applicant's security guards in operation.

The fees are calculated at the hourly rate of $56. It is estimated that an initial application will require two hours of staff time (2 x $56 = $112), a renewal application will require one hour of staff time (1 x $56 = $56) and administering and enforcing the permit regulations during the one-year permit period will require one hour per month or twelve hours per year (12 x $56 = $672).

Proposition 26: These fees are not "taxes" under section 1, subdivision (e), article XIII C of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department's actual

cost of issuing the permits and/or administering and enforcing the permit regulations. No fee waivers are provided and the Department's costs are allocated equally to the private patrol operators who apply for initial and renewal permits.