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APPROVED AS TO FORM AND LEGALITY

Ruica Thafie

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13699 C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 5.52 (PRIVATE PATROL SERVICES AND PRIVATE WATCHMAN ORDINANCE) TO UPDATE LANGUAGE IN COMPLIANCE WITH THE CITY'S GENDER-INCLUSIVE LANGUAGE POLICY INCLUDING CHANGING THE TERM "WATCHMAN" TO "GUARD"

WHEREAS, in 2018, the State of California passed a resolution (ACR-260) calling for the use of gender-neutral pronouns and gender-inclusive language in the drafting of all legislation, and for state agencies to engage in similar efforts to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance; and

WHEREAS, In October 2020, the City Council adopted Resolution 88320 establishing a City Policy requiring City affairs to be conducted in a manner that uses gender-inclusive language, including non-gendered language and gender-neutral pronouns where appropriate, and expressing its intent to submit a Charter amendment to the voters in 2022 to amend the City Charter in its entirety to use gender-inclusive language, including non-gendered language and gender-neutral pronouns; and

WHEREAS, Oakland Municipal Code 5.52, contains outdated gendered language including using the term "watchmen" for positions now more commonly referred to as guards; and

WHEREAS, Oakland Municipal Code 5.52 currently uses masculine and feminine pronouns ("he" and "she") which is not inclusive of all persons, including nonbinary and transgender people who may not ascribe to a particular fixed gender, or people who otherwise use different pronouns; and

WHEREAS, the use of "they" as a singular pronoun is inclusive of transgender and nonbinary persons in addition to persons of the male and female genders; and

WHEREAS, the City of Oakland is committed to using language that is inclusive and representative of all its residents;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals: The City Council of the City of Oakland hereby determine that the preceding recitals are true and correct and an integral part of the Council's decision to enact this legislation and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Amendment of Oakland Municipal Code Section 5.52.010 (Definitions). Oakland Municipal Code 5.52.010 is hereby repealed and reenacted with amendments as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

5.52.010 Definitions.

For the purposes of this chapter, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from their context that a different meaning is intended:

"Private patrol operator" means any person who operates a private patrol service.

"Private patrol service" means any business which purports to furnish or does furnish any private police officer, ~~watchman~~ or guard to patrol any territory, or to guard or watch property of another person, in the city of Oakland.

"Private security officer" means any individual who patrols any territory or grounds or who guards or watches property of another person or who acts to preserve the peace, within the city of Oakland, and who is employed by a person holding a private patrol operator's permit from the state of California or who ~~himself or herself~~ themselves holds such a permit.

"Private ~~watchman~~ guard" means any individual who patrols any territory or grounds or who watches the property of another or who acts to preserve the peace, within the city of Oakland, and who is employed for this purpose by a person other than a person who holds a private patrol operator's permit from the state of California. "Employed" for the purposes of this section means that the private security officer is a bona fide employee of the owner or operator of the property and is provided benefits, has records kept, and payroll deductions by the employer.

SECTION 3. Amendment of Oakland Municipal Code Sections 5.52.030 through 5.52.110 Inclusive. Oakland Municipal Code Sections 5.52.030 through 5.52.110 are hereby repealed and reenacted with amendments as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

5.52.030 Regulation of private patrol services.

Each private patrol operator doing business within the city shall comply with the following local regulations:

- A. Each private patrol operator shall at all times hold a current valid license for such private patrol service for the state of California.

- B. Each private patrol operator shall at all times hold a current valid business license from the city.
- C. Each private security officer working as such within the city shall at all times be properly registered as a guard with the state of California.
- D. Each private patrol operator shall and will require each private security officer employed by ~~him or her~~ the operator to aid, assist, and cooperate with the Oakland Police Department in the detention, apprehension, or investigation of persons suspected of violating the law.
- E. Each private patrol operator shall at all times have the business or personal residence identified in Section 5.52.020A connected with a telephone system operated by a public utility company in the city. Such telephone system shall be constantly attended, on a twenty-four (24) hour basis, by a person who is able and competent to receive and transmit telephone calls.
- F. Each private patrol operator shall submit to the Chief of Police on a quarterly basis a report showing the name, address, and telephone number of each establishment with the city served by the operator, and the name, residence address, date of birth, and state guard registration card number of all private security officers employed by the operator. This report is to be used for the sole purpose of enforcing this chapter. It shall be deemed to be confidential, and no access shall be allowed to any person having an interest in a guard company.
- G. In addition to the state-required guard card, each private security officer must, while working, have in ~~his or her~~ their possession another governmentally issued identification card with a current photograph, name, date of birth, and physical description. In the event that the private security officer has no such governmental card, the private patrol operator shall supply ~~him or her~~ them with an identification card incorporating the employee's current photograph, name, date of birth, and physical description, and shall require each such employee to carry such card on ~~his or her~~ their person while performing ~~his or her~~ their duties.
- H. Each private patrol operator shall ensure that uniforms worn by and equipment used by ~~his or her~~ their employees identify the private patrol service by whom they are employed. Such uniforms shall conform to the requirements of Section 5.28.080. If a badge is to be worn, it shall conform to the requirements of Section 5.52.090.

5.52.040 Private watchman guard permit—Application, issuance, and revocation.

It is unlawful for any person to act as a private watchman guard, or for any person to employ another as a private watchman guard, unless such person holds an unrevoked private watchman's guard's permit issued by the Chief of Police, as provided in this chapter. The application for a private watchman's guard's permit shall be made in the manner and form provided in Section 5.52.050, and shall be signed by the person to whom the permit is to be issued. Such application shall be endorsed thereon with the written approval thereof of the employer of the applicant, with the employer's request that such permit be granted. The permit, if granted, shall state the name of the employer of such private watchman guard and the address where such private watchman's guard's services are to be rendered. The permit may be revoked in the manner and for any of the reasons provided in Section 5.52.070, and shall be automatically

revoked upon the termination of the employment of the holder thereof with the employer whose name is set forth in such permit.

5.52.050 Content of application for private watchman's guard's permit.

Application for the private watchman's guard's permit provided for in Section 5.52.040 shall be made under penalty of perjury by the person to whom the permit is to be issued on a form to be supplied by the Police Department. The application shall provide the following information:

- A. The full name and residence address of the applicant;
- B. The applicant's business or occupation for the previous five years, including the name and address of each employer, the dates of each commencement and termination of employment, and the nature of the services performed;
- C. Whether the applicant has ever been convicted of a crime; if so, then full details of each conviction shall be stated;
- D. Whether the applicant is able to read, write, speak, and understand the English language;
- E. Such other information as the Chief of Police may require.

The applicant shall be photographed and fingerprinted by the Police Department at the time application is made. A nonrefundable fee as established by the master fee schedule of the city shall be collected at the time application is made.

5.52.060 Grant or denial of private watchman's guard's permit.

Upon receipt of an application for a private watchman's guard's permit pursuant to this chapter, the Chief of Police shall investigate both the truthfulness of the facts set forth in the application and the moral fitness and reputation, character, integrity, and competence of the applicant. If, upon completion of such investigation, it is determined that the statements in the application are true and that the applicant is qualified and fit to act as a private watchman guard, the Chief of Police shall issue the permit to the applicant. If, after investigation, it is determined that the permit shall be denied, the Chief of Police shall state the reasons for such denial to the applicant in writing.

5.52.070 Revocation of private watchman's guard's permit.

Any permit granted pursuant to this chapter for a private watchman guard may be revoked by the Chief of Police at any time, for any reason for which such permit might lawfully be denied; for conviction of a violation of any provision of this chapter or of any local, state, or federal law or regulation; or for any other good cause. Such revocation may be made only after the opportunity for a hearing before the Chief of Police has been provided to the private watchman guard in accordance with the provisions of Section 5.02.080.

5.52.080 Uniform.

- A. Each private patrol service shall adopt a distinctive and characteristic uniform, and all private security officers employed by such service shall wear such uniform at all times while engaged in the performance of their duties.

- B. Any uniform proposed to be adopted by a private patrol service, pursuant to subsection A of this section, and any uniform proposed to be worn by any private watchman, shall be approved by the Chief of Police before such uniform may be adopted or worn. To be approved, a proposed uniform must conform to the restrictions of subsection C of this section.
- C. It is unlawful for any person to wear, or to cause or permit to be worn, any uniform which is similar in design to any uniform used by the Oakland Police or Fire Departments. A uniform shall be considered to be similar in design to a uniform used by the Oakland Police or Fire Departments if it so resembles such official uniform as to cause an ordinary reasonable person to believe that the person wearing the uniform is a member of the Oakland Police or Fire Departments.
- D. The provisions of this section shall not apply to any uniform being worn by any private ~~watchman~~ guard or private security officer at the time of adoption of this section as amended, but by any replacement of such uniform must conform in every respect with all of the provisions of this section.

5.52.090 Badges.

It is unlawful for any person to wear or display, or cause to be worn or displayed, any badge or insignia similar in design to that used by the Oakland Police or Fire Departments, and no badge or insignia of any design shall be worn, displayed, or used in any manner unless the same has first been approved by the Chief of Police. Any badge or insignia worn by a private ~~watchman~~ guard or by a private security officer shall have imprinted thereon, in letters of a size approved by the Chief of Police, the name of the employer of the private ~~watchman~~ guard, or the name of the private patrol service by whom the private security officer is employed, as the case may be. In addition to such name, there may be imprinted thereon words such as "private security officer," "private guard ~~watchman~~," "~~watchman~~," or "guard."

5.52.100 Unlawful to manufacture certain badges.

It is unlawful for any person to make or manufacture or sell any badge of a like or similar design to that used by the Oakland Police Department or Oakland Fire Department, or to make or manufacture or sell any badge to be used by a private security officer or private ~~watchman~~ guard, except with the written approval of the Chief of Police.

5.52.110 Complaints by Chief of Police.

The Chief of Police is authorized, empowered, and directed to file or to cause to be filed with the Bureau of Consumers Affairs of the state of California a complaint against any private patrol operator or private patrol service or any person employed as a private security officer by a private patrol operator or private patrol service, whenever ~~he or she~~ they believes good cause exists therefor. A copy of each such complaint filed shall be furnished to the private patrol operator involved.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each

section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.


IN COUNCIL, OAKLAND, CALIFORNIA, JUL 19 2022

PASSED BY THE FOLLOWING VOTE:

AYES - ~~WILLIAMS~~, GALLO, KALB, ~~WILLIAMS~~, ~~WILLIAMS~~, TAYLOR, THAO AND Reid
PRESIDENT FORTUNATO BAS - 6

NOES - 0
ABSENT - 0
ABSTENTION - 0

Excused - 2 - File?
Kaplan

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Introduction Date
JUL 15 2022

Date of Attestation: July 20, 2022

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 5.52 (PRIVATE PATROL SERVICES AND PRIVATE WATCHMAN ORDINANCE) TO UPDATE LANGUAGE IN COMPLIANCE WITH THE CITY'S GENDER-INCLUSIVE LANGUAGE POLICY INCLUDING CHANGING THE TERM "WATCHMAN" TO "GUARD"

This Ordinance will amend Oakland Municipal Code (OMC) Chapter 5.52 (Private Patrol Services and Private Watchman Ordinance) to update language in compliance with the city's gender-inclusive language policy including changing the term "watchman" to "guard".