February 15, 2005

NOTE TO FILE:

Corrections to Ordinance No. 018-04 CS, Amending the Stockton Municipal Code by Amending Chapter 10, by Adding Part XIV, Division I, Sections 10-360 through 10-377 Pertaining to Private Funeral Escorts, were authorized and initialed off by the City Attorney's Office on February 7, 2005.

KATHERINE GONG MEISSNER
CITY CLERK
ORDINANCE NO. 018-04 C.S.

AN ORDINANCE AMENDING THE STOCKTON MUNICIPAL CODE BY AMENDING CHAPTER 10, BY ADDING PART XIV, DIVISION 1, SECTIONS 10-360 THROUGH 10-377 PERTAINING TO PRIVATE FUNERAL ESCORTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Chapter 10, of the Stockton Municipal Code, is hereby amended by adding Part XIV, Division 1, sections 10-360 through 10-377 to read as follows:

SEC. 10-360. PURPOSE:

Local authorities may adopt rules and regulations by ordinance or resolution to regulate traffic at such locations that may require traffic directions for orderly traffic flow. It is the purpose of this amendment to use the power, conferred on the City of Stockton, pursuant to California Vehicle Code section 21100(e), to appoint persons other than traffic officers to direct and regulate traffic for a funeral procession.

SEC. 10-361. DEFINITIONS:

For purposes of this Chapter, the following definitions shall apply:

A. "Funeral escort" shall mean a uniformed person employed by a mortuary or company to direct the movement of a group of vehicles engaged in a funeral procession.

B. "Funeral procession" shall mean a group of two or more vehicles traveling in line from a funeral service whether that funeral service is held at a place of worship or another location, to a transportation facility, cemetery, or crematory.

SEC. 10-362. PERMIT REQUIRED FOR PRIVATE FUNERAL ESCORTS:

Motor vehicle funeral processions may be led or escorted by private escorts within the City of Stockton in accordance with the requirements of this Chapter. No person shall stop, obstruct, or otherwise direct traffic in intersections while leading or escorting a motor vehicle funeral procession without first obtaining a valid funeral escort permit pursuant to this Chapter.

SEC. 10-363. PERMIT APPLICATION PROCEDURES:

A. Applications for a funeral escort permit shall be filed with the Chief of Police on forms provided by the Chief of Police and shall contain or be accompanied by the following:

1. Name and address of applicant and the applicant’s funeral escort service employer if the applicant is employed by such service;
2. Proof of liability insurance in compliance with this Chapter;
3. Proof of satisfactory completion of a traffic safety program of instruction, as described in Section 10-372;
4. Proof that the applicant holds a valid California Driver’s License that is properly endorsed for the type of vehicle the applicant intends to use while directing vehicular funeral processions;
5. Payment of permit, insignia, and inspection fees, as established by the City of Stockton Schedule of Fees adopted by the Stockton City Council;
6. Proof that the vehicle to be used in the course of conducting escorts has been inspected by the Chief of Police to ensure that it meets the equipment and safety requirements set forth by the Chief of Police;
7. An indemnification and hold harmless agreement as set forth in Section 10-370 of this Chapter signed by the applicant and the applicant’s funeral escort service employer;
8. Such other information as may be required by the Chief of Police; and
9. A copy of the current City of Stockton Business License issued to the funeral escort service employer.

B. If all the requirements for approval of a funeral escort permit are met, then the Chief of Police shall issue a permit.
C. The funeral escort permit shall be valid for a period of two (2) years from the date of issuance and such permits shall not be transferable.

SEC. 10-364. APPLICATION FEE:
Before the Chief of Police shall accept and process an application for a Private Funeral Escort Permit, the applicant shall pay an application fee to the City of Stockton Administrative Services Division in an amount as may be fixed or established from time to time by the Stockton City Council.

SEC. 10-365. DENIAL, SUSPENSION, OR REVOCATION OF PERMIT:
Funeral escort permits issued pursuant to this Chapter may be denied, suspended, or revoked by the Chief of Police upon any of the following grounds:
A. The application is incomplete or illegible;
B. The applicant has knowingly made false statements on the application;
C. The applicant has been convicted of a crime, and the time for appeal has elapsed, provided, however, that the permit may be denied upon this ground only if the crime is substantially related to the qualification, functions, or duties associated with the operating of motor vehicles or with leading or otherwise escorting a motor vehicle funeral procession;
D. Failure to meet any of the requirements of this Chapter;
E. The applicant’s unlawful or negligent operation of a motor vehicle during the three years prior to the date of application;
F. The applicant's unlawful or negligent direction of traffic while escorting a vehicular funeral procession or other motor vehicle procession.

G. Failure to maintain a current City of Stockton Business License.

SEC. 10-366. NOTICE OF DECISION TO DENY, SUSPEND, OR REVOKE PERMIT.

Upon determining the existence of any of the grounds for denial, suspension, or revocation in accordance with Section 10-365 of this Chapter, the Chief of Police shall issue a Notice of Decision to deny, suspend, or revoke the permit. The Notice of Decision shall state the grounds and reasons upon which the denial, suspension, or revocation is based.

The Notice of Decision shall be mailed to the applicant or permittee at the address stated on the application or permit. Alternatively, the Notice of Decision may be hand-delivered to the applicant or permittee or to the address given in the application or permit.

The Notice of Decision shall advise that the denial, suspension, or revocation shall become final unless the applicant or permittee files a written request for hearing before the Chief of Police within the time period specified in Section 10-367 of this Chapter.

SEC. 10-367. PROCEDURE FOR HEARING BEFORE THE CHIEF OF POLICE.

The written request for a hearing before the Chief of Police must be received by the Chief of Police, or his authorized designee, within ten (10) days of the date of mailing the Notice of Decision to deny, suspend, or revoke the permit. The Chief of Police, or his authorized designee, shall schedule a hearing, which shall be held no later than thirty (30) days after receipt of a timely request for hearing. The Notice of Hearing shall be mailed to the applicant or permittee not later than ten (10) days prior to the scheduled date of the hearing. At the hearing before the Chief of Police, the applicant or permittee shall be given the opportunity to present witnesses and documentary evidence and to cross-examine witnesses. The hearing will be conducted informally, and the technical rules of evidence shall not apply. Any and all other evidence, which the Chief of Police deems reliable, relevant, and not unduly repetitious, may be considered. The applicant or permittee may be represented by another person.

The issuance of a written Notice of Cancellation by an insurance company shall be conclusive proof at the hearing of the effective cancellation of an insurance policy.

SEC. 10-368. DECISION OF THE CHIEF OF POLICE AFTER HEARING:

Within twenty (20) days after the hearing, the Chief of Police, or his authorized designee, shall mail a written decision sustaining, reversing, or modifying his or her initial decision to the applicant or permittee at the address stated in the application or permit. The decision of the Chief of Police after the hearing shall be final.
SEC. 10-369. NON-TRANSFERABILITY OF PERMITS:
Funeral escort permits shall be issued by the Chief of Police, or his authorized designee, in the names of individual persons actually conducting such escorts and shall expire two (2) years from the date of issuance. Permits shall not be transferable or assignable.

SEC. 10-370. INDEMNITY AND HOLD HARMLESS:
The funeral escort permittee or his or her funeral escort service employer shall assume all responsibility for his or her activity and operation, shall bear all losses and damages directly or indirectly resulting to him or her, any subcontractor, the City or City employees that are the result of the performance or character of the operation, unforeseen difficulties, accidents, occurrences or other causes not predicated on active negligence of the City.

The permittee or his or her funeral escort service employer shall assume the defense of and indemnify and save harmless the City and its officers and employees from all claims, loss, damage, injury and liability of every kind, nature and description, including punitive damages, directly or indirectly arising from the escorting a vehicular funeral procession.

SEC. 10-371. LIABILITY INSURANCE:
A. During the term of a permit issued pursuant to this Chapter, the permittee or his or her funeral escort service employer shall maintain in full force and effect at the permittee or his or her employer's own cost a comprehensive auto and general liability insurance policy:

1. In an amount not less than five hundred thousand dollars ($500,000.00) single limit per occurrence; and
2. Issued by an admitted insurer or insurers as defined by the California Insurance Code; and
3. Providing that this City, its officers, employees and agents are to be named as insureds under the policy; and
4. Covering all losses and damages as specified in Section 10-370 of this Chapter; and
5. Stipulating that the policy will operate as primary insurance and that no other insurance effected by the City or other named insured will be called on to contribute to a loss covered thereunder; and
6. Providing that no cancellation, change in coverage or expiration by the insurance company or the insured shall occur during the term of the funeral escort service permit, without thirty (30) days written notice to the City prior to the effective date of such cancellation or change in coverage.
B. Proof of insurance as required shall be provided to the City of Stockton Risk Management Division.
C. In the event of failure of any permittee or his or her funeral escort employer to maintain in effect the required insurance policy(ies), the funeral escort permit shall be considered to be suspended as a matter of law from the
date of cancellation or a lapse of the required insurance. The Chief of Police may reinstate the permit when the suspended permittee provides the City of Stockton with proof of insurance as required by this section.

SEC. 10-372. TRAFFIC SAFETY INSTRUCTION PROGRAM:
Each applicant for funeral escort permit shall submit to the Chief of Police evidence of satisfactory completion of an instructional program of traffic safety. Evidence of successful completion of an instructional program for traffic safety shall include, but not be limited to, instructional materials received by the applicant from the program, test scores, and grades received by the applicant. The Chief of Police shall review and approve each submitted instructional program if the Chief of Police reasonably believes that the program provides the applicant with sufficient training to safely direct traffic.

SEC. 10-373. PERMIT RENEWAL PROCEDURES:
A permittee seeking renewal of his or her funeral escort permit shall meet all the requirements for a permit renewal that applicants are required to meet in order to first obtain a funeral escort permit.

All provisions of this Chapter applicable to first-time applicants shall apply to a permittee applying for renewal of a funeral escort permit.

SEC. 10-374. AUTHORIZED TRAFFIC DIRECTION:
Any person holding a valid funeral escort permit pursuant to this Chapter and leading or otherwise escorting a motor vehicle funeral procession shall obey all traffic laws, including all speed laws, except that such person is authorized to stop cross traffic, to enable all vehicles in the funeral procession to proceed together as an unbroken chain, at an intersection controlled by:
A. Stop signs or yield signs, providing that the permittee remains in the intersection until all funeral procession vehicles have cleared the intersection; and
B. Signal lights, providing that the lead vehicle in the procession enters the intersection with a green light and the permittee remains in the intersection at all times when the light is not green until all funeral procession vehicles have cleared the intersection.

A permittee is authorized to direct traffic in the manner specified in this section only while wearing the uniform and using the equipment authorized by the Chief of Police for this purpose and while carrying a valid funeral escort permit on the permittee’s person.

The Chief of Police may order the immediate suspension or revocation of a funeral escort permit if the permittee has not directed traffic in the manner specified in this section.

SEC. 10-375. OFFICIAL INSIGNIA:
The Chief of Police shall approve an official insignia, uniform, and any equipment, which shall be worn by all permittees while directing traffic in the
manner specified in Section 10-374. The Chief of Police shall also approve vehicular equipment regulations including a color and/or insignia scheme. The uniform color shall be dissimilar to those worn by sworn City of Stockton Police Officers.

SEC. 10-376. REGULATIONS:
The Chief of Police may prepare and issue written regulations for distribution to applicants and permittees regarding the implementation of the provisions of this Chapter, including, but not limited to, the safe and lawful conduct of funeral escort services, and the maintenance of insignia, uniforms, motor vehicles, and equipment used in escorting funeral processions.
Such regulations shall be binding upon applicants and permittees. Permittees shall comply with these written regulations as a term and condition of the permit.

SEC. 10-377. PRIVATE PROCESSIONS MUST OBEY TRAFFIC LAWS:
Persons participating in private funeral processions or other processions within the City of Stockton without police escort must obey all state and city traffic laws, except as specifically authorized by this Division.

SECTION II. SEVERABILITY:
In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION III. EFFECTIVE DATE:
This ordinance shall become effective thirty (30) days from the date of its passage.

ADOPTED: SEP 14 2004
EFFECTIVE: OCT 14 2004

ATTEST:
KATHERINE GONG MEISSNER
City Clerk of the City of Stockton