ORDINANCE NO. 218, SERIES 2017

AN ORDINANCE AMENDING CHAPTER 124 OF THE LOUISVILLE METRO CODE OF ORDINANCES REGARDING ARMED SECURITY OFFICER TO REMOVE INADVERTENT BARRIERS FOR OUT-OF-STATE APPLICANTS.

SPONSORED BY: COUNCIL MEMBERS FLOOD AND JAMES

WHEREAS, last year the Legislative Council of the Louisville/Jefferson County Metro Government (the "Louisville Metro Council") modified Chapter 124 of the Louisville Metro Code of Ordinances ("LMCO"), which Chapter licenses armed security guard agencies and officers, to require applicants for both agency and officer licenses produce proof of a license to carry a concealed deadly weapon ("CCDW") in the Commonwealth of Kentucky;

WHEREAS, the modification required the agency applicant to hold a valid CCDW license, which would require any member of an agency applicant to have a valid CCDW license, including board members of corporations;

WHEREAS, some out-of-state officer applicants for the armed security guard license have been unable to qualify for licenses or license renewals due to the inability to obtain a CCDW license in Kentucky;

WHEREAS, Louisville Metro Council seeks to remove this inadvertent barrier for out-of-state officer applicants while preserving the requirement that an applicant is ineligible if he or she has been adjudged mentally incompetent; and

WHEREAS, to accomplish this objective, Louisville Metro Council removes the CCDW license requirement for agency applicants and replaces the requirement for officer applicants to obtain a valid license to carry a concealed deadly weapon

("CCDW") pursuant to KRS 237.110 with an affidavit that confirms the applicant has no adjudication of mental incompetency.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: LMCO § 124.03, titled AGENCY LICENSE APPLICATION; ISSUANCE, is hereby amended to read as follows:

(A) The following information shall be required on the application for an agency license:

(1) If a corporation, the name and address of the corporation, the names, addresses and either the social security numbers or complete sets of fingerprints of the incorporators, Board of Directors and officers.

(2) If a sole proprietorship or partnership, the names, addresses and either the social security numbers or complete sets of fingerprints of the sole proprietor or each partner, whether limited or otherwise.

(3) In order to be eligible for an agency license, each of the persons identified pursuant to subsections (A)(1) and (2) above must meet the following qualifications:

(a) Be citizens of the United States;

(b) Have attained the age of 21;

(c) Not have been dishonorably discharged from any branch of the United States military;

(d) Not have been convicted of or currently under indictment for any of the following: a felony; illegally using, carrying or possessing a deadly weapon as defined in KRS 500.080(4); impersonation of a law enforcement officer or employee of the

United States, or any political subdivision thereof; the illegal use, sale or possession of a controlled substance as defined in KRS Chapter 218A; or any crime of moral turpitude. An applicant shall have satisfied this requirement, if in those instances where the foregoing offense was a misdemeanor, conviction occurred at least two years prior to application for the license; or, in those instances where the offense was a felony, the applicant has been granted a pardon or has had his/her civil rights restored and has been specifically authorized to possess a firearm by means of relief granted by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1960, as amended;

(e) Has not been adjudged mentally incompetent by federal court or court of any state or political subdivision, and if so adjudicated, such adjudication has been set aside for fraud or error;

(f) Has not been hospitalized for psychiatric treatment or for drug or alcohol abuse treatment within the past two years, and if so hospitalized, will provide a written statement from a licensed and qualified physician or clinical psychologist verifying that he or she is mentally and emotionally fit for the duties of an armed security officer.

(4) The applicants must provide evidence of insurance issued by an insurer authorized to do business in the Commonwealth of Kentucky, naming the proposed agency as insured in the amount of $100,000 property damages, $1,000,000 for injury of death of one person, and $3,000,000 for injury of death of more than one person per incident arising out of the operation of such agency. An agency providing the Director with demonstrable proof that the agency has sufficient assets to indemnify itself against

liability to the extent listed above shall be deemed to be in compliance with this subsection.

~~(B) Applicants shall be required to hold a valid license to carry a concealed deadly weapon ("CCDW") pursuant to KRS 237.110. The applicant must provide proof from the Commonwealth of Kentucky that he or she has a valid CCDW, and shall continue to hold such license at all times licensed as an Armed Security Officer.~~

(B)~~(C)~~ Within 60 days after receipt of all information necessary for the completion of the application, the Director shall either issue a license to the applicant or notify the applicant of the denial of the license application. Failure by the applicant to provide the necessary application information required by this chapter within 14 days of notice of such deficiency by the Director shall result in denial of the application.

(C)~~(D)~~ The Director shall issue a license to any applicant who meets the qualifications set forth herein; however, no license shall be issued upon a finding by the Director of any of the following:

(1) The applicant, or any person required to be identified in the application under § 124.03 has committed any act, which if committed by a licensee, would be grounds for the revocation of a license under this chapter;

(2) That while unlicensed, an applicant or any person required to be identified in the application under § 124.03, knowingly and willingly engaged in the business of providing the services of armed security officers;

(3) The existence of a material misstatement or omission in the application for a license; or

(4) The applicant uses any designation or trade name, which implies in the opinion of the Director an association with any municipal, county, state or federal government, or any agency thereof.

(D)~~(E)~~ The Director, when satisfied of the applying agency's compliance with this chapter, shall issue a license fee upon payment of a $100 nonrefundable license fee.

(1) The license shall be valid for a period of one year and shall be renewable annually upon submission of a new application and upon the payment of the $100 license fee and posting of insurance in accordance with requirements of this chapter.

(2) Within 72 hours after receipt of the agency's license, the agency shall cause such certificate to be posted and to be displayed at all times in a conspicuous place in the principal office of the agency within Louisville Metro.

(3) No license issued to an agency in accordance with the terms of this chapter shall be transferable.

(E)~~(F)~~ The authority conferred upon an agency by a license shall cease immediately upon its revocation. Each license shall be surrendered to the Director within 72 hours after it has been revoked or after the agency ceases to do business. If, however, the Director or a court of competent jurisdiction has before it any matter relating to the renewal, revocation or transfer of an agency license, the agency shall not be required to surrender the certificate until the matter has been adjudicated and all appeals have been exhausted.

(F)~~(G)~~ Any agency whose license is suspended or revoked by the Director may request a hearing before the Director in accordance with the procedures set forth in § 124.11 of this chapter.

SECTION II: LMCO § 124.05, titled ARMED SECURITY OFFICER'S LICENSE, is hereby amended to read as follows:

(A) Each applicant for an armed security officer's license shall provide the following information on the application:

(1) Name, address, phone number, date of birth, and either social security number or a complete set of fingerprints.

(2) All prior residences for the last five years.

(3) Record of military service, if any.

(4) Any other information deemed necessary by the Director.

(B) To be eligible for an armed security officer's license issued by the Director, an applicant shall meet the following qualifications:

(1) Be a citizen of the United States;

(2) Be at least 21 years old;

(3) Not have been dishonorably discharged from any branch of the United States military;

(4) Not have been convicted of or currently under indictment for any of the following: a felony; illegally using, carrying or possessing a deadly weapon as defined in KRS 500.080(4); impersonation of a law enforcement officer or employee of the United States or any political subdivision thereof; the illegal use, sale or possession of a controlled substance as defined in KRS Chapter 218A; or any crime of moral turpitude. An applicant shall have satisfied this requirement, if in those instances where the foregoing offense was a misdemeanor, conviction occurred at least two years prior to application for the license; or, in those instances where the offense was a felony, the

applicant has been granted a pardon or has had his or her civil rights restored and has been specifically authorized to possess a firearm by means of relief granted by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1960, as amended;

(5) Have not been adjudged mentally incompetent or currently under charge thereof, by a federal court or court of any state or political subdivision, and if so adjudicated, such adjudication has been set aside for fraud or error;

(6) Have not been hospitalized for psychiatric treatment or for drug or alcohol abuse treatment within the past two years, and if so hospitalized, will provide a written statement from a licensed and qualified physician or clinical psychologist verifying that he or she is mentally and emotionally fit for the duties of an armed security officer;

(7) Have successfully completed an approved training course in conformity with § 124.08 of this chapter.

(C) Applicants who reside in Kentucky shall be required to hold a valid license to carry a concealed deadly weapon ("CCDW") pursuant to KRS 237.110. The Kentucky applicant must provide proof from the Commonwealth of Kentucky that he or she has a valid CCDW, and shall continue to hold such license at all times licensed as an Armed Security Officer. Applicants who reside outside of Kentucky shall attest that he or she has never been adjudged mentally incompetent in an affidavit form provided by the Director.

(D) Within 30 days after receipt of all information necessary for the completion of the application, the Director shall either issue a license to the applicant or notify the applicant of the denial of the license application. Failure by the applicant to provide the

necessary application information required by this chapter within 14 days of notice of such deficiency by the Director shall result in denial of the application.

(E) The Director shall issue a license to any applicant who meets the qualifications set forth herein; however, the Director shall deny a license to any applicant upon a finding by the Director of any of the following:

(1) The applicant individual has committed any act, which if committed by a licensee, would be grounds for the revocation or suspension of a license under this chapter;

(2) That while unlicensed, an applicant knowingly and willfully provided services as an armed security officer;

(3) The applicant made a material misstatement or omission in the application for a license.

(F) The Director shall issue a license to any applicant who meets the qualifications set forth in subsections (A) and (B) of this section and who presents to the Director satisfactory evidence of permanent employment with a licensed agency or registered company provided, that the applicant:

(1) Has a minimum of one year's experience as an armed law enforcement officer with local or state government or with United States military, said experience occurring within three years prior to the date of application for the license;

(2) Has successfully completed a course from a training program recognized by the Director as being satisfactory and meeting the curriculum and testing requirements as set forth in § 124.08; or

(3) At the time of application for the officer's license has been commissioned under the provisions of KRS 61.900.

(G) No license issued to an armed security officer in accordance with the terms of this chapter shall be transferable to another individual.

(H) Persons who, at the time of their employment as armed security officers, are also sworn police officers in good standing of any unit of local government and who have completed within one year of their employment as sworn police officers a basic training course of at least 400 hours duration at a school certified or recognized by the Kentucky Law Enforcement Council are not required to be licensed by the Director in order to perform as armed security officers. Nothing herein shall relieve any agency or company, which employs sworn police officers as armed security officers from its responsibility to comply with the insurance provisions as set forth in § 124.04 of this chapter. Nothing herein shall be construed to exempt from the licensing requirements of this chapter any armed security officer who is specially commissioned as a peace officer pursuant to KRS 61.360, KRS 61.900 or KRS 95.160.

(I) The Director may suspend or revoke any license issued under this chapter if it is found that the licensee has:

(1) Made any false statement or given any false information in connection with a request for a license under this chapter;

(2) After issuance of a license, becomes ineligible or failed to meet the requirements of this chapter to be an armed security officer;

(3) The authority conferred upon an armed security officer by a license under this chapter shall cease immediately upon suspension or revocation of such license; or

(4) Upon the suspension or the revocation of any armed security officer's license, the Director shall provide written notice to the agency or company employing the individual of the suspension or revocation. The notice shall advise the agency or company that further employment of that individual is violative of this chapter and shall set forth the penalties for such violation.

(J) Any armed security officer whose license is suspended or revoked by the Director may request a hearing before the Director in accordance with the procedures set forth in § 124.11 of this chapter. Each license issued to an armed security officer shall be surrendered to the Director within 72 hours after it has been suspended, revoked or denied.

SECTION III: This Ordinance shall take effect 90 days after its passage and approval.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

Greg Fischer
Mayor

12/8/17
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

LOUISVILLE METRO COUNCIL
READ AND PASSED
November 30, 2017

BY: Sarah J. Martin

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