

§ 4-32 Private Traffic Control Officers; Permit Required.

(a) This section applies to any person who directs traffic on, onto, from or in any public way located within the City and:

(1) Is not a sworn law enforcement officer employed in a law enforcement capacity on a full-time basis by the Carmel Police Department, or

(2) Is not then engaged in the construction, repair or maintenance of a public street or highway, a public right-of-way or a public utility, nor then involved in the direction of a funeral procession, or

(3) Is not then responding to a bonafide public emergency situation (e.g., a power outage or flooded street) or serving as an unpaid volunteer at a temporary festival or event sponsored by a community, charitable or not-for-profit entity.

Each such person being hereinafter referred to as a "Private Traffic Control Officer", as well as to any person, business or entity who employs or uses any person or persons to direct traffic on, onto, from or in any public way, as that term is defined in I.C., § 36-8-1-10 ("Public Way"), within the City's corporate limits.

(b) It is hereby declared to be unlawful for any person, business or entity to employ or permit any person to direct traffic on, onto, from or in any public way without first obtaining a private traffic control location permit ("Location Permit") for such location.

(c) It is hereby declared to be unlawful for any person to serve as a private traffic control officer within the City's corporate limits without first obtaining a private traffic control officer permit ("Permit").

(d) Anyone desiring to have a person or persons direct traffic on, onto, from or in any public way located within the City limits ("Location Applicant") shall complete and submit to the Carmel Police Department a written private traffic control application form, along with all required attachments thereto ("Location Application"), for each such location.

(e) Upon receipt of a location application, the Chief of Police shall consult with the City Engineer regarding the proposed private traffic control location and shall then, in his sole discretion, issue a written decision approving or denying the location application within 30 calendar days from the date on which the location application was received. This decision shall be served on the location applicant and shall be final unless appealed in writing to the City of Carmel Board of Public Works and Safety ("Board") within ten calendar days from the date on which the decision was served on the location applicant. If no decision is timely made by the Chief of Police, the location application shall be deemed approved.

(f) A location application shall be approved unless:

(1) It is incomplete or inaccurate as submitted,

(2) The location, date(s), time(s) and/or proposed method of routing traffic set forth in the location application may, in the opinion of the Chief of Police, adversely affect traffic flow or the effectiveness of affected automatic traffic signals or signage, create traffic congestion so as to allow easier access to one business or facility while making access to nearby buildings or

facilities more difficult, or heighten the danger to pedestrian, vehicular traffic and/or public safety, at or near said location.

(3) All other conditions precedent to the issuance of a location permit have not been met.

(g) The location application shall contain, at a minimum:

(1) Information sufficient to identify the location applicant and that the location applicant is authorized to conduct business in the City.

(2) The specific location, date(s) and time(s) when the location applicant will employ or permit a private traffic control officer to direct traffic, and a diagram indicating how the private traffic control officer will route traffic on, onto, from or in any public way at such location.

(h) The location application shall be signed by the location applicant under oath and that signature notarized by a Notary Public.

(i) Anyone desiring to serve as a private traffic control officer shall complete and submit to the Carmel Police Department a written private traffic control officer application form, along with all required attachments thereto ("Application").

(j) Upon receipt of an application, the Chief of Police shall promptly investigate the character of the applicant ("Applicant") and confirm the information set forth on the application. He shall then, in his sole discretion, issue a written decision approving or denying the application within 30 calendar days from the date on which the application was received. This decision shall be final unless appealed in writing to the Board within ten calendar days from the date on which the decision was served on the applicant. If no decision is timely made by the Chief of Police, the application shall be deemed approved.

(k) An application shall be approved unless:

(1) It is incomplete or inaccurate as submitted,

(2) It appears from the application or investigation that the applicant is not a person of good moral character with a good reputation for honesty and integrity, or

(3) All other conditions precedent to the issuance of a permit have not been met.

(l) The application shall contain, at a minimum, the following information:

(1) A list of all felony and misdemeanor convictions of the applicant or a statement that no such convictions exist.

(2) A copy of the applicant's limited criminal history, obtained by the applicant at his/her own expense pursuant to I.C., § 5-2-5-5.1.

(3) Proof that the applicant knows the proper and lawful techniques of traffic control in situations that may occur while he/she is working as a private traffic control officer.

(4) The permit fee, which shall be returned to the applicant if the permit is denied.

(m) The application shall be signed by the applicant under oath and that signature notarized by a Notary Public.

(n) Any permit/location permit issued pursuant to this section shall be valid for one year from the date of its issuance, unless earlier revoked or suspended pursuant to this section, and shall be valid only for the private traffic control officer to which, or the location for which, it was originally issued.

(o) If the decision of the Police Chief regarding a permit/location permit is timely appealed, such appeal shall be heard by the Board, at a public hearing, within 30 days from the date the Board receives notice of the appeal. The Board shall decide, in writing, and within 15 days from the date of such hearing, whether the decision of the Chief of Police should be upheld. The decision of the Board is final and binding upon the applicant/location applicant and the City. If no appeal hearing is timely held or a Board decision following such hearing is not timely made, the application/location application at issue shall be deemed approved.

(p) In the event a permit/location permit holder's circumstances change so as to make the information contained in his/her application/location application inaccurate or incomplete ("Changed Circumstances"), such person shall, within five calendar days from the date of such changed circumstances, inform the Chief of Police of same, in writing. Based on this information, the Chief of Police may suspend the permit/location permit of any such permit holder and shall promptly and in writing notify the City Attorney and the permit holder of such action. No permit suspension shall be effective for more than 30 calendar days unless, within that suspension period, the permit holder is provided an opportunity to be heard thereon by the Board at a public hearing and the Board determines that the permit/location permit suspension should continue beyond 30 days or that the matter should be otherwise resolved. At the end of such 30-day time period, if no decision has been made regarding a suspended permit/location permit, and absent the permit holder's consent to a longer review period, the permit/location permit suspension shall be deemed to have ended or that the matter should be otherwise resolved.

(q) Any permit/location permit issued to any person, business or entity who fails to timely provide the Chief of Police with written notice of his/her changed circumstances may, upon the City's discovery of same, be immediately suspended pending a revocation hearing before the Board. The Board shall hold a public hearing thereon within 30 days of the date of such suspension and shall determine whether the permit/location permit should be revoked or the matter otherwise resolved. At the end of this 30-day time period, if no decision has been made regarding the suspended permit/location permit, and absent the permit holder's consent to a longer review period, the suspension of the same shall be deemed to have ended.

(r) In addition to the permit/location permit suspension and/or revocation provisions contained elsewhere in this section, the Board may suspend or revoke any permit/location permit on account of the permit holder's serious or repeated violations of law, for his/her violation of the civil rights of any person, if the City becomes aware of circumstances which indicate that the use of a private traffic control officer at a location has created one or more of the permit non-approval factors set forth in subsection (f)(2) above, or for any violation of this section. No such permit/location permit revocation shall take place hereunder without first affording the permit holder an opportunity to contest such revocation at a public hearing before the Board and the revocation is upheld by written decision of the Board.

(s) At any hearing held before the Board pursuant to this section, both the City and the applicant/permit holder shall be given an opportunity to present their case, to confront and cross-examine witnesses, and to be represented by an attorney at their own cost and expense.

(t) Each permit issued to a person pursuant to this section shall have a fee of \$10, except that permits issued to employees or contractors of the Carmel-Clay School Corporation who are seeking to control traffic only for, and on behalf of, the Carmel-Clay School Corporation, shall have no fee required. Each location permit issued pursuant to this section shall have a fee of \$500, except that location permits issued to instrumentalities of the City, the State of Indiana, or the United States of America, to Indiana school corporations and/or to Indiana not-for-profit corporations shall have no fee required.

(u) Any person who violates any provision of this section shall be fined not more than \$500 for each such offense, each day in which a violation exists constituting a new offense.

(Ord. D-1673-04, 2-16-04; Ord. D-1694-04, 3-15-04)