



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

PRIVATE SECURITY OPERATING IN PUBLIC SPACE (POLICY NUMBER 60042)

**APPROVED BY COUNCIL : 05 DECEMBER 2019
C15/12/19**

POLICY FOR PRIVATE SECURITY OPERATING IN PUBLIC SPACE

Reference Code 60042

Document Control:

Director/Manager Responsible	Director: Law Enforcement, Traffic and Coordination
Version Number	
Status	Approved
Next Review Date	
Previous Review Date	
Contact Details	

DEFINITIONS AND ABBREVIATIONS

Chief: Law Enforcement	means the head of the City's Law Enforcement Department which forms part of the City's Safety and Security Directorate
City	means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) , or any structure or employee of the City acting in terms of delegated authority
Command and control	means the exercise of authority and direction by a properly designated commanding officer over subordinate safety and security officers
City Improvement District	means an area where additional rates liability is imposed exclusively on owners i.e. Special Rating Areas (SRA). This includes residential, business and industrial zoned properties
Handgun	means a pistol or revolver which can be held in and discharged with one hand as defined in the Firearms Control Act, 2000 (Act No. 60 of 2000)
Private Security Industry	means the industry conducted by security service providers as defined in the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001)
Private Security Officer	means an employee of the private security industry who is tasked with the performance of security services as defined in the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001)
Public Space	means any land which is owned by an organ of State where the public has a common right of use and is, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture

Acronyms

CID	City Improvement District
IDP	Integrated Development Plan
ODTP	Organisational Development and Transformation Plan
PSIRA	Private Security Industry Regulatory Authority
SAPS	South African Police Service

1 PROBLEM STATEMENT

The City Improvement District model is aimed at preventing the degeneration of cities and the consequential urban decay. It facilitates urban upliftment, economic growth and sustainable development by enhancing and supplementing the delivery of municipal services and by facilitating investments. As such, the City Improvement Districts (CIDs) inter alia performs a vital public safety function which is achieved through the contracting of Externally Funded Law Enforcement and Traffic Officers, the contracting of private security service providers and other initiatives.

The City has, in terms of Section 11(3) of its Special Rating Area By-Law, 2012, an oversight responsibility in respect of CIDs. This oversight responsibility extends to private security service providers contracted by CIDs for purposes of deployment in public spaces. In order for the City to effectively perform its oversight function in this regard, it is necessary that adequate procedures be put in place for implementation by the Directorate Safety and Security.

The City obtained a legal opinion in 2016 on its potential liability in the event that a registered, duly qualified security officer employed by a private security service provider that is appointed by a CID wrongfully kills or injures a person on public property. This legal opinion made it clear that the City *“could face direct liability for negligent breach of a legal duty to take reasonable steps to ensure that a CID itself takes reasonable steps to prevent employees of a private security service provider appointed by a CID from causing harm to members of the public”*. It is therefore of the utmost importance that the City establishes what specific actions would represent such “reasonable steps”, formally adopt these as policy and ensure that the steps are implemented.

2 DESIRED OUTCOMES

- 2.1** The Directorate Safety and Security has identified what it regards as reasonable steps the City should take to strengthen its oversight of CIDs in respect of private security service providers contracted by CIDs and deployed in public spaces for purposes of performing a public safety function. It is expected that these procedures will establish the required level of oversight and thereby contribute to the prevention of harm or injury to members of the public that may be caused by security officers whose chief responsibility it is to provide a safety service in public spaces.

3 STRATEGIC ALIGNMENT

- 3.1** The expansion of the Directorate's oversight in respect of private security deployed in public spaces aligns with IDP programme 2.3 "Policing Service Programme".
- 3.2** **ODTP priority number 3- promoting safe communities** by deploying a comprehensive response to crime and violence and partnering with communities and other agencies in deploying dedicated resources for targeted interventions.

4 REGULATORY CONTEXT

- 4.1** Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 4.2** Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);
- 4.3** Firearms Control Act, 2000 (Act No. 60 of 2000);
- 4.4** South African Police Service Act, 1995 (Act No. 68 of 1995);
- 4.5** Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- 4.6** Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- 4.7** City of Cape Town: Municipal Planning By-Law, 2015;
- 4.8** City of Cape Town: Special Rating Area By-Law, 2012;
- 4.9** City of Cape Town: By-law relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007;
- 4.10** City of Cape Town: Informal Trading By-Law, 2009; and
- 4.11** City of Cape Town: Supply Chain Management Policy.

5 POLICY PARAMETERS

- 5.1** This policy applies to all relevant stakeholders, including private security officers that are employed by CIDs and deployed for the specific purpose of delivering a safety function in public spaces, the CIDs who contracts the private security service providers and are required to ensure compliance to this policy, the Office of the Director: Law Enforcement, Traffic and Coordination who will collaborate with the CIDs in ensuring that the private security service providers complies with the prescripts of this policy as well as the City's Civilian Oversight Committee who exercises an oversight function in respect of the City's three policing departments.

6 ROLEPLAYERS AND STAKEHOLDERS

- 6.1** CID
- 6.2** Relevant S79 Portfolio committee
- 6.3** Private security service providers contracted by the CIDs to provide security services in line with the City's policies and by-laws
- 6.4** Director: Law Enforcement, Traffic and Coordination
- 6.5** The Executive Director for Safety and Security
- 6.6** The Civilian Oversight Committee

7 DUTIES OF PRIVATE SECURITY OFFICERS

For purposes of providing context to this policy, it is necessary that cognisance be taken of the fact that the services to be performed by private security service providers are stipulated in the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) and include the following:

- a) protecting or safeguarding a person or property in any manner;
- b) giving advice on –
 - i) the protection or safeguarding of a person or property;
 - ii) any other type of security service as defined in Chapter 1 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001); or
 - iii) the use of security equipment;
- c) providing a service aimed at ensuring order and safety on the premises used for sporting, recreational, entertainment or similar purposes;
- d) installing, servicing or repairing security equipment;
- e) monitoring signals or transmissions from electronic security equipment subject to the relevant legislation and to the City's Regulation of External and Privately Owned CCTV Cameras on City Property Policy; and
- f) managing, controlling or supervising the rendering of any of the services referred to above.

Additional functions that private security service providers who are operating in public spaces might be required to perform, are:

- a) Conducting foot and vehicle patrols of public spaces within the CID area in order to attend to incidents and accidents and to identify, monitor and report disorder and violations of City by-laws to the relevant CID;
- b) Effectively communicate with the City's Safety and Security Directorate, SAPS, the local Community Policing Forum and any Neighbourhood Watch operating in the area, when required;
- c) Reporting hazardous street conditions to the relevant CID who will bring same to the attention of the relevant City departments;
- d) Monitor suspicious, violent and or dangerous behaviour and report such to the CID control room;
- e) Monitoring street vendors to ensure public safety, and reporting violations of relevant City by-laws to the relevant CID who will bring same to the attention of the relevant City departments;
- f) Ensure that all crime and or accident scenes are cordoned off until the SAPS and Traffic Services arrive;
- g) Assist City Law Enforcement agencies and the SAPS with matters relating to performing a public safety function;
- h) Conduct visits to specific hot-spot areas as identified by the CID; and
- i) Perform citizen's arrests in accordance to the prescripts of Section 42 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

8. POLICY DIRECTIVES

8.1 Sufficient control of private security officers

As indicated in the Problem Statement of this policy, the City's oversight responsibility in respect of CIDs extends to private security service providers contracted by CIDs for purposes of deployment in public spaces. The City's Safety and Security Directorate therefore requires that CIDs ensure that private security service providers appointed by them maintain an acceptable level and control of their employees. In order to achieve this, the Directorate will seek the active cooperation from CIDs in respect of the implementation of this policy.

8.2 Adherence to PSIRA

Private security service providers are required to adhere to the prescripts of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001) at all time. Cognisance is taken of the fact that the Private Security Industry Regulatory Authority (PSIRA) is responsible for oversight in respect of the private security industry and conduct inspections at the working environment of private security officers from time to time as a means of exercising such oversight.

However, on receiving a complaint or suspecting for some other reason that a private security service provider who deploys its staff in public spaces are non-compliant to any stipulation of the Private Security Industry Regulation Act, 2001 (56 of 2001), the Firearms Control Act, 2000 (Act No. 60 of 2000) or any other applicable legislation, City by-laws or regulation, the City will request the relevant CID to conduct a preliminary inspection within the immediate work environment of the private security service provider and report on its findings. The following will apply to such inspections:

- a) The purpose of the inspection will be to determine whether the allegation of non-adherence to legislative prescripts can be substantiated.
- b) The inspections may be scheduled inspections or can be unannounced.
- c) An inspection report must be prepared by the relevant CID and submitted to the Director: Law Enforcement, Traffic and Coordination. If the CID finds that remedial steps are required, the inspection report should include a description of such remedial steps the CID will require the private security service provider to take.
- d) If the City determines that additional remedial action is required, the relevant CID will, in conjunction with the Office of the Director: Law Enforcement, Traffic and Coordination, determine the additional remedial action that needs to be taken by the private security service provider in question in response to any transgression of the policy or any matter arising from the inspection report. The remedial action may include but is not limited to the following:
 - (i) Revising the deployment plan of the private security service provider;
 - (ii) Removing an individual staff member of the private security service provider and replacing them with another staff member;
 - (iii) Instituting disciplinary procedures against a staff member of the private security service provider;

- (iv) Ensuring that staff members of the private security service provider are adequately equipped and trained to perform their duties; or
- (v) Require that the level of service delivery by the private security service provider, be improved to an acceptable standard
 - e) The required remedial action will be communicated to the private security service provider without delay by the relevant CID who will request that the private security service provider effect such remedial action on an urgent basis.
 - f) The relevant CID will be required to monitor the implementation of the remedial action to be implemented by the private security service provider and progress on such remedial action are to be reported to the Director: Law Enforcement, Traffic and Coordination by the CID.
 - g) If adequate remedial actions are not taken within 48 hours of it being communicated to the private security service provider in question, the CID will take steps it deems to be appropriate which may include that the conduct in question be reported to PSIRA. The CIDs course of action should be reported to the Director: Law Enforcement, Traffic and Coordination.
 - h) The Executive Director for Safety and Security reserves the right to report any non-adherence to any applicable legislation or any form of wrongful conduct to PSIRA if it is deemed to be necessary.

8.3 Minimum security qualification requirement

The minimum security qualification requirement for private security employees of companies appointed by CIDs to perform security functions in public spaces is a fully qualified security officer in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001).

8.4 The use of firearms

8.4.1 It is accepted that the City and SAPS have a crime prevention function and that this function cannot be outsourced to private security. It is also not the City's intention to do so. Employees of security companies that are appointed by CIDs for deployment in public spaces will be performing a public safety function and will therefore be required to only perform security services that can be regarded as such a function.

8.4.2 As the use of firearms is not required for purpose of rendering the above mentioned services, no private security officer employed by a security company that is appointed by a CID for the delivery of a security service in a public space, shall carry a handgun **for purposes of delivering such a service.**

8.4.3 The City is, however, cognisant of the prevailing security situation in South Africa and the fact that private security officers are exposed to risk, especially when they are deployed in high crime areas. To this end, the City recognises that, in certain circumstances, a need may exist for private security officers performing security functions in public spaces, to carry firearms **for purposes of protecting themselves** against violent threats. It is therefore permissible for private security officers to carry a handgun in public spaces in cases where an express need for it can be demonstrated as required in terms of clause 8.4.4(b). The right of every person

who are in lawful possession of a firearm, to use that firearm in a lawful manner when his/her life or the life of another person is in danger, is acknowledged.

8.4.4 Private security service providers, who wish to issue selected members of their staff with a handgun for the exclusive purpose of self-protection while providing security services in public spaces, are required to submit the following information to the Office of the Director: Law Enforcement, Traffic and Coordination via their client CID:

- a) a description of the public space/s where these members will be required to deliver security services;
- b) an explanation of why such a measure is required; and
- c) confirmation that the criteria set out in the next clause 8.5 are being complied with.

The relevant CID is required to indicate whether it supports the request. The Office of the Director: Law Enforcement, Traffic and Coordination will keep proper record of the submissions from the private security service providers and the relevant CIDs position on whether it supports the particular request for the deployment of armed security officers at public spaces.

The private security service provider can proceed with the deployment of armed security officers in cases where the relevant CID indicated its support for such deployment and have duly communicated this position to the Office of the Director: Law Enforcement, Traffic and Coordination.

8.5 Criteria to be complied with in respect of the use of firearms

8.5.1 The following criteria will have to be met before the relevant CID should support the request of a private security service provider to deploy members in public spaces who will be carrying a handgun for purposes of self-protection:

- a) The private security officer should be a fulltime employee of the private security service provider;
- b) The private security officer should be a South African citizen;
- c) The private security officer needs to be registered at least as a C Grade officer with PSIRA;
- d) The private security officer has to be in possession of an Armed Response training certificate to indicate that he has successfully completed the said training;
- e) The private security officer needs to have a valid South African Police Service Competency Certificate as per Section 14 of the Firearms Control Act, 2000 (Act No. 60 of 2000);
- f) The security officer is required to attend and pass an annual mandatory firearm refresher course and assessment applicable to the use of handguns, that includes a live fire shooting exercise and a lecture pertaining to the Firearms Control Act, 2000 (Act No. 60 of 2000);
- g) All handguns are booked out in an official numbered register kept by the private security service provider as required in terms of Section 20 of the Firearms Control Act, 2000 (Act No. 60 of 2000). The register is to be made available for inspection by the CID

and the Office of the Director: Law Enforcement, Traffic and Coordination when required;

- h) All private security officers that are issued with a handgun receive an authorizing permit issued by the private security service provider, stating that the officer may be in possession of the handgun for purposes of protecting themselves. This permit is to be carried on the person of the security officer whilst on duty and must be presented for inspection to the CID or the Office of the Director: Law Enforcement, Traffic and Coordination when required;
- i) The permit is to be withdrawn by the private security service provider if the private security officer fails to pass the assessment referred to in (f) or is found not to be competent to carry a handgun for any other reason.
- j) If the private security officer is issued with a pistol, the firearm will be carried with a loaded magazine locked in place but with no round in the chamber, thus requiring the firearm's slide to be racked before it could be fired;
- k) If the private security officer is issued with a revolver, the firearm will be carried with rounds inserted into the cylinder, the cylinder locked into place and the hammer forward.
- l) The handgun is placed in a holster that conforms to all specifications as stated in the Firearms Control Act, 2000 (Act No. 60 of 2000);
- m) The handgun has a retention cable fixed to its rear as additional security measure for firearm retention; and

8.6 Additional requirements

The following additional requirements are to be met by private security service providers operating in public spaces:

8.6.1 No security officer may impede in any way on the operations of a road.

8.6.2 No unauthorised facilities to accommodate security officers may be built on road reserves.

8.6.3 No private security officer may impede or prohibit a member of the public from accessing or using a public space, other than to protect a member of the public from a direct health or safety threat.

8.6.4 The private security service provider must, in accordance to the service standards applicable to the private security industry, obtain public liability insurance at its own cost commensurate with the risks associated with rendering the services to the ratio of R5 000 000 per 300 security officers in order to cover any claim that may stem from any action performed by their officers.

9 IMPLEMENTATION PROGRAMME

9.1 This policy will be implemented once approved by Council.

9.2 The Directorate Safety and Security will bring the revised policy to the attention of all City Improvement Districts, City departments and other role players.

9.3 The Director: Law Enforcement, Traffic and Coordination will task a senior staff member in his/her office to ensure compliance to this policy.

10 MONITORING AND EVALUATION

The Office of the Director: Law Enforcement, Traffic and Coordination will prepare quarterly reports on all aspects pertaining to the implementation of this policy for submission to the Safety and Security Directorate's Civilian Oversight Committee, and to the relevant section 79 Portfolio committee. This report will contain the following information on the public spaces:

- a. The number of complaints received regarding suspected violations of the PSIRA Act and a description of the outcomes of resulting inspections conducted by the relevant CID;
- b. An indication of where security officers carry handguns for purposes of self-protection as provided for in this policy;
- c. A description of any incidents that may have involved the use of firearms carried by private security; and
- d. Any other additional information that may be required by the Civilian Oversight Committee for purposes of performing their oversight function.