NOTICE OF PUBLIC HEARING

CITY OF PATTERSON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, REVISING TITLE 10 OF THE PATTERSON MUNICIPAL CODE TO ADD CHAPTER 10.42 FUNERAL PROCESSIONS

(FUNERAL PROCESSION ESCORTS)

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City Council of the City of Patterson (the "City") at its next regularly scheduled meeting on Tuesday, March 1, 2016 at 7:00 p.m. at Council Chambers: 1 Plaza, Patterson, California 95363 to consider the adoption of an ordinance (the "Ordinance") revising Title 10 of the Patterson Municipal Code to add Chapter 10.42 Funeral Processions (Funeral Procession Escorts). If approved by a majority vote of the City Council, the Ordinance will become effective 30 days after adoption.

NOTICE IS ALSO HEREBY GIVEN that this document including the Ordinance is available for public review at the City of Patterson City Hall, City Clerk's Office during normal business hours, and on the City of Patterson web site www.ci.patterson.ca.us under Popular Links; Legal Notices & Public Hearings and Agenda Center, City Council Agenda of March 1, 2016. The City of Patterson City Hall is located at 1 Plaza, Patterson, California. All interested parties are invited to review these documents prior to the March 1, 2016 Public Hearing.

ALL INTERESTED PARTIES are invited to attend the hearing and express opinions or submit evidence for or against the proposed Ordinance as described above. At the above noted time and place, testimony from interested persons will be heard by the City Council and duly considered prior to taking action on the above proposed Ordinance. Any material submitted to the City Council for consideration (photographs, petitions, letters, etc.) will be retained by the City and cannot be returned. Upon request, the agenda and the documents in the hearing agenda packet can be made available to persons with a disability. In compliance with the Americans with Disabilities Act, the City of Patterson encourages those with disabilities to participate fully in the public hearing process. Any person requiring special assistance to participate in the meeting should call voice (209) 895-8014 or (209) 895-8010 at least forty-eight (48) hours prior to the meeting. If a challenge to the above proposed actions is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council.

FURTHER INFORMATION regarding the described above may be obtained at the City of Patterson City Hall, City Clerk's Office, 2nd Floor, or by calling (209) 895-8014 or by email cityclerk@ci.patterson.ca.us

BY ORDER OF THE CITY COUNCIL OF THE CITY OF PATTERSON.

DATES ADVERTISED: February 18, 2016
February 25, 2016

Maricela Vela, City Clerk
City of Patterson, City Hall, Administration Department
1 Plaza, 2nd Floor
Patterson, CA 95363
Direct No. 209-895-8014
Email: cityclerk@ci.patterson.ca.us
Web Site: www.ci.patterson.ca.us

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, REVISING TITLE 10 OF THE PATTERSON MUNICIPAL CODE TO ADD CHAPTER 10.42 FUNERAL PROCESSIONS

WHEREAS, the City Council ("Council") for the City of Patterson ("City") recognizes that escorting funeral processions through the City provides respect and decorum for members of the community; and

WHEREAS, the Council is aware that the failure to provide traffic control and escort services for funeral processions has resulted in frustration for members of the community; and

WHEREAS, Vehicle Code Section 21100(e) allows individuals to regulate traffic where that individual has undergone instruction in traffic control procedures approved by local law enforcement; and

WHEREAS, Vehicle Code Section 2817 makes it an infraction to disobey signals or directions from a uniformed police officer conducting a funeral escort; and

WHEREAS, the Council finds that it is important to establish regulations and permitting requirements for individuals conducting traffic control while escorting a funeral procession within the City to protect the health, safety and welfare of the community.

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

Title 10 of the Patterson Municipal Code shall be amended to add Chapter 10.42 Funeral Processions, which shall read as follows:

10.42.010 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 chapter to use the power, conferred on the city, pursuant to California Vehicle Code Section 21100(e), to appoint persons other than traffic officers to direct and regulate traffic for a funeral procession.

10.42.020 Funeral procession definition.

"Funeral procession" means a group of two (2) 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.

"Permittee" means the person to whom a funeral escort permit is issued.

10.42.030 Permit required for private funeral escorts.

Motor vehicle funeral processions may be led or escorted by private escorts within the city 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.

10.42.040 Rules governing funeral procedures.

A. Each vehicle participating in a funeral procession shall be operated with its headlights and, if so equipped, its emergency flashers, turned on.

B. No operator of any vehicle shall drive between the vehicles comprising a funeral procession, provided that vehicles comprising such procession are conspicuously so designated by having their headlights and, if so equipped, emergency flashers turned on.

C. The directing of all vehicles and traffic on any street over which such funeral procession or parade wishes to pass shall be subject to rules and regulations promulgated by the police department.

10.42.050 Authorized traffic direction.

A. 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:

1. Stop signs or yield signs, providing that the permittee remains in the intersection until all funeral procession vehicles have cleared the intersection; and

2. 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.

B. A permittee is authorized to direct traffic in the manner specified in this section only while using any equipment authorized by the chief of police for this purpose and while carrying a valid funeral escort permit on the permittee's person.

C. 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.

10.42.060 Official insignia.

The chief of police shall approve an official insignia and any equipment, which shall be used by all permittees while directing traffic in the manner specified in Section 10.42.050. The chief of police shall also approve vehicular equipment regulations including a color or insignia scheme.

10.42.070 Regulations.

A. 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, motor vehicles, and equipment used in escorting funeral processions.

B. Such regulations shall be binding upon applicants and permittees. Permittees shall comply with these written regulations as a term and condition of the permit.

10.42.080 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 a service;

2. Proof of liability insurance in compliance with this chapter;

3. 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;

4. Proof of satisfactory completion of a traffic safety program of instruction, as described in Section 10.42.180;

5. Proof that the vehicle to be used in the course of conducting escorts has been inspected by the police department to insure that it meets the equipment and safety requirements as set forth by the police department;

6. An indemnification and hold harmless agreement as set forth in Section 10.42.170 of this chapter signed by the applicant and if the applicant is employed by a funeral service escort provider, the applicant's funeral escort service employer;

7. Permit and insignia fees, as established by resolution of the city council;

8. Such other information as may be required by the chief of police.

B. If all the requirements for approval of a funeral escort permit are met, then the chief of police shall issue a permit within fourteen (14) days of submission of the completed application.

10.42.090 Nontransferability of permits and expiration.

Funeral escort permits shall be issued by the chief of police, or 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.

10.42.100 Permit fee schedule

At the beginning of each fiscal year, the chief of police shall prepare a funeral escort permit fee schedule, to be approved by the city manager, which sets forth the charges for all city services required to be utilized in connection with any funeral escort permitting services.

10.42.110 Fee exemption for volunteers.

Funeral escort permit applicants who will provide funeral procession escort services on a volunteer basis are exempt from paying the permit and insignia fees, as established by resolution of the city council.

10.42.120 Permit renewal procedures.

A permittee seeking renewal of his or her funeral escort permit shall meet all the requirements of this chapter applicable to first time applicant in order to obtain a renewal of the funeral escort permit.

10.42.130 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 (3) 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.

10.42.140 Notice of decision to deny, suspend, or revoke permit.

A. Upon determining the existence of any of the grounds for denial, suspension, or revocation in accordance with Section 10.42.130 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.

B. 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.

C. 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 10.42.150 of this chapter.

10.42.150 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 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 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.

10.42.160 Decision of the chief of police after hearing.

Within twenty (20) days after the hearing, the chief of police, or 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.

10.42.170 Indemnification.

A. The funeral procession escort permittee on a form acceptable to and approved by the city attorney shall assume all risk associated with the activity of escorting funeral processions and agrees not to sue the city, its elected and appointed councils, boards, commissions, officers, officials, volunteers, agents, employees and representatives for loss or damages suffered by the funeral escort permittee, its agents or successors, arising out of or in connection with any funeral procession escort services conducted by the funeral procession escort permittee or claims by the funeral procession escort permittee or any other person or persons for personal injuries or property damage arising out of or incidental to the funeral procession escort services.

B. In the event that a person or entity brings a claim, action, or proceeding that arises from the funeral procession escort services or any work performed in conjunction with the funeral procession escort services, the funeral procession escort permittee will indemnify, defend and hold harmless the city, its elected and appointed councils, boards, commissions, officers, officials, volunteers, agents, employees and representatives from and against any and all claims, demands, costs, expenses of whatever nature, including court costs, attorney fees, and expenses of litigation awarded to the prevailing party or parties. The city may elect to tender its own defense to any action and receive reimbursement from the funeral procession escort permittee for any costs or expenses it accrues as a result of that defense.

10.42.180 Liability insurance.

A. Insurance shall be in amounts, form, and insurers acceptable to city attorney, but shall have the following minimum requirements

B. During the term of a permit issued pursuant to this chapter, the permittee or his or her funeral escort service employer, should permittee be employed by such a funeral service provider, shall maintain in full force and effect at the permittee's or his or her employer's own cost a comprehensive auto and general liability insurance policy:

1. In an amount not less than two million dollars ($2,000,000.00) 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 10.42.170 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.

C. In the event of failure of any permittee to maintain in effect the required insurance policy or policies, 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 with proof of insurance as required by this section.

10.42.190 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.

10.42.200 Private processions must obey traffic laws.

Persons participating in private funeral processions or other processions within the city without police escort must obey all state and city traffic laws, except as specifically authorized by this chapter.

This Ordinance shall be published by one insertion in The Patterson Irrigator, a newspaper of general circulation, printed and published in the City of Patterson, within fifteen (15) days after its final passage, and shall take effect and be in force thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the XX day of XXXX, 20XX, and given its first reading and introduction at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the XX day of XXXX, 20XX, and after such reading, Councilmember XXXX, who moved its adoption, seconded by Councilmember XXX, and said ordinance was thereupon adopted by the following vote:

AYES:

NOES:
EXCUSED:

APPROVED:

_____
Luis I. Molina
Mayor of the City of Patterson

ATTEST:

_____
Maricela L. Vela
City Clerk of the City of Patterson

FUNERAL ESCORT PERMIT APPLICATION

City of Patterson
City Hall
1 Plaza
P.O. Box 667
Patterson, CA 95363

APPLICANT INFORMATION

Name		Date of Birth	
Home Address		Phone Number	
City, State		Zip Code	
CDL # and Class		Expiration	

FUNERAL ESCORT BUSINESS INFORMATION (if applicable)

Business Name		Phone Number	
Address			
City, State		Zip Code	

Number and type of funeral escort vehicles to be operated: _____

_____

_____

_____

BACKGROUND QUESTIONS

If you answer "Yes" to any of the questions in this section, for each incident, give the date of occurrence, the reason or offense charged, and the outcome or offense for which you were convicted.

1. Has your driver's license ever been revoked or suspended? _____

_____

_____

_____

2. Have you ever been cited for an accident while operating a motor vehicle? _____

_____

_____

_____

3. Do you have any mental or physical incapacity or infirmity of which you are aware which would in any way interfere with your duties or responsibilities as a Funeral Escort Permittee?

_____

_____

_____

4. Have you been convicted (including convictions by verdict, plea of guilty, or plea of nolo contendere) in the last five (5) years of any crime?

_____

_____

_____

ADDITIONAL REQUIREMENTS

The following items must be turned in with the application:

1. A copy of applicant's liability insurance as required under Patterson Municipal Code Section 10.42.170.

2. A copy of 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.

3. Proof of satisfactory completion of a traffic safety program – evidence of curriculum including instruction materials, skills taught and practiced, or an instructional program of traffic safety.

4. Proof that the vehicle to be used in the course of conducting escorts has been inspected by the police department to insure that it meets the equipment and safety requirements as set forth by the police department.

5. An executed indemnity and hold harmless agreement as provided by the city.

6. Permit and insignia fees, if applicable.

I understand that verification of the accuracy of the above information will be conducted. I further understand and agree that the information is a matter of public record and may be made available to interested parties upon request. I hereby certify under penalty of perjury that the above information on this form or any attachment is true and correct.

_____ _____

Signature Date

City of Patterson
City Hall
1 Plaza
P.O. Box 667
Patterson, CA 95363

FUNERAL ESCORT RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

THIS LIABILITY RELEASE AGREEMENT (the "Agreement") is entered into on this ____ day of _____, 20__, by and between the City of Patterson (the "City") and _____ ("Funeral Escort"). From time to time hereafter, the parties to this Agreement may be collectively referred to as the "Parties" and individually as a "Party".

1. Funeral Escort Obligations. Funeral Escort shall comply with all applicable local, state and federal laws, codes and safety procedures and requirements during all funeral procession escorting services.

2. Release of Liability. Funeral Escort assumes all risk associated with the activity of escorting funeral processions and agrees not to sue the City, its elected and appointed councils, boards, commissions, officers, officials, volunteers, agents, employees and representatives ("City's Agents") for loss or damages suffered by the Funeral Escort, its agents or successors, arising out of or in connection with any funeral procession escort services conducted by the Funeral Escort or claims by the Funeral Escort or any other person or persons for personal injuries or property damage arising out of or incidental to the funeral procession escort services.

3. Waiver of Claims. The Parties, and each Party, hereby agrees that the release set forth in Section 2 of this Agreement is a full and final release of all claims related to the terms of this Agreement. The Parties, and each Party, hereto agrees and acknowledges that they may hereafter discover facts different from or in addition to those they now know or believe to be true with respect to the matters released herein, and the Parties, and each Party, agrees that all of the terms of this Agreement shall and will remain effective in all respects, regardless of such different or additional facts which may be learned. The Parties, and each Party, understands and acknowledges that section 1542 of the California Civil Code speaks in terms of general releases. To the extent section 1542 may be applicable to specific or special releases, the Parties, and each Party, hereby expressly waives any and all rights such Party may have under section 1542 and any similar law of any other competent jurisdiction. Civil Code section 1542 provides:

> "1542. CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

The Parties specifically do not waive any continuing rights, duties or obligations unrelated to the subject of this Agreement, such as arising from a separate contract or agreement, and do not waive any claims arising from matters outside the scope of this Agreement, or other contract, relationship or obligation between the Parties.

4. Indemnity. In the event that a person or entity brings a claim, action, or proceeding that arises from the funeral procession escort services or any work performed in conjunction with the funeral procession escort services, the Funeral Escort will indemnify, defend and hold harmless the City, and City's Agents from and against any and all claims, demands, costs, expenses of whatever nature, including court costs, attorney fees, and expenses of litigation awarded to the prevailing party or parties. The City may elect to tender its own defense to any action and receive reimbursement from the Funeral Escort for any costs or expenses it accrues as a result of that defense.

5. Term. This Agreement shall continue in effect indefinitely, and may be revoked by Funeral Escort at any time upon the giving of ten (10) days written notice to the City Clerk.

6. Authority. The signatory below warrants and represents that it has the power and authority to bind Funeral Escort to the obligations herein and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to make the promises herein have been fully complied with.

THE SIGNATORY BELOW HAS CAREFULLY READ THIS WAIVER, RELEASE AND HOLD HARMLESS AGREEMENT AND FULLY UNDERSTANDS ITS CONTENTS. FUNERAL ESCORT VOLUNTARILY AGREES TO EACH OF THE TERMS AND PROVISIONS HEREIN AND SIGNS THIS WAIVER, RELEASE AND HOLD HARMLESS AGREEMENT OF ITS OWN FREE WILL.

_____ _____

(Print Name) (Date)

_____

(Signature) (Title)