

**ORDINANCE 2024-6 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN,  
AND STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 40 OF  
THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED “POLICE DEPARTMENT”**

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**WHEREAS**, the Township of Berlin (“Township”) is a municipal entity organized and existing under the law of the State of New Jersey and located in Camden County; and

**WHEREAS**, Chapter 40 of the Code of the Township of Berlin entitled, “Police Department” establishes the composition, chain of command, appointment and qualification, general powers and duties and other aspects of the Berlin Township Police Department; and

**WHEREAS**, it has been determined by the Mayor and Township Council that amendments to Chapter 40 are necessary to enhance the public safety and promote the general welfare and to make the Police Department more efficient and better able to deliver services to the Township and its residents; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and the Township Council of the Township of Berlin, as follows:

**SECTION 1:** Chapter 40 of the Code of the Township of Berlin entitled “Police Department” is hereby repealed in its entirety and replaced with a new Chapter 40 to read as follows:

**“CHAPTER 1**

**ESTABLISHMENT; MISSION AND PURPOSE**

**1:1** There is hereby established a Police Department in the Township of Berlin, County of Camden and State of New Jersey, pursuant to the provisions of N.J.S.A. 40A:14-118 et seq. These Rules and Regulations ratify the existence and operation of the police department, which has historically operated within and served the Township of Berlin.

**1:2** The mission and purpose of said police department is generally three-fold: to preserve life and property; to provide a general police service for the residents of the Township of Berlin; to enforce federal, state, county and municipal laws, statutes and ordinances; and as hereinafter may be more expressly defined.

**CHAPTER 2**

**COMPOSITION, JURISDICTION**

**2:1 The Department:** Said police department shall consist of Appropriate Authority, Chief of Police, Executive Assistant to the Chief of Police, Captain, Lieutenant, Sergeant, Detective, Patrol

Officer, Special Officer, and civilian employees as deemed necessary and appropriate by the Appropriate Authority in their discretion and judgment, with their approval, and as provided by ordinance.

**2:2 Jurisdiction:** Said police department shall come under the jurisdiction of the Appropriate Authority, which position is established pursuant to N.J.S.A 40A:14-118. Said Appropriate Authority within the Township of Berlin is appointed annually by the Mayor and Township Council.

### **CHAPTER 3**

#### **POLICE DEPARTMENT RULES AND REGULATIONS AND POLICE MANUAL**

**3:1** The Appropriate Authority pursuant to N.J.S.A. 40A:14-118 is hereby authorized to update, adopt and promulgate rules and regulations for the governing of the Police Department and for the discipline of its members with a view to making the Police Department and all members thereof efficient, vigilant and effective in the service of the Township of Berlin. Said rules and regulations will be in electronic form and shall be called the "Rules and Regulations of the Police Department for the Township of Berlin" (commonly referred to as the Code of Conduct) and shall govern the conduct of and be binding upon the entire membership of said Police Department, including the Chief and all subordinates. Said Rules and Regulations shall provide for penalties and forfeitures for violations thereof.

**3:2** These Rules and Regulations shall be distributed as follows: A copy will be issued to and signed for by each employee of the Police Department for the Township of Berlin utilizing an electronic format; currently Power DMS.

**3:3** Each police officer and each civilian employee is duty-bound to thoroughly familiarize himself/herself with the provisions of the Rules and Regulations, and the provisions of the Berlin Township Police Ordinances, which are adopted by reference hereto. Failure to comply shall be considered neglect of duty.

**3:4** In the event neglect of duty is charged against a member for failure to observe the rules and regulations or Departmental procedures or orders, ignorance of any provision of this manual or the Township Ordinances will not be accepted as an excuse.

**3:5** The Official Police Logo heretofore utilized by the Police Department of the Township of Berlin is hereby recognized. The unauthorized display, use, sale or copying of this patch/badge without the express written approval of the Chief of Police is hereby prohibited.

**3:6** The Mayor who is the Director of Public Safety in Berlin Township, a municipality operating under the Faulker Act, shall have confidential access to live video from various security cameras which reproduce in real time the main hallway of the Police Department, in addition to the outside of the Municipal Building and the other hallways within the Municipal Building, as has previously been the case. There shall be no audio access for any Police Department video, nor shall there be any audio or video access to any Police Department interrogation area, interview area, evidence area, jail cells or any other such location where there is recorded interviews of witnesses or suspects,

internal affairs investigations or interviews with confidential informants. The purpose of this limited confidential video access is to allow the Director of Public Safety to conduct administrative oversight over the Police Department pursuant to Chapter 14, Title 40A of the Revised Statutes of the State of New Jersey and Chapter 40 of the Code of the Township of Berlin, as amended and supplemented.

## CHAPTER 4

### BERLIN TOWNSHIP POLICE ORDINANCE CHAPTER 40 OF THE CODE OF BERLIN TOWNSHIP ENTITLED POLICE DEPARTMENT•

Be it ordained by the Mayor and Council of the Township of Berlin, Camden County, New Jersey, as follows:

Section 1, Chapter 40 of the Code of Berlin Township is hereby deleted in its entirety and replaced as follows:

#### 40-1 ESTABLISHMENT; MISSION AND PURPOSE

**A.** There is hereby established a Police Department in the Township of Berlin, County of Camden and State of New Jersey, pursuant to the provisions of N.J.S.A. 40A:14-118, et seq. This ordinance is intended to ratify the existence and operation of the police department which has historically operated within and served the Township of Berlin and at the same time satisfy the statutory requirements of the legislation amended in 2010 and 2011 respectively.

**B.** The mission and purpose of said police department is generally three-fold; to preserve life and property; to provide a general police service for the residents of the Township of Berlin, Camden County, State of New Jersey; to enforce federal, state, county and municipal laws, statutes and ordinances; and as hereinafter may be more expressly defined.

**C.** The normal working hours of employment for the uniformed members and other officers of the Berlin Township Police Department shall not exceed twelve (12) continuous hours in any one day, unless approved by the Chief of Police or their designee.

#### 40-2 COMPOSITION; LINE OF AUTHORITY; JURISDICTION

**A. Government and Composition of the Police Department:** The police department will be governed by the Township Council and shall consist of an Appropriate Authority, Chief of Police, Executive Assistant to the Chief of Police, Captain, Lieutenant, Sergeant, Detective, Patrol Officer, Special Police Officer, and civilian employees as deemed necessary and appropriate by the Appropriate Authority in his/her discretion and judgment, with the approval of the Mayor and Township Council. The express purpose for naming these offices is to establish a statutory line of authority from all police employees to higher elected authority. Whenever any office is left vacant, due to the absence of a qualified candidate, it will be deemed not to exist and will be bypassed in the chain of command. No person may be promoted or appointed to a position in the Township of Berlin Police Department until they have satisfied all statutory requirements and have complied with the selection process and standards established by this ordinance and the rules and regulations adopted by the Appropriate Authority to govern the police department.

## **B. Authority and Responsibilities:**

(1) **Chief of Police:** The Chief of Police shall be the head of the department and shall be directly responsible to the Appropriate Authority for the conduct, efficiency, and management of the department, and pursuant to policies established by the Appropriate Authority, shall:

(A) Be the Chief Executive Officer of the police force;

(B) Organize and control all resources of the department and be responsible for their care and safekeeping;

(C) Administer and enforce rules and regulations for the control, disposition and discipline of the Department, and of its officers and employees. Also, recommend to the Appropriate Authority changes to said rules and regulations;

(D) Implement the procedures for the hearing and determination of charges alleging violation of department rules and regulations by any subordinate member of the police force; provided that a member may be penalized only on written charges made or preferred against him or her, after such charges have been examined, investigated and heard by the proper hearing authority, upon such reasonable notice to the member charged, and according to such practice, procedure and manner as may be prescribed by rules and regulations of the Department. Said written charges shall contain a request for penalization by the applicable staff officer. If the Chief of Police is the officer charged with a violation of departmental rules and regulations and is to be removed from service, demoted in rank or suspended, fined, or otherwise penalized, the appeal and hearing must be under the jurisdiction of the Appropriate Authority;

(E) Have, exercise, and discharge any functions, powers, and duties of the department;

(F) Prescribe the internal organization of the Department and the duties of his subordinates and assistants, pursuant to Township ordinance and policies established by the Appropriate Authority;

(G) The Chief of Police shall make periodic unannounced and unexpected inspections of police headquarters and patrols at various and diverse times during the day and night;

(H) Delegate such of his or her powers as he or she may deem necessary for the efficient administration of the Department to be exercised under his direction and supervision and shall hold supervisors responsible for effective performance of their duties;

(I) Report, as required monthly, on the work of the Department to the Appropriate Authority in the format prescribed by the Appropriate Authority to include the following:

The Chief of Police shall prepare a monthly report to the Public Safety Director which shall include:

1) Departmental Performance.

2) Police related training.

3) Highlights of the prior month's calls and incidents.

4) Upcoming events that may be of interest to the Township Council and the public.

(J) In case of riot, insurrection or threat thereof, he or she shall take command of the police department in person and direct their movements and operations in discharge of their respective duties;

(K) He or she shall be responsible for the maintenance of all daily police records in which each member shall record his name, rank and time of reporting and leaving duty, complaints, and matters pertaining to the police department;

(L) Administer personnel and financial policies in conformance with the Ordinances of the Township of Berlin and the laws of the State of New Jersey, and shall:

1) Cause examination to determine the qualifications of persons applying for positions;

2) Recommend promotions, demotions, releases or other disciplinary measures to the Appropriate Authority subject to the Ordinances of the Township of Berlin and the laws of the State of New Jersey;

3) Administer personnel rating programs;

4) Require that all personnel be trained and approve training programs;

5) Grant temporary leaves of absence to members of the department with approval of the Mayor and Council;

6) Submit the annual budget and proposed expenditure programs to the Mayor or other appropriately designated officials;

7) Approve payment from allotted funds for operating expenses and capital expenditures;

(M) Graphic Table of Organization: A graphic table of organization (T.O.), shall be maintained by the Chief of Police to show the following:

1) The Berlin Township Police Department operational structure.

2) The Berlin Township Police Department personnel structure.

The express function of each position will be as defined by this ordinance and within the Rules and Regulations of the Berlin Township Police Department promulgated by the Appropriate Authority but is not necessarily limited to the same.

(N) In accordance with N.J.S.A. 40A:14-118, the Chief of Police shall be responsible to the Appropriate Authority for the performance of the Chief's duties. As such, the Chief of Police shall be considered a subordinate in relation to the Appropriate Authority and shall be duty-bound to obey any otherwise lawful direct orders or policies of the Appropriate Authority in the discharge of his or her duties. As such, the Appropriate Authority may issue such orders directing the day-

to-day performance of the Police Chief's duties in any manner and to any degree not directly prohibited by law, specifically including N.J.S.A. 40A:14-118 and case law thereunder, as applicable.

**(2) Executive Assistant:** This is an administrative position and the Executive Assistant is a "Confidential Employee" with the following duties: The Executive Assistant provides executive support services such as, data processing, accounting, purchasing, personnel and scheduling consistent with organizational need. This is an administrative position, which falls outside of any union representation or bargaining unit. Additionally, the following duties are assigned, but the position is not necessarily limited to same:

(A) Edits detailed correspondence containing factual content that may also convey management opinion concerning personnel and related matters and programs.

(B) Keeps currently informed of new and revised personnel policy statements, regulations, directives, and other communications received from the Township, and develops plans and procedures for implementation of such communications.

(C) Assists in writing procedural instructions for use in personnel manuals, bulletins, and management directives.

(D) Collects data for and assists in preparation of executive reports in support of department activities.

(E) Collects data for and assists in preparation of executive aspects of the annual budget request.

(F) Expedites services such as maintenance, repairs, supplies and mail.

(G) Grant development, application and management.

(H) Assists with coordination of office operations including clerical work, internal reporting systems, forms, space and office equipment, and suggests methods for office improvements.

(I) Plans, schedules, and/or attends meetings and conferences, and prepares reports thereon.

(J) Directs the establishment and/or maintenance of records and files required for effective personnel and executive operations resulting in efficient data retrieval.

(K) Maintains and organizes executive administrative police records consistent with approved record retention procedures and schedules.

(L) Performs alternative responsibilities of Executive Assistant assigned to the Chief of Police.

(M) Reviews and/or prepares routine correspondence.

(N) Will be required to learn to utilize various types of electronic and/or manual recording and information systems used by the agency, office or related units.

(O) Proficiency in various computer programs, included but not limited to Microsoft Word, Excel, Access, etc.

(P) Maintain confidential files including but not limited to personnel, medical, disciplinary, firearms and expungement.

(Q) Develop forms, policies and procedures necessary for the implementation and maintenance of an Integrated System of Personnel Management.

**(3) Police Captain:** In the absence of a Chief of Police the Captain will serve as the Chief Executive Officer of the department. The Captain holds an administrative position falling directly under the supervision of the Chief of Police. The Captain shall be responsible for carrying out the orders of the Chief of Police in regards to the general administrative operation and efficiency of the Police Department. The Captain shall perform such other duties as directed by the Chief of Police. He/She shall assist the Chief of Police in formulating and implementing policy, regulations, goals and objectives of the Police Department: and is further assigned the following responsibilities:

(A) Community Services – Community Services directs its efforts toward reducing criminal opportunity through educational programming and crime prevention activities. Crime prevention programming is provided to both the residential and the business communities.

(B) Training and Licensing – responsible for ensuring compliance with all regulatory and statutory training and licensing requirements in addition to those requirements set forth by the New Jersey Attorney General’s Office, the Camden County Prosecutor’s Office, the Berlin Township Police Department, and other relevant entities with controlling authority.

(C) Accreditation Manager - the primary duties of this position include reviewing, editing, amending and/or developing agency written directives (rules and regulations, policies, and procedures, etc.) to comply with certification/accreditation standards. The Accreditation Manager is responsible for ensuring that the agency is properly and adequately prepared to demonstrate its compliance documentation during the on-site assessment process.

(D) To coordinate Departmental and all interagency activities relevant to major or priority criminal investigations, at the discretion of the Chief of Police.

(E) School Resource Officer - responsible for the Township wide school resource officer program and associated Special Officer Class III officers assigned.

**(4) Police Lieutenant:** The Lieutenant shall be responsible for carrying out the orders of the Chief of Police in regards to the general operational efficiency of the Police Department. The Lieutenant shall perform such other duties as directed by the Chief of Police. The Lieutenant is further assigned the following responsibilities:

(A) Supervision - may serve as the overnight Watch Commander, for their respected platoons, and supervise the activities of their subordinates, making corrections where necessary and commending where appropriate.

(B) Leadership - Provide on-the-job training as needed for efficient operation and coordination of effort when more than one member or employee is involved.

(C) Direction - Exercise direct command, when necessary, in a manner that assures the good order, conduct, discipline, and efficiency of subordinates. Exercise of command may extend to subordinates outside their usual sphere of supervision if the police objective or reputation of the department so requires, or if no other provision is made for personnel temporarily unsupervised. This authority shall not be exercised unnecessarily. If a supervisor requires a subordinate other than his or her own to leave a regular assignment, the supervisor so directing will inform the subordinate's own supervisor as soon as possible.

(D) Enforcement of Rules - Enforcement of Department rules and regulations and requiring compliance with Department policies and procedures.

(E) Inspection of activities, personnel, and equipment under their supervision and initiation of suitable action in the event of a failure, error, violation, misconduct, or neglect of duty by a subordinate.

(F) Assisting Subordinates - Having a working knowledge of the duties and responsibilities of his or her subordinates. Observing contacts made with the public by his or her subordinates and being available for assistance or instruction as may be required. He or she shall respond to calls of serious emergencies, crimes in progress, assaults, and other serious matters. He or she should observe the conduct of the assigned personnel and take active charge when necessary.

(G) To conduct periodic inspections of the Department, as prescribed by the Chief of Police.

(H) To conduct an annual inspection of the Department, as prescribed by the Chief of Police.

(I) To execute all appropriate performance evaluations.

**(5) Police Sergeant:** The Sergeants, during their tours of duty, exercise the same authority and have the same responsibilities as their Lieutenant if assigned as the watch commander subject to the Lieutenant's authority. In addition to the general and individual responsibilities of all members and employees, the Sergeant shall perform such other duties as directed by the Chief of Police. The Sergeants are specifically responsible for the following:

(A) Command - The direction and control of personnel under his or her command to assure the proper performance of duties and adherence to established rules, regulations, policies, and procedures. He or she shall provide for continuation of command and supervision.

(B) Good Order - The general good order of his or her command during his or her tour of duty includes proper discipline, conduct, welfare, field training, and efficiency.

(C) Loyalty and Esprit de Corps - The development and maintenance of esprit de corps and loyalty to the Department.

(D) Discipline and Morale - The maintenance of discipline and morale within the command and the investigation of personnel complaints not assigned elsewhere.



(E) Organization and Assignment - Organization and assignment of duties within his or her unit to assure proper performance of Department functions and those of his or her command.

(F) Reports and Records - Preparation of required correspondence, reports, and maintenance of records relating to the activities of his or her command. Assurance that information is communicated up and down the chain of command, as required.

(G) Reporting as required by the Chief of Police.

(H) Maintenance Assurance that quarters, equipment, supplies and material assigned to his or her command are correctly used and maintained.

(I) Other such supervisory duties as may be assigned from time to time

(J) To execute all appropriate (echelon) performance evaluations

**(6) Detective:** Detective duties shall be carried out as assigned by the Chief of Police, with emphasis in such investigative assignments in the specialized areas as follows:

(A) Initial and follow-up investigations of serious crimes, vice crimes and other investigations specifically assigned by the Chief of Police.

(B) Preparation of cases for prosecution.

(C) Recovery of stolen property.

(D) Performance of all identification functions.

(E) Prevention and control of juvenile delinquency.

(F) Processing of juvenile offenders.

(G) Maintaining liaison with the juvenile courts.

(H) Crime prevention.

(I) Evidence storage and control.

**(7) Patrol Officers:** Patrol Officers are responsible for performing a variety of duties related to the protection of life and property, enforcement of criminal and traffic laws, prevention of crime, preservation of the public peace, and the apprehension of criminals. In addition to these and the general and individual responsibilities of all members and employees, patrol officers are specifically responsible the duties set forth in the Written Directive for the following:

(A) Police Mission - A patrol officer is responsible for the accomplishment of the police mission on their patrol. They shall constantly be alert for violations of the laws and ordinances and shall make every effort to prevent breaches of the peace and offenses against persons and property. They shall be held accountable for crime, accidents, disorders, and other criminal conditions on his or her patrol beat or post.

(B) Reporting for Duty – He or she shall report promptly at the designated hour and place, in proper uniform for assignment and inspection. He or she shall listen attentively to orders and instructions of his or her superior officers and read such materials as are made available to him or her. He or she shall make written memoranda of such information as necessary and shall immediately proceed to his or her post or beat upon completion of these tasks.

(C) Familiarization with Patrol - A patrol officer shall thoroughly familiarize themselves with the Township. He or she shall be familiar with all public businesses, offices, and their entrances, exits, skylights, fire escapes, and other possible means of escape. While making security checks of doors, he or she shall familiarize himself or herself with the location of safes and night lights. Changes in night lights will be particularly noted.

(D) Method of Patrol - During a tour of duty, the Police Officer shall continuously patrol every part of his or her assigned area giving attention to and frequently rechecking locations where the crime hazard is great. As far as possible, he or she shall not patrol his or her assigned area according to any fixed route or schedule but shall alternate frequently and backtrack in order to be at the location least expected.

(E) Unlocked Buildings

1) When a door or window is found open under suspicious or unusual circumstances on any tour of duty, a patrol officer shall make a thorough investigation and determine, if possible, whether a burglary or other crime has been committed and whether the door or window can be secured. He or she shall, if necessary, summon assistance to examine the premises and to secure such doors and windows. He or she shall notify his or her shift commander and the property owner.

2) Under circumstances indicating that an intruder is still inside a building, the officer discovering same should immediately summon assistance and then stand guard. When the assistance arrives, he or she may enter and search the building.

(F) Field Interviews - When the occasion demands it, the patrol officers shall courteously, but firmly, question persons on the public streets as to their names, addresses, reason for being on the street, and other matters relating to the circumstances. In all cases, good judgment, probable cause, and discretion shall be used in making a decision to arrest.

(G) Traffic Law Enforcement - Police officers are charged with the enforcement of all provisions of local and state traffic codes. Failure to take appropriate action in traffic violation cases is considered neglect of duty.

(H) Complaint Action - A police officer shall carefully investigate all complaints on or near his or her patrol which are assigned to them, or which are brought to their attention by citizens. They shall take suitable action in those cases which come under his or her jurisdiction and inform interested parties of the laws or ordinances relative to the particular complaint or incident. If the legal remedy of the complaint lies outside the jurisdiction of the police department, he or she shall advise the complainant accordingly and refer them to the proper authority.

(I) Preliminary Investigations - At the scenes of major crimes, subject to direction from higher authority, the first officer at the scene, after it has been established that the perpetrator is no longer

present, will begin the preliminary investigation (except in the case of homicide or apparent homicide; in those instances, the Chief of Police will be called to the scene immediately). In all instances, members not assigned will not enter the premises or do any other thing that might interfere with the investigation or destroy evidence. In cases of homicide, the first duty of the police officer is to guard the scene, exclude all unauthorized persons, and detain all witnesses for interrogation.

(J) Radio Failure - Patrol officers shall pay strict attention to all regular radio transmissions. When they fail to hear any radio transmissions or time signals for a period not to exceed 15 minutes, they shall immediately call the dispatcher for a special test. If he or she fails to receive an acknowledgment, they shall immediately contact the dispatcher or commander. In case of radio trouble, the officer shall notify his or her shift commander and/or dispatcher of the nature of the trouble.

(K) Police officers will be further responsible for daily performance standards and such other duties as defined by General Orders.

### **(8) Civilian Employees**

Civilian employees shall:

- (A) Take appropriate action to perform the duties of their positions promptly, faithfully and diligently.
- (B) Exercise authority consistent with the obligations imposed by their position and in conformance with the policies of the department.
- (C) Be accountable and responsible to their supervisors for obeying all lawful orders.
- (D) Coordinate their efforts with other employees of the department to achieve department objectives.
- (E) Conduct themselves in accordance with high ethical standards, on and off-duty.
- (F) Strive to improve their skills and techniques through study and training.
- (G) Familiarize themselves with the area of authority and responsibility for the current assignment.
- (H) Abide by all rules, regulations and department procedures and directives governing civilian employees.
- (I) Perform all related work as required in a timely fashion.

### **40-3 ALL MEMBERS OF THE POLICE DEPARTMENT**

It shall be the responsibility of all sworn police members of the police department to enforce the laws of the State of New Jersey and the Township of Berlin.

#### **40-4 SALARIES AND WAGES:**

The pay for all Berlin Township Police Department personnel will be set forth in the Township Salary Ordinance and/or the applicable labor contracts. Said Ordinances and contracts will be made available to the public by request through the Township Clerks Office.

#### **40-5 SECONDARY / OFF DUTY EMPLOYMENT**

Berlin Township Police Officers are expected to give their whole time and attention to their duties in serving the public interest and public safety of/for the residents of Berlin Township. They are required by Police rules and regulations to be armed at all practical times and are subject to duty recall when determined to be necessary by the Chief of Police or other appropriate authority. Additionally, there are certain private employment activities that are in direct conflict with police power vested in the officer by the Township of Berlin. Accordingly, effective upon passage of this ordinance, no Berlin Township Police Officer will be allowed off duty employment apart from their Township held position except as follows:

Off duty employment may be performed in the event the employment is approved and meets the following criteria:

- (A) Employment is of a non-police nature in which police powers are not a condition of employment.
- (B) Employment that presents no potential conflict of interest between duties as a law enforcement officer and the duties required by the secondary employer.
- (C) Employment that does not constitute a threat to the status or dignity of law enforcement or the integrity of the Department.

All sworn personnel must comply with the Written Directive. Personnel requesting to work off duty employment shall submit their employment information through the chain of command to the Chief of Police on an "Outside Employment Form." The Chief of Police shall approve or disapprove the request and notify the employee in writing accordingly within 14 days. The Outside Employment Form" shall be submitted on an annual basis, prior to the end of the calendar year, as defined in a General Order.

#### **40-6 POLICE RELATED EXTRA DUTY EMPLOYMENT**

**A.** Police officers employed by the Township of Berlin shall be permitted extra-duty police related employment pursuant to the provisions set forth in the Written Directive and General Order herein. Off-duty employment shall not be permitted if the police officer and/or outside contractor fail to comply with the provisions set forth herein either prior to the commencement of the employment or at any time during the period of employment.

**B.** All off-duty police-related services performed by a Berlin Township police officer shall be in their official capacity as an employee of the Berlin Township Police Department and shall be subject to the control and supervision of the Police Department.

C. Berlin Township police officers are prohibited from engaging in any employment for police-related services with any private person, corporation or other entity except in the manner set forth in this ordinance.

#### **40-7 DEFINITIONS**

A Extra-duty employment shall mean any employment by a Berlin Township police officer for police-related services where the source of compensation to the police officer does not originate from the municipal budget line item for police wages and salary.

B. Contractor shall mean the person, corporation, or other legal entity employing a Berlin Township police officer to provide off-duty police-related services.

#### **40-8 REQUEST FOR EXTRA-DUTY EMPLOYEE;**

#### **SPECIAL ASSIGNMENTS BY CHIEF OF POLICE**

A. Contractors seeking to employ off-duty Berlin Township police officers shall make said request through the Berlin Township Police Department, to the attention of the Chief of Police. The request shall be in writing, except in case of emergency, and shall include the specific nature of the services desired.

B. The Chief of Police or his or her designee may assign Berlin Township police officers for police-related services based upon a determination that the police-related services are required for the public safety. The cost for said police-related services shall be the responsibility of the person or entity on whose behalf the services are provided or the property owner whose property or activities on said property cause the need for police-related services. All costs shall be paid as set forth at Section 40-13 hereof.

#### **40-09 EMERGENCY DUTY**

Off-duty employment can be immediately terminated if the police officer performing said work is required for emergency police duty for the Township of Berlin as shall be determined by the Chief of Police.

#### **40-10 POLICE UNIFORMS, EQUIPMENT, AND VEHICLES**

Berlin Township police officers performing off-duty police-related services for private contractors shall be in full police uniform while said services are being provided. However, Berlin Township police vehicles shall not be used by police officers during the performance of off-duty police-related services unless specifically authorized by the Chief of Police.

#### **40-11 AUTHORIZING CONTRACT**

The Mayor and Township Clerk are hereby authorized to execute a contract with the contractor for the services required which contract shall set forth, inter alia, the specific nature of the services to be performed, the location that said services will be performed, the dates and hours of service, payment arrangements, arrangements for the use of police vehicles, arrangements for insurance

coverage, and any other provisions mandated by this ordinance or any law or regulation of the State of New Jersey.

#### **40-12 PAYMENT TO OFFICERS**

**A.** Police officers performing extra-duty police-related services for private contractors shall be paid for said services by the Township of Berlin at the rate set via ordinance and will be included in their bi weekly paycheck.

**B.** All sums due a police officer performing off-duty employment shall be paid subsequent to the submission of a voucher which is approved by the Chief of Police or his or her designee.

#### **40-13 INSURANCE**

The contractor shall be responsible for providing all necessary insurance coverages as required by law, including, but not limited to, workers compensation and general liability insurance. Coincidental with the execution of the contract referred to in Section 40-12, the contractor shall provide the township with appropriate insurance binders ensuring that the police officer and Berlin Township are provided general liability coverage with respect to the services to be provided and that the police officer is covered by appropriate Workers Compensation Insurance.

#### **40-14 INDEMNIFICATION**

To the fullest extent permitted by law, contractor shall indemnify, defend, and hold harmless the Township of Berlin, its agents and employees, from and against all claims, damages, losses, liabilities and expenses, including, but not limited to, attorney's fees and court costs, arising out of, resulting from or in any way relating to either directly or indirectly:

**A.** the performance of the work;

**B.** any and all claims made by said police personnel for injuries and/or illnesses while performing the off-duty employment;

**C.** the breach by contractor of any of the terms and conditions of the agreement;

**D.** the negligent or intentional acts or omissions of the police, and/or the contractor, its employees, agents, and/or subcontractors;

**E.** bodily injury, sickness and/or disease, including death, at any time resulting from such bodily injury, sickness or disease, sustained by any person while in, on or about the site and surrounding areas where such injury, sickness, disease and/or death arose out of or was in any way connected with the work of, the performance of, or failure to properly perform the work;

**F.** any liability based upon contractor's negligence imputed to the Township of Berlin;

**G.** damage to property of contractor, the Township of Berlin or any other person or entity arising out of incident to, or in connection with the performance of the work;

**H.** laborers, mechanics and materialmen's liens, and all other liens and charges of every character whatsoever, arising out of work to be performed by this agreement; and/or

**I.** any other cause of action which may be brought against the Township of Berlin arising out of or in any way relating to the work and contractor's obligations hereunder.

This indemnification and hold harmless agreement shall apply in all instances whether the Township of Berlin is a plaintiff, or is made a direct party to the initial action or claim or is subsequently made a party to the action by third party in-pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues from the original cause of action or claim.

#### **40-15 THE APPROPRIATE AUTHORITY**

**A. Jurisdiction/Authority:** The police department shall come under the jurisdiction of the Appropriate Authority, which position is hereby created pursuant to N.J.S.A. 40A:14-118. Said Appropriate Authority shall be the appointed by the Mayor and Township Council each year. The Appropriate Authority shall be responsible for the promulgation, adoption, updating, and/or ratification of rules and regulations for police personnel which shall be known as the Rules and Regulations for the Police Department of the Township of Berlin. (N.J.S.A. 40A:14-118)

**B. Policies to Govern Day to Day Operations:** Pursuant to N.J.S.A. 40A:14-118, the Chief of Police is directly responsible to the Appropriate Authority for the efficiency and routine day to day operations of the police force, and the Chief of Police performs his or her duties pursuant to policies established by the Appropriate Authority. Therefore, the Chief of Police shall issue whatever policies, which may be referred to as general orders, personnel orders, special orders, special memo, inter department memo or otherwise, that are deemed appropriate and necessary for the operation of the department.

#### **40-16 PROBATIONARY PERIODS**

A police officer who is initially appointed shall first serve a probationary period of 12 months from the date of receipt of a written certification by a certified police training academy within the state of New Jersey. This certification must be for a Basic Course Police Officer (BCPO). If a police officer is appointed and has already attained a BCPO certification, before being appointed, a probationary period of 12 months shall be served from the date of said appointment. Sergeant, Lieutenant, Captain, and the Chief promotions are subject to a probationary period of six months, after which time such promotions will become permanent. During the probationary period the position or promotion may be terminated without the necessity of giving any cause for termination. The officer will be dismissed or in the case of a probationary promotion, revert back to the previous rank/position held.

#### **40-17 SPECIAL LAW ENFORCEMENT OFFICER**

The Appropriate Authority shall, with the approval and consent of the Mayor and Township Council, appoint such special law enforcement officers as he/she or they may deem necessary. They shall be a part of the police department established herein and subject to all the laws, rules and regulations governing the same. Pursuant to N.J.S.A. 40A:14-146.8 et seq., the term of said appointment shall be at the discretion of the Mayor and Township Council, but in no event shall

exceed one (1) year. The personnel referred to in this section shall be compensated at such hourly rate as designated in the Townships salary ordinance. Said personnel shall serve for the appointed term only and at the compensation, if any, established by Ordinance or as modified or changed by the Mayor and Township Council.

There is hereby established the following classifications of special law enforcement officers; Class Two and Class Three.

(1) Class Two officers shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer.

(2) Class Three officers shall be authorized to exercise full powers and duties similar to those of a permanent regularly appointed full-time police officer. Class Three officers are strictly limited to provide security while on school premises during hours when school is normally in session or when occupied by students or their teachers.

(A) Class Three officers must be a retired police officer who has previously served as a duly qualified, fully trained, full-time officer in any municipality or county of this state, or as a member of the New Jersey State Police and must be living in New Jersey.

(B) Must be less than 65 years of age for appointment.

(C) Must pass a psychological examination.

(D) Must pass a medical examination.

(E) Must pass a drug test pursuant to Attorney General's Law Enforcement Drug Testing Policy.

(F) Must have passed background investigation.

(G) A new Class III officer's break in service may not exceed three years.

(H) Complete SRO training within 12 months of being appointed.

In accordance with and subject to the terms, conditions and limitations of statute and law, special law enforcement officers may be appointed and assigned to perform the duties and responsibilities of Class Two and Class Three special police officers. Class Two and Class Three special police officers shall be limited to such numbers as, from time to time, shall be authorized and funded by Township Council; provided, however, in no event shall the number of Class Two officers exceed that permitted by statute and law

#### **40-18 CIVILIAN EMPLOYEES**

The Appropriate Authority shall, with the approval and consent of the Mayor and Township Council, appoint such civilian members of the police department to serve in the services division as he/she or they may deem necessary. Said members are to provide executive assistance to the Chief of Police, secretarial duties, dispatching services, clerical duties and logistics in support of



the police department. Said positions will be an Executive Assistant to the Chief of Police a Police Records Clerck and additional civilian staff as deemed necessary.

#### **40- 19 POLICE EMPLOYEES**

The Appropriate Authority shall, with the approval and consent of the Township Council, appoint, promote, assign or reduce in force for reasons of economy all police personnel employed by the Township of Berlin. Appointment of any additional police personnel shall require an amendment of this ordinance.

#### **40-20 APPOINTMENT**

**A.** All members of the police department shall be appointed by the Mayor and Council and are to hold their offices as provided by law.

**B.** No person shall be appointed a member of the police department in the Township of Berlin who has failed, prior thereto, to have duly executed and signed a written application for such employment, upon a form supplied by the Township Clerk, requiring relevant data to be submitted by the applicant therein, and shall have also indicated therein their willingness to undergo a required pre-employment physical examination, a pre-employment psychiatric examination and a drug screening.

**C.** Appointments to new positions or offices or to fill vacancies shall also be subject to State laws.

#### **40-21 QUALIFICATIONS**

**A.** Each applicant shall comply with all the laws of the State of New Jersey pertaining thereto. No person shall be given or accept a permanent appointment as a police officer in the Township unless they have first been given a probationary or temporary appointment to such office for a period of 12 months after successfully completing a police training course at a school approved and authorized by the Police Training Commission in the Department of Law and Public Safety of the State of New Jersey, pursuant to the provisions of Chapter 56 of the Laws of 1961 and amendments thereto.

**B.** No person shall be appointed to the police department as a regular or probationary member unless, at the time of making application, he or she is between the age of eighteen (18) and thirty-five (35) years of age, except as otherwise provided by law. The applicant shall be a citizen of the United States of America, the State of New Jersey. The Mayor and Township Council shall also require that an applicant for or appointee to the police department shall successfully complete a medical examination, drug screening, a psychological examination, and meet all police licensing requirements.

#### **40-22 OATH OF ALLEGIANCE**

Each member of the Police Department shall, before entering upon the performance of his or her duties, take and subscribe an oath to bear true faith and allegiance to the government established in this state, to support the Constitutions of the United States of America and the State of New

Jersey and to faithfully, impartially and justly discharge and perform all the duties of his or her office. Such oath or affirmation shall be filed with the Township Clerk.

## **40-23 DISCIPLINARY PROCEDURES**

### **A. Hearing Authority:**

(1) In the event of any disciplinary proceedings against any member of the police department of the Township of Berlin, the Appropriate Authority or his/her designee shall be the sole hearing officer and person in charge of all such proceedings. The decision of the Appropriate Authority shall be final. The right of appeal shall be to the New Jersey Superior Court pursuant to N.J.S.A. 40A:14-150 if and as applicable.

(2) In the event the Appropriate Authority designates a hearing authority other than himself/herself, and the designated hearing authority is to be an officer within the Berlin Township Police Department, only a person of greater rank than the person charged may be so designated for that purpose. Whenever Special Counsel is designated to be the hearing authority, prior approval must be obtained by resolution of the Mayor and Township Council. The decision of said hearing authority shall be provided within 10 days to the Appropriate Authority who shall render the final and binding decision, both as to violation and penalty, within 10 days from when he/she receives the decision and supporting documentation such as a hearing transcript, to confirm, deny or modify the decision. The time lines established herein are to be construed flexibly in the interest of justice so that fair and reasoned decisions will follow. Should the Appropriate Authority fail to act within 10 days or give notice of necessary extension, the decision of the hearing authority shall become final.

### **B. Charging Authority:**

(1) In the event a Berlin Township Police Department officer is to be charged in a disciplinary action and said employee is subordinate to the rank of the Chief of Police, only the Chief of Police or his/her designee may initiate such charges (N.J.S.A. 40A:14-118). In the event the office of the Chief of Police has been abolished through intentional vacancy, pursuant to Section 40-2 paragraph A, then the Appropriate Authority or his/her designee shall function as the Charging Authority. Failure to initiate charges when same are indicated may constitute a neglect or dereliction of duty (Gauntt v. Bridgeton, 194 N.J. Super. 468, 477 A.2d 381 (App. Div. 1984), but the function of the Charging Authority may not be circumvented.

(2) In the event the Chief of Police for the Township of Berlin is to be charged in a disciplinary action against the Chief, the Appropriate Authority or Special Counsel named by the Appropriate Authority to act on his/her behalf shall be the Charging Authority.

(3) Whenever any person, whether police officer, Special Counsel, or the Appropriate Authority, serves in an investigative capacity and/or as the Charging Authority relevant to a Berlin Township Police Department disciplinary action; he/she may not thereafter be designated as or serve as the Hearing Authority in that same disciplinary action.

## **40-24 APPEALS**

Disciplinary action against any member of the police department shall be taken in accordance with N.J.S.A. 40A:14-147. Any employee seeking to appeal disciplinary charges shall do so in writing submitted to the office of the Appropriate Authority. Said appeal shall be filed within five (5) days, not including Saturdays, Sundays and holidays, of the date said charges were served upon said employee. In either event, the Appropriate Authority shall schedule a hearing in accordance with the provisions of this Ordinance and State statute. Administrative disciplinary charges served on any employee shall contain the date, time and location for a prospective hearing as required by statute. Failure to submit the required written request for an appeal may affect the employee's rights pertaining to said statutory timelines, the discovery proceedings, as well as other legal rights and remedies appurtenant thereto.

## **40-25 ADMINISTRATIVE INVESTIGATIONS**

The Appropriate Authority may appoint a Counsel and/or designate Special Counsel to conduct investigations of the operation of the police force and may delegate to such Counsel or Special Counsel any and all lawful powers of inquiry. The Appropriate Authority or his or her designee for this purpose, or Special Counsel appointed by the governing body, may examine the operations of the force or the performance of any officer or member thereof. Any resolution of the governing body appointing Special Counsel for the purpose of examining or investigating the operation of the police force or the performance of any officer or member thereof shall be considered to vest the examining or investigating official or body with the authority to perform a municipal investigation pursuant to N.J.S.A. 40:48-25 and the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 to 4. Any such subpoenas as authorized by N.J.S.A. 40:48-25 shall be in the name of the Appropriate Authority. In conducting any such external investigation or examination, the investigating or examining authority shall not be bound by those internal affairs investigation guidelines or regulations governing the police department in conducting its own internal investigations, although all applicable statutory restrictions and particularly N.J.S.A. 40A:14-147 shall not thereby be circumvented.

## **40-26 EMERGENCY DIRECTIVES**

Nothing herein contained shall infringe upon or limit the power or duty of the Appropriate Authority to act to provide for the health, safety or welfare of the municipality in an emergency situation through special emergency directives. (N.J.S.A. 40A:14-118; 40A:14-146.9)

## **40-27 POLICE DEPARTMENT RULES AND REGULATIONS AND POLICE MANUAL**

**A. Adoption and Promulgation:** The Appropriate Authority, pursuant to N.J.S.A. 40A:14-118, is hereby authorized to update, adopt and promulgate rules and regulations for the governing of the Police Department and for the discipline of its members with a view to making the Police Department and all members thereof efficient, vigilant and effective in the service of the Township of Berlin. Said rules and regulations will be in electronic manual form and shall be called the "Rules and Regulations of the Police Department for the Township of Berlin and shall govern the conduct of and be binding upon the entire membership of said Police Department. Said Rules and

Regulations shall provide for discipline of the members of the police force. In the event of any mutually inconsistent provisions between the police ordinance and the Rules and Regulations, the ordinance shall govern; however, both shall be interpreted so as to give full affect to both this ordinance and the Rules and Regulations wherever possible.

**B. Distribution:** The Rules and Regulations shall be distributed through Power DMS as follows: An electronic copy will be issued to and electronically signed for, by each employee of the Police Department for the Township of Berlin. A copy will be maintained by the Township Clerk for the personnel designated as Special Officers and to provide public access to same.

**C. Members Responsibility for Manuals** No police department operating policies will be inserted as part of this manual unless and until properly assimilated by the Appropriate Authority. Each police officer and each civilian employee is duty-bound to thoroughly familiarize himself/herself with the provisions of the Rules and Regulations. Failure to comply shall be considered neglect of duty. In the event neglect of duty is charged against a member for failure to observe the rules and regulations or Department procedures or orders, ignorance of any provision of this manual will not be accepted as an excuse.

#### **40-28 ADOPTION**

**A. Repealer:** All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**B. Severability:** If for any reason any section or any provision of this Ordinance shall be questioned in any court and shall be held unconstitutional or invalid, the same shall not be held to effect any other sections or provisions of this Ordinance.

**C. When Effective:** This Ordinance shall take effect immediately after publication and as provided by law.”

**SECTION 2:** Except as set forth in Section 1 above, the balance of the Code of the Township of Berlin shall not be affected by this Ordinance.

**SECTION 3:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4:** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

**SECTION 5:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

**Introduced: April 22, 2024**

**Adopted: May 13, 2024**

**Phyllis Magazzu, Mayor**

**Catherine Underwood, Township Clerk**

**It is hereby certified that the foregoing is a true copy of an ordinance adopted by the Mayor and Council of the Township of Berlin on May 13, 2024.**

**Catherine Underwood, Township Clerk**