

TABLED

ORDINANCE O-17-04

ORDINANCE AMENDING THE TOWNSHIP OF HILLSIDE TOWNSHIP CODE AT CHAPTER 78 “POLICE-RELATED SECONDARY EMPLOYMENT”, ARTICLE I, AT SECTION 11.

Council Member DeAugustine motioned to table Ordinance O-17-04. The motion was seconded by Council Member Whitaker. The motion carried on the following roll call vote.

WHEREAS, the Township Council has considered the implementation of certain amendments to the Township Code in order to streamline processes on the Police Department.

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of Hillside, in the County of Union, as follows:

1. Chapter 78 be and is hereby amended at §11 only, as set forth herein below:

Article I. Administrative Legislation

Chapter 78. Police Department

Section 11. Police-related secondary employment.

A. Secondary employment program established.

(1) The Mayor and Township Council of the Township of Hillside, County of Union, hereby establish a secondary employment program for qualified sworn members of the Hillside Police Department.

(2) The Chief of Police shall establish policies, as necessary, to effectively implement this section. Said policies shall provide uniform standards for all police-related secondary employment of qualified sworn members of the Hillside Police Department and shall be consistent with all guidelines and procedures as promulgated by the Attorney General of the State of New Jersey and the Division of Local Government Services.

B. Definitions. The following definitions shall apply to this section:

ASSIGNMENT OFFICER

A superior officer designated by the Chief of Police to manage assignments of qualified sworn members consistent with the requirements of this chapter and the rules and regulations of the Hillside Police Department.

CONTRACTOR

Shall include all entities, public and private, other than the Township of Hillside. Examples of contractors, for purposes of this section, shall include but shall not be

limited to individual persons, property owners, business persons, merchants, corporations, boards, agencies, utility companies, educational institutions, organizations, associations, churches, temples, synagogues and other religious organizations, and civic associations.

FINAL RATE

The total hourly rate due the Township of Hillside as set forth in Schedule A. The final rate is the sum of the officers' hourly rate and the administrative fee.

OFF-DUTY

All times other than the regular working hours for sworn members of the Hillside Police Department.

OFFICIAL VEHICLE

Any vehicle owned by the Township of Hillside and assigned to the Hillside Police Department.

ON-DUTY MEMBER

Any sworn member of the Hillside Police Department who is performing his or her assigned duties during regular working hours. A member who is on duty is under the direct supervision and control of the Hillside Police Department.

POLICE-RELATED SECONDARY EMPLOYMENT

Any employment associated with law enforcement, safety, security, loss prevention, crowd control, traffic control, or the provision of any related service(s) as determined by the Chief of Police.

QUALIFIED SWORN MEMBER

A full-time police officer, below the rank of Police Captain, employed by the Hillside Police Department who has completed a certified Basic Police Training Course and one year of service as a police officer in the Township of Hillside subsequent to his or her completion of the Basic Police Training Course. A sworn member who is on sick leave or leave of absence for any reason, including disability or illness, or who is assigned to restricted duty by the Chief of Police for any reason, including, but not limited to, disability or illness, shall not be considered a qualified sworn member for purposes of this section. The Chief of Police may authorize other sworn members to participate in the secondary employment program on a case-by-case basis to meet the needs of the Hillside Police Department or a contractor.

C. Guidelines.

(1) General.

- (a) The Chief of Police shall establish and enforce the necessary policy and procedures to provide uniform standards for all police-related secondary employment of qualified sworn members of the Hillside Police Department. Secondary employment shall be considered a privilege, not an entitlement. The Chief of Police shall have the right to

prohibit, restrict and regulate all police-related secondary employment for the good of the Police Department and in the best interests of the community.

- (b) Qualified sworn members of the Hillside Police Department shall be permitted to engage in police-related secondary employment in the Township of Hillside at the sole discretion of the Chief of Police. No sworn member of the Hillside Police Department shall engage in police-related secondary employment without the authorization of the Chief of Police.
 - (c) Qualified sworn members who are engaged in authorized police-related secondary employment shall consider the Township of Hillside to be their primary employer at all times and shall be subject to the rules and regulations of the Hillside Police Department and the supervision and control of the Chief of Police at all times.
 - (d) Any crime, offense or condition occurring in the presence of a qualified sworn member who is engaged in police-related secondary employment shall be acted upon in accordance with all applicable laws, ordinances and rules and regulations of the Hillside Police Department.
 - (e) Unless specifically exempted by the Chief of Police, sworn members who are engaged in police-related secondary employment shall wear the uniform of the day and carry all equipment as required by the rules and regulations of the Hillside Police Department.
- (2) Recall of officer from assignment.
- (a) Sworn members, while engaged in authorized police-related secondary employment shall be subject to immediate recall at any time by the Chief of Police or his designee(s).
 - (b) In the event an officer is recalled from a secondary employment, assignment for more than 30 minutes, the contractor shall not be required to compensate the Township of Hillside for the amount of time the officer is absent from said assignment. This shall not apply if an officer is required to leave an assigned location for the purpose of transporting to Police Headquarters any person(s) that he or she has placed under arrest, or to file the necessary reports in connection with any lawful arrest the officer has made while employed by a contractor. In all such cases, the contractor shall be responsible for the full payment of the officer, even while he or she is absent from the assigned location.
- (3) Suspension of secondary employment program.
- (a) The Chief of Police shall ensure that the police-related secondary employment of qualified sworn members does not interfere with or disrupt the efficient operation of the Hillside Police Department in any way.

(b) The Chief of Police shall have the right to suspend the secondary employment program at any time and without cause. In the event the Chief of Police suspends the secondary employment program, he shall notify all contractors of said action without delay. The Chief of Police shall also notify the Mayor and President of the Township Council within 24 hours.

(4) Disciplinary action.

(a) The Chief of Police shall have the right to take disciplinary action against any member of the Hillside Police Department who violates any provision of the rules and regulations of the Hillside Police Department while engaged in police-related secondary employment. In addition, the Chief of Police shall have the right to suspend an individual member of the Hillside Police Department from participation in the secondary employment program under any of the following circumstances:

[1] If there is reason to believe that the member's participation in the program has interfered with his or her ability to perform his or her duties as a police officer;

[2] If there is reason to believe that the member's participation in the program has created or will create a conflict of interest or the public perception of a conflict of interest;

[3] If there is reason to believe that the member's participation in the program has brought discredit or embarrassment to the Township of Hillside;

[4] If there is reason to believe that the member has violated the policy or procedures established for the implementation of this section; or

[5] For other good cause as determined by the Chief of Police.

(b) In the event the Chief of Police suspends an individual member of the Hillside Police Department from participation in the secondary employment program, he shall notify said member, in writing, stating the reason(s) for the suspension and effective dates of the suspension.

(c) Nothing in this section shall prevent the Chief of Police from taking disciplinary action against any member of the Hillside Police Department in accordance with the rules and regulations of the Hillside Police Department and the New Jersey Department of Personnel.

D. Rates of compensation and administrative fees.

(1) Rate of compensation. Qualified sworn members who elect to participate in the secondary employment program shall not be entitled to overtime compensation. Rather, they shall be compensated in accordance with the rates set forth in Schedule A of this section.

- (2) A 25% administrative fee shall be added to the rates of compensation to offset the Township's expenses in connection with the Secondary Employment Program. The Chief Financial Officer shall pay the Township's share of FICA and Medicare taxes from said administrative fee in accordance with Schedule A to be added as Subsection J and containing a breakdown of all fees.
- (3) Input by collective bargaining unit(s). The collective bargaining unit shall have input into the established rates of payment for the various assignment categories; however, the collective bargaining unit shall not have input with respect to the administrative fee that is collected by the Township of Hillside. The collective bargaining unit's silence at the time of adoption of this section shall be deemed to be an expression of consent to the established rates of compensation.
- (4) Changes in rate of compensation.
 - (a) The rates of compensation in effect at the time of adoption of this section shall be subject to change only upon amendment of this section. Said rates shall be reviewed periodically by the Chief of Police in collaboration with the collective bargaining unit(s). The Chief of Police or duly authorized representative of the collective bargaining unit(s) may petition the Township Council for a change in said rates at any time but not more than once in a calendar year.
 - (b) Any contractor that regularly employs qualified sworn members of the Hillside Police Department as provided for by this section shall be notified without delay upon any change in the applicable rates.

E. Use of official vehicles.

- (1) If a contractor employs a sworn member of the Hillside Police Department for any assignment that requires the use of an official vehicle, the contractor shall compensate the Township of Hillside for the additional expense incurred in connection with the use of said vehicle (see Schedule A). The Chief of Police or his designee shall determine if an official vehicle is necessary for safety purposes.
- (2) In the event an official vehicle is damaged while deployed at any assignment in connection with the police-related secondary employment of a member of the Hillside Police Department, the contractor shall be responsible for any uninsured losses incurred by the Township of Hillside. The Chief of Police or Chief Financial Officer may require contractors to deposit funds in an escrow account for this purpose.

F. Staffing levels.

- (1) Special events. In the event a contractor, including a public or private entity, shall request to employ police officers for any special event, sporting event or other public or quasi-public event where more than 100 persons shall be expected to gather, the Chief of Police or his designee shall require the contractor, including a public or private entity, to employ a sufficient number of police officers at said event to ensure public safety and the safety of police personnel so assigned. The estimated number of officers required at said event shall be the sole determination of the Chief of Police.

- (2) Traffic and road construction details. In the event a contractor, including a public or private entity or utility company, shall request to employ police officers for a traffic or construction detail, the Chief of Police or his designee shall require the contractor to employ a sufficient number of police officers to ensure public safety and facilitate the flow of traffic through the Township. The estimated number of officers required for said assignment shall be the sole determination of the Chief of Police.
- (3) Other assignments. In the event a contractor shall request to employ police officers for any other assignment in the Township, including, but not limited to, security details at shopping centers, financial institutions, or other places of business, the Chief of Police or his designee shall have the right to thoroughly inspect said premises at any time and review any security plan(s) for the business location where the police officer assigned will be deployed. In all cases, the Chief of Police or his designee shall determine the police officer's particular assignment and deployment.

G. Assignment of police supervisor. The Chief of Police shall determine if the assignment of a police supervisor is necessary to direct and coordinate the efforts of members of the Hillside Police Department at any special event, sporting event, or other police-related secondary employment assignment in the Township. The contractor shall be required to recompense the Township of Hillside for the assignment of police supervisor(s) in accordance with Schedule A.

H. Administration of Secondary Employment.

- (1) The Township may Choose to utilize a secondary service to administer and perform the above actions related to the secondary employment process. These actions include but are not limited to: Communicating with persons or companies to schedule secondary employment opportunities, invoicing persons or companies for work completed; and receiving escrow payments. The secondary service provider may charge an additional service fee for services that are above, and in addition to, the fee structured stated herein as set forth in the agreement between the Township and the secondary service provider.
- (2) Escrows.
 - (a) Contractors who engage sworn members of the Hillside Police Department for police-related secondary employment shall be required to deposit funds for the compensation of said officer(s) in an escrow account. The amount to be deposited shall be determined by the Chief Financial Officer, who shall establish and maintain said escrow accounts and/or dedicated trust fund for this purpose.
 - (b) The Chief of Police shall be authorized to waive this requirement for good cause with the consent of the Chief Financial Officer, or in an emergency. The Hillside Board of Education shall be specifically exempted from this requirement.
- (3) Payment.
 - (a) Contractors that employ members of the Hillside Police Department as provided by this section shall forward all payments, including escrows, to the secondary service provider.

(b) The secondary service provider will reimburse the Township via ACH or other fund transfer methods, according to the fees set forth herein, due to the Township and Officers, in a timely manner, usually coinciding with payroll periods for work the officers have performed or were scheduled for in that period, in accordance with the above listed rules of employment between the Township and persons or companies seeking services.

(c) In no event shall any sworn member of the Hillside Police Department be directly compensated by any contractor for services rendered in connection with his or her secondary police-related employment.

(4) Disbursement of administrative fee(s).

(a) In accordance with Subsection D of this section, an administrative fee shall be added to the rates of compensation to offset the Township's expenses in connection with the secondary employment program.

(b) The Chief Financial Officer shall review the escrow account(s) and dedicated trust fund(s) periodically and transfer not more than 75% of the total collected administrative fees to the Township surplus fund. The remaining 25% of the total collected administrative fees shall remain in the escrow account(s) and/or dedicated trust fund(s) and may be used to remunerate police officers in the event a contractor defaults on required payments to the Township.

(c) Review by Chief Financial Officer and Chief of Police. The Chief Financial Officer and Chief of Police shall review the escrow accounts and dedicated trust fund(s) periodically but not less than twice annually and recommend appropriate action to correct any deficiencies in connection with the administration of the secondary employment program.

I. Miscellaneous provisions.

(1) Licensed premises. In accordance with N.J.S.A. 33:1-71, the Chief of Police shall not allow sworn officers to be regularly employed at any establishment in the Township that is licensed to distribute alcohol by the New Jersey Division of Alcoholic Beverage Control. The Chief of Police is authorized to waive this prohibition under very limited circumstances consistent with law.

(2) Voluntary services. Nothing in this section shall preclude any qualified sworn member from providing his or her services to any contractor on a voluntary basis, subject to the approval of the Chief of Police.

(3) Non-police trades and professions.

(a) Nothing in this section shall preclude any sworn member of the Police Department from engaging in outside employment of a non-police nature in which vested police powers are not a condition of employment. Examples include, but are not limited to, part-time work in the building trades (plumber, carpenter, etc.) or other professions (teaching, photography, dental hygiene, etc.).

- (b) Members of the Police Department who elect to engage in such vocations shall not do so at any time while engaged in the performance of their regular duties, nor shall they allow said employment to interfere with their duties. The Chief of Police is authorized to establish policies governing this practice and to take appropriate disciplinary action against any member of the Police Department who shall violate this provision.

- (4) Emergency action to protect private property. Nothing in this section shall preclude the Chief of Police from assigning sworn members of the Hillside Police Department, as necessary, to protect the private interests of any contractor, property owner or business entity whose property is threatened by an emergency such as a fire, flood or other man-made or natural disaster. The good-faith assignment by the Chief of Police of police personnel under such circumstances may be made without the collection of escrow funds or prepayment. Officers so assigned shall be compensated at their overtime rate, and the contractor or property owner whose private interests were protected shall be required to reimburse the Township of Hillside for personnel expenses incurred pursuant to this provision. The Township of Hillside may pursue legal remedies, as appropriate, to recover said expense.

- (5) Traffic and road construction assignments.
 - (a) Minimum assignment. Unless otherwise agreed by the Collective Bargaining Agent and Chief of Police, off-duty members assigned to traffic or construction details shall be entitled to a minimum of four hours' payment. For assignments in excess of four hours, members shall be paid in hourly increments with partial hours rounded up to the next full hour.

 - (b) Weekends. Members shall be entitled to time-and-a-half payment for all traffic and road construction assignments that occur between the hours of 12:01 a.m. Saturday and 11:59 p.m. Sunday.

 - (c) Holidays. Members shall be entitled to time-and-a-half payment for all traffic and road construction assignments that occur on the following holidays when said holidays occur between Monday and Friday: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

 - (d) Cancellation of assignment. In the event of the cancellation of an assignment for any reason, contractors shall make timely notification to the Police Department. If a contractor provides less than two hours' notification of cancellation, any officer assigned shall be entitled to four hours' payment at the regular hourly rate for the assignment. The Chief Financial Officer shall withhold this amount along with the applicable administrative fee from any escrows the contractor has provided.

 - (e) Notice to Police Department. To schedule traffic or road construction assignments, contractors shall contact the Police Department Assignment Officer between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday, not less than 24 hours prior

to the starting time of the assignment. In the event a contractor fails to comply with this provision and provides less than 24 hours' notice to the Police Department, said contractor shall be required to pay an additional \$35 administrative fee to the Township of Hillside. Said \$35 fee shall be a one-time fee per assignment, regardless of the number of officers assigned to the detail. The contractor shall be required to pay every officer so assigned a minimum of four hours' pay as provided by Subsection I(5)(a) of this section.

(f) Emergency assignments. In the event a contractor fails to comply with Subsection I(5)(e) of this section and provides less than four hours' notice to the Police Department, said assignment shall be considered an emergency and the contractor shall be required to pay an additional \$75 administrative fee to the Township of Hillside. Said \$75 fee shall be a one-time fee per assignment, regardless of the number of officers assigned to the detail. The contractor shall be required to pay every officer so assigned a minimum of four hours' pay as provided by Subsection I(5)(a) of this section.

(g) Assignment of on-duty officer at construction site. In the event the Chief of Police or his designee assigns an on-duty member to assist a contractor at a location that requires traffic control and direction, said contractor shall be required to recompense the Township of Hillside for the services rendered by the on-duty officer in accordance with Schedule A. All applicable administrative fees and vehicle usage fees shall apply.

J. Schedule A.

Assignment Type	<u>Officer's Rate</u>	<u>Administrative Fee</u>	Final Rate (per hour)
General Assignments (minimum: 2 hours)	<u>\$45.00</u>	<u>10%</u> <u>\$4.50</u>	\$49.50
Sports and Special Events (minimum: 2 hours)	\$40.00	\$4.00	\$44.00
Traffic or Construction (minimum: 4 hours)	<u>\$60.00</u>	\$6.00	\$66.00
Less than 4 hours' notice	\$75.00	\$7.50	\$82.50

Weekends and
Holidays \$75.00 \$7.50 \$82.50

Use of Police Department Vehicle \$50 per hour for the first 4 hours (minimum: 4 hours), \$10 per hour for each additional hour.

Supervisor, if needed Officer's overtime rate plus 10% Administrative fee.

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		Alston	X				
X		DeAugustine	X				
		Mobley	X				
		Murray-Clements					X
	X	Whitaker					
		Freedman, VP		X			
		Hyatt, CP	X				