

TOWNSHIP OF LUMBERTON, NEW JERSEY

ORDINANCE NO. 2019-10

**ORDINANCE AMENDING CHAPTER 51 OF THE TOWNSHIP CODE
ESTABLISHING RULES AND REGULATIONS RELATED TO
OUTSIDE EMPLOYMENT OF POLICE OFFICERS**

WHEREAS, Lumberton Township often requires the use of uniformed patrol officers in an effort to increase safety within work zones in the public right away; and

WHEREAS, in addition, private companies seek Township approval to use patrol officers for on-site security at events which may attract crowds larger than normal; and

WHEREAS, the Township seeks to establish rules and regulations to ensure that these activities are funded directly by the contractor or private entity to ensure that the officers are properly compensated for their efforts and the taxpayers are reimbursed for the cost of municipal equipment and administrative costs;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Township Committee of the Township of Lumberton, County of Burlington, State of New Jersey, that Chapter 51 of the Township Code be and is hereby amended and supplemented to create a new Article II establishing such rules and regulations for Outside Employment of Police Officers.

Section One. Amendment to Chapter 51 of the Township Code.

The Township Committee amends and supplements Chapter 51 of the Township Code to create a new Article II to read as follows:

“Article II Outside Employment of Police Officers

§ 51-14 Definitions.

As used in this article, the following terms shall have the meanings indicated:

EMPLOYEE A regular police officer of the Police Department of the Township of Lumberton that is being hired by a private employer to provide security and/or work zone related services. Special officers, as defined in N.J.S.A. 40A:14-146.8 et seq., are permitted to perform these services after all full time Police Officers rotation has been exhausted. Special officers shall not be permitted to provide security and/or work zone related services outside the boundaries of the Township of Lumberton.

PRIVATE EMPLOYER Any entity, public or private, other than the Township of Lumberton, that is hiring an employee, as defined herein, to provide security and/or work zone related services for the private employer's business, project or function.

TOWNSHIP The Township of Lumberton.

WORK ZONE RELATED SERVICES – a traffic calming method through the use of a Township Police Officer to create a presence within a work zone along any street or roadway as a means of providing greater safety and protection to the workers within the right-of-way. In providing these services, the officer's primary responsibility shall be to establish a visible

presence within the work zone for the safety and protection of the work crews. Officers may be required to direct or control traffic, especially in situations where two-way traffic is impacted by the work activity.

§ 51-15 Authorization.

A. Employees of the Township's Police Department, whether they be full-time or part-time, are expressly authorized to engage in security-related and work zone related services during their off-duty hours for private employers, so long as the arrangements therefore are made with the Township and any compensation paid to the officers for such service is channeled through the Township.

B. The officers performing said off-duty services authorized hereunder are also authorized to wear a Township police uniform.

C. The authorization set forth in this article shall apply only to security-related and work zone related services for private employers during the officer's off-duty hours.

D. While the officer's duty to enforce motor vehicle laws and criminal laws is not diminished by this work assignment, the officer's priority shall be focused on work zone safety and providing a security presence at the private activity. The officer shall radio on duty officers to assist in any traffic or criminal enforcement as needed.

E. Pursuant to memoranda issued by the State of New Jersey Department of the Treasury, Division of Pensions, dated August 1989, and February 1990, it is the express intention of this article that off-duty work authorized by this article shall entitle police officers to coverage under the Police and Firemen's Retirement System where they are injured during off-duty or outside employment under the scope of the article. Both the Township and the members of the Township's Police Department are familiar with these memoranda and, because the employees shall ultimately be subject to departmental discipline and control, and because they are ultimately paid by the Township, they are in accordance with the February 1990 memorandum prepared by Douglas R. Forrester, Director, Division of Pension, and are considered to be covered for injury or death which may occur while performing those duties.

§ 51-16 Contracts with private employers or public entities.

A. In accordance with Chapter 250 of the Code of the Township of Lumberton, persons performing work in the Township right-of-way are required to apply for and obtain a local road access permit from the Township, and must also employ uniformed police officers as traffic directors in certain circumstances (see § 250-01). Any private employer, public utility, or other entity that intends to perform work in a Township right-of-way, where said work may impact local roads and require work zone related safety measures, shall be required to enter into a contract with the Township of Lumberton for all work zone related activities impacting local roads and/or rights-of-way. For other non-traffic-related, extra-duty or security-related matters, private employers, public utilities, or other entities are encouraged to utilize off-duty members of the Lumberton Township Police Department.

B. Except in cases of a bona fide emergency, no assignment to extra duty may be made unless, 24 hours prior to such assignment, the private party or entity has executed a

contract for such services and has made the required deposit pursuant to the uniform agreement to provide security-related and/or work zone related services by off-duty personnel, which form of agreement is on file with the Township Department of Finance. Said agreement shall include but not be limited to the nature of duties to be performed, the location of said duties, the date and hours of service, the rate of payment of services to the officers, administrative fees to the Township of Lumberton and fees for the use of Township-owned equipment. Twenty-four-hours' notice is not necessary in instances where work zone related services is required due to emergency work.

- C. The agreement shall provide for the deposit of monies in advance by the private employer for the services to be performed. Should the contract be for a term exceeding one month, the private employer shall be required to tender an estimated payment for the first month's services upon executing the contract and will be billed on a periodic basis thereafter. Should the actual assignment of off-duty officers amount to less than the amount deposited, the Chief Financial Officer shall, upon termination of the contract, receipt of the final certified time slips, and receipt of written demand from the private employer, return all unused funds to the private employer. Nothing in this section shall be construed as limiting the power of the Township of Lumberton to accept or reject any and all assignments with any private employer.

§ 51-17 Insurance.

As a precondition to the use of employees by a private employer, the private employer shall provide written assurance that the officers are covered by the private employer's workman's compensation insurance and personal liability insurance policies, which assurance shall include a copy of said insurance policies, as well as such other information as the Chief of Police deems appropriate; all such information shall be submitted to the Township's Attorney for approval prior to the performance of any services by Township employees. Time and expense for attorney review shall be paid directly by the contractor at the attorney's normal rate.

§ 51-18 Payment for extra-duty assignments; establishment of fund.

- A. All private employers shall be required to make all payments for extra-duty assignments payable to the Township of Lumberton. All payments for extra-duty assignments shall be forwarded to the Finance Office of Lumberton Township. The Finance Officer shall deposit all funds earmarked for the payment of extra-duty officers, collected from private employers, into a special escrow fund which is hereby established by this article. The escrow fund shall be established for payment to members of the Police Department performing the extra-duty services, also referred to as "employees." All police officers shall be required to submit pay slips to the Police Chief. The pay slip shall be in a form approved by the Finance Officer. Upon receipt of a properly executed pay slip verified by the private person or entity, the Finance Office shall process the pay slips for disbursement during the officer's regular pay period.
- B. The rate to be charged under this section shall be set by a Resolution passed by the Township Committee during the Annual Reorganization Meeting.

§ 51-19 Administrative costs.

In addition to the aforementioned fees to be collected by the Township of Lumberton from said private person or public entity for the payment of said extra-duty police officer(s), the Township of Lumberton shall collect an administrative fee. Said fee shall be used to offset the administrative costs associated with assigning Township police officers, coordinating schedules and equipment, etc. The rate to be charged under this section shall be set by a Resolution passed by the Township Committee.

§ 51-20 Use of Township vehicles.

Police officers engaging in off-duty activities, as authorized and required by this article, may be permitted to utilize a municipal vehicle, subject to the approval and consent of the Chief of Police. If a municipal vehicle is utilized, the private employer shall also pay the Township of Lumberton a fee for the use of the vehicle. The rate to be charged under this section shall be set by a Resolution passed by the Township Committee. This provision is subject to vehicle availability.

§ 51-21 Right to outsource Billing and Scheduling for extra-duty assignments.

The Township of Lumberton maintains the right to outsource the police department extra-duty employee services to a third party for extra-duty program administration. The chosen service provider has the right to charge an additional fee other than the Township fees established herein.. This service may handle scheduling, billing, collections, pay or any other services previously performed by the Township of Lumberton. If the Township outsources all of these services, it shall not charge the hourly Township administrative fee but shall instead charge a flat fee per work assignment. The rate to be charged under this section shall be set by a Resolution passed by the Township Committee.

§ 51-22 Control vested in Chief of Police.

The Chief of Police of the Township of Lumberton shall be responsible for the overall conduct of the members of his Department in following the rules and regulations promulgated herein and shall insure that the terms, conditions and provisions of this article shall be fully and faithfully carried out. Additionally, the Chief of Police shall have authority to control officers engaged in off-duty or outside employment pursuant to this article and shall further have the authority to discipline any and all officers so engaged in outside employment by private employers, should cause for such charges arise or exist.”

Section Two. Secondary Employment.

Nothing herein shall impact any statute, directive, departmental policy, rule or regulation concerning a police officer’s opportunity to hold secondary employment unrelated to law enforcement activities.

Section Three. Repealer, Severability and Effective Date.

A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C. This Ordinance shall take effect upon passage and publication according to law.

LUMBERTON TOWNSHIP COMMITTEE

ACTION UPON INTRODUCTION:

COMMITTEE MEMBER	MOTION	2 nd	YES	ABSTAIN	NO	ABSENT
J. Dwyer	√		√			
K. Hatfield		√	√			
R. Tuno						√
K. Januseski			√			
S. Earlen			√			

ACTION UPON ADOPTION:

COMMITTEE MEMBER	MOTION	2 nd	YES	ABSTAIN	NO	ABSENT
J. Dwyer						
K. Hatfield						
R. Tuno						
K. Januseski						
S. Earlen						

CERTIFICATION

I hereby certify that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Lumberton Township Committee held on June 27, 2019 and adopted after a public hearing at a meeting of the Lumberton Township Committee held on July 25, 2019.

Debra L. Shaw-Blemings, RMC
Lumberton Township Clerk

Introduced: June 27, 2019
Hearing: July 25, 2019
Adopted:

Published: July 8, 2019
Published: