

BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 19-CODE-796

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER II
ADMINISTRATION OF THE CODE OF THE BOROUGH OF OAKLAND TO ADD A
NEW SECTION 2-5A – OUTSIDE EMPLOYMENT OF OFF DUTY POLICE OFFICERS**

WHEREAS, the Borough of Oakland recognizes that there are times when police officers are sought for employment by private employers outside the scope of their regular duties and responsibilities for public safety reasons; and

WHEREAS, the Governing Body desires to establish procedures for the employment of off duty police officers to conform to the Fair Labor Standards Act, New Jersey Attorney General Opinions and statutory law,

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Oakland as follows: Chapter II Administration is hereby amended by the addition of a new section 2-5A as follows:

Section 1. OUTSIDE EMPLOYMENT OF OFF DUTY POLICE OFFICERS

2-5A.1.

Police officers may work for outside persons or entities on their off-duty hours with the approval of and provided the Chief of Police determines, in his discretion, that there are sufficient police personnel available, that the outside employment assignment will not interfere with the needs of the Borough, and that sufficient funds have been deposited in an escrow account with the Borough Chief Financial Officer to cover the anticipated costs of such off-duty assignments. Such work shall hereinafter be referred to as off-duty police services or employment.

2-5A.2

Any person, entity, contractor or utility wishing to employ an off-duty police officer must apply to the Chief of Police, or his designee, requesting off-duty police services. The written application shall include the following information:

1. The dates that off-duty police services will be needed.
2. The nature of the off-duty police services requested.
3. An estimate of the number of off-duty police officer(s), and an estimate of the number of hours the person or entity anticipates needing such police officer(s). The Chief of Police, or his designee, based upon the application, will ultimately determine the number of police officer(s) and number of hours of officers needed for each application subject to Section 2-5A.3.

2-5A.3

A. The funds to cover the cost of off-duty police services and use of any Borough vehicles, based on the estimated number of officers and hours as determined by the Chief of Police, or his designee, shall be

submitted to the Chief of Police, or his designee, which shall be forwarded to the Borough's Chief Financial Officer, or his designee, before the start of any off-duty employment in accordance with State and Division of Local Government services regulations. An escrow account shall be established for funds dedicated to the payment of off-duty police officers for outside employment by private persons or entities. The person, entity, contractor or utility shall deposit an amount sufficient to cover the rates of compensation and administrative fees set forth herein for the total estimated hours of service. All funds received for off-duty police services shall be deposited and kept in this account. All payments to the police officers for such services shall be made from the funds in this account.

B. In the event the funds in such escrow account should become depleted, the Chief of Police, or his designee, shall immediately notify the responsible person or entity that the funds in the escrow account are insufficient to pay for continued off-duty police services. The person, entity, contractor or utility shall then either replenish the escrow account with an amount sufficient to pay for continued services or the Chief of Police, or his designee, shall immediately terminate provision of the off-duty police services, unless the Chief of Police or his designee determines such termination would be a danger to the safety and welfare of the public.

C. If the estimated costs deposited in the escrow account exceed the actual costs incurred, then the Borough shall, upon proper notice to the Borough Chief Financial Officer, and certification from the Chief of Police, or his designee, that the project is completed and no further police services are needed, refund the remainder of the escrow account.

2-5A.4

A. Any off duty police officer hired for outside employment shall be compensated pursuant to the "Overtime" provision of the current PBA collective bargaining agreement for the Police Officer performing the off duty work.

B. The person, entity, contractor or utility requesting such off duty employment shall also be responsible for payment of an administrative fee to the Borough as established by Ordinance. The current administrative fee for outside employment is established at 15.0% of the hourly pay rate. This fee is in addition to the cost per officer set forth in Paragraph A.

C. Any off duty police officer hired for outside employment shall be paid a minimum pursuant to the current PBA collective bargaining agreement regardless of the actual amount of time worked

D. Any person, entity, contractor or utility who commits to hiring a Police Officer or Officers and cancels or reschedules the work within 2 hours of the time scheduled to commence the work shall be required to pay the officer(s) through the Borough of Oakland for the minimum number of hours pursuant to the current PBA collective bargaining agreement

E. Any officer performing such details pursuant to this section shall be deemed on duty and in the employ of the Borough.

F. The person, entity, contractor or utility requesting such off duty employment shall assume any and all liability arising from such off duty police employment, including but not limited to liability arising from travel to and from job locations and services rendered during the off duty employment. The person, entity, contractor or utility requesting such off duty employment must sign, in advance, a hold

harmless and indemnification agreement stating that such person or entity will release, defend and indemnify the police officer so employed, the Chief of Police, the Borough of Oakland Police Department, the Borough of Oakland, and any agent, officer or employee thereof, and save them harmless from and against any and all claims, actions, damages, liabilities, and expenses, including but not limited to, court costs and reasonable attorney's fees, in connection with such off duty employment.

G. Prior to the commencement of any off duty employment, the person, entity, contractor or utility requesting such off duty employment shall deliver to the Borough a Certificate of Insurance evidencing general liability coverage in an amount of at least \$1,000,000 per occurrence, and Worker's Compensation with statutory limits, which shall be reasonably satisfactory to the Borough. The Certificate of Insurance must name the Borough of Oakland as additional insured. All policies of insurance evidenced by any certificate filed hereunder shall be maintained in full force and effect during the term of the outside employment. Upon any change or renewal, a new Certificate must be filed with the Borough.

Section 2. Severability.

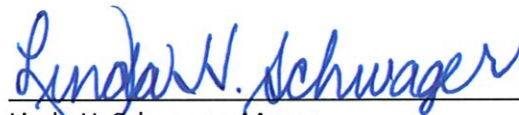
If any section or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3. Repealer.

All prior ordinances or parts of same which are inconsistent with any provisions of this article are hereby repealed to the extent of any inconsistency.

Section 4. Effective Date.

This ordinance shall take effect upon final adoption and publication according to law.


Linda H. Schwager, Mayor

ATTEST:


Lisa M. Duncan, Borough Clerk

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on November 13, 2019
Borough Clerk 