

**TOWNSHIP OF MILLBURN
ORDINANCE NO. 2538-19**

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE REVISED GENERAL
ORDINANCES OF THE TOWNSHIP OF MILLBURN, CHAPTER II, SUBSECTION 2-
16.9, ENTITLED “OFF-DUTY EMPLOYMENT OF POLICE OFFICERS FOR POLICE-
RELATED ACTIVITIES”**

STATEMENT OF PURPOSE: the purpose of this Ordinance is to revise language in the Township of Millburn’s Police Off-Duty ordinance that allows contractors to cancel jobs in a manner that does not allow sufficient time to notify officers working those jobs. This ordinance will create a buffer between cancellation of a job and required notification to officer(s), a four (4) minimum penalty for work canceled less than two (2) hour before the job start time.

WHEREAS, the Township Committee of the Township of Millburn is in receipt of a recommendation from the Police Department to amend certain aspects of the Police Off Duty Ordinance; and

WHEREAS, the Township Committee concurs that the proposed amendments will provide additional safeguards to costs and issues related with contractors that cancel jobs without sufficient notice; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Millburn in the County of Essex and State of New Jersey as follows:

Section 1. Chapter II, entitled “Administration,” and subsection 2-16.9 “Off-Duty Employment of Police Officers for Police-Related Activities” thereof, of the Revised General Ordinances of the Township of Millburn is hereby amended and supplemented by deleting existing text as per the ~~strike throughs~~ and adding new text as underlined below.

2-16.9 Off-Duty Employment of Police Officers for Police-Related Activities.

- a. *Purpose.* The intent of this subsection is to assist persons and entities by allowing them to utilize the services of off-duty Township police officers and authorizing outside employment of off-duty Township police officers within Essex County in accordance with New Jersey Attorney General Opinion No. 23 (1977) and No. 11 (1978), recommendations of the New Jersey Department of the Treasury, Division of Pensions, including but not limited to the Notices of August 1989 and February 1990, and New Jersey Department of Community Affairs, Division of Local Government Services, including but not limited to Local Finance Notice CFO 2000-14. The Township seeks to accomplish these purposes by establishing policies and procedures regarding the use of and compensation for said off-duty Township police officers.
- b. *Approval of Employment.* Off-duty Township police officers shall be permitted to perform on behalf of private employers police-related activities which are not prohibited by State law or regulation, Township ordinance or Police Department rules and regulations, only during each respective Township police officer's off-duty hours and at such times as will not interfere with the

efficient performance of regularly scheduled or emergency duty for the Township as determined by the Chief of Police.

1. An off-duty Township police officer performing police-related activities shall perform such activities as if they were performing such activities for the Township and shall be subject to Police Department discipline and control in connection with their actions and/or inactions concerning the police-related activities.
2. Any private person or entity, including any other municipality or governmental entity other than the Township or its agencies, boards, etc. wishing to have off-duty Township police officers perform police-related activities shall first obtain the approval of the Chief of Police, which approval shall be granted if, in the opinion of the Chief of Police, such requested activity is not inconsistent with the efficient functioning and good reputation of the Police Department, and would not unreasonably endanger or threaten the safety of the Township police officers performing such activities.
3. In the event that the Chief of Police approves a particular police-related activity, the Chief of Police, or his designee, shall post within the Police Department notice of the availability of such activities. The Chief of Police shall also post a list of those activities which the Chief has determined shall not be considered police-related activities.
4. The Chief of Police shall be responsible for making all determinations regarding the method of designation of the off-duty officers, the number of continuous hours by which such off-duty officers are permitted to work in conjunction with their regular police duties, the impact that sickness of a police officer may have on the selection of an off-duty police officer, and all related issues.
5. The procedures set forth in this subsection shall apply to all requests for off-duty officers to perform police-related activities, including requests from other municipalities made on behalf of private person or entity.

c. *Request for Services.*

1. All requests to the Township for off-duty Township police officers to perform police-related activities shall be submitted in writing to the Chief of Police on a form provided by the Township and setting forth the following information:
 - (a) Name, address, telephone number and fax number of the person or entity requesting that the police perform a police-related activity;
 - (b) The date, time, and place that the police-related activity is to take place;
 - (c) The number of Township police officers requested;
 - (d) The number of estimated hours for each Township police officer requested (minimum of four (4) hours);
 - (e) A detailed description of the police-related activity;
 - (f) Whether a patrol car of the Township is requested, with a patrol car being mandated for all traffic related services;
 - (g) An acknowledgement by the requesting party that:
 - (1) The party is solely responsible for payment of the police-related activity requested and all applicable fees;

- (2) The party shall pay any and all legal fees, costs, and expenses, including but not limited to experts, court reporting services, etc., as well as costs of suit, incurred by the Township in connection with (i) any claim, suit and/or dispute out of the police-related activity, (ii) any suit for collection of any fees related to this subsection, (iii) any suit to enforce the terms of this subsection;
 - (3) The party shall pay the Township a late payment fee for each day that any balance on the payment is late, beginning on the fifteenth (15th) day after the police-related activity has been completed. The late payment fee shall be per the fee schedule established by the Police Department.
 - (4) This subsection of the Township Code has been read and the party agrees to its terms and conditions;
 - (5) The party shall indemnify, defend and hold harmless the Township and its agents, officials, and employees, including but not limited to, the off-duty Township police officers performing the police-related activities and their superior Township police officers against all claims, demands, actions, suits, causes of action, damages, liabilities, judgments, losses of any kind whatsoever, costs, and expenses including, but not limited to reasonable court costs and counsel fees occurring as a result of the employment of off-duty Township police officers and regardless of whether the loss was due, in whole or in part, to the conduct of the off-duty police officer; and
- (h) Acknowledgement by the Chief of Police that he has approved the request as required by this subsection.
2. The party requesting off-duty police officers to perform police-related activities shall carry comprehensive general liability insurance and worker's compensation insurance. At the time the police-related activity is requested, the party requesting such activity shall attach to their written request a copy of their certificates of insurance for comprehensive general liability insurance and worker's compensation insurance, as well as evidencing that the Township is a named additional insured. The coverage limits for comprehensive general liability shall be no less than one million (\$1,000,000.00) dollars per occurrence.
 3. At the time that the request is made, the party shall pay the Township for the off-duty Township police officer's services which will be on a rate schedule available in the office of the Municipal Clerk and Chief of Police.
 4. In the event that the party cancels the requested police-related activity, notification must be made prior to two (2) hours before the activity is to be performed. If the party fails to cancel the requested police-related activity prior to two (2) hours of the scheduled start time, the party will be charged a four (4) hour minimum.
 5. Upon request, the Township shall return the payment already made by the party to the Township for the police-related activity less a twenty-five (\$25.00) dollar administrative fee if notice was made two (2) hours prior to the scheduled job.
 - ~~3. At the time that the request is made, the party shall pay the Township for the off duty Township police officer's services which will be on a rate schedule available in the office of the Municipal Clerk and Chief of Police. In the event that the party cancels the requested police-related activity prior to one (1) hour before the activity is to be performed, the~~

~~Township shall return the payment already made by the party to the Township for the police related activity less a twenty five (\$25.00) dollar administrative fee.~~

d. *Rates of Compensation, Administrative Fees, and Payment for Services.*

1. The hourly rate of compensation to be paid by the requesting party to the Township for any off-duty Township police officer(s) will be determined by a rate schedule to be established by the Township Committee. The Township Committee shall establish the hourly rate for each category of Township police officer by resolution.
2. An administrative fee as listed in the rate schedule per off-duty Township police officer is established to cover the Township's costs, overhead, and out-of-pocket expenses and shall be paid by the requesting party at the same time as all other payments are required to be made, i.e. when the request for the activity is made.
3. If a patrol car is requested in connection with a police-related activity because, (i) the request for police-related activities involves traffic services, or (ii) the Chief of Police or the Chief's designee determines in his/her sole discretion that a patrol car is necessary due to the nature of the activity, a flat administrative fee per patrol car shall be charged per the rate schedule.
4. All administrative fees and late fees paid by the requesting party shall belong to the Township.
5. Immediately upon completion of the police-related activity the Police Chief's designee shall issue an invoice, on a form to be approved by the Chief of Police and the Township's Chief Financial Officer. The form shall provide for the number of hours that the police-related activity was performed, the number of officers utilized as part of the police-related activity, the hourly rate charged for each such officer, the total fee for the police-related activities, the fee for the use of any patrol cars and all applicable administrative fees, less any payments previously made in accordance with this subsection. The requesting party shall acknowledge receipt of the invoice, receipt of the services and the number of hours by signing a copy of the invoice and date when the acknowledgement was made. Any balance owed by the requesting party to the Township is due within twelve (12) days of completion of the activity, but in no event later than thirty (30) days from the date that the police-related activity commenced. The off-duty Township police officer who transmits the invoice to the requesting party shall transmit the original, signed invoice to the Township's Chief Financial Officer within forty-eight (48) hours of its execution by the requesting party.
6. The Township shall pay the off-duty Township police officer in accordance with the rate schedule. The off-duty Township police officer shall receive his/her pay for the police-related activity on the next regularly scheduled payday after the activity has been performed so long as the activity was completed and a copy of the invoice is received by the Township's Chief Financial Officer at least ten (10) business days before the next regularly scheduled payday provided the escrow funds are available.
7. In the event that a requesting party requires the services of off-duty Township police officers on a regular and/or continuous basis, such party shall be required to maintain a minimum balance in an escrow fund with the Township equal to the average amount paid for such off-duty Township police officers in the average of the highest two (2) consecutive months on a quarterly basis to determine whether the minimum balance needs to be adjusted or remain the same. In the event the balance is determined to be too high, the Township will

return any excess to the party quarterly. The party would not be entitled to any interest on such funds. In the event that the escrow fund is reduced to less than one (1) month's estimated cost, such party shall be required to replenish the fund within five (5) days of notification by the Township.

8. The Township shall, if required by law and at the determination of the Township's Chief Financial Officer, establish a dedicated fund for the receipt of fees paid by requesting parties and for the payment of wages to off-duty Township police officers for the police-related activities and payment to the Township of all benefits as described above, as well as all administrative fees.
9. No off-duty Township police officer shall be assigned to perform and/or be allowed to perform any police-related activity unless and until the Township police officer acknowledges that the officer is performing the police-related activity ~~in~~ in accordance with this subsection and consents to be so governed.
(Ord. No. 2261-05 § 1)

Introduced: 6/18/2019