

Introduction date: August 21, 2023

Adoption date: September 11, 2023

**ORDINANCE 2023-9
TOWNSHIP OF EASTAMPTON
BURLINGTON COUNTY**

**AN ORDINANCE OF THE TOWNSHIP OF EASTAMPTON TO
AMEND SECTION 82-20 OF THE TOWNSHIP CODE REGARDING
OFF-DUTY SECURITY RELATED AND/OR TRAFFIC CONTROL
SERVICES BY POLICE PERSONNEL**

WHEREAS, members of the Eastampton Township Police Department often receive requests by private entities or persons, Utility companies, and other outside entities to provide traffic control and security related services at construction sites, social events or traffic control on Township and County roadways; and

WHEREAS, the Chief of Police has asked the governing body if Eastampton Township Police Officers would be permitted to render such traffic control and security related services in uniform, but while off-duty; and

WHEREAS, the municipal attorney, at the direction of the governing body, has researched the legality of such activities and has advised the Township Council concerning same; and

WHEREAS, the Township Council recognizes that off-duty police work may be prescribed by the Private Detective Law unless same is authorized coordinated, and administered through the local government, and

WHEREAS, it is deemed to be in the best interest of the citizens of this community, and would contribute to the overall safety and general welfare of all persons living in or traveling through this Township, for members of the Police Department to provide traffic control services and be present for scene safety at **all** construction sites, public events and utility work performed in the Township of Eastampton by entities not connected with or under the control of the municipality; and

WHEREAS, under no circumstances, shall a construction or utility company, be permitted to conduct work on Township roadways without the permission of the Township Manager and/or Chief of Police; and

WHEREAS, it is also deemed to be in the best interest of the municipality to provide coordination and administration through the local government, of security related services provided by local police officers, and to have said officers subject to departmental discipline and control, while performing such services; and

WHEREAS, such services almost invariably would be performed while the police officer was in an off-duty status; and

WHEREAS, the governing body wants to protect the Township from liability in connection with such work, and establish certain guidelines and regulations governing such work; and

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Eastampton, County of Burlington, State of New Jersey as follows:

Section 82-20(K)(3) of the Township Code of Eastampton shall be amended to read as follows:

SECTION 1. AUTHORIZATION. §82-20(K)(3)

- a. Members of the Township's Police Department, whether they be full-time or part-time, are expressly authorized to engage in security-related and traffic control activities during their off-duty hours for private entities, so long as the arrangements thereof are made through this municipality and any compensation paid to the officers for such service is channeled through the Township's Financial Department.
- b. The officers performing said off-duty services authorized hereunder are also authorized to wear a Township Police uniform; however, nothing shall in any way imply or be deemed to express any commitment or obligation by the municipality to pay said officer's compensation for overtime or extra duty work, in fact, the governing body hereby disclaims any such commitment, obligation, or responsibility.
- c. The authorization set forth in this Ordinance shall apply only to security-related and traffic control activities during off-duty hours for private persons or entities.
- d. In granting this authorization, the Township of Eastampton assumes no responsibility or liability for the actions or non-actions of the off-duty police officers.

SECTION 2. COMPENSATION. Section 82-20(L)(1) of the Township Code of Eastampton shall be amended to read as follows:

- a. All fees for extra-duty police services will be collected by a third company party subcontracted by the Township of Eastampton. The fee shall consist of a special hourly rate, agreed upon by the Township, to be paid to officers working extra-duty assignments, plus a reasonable approximation of the administrative cost, overhead and out-of-pocket expenses to the Township for providing the service. The fees shall be: officer's rate, \$105.00 per hour; administrative fee, \$20 per hour; and vehicle charge, \$40 per day and a hourly fee to be collected by the third party not to exceed \$10 per hour. All payments for such services shall be made payable to Eastampton Township.
[Amended 5-28-2019 by Ord. No. 2019-10]

b. All compensation to be paid to said officers by the private person or entities shall be first paid by said person or entity to the Township Treasurer. The amount to be paid to the Township Treasurer shall be, for the calendar year 2023, \$135.00 per hour where the Officer is performing traffic control/security in a Township uniform. Out of this amount \$105.00 per hour shall be paid to the Officer and \$20.00 to the Township per hour to cover all administrative costs and taxes.

c. The remaining amount shall be given to the company or organization that the Township enters into an agreement with to handle the off-duty scheduling of the officers. In addition, a fee of \$40.00 shall be collected for each vehicle per day. The Treasurer will then pay the Officer involved the hourly rate stated above, minus applicable taxes and other deductions required to be made by the Township Treasurer. Under no circumstances will the Township of Eastampton advance monies to the officer involved. The Township will contract an off-duty scheduling company that will handle the collecting and disbursement of funds to the Township. The Township assumes no liability for funds not paid by the private entity or establishment, as this company will assume the liability on its behalf.

d. Exigent circumstances. The Chief of Police maintains broad discretion to amend, modify or otherwise act without conforming to the letter of this section if exigent circumstances exist or the public health, safety or welfare mandates action by the Chief and would not otherwise allow for timing or deadlines, as set forth herein, to be met

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 ordinance that off-duty work authorized by this ordinance shall entitle police officers to coverage under the Police and Firemen's Retirement System where they are injured during off-duty or outside employment authorized by this ordinance. Both the Township and the members if 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 paid by the Township, albeit at a rate not their regular or overtime rate, they are in accordance with the February 1990 memorandum prepared by Douglas R. Forrester, Director, Division of Pensions, above hereto and made a part hereof, considered to be covered for injury or death which may occur while performing those duties.

f. Minimum Pay. Unless a particular assignment is specifically scheduled for a period of less than four hours, the minimum pay for each officer's service shall be for a period of four hours. In addition, the third party or entity requesting the services must provide a two-hour notice of cancellation, and if notification is not made at least two hours prior to the scheduled commencement time, the four-hour minimum payment requirement shall be complied with.

g. For off-duty employment is more than eight (8) hours in one day, on a holiday (recognized by the Township) or weekend, or less than 24 hrs. notice for an emergent assignment (does not apply to employment outside Eastampton Township) Employees activities shall be calculated at the rate of \$145.00 per hour, out of this amount \$125.00 per hour shall be paid to the Officer and \$20.00 to the Township per hour to cover all administrative costs and taxes.

SECTION 3. Section 82-20(L)(2) of the Township Code of Eastampton shall be amended to read as follows:

a. Any person or entity wishing to receive police services which the Township is not obligated or expected to provide or does not usually provide as part of its regular plan of police services may arrange to receive such services within the Township through the Chief of Police. Such persons should notify the Chief of Police, in writing, of the specific nature of the services desired at least 15 days before such services are required, unless exigent circumstances exist. All requests shall be subject to the availability of personnel as determined by the Chief of Police. The Chief of Police is responsible for public safety in Eastampton and as such shall administer all activities pursuant to this section.

b. Any person or entity requesting an Eastampton Township Police officer for extra-duty employment shall deposit with the Township a sum as determined by the Chief of Police, and as reflected in a written agreement, based upon a reasonable estimate of the total costs for such services.

c. All police services within the Township of Eastampton shall be delivered by officers from the Eastampton Police Department. If the Chief of Police determines that the demand cannot be met by the Eastampton Police Department, he may request additional police officers from outside agencies.

d. All requests for extra-duty police services will be finalized in a written agreement between the Chief of Police and the individual or entity requesting such services. The agreement shall specify, at a minimum, the following:

[Amended 5-28-2019 by Ord. No. 2019-10]

- (a) The scope of services that are to be provided;
- (b) The commencement date of the police services to be provided;
- (c) The hours of authorized operation;
- (d) The number of officers requested and total man-hours needed; and
- (e) The anticipated date when the need for police services will be completed.
- (f) The anticipated fee for such service and the required escrow deposit.

SECTION 4. SUPERVISION BY CHIEF OF POLICE.

The Chief of Police of the Township of Eastampton 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 Resolution 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 resolution, and shall further have the authority to discipline any and all officers so engaged in outside employment, should cause for such charges arise to exist.

SECTION 5. EXCEPTIONS.

The Township Manager and/or Chief of Police reserves the right to amend fees for non-profit groups and/or other municipal or county organizations.

SECTION 6. OFF-DUTY SUBCONTRACTED COMPANY.

The Township shall by way of Resolution enter into an agreement with an Off-Duty scheduling company. This company shall handle the collection of funds from the independent contractors or utility companies or entities. The company shall deposit said funds into an account set up by the Township Treasurer, minus fees.

The company shall, as stated above, take full liability of all funds not received by said company and shall provide payment to the Township, regardless if payment has not been received. The Township shall enter into this agreement through Resolution annually.

SECTION 7. Repealer. All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflict.

SECTION 8. Severability. If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Eastampton declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

SECTION 9. Effective Date. The ordinance shall take effect immediately upon passage and publication according to law.

Adopted: September 11, 2023

ATTEST:


KIM-MARIE WHITE
Municipal Clerk


ROBERT APGAR
Mayor

Introduction: August 21, 2023

Council	Motion	2 nd	Ayes	Nays	Abstain	Absent
Councilman Rodriguez			✓			
Councilman Santillo		✓	✓			
Councilman Springer			✓			
Councilman Zeno	✓		✓			
Mayor Apgar			✓			
		VOTE	5	0		

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Councilman Zeno	✓		✓			
Mayor Apgar			✓			
		VOTE	5	0		