

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE

No. **20-011**

1ST READING March 3, 2020

DATE TO MAYOR _____

2ND READING & PUBLIC HEARING March 17, 2020

DATE RESUBMITTED TO COUNCIL _____

WITHDRAWN _____ LOST _____

DATE EFFECTIVE _____

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

TOWNSHIP ATTORNEY

TITLE

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, CHAPTER 5, ADMINISTRATION OF GOVERNMENT, PART 4, DEPARTMENTS, ARTICLE XI, DEPARTMENT OF PUBLIC SAFETY

Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of Ordinances of Hamilton Township, New Jersey, Chapter 5, Administration of Government, Part 4, Departments, Article XI, Department of Public Safety*, be amended and supplemented as follows:

Chapter 5

ADMINISTRATION OF GOVERNMENT

PART 4. DEPARTMENTS

ARTICLE XI. DEPARTMENT OF PUBLIC SAFETY

§ 5-58. Establishment; organization.

There shall be a Department of Public Safety, the head of which shall be the Director. Within the Department of Public Safety there shall be a Police Division, Special Police Officers, [the Office of Municipal Emergency Management and] the Office of Juvenile Advisor, the Fire Department and the Office of Municipal Emergency Management.

§ 5-59. Police Division.

- A. There is hereby created in and for the Township a Police Division which shall consist of no more than one Chief of Police, four captains, 12 lieutenants, and such number of sergeants and police officers as authorized by separate ordinance.
- B. The Police Division shall preserve the public peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township; direct and control traffic; provide attendance and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; and provide training for the efficiency of its members and officer.
- C. The Director of Public Safety, or in the absence of the Director of Public Safety, the Mayor, shall be designated as the appropriate authority as provided in N.J.S.A. 40A:14-118. The appropriate authority shall be responsible for the overall performance of the Police Division. The appropriate authority shall adopt and promulgate rules and regulations for the government of the Police Division and for the discipline of its members.
- D. The Chief of Police shall be the head of the Police Division and shall be directly responsible to the appropriate authority for its efficiency and day-to-day operations.

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Pursuant to policies established by the appropriate authority, the Chief of Police shall:

- (1) Administer and enforce the rules and regulations of the Police Division and any special emergency directive for the disposition and discipline of the Division and its members and officers;
- (2) Serve as the hearing officer for all disciplinary matters within the Police Division. In those disciplinary matters where the Chief of Police cannot serve as hearing officer, the appropriate authority or his/her designee shall act as the hearing officer;
- (3) Have, exercise and discharge the functions, powers and duties of the Police Division;
- (4) Prescribe the duties and assignments of all members and officers;
- (5) Delegate such authority as may be deemed necessary for the efficient operation of the Police Division to be exercised under the Chief's direction and control; and
- (6) Report at least monthly to the appropriate authority in such form as shall be prescribed on the operations of the Police Division during the preceding month and make such other reports as may be requested by the appropriate authority.

- E. No person shall be appointed to the Police Division who is not qualified as provided in the New Jersey Statutes. The appropriate authority may also require that an applicant for appointment to the Police Division shall successfully complete a physical, mental and psychological examination.

§ 5-~~60~~59.1. Special police officers.

The Mayor may appoint from time to time special law enforcement officers in accordance with state law for terms not exceeding one year. The special law enforcement officers shall possess and exercise all the powers and duties provided by said statutes during their term in office, but shall not be continued as regular members of the Police Division and shall not be entitled to tenure. The Chief of Police may authorize special law enforcement officers when on duty to exercise the same powers and authority as regular members of the Police Division including the carrying of firearms and the power of arrest.

§ 5-~~61~~59.2. Civilian section.

The civilian section of the Police Division shall consist of the following:

- A. **Police Surgeon.** The Police Surgeon conducts all medical examinations of police officers, including new patrolmen, to determine their fitness. He makes recommendations related to continued service of members, examines the members of the force who are about to retire because of age or physical disability, gives emergency medical treatment to members of the force who are injured in line of service, assigns them to hospitals, visits them and gives post-hospital treatment, gives emergency medical treatment at the scenes of accidents, examines members of the police force returning to active service from sick leave, and keeps needed medical and other records in files. The Police Surgeon is a physician licensed to practice in the state, with a minimum of one year of experience as a physician.
- B. **Police Matron.** The Police Matron, under the general direction of the Police Division, guards and searches apprehended females and performs related work as assigned. She

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helps to maintain order and discipline among female prisoners, searches female prisoners, assists police officers in the questioning of prisoners and gives needed first aid in case of accidents.

- C. Public Safety Telecommunicators. The Public Safety Telecommunicator receives complaints from the public concerning crimes and police emergencies; broadcasts orders to police radio patrol vehicles or patrolmen to investigate complaints; relays instructions or questions from remote units; records calls, broadcasts any complaints that are received; prepares and maintains a variety of records, such as police logs, blotters and files; and does related work as required.
- D. School traffic guard. The school traffic guard regulates and directs the movement of schoolchildren at a street intersection, paying particular attention to their safety, and performs other related work as required.
- E. Other personnel. The section also consists of clerical workers and other personnel assigned to the Police Division.

§ 5-~~62~~59.3. Juvenile Advisor.

- A. Appointment. There may be an officer of the Township known as the Juvenile Advisor, who shall be appointed by the Mayor with the advice and consent of the Council for a term of one year beginning January 1 in the year in which his appointment shall be made.
- B. Duties. The duties of the Advisor shall be part-time. He shall work under and be directly responsible to the Director of Public Safety. He shall have referred to him through the Director of Public Safety all matters involving juvenile delinquency in the Township and shall handle all matters involving juvenile delinquency which are not inconsistent with the power and authority now exercised by the Municipal Judge and other public officials. In addition, he shall:
 - (1) Initiate investigations, hold investigations and hearings, counsel and advise on matters dealing with juvenile delinquency.
 - (2) Make records and reports of his investigations, hearings and conferences, which shall be confidential in nature. He shall coordinate with the various authorities and departments, particularly the Police Division, in all matters affecting juveniles and juvenile delinquency.
 - (3) Issue notices and orders necessary for the purpose of enforcing compliance with matters dealing with investigations.
 - (4) Perform any of the other duties required of him by any other ordinance of the Township.

[§ 5-63. Office of Municipal Emergency Management.]

- [A. There shall be an Office of Emergency Management, pursuant to N.J.S.A. App. A:9-40.1 et seq. and Executive Order No. 101, in the Department of Public Safety, and there shall be a Coordinator of Emergency Management.]
- [B. The Coordinator of Emergency Management shall be responsible for the planning, coordinating, directing and control of emergency management operations.]

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[C. All departments of the Township shall cooperate with and assist the Office.]

§ 5-~~64~~59.4. Protective custody for DUI arrestees.

- A. Any person who is arrested for operating a motor vehicle in violation of N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored. The person shall be released from protective custody when that person is considered to no longer be a danger to himself or others. A person may be considered to no longer be a danger to himself or others when the person's blood alcohol concentration is less than 0.05%, the person is no longer under the influence of any intoxicating liquor or narcotic, hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired, together with any other relevant criteria.
- B. In no event shall the Township's Police Department hold a person arrested for operating a motor vehicle in violation of N.J.S.A. 39:4-50 in the protective custody set forth in this section for a period of longer than eight hours without providing an appropriate hearing before a Municipal Court Judge.
- C. Notwithstanding the provisions of this section, provided that it is not a detriment to the public safety, the Township's Police Department may, because of the age, health or safety of the arrested person, release the person pursuant to the provisions of N.J.S.A. 39:4-50.22 et seq., or provide an appropriate alternative to protective custody. The Township, its Police Department, and the individual police officers and representatives shall be immune from liability of any kind if a person is released from custody pursuant to the provisions of this subsection.
- D. Nothing in this section shall be construed as requiring the use of state police facilities by the Township for purposes of implementing the protective custody provided for in this section.

§ 5-~~65~~59.5. Mutual aid agreement for emergency police service.

- A. Mutual aid agreements established. Pursuant to N.J.S.A. 40A:14-156 and N.J.S.A. 40A:14-156.1 et seq., there are hereby established mutual aid agreements among and between the Township of Hamilton and each of the aforementioned municipalities in the County of Mercer, New Jersey, which shall become effective upon the adoption by one or more of the aforementioned municipalities (hereinafter referred to as "participating municipalities") of reciprocal ordinances to provide mutual aid in police services in case of emergency. This agreement shall apply whenever this municipality may have an emergency within its boundaries requiring additional police assistance to protect life and property, and whenever any of the aforementioned municipalities may experience a similar emergency.
- B. Emergency defined, S.O.P. For purposes of this section, the term "emergency" shall be defined to include situations in which the number of available police officers in a participating municipality is insufficient to meet the public need in a particular situation and situations where police aid involving special expertise, training, or equipment is required in order to protect life and property or to assist in suppressing a riot or disorder. No formal declaration of emergency is required to implement the provisions of the mutual aid agreement.
- C. Requests for assistance. The Police Chief, Police Director, or acting head of the Police

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Department, or Mayor, or chief executive officer of a participating municipality is hereby authorized to request assistance from the Chief or other head of the Police Department of any other participating municipality to provide aid in accordance with N.J.S.A. 40A:14-156 et seq.

- D. Provision of assistance. A participating municipality shall provide police assistance when a valid request in accordance with this agreement to supply personnel is made, to the extent possible without endangering persons or property within the confines of the providing municipality.
- E. Powers, rights, immunities. The members of the providing municipality's Police Department supplying aid shall have the same powers, authorities, rights, and immunities as the members of the police force of the requesting municipality when aid is rendered therein. Said members shall also have, while so acting, such rights and immunities as they may otherwise enjoy in the performance of their normal duties in the municipality rendering such assistance.
- F. County Critical Incident Management Plan. These mutual aid agreements established herein by and between the aforementioned municipalities in the County of Mercer shall further authorize mutual police aid and assistance under the County Critical Incident Management Plan as established by the Mercer County Prosecutor as the chief law enforcement official in the county. The plan provides for a response by specially trained regional emergency response/special weapons and tactics team in the event of certain hostage, barricade, sniper, high-risk armed apprehensions, terrorist, or similar situations occurring within a municipality within the County of Mercer.
- G. Benefits, injury, death. Members of the police force of the providing municipality suffering injury, or their legal representatives, if death results while rendering assistance in the requested municipality, shall be entitled to all such salary, pension rights, workers' compensation, or other benefits, as they would have accrued if such injury or death had occurred in the performance of duties in their own municipality, with such benefits to be the responsibility of the providing municipality.
- H. Reimbursement.
- (1) A municipality receiving police assistance hereunder pursuant to the terms of the County Critical Incident Management Plan shall not be required to directly reimburse the regional team for services so provided. The member municipalities shall, however, otherwise support the function of the respective regional response teams by providing the necessary manpower, equipment, and supplies on an ongoing annual basis pursuant to the terms of the County Critical Incident Management Plan.
- (2) Where emergency police aid is otherwise provided under circumstances outside of the County Critical Incident Management Plan, reimbursement shall be pursuant to N.J.S.A. 40A:14-156, or such other terms and conditions for reimbursement specifically agreed to between specific municipalities.
- I. Internal affairs. Any complaints of an internal-affairs nature made against an officer for conduct while serving in a municipality other than his/her home municipality pursuant to this mutual aid agreement shall be investigated by appropriately designated police officials from the home municipality. This investigation may be assisted by police officers from the municipality where the alleged incident occurred. Any allegations of potential criminal conduct by an officer shall be immediately referred to the Mercer County

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Prosecutor's Office for review.

- J. Effective date. This section shall take effect upon final passage and publication according to law. It shall become effective with respect to this municipality's activities with another participating municipality, when such other participating municipality has adopted an ordinance reciprocal to this one, and such ordinance has become effective in that municipality.

§ 5-~~66~~59.6. Employment of off-duty police officers.

- A. Purpose. The purpose of this section is to establish a policy regarding the hiring and use of off-duty Hamilton Township police officers.

- (1) Members of the Police Division shall be permitted to accept police-related employment only during off-duty hours and only at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty for the Township.
- (2) Any person or entity wishing to employ off-duty police officers shall first obtain the approval of the Chief of Police or his designee, which approval shall be granted if, in the opinion of the Chief of Police or his designee, such employment would not be inconsistent with the efficient functioning and good reputation of the Police Division, and would not reasonably endanger or threaten the safety of the officer or officers who are to perform the work.

- B. Insurance requirement.

- (1) No party or employer shall employ any off-duty Township police officer in order to perform the services of security guard, traffic control officer or plain clothes surveillance officer without having first filed with the Township's Municipal Clerk a certificate of comprehensive general liability insurance in the amount of not less than \$1,000,000 combined single limits for any one occurrence with respect to injuries and damages suffered or caused by Township police officers while in the employ of the party or employer. Said certificate shall list the Township, the Township's Police Division and municipal officials, representatives and employees as additional insureds.
- (2) No certificate of insurance required by this section shall be deemed filed with the Municipal Clerk unless it has first been approved by the Township's Municipal Attorney.
- (3) Any and all policies of insurance evidenced by any certificate filed hereunder shall be maintained by the party or employer in full force and effect at all times while any Township police officer is employed by such party or employer. Upon the change or renewal of any such policy of insurance, the party or employer shall forthwith file with the Municipal Clerk a new and current certificate of insurance in compliance with the foregoing provisions.
- (4) In the event of an emergency, which results in the person or entity being precluded from complying with the requirements of this subsection, the Chief of Police or his designee shall have the authority to waive said insurance prerequisite prior to approving the use of off-duty officers for certain police-related employment.

- C. Hold harmless. In addition to the aforesaid requirements, the party or employer shall

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indemnify and hold harmless the Township, the Township's Police Division and the municipality's officials, representatives and employees, from and against any claim, liability, damage or expense that may arise out of or relate to the actions of:

- (1) Any Township police officers employed by the party or employer, including any claims concerning the alleged negligence of the Township's police officers; and
- (2) The party or employer, its employees, officers and representatives.

D. Escrow accounts.

- (1) Except as provided herein below, any party or employer requesting the services of an off-duty Township police officer shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police or his designee, and shall establish an escrow account with the Chief Financial Officer of the Township by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in Subsection F herein below for the total estimated hours of service.
- (2) If the amount required to be deposited with the Township pursuant to Subsection **D(1)** herein above exceeds \$20,000, an escrow deposit of \$20,000 shall be required. Said \$20,000 deposit shall be maintained until such time as the amount required to be deposited for all remaining services on any given project shall be less than \$20,000, and then such lesser amount shall be required to be maintained.
- (3) Prior to posting any request for services of off-duty Township police officers, the Chief of Police or his designee shall verify that the balance in the escrow account of the party or employer requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police or his designee shall not post a request for services from any party or employer unless all fees and compensation required in the manner described above have been deposited with the Township's Chief Financial Officer. No officer shall provide any such services for more hours than are specified in the request for services.
- (4) In the event the funds in such an escrow account should become depleted, services of off-duty police officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.
- (5) The party or person requesting such services shall be responsible for ensuring that the sufficient funds remain in the escrow account in order to avoid any interruption of services.
- (6) Houses of worship, private schools, charities and local public schools shall be exempt from the requirements for the posting of an escrow deposit and from the Township administrative fee described in Subsection F, Rates of compensation; administrative fees; payment for service, below.
- (7) In the event of an emergency, which results in the person or entity being precluded from timely complying with the requirements of this subsection, the Chief of Police or his designee shall have the authority to waive the escrow account prerequisite and approve the use of off-duty officers for certain police-

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related employment. This waiver shall be limited to the escrow account/prepayment aspect of this subsection. The person or entity requesting the law enforcement services shall remain fully responsible for paying for same. In the event the person or entity requesting the off-duty police services fails to submit payment within 30 days of the approval of the use of the off-duty police officers, the Township shall not be responsible for paying the subject officers for their off-duty services. The police officers will be limited in their remedies to pursuing payment from the person or entity who requested, and received, the services.

- E. Requests for services. All requests to the Township for services of off-duty police officers for a period of one week or longer shall be forwarded to the Chief of Police for posting at least 10 days before such services are required. The Chief of Police or his designee may relax this time restriction in the event of an emergency. Any police officers, when so employed, shall be treated as an employee of the Township; provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of police officers so employed, nor shall hours worked for outside employment be considered in any way as compensable overtime.
- F. Rates of compensation; administrative fees; payment for services. Rates of compensation for contracting the services of off-duty Township police officers, including an administrative fee, for the following assignments shall be as set forth in Chapter 215, Fees, of the Township Code:
- (1) For all nontraffic assignments.
 - (2) For all traffic assignments.
 - (3) For all construction project traffic assignments.
- G. Use of marked police vehicles. In the event that a party or employer employs any off-duty Township police officer pursuant to this section, in addition to any compensation to be paid to the Township pursuant to the requirements herein, there shall also be a fee as set forth in Chapter 215, Fees, per hour per vehicle for the use of marked police vehicles.
- H. Penalty. Any person or entity who employs off-duty Township police officers in order to perform the above services without first having complied with the requirements of this section shall be subject to the fines set forth in § 1-2 of the Code of the Township of Hamilton for each day that the party or entity employs any Township police officer, unless a waiver of said requirements has been granted by the Chief of Police or his designee.

§ 5-60. Fire Department.

- A. Establishment. There is hereby created in and for the Township of Hamilton the Hamilton Township Fire Department which shall consist of such officers and firefighters pursuant to authority vested in the municipality pursuant to N.J.S.A. 40A:14-7 and as hereinafter prescribed.
- B. Qualifications. Qualifications for paid members of the Fire Department shall be as set forth in N.J.S.A. 40A:14-9, 40A:14-9.8, and 40A:14-10.1.
- C. Officers. The Fire Department officers shall consist of the Fire Chief and other officers

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deemed necessary by the governing body and shall be appointed to positions to meet the needs of the Fire Department and subject to the New Jersey Civil Service Commission rules and regulations. The Command structure shall be as follows: Fire Chief; four (4) Deputy Chiefs/Division Chiefs; four (4) Battalion Chiefs assigned to Operations; one (1) Battalion Chief of Administration; one (1) Captain of Training; and one (1) Captain of Logistics. The terms of office shall be set forth in N.J.S.A. 40A:14-9. The Fire Chief shall be the head of the Fire Department.

§ 5-61 through § 5-64. Reserved.

§ 5-65. Office of Municipal Emergency Management.

- A. There shall be an Office of Emergency Management, pursuant to N.J.S.A. App. A:9-40.1 et seq. and Executive Order No. 101, in the Department of Public Safety, and there shall be a Coordinator of Emergency Management.
- B. The Coordinator of Emergency Management shall be responsible for the planning, coordinating, directing and control of emergency management operations.
- C. All departments of the Township shall cooperate with and assist the Office.

§ 5-66. Reserved.

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Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

This Ordinance shall become effective immediately upon final adoption and publication thereof according to law.

PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
ANTHONY P. CARABELLI, JR.	✓	✓					ANTHONY P. CARABELLI, JR.						
NANCY PHILLIPS	✓	✓					NANCY PHILLIPS						
CHARLES F. WHALEN	✓	✓				✓	CHARLES F. WHALEN						
PASQUALE "PAT" PAPERIO, JR.	✓	✓			✓		PASQUALE "PAT" PAPERIO, JR.						
RICHARD L. TIGHE, JR.	✓	✓					RICHARD L. TIGHE, JR.						

X - Indicates Vote A.B. - Absent N.V. - Not Voting ORD. - Moved SEC. - Seconded

REJECTED _____

JEFFREY S. MARTIN, MAYOR

DATE

APPROVED _____

RECONSIDERED BY COUNCIL _____

OVERRIDE VOTE

AYE _____

NAY _____

L:\COUNCIL\Ordinance\MUNCODE\Chpt5.Part4.ArtXI.DeptOfPublicSafety.2-28-2020.doc

EXPLANATION Matter UNDERLINED thus in this legislation is new matter.
Matter contained in **BRACKETS [thus]** is to be omitted from the law.