

DIVISION 5. - SECONDARY EMPLOYMENT PROGRAM

Sec. 26-2-101. - Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Chief of Police means the chief executive of the Police Department who is appointed and serves in accordance with Section 7-805 of the Charter.

Coordinator means the person who is designated by the Chief of Police in the Police Department responsible for the administration of the Secondary Employment Program.

Outside employment means employment that is neither by the City nor secondary employment.

Person means an association, company, corporation, firm, individual, joint venture, partnership, sole proprietorship, or other legal entity.

Police officer means any person sworn as a member of the Police Department authorized to enforce this Code, state law, and, where applicable, federal law.

Secondary employer means an approved third party who provides secondary employment to any police officer.

Secondary employment means employment performed by a police officer where:

- (1) The police officer is employed by a secondary employer at an assigned location within the City pursuant to an approved agreement between the police officer and the secondary employer;
- (2) Payment is made to the police officer by a secondary employer, as defined by this section; and
- (3) The approved secondary employment agreement is managed through the Police Department.

(Code 1984, § 43-2-11; Ord. No. 10-10, § 1(43-2-11), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-11), eff. 5-26-2017)

Sec. 26-2-102. - Purpose and scope of Secondary Employment Program.

- (a) The primary purpose of police officers working secondary employment assignments pursuant to this division shall be to protect life and property, to keep the peace, and to enforce the provisions of this Code, state law and, where applicable, federal law, at the designated location of the secondary employer, provided, that any employment under this division shall be secondary, and subject to all of the primary obligations imposed upon police officers pursuant to the Charter, this Code, state law, their respective collective bargaining agreements, and any applicable provisions of the Detroit Police Department Manual Directives concerning the employment of police officers, including work rules.
- (b) This division does not apply to outside employment.

(Code 1984, § 43-2-12; Ord. No. 10-10, § 1(43-2-12), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-12), eff. 5-26-2017)

Sec. 26-2-103. - Secondary Employment Program policies, rules, regulations and procedures; administration.

- (a) The Chief of Police, or the Chief's designee, shall establish the policies, rules, regulations, and procedures for implementing and administering the Secondary Employment Program in accordance with this division, provided, that any policies, rules, regulations, and procedures shall be consistent with the purpose and scope delineated in Section 26-2-102 of this Code.

- (b) The Secondary Employment Program shall be administered without regard to age, race, religion, color, gender, national origin, physical impairment, or other criteria prohibited by state or federal law, or by this Code.

(Code 1984, § 43-2-13; Ord. No. 10-10, § 1(43-2-13), eff. 8-14-2010)

Sec. 26-2-104. - Secondary Employment Program standard agreement, and rate of pay, equipment usage fee and service fees; payment of court time as a result of a police officer's secondary employment.

- (a) The Chief of Police shall develop a standard agreement that is consistent with the requirements of this division to be used for all secondary employment, which:
 - (1) Shall be reviewed and approved as to form by the Corporation Counsel; and
 - (2) Shall be approved by resolution of the City Council annually.
- (b) The Chief of Police shall establish the rate of pay for police officers engaged in the Secondary Employment Program, which shall be approved by resolution of the City Council. The Chief of Police may submit a resolution for an increase in rates at any time based upon the recommendation of City Council made pursuant to their review of the quarterly reports referenced in Section 26-2-105(f) of this Code.
- (c) The Chief of Police shall establish the equipment usage fee, which shall be approved by resolution of the City Council.
- (d) The Chief of Police shall establish service fees for the administration of the Secondary Employment Program, which shall be approved by resolution of the City Council.
- (e) Secondary Employment Program service fees may be exempt from payment to the City where a person has a prior existing agreement with the City to employ police officers for private security or special events, the Chief of Police shall establish a written procedure for the exemption of such fees.
- (f) A secondary employer shall be responsible for payment to the City of Detroit of any court time necessitated as a result of any incident arising out of a police officer's secondary employment activity at an assigned location.

(Code 1984, § 43-2-14; Ord. No. 10-10, § 1(43-2-14), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-14), eff. 5-26-2017)

Sec. 26-2-105. - Requests for secondary employer approval; investigation; requirements upon approval; police officers' requests for approval; quarterly reports to City Council.

- (a) No person, as defined in Section 26-2-101 of this Code, shall make an agreement with, or employ or retain, any police officer for the purpose of providing any uniformed or non-uniformed security, patrol, private investigation or surveillance, traffic control, personal-security service, or other law-enforcement related or security-related services without first receiving approval as a secondary employer from the Coordinator, or his or her designee.
- (b) Any person, as defined in Section 26-2-101 of this Code, who requests services of a police officer for secondary employment under this division shall submit a request for Service and Secondary Employment Agreement.
- (c) Upon the Police Department receiving a request for approval of a person as a secondary employer, the Department's Secondary Employment Coordinator shall review the request and undertake an investigation of the person and location for employment to make a determination:

- (1) Whether the person has failed to comply with any requirement of this Code, or the Police Department's rules, regulations, policies and procedures pertaining to the Secondary Employment Program;
 - (2) Whether the location for the secondary employment of the police officer is in compliance with the provisions of this Code, including, as required by Section 2-113 of the Charter, payment to the City of any outstanding property tax, personal tax, and special assessment for the location;
 - (3) Whether the location of the secondary employment possesses any required license or permit required under this Code or by the State of Michigan; and
 - (4) Whether there is any other information concerning the person or location that would support a determination that approval of the request would not be consistent with this Code, or the Police Department's rules, regulations, policies and procedures pertaining to the Secondary Employment Program, or in the best interests of the City.
- (d) Upon approval of the request by the Police Department in accordance with this section, the secondary employer shall:
- (1) Agree to maintain a record of each police officer's hours of work in a format approved by the Coordinator and make payment to the police officer for all hours worked; and
 - (2) Authorize inspection of the business premises, as reasonably requested by the Coordinator, for the purpose of assuring that the premises and the activities of the secondary employer are in compliance with this division, including the terms and conditions of the Secondary Employment Agreement.
 - (3) Comply with, and assist the police officer to comply with, the Detroit Police Department Policies for Secondary Employment.
 - (4) Agree to sign the complaint in the event an arrest occurs or a citation issued.
- (e) A police officer who requests secondary employment under this division shall submit a request to the Police Department pursuant to Section 26-2-109 of this Code.
- (f) The Coordinator shall provide quarterly reports to City Council of all secondary employers participating in the Secondary Employment Program for each quarter.

(Code 1984, § 43-2-15; Ord. No. 10-10, § 1(43-2-15), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-15), eff. 5-26-2017)

Sec. 26-2-106. - Indemnification; insurance requirements; approval by Law Department.

- (a) The Secondary Employment Agreement with the secondary employer shall contain language that requires the secondary employer to indemnify, defend and hold the City of Detroit, its elected officials, and its employees, harmless against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses, including without limitation, fees and expenses for attorneys, expert witnesses and other consultants, that may be imposed upon, incurred by or asserted against the City or its elected officials, employees, or agents based on any actual or alleged actions, omissions, negligence, or intentionally tortuous conduct of:
- (1) The secondary employer, or its officers, agents or employees; or
 - (2) The participating police officer; or
 - (3) Both.
- (b) The secondary employer shall maintain, at a minimum and at its expense:
- (1) Workers' compensation insurance covering its employees, including the participating police officers, with limits of coverage equal to or greater than those required by Michigan law; and

- (2) Commercial general liability insurance (broad form comprehensive) in the amounts of \$1,000,000.00 for each occurrence and \$2,000,000.00.00 in the aggregate, which shall name the City of Detroit, the participating police officer, and employees as additional insureds and state that the secondary employer's insurance is primary and not in excess of any insurance or self-insurance program already carried or maintained by the City.
- (c) The secondary employer cannot retain the services of a police officer until such time as an insurance bond is presented to the Secondary Employment Coordinator.
- (d) The Law Department shall approve the insurance coverage to ensure that the secondary employer is in compliance with the requirements of this section.

(Code 1984, § 43-2-16; Ord. No. 10-10, § 1(43-2-16), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-16), eff. 5-26-2017)

Sec. 26-2-107. - Grounds for suspension or revocation of approval of Secondary Employment Agreement.

A Secondary Employment Agreement that is entered into in accordance with this division may be suspended or revoked by the Coordinator upon any of the following grounds:

- (1) The secondary employer is not operating the business in compliance with the requirements of the applicable provisions of this Code; or
- (2) The secondary employer is not in compliance with the requirements of the Police Department's rules, regulations, policies and procedures of the Secondary Employment Program; or
- (3) The secondary employer has failed to maintain insurance coverage that is required by Section 26-2-106 of this Code; or
- (4) In the judgment of the Coordinator, continuation of the Secondary Employment Agreement with the secondary employer is not in the best interest of the City or its Police Department.

(Code 1984, § 43-2-17; Ord. No. 10-10, § 1(43-2-17), eff. 8-14-2010)

Sec. 26-2-108. - Suspension or revocation of approval of Secondary Employment Agreement; procedure; finality of decision by Chief of Police.

- (a) Where it appears that grounds exists for the Coordinator to suspend or revoke an existing Secondary Employment Agreement with a secondary employer pursuant to Section 26-2-107 of this Code, the Coordinator shall send written notification to the secondary employer with the specified reason or reasons for the suspension or revocation of the Secondary Employment Agreement.
- (b) The secondary employer shall be given ten days from the date of mailing of the notice of suspension or revocation to provide information to the Coordinator to support the continuation of the Secondary Employment Agreement in accordance with this division.
- (c) After the review of the information submitted concerning the notice of suspension or revocation, the Coordinator shall make a recommendation to the Chief of Police to suspend, revoke, or continue the Secondary Employer Agreement.
- (d) The decision of the Chief of Police is final.

(Code 1984, § 43-2-18; Ord. No. 10-10, § 1(43-2-18), eff. 8-14-2010)

Sec. 26-2-109. - Requests by police officers for secondary employment; procedure; expiration of requests.

- (a) A police officer who is interested in working secondary employment shall apply by completing a Secondary Employment Clearance Form. The clearance form shall be submitted to the police officer's immediate supervisor. The supervisor shall request a disciplinary history record concerning the applicant from the Police Department Disciplinary Administration prior to submitting the application through channels to the Police Department's respective Deputy Chief. The Deputy Chief shall review the clearance form, affix such Chief's recommendation on the form, and forward the clearance form to the Secondary Employment Program Coordinator.
- (b) The final decision on the suitability of any police officer's secondary employment assignment is within the purview of the Chief of Police, or such Chief's designee.
- (c) Requests for secondary employment shall expire on October 1st of each year.

(Code 1984, § 43-2-19; Ord. No. 10-10, § 1(43-2-19), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-19), eff. 5-26-2017)

Sec. 26-2-110. - Recall of police officers from active secondary employment work assignment.

The primary duty of police officers working secondary employment assignments shall be to protect life and property, to keep the peace, and to enforce this Code, state law and, where applicable, federal law. Accordingly, as determined by the Chief of Police, or the Chief's designee, participating police officers may be recalled immediately from a secondary employment work assignment to an on-duty status. Any recall shall not be considered a suspension or revocation of an existing secondary employment agreement, but a permitted condition under the secondary employment agreement.

(Code 1984, § 43-2-20; Ord. No. 10-10, § 1(43-2-20), eff. 8-14-2010)

Sec. 26-2-111. - Obligations of the Police Department in Secondary Employment Program.

- (a) The Police Department will determine appropriate dress for police officers participating in Secondary Employment.
- (b) The Police Department shall provide and permit police officers to utilize Department issued equipment during the course of Secondary Employment.
- (c) The Police Department will provide a contact person within the Department to receive requests for officers, scheduling requests and addressing concerns by the secondary employer.
- (d) In cases where the conduct of a person threatens a breach of peace or similar violation of the law, the police officer may intervene to end the violation and, if necessary, make an arrest.

(Code 1984, § 43-2-21; Ord. No. 11-17, § 1(43-2-21), eff. 5-26-2017)

Sec. 26-2-112. - Annual Report to City Council.

- (a) The Secondary Employment Program established pursuant to this division shall be reviewed by the Chief of Police annually. The review of the Secondary Employment Program shall include the examination of all costs and liabilities to the City and the impact on the delivery of police services to the public as a result of the establishment of the program under this division.
- (b) The Chief of Police, or the Chief's designee, shall submit a report to the City Council concerning the review of the Secondary Employment Program by January 31st of each year.

(Code 1984, §§ 43-2-21, 43-2-22; Ord. No. 10-10, § 1(43-2-21), eff. 8-14-2010; Ord. No. 11-17, § 1(43-2-22), eff. 5-26-2017)

Secs. 26-2-113—26-2-120. - Reserved.