

City Clerk File No. Ord. 13.141  
Agenda No. 3.K 1st Reading  
Agenda No. 4.H 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 13.141

TITLE:

**ORDINANCE AMENDING CHAPTER 3 (ADMINISTRATION OF GOVERNMENT)  
ARTICLE XI (DEPARTMENT OF PUBLIC SAFETY, DIVISION OF POLICE)  
SECTION 85.1 (OFF-DUTY ASSIGNMENTS) OF THE JERSEY CITY MUNICIPAL  
CODE.**

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:**

**WHEREAS**, the numerous construction projects, street repair projects, and utility upgrades throughout the City, provide abundant opportunities for Jersey City Police Officers to obtain off-duty work, and

**WHEREAS**, Jersey City currently has several Police Officers engaged in the assignment and coordination of this off-duty work throughout the City, and

**WHEREAS**, the manner in which this off-duty work is assigned and coordinated must be accomplished in a way that ensures the efficient use of resources and minimizes any negative impact on Jersey City residents and businesses; and

**WHEREAS**, there are currently several Police Officers working desk jobs coordinating police off-duty assignments; and

**WHEREAS**, the residents of Jersey City expect and demand that whenever possible, priority is given to assigning uniformed Police Officers to street patrols instead of desk jobs capable of being assigned to civilians employees; and

**WHEREAS**, the residents and businesses of Jersey City have raised substantial issues with the current manner in which this off-duty work is assigned and coordinated, and

**WHEREAS**, civilian employees are suitable to administer the assignment and coordination of police off-duty work throughout the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JERSEY CITY THAT:**

A. The following amendments to Chapter 3 (Administration of Government), Article XI (Department of Government) Section 85.1 (Off-Duty Assignments) of the Jersey City Code are hereby adopted:

**§ 3-85.1 Off-duty employment.**

**A. Definitions.**

As used in this ordinance, the following terms shall have the following meanings unless the context clearly indicates otherwise:

- (1) "Alcohol Beverage Control premise" means one which is licensed by the Alcohol Beverage Control Board.
- (2) "~~Chief of Police~~" "Director of Public Safety" means the ~~Chief of Police~~ Director of Public Safety or his or her designee.

- (3) "City Owned Facility" means any property owned by the City of Jersey City rented by individuals or entities for the purpose of a privately held function.
- (4) "Large Commercial Establishment" means a commercial establishment such as a store, bank or financial institution of 4,000 square feet or more or one which is part of a franchise, chain or multi-store complex.
- (5) "Construction Sites":
  - (a) "City Projects" means any construction project performed by a vendor pursuant to a contract with the City of Jersey City for a public project in City-owned or leased buildings or on City-owned or leased properties.
  - (b) "Private Contractor Projects" means:
    - (i) Any construction project other than a City Project as defined above; and
    - (ii) Construction projects for an owner occupied class 2 residential property (1—4 units).
- (6) "Employer" or "prospective employer" means a prospective employer of off-duty officers.
- (7) "Event requiring major or unusual crowd control" means:
  - (a) An event where 5,000 people or more expected to attend, such as an athletic event; and
  - (b) Any event where alcohol will be served (~~except for the Bethune Center~~); and
  - (c) Any event which in the opinion of the ~~Police Department~~ Director Public Safety will produce an unusual amount of vehicular or pedestrian traffic.
- (8) "Film Production Sites" include, but are not limited to, movie sets, television productions, and photography.
- (9) "Holidays" are defined only as New Years Eve, New Years Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day following Thanksgiving Day, Christmas Eve and Christmas Day, and only those dates officially observed.
- (10) "Person" means any individual, corporation, partnership or organization unless the context clearly indicates otherwise.
- (11) "Superior Officer" means Sergeant, Lieutenant, or Captain.
- (12) "Tax Exempt Organization" means a non-profit organization as defined by state or federal law.
- (13) "Crossing Guards" means City personnel who regulate and direct the movement of pedestrians through traffic.
- (14) "Off-Duty Personnel" shall mean Police Officers and Guards if applicable, Crossing Guards.
- (15) "Office of Off-Duty Employment" means the office responsible for coordinating off-duty assignments and billing of off-duty police work.
- (16) "Off-Duty Employment Intake Manager" means the civilian employee of the Public Safety Department who manages Off-Duty Personnel requests and coordinates the number of Off-Duty Personnel assigned to each work site. The Off-Duty Employment Intake Management reports to the Director of Public Safety

- (17) "Off-Duty Billing Coordinator" means the civilian employee of the Public Safety Department who administers the Off-Duty Trust Account. The Off-Duty Billing Coordinator reports to the Off-Duty Intake Manager and submits a report on the Off-Duty Trust Account to the Director of Public Safety and the Fiscal Officer every Ninety (90) Days.

**B. Purpose.**

For the convenience of those persons which who utilize the services of off-duty law enforcement officers Off-Duty Personnel of the Jersey City Police Department, and to authorize the outside employment of Police Officers and Crossing Guards while off-duty, the City of Jersey City hereby establishes a policy this policy, regarding the use of off-duty officers in compliance with Attorney General Formal Opinion 1997 With regard to Police Officers only, this policy complies with Attorney General Formal Opinion 1977-No. 23. In limited situations involving pedestrian safety, Crossing Guards may be substituted for Police Officers at the discretion of the Off-Duty Employment Intake Manager.

- (1) Police Officers, Off-Duty Personnel, at their option, shall be permitted to accept police-related employment from private employers, who are separate and independent from the City of Jersey City, only during off-duty hours and at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty of the City; provided, however, that no officer Off-Duty Personnel may work within a premises licensed by the Alcohol Beverage Board, including, but not limited to, bars, taverns, nightclubs that serve alcoholic beverages, liquor stores, or restaurants with liquor licenses. Officers Off-Duty Personnel are not permitted on the "licensed premise" itself, which is the area licensed for alcohol consumption, retail sale or storage; provided further that no officer Off-Duty Personnel may accept off-duty employment under this ordinance by any governmental agency of the City of Jersey City other than the Jersey City Housing Authority.
- (2) Prospective employers of off-duty police Off Duty Personnel shall: 1) obtain the prior written approval of the Chief of Police Off-Duty Employment Intake Manager, which approval shall be granted if, in the opinion of the Chief of Police Off-Duty Employment Intake Manager, under the authority of the Director of Public Safety, such employment is necessary and would not be inconsistent with the efficient functioning and good reputation of the Police Department and would not unreasonably endanger or threaten the safety of the officer or officers Off Duty Personnel who are to perform the work.
- (3) Upon approval by the Chief of Police Off-Duty Employment Intake Manager, the amount estimated to pay for the off-duty employment shall be deposited in the trust account established under subsection C.
- (4) No officer Off-Duty Personnel shall be paid directly by any employer for requested services, nor provide services for more hours than specified in the request for services.
- (5) The Director of Public Safety is empowered to promulgate regulations and policies to effectuate this Ordinance.

**C. Trust account established.**

- (1) To assure the timely payment of wages to police officers Off Duty Personnel who perform off-duty service work, and to meet the requirements of the Fair Labor Standards Act, the City of Jersey City has established a trust account known as the "Off-Duty Employment Trust Account." This trust account is dedicated for the receipt of fees collected for the payment for off-duty employment. The "Off-Duty Employment Trust Account" shall be administered by the Off-Duty Billing Coordinator Fiscal Bureau of the Jersey City Police Department which- who shall make a written report to the Chief of Police Director of Public Safety and the Fiscal Officer every ninety (90) Days regarding said account. Payments to police officers Off Duty Personnel shall be on a bi-weekly basis with all appropriate deductions. All payments must be remitted directly to the City of Jersey City for said account. Deposits shall be in the form of certified check, bank check, money order or business check, at the discretion of the Fiscal Officer.

## (2) Hour Estimate:

- (a) Hours Known: A prospective employer of ~~off-duty police officers~~ Off Duty Personnel shall estimate the number of hours and days required. The estimate shall be approved in writing by the ~~Chief of Police~~ Off-Duty Employment Intake Manager and an amount sufficient to cover the rates of compensation and administrative fees set forth in Subsection D for the total estimated hours of service shall be deposited into the Trust Account.
- (b) Hours Unknown or In Excess of Ten (10) Days: In any instance where the number of hours cannot be reasonably estimated or is anticipated to be in excess of ten (10) days, a prospective employer shall deposit an amount sufficient to cover the rate of compensation and administrative fees set forth in Subsection D for the equivalent of ten (10) days prior to the commencement of any services. Any unused portion of the deposit shall be returned or credited against the final amount owed.
- (3) Before posting any request for services of ~~off-duty police officers~~ Off Duty Personnel, the ~~Chief of Police~~ Off-Duty Employment Intake Manager shall verify that the balance in the trust account of the prospective employer is sufficient to cover the compensation and fees for the number of hours specified in the request. The ~~Chief of Police~~ Off-Duty Employment Intake Manager shall not post a request for services unless all fees and compensation required in the manner described above have been deposited in the trust account.
- (4) Depletion of Funds in a Trust Account for any Individual Person or Entity: In the event the funds in any individual or entity's trust account should become depleted, services of ~~off-duty law enforcement officers~~ Off Duty Personnel shall cease, and requests for further or future services shall not be posted until additional funds have been deposited in the trust account in the manner prescribed above. In the event of an unforeseen emergency situation that would require an ~~officer~~ Off Duty Personnel to remain beyond the time for which funds have been posted, the ~~Chief of Police~~ Off-Duty Employment Intake Manager may waive the requirement for posting additional funds after the first ten (10) hours for any employer exhibiting a previous satisfactory payment history. However, payment for the additional hours shall be made within forty-eight (48) hours.
- (5) A prospective employer shall be responsible for ensuring that sufficient funds remain in the trust account in order to avoid any interruption of services. In the event of a project which requires services over an extended period the ~~Off-Duty Billing Coordinator~~ Fiscal Officer may require advance payment equal to twenty-five percent (25%) of the projected extended time period with additional twenty-five percent (25%) advances as a project continues.
- (6) Exemption. Public utility companies under the jurisdiction of, and regulated by, the New Jersey Board of Public Utilities and the Jersey City Housing Authority are exempt from the provisions set forth in this section requiring advance payment to the trust account; providing, however, that there are no amounts previously due that are outstanding for a period in excess of fifteen (15) days. Any such delinquent balances shall require advance payment of the amount outstanding prior to any ~~officer~~ Off Duty Personnel engaging in any further off-duty assignments.

## D. Requests for services.

- (1) Requests for the services of ~~off-duty law enforcement officers~~ Off Duty Personnel for a period of one week or longer shall be forwarded to the ~~Chief of Police~~ Off-Duty Employment Intake Manager for posting at least ten (10) days before such services are required. The Off-Duty Employment Intake Manager will compile a list of available Police Officers and or Crossing Guards to perform the requested services.
- (2) Requests for the services of ~~off-duty law enforcement officers~~ Off Duty Personnel for a period of less than one week shall be forwarded to the ~~Chief of Police~~ Off-Duty Employment Intake Manager for posting as soon as practicable,

but in no event less than twenty-four (24) hours before such services are required, except in emergency situations.

- (3) In emergency situations, requests for services shall be made, as necessary, to the Chief of Police Off-Duty Employment Intake Manager who shall make every effort to accommodate such request in a reasonable manner in his or her discretion. If the emergency is imminent, the Director of Public Safety shall also have the ability to deploy Off Duty Personnel on an emergent basis. Any police officers; Off Duty Personnel, when so employed by private employers shall be compensated at the rates set forth in Section D, hereafter. All payments in emergency situations shall be made within forty-eight (48) hours. Completed claim forms are to be provided to the officer Police Officer at the time the services are rendered and the officer Police Officer shall deliver same to the appropriate precinct Off-Duty Employment Intake Manager.
- (4) In the event an Off-Duty assignment is not picked, posting must be forwarded to all districts in order to secure an officer for the assignment. If the post is not filled within twenty-four (24) hours prior to the scheduled event, the building supervisor may contact any officer directly to fill the off-duty assignment. Police Officer or Crossing Guard is unavailable to perform an assignment, the Off-Duty Employment Intake Manager will notify the next available Police Officer(s) or Crossing Guard(s) on the off-duty assignment list of the availability of the assignment until the assignment is filled. A Police Officer need not accept an off-duty assignment that does not guarantee a minimum of four hours of off-duty employment. However, a Police Officer, at his or her discretion, may accept an off-duty assignment that provides less than four hours of off-duty employment.
- (5) One off-duty Superior Officer must be assigned for every 12 Off Duty Police Officers deployed. An off-duty Superior Officer's command is not limited to any one specific project. The supervisor will be responsible for all Off-Duty Police Officers designated to his or her command irrespective of where those Off Duty Personnel are assigned. The cost of the off-duty supervisor shall come from the administrative fees paid by the employers.
- (6) In special circumstances the Off-Duty Employment Intake Manager, may, in consultation with the Director of Public Safety, assign a supervisor to oversee a specific off-duty assignment if the Off-Duty Employment Intake Manager believes it is necessary to ensure the health, safety and welfare of the public.

**E. Rates of compensation; administrative fees; payment for services.**

- (1) Rates of compensation for the services of off-duty law enforcement officers Off Duty Personnel are established as follows:

**COMPENSATION FOR POLICE OFFICERS**

CONSTRUCTION SITES	COMMERCIAL ESTABLISHMENTS	TAX EXEMPT ORG.
CITY PROJECTS \$35.00/hour SAT TIME & A HALF SUN-HOLIDAYS DOUBLE TIME AFTER 4 PM - Additional \$10.00/hour	Commercial Banks or Financial Institutions \$35.00/hour EFFECTIVE 1/1/12 \$40.00/hour  Other Commercial Establishments: \$35.00/hour OVER 4,000 SQ FT. EFFECTIVE 1/1/12 \$40.00/hour	\$35.00/hour
PRIVATE CONTRACTORS As Defined in A5(b)(i) \$45.00 1 hour SAT TIME & A HALF SUN-HOLIDAYS DOUBLE TIME AFTER 4 PM - Additional \$10.00/hour EFFECTIVE 1/1/12 \$50.00/hour	All Other Retail Establishments Not Covered Above Other Commercial Establishments UNDER 4,000 SQ Ft. \$25.00	
PRIVATE CONTRACTORS		

As Defined in A5(b)(ii) \$35.00/hour		
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LARGE EVENTS UNDER 5,000 PEOPLE	LARGE EVENTS UNDER 5,000 PEOPLE	FILM PRODUCTION SITES
(Except City-Owned Facility Events) \$50.00/Hour <i>With alcohol present \$55.00/hour</i>	\$65.00	\$55.00/Hour

OUTSIDE AN ALCOHOLIC BEVERAGE CONTROL LICENSED PREMISE	SUPERIOR OFFICER REQUIRED	CITY OWNED FACILITY
\$55.00/Hour	Additional \$10.00/hour above rates of police officers for above assignments	\$35.00/hour

**COMPENSATION FOR CROSSING GUARDS:**

For pedestrian safety  
\$10.00/hour

\* Employers are not charged directly for Superior Officers assigned pursuant to this ordinance, or any regulations or directives promulgated in furtherance of this ordinance. Superior Officers will receive compensation directly from the City at a rate of \$10.00 per hour higher than the highest paid Off Duty Police Officer under his or her immediate supervision in a given off-duty assignment.

\*\*\*UNLESS STATED IN THE ABOVE TABLE, NO NIGHT, WEEKEND OR HOLIDAY DIFFERENTIAL\*\*\*

- (2) Any off-duty assignments over eight (8) hours shall be paid at a time and a half rate beginning with the ninth hour.
- (3) Fee for police vehicle and fuel per hour or part thereof: \$10.00. The necessity for a police vehicle at a particular site will be at the determination of the District Commander of the district of the detail Off-Duty Employment Intake Manager.
- (4) ~~The minimum period of compensation shall be four (4) hours.~~
- (5) ~~An officer who is compensated for this minimum period because of a late cancellation under subsection G or because of early termination of an assignment may not accept additional off-duty assignments during that period.~~

**F. Administrative Costs.**

An additional fee of \$5.00 \$8.00 per officer Police Officer/Crossing Guard per hour is hereby established to cover administrative costs, overhead and out-of-pocket expenses of the City of Jersey City. This additional fee shall not be charged to a nonprofit organization for an event in a City owned building nor to the Jersey City Housing Authority. The aforesaid rates shall be reviewed every three (3) years commencing January 1, 2014.

The Off-Duty Employment Intake Manager or the Director of Public Safety may adjust or waive the administrative fees in cases in which the fee here described would result in undue hardship, be prohibitive or would otherwise undermine the interest of public safety.

**G. Cancellation.**

If a prospective employer who fails to notify the Chief of Police Off-Duty Employment Intake Manager at least twelve (12) hours before the commencement of services that those services are no longer needed, and the Off Duty Police Officer(s) or Crossing Guard(s) arrive for the assignment, the prospective employer shall compensate

the Police Officer(s) or Crossing Guards for four (4) hours, and those Off Duty Police Officer(s) or Crossing Guard(s) will be moved to another off-duty job, if available.

**H. Public emergency.**

The ~~Chief of Police~~ Director of Public Safety, Chief of Police, or ranking Chief of Patrol shall have the authority to order any ~~police-officer~~ Off Duty Personnel engaged in off-duty assignments to respond to an emergency. The ~~Chief of Police~~ Director of Public Safety may terminate an assignment whenever said assignment creates an unacceptable risk to the off-duty officer Police Officer or Crossing Guard or to the citizens of the City of ~~Jersey City~~. If an off-duty assignment is cancelled or terminated by the ~~Chief of Police~~ Director of Public Safety, the employer shall not be responsible for any compensation or fees until the ~~officer~~ Police Officer or Crossing Guard returns to the assignment.

- B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- D. This Ordinance shall take effect at the time and in the manner as provided by law.
- E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of the ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**Note:** All new material is underlined; words in [brackets] are omitted. For purposes of advertising only, new matter is **boldface** and repealed by *italics*.

JJH  
12/5/13

APPROVED AS TO LEGAL FORM

Certification Required ☒

Not Required ☐

Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Business Administrator

# Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 13.141

TITLE: 3.K NOV 26 2013 4.H DEC 18 2013

Ordinance amending Chapter 3 (Administration of Government) Article XI (Department of Public Safety, Division of Police) Section 85.1 (Off-Duty Assignments) of the Jersey City Municipal Code.

RECORD OF COUNCIL VOTE ON INTRODUCTION NOV 26 2013 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING DEC 18 2013 9-0											
Councilperson <u>LAVARRO</u> moved, seconded by Councilperson <u>COLEMAN</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

## SPEAKERS:

PATRICIA WATERS  
YVONNE BALLER  
KABILI TAYARI

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson <u>LAVARRO</u> moved to amend* Ordinance, seconded by Councilperson <u>COLEMAN</u> & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI				YUN				RIVERA			
RAMCHAL				OSBORNE				WATTERMANN			
BOGGIANO				COLEMAN				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE DEC 18 2013 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

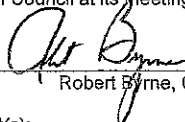
✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on NOV 26 2013


Adopted on second and final reading after hearing on DEC 18 2013

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on DEC 18 2013

  
Robert Byrne, City Clerk


\*Amendment(s):

APPROVED:

  
Rolando R. Lavarro, Jr., Council President

Date DEC 18 2013

APPROVED:

  
Steven M. Fulop, Mayor

Date DEC 19 2013

Date to Mayor DEC 19 2013