



# Hendersonville Police Department

## General Order



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| <i>Title:</i><br>Extra Duty, Off Duty, and Secondary Employment | <i>Order Number:</i><br>211-21 |
| <i>Date:</i><br>December 21, 2021                               | <i>Pages:</i><br>8             |
| <i>Accreditation Standard(s):</i>                               | <i>Form(s):</i><br>F211, F211a |

### **Purpose**

To provide guidelines that govern extra-duty, off-duty, and secondary employment by employees of this department.

### **Policy**

Employees will not participate in any extra-duty, off-duty, or secondary employment without the expressed permission from the Chief of Police.

### **Definitions**

*Employment* - an occupation by which a person earns compensation; does not include volunteer or charity work.

*Secondary Employment* - any employment with a person or entity other than the City of Hendersonville, that does not require the use or potential use of law enforcement powers or affiliation with the police department by the employee.

*Extra-Duty Assignment* - any additional assignment, performed for and paid for by the City of Hendersonville, that is conditional upon the actual or potential use of law enforcement powers by the sworn employee and/or non-sworn employees working as assigned in a non-law enforcement capacity.

*Off-Duty Employment* - any additional employment as an independent contractor employee with a person or entity other than the City of Hendersonville that is conditional upon the actual or potential use of law enforcement powers by the sworn employee.

### **Procedure**

#### *Regulations*

1. All extra-duty assignments, off-duty employment and secondary employment must comply with the provisions of this General Order, the provisions of the City of Hendersonville Personnel Policy, and any other applicable written directives.

## Extra Duty, Off Duty, and Secondary Employment

2. All employees must receive permission prior to engaging in off-duty and secondary employment.

### *Secondary Employment*

1. The Chief of Police, or his/her designee, will review all requests for approval involving secondary employment and approve, deny or approve with conditions, the request.
2. Subject to approval, employees may engage in secondary employment that meet all of the following criteria:
  - Employment in which vested police powers are not a condition of employment and the work provides no real, or implied law enforcement service and is not performed during assigned duty hours.
  - Employment that creates no conflict of interest, real or perceived, with respect to the employee's law enforcement role. Examples may include:
    - As a process server, re-possessor, bill collector, tow of vehicles subject to repossession, or any other employment in which police authority might be viewed to collect money or merchandise for private purposes.
    - As a personal investigator for the private sector, or any employment that might require the employee to have access to police information, files, records, or services as a condition of employment.
    - In a loss prevention function.
    - In police uniform in the performance of tasks other than that of a police nature.
    - In case preparation for the defense in any criminal or civil action or proceeding.
    - For a business or labor group that is on strike.
  - Employment that does not constitute a threat to the image or dignity of law enforcement as a professional occupation. Examples of non-authorized employment may include:
    - Employment at establishments that sell pornographic books, magazines, sexual devices, or videos, or that otherwise provide entertainment or services of a sexual nature.
    - Employment involving the sale, manufacture, or transport of alcoholic beverages as the principal business.
    - Employment at a gambling establishment not exempted by law.
3. Employees engaged in secondary employment are not covered by the City of Hendersonville liability or workers' compensation insurance.

### *Off-Duty Employment*

1. The Chief of Police, or his/her designee, will review all requests for off-duty employment and either approve, deny, or approve with conditions, the request.

## Extra Duty, Off Duty, and Secondary Employment

2. When performing an off-duty assignment, officers will be working as independent contractor employees of, and paid by, the person or organization requesting on or more off-duty officer(s) (the "Requestor"). Officers will be paid by the Requestor at the rates approved by the City of Hendersonville. All off-duty assignments will be subject to a payment to the officer by the Requestor for a three-hour minimum, unless stated otherwise in this policy. In the event the City has contracted with a third party to administer the off-duty employment program (the "Third Party Administrator"), payment from the Requestor will be passed through to the officer by the Third Party Administrator. In no event will the City be responsible or liable for payment to an officer for any off-duty assignments worked.
3. While carrying out off-duty employment, officers shall remain subject to the policies of the Hendersonville Police Department, and will remain under the supervision and directives of the on-duty Hendersonville Police Department supervisor or specially-assigned HPD supervisor (see below). It is understood that at all times during the off-duty employment, the officer is a law enforcement representative of the Hendersonville Police Department, and therefore at all times the officer shall be considered to be carrying out their peace-keeping duties for the primary benefit of the public, even though there is an incidental benefit to the owner or operator of the premises for whom the off-duty employment is being performed, and even though the City of Hendersonville is not paying the officer for the off-duty employment assignment.
4. The management of and scheduling of off-duty reemployment assignments may be carried out by the Hendersonville Police Department or the Third Party Administrator.
5. Hendersonville law enforcement officers may only engage in off-duty employment that meets all of the following criteria:
  - Employment where a government, for profit, or nonprofit entity has entered into the City's standard agreement with the Hendersonville Police Department or the City of Hendersonville,
  - Employment within the law enforcement jurisdiction of the City of Hendersonville Police Department.
  - Employment where the duties and responsibilities are clearly those that align with the powers and duties of a law enforcement officer acting in a law enforcement or peace-keeping capacity. Officers may not enforce policies or rules of a business or private employer.
6. Off-duty assignments are voluntary; however once an officer has requested and received an off-duty assignment, attendance is mandatory unless such attendance is excused by the Chief of Police, or his/her designee, at least 48 hours in advance of the assignment start date and time.
7. Officers performing off-duty assignments will be required to wear their City-issued police uniform and drive their City-issued vehicle, unless otherwise approved, in writing, by the Chief of Police, or his/her designee.

## Extra Duty, Off Duty, and Secondary Employment

8. Off-duty officers may be activated by the City to an on-duty status at any time and pulled away from the off-duty assignments. Such activation must be by or with the permission of the on-duty Hendersonville Police Department supervisor or specially-assigned HPD supervisor (see below). In the event of activation, officers will only be paid by the Requestor for the actual hours worked for the Requestor, and Requestor will not be subject to payment for a three-hour minimum for such activated officers. Work performed while activated to an on-duty status by or with the permission of the appropriate supervisor will be paid for by the City in accordance with the City's standard policies.

### *Extra-Duty Assignments and Off-Duty Employment*

1. The Chief of Police retains overall authority over the off-duty and extra duty assignments of the Hendersonville Police Department and oversees compliance with this and other applicable written directives.
2. Types of extra-duty assignments and off-duty employment may include:
  - Traffic control;
  - Crowd control;
  - Protection of life and property;
  - Routine law enforcement for public authorities;
  - Plainclothes law enforcement assignments;
  - Non-sworn support roles during special events; *and/or*
  - Other duties as approved by the Chief of Police.

### *Supervision of Extra Duty or Off-Duty Employees*

1. Employees working extra-duty assignments and/or off-duty jobs fall under the command of the on-duty supervisor except when a supervisor is assigned to the extra-duty assignment for the specific purpose of supervision.
  - Sworn employees will notify the Communications Center via the police radio that they are working an extra-duty or off-duty assignment, and will minimally provide the following:
    - Location of the assignment;
    - Hours of the assignment; *and*
    - Specificity of assignment.
  - The on-duty supervisor should make himself/herself aware of officers working in an extra-duty or off-duty assignment to include:
    - Location of the assignment;
    - Hours of the assignment; *and*

## Extra Duty, Off Duty, and Secondary Employment

### ➤ Specificity of assignment.

2. Sworn employees working extra-duty and/or off-duty assignments are required to immediately report and document any use of force, arrest, injury, and/or any other significant aspect to the on-duty supervisor in accordance with all applicable written directives.

### *Conduct*

1. While engaging in any extra-duty, off-duty, or secondary employment, employees are subject to the department's Code of Conduct and all applicable City of Hendersonville and departmental written directives.
2. Employees are expected to meet the same standards of punctuality, dress, and accountability as required for regular on-duty assignments.

### *Other Considerations*

1. For off-duty assignments, sworn Officers will be paid by the Requestor at the applicable off-duty rate as determined by the City of Hendersonville. For extra-duty assignments, pay will be by the City of Hendersonville, will be based upon the employee's regular pay rate, and may include overtime compensation depending on the hours worked.
2. Employees are prohibited from soliciting extra-duty assignments and/or off-duty employment opportunities in direct competition with private security firms.
3. Unsatisfactory work performance by an employee while engaged in extra-duty assignments or off-duty employment may result in the limitation or suspension of extra-duty or off-duty assignments and/or the rescission of extra-duty or off-duty work approvals as well as other disciplinary action.
4. Workers' Compensation for injuries occurring while working extra-duty assignments or off-duty employment will be resolved on a case-by-case basis. Officers are put on notice that some off-duty employment performed at private functions and on private property may be determined to be ineligible for Workers' Compensation. Final resolution of Workers' Compensation claims rests with the City of Hendersonville insurance provider.
  - Questions regarding specific eligibility requirements for Workers' Compensation should be directed to the Chief of Police and/or City of Hendersonville Human Resources Department.

## Extra Duty, Off Duty, and Secondary Employment

### *Limitations on Additional Extra-Duty Assignments/Off-duty Employment*

1. To be eligible for extra-duty assignments, or off-duty and secondary employment, an employee must be in good standing with the department.
  - Employees are in “good standing” and authorized for full duty when not under suspension, or other discipline, and not under investigation for any allegations of misconduct.
  - Continued approval of an employee's additional employment is contingent upon such good standing.
2. Employees under suspension, or administrative leave, with or without pay, are prohibited from working an extra-duty assignment or off-duty employment until authorized by the Chief of Police.
3. Probationary employees, or those sworn employees participating in the Field Training Program, are not permitted to work off-duty employment.
4. Employees participating in the Field Training Program may be permitted to work an extra-duty assignment under the supervision and control of a certified Field Training Officer.
5. Employees engaged in any additional employment are subject to call-out in case of emergency and may be expected to leave the off-duty or secondary employment in such situations.
6. Employees assigned to light duty, or no duty, are prohibited from working extra-duty assignments or off-duty employment without the expressed written permission from the Chief of Police.
7. Employees who call out sick for their regular duty may not work off-duty employment or extra-duty assignments until after returning to and completing a regular duty shift.
8. Approval for an employee to engage in extra-duty assignments, and/or off-duty or secondary employment may be revoked or rescinded by the Chief of Police at any time when determined that the employment is not in the best interest of the department, or the employee is no longer in good standing.
9. Employees will not perform duties for compensation for any person or firm or by way of self-employment during scheduled duty hours.
10. The use of police vehicles is pursuant to General Order 701 – *Assigned Police Vehicles*.
11. Employees should not report to regular, extra, or off-duty fatigued but should generally observe an eight-hour rest period prior to any scheduled shift or assignment unless approved by their respective Bureau Commander.

## Extra Duty, Off Duty, and Secondary Employment

### *Off-Duty/Secondary Employment Forms*

1. Employees must agree in writing to the rules and regulations of off-duty work using form F211 – *Off-Duty Employment Risk Agreement* prior to working in any off-duty capacity. Acknowledgment using this form is required annually. Form F211 - Off-Duty Employment Risk Agreement will be forwarded to the Senior Administrative Assistant who will:
  - Ensure the form is complete and accurate.
  - Forward the form to the Chief of Police for review and approval.
  - File all completed agreements.
2. Employees wishing to engage in secondary employment must submit a memorandum to the Chief of Police, through their chain of command listing the employer and conditions of work to be performed.
  - The form will be submitted to the employee's direct supervisor to review and recommend approval/disapproval and then forward to the applicable Bureau Commander.
  - The appropriate Bureau Commander will review the request, ensure the employee is in good standing and is an appropriate applicant for the employment. He/She will recommend approval/disapproval and forward to the Chief of Police.
  - The Chief of Police will approve/deny the request and forward the form to the Administrative Support Specialist.
  - The Senior Administrative Assistant will forward a copy of the form, either electronically or by paper, to the requesting employee and place a copy in the employee's personnel file and the original in the appropriate departmental file.

### **Supervisory Personnel**

See above

### **Command Personnel**

See above

Approved by:



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Blair Myhand,  
Chief of Police