



# COTTAGE CITY POLICE DEPARTMENT

## GENERAL ORDER

### SUBJECT: **OFF DUTY EMPLOYMENT**

#### NEW REVISED RESCINDS

APPROVED: *GM*  
GEORGIA MILTENBERGER  
CHIEF OF POLICE

Effective Date 11/13/2019

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#### **A. Purpose**

To establish a policy regarding Cottage City Police Department (CCPD) officers requesting Secondary Employment.

#### **B. Definitions**

1. "Overtime" means work for the Cottage City Police Department (CCPD) in excess of 86 hours in an FLSA 14-day work period.
2. "Off-Duty Secondary Employment" means the rendering of any service or the sale of anything for pay or remuneration from any source other than the CCPD, or participation in any activity for which such payment or remuneration is received. Secondary employment is essentially any employment not required by the Town of Cottage City.
  - a. This includes entrance and/or reenlistment into the military reserve components as well as any form of self-employment.
  - b. Generally, this does not include engaging in investments in real property or securities, or sales on isolated occasions of the employee's home, car or other personal property.

#### **C. Requirements to Apply for Secondary Employment**

Before a law enforcement officer of this Town may obtain or renew any secondary employment (i.e., enter into any secondary employment relationship whatsoever, allow one to renew for an additional term or allow any currently existing oral or written agreement to continue beyond one (1) year from the date of this directive), the officer and the prospective employer must provide the following information to the Chief, CCPD and obtain his approval.

1. Application

A completed application, form CCPD 5, Request to Engage in Secondary Employment will be executed by the employee, secondary employer, and the Chief or a supervisor showing basic background information concerning the officer seeking secondary employment including but not limited to the following additional information:

- a. The secondary employer's name, address, telephone number, supervisor, and location of secondary employment;
- b. A description of the officer's duties and equipment to be used during secondary employment; and
- c. The secondary employer's liability and workers' compensation information.

2. Contract

A written secondary employment agreement, signed by employee, Chief, Town Manager & Business owner, reviewed by the Town Attorney and executed by the employee, secondary employer, the Chief and the Town Manager stating that the secondary employer will accept responsibility to:

- a. defend and indemnify the Town and officer;
- b. compensate the officer;
- c. provide workers' compensation; and
- d. compensate the officer for court appearances relating to secondary employment.

3. Certificate

A certificate of insurance from the secondary employer naming the Town as an additional insured for liability coverage for the duration of the officer's secondary employment while the officer is working as an employee for the private employer.

**D. Authorization for Off-Duty Secondary Employment**

1. Employees will have written authorization from the CCPD before engaging in off-duty secondary employment.
2. All requests for off-duty secondary employment will be examined on an individual basis to insure that no actual or potential conflict exists within these guidelines.
3. Upon receipt of a form CCPD 5 the Chief will or will so direct to be done:

- a. Research all such requests for off-duty secondary employment;
  - b. Personal contact with the proposed off-duty secondary employer by site visit or telephone;
  - c. Determine, through reasonable and prudent investigative means, whether the proposed off-duty secondary employer is in the midst of or has the potential for becoming involved in a labor dispute;
  - d. Deny all requests for off-duty secondary employment when any of the prohibited employment conditions listed in subsection H. Prohibited Employment, exists.
4. If the CCPD rules that a conflict exists, the employee will be advised of the possibility of that conflict and, if circumstances permit, the CCPD may place certain conditions, as appropriate, on the approval of off-duty secondary employment so as not to have any situation which may be a conflict.
  5. Requests approved by CCPD Chief will be distributed as follows:
    - a. The original will be placed in the employee's personnel file;
    - b. One copy will be sent to the Cottage City Town Manager; and
    - c. One copy will be returned to the employee submitting the request.
  6. Denied requests, when appealed by the employee, will be forwarded by Chief for reconsideration. Following action by the Chief, all copies of the request will be returned to the employee.
  7. Denied requests, after the employee's acknowledgment, will be filed as follows:
    - a. The original will be placed in the employee's personnel file; and
    - b. One copy will be returned to the employee submitting the request.

#### **E. Revoking and Light Duty**

1. Revocation – The Chief may revoke official authorization for an employee to work off-duty secondary employment if such employment conflicts with his official duties or constitutes a conflict of interest with the CCPD.
  - a. Revoking approval for off-duty secondary employment will be so indicated on the original approval request in the employee's personnel file.
    - (1) The employee will sign the form indicating he was informed the approval was revoked.
    - (2) A photocopy of the amended form CCPD 5 will be forwarded to the Town Manager.
  - b. The Chief may revoke an employee's approval to work off-duty secondary employment when the performance of such work may adversely affect an injury or illness.
2. Light Duty

- a. When an employee is placed on light duty, any new requests and existing approvals for off-duty secondary employment will be reviewed by the Chief.
  - b. The Chief will notify the employee and Town Administrator whether the employee may start or continue to work secondary employment.
3. Secondary Employment - Under no condition may an employee work secondary employment while simultaneously on-duty and being compensated by the Town of Cottage City.

**F. Conditions and Work Limitations for Off-Duty Secondary Employment**

1. Officers on light duty shall not participate in extra-duty or secondary employment involving private security.
2. Officers on sick leave shall not participate in extra-duty or secondary employment and may not resume extra-duty or secondary employment until 24 hours past the end of the shift of the day the officer was on sick leave.
3. Full time employed Officers shall not exceed 32 hours of extra-duty or secondary employment, or any combination thereof, per workweek, not including leave time, days off or other non-duty days.
4. Officers shall not work all night part-time and report for duty the following day. There must be at least an 8-hour rest break between the part-time duty or secondary employment and regular duty with the CCPD.
5. Probationary employees may not work private security until they have successfully completed their probationary period.
6. The following types of employment may be approved if these businesses are not licensed by or under CCPD regulatory control.
  - a. Work as a private detective or security guard.
  - b. Investigative work for an insurance agency, private guard agency, collection agency, attorney, a bail bond agency, or any private employer employing security guards, etc.
7. Off-duty secondary employment may be approved for police employees to work in businesses which sell and dispense alcoholic beverages so long as it is not the primary service of that business. Police employees are prohibited from either the direct selling or dispensing of alcoholic beverages.
8. Off-duty secondary employment that would involve the service of civil processes may be approved, as well as employment that involves driving a taxicab or other public vehicle.
9. Employees may be permitted to work at gasoline stations and garages that are licensed as

authorized inspection stations, providing that the employee is in no way involved in the actual inspection process.

10. Employees will not be permitted to engage in off-duty secondary employment or extra duty secondary employment during any day when sick leave is taken.
  - a. Approval shall not be given for employment that will interfere with the performance of an employee's official duties, including overtime assignments and response to emergency calls.
  - b. The Chief may deny requests to engage in off-duty secondary employment to employees who do not, at least, receive meets expectations in all standards of the Employee Performance Appraisal, as judged by the Chief.
  - c. If during a current appraisal period an employee, in the judgment of the Chief, needs improvement for the overall rating or is unsatisfactory in any one or more performance standards, the Chief may suspend the employee's secondary employment for 30 days (60 days for employees who work 12 hour shifts). At the end of 30 days and each subsequent month during the appraisal period, the Chief will re-evaluate the employee's performance. When, in the judgment of the Chief, the employee, at least meets expectations in all performance standards, the Chief will reinstate the employee's secondary employment status.
11. The prescribed CCPD uniform may be worn by the officer if the secondary employment job location is within the corporate limits of the Town. The departmental uniform shall not be worn if the place of employment is outside the Town corporate limits.
12. The officer may carry his or her service weapon, badge, and identification while engaged in authorized secondary employment involving private security, unless he or she is working within the corporate limits of the Town, in which case the officer shall carry these items.

The use of an assigned take home Police vehicle is permitted for approved secondary employment.
13. Except as permitted by Section 2-102 of the CP Article of the Md. Ann. Code, as amended, and the General Orders of this Department, police officers engaged in secondary employment outside the Town's corporate limits, may not exercise their police powers including making arrests, or conducting investigations.
14. Secondary employment may not violate the Town's Ethics Ordinance, Ordinance Code, the Town Charter or police directives.
15. Officers may not participate in any way in any business or employment that requires the officer to engage in conduct that is inconsistent with the Department's objectives, regulations, directives, ethics, reputation, or that creates a real or potential conflict of

interest between the officer's secondary employment and the officer's duties with the Department, or that presents the appearance of such conflict of interest.

16. Employees who engage in secondary employment without prior approval are subject to disciplinary action. The disciplinary action may include but is not limited to suspension or termination from secondary employment. Unless otherwise permitted by law, suspension of a police officer's powers of arrest shall not be used as a basis for suspension by the CCPD from secondary employment unless the secondary employment was not previously approved as stated in this paragraph.
17. Officers shall not be compensated by the Town for off-duty court appearances for arrests emanating from secondary employment.
18. Officers working on a private employer's premises or shopping center may not handle a traffic accident (crash) using his police powers occurring in the parking lot unless the parking lot is located within the corporate limits of the Town.
19. At the discretion of the Chief of Police, full time employed Officers may accept secondary employment as a commissioned police officer for any other political subdivision of this State, any other State, or the Federal Government, as well as the U.S. military including the reserves, the National Guard or the organized militia.
20. Officers may not obtain secondary employment as an executive protection agent, (a.k.a. "a Bodyguard"), a bail bondsman, or as an employee or agent to a party involved in a labor management dispute.

**G. Crimes Witnessed by CCPD Officers While Engaged in Off-Duty Secondary Employment**

1. If, during the course of off-duty secondary employment, a police employee finds it necessary to act in an official capacity, police functions shall be given priority.
2. Any minor violations witnessed while an CCPD officer is working off-duty secondary employment as a security guard (e.g. shoplifting) will be handled in the capacity of a security guard, and CCPD employees will not identify themselves as law enforcement officers.
  - a. The offender will be detained, and the local police department will be called to affect the arrest.
  - b. Any court appearances stemming from these incidents will be on the officer's off-duty time and any compensation received for that time will be paid by the private employer.
3. If major crimes such as felonies are witnessed while an officer is working as a security guard, appropriate enforcement action will be taken.

- a. Police employees who take such enforcement action are considered to be on-duty from the time that such action was initiated.
- b. In this on-duty status, they will be compensated by the CCPD and not by the private employer.

## **H. Prohibited Employment**

1. Applications for off-duty secondary employment shall not be approved in any of the following instances:
  - a. Employment by any entity licensed by or under CCPD regulatory control including:
    - (1) Employment by a security or private detective agency licensed or under CCPD regulatory control.
    - (2) Employment in the inspection process while employed at an authorized inspection station.
  - b. The Town Public Ethics Ordinance also prohibits an employee from maintaining a financial interest in any business or entity under CCPD regulatory control.
  - c. The Code of Ethics would not prohibit an employee's spouse from owning a business regulated by the CCPD, but it would prohibit the employee from having a financial interest in that business.
  - d. The Code of Ethics prohibits an employee from being employed by an entity that is subject to the employee's authority or that of his agency. While law enforcement authority is broad and more or less universally applicable in many situations, the prohibition applies specifically when an officer works in a specialized division or unit whose efforts are directed particularly at a defined population.
  - e. Off-duty secondary employment which would involve the use of CCPD records, documents, or files shall not be approved for any employee.
  - f. No CCPD police employee may directly or indirectly maintain any financial interest or ownership in any business dealing directly or indirectly with the manufacture, transportation or sale of alcoholic beverages.
  - g. No CCPD police employee may directly or indirectly maintain any financial interest or ownership in any commercial business establishment engaged in legalized gambling operations, i.e., bingo, racetrack, etc.
  - h. No CCPD police employee may directly or indirectly act as an employee or agent for a commercial business establishment engaged in legalized gambling operations, i.e., bingo, racetrack, etc.
  - i. No CCPD employee may directly or indirectly maintain any financial interest or ownership in any business performing security guard and/or private detective services that are licensed by or under CCPD regulatory control.

- j. Any type of off-duty secondary employment that may, because of its location or nature, bring disfavor, disrespect, or discredit to either the employee or the CCPD shall not be approved for any employee.
2. CCPD employees are prohibited from providing security, protection, escorts, or any like activities in an off-duty secondary employment capacity, at any business within the State of Maryland, while a strike, labor unrest, contract dispute, work slowdown, or any such activity exists or is pending. The Chief will:
  - a. immediately rescind approval from employees who were granted prior approval to work for such a company. The employees will be notified by telephone to immediately cease off-duty secondary employment and will acknowledge receipt of the order to cease off-duty secondary employment via Form 1, immediately upon return on the next scheduled CCPD workday.
  - b. notify, as soon as practical, the Town Manager of the following:
    - (1) The company name, address, phone number, contact person, and incident location (if other than business location).
    - (2) The employee requesting off-duty secondary employment.
    - (3) The nature of the strike, labor unrest, contract dispute, etc. and whether it is in progress or predicted for the near future.
    - (4) Any information regarding past, present, or predicted violence and the intensity of same.
    - (5) Any additional pertinent information.
3. The foregoing represents the only outright prohibitions. Off-duty secondary employment is also prohibited in any type of outside employment which could possibly impair the independence of judgment of a CCPD employee in the performance of his duties or employment which comes about as a direct result of or for the intention or use of the prestige of a Town office for the benefit of an employee or the benefit of another.

Example: No police employee could accept off-duty secondary employment as an accident reconstruction expert for private attorneys because the reason they would be employed as such would relate directly to their expertise gained as a CCPD officer.

#### **I. Military Reserve and National Guard Components**

1. Department policy permits employees to be members of military reserve and national guard components.
2. The following information is provided to avoid confusion concerning the Veterans' Reemployment Rights Statute and areas of possible conflict involving CCPD work schedules, CCPD manpower commitments, inactive duty training schedules and/or annual training requirements.



The policy of the Maryland National Guard concerning members of the CCPD is as follows:  
"In the event of a State emergency which would constitute a simultaneous and concurrent demand for the services of the individual by both the Maryland National Guard and the law enforcement agency, it shall be the policy of the Military Department not to initially order into the active service of the State, those law enforcement officers of the Maryland State Police or those who are members of the law enforcement agency of the jurisdiction where the emergency has occurred. Law enforcement officers of the Maryland State Police and the jurisdiction concerned may subsequently be ordered into the active service of the State only after coordination with the law enforcement agency concerned or upon specific order of the Governor."

3. Other points affecting the CCPD policy regarding employee membership in a reserve or guard component are as follows:
  - a. The CCPD has the following rights:
    - (1) To know the CCPD member's military training schedules as far in advance as possible.
    - (2) To receive the necessary paperwork (such as orders) verifying the military duties for which absences from work are requested. If possible, paperwork should be received by the CCPD prior to the time being requested.
  - b. CCPD members who are in a component have the following rights:
    - (1) To be released from their jobs, on request, to attend military training.
    - (2) To receive other forms of leave in addition to military leave (15 days annually), if needed, after military leave has been exhausted.
    - (3) To receive their positions back when training is complete and be treated the same as if they had never been away from the agency.
  - c. Under Federal law, the CCPD must fulfill the following obligations
    - (1) To allow the member the necessary time off for training
    - (2) To take the employee back when the military duties are completed
    - (3) To not terminate, demote, or deny promotion or benefits to employees because of their membership in a component.
  - d. An employee in a reserve component has the following obligations to the CCPD:
    - (1) To meet the existing CCPD regulations for off-duty secondary employment.
    - (2) To request time off as far in advance as possible. An employee cannot simply fail to show up for duty, using the excuse that he was required to attend military training.

- (3) To provide a copy of proper military orders, which authorize the training concerned, to include the specific beginning and ending dates.
  - (4) To report back to work on the next scheduled workday (shift) after drill or annual training.
  - (5) To consider the CCPD needs, primarily manpower. Voluntary duty should be discussed between the individual and the Chief prior to requesting same, in order to gauge the impact the request would have on the local manpower demands.
4. In order to promote uniformity within the overall operation of the CCPD with respect to interaction with the component, the following guidelines are hereby established. They are not intended to be all encompassing in nature. Good judgment and common sense should prevail in matters of conflict or misunderstanding between the parties involved or affected.
- a. Each year during the month of January, the Chief will survey CCPD personnel in order to identify employees who are currently active members of a military reserve or National Guard unit.
  - b. Personnel so identified will provide the following information:
    - (1) Last name, middle, first
    - (2) Social Security Number
    - (3) Job Classification Title
    - (4) Reserve/Guard unit identification
    - (5) Approximate dates of projected military service for the upcoming year.
  - c. This information will be forwarded by the Chief to the Town Manager on or before February 1.
  - d. Employees may be granted up to 15 days per year of paid military leave for military training.
  - e. If an employee exhausts his military leave and requires additional leave for military training, other options may be considered by the CCPD after consideration of staffing needs and overtime costs. These include:
    - (1) Granting accumulated annual, personal or compensatory leave.
    - (2) Granting leave of absence without pay after authorization is obtained per established policy.
    - (3) Modifying the employee's work schedule so that leave days coincide with scheduled military training times.
  - f. In those instances where CCPD commitments conflict with military training, the employee should contact the military component and ask to make up the training at another time. If the military component refuses to allow this employee to make up the

training, the employee will be given leave to attend the training.

- g. Work or leave groups should be designed to avoid having one or two shifts that are inundated with personnel with military commitments.
- h. Any adjustments to leave should generally be at the expense of the concerned individual.
- i. Employees requesting military leave for annual training will initiate a form CCPD 2 which contains the following information:
  - (1) "Request for Military Leave"
  - (2) Name, rank or classification, and I.D. number or Social Security number
  - (3) Assignment
  - (4) Dates of training, as shown on military orders.
- j. The Form 2 and military orders should be submitted to the Chief who may approve the request and issue the appropriate approval and so inform the Town Manager.
- k. If military orders are not available at the time the leave is requested, the request should be forwarded immediately to the Town Administrator. The military orders must then follow the request as soon as the employee receives the orders.
- l. Generally, the Chief should attempt to coordinate the CCPD manpower needs with military authorities so that no more than one CCPD employee is required to attend annual training at the same time period as another officer is required to attend training.
- m. Annual training may be staggered to reduce the impact on manpower losses, particularly during summer months. However, if the military component refuses to cooperate, leave will be granted.
- n. To minimize the impact on manpower needs, annual leave should not be taken consecutively with military leave.

**J. Termination of Off-Duty Secondary Employment**

- 1. When an employee terminates his off-duty secondary employment, he should immediately notify the Chief of such termination by completing the withdrawal section on the copy of form CCPD 5 filed in his personnel file.
- 2. The Chief will endorse this section.
  - a. One photocopy will be forwarded to the Town Manager.
  - b. A copy will be given to the employee.

**K. Limitations on Off-Duty Secondary Employment/Extra Duty Overtime Hours (OT)**

- 1. These limitations of all off-duty secondary employment/extra duty overtime hours are intended to reduce conflicts with regular scheduled duty assignments and to reduce

instances of fatigue.

2. Sworn employees will report for duty fully rested and alert, capable of performing the essential functions of an officer and other duties as assigned.
3. Regardless of duty status the next day, employees will only work a maximum of 16 consecutive hours when combining a regularly scheduled shift, which includes all hours worked and all off-duty secondary employment/extra duty overtime hours. On non-duty days employees may work a maximum of 16 hours of off-duty secondary employment/extra duty overtime.
4. Employees must be off-duty for at least 8 continuous hours prior to working extra duty OT followed by a regular CCPD shift, or a regular shift followed by extra duty OT, if the time off between the two shifts is regular CCPD shift, or a regular shift followed by extra duty OT, if the time off between the two shifts is less than 8 hours. After working 16 continuous hours of any combination of a regular shift, extra duty OT, or off-duty secondary employment, employees must be off-duty for at least 8 continuous hours prior to returning to duty. After working 8 hours, being off duty for any number of hours less than 8, will not qualify an employee to work more than an additional 8 hours. Example: an employee who works 8 hours, is off-duty 1 hour and then works 8 hours, must be off-duty for 8 continuous hours prior to working another shift or any part of a shift.
5. Only 40 hours of total off-duty secondary employment/extra duty overtime will be permitted during any seven-day period that includes two leave days. For each seven-day period that has less than two leave days, the secondary employment/extra duty overtime allowed will be reduced by 8 hours for each leave day less than 2 in that period. For example, for seven-day periods with 1 leave day, the employee will be entitled to work 32 hours total off-duty secondary employment/extra duty overtime. For seven-day periods with no leave days, employees will be entitled to work 24 hours total off-duty secondary employment/extra duty overtime.
6. In weeks that contain more than two leave days or vacation days, work hours can be adjusted accordingly, i.e., an employee may work up to 16 hours off-duty secondary employment/extra duty overtime on such leave or vacation days. The employee may not, however, exceed 80 hours total time worked in a seven-day period.
7. If circumstances beyond an employee's control (e.g., weather, traffic or road conditions) require the employee to work longer than the scheduled off-duty secondary employment/extra duty overtime no disciplinary action will be taken against an employee.
8. All secondary employment/extra duty overtime hours worked will be combined when compiling weekly totals of off-duty secondary employment hours. As needed, refer to the form CCPD, Request to Engage in Secondary Employment for the number of off-duty secondary hours an employee works per week.
9. All off-duty secondary employment/extra duty overtime hours must be scheduled in a manner that does not conflict or interfere with the employee's performance of duty.

10. An employee engaged in off-duty secondary employment/extra duty overtime is subject to call out in case of an emergency and should expect to leave off-duty secondary employment/extra duty overtime in such situations.
11. Nothing in this section would prevent the use of CCPD overtime which arises from a public safety emergency.