

# Ordinance 2011-

*BOROUGH OF HIGHTSTOWN  
COUNTY OF MERCER  
STATE OF NEW JERSEY*

## **AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 2-19, ENTITLED “POLICE DEPARTMENT,” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”**

**WHEREAS**, the Mayor and Council of the Borough of Hightstown have determined that it is necessary and appropriate to create the position of a civilian Police Director to manage and oversee the day-to-day operations of the Police Department; and

**WHEREAS**, the Mayor and Council wish to amend certain provisions contained within Section 2-19 of the Borough Code regarding the Police Department, as set forth herein.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

Section 1. Section 2-19, entitled “Police Department,” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey,” is hereby amended and supplemented as follows (Additions are shown with underline; deletions are shown with ~~strikeout~~):

### **Section 2-19**

#### **POLICE DEPARTMENT**

##### **Subsections:**

- 2-19.1        Establishment; Composition; Chain of Command.**
- 2-19.2        Department Under Control of Borough Council.**
- 2-19.3        Police Commissioner.**
- 2-19.4        ~~Chief of Police~~ Police Director.**
- 2-19.5        Duties of Department.**
- 2-19.6        Rules and Regulations of Department.**

- 2-19.7            **Application; Appointments and Qualification; Probationary Period.**
- 2-19.8            **Uniforms to be Furnished.**
- 2-19.9            **Qualifications for Police Officers.**
- 2-19.10           **Residency Requirements.**
- 2-19.11           **Oath Required.**
- 2-19.12           **(Reserved).**
- 2-19.13           **Procedure for Implementation of Disciplinary Hearings.**
- 2-19.14           **Reimbursement for Legal Costs.**
- 2-19.15           **Term of Service.**
- 2-19.16           **Chief Communications Officer.**
- 2-19.17           **Engagement of Services of Police Officers by Private Parties.**

**Subsection 2-19.1           Establishment; Composition; Chain of Command.**

- a.        *Establishment.* The Police Department of the Borough of Hightstown is hereby established, which shall consist of a force as hereinafter set forth, and continued ~~and shall consist of a Chief of Police and as many Captains, Lieutenants, Sergeants and patrol officers as may be deemed necessary and may be determined by resolution of the Borough Council. The Department shall be governed by the applicable laws of the State of New Jersey, this section, other applicable ordinances of the Borough and rules and regulations adopted pursuant thereto.~~
- b.        *Composition.* The membership of the Police Department shall consist of a maximum of the following number of positions:

<u>Position Title:</u>	<u>Maximum Number of Positions:</u>
<u>Police Director</u>	<u>One</u>
<u>Captain</u>	<u>      </u>
<u>Lieutenant</u>	<u>      </u>
<u>Sergeant</u>	<u>      </u>
<u>Patrol Officer</u>	<u>      </u>

c. Chain of Command. All necessary orders and directives for the management and regulation of the Police Department shall be given through the chain of command. The chain of command shall be as follows:

1. The Mayor and Borough Council;
2. The Borough Administrator;
3. The Police Director;
4. The Captain(s);
5. The Lieutenant(s);
6. The Sergeant(s); and
7. The Patrol Officers.

#### **Subsection 2-19.2 Department Under Control of Borough Council.**

The Police Department shall be under the control of the Borough Council, which shall serve as the Appropriate Authority pursuant to N.J.S.A. 40A:14-118. Notwithstanding any other provision of this section or any police rules and regulations, the Borough Council, by recommendation of the ~~Police Chief~~ Police Director, or on its own motion, shall have the authority to institute disciplinary proceedings against members of the Police Department, and to conduct hearings in connection therewith in accordance with subsection 2-19.13 and the requirements of New Jersey law.

#### **Subsection 2-19.3 Police Commissioner.**

The Mayor shall, as soon as possible after the organization of the Council each year, name one (1) of the members of Council as Police Department Liaison, who shall also be known as the Police Commissioner. The Police Commissioner shall act as liaison between the Borough Council and the Police Department, with the assistance of the Borough Administrator, as needed.

#### **Subsection 2-19.4 ~~Chief of Police.~~ Police Director.**

- a. Duties and Responsibilities. The ~~Chief of Police~~ Police Director shall be the executive head of the Department, and shall have ~~complete~~ authority ~~regarding to manage and oversee~~ the day-to-day operations of the Police Department. The ~~Chief~~ Police Director shall consult and cooperate with the Borough Administrator as needed, and shall be responsible to the Borough Administrator, and through the Administrator to the Borough Council, as Appropriate Authority. Whenever there is any reference in any

law or ordinance to the Chief of Police or Police Chief, such reference shall be deemed to mean the Police Director. The operations for which the ~~Chief Police Director~~ shall be responsible shall include but not be limited to the following:

1. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.
2. ~~Have, exercise and discharge the functions, powers and duties of the force.~~ Organize, develop, direct and perform work involved in the management of the Department.
3. Prescribe the duties and assignments of all subordinates and other personnel in the Department.
4. Delegate such of his authority as the ~~Chief Police Director~~ may deem necessary for the efficient operation of the force to be exercised under his direction and supervision.
5. Report monthly to the Borough Council in such form as shall be prescribed by the Council on the operation of the force during the preceding month, and make such other reports as may be requested by the Council or on its behalf by the Borough Administrator or Police Commissioner.
6. At the direction of the Borough Council, act as a resource to the Council, Department Heads and various Borough committees, commissions and advisory groups on matters of public safety.
7. Adopt and promulgate such policies as are necessary and appropriate for the efficient operation of the Department.
8. Conduct disciplinary hearings in accordance with State law.
9. Since the Police Director shall be a civilian position, the Police Director shall not possess regular police powers. As such, the Director shall not be permitted to:
  - a) Operate a marked patrol vehicle, conduct a motor vehicle stop or answer calls for service;
  - b) Routinely stop, detain or arrest persons;
  - c) Wear a law enforcement officer uniform;

- d) Be issued a firearm;
  - e) Approve permits to carry firearms; or
  - f) Direct the investigation of criminal matters.
- b. *Acting ~~Chief of Police~~ Police Director.* In the temporary absence or disability of the ~~Chief of Police~~ Police Director, the Chief Mayor shall appoint on a temporary basis one of the senior officers of the Department who will act in place of the ~~Chief of Police~~ Police Director under the title of "Acting ~~Chief of Police~~ Police Director," this title to be used only for the duration of the temporary appointment. The Chief Mayor shall notify the Borough Administrator in writing of any such temporary appointment.
- c. *Department Equipment.* The ~~Chief of Police~~ Police Director shall recommend to the Borough Administrator from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will improve the Department. The ~~Chief of Police~~ Police Director shall have full charge and control of all apparatus of the Department and its assignment and use and shall be held responsible for its care, cleanliness and safe keeping.
- d. *Qualifications of the ~~Chief of Police~~ Police Director.* Selection and evaluation of the individual to be appointed ~~Chief of Police~~ Police Director shall be based upon the following criteria, and the requirements of New Jersey law:
1. ~~Demonstrated possession of a thorough knowledge of the principles and practices of modern police and emergency management administration, modern police science and crime prevention and the ability to command the respect of officers and support staff and to plan, assign, direct, supervise and evaluate their performance.~~ At least five (5) years of experience in a responsible capacity in public administration, public safety administration and/or policing.
  2. ~~Ten (10) years of police experience as a member of a Police Department or force, or service in the military police in the armed forces of the United States, including supervisory experience.~~

Education, including a high school diploma or accredited equivalent. Post secondary courses and degrees are desirable and will be considered in the selection process. Attendance at and completion of a police training course and successful physical and psychological tests are mandatory.

~~4. 3.~~ Residence within the State of New Jersey and within a radius of fifteen (15) miles of the Borough Police Headquarters.

~~5. Receipt of a satisfactory grade on any qualifying examination for the office of Chief as may be selected by the Borough Council.~~

~~6. 4. The Borough Council may waive any of the requirements set forth above when, in their judgment, the best interests of the Borough shall be served thereby.~~

e. Compensation. The Director's compensation shall be such sum as shall be fixed annually by Ordinance.

#### **Subsection 2-19.5 Duties of Department.**

The Police Department, ~~through the Chief of Police,~~ shall:

- a. Preserve the public peace, protect life and property and prevent crime; detect and arrest offenders against the penal laws and ordinances effective within the Borough; suppress riots, mobs and insurrections; disperse unlawful or dangerous assemblages; and preserve order at all elections, public meetings and assemblages.
- b. Administer and enforce laws and ordinances to regulate, direct, control and restrict movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persona, protect the safety and facilitate the convenience of motorists and pedestrians and make and enforce rules and regulations not inconsistent with the ordinances and resolutions of the borough for such purposes.
- c. Remove or cause to be removed all nuisances in the public streets, parks and other public places of the Borough, inspect and observe all places of public amusement or assemblage and all places of business requiring any State or municipal license or permit and report thereon to the appropriate department.
- d. Provide proper police attendance and protection at fires.
- e. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses and cooperate fully with the law enforcement and prosecuting authorities of Federal, State and County governments.
- f. Operate training programs to maintain and improve police efficiency of the members of the Department.

#### **Subsection 2-19.6 Rules and Regulations of Department.**

- a. The Borough Council shall have the power, by resolution, to adopt such rules and regulations for the government and discipline of the Police Department as are not inconsistent with New Jersey law or this section. The ~~Chief of Police~~ Police Director shall have the power to adopt such additional rules, regulations, procedures and orders as shall be deemed necessary by him to promote the efficiency of the Department. Any such rule, regulation, procedure or order of the ~~Chief of Police~~ Police Director shall be sent immediately to the Borough Administrator and to the Borough Council, and they may be modified or annulled by resolution or motion of the Borough Council.
- b. Such rules, regulations, procedures and orders shall be binding upon each member and civilian employee of the Police Department, and copies shall be made available by the ~~Chief of Police~~ Police Director for each such members and employees.
- c. Within five (5) days after the promulgation of any rule, regulation, procedure or order, same shall be posted by the ~~Police Chief~~ Police Director or designee in the Police Department and a copy shall be made available to each member of the Department and to each civilian employee of the Department, all of whom shall acknowledge receipt of same on a form supplied by the ~~Chief~~ Director.
- d. In the event of any inconsistency between this Section 2-19 and the rules, regulations, procedures or orders, the provisions of this section shall control. In the case of inconsistency with any applicable collective bargaining agreement, the provisions of such agreement shall control.

#### **Subsection 2-19.7 Application; Appointments and Qualification; Probationary Period.**

- a. Application. Any applicant for the position of police officer of any rank, other than ~~Chief of Police~~ Police Director, shall make written application therefor on forms supplied by the Borough, to the Borough Administrator, and at the same time shall submit such proofs as shall be required with respect to the qualifications as set forth in said application.

Candidates shall be drawn from an eligibility list established through recognized examination and testing procedures; when deemed appropriate by the Borough Council, vacancies or openings may be publicly advertised.

- b. Procedure for Evaluation and Appointment. Applications shall be reviewed by the Borough Administrator and ~~Police Chief~~ Police Director,

and final candidates shall be interviewed by the Police Chief and the Borough Administrator, along with an ad hoc Police Committee established for the purpose of interviewing candidates and making recommendations to the Borough Council. The Mayor, along with the Borough Administrator, ~~Police Chief~~ Police Director and Police Commissioner shall be the members of the ad hoc Committee and the Police Commissioner shall be the Chair. The Council may, in its discretion, appoint another member of Council to serve on the ad hoc Committee. Said Police Committee shall then recommend a name or names to the Council which may determine to conduct interviews itself prior to confirming employment. In either case, no member of the Police Department shall be appointed prior to consideration by the Council and formal appointment by resolution of the Council.

- c. Probationary Appointment. No person shall be appointed as a member of the Borough Police Department prior to demonstrating an aptitude for police employment in the Borough of Hightstown for a period of one (1) year, during which time said person shall be known as a probationary police officer. During the probationary period, the appointment as a police officer shall be subject to revocation at any time for any cause and without any hearing. The probationary period may be extended by the Borough Council to a maximum of an additional six (6) months if necessary in order for an officer to successfully complete a police training course as prescribed by law.

For purposes of this subsection, the probationary period for any police officer shall be for a period of one (1) year following the candidate's graduation from a police academy, or if the candidate has prior police experience, said probationary period shall be for one (1) year from the date of employment or from the date of the successful completion of any police refresher courses required to be taken as a condition of employment, which ever shall occur last. No person shall be appointed or promoted to a command or supervisory position above patrolman or patrolwoman unless he or she shall have demonstrated an aptitude for such position. Candidates for and members of the Police Department shall have all other qualifications prescribed by law.

Upon the completion of the probationary period, the ~~Chief of Police~~ shall classify the officer as a permanent employee, subject to ratification of same by the Borough Council, after which time the officer shall be subject to the provisions of New Jersey law with respect to discipline and removal. Prior to achieving permanent status, probationary members shall not be considered as regular or permanent members of the Department.

#### **Subsection 2-19.8     Uniforms to be Furnished.**



Police uniforms shall be furnished to all members of the Borough Police Department and shall, at all times, be and remain the property of the Borough. Upon separation from service for any reason whatsoever, all uniforms and other equipment and accessories furnished by the Borough shall be promptly returned to the ~~Chief of Police~~ Police Director.

#### **Subsection 2-19.9      Qualifications for Police Officers.**

No person shall be appointed to the Police Department unless that person is qualified in accordance with the requirements of N.J.S.A. 40A:14-122 and the age requirements set forth in N.J.S.A. 40A:14-127 et seq. Qualifications shall include a satisfactory physical and psychological examination, and a minimum of a high school education or accredited equivalent.

#### **Subsection 2-19.10    Residency Requirements.**

- a. Findings of Fact. The Borough Council specifically finds that requiring all police officers to be residents of the Borough would seriously impede its ability to establish and maintain competent personnel for its Police Department and would be in violation of N.J.S.A. 40A:14-122.1.
- b. Preference in promotions shall be given to residents in accordance with N.J.S.A.40A:14-122.6.
- c. Residency in State. Every member of the Police Department shall be a resident of the State of New Jersey in accordance with N.J.S.A. 40A:14-122.8.

#### **Subsection 2-19.11    Oath Required.**

Each member of the Police Department shall, before entering upon the performance of official duties, take and subscribe an oath to bear true faith and allegiance to the government established in this Borough and this State, to support the constitutions of the United States of America and the State of New Jersey and to faithfully, impartially and justly discharge and perform all the duties of office, which oath or affirmation shall be filed with the Clerk.

#### **Subsection 2-19.12    (Reserved.)**

#### **Subsection 2-19.13    Procedure for Implementation of Disciplinary Hearings.**

- a. In the event the ~~Police Chief~~ Police Director recommends to the Borough Council that disciplinary action be taken against a member of the Police Department, the ~~Police Chief~~ Police Director shall serve or cause to be served upon the member of the Police Department a signed copy of the complaint and/or charges against the members, along with a written notice

that a disciplinary hearing shall be scheduled no sooner than ten (10) days nor later than thirty (30) days after the notice is personally served upon him or her; the Borough Council and the member may agree to reasonable postponements. The matter shall be heard and determined before and by the Council at the time and place set forth in the notice. A written copy of the determination of the Council shall be served upon the member of the Police Department as soon as possible, but in no event later than twenty-one (21) days after the hearing. The Mayor shall participate in the hearing, and shall vote to break a tie, if necessary.

The Mayor and Council, as Appropriate Authority, may determine in certain cases that a matter may be heard by a Hearing Committee acting on their behalf. In such cases and for the purposes of such hearings, the Hearing Committee shall act for the Appropriate Authority. The Hearing Committee shall be comprised of the Mayor, who shall be the presiding officer, the Police Commissioner, and the Borough Administrator. Hearings by the Hearing Committee shall be subject to the procedures set forth in this section. The written findings of the Hearing Committee, acting for the Appropriate Authority, shall be referred to the Mayor and Council for final determination, based upon the record established by the Hearing Committee.

In the alternative, the Appropriate Authority may appoint an independent hearing officer to conduct the disciplinary hearing and make recommendation to the Appropriate Authority for a final determination based on the record of the hearing.

All determinations of the Mayor and Council shall be final.

- b. The Mayor and Council shall use Chapter 8 of the Police Rules and Regulations as a nonbinding guideline in the conduct of the hearings authorized herein.
- c. All disciplinary actions shall be subject to the requirements and time frames set forth in N.J.S.A. 40A:14- 147, et seq.

#### **Subsection 2-19.14 Reimbursement for Legal Costs.**

Where the Borough Council determines that the provisions of N.J.S.A. 40A:14-155 require that the Borough provide a means of defense or reimburse a police officer for legal costs, the hourly rate for which the Borough shall be responsible shall not exceed the hourly rate charged by the Borough Attorney for litigation matters. All statements for professional services submitted by attorneys representing police officers under this section shall be subject to review by the Borough Attorney and review and approval by the Borough Administrator.

#### **Subsection 2-19.15 Term of Service.**

The term of service of any member of the Police Department shall be to the age of sixty-five (65) and shall be calculated as beginning on the date of formal appointment by the Borough Council. If the minutes or records of the Borough Council do not disclose such date, the payroll or other records of the Borough shall be used to determine it. At the age of sixty-five (65) the officer shall be retired by resolution of the Borough Council and his or her services as a police officer shall be at an end; provided, however, that the Borough Council may, in its discretion, continue any officer temporarily in case of emergency, or as the needs and interest of the Borough may require, provided said officer remains qualified for said employment. (Ord. No. 1998-7)

#### **Subsection 2-19.16 Chief Communications Officer.**

- a. Appointment; Term. There is hereby established in the Borough the office of Chief Communications Operator, who shall be appointed by the Borough Administrator, in consultation with the ~~Chief of Police~~ Police Director. The Chief Communications Operator shall be under the direct day-to-day supervision and direction of the ~~Chief of Police~~ Police Director and shall be responsible for the administration of police and fire communications in the Borough. Except as may be otherwise provided in this Section 2-19 or any applicable collective bargaining agreement, the Chief Communications Operator shall be subject to provisions of the personnel policy manual.
- b. Duties. The Chief Communications Operator shall:
  1. Supervise and train all personnel in police and fire communication;
  2. Insure satisfactory operation of radio equipment and report immediately to the Chief of Police if repairs are needed, and arrange for service;
  3. Maintain work schedules for all other communications operators;
  4. Keep accurate time records for all communications operators for payroll purposes;
  5. Maintain monthly records of all incoming calls and segregate as to police or fire;
  6. In the absence of the ~~Chief of Police~~ Police Director or other police officers, give general guidance to citizens who call the Police Station;
  7. Maintain miscellaneous police records and insure that they are properly received and filed;

8. Be responsible for the proper maintenance of the reception rooms and the police and fire communications area.

**Subsection 2-19.17 Engagement of Services of Police Officers by Private Parties.**

- a. Any private individual or entity desiring the services of a uniformed Borough police officer for temporary short term assignments, shall arrange for such services with the ~~Chief of Police~~ Police Director.
- b. Payment for the services of such police officers shall be made directly by the Borough in the manner prescribed by the Borough Administrator. The cost for such services shall be the hourly rate of the subject officer plus ten (10%) percent of said rate in order to cover the Borough's administrative cost in connection with scheduling and related activities. (Ord. No. 1998-7)

Section 2. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 3. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Section 4. This Ordinance shall take effect following final passage and publication in accordance with the law, but not before September 1, 2011.

Introduced:

Adopted:

**ATTEST:**

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Debra L. Sopronyi  
Municipal Clerk

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Steven Kirson  
Mayor