

Ordinance 2012-07

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,” IN ORDER TO CREATE THE POSITION OF
“SPECIAL LAW ENFORCEMENT OFFICER” AND TO PRESCRIBE
APPROPRIATE TERMS, CONDITIONS AND REGULATIONS
ASSOCIATED THEREWITH.**

WHEREAS, the Borough Council (the “Borough Council”) of the Borough of Hightstown, New Jersey, wishes to create the position of “Special Law Enforcement Officer” within the Borough and to prescribe appropriate terms, conditions and regulations associated therewith, in accordance with the provisions of the “Special Law Enforcement Officers’ Act,” N.J.S.A. 40A:14-146.8, *et seq.*; and

WHEREAS, in connection therewith, the Borough Council wishes to amend certain provisions contained within Section 2-19 of the Borough Code relating to the Borough’s 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, that Section 2-19 of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” is hereby amended and supplemented in the following specific respects (additions are shown with underline; deletions are shown with ~~strikeout~~; and editorial notes are shown in [brackets]):

Section 2-19

POLICE DEPARTMENT

Subsections:

- 2-19.1 Establishment; Composition; Chain of Command.**
- 2-19.2 Department Under Control of Borough Council As the Appropriate Authority.**
- 2-19.3 Police Commissioner.**
- 2-19.4 Police Director.**
- 2-19.5 Duties of the Police Department.**

- 2-19.6 Rules and Regulations of Department.**
- 2-19.7 Application; Appointments; 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 ~~(Reserved).~~ Special Law Enforcement Officers.**
- 2-19.17. Engagement of Services of Off-Duty Police Officers.**
- 2-19.18. Drug Screening Procedure for Applicants and All Employees of the Police Department.**

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

a. *Establishment.* The Borough Council, as the governing body of the Borough of Hightstown, hereby creates and establishes, pursuant to N.J.S.A. 40A:14-118, as an executive and enforcement function of municipal government, a police force which shall be known as the Police Department of the Borough of Hightstown (referred to herein as the “Police Department”). The Police Department shall be governed by the applicable laws of the State of New Jersey, this section of the Hightstown Borough Code, other applicable ordinances of the Borough, and rules and regulations adopted pursuant thereto.

b. *Composition.* Under the supervision of the civilian Police Director, the composition of the Police Department shall be as follows: a maximum of one lieutenant, a maximum of three sergeants, a maximum of ten patrol officers, and any civilian personnel as deemed appropriate by the Borough Council. In addition to the regular members of the Police Department, the Borough may employ up to Ten (10) Class One special law enforcement officers and Class Two special law enforcement

officers in an amount not to exceed 25% of sworn officers, pursuant to N.J.S.A. 40A:14-146.8, et seq., and Subsection 2-19.16 below.

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 Borough Council as the Appropriate Authority, pursuant to N.J.S.A. 40A:14-118;
2. The civilian Police Director;
3. The lieutenant, if one is then serving;
4. The sergeant(s); ~~and~~
5. The patrol officers; and
6. The special law enforcement officers, if any.

Subsection 2-19.2 Department Under Control of Borough Council As the Appropriate Authority. *[No changes to current text are proposed]*

Subsection 2-19.3 Police Commissioner. *[No changes to current text are proposed]*

Subsection 2-19.4 Police Director. *[No changes to current text are proposed]*

Subsection 2-19.5 Duties of the Police Department. *[No changes to current text are proposed]*

Subsection 2-19.6 Rules and Regulations of Department. *[No changes to current text are proposed]*

Subsection 2-19.7 Application; Appointments; Probationary Period.

a. *Application.* Any applicant for the position of regular or permanent police officer of any rank shall make written application therefor on forms supplied by the Borough, to the Police Director, 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 the Police Director, 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 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 regular or permanent 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 on written notice by the Police Director for any cause and without any hearing. The probationary period may be extended by the Borough Council, on written recommendation of the Police Director, 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, which shall be documented in writing by the Police Director. Candidates for and members of the Police Department shall have all other qualifications prescribed by law.

Upon the completion of the probationary period, the Police Director 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 regular or permanent 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 Police Director.

Subsection 2-19.9 Qualifications for Police Officers.

No person shall be appointed as a regular or permanent member of 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.* College training and/or degrees in relevant fields of law enforcement are desirable and will be considered favorably in the selection process. In particular, no person shall be eligible or qualified to be appointed as a regular or permanent police officer unless, at the time of his/her appointment:

- a. She/he shall be a citizen of the United States and resident of the State of New Jersey.
- b. She/he shall not be less than ~~24~~ eighteen (18) years of age and shall be sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to her/his eligibility for membership in the retirement system. Age shall not be considered in the promotion of any officer to a higher rank.
- c. She/he shall demonstrate the ability to read and write the English language intelligently.
- d. She/he is of good moral character and shall not have been convicted of a crime or disorderly persons offense that, in the judgment of the Borough Council, would be prejudicial to the morale or the reputation of the Police Department.
- e. She/he must successfully pass the required physical fitness examination, drug and alcohol screening, psychological examination administered by a physician or laboratory of the Borough's choosing and be a successful graduate of a certified police academy as she/he may be assigned by the Borough. Any drug screening, psychological or medical examination or physical fitness examination shall be conducted after a conditional offer of employment or promotion has been made by the Borough.

Subsection 2-19.10 Residency Requirements.

- a. Findings of Fact. The Borough Council specifically finds that requiring all regular or permanent 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, but also shall be based on merit and fairness.
- c. Residency in State. Every regular or permanent 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. *[No changes to current text are proposed]*

Subsection 2-19.12 (Reserved).

Subsection 2-19.13 Procedure for Implementation of Disciplinary Hearings. *[No changes to current text are proposed]*

Subsection 2-19.14 Reimbursement for Legal Costs. *[No changes to current text are proposed]*

Subsection 2-19.15 Term of Service.

The term of service of any regular or permanent 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.

Subsection 2-19.16 ~~(Reserved).~~ Special Law Enforcement Officers.

a. Definitions. Whenever any words and phrases are used in this Section, the meanings respectively ascribed to them in *N.J.S.A. 40A:14-146.9* shall be deemed to apply to such words and phrases used herein.

b. Position Established. There is hereby established the position of special law enforcement officer (also referenced as “special police officer”) in and for the Borough of Hightstown.

c. Determination of Eligibility. Before any special law enforcement officer is appointed, the Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above) shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Mayor and Council.

d. Appointment. Special law enforcement officers may be appointed for terms not to exceed one (1) year, and the appointments may be revoked by the Mayor and Council for cause, after adequate hearing, unless the appointment is for four (4) months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require reappointment upon the expiration of the term. The special law enforcement officers so appointed shall not be members of the police force of the Borough, and their powers and duties shall cease at the expiration of the term for which appointed.

e. Qualifications.

1. No person may be appointed as a special law enforcement officer unless the person:
 - (a) Is at least eighteen (18) years of age;
 - (b) Is a resident of the State of New Jersey during the term of appointment;
 - (c) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;
 - (d) Is sound in body and of good health;
 - (e) Is of good moral character;
 - (f) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of his or her office; and
 - (g) Has successfully undergone the same psychological testing that is required of all full-time police officers in the Borough or, with regard to a special law enforcement officer hired for a seasonal period which required psychological testing of its full-time police officers, has successfully undergone a program of psychological testing approved by the Police Training Commission (the "Police Training Commission" or the "Commission") established in the New Jersey Department of Law and Public Safety, pursuant to N.J.S.A. 52:17B-70.
2. Every applicant for the position of special law enforcement officer shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.
3. No person shall be appointed to serve as a special law enforcement officer if that person serves as a special law enforcement officer in another municipality; nor shall any permanent, regularly appointed full-time police officer of any other municipality in the State of New Jersey be appointed as a special law enforcement officer. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of any municipality in the State of New Jersey or supervision of the Police Department

of a municipality in the State of New Jersey shall be appointed as a special law enforcement officer.

4. Any person who at any time prior to this appointment had served as a duly qualified, fully trained, full-time officer in any municipality in the State of New Jersey, and who is separated from that prior service in good standing, shall be eligible to serve as a special law enforcement officer consistent with the guidelines promulgated by the Police Training Commission. If the Police Training Commission waives the training requirements which are required by statute, the Mayor and Council, if it chooses, may appoint such person as a special law enforcement officer.

f. Training Course and Certification Requirements. No person may commence his or her duties as a special law enforcement officer unless he or she has successfully completed the training course and certification requirements of N.J.S.A. 40A:14-146.11, unless such training requirements have been waived by the Police Training Commission.

g. Classification of Officers. There are hereby established two (2) classifications of special law enforcement officers as follows:

1. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties. Class One officers shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.
2. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.

h. Uniforms. Every special law enforcement officer prior to the commencement of his or her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Hightstown. The uniform shall also include an insignia issued by the Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued by the Commission. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.

i. Return of Equipment and Uniform Upon Termination. Whenever a special law enforcement officer's appointment is revoked or a special law enforcement officer is not reappointed upon the expiration of the term, the special law enforcement officer shall return to the officer in charge of the station house all Borough of Hightstown issued uniforms, badges and equipment within fifteen (15) days of the revocation or expiration of the term.

j. Firearms. The special law enforcement officers shall carry and return firearms pursuant to the guidelines established in *N.J.S.A. 40A:146.14(b)*.

k. Conduct of Officers. Special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the Borough, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

l. Performance of Duties.

1. A special law enforcement officer shall be under the supervision and direction of the Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above), and shall perform his or her duties only in the Borough unless in fresh pursuit of any person pursuant to Chapter 156 of Title 2A of the New Jersey Statutes.
2. The Police Director or, in the absence of the Director, the Acting Police Director (in accordance with Subsection 2-19.4c above), may authorize special law enforcement officers when on duty to exercise the same powers and authority as permanent, regularly appointed police officers of the Borough, including, but not limited to, the carrying of firearms and the power to arrest subject to rules and regulations; any such authorization shall not be inconsistent with the certification requirements of Subsection 2-19.16f above.

m. Hours of Employment. The provisions of *N.J.S.A. 40A:14-146.16(a)* and (c) regarding the maximum hours of employment of special law enforcement officers are hereby incorporated as if stated in full herein.

n. Limitation of use of officers. Special law enforcement officers may be employed only to assist the Borough's law enforcement unit but may not be employed to replace or substitute for full-time regular police officers or in any way to diminish the number of full-time officers employed by the Borough.

o. Number of Positions Designated.

1. There are hereby created ten (10) positions as special law

enforcement officers designated as Class One members.

2. There are hereby created positions as special law enforcement officers designated as Class Two members that do not exceed 25% of the total sworn officers on the force.

Subsection 2-19.17. Engagement of Services of Off-Duty Police Officers. *[No changes to current text are proposed]*

Subsection 2-19.18 Drug Screening Procedure for Applicants and All Employees of the Police Department. *[No changes to current text are proposed]*

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

BE IT FURTHER ORDAINED, that 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.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon final passage and publication in accordance with the law.

Introduced: July 2, 2012

Adopted: July 16, 2012

ATTEST:

Debra L. Sopronyi
Municipal Clerk

Steven Kirson
Mayor