BILL NO.: **4494** **ORDINANCE NO.:** _____

Introduced by: Council Present

AN ORDINANCE FOR THE BERKELEY POLICE DEPARTMENT GENERAL ORDER #26 "SECONDARY EMPLOYMENT" POLICY

WHEREAS, The City of Berkeley hereby finds and declares this ordinance is necessary, appropriate, and in the best interest of the City of Berkeley, Missouri, in accordance to the CALEA standards.

Now, Therefore, Be it Ordained by the City Council of the City of Berkeley, Missouri, as follows:

Section 1 The City of Berkeley, Missouri, Council hereby adopts the attached Secondary Employment Policy in compliance with CALEA standards.

Section 2 This Ordinance shall be in full force and effect from and after its passage.

1st Reading this _____ day of _____ 2016

2nd Reading this _____ day of _____ 2016

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2016**

_____
Theodore Hoskins, Mayor

ATTEST:

_____
Deanna L. Jones, City Clerk

_____
Approved As To Form:
Donnell Smith, City Attorney

Final Roll Call:

Mayor Hoskins	Aye ___ Nay __ Absent __ Abstain __
Councilwoman Hoskins	Aye ___ Nay __ Absent __ Abstain __
Councilwoman Kirkland	Aye ___ Nay __ Absent __ Abstain __
Councilwoman Mathison	Aye ___ Nay __ Absent __ Abstain __
Councilman-at-Large McDaniel	Aye ___ Nay __ Absent __ Abstain __
Councilwoman Mitchell	Aye ___ Nay __ Absent __ Abstain __
Councilwoman Williams	Aye ___ Nay __ Absent __ Abstain __

	BERKELEY POLICE DEPARTMENT GENERAL ORDER	GENERAL ORDERS: 26

SECONDARY EMPLOYMENT		
ISSUE DATE: 10/6/2016	EFFECTIVE DATE: 11/7/16	DISTRIBUTION: ALL PERSONNEL
AMENDED:		RESCINDS: ALL PREVIOUS VERSIONS
ACCREDITATION STANDARDS: CALEA 22.3.4, 22.3.5		NUMBER OF PAGES: 6

PURPOSE: The purpose of this directive is to establish guidelines to govern all extra-duty and off-duty employment of department members as defined in this directive. This directive applies to all members.

POLICY: It is the policy of the Berkeley Police Department to allow police department personnel to engage in extra-duty and off-duty employment, subject to reasonable restrictions and guidelines. Personnel engaged in secondary employment are held accountable for their actions and must comply with all departmental policies, rules and regulations at all times.

DEFINITIONS:

Employment – The provision of service, whether or not in exchange for a fee or other service. Employment does not include voluntary charity work.

Extra-Duty Employment – Any employment of a Berkeley Police Department officer while not on duty which is based on the actual or potential use of the police officer's law enforcement powers.

Off-Duty Employment – Any outside employment of a police department member which is not based on the actual or potential use of the police officer's law enforcement powers.

Secondary Employment – Any employment other than primary employment by the Berkeley Police Department to include all extra-duty and off-duty employment.

RULES AND PROCEDURES:

OFF-DUTY EMPLOYMENT [CALEA 22.3.4]

A. All personnel may engage in off-duty employment that meets the following criteria:
   1. Employment of a non-police nature in which vested police powers are not a condition of employment; the work provides no real or implied law enforcement service to the employer; and the work is not performed during assigned hours of duty.

   2. Employment that presents no potential conflict of interest between duties as a member of the police department and duties for the secondary employer or employment that does not constitute a threat to the status or dignity of law enforcement as a professional occupation.

B. Employment is prohibited in the following areas:
   1. Any employment involving the sale, manufacture or transportation of alcoholic beverages as the principal business.

   2. Process server, repossession agent, or bill collector; towing of vehicles or any other employment in which police authority might tend to be used to collect money or property for private purposes.

   3. Personnel investigations; or security work for the private sector; or any other private employment which might require an employee to have access to police information, files, records or services as a condition of employment.

   4. Employment which assists with case preparation for the defense in any criminal or civil action or proceeding, unless specifically authorized by the Chief of Police on a case by case basis.

C. Authorization for Off-Duty Employment – Any employee seeking to engage in off-duty employment must submit Request for Part Time Employment FORM B-81. Employees must receive written authorization from the Chief of Police before engaging in off-duty employment.

D. Employees engaged in off-duty employment are not covered by City of Berkeley Workers' Compensation or liability insurance for injuries or accidents occurring during such employment. Further, City of Berkeley health insurance does not cover medical treatment for injuries sustained during secondary employment.

EXTRA-DUTY EMPLOYMENT [CALEA 22.3.5]

A. The Chief of Police is the designated point of coordination to oversee adherence to the policies relating to department scheduled extra-duty employment.

B. Full-time police officers who have completed the field training program are permitted to engage in extra-duty employment which has been approved by the Department.
   1. Traffic control
   2. Crowd control
   3. Routine law enforcement
   4. Plainclothes assignments, if approved by the Chief of Police or Officer in Command for special events.
   5. Arrangements with apartment complexes for reduced rent in exchange for security checks of the complex.

C. Officers may use their city owned radios or other equipment as authorized for extra-duty employment consistent with limitations established in this general order.

D. Extra-duty employment is limited to within the corporate limits of the City of Berkeley. Officers may only perform police related duties beyond city limits when required by mutual aid agreements.

DEPARTMENT SCHEDULING OF EXTRA-DUTY ASSIGNMENTS

A. The Chief of Police is responsible for review and approval of all extra-duty details.
B. Requests to hire extra-duty officers are to be routed to the Chief of Police secretary who is responsible for scheduling officers for these details.

1. All sworn personnel will receive the current hourly flat rate of pay for extra-duty details when supervision is not required. Separate rates of pay are established for sergeants, acting sergeants and lieutenants who are required to supervise a specific detail. Hourly rates charged for hiring extra-duty officers will be subject to the terms of the contract to cover extra-duty program administrative costs and an additional fee to provide workers' compensation insurance coverage.

2. There is a minimum assessment of three hours for all extra-duty assignments requiring less than that amount of time.

3. The Chief of Police is vested with the authority to determine the number of officers needed at a particular detail based on anticipated workload, number of visitors, etc. Based on these staffing projections, the Department will establish span of control requirements for the supervision of extra-duty details of more than three officers.

C. The Chief of Police may authorize other procedures for the scheduling of extra-duty details.

DUTIES AND RESPONSIBILITIES OF OFFICERS ON EXTRA-DUTY ASSIGNMENTS

A. Officers performing extra-duty assignments are responsible for adhering to all Berkeley Police Department policies and procedures. Any violation of these policies and procedures will be resolved in accordance with existing department guidelines for disciplinary action.

B. Officers working an extra-duty detail will sign on the radio at the start of their detail to notify Communications personnel of the location of the detail and when the detail will end. Officers will then sign off the radio at the conclusion of the detail.

C. Communications personnel will log the officer into the CAD system for tracking purposes and create CAD unit alarm to activate every 90 minutes to prompt a safety status check. Exceptions to attaching the CAD unit alarm are large scale events such as high school football games or a detail where several officers are assigned. [CALEA 81.2.5]

D. Officers performing extra-duty assignments are responsible for initiation and completion of appropriate law enforcement action related to any incidents occurring at the site of the assignment. [CALEA 22.3.5]

1. Arrests made by an extra-duty officer will be documented by that officer.

2. Transportation of prisoners will generally be the responsibility of on-duty police units unless circumstances require the extra-duty unit to transport. The customer will still be responsible for payment as long as the absence does not exceed one hour.

3. Latent investigations that cannot be handled at the scene will be the responsibility of on-duty units.

4. On-duty units will initiate major incident reports, i.e. homicide, sexual battery, etc. The extra-duty officer will supplement if necessary.

5. On-duty units will investigate incidents not occurring at the site of the extra-duty assignment that are brought to the attention of the extra-duty officer.

6. Any reports originating from an extra-duty assignment will have the report number on the BPD overtime slip so the Officer in Command of special events can track the report for the customer if necessary.

COMPENSATION FOR DEPARTMENT EXTRA-DUTY EMPLOYMENT [CALEA 22.3.5]

A. Compensation for officers engaged in department scheduled extra-duty employment will be at a flat rate, paid by a third party or city overtime at time and one-half the employee's hourly rate, as established by the Chief of Police.

B. Officers completing an extra-duty assignment will, document their time within the city's current payroll system.

C. Hours worked at a flat-rate for an extra-duty employer will not be combined with hours worked for the City for purposes of overtime compensation unless the extra-duty employment is directly for a department of the City of Berkeley.

D. Payment for department scheduled extra-duty employment will be made through City of Berkeley's payroll system.
   1. Deductions for federal tax and Medicare (if applicable) will be made by the City.
   2. No pension deduction will be taken from extra-duty income paid at a flat rate by a third party and the city will not make a corresponding pension contribution for this type of employment.
   3. Pension deductions and any corresponding pension contribution by the city for extra-duty employment will be governed by the City of Berkeley's Police and Firemen's Retirement Fund.

INSURANCE AND LIABILITY INDEMNIFICATION [CALEA 22.3.5]

A. Members engaged in department scheduled extra-duty employment are covered by City of Berkeley Worker's Compensation. Members are not covered under the city's liability insurance for injuries or accidents occurring during department scheduled extra-duty employment.

B. An exception to this rule is when a police officer engaged in secondary employment uses their law enforcement authority and acts under color of law. Depending on the facts of the case, injuries associated with this type of activity are generally covered by the City of Berkeley Worker's Compensation plan.

C. Entities or individuals who wish to employ police officers for any type of extra-duty employment are required to execute a hold harmless/indemnification agreement releasing the City of Berkeley from any liability for damages incurred as the result of such employment.

EXTRA DUTY EMPLOYMENT – REPORTING FOR DUTY [CALEA 22.3.5]

A. Members who accept an extra-duty employment assignment will report for duty at the time and place assigned with all necessary equipment required by the department to perform the assignment.

B. A member who is unable to report for their scheduled extra-duty employment assignment will notify the On-Duty Shift Commander. Absences inside the cancellation period may be excused for personal or family illness/emergencies, work related "call outs", or other emergency approved by the Officer in Command.

C. Unless excused, a member who does not report for an extra-duty assignment at the time and place required may be subject to corrective or disciplinary action and/or the following supplementary action:
   1. First Offense: 14-day suspension from the extra-duty eligibility list
   2. Subsequent Offenses: 30-day suspension from the extra-duty eligibility list

D. Repeated absences may result in the member being removed from the eligibility list indefinitely. This does not preclude being investigated for violation of applicable department general orders.

REVOCATION OF AUTHORIZATION FOR SECONDARY EMPLOYMENT [CALEA 22.3.5]

A. Permission for a member to engage in extra-duty employment may be revoked where it is determined that such outside employment is not in the best interests of the Department.

B. Members previously approved for secondary employment who are on medical or other leave due to sickness, temporary disability or on-duty injury are not eligible to engage in extra-duty employment without approval from the Chief of Police.

C. Officers on suspension, sick leave, injury leave, light duty or relieved of duty for any reason may not work extra-duty assignments until they return to regular duty status.

D. An affected member's Officer in Command will provide notification to the Chief of Police Secretary and when a member is subject to suspension from duty or suspension/revocation from working secondary employment.

GENERAL LIMITATIONS ON SECONDARY EMPLOYMENT [CALEA 22.3.5]

A. Work hours for all secondary employment must be scheduled in a manner that does not conflict or interfere with the member's performance of duty. No adjustments to a member's duty schedule are permitted to accommodate extra-duty employment.

B. Any member engaged in secondary employment is subject to call-out in case of emergency and is expected to leave off-duty or extra-duty employment in such situations. A member shall not request an extra-duty detail that conflicts with an assigned on-call or standby status.

C. Members may not work more than 16 hours of combined regular duty and secondary employment within any 24-hour period. Additionally, members must have a consecutive eight-hour rest period between scheduled shifts.

D. Any officer on a leave of absence while fulfilling military obligations in or near the City of Berkeley may work extra-duty assignments. The officer must first receive written authorization from the appropriate military and Berkeley Police Department supervisors. In these instances, the officer must comply with the parameters governing the hours officers may work in given time periods as set forth in this policy.

DRAFTED BY: Eye-Liza Conner	DATE: 10/3/16
BY ORDER OF: **ART JACKSON** **INTERIM CHIEF OF POLICE**	DATE: 10/3/16
APPROVED BY: Public Safety Committee	DATE: 10/6/16
APPROVED BY: Berkeley City Council	DATE: