

ORDINANCE NO. 2023-05-08B

AN ORDINANCE ESTABLISHING A POLICY FOR OFF-DUTY POLICE OFFICERS EMPLOYED BY THE CITY OF ARGO POLICE DEPARTMENT.

WHEREAS, § 36-25-5(c) of the Code of Alabama (1975) states, in pertinent part, the following:

No...public employee shall use or cause to be used equipment, facilities, time, materials, human, labor, or other public property under his or her discretion or control for the private benefit or business benefit of the...public employee...which would materially affect his or her financial interested except as otherwise provided by law or as provided pursuant to lawful employment agreement regulated by agency policy; and

WHEREAS, the City of Argo, Alabama, (“City”) does not presently have in place an agency policy and employment agreement that would authorize current Alabama Peace Officers Standards and Training Commission (“APOST”) certified officers to engage in off duty and other employment; and

WHEREAS, in order to attract and retain law enforcement officers to the City, it is necessary to allow for certain off-duty employment as may be required by state law, ordinance, regulation, or agreement; and

WHEREAS, part of the City Council is hereby setting the requisite policy and authorizing the Chief of Police to ensure compliance therewith and provide for the appropriate discipline in the event the policy is violated; and

WHEREAS, the City Council finds it is in the best interest of the health, safety, and welfare of its citizens to create and establish this policy.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARGO, ALABAMA, while in regular session the following Ordinance be and is hereby adopted.

Section 1. Name and Purpose.

A. This Ordinance shall be called the “City of Argo Off-Duty Police Officer Ordinance.”

B. The preamble stated above is hereby ratified, adopted, and incorporated as if fully set out herein.

C. (1) The City is desirous of providing for the general public's safety and welfare while aiding its police officers with the necessary equipment to perform their lawful duties. The State of Alabama law implicitly recognizes the need for Police Officers to accept off-

duty employment in the Code of Alabama (1975), §§ 6-5-338 and 36-25-5(c).

(2) There is a distinct and recognized advantage to the general public's safety by the presence of uniformed off-duty officers working off-duty jobs at various business premises.

(3) The City will benefit greatly from having trained Police Officers available and visible in the private employer's premise.

Section 2. Definitions

For the purposes of this Ordinance, the following words shall have the following meanings:

“Police Officer:” Any APOST certified law enforcement officer, whether employed part-time, full time, as a volunteer or for charity, by the City of Argo Police Department.

“Chief of Police:” The City of Argo’s Chief of Police or authorized designee.

“City:” The City of Argo, Alabama, a municipal corporation formed under the laws of the state of Alabama.

“Off Duty Employment:” Any employment not performed directly for the primary employer, in this instance the City of Argo Police Department. Employment provision of a service, whether in exchange for a fee or other compensation, to include self-employment, part-time, temporary, or other employment, and includes volunteer or charity work performed by the off-duty employee in uniform and/or conditioned upon the actual or potential use of law enforcement powers of authority.

Section 3. Requirements and Restrictions of Off-Duty Employment.

(A) Subject the restrictions contained herein and only as provided in this section, Police Officers of the City may accept Off-duty Employment.

(B) The Chief of Police in his or her absolute and sole discretion may approve or disapprove the request for Off-Duty Employment. Any Off-Duty Employment request shall not interfere with, alter, or otherwise cause to alter or change the Police Officer’s scheduled duty assignment with the City.

(C) Any Police Officer seeking to accept Off-Duty Employment must complete an application and provide to the Chief of Police a request for approval of the Off-Duty Employment.

(1) The Off-Duty Employment Authorization Form, which shall be created by the Chief of Police or his or her designee and be made available for use within the City of Argo Police Department shall include, at minimum, the following:

- (a) The company / individual names, address, relevant contact information, and the nature of the outside employment;
- (b) The date and hours to be worked;
- (c) Whether the job is a one-time event or is continuous;
- (d) Whether the job is to be worked in uniform or civilian or “plain clothes;”
- (e) A list of any public equipment that may be used during the job, if applicable;
- (f) A Notice of Employer Liability, Release and Indemnification Agreement of the company, entity, or individual needing the Police Officer for Off-Duty Employment, and a copy of the company, entity, or individual’s certificate of insurance; and
- (g) Any other information that may be required by the Chief of Police in order to be adequately informed as to the exact nature and location of the request.

(2) The Off-Duty Employment Authorization Form may be created, completed, and submitted electronically via electronic mail or some other software; provided, however, a copy of the Off-Duty Employment Authorization Forms be kept and maintained in the requesting Police Officer’s personnel files and anywhere else directed by the Chief of Police, the Mayor, and/or as required by state or federal law.

(D) Upon review of the Chief of Police, in his or her absolute and sole discretion, may approve or disapprove any Off-Duty Employment request.

(E) The Chief of Police may place any conditions not inconsistent with this policy or state or federal law upon the acceptance of any Off- Duty Employment.

(F) City issued and owned equipment may be used while engaging in Off-Duty Employment only if approved by the Chief of Police. If approved, a list of City issued and owned equipment that is to be used along with an affirmative statement authorizing the use thereof must be maintained as stated in Section 3(C)(2) above. Approval of the use of city issued or owned equipment is made by the Chief of Police in accordance with applicable federal and state law.

Section 4. Employer Liability Statement Required.

(A) The Chief of Police is prohibited from approving any Off-Duty Employment Request until the Off-Duty Employment Authorization Form, the Release and Indemnification Agreement, and a copy of the certificate of insurance is completed in its entirety and submitted

to the Chief of Police.

(B) The company, corporation, entity or individual seeking an off-duty Police Officer is required to submit a Notice of Employee Liability, a Release and Indemnification Agreement, and a copy of the certificate of insurance before the Chief of Police can approve any Off-Duty Employment request. This requirement is not discretionary, nor can it be waived by the Chief of Police for any reason.

(C) The original of the Release and Indemnification Agreement shall be kept on file with the City Clerk with a copy in the off-duty Police Officer's personnel file.

Section 5. Implementation and Violations.

A. The Chief of Police is hereby authorized and directed to create, to implement, and to enforce and written policy that complies with this Ordinance and its intent.

B. Any Police Officer who violates the policy established by the Chief of Police shall be subject to appropriate discipline which may include termination. The Chief of Police shall be responsible for ensuring all appropriate discipline for violating the policy is enforced.

C. In the event the Chief of Police violates this Ordinance and the subsequent policy, the Mayor shall be responsible for the enforcement of any discipline which may be reviewed by the City Council upon the Chief of Police requesting a hearing before the City Council within seven (7) calendar days of receiving notice of the discipline imposed by the Mayor. This provision shall only apply to the Chief of Police for any form of discipline imposed by the Mayor on the Chief of Police that is more severe than a three (3) day suspension. Any discipline imposed by the Mayor that is a suspension of three (3) days or less is not appealable to the City Council.

Section 6. Severability.

The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect any of the remaining parts, sections, paragraphs or sentences which shall remain fully enforceable.

Section 7. Effective Date.

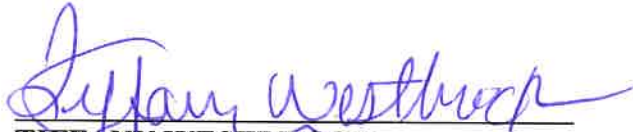
This Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED AND APPROVED on this the 8th day of May, 2023.

ADOPTED:


BETTY BRADLEY
MAYOR

ATTEST:


TIFFANY WESTBROOK
CITY CLERK

CERTIFICATION OF CITY CLERK

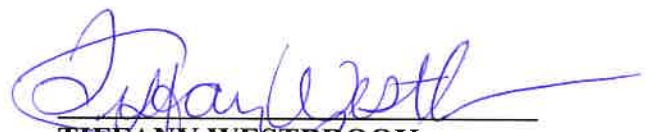
**STATE OF ALABAMA)
ST. CLAIR COUNTY)**

I, Tiffany Westbrook, City Clerk of the City of Argo, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Argo, Alabama, during a regularly scheduled council meeting and after a public hearing having occurred on the 8th day of May 2023.

The above foregoing ordinance was published on the 8th day of May 2023, by posting copies thereof in at least three public places within the City of Argo, one of which was at the Argo City Hall.

Witness my hand and seal of office this the 8th day of May 2023.




TIFFANY WESTBROOK
CITY CLERK