

Outside Secondary Employment

1040.1 PURPOSE AND SCOPE

Employment with the City shall be the employee's primary employment. It is the policy of the Department to permit secondary employment by employees, consistent with the efficient operation of this Department and the City, for the protection of the public and the following guidelines. Employees have a duty to ensure their secondary employment complies with this policy and the Personnel Manual.

1040.1.1 DEFINITIONS

Secondary Employment - Any employee of the Department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this Department for services, product(s) or benefits rendered whether or not in exchange for a fee, discount, or other service. For purposes of this section, the definition of secondary employment includes those employees who are self-employed and not affiliated directly with this Department for services, product(s) or benefits rendered.

Regular secondary employment - Any employment that will not require the use or potential use of law enforcement powers by an off-duty officer.

Proprietary or Contract Security secondary employment - Any employment where employees provide primarily security related duties.

Extra-duty secondary employment - Any employment by an off-duty police officer approved by the Chief, in writing, and performed for the primary purpose of providing additional public safety.

1040.1.2 UTAH PUBLIC OFFICERS' AND EMPLOYEES' ETHICS ACT

Employees will comply with Title 67 Chapter 16, UCA, the purpose of which is to set standards of conduct for employees where there are actual or potential conflicts of interest between their public duties and their private interests.

"A public officer or public employee may not:

Accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to improperly disclose controlled information which has gained by reason of his official position;

Disclose or improperly use controlled, private, or protected information acquired by reason of his official position nor use such information for his or another's private gain or benefit.

Accept other employment which he might expect would impair his independence of judgment in the performance of his public duties; or

Accept other employment which he might expect would interfere with the ethical performance of his public duties." [67-16-4, UCA]

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1040.1.3 CONFLICT OF INTEREST NOTIFICATION LAWS

- (a) Employees will comply with the provisions of the Municipal Officer's and Employee's Ethics Act UCA 10-3-1301 et seq.
- (b) Employees filing documentation required by these laws will also furnish a copy to the Chief's Administrative Assistant who shall forward to the City Recorder.
- (c) Employees are prohibited from working any secondary employment for any law enforcement agency without the written permission of the Chief.
- (d) Employment must not be of a type that would reasonably give rise to criticism or suspicion of conflicting interests or duties.

1040.1.4 REGULAR SECONDARY EMPLOYMENT

Officers may engage in regular secondary employment which meets the following criteria:

- (a) Such employment is of a non-law enforcement nature in which peace officer 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 the employee's Department duty hours.
- (b) Such employment presents no actual or potential conflict of interest between their duties as a peace officer and their duties for the secondary employer. Examples of such conflicts of interest are:
 - 1. Constable or Deputy Constable,
 - 2. Process server,
 - 3. Private Investigator,
 - 4. Vehicle tow truck operator or impound lot attendant,
 - 5. Re-possessor or collection agent,
 - 6. Bonding Company agent,
 - 7. Any employment which requires the officer to have access to law enforcement information, files, records, or services as a condition of employment,
 - 8. Assisting in the case preparation for the defense in any criminal action or proceeding, or assisting in the case preparation in a civil action where the officer may be called to testify against a law enforcement officer,
 - 9. Working for a business or labor organization that is on strike when the employment is strike related.
 - 10. Ref. Limitations and Special Restrictions, below

1040.1.5 PROPRIETARY OR CONTRACT SECURITY SECONDARY EMPLOYMENT

- (a) All officers are prohibited from wearing their Department uniform, or any portion thereof, while employed providing proprietary or contract security unless authorized in writing by the Chief.
- (b) Officers working proprietary or contract security will contact the appropriate law enforcement jurisdiction to document the detention and/or arrest of all shoplifters, trespassers, etc. This ensures appropriate record keeping by the jurisdictional agency. Officers are not to issue citations or create reports in the Department Records Management System (RMS) when working outside the boundaries of Taylorville City, or take action which would identify themselves as being employed by the City. However there may be limited occasion that an officer is required to exercise police authority and identify themselves as a police officer to stop physical

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violence and make an arrest. In such cases the officer will use the RMS to document the event. Officers will use the RMS system to document arrests when working inside the boundaries of the City.

- (c) All contract security related secondary employment will be worked in compliance with the "Security Personnel Licensing Act". [UCA 58-63-101]
 - 1. Definitions: Contract Security Company means a person engaged in business to provide security or guard services to another person for the purpose of protecting tangible personal property, real property, or the life and well being of human or animal life by assignment of security officers employed by the company and the use of specialized resources, motor vehicles, or equipment. Proprietary Security Organization means any organization which employs a security guard, or alarm response runner, solely for such organization and wherein an employer/employee relationship exist.
- (d) Officers who engage in proprietary or contract security employment must submit to the Secondary Employment Coordinator, through their chain of command, the employer-signed Secondary Employment Employer Agreement.
- (e) Officers working proprietary security outside the City are required to provide proof of insurance in amounts determined by the City in addition to the Secondary Employment Employer Agreement.
- (f) Requests for proprietary security received by the Department will be coordinated through the Secondary Employment Coordinator and handled as provided below.
- (g) Officers must be off probation to engage in Proprietary or Contract Security Secondary Employment. The Chief may make exception on a case-by-case review based on the previous law enforcement experience of the officer.

1040.1.6 EXTRA-DUTY SECONDARY EMPLOYMENT

- (a) All sworn officers may only engage in extra-duty employment in Salt Lake County and as authorized, in writing, by the Chief.
- (b) Bailiffs are prohibited from engaging in extra-duty secondary employment, unless approved in writing by the Chief.
- (c) Civilian employees are prohibited from engaging in extra-duty secondary employment.
- (d) Officers must be off probation to engage in extra-duty secondary employment. The Chief may make exception on a case-by-case review based on the previous law enforcement experience of the officer.
- (e) The Secondary Employment Coordinator will maintain a system to provide interested officers a fair and equitable chance to participate in extra-duty employment opportunities.
- (f) All extra-duty secondary employment will be coordinated through the Secondary Employment Coordinator. Officers may contact the Secondary Employment Coordinator to have their name placed on a rotating list for consideration of extra-duty assignments. Non-reimbursed secondary employment paid to and by the City shall first be offered to line-officer personnel, then to sergeants. All other secondary employment opportunities shall be based on the placement of personnel on the rotating list.
 - 1. Officers unable or unwilling to work the available shift, will remain on the top of the list until a shift is accepted. Once a shift is accepted, the officers name will go to the bottom of the list. Officers interested in being on this list need to

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indicate if they would like to be contacted on all opportunities, including grants and contracts (DUI, etc.) and provide a phone number (limited to two) they would like to be called when an opportunity arises to the Chief's Administrative Assistant. The phone number(s) will be tried and messages left. If no answer or return calls are not made within 5 minutes to the person leaving the message, the next person on the list will be called. Officers may be added to the list at anytime, but will be placed at the bottom of the rotating list.

- (g) Command staff (Lt. and above) is eligible to work extra-duty secondary employment only when such employment requires a supervisory component. For supervisory assignments, command staff will be placed on an interest list. They may only work assignments when the coordinator cannot find officers or sergeants with the Department to fill the assignment.
- (h) Extra-duty services include:
 - 1. Traffic control and pedestrian safety,
 - 2. Crowd control,
 - 3. Protection of life and property,
 - 4. Law enforcement activities for governmental entities.
- (i) While engaged in extra-duty secondary employment within the City, officers will handle law enforcement functions which occur on the premises of the extra-duty employer to include:
 - 1. Preliminary investigation, initial report, evidence handling,
 - 2. Physical arrest or citation.
 - 3. Custodial transportation, when required, will be handled by on-duty personnel.
- (j) While engaged in extra-duty secondary employment officers will act consistent with this Manual, including uniform and appearance standards when approved to wear by the Chief.
- (k) Businesses or entities employing off-duty officers should comply with State and Federal income reporting and withholding requirements.

1040.2 APPROVAL/DENIAL PROCESS PROCEDURES

- (a) In order to obtain approval, employees must obtain prior authorization to work regular, proprietary/contract security, or extra-duty secondary employment and shall complete and submit a "Secondary Employment Request Form" (SERF) through the chain of command, to the Chief for consideration. Where actual or potential conflicts of interest exist, the Chief may act to limit or prohibit secondary employment. Approval shall be at the discretion of the Chief in accordance with the provisions of this Manual. In order to avoid actual or perceived conflicts of interest for Department employees engaging in secondary employment, all employees shall obtain written approval from the Chief prior to engaging in any secondary employment. Failure to obtain prior written approval for outside secondary employment or engaging in such employment prohibited by this policy may lead to disciplinary action.
- (b) Secondary Employment Request Forms are required:
 - 1. prior to an employee beginning any secondary employment.
 - 2. when an employee changes employer, or the duties, nature of job or working hours change substantially.

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3. to be re-submitted on an annual basis by January 31, of each year when an employee is seeking to renew a SERF. Unless otherwise indicated in writing on the approved form, the SERF will be valid through January 31.
- (c) When employed performing proprietary or contract security or extra duty secondary employment, the employer will sign an approved Secondary Employment - Employer Agreement. This agreement outlines the employee's duty, as well as insurance and indemnification requirements.
 1. Officers employed by the Federal Government are covered by the Federal Tort Claims Act and are exempted from the above requirement.
 2. Officers employed by a movie company, or other establishment which is requesting short-term extra-duty, and does not have a permanent presence in the State of Utah may be exempted from the indemnification and insurance requirement after review and written approval by the Chief.
- (d) Distribution of Department Secondary Employment Request Form, Conflict of Interest Disclosure Statement, and Secondary Employment , Employer Agreement: Original to Chief's Administrative Assistant who shall then distribute:
 1. Original to City Recorder,
 2. Copy to personnel file (Human Resources),
 3. Copy to Secondary Employment Coordinator,
 4. Copy to submitting employee.
- (e) Any employee seeking approval of secondary employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial.

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

An employee who is not satisfied with such a decision may appeal the decision as a grievance. Appeals will be handled through the established Grievance Procedure policy § 1006.

1040.2.2 REVOCATION/SUSPENSION TO WORK OUTSIDE SECONDARY EMPLOYMENT

Any outside secondary employment may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this Department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief may, at his/her discretion, revoke any previously approved outside secondary employment. That revocation will stand until the employee's performance has been re-established at a satisfactory level and his/her supervisor recommends reinstatement of the outside secondary employment.
- (b) Suspension or revocation of a previously approved outside secondary employment request may be included as a term or condition of sustained discipline.
- (c) If, at any time during the term of an approved outside secondary employment, an employee's conduct or outside employment conflicts with the provisions of Department Policy, the secondary employment may be suspended or revoked.
- (d) When an employee is unable to perform at a regular duty capacity due to an injury or other condition, any previously approved outside secondary employment may be

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subject to suspension; or similar restrictions as those applicable to the employee's full time regular duties until the employee has returned to regular duty status.

- (e) Authorization for an employee to engage in outside secondary employment may be suspended or revoked by the Chief at any time when it is determined that such employment is not in the best interest of the Department or the City.
- (f) Ref. Pay Practices - Work Hours § 1037.

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Utah Administrative Code R477-9-2, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Interferes with an employee's efficiency performance.
- (b) Conflicts with the interests of the Department or the State of Utah.
- (c) Gives reason for criticism or suspicion of conflicting interests or duties.

1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Any private organization, entity or individual seeking special services for security or traffic control from members of this Department must submit a written request to the Secondary Employment Coordinator in advance of the desired service. Circumstances may exist that limit the ability to provide a written request due to the immediate need of public safety concerns. In those events, requests may be made by direct contact with the Department. Such outside secondary employments requests will generally result in officers volunteering for the available secondary employment. Officers, and the duty assignment, may be monitored by the Department. The applicant may be required to enter into an indemnification agreement prior to approval.

- (a) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside services.
- (b) Should such a request be approved, any employee working shall be subject to the following conditions:
 1. The officer(s) may wear the Department uniform/identification, with the Chief's written approval.
 2. The officer(s) shall be subject to the Policy Manual, and rules and regulations of the Department.
 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
 4. Compensation for such approved services shall be pursuant to normal procedures which generally come from the requesting organization directly to the officer. The Department may also assign officers to public safety events that are dynamic in nature; and may request reimbursement to the Department for the officers time, benefits or equipment used.

1040.3.2 ARREST AND REPORTING PROCEDURE

Any officer making an arrest or taking other official police action while working in an approved outside secondary employment function shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the secondary employment. Officers shall not receive compensation from an outside secondary employment organization and from

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the Department for the same hours worked. Such a violation shall be subject to disciplinary action.

1040.3.3 LIMITATIONS AND SPECIAL RESTRICTIONS ON SECONDARY EMPLOYMENT

- (a) Probationary employees may only work overtime that is paid internally by the City (e.g. traffic enforcement, DUI, etc.). Officers in Field Training are prohibited from working secondary employment.
- (b) Except for emergency situations or with prior authorization from the Division Commander, officers assigned to undercover or covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.
- (c) Uncompensated charity security work by officers is subject to the secondary employment policy.
- (d) Officers will not engage in secondary employment during the hours the officer is out due to illness, disability, or worker's compensation leave. With the Chief's authorization, officers may engage in regular secondary employment outside their regular scheduled working hours while sick or on worker's compensation leave.
- (e) Officers will not engage in secondary employment during hours for which they are on administrative leave, unless authorized by the Chief.
- (f) Officers are limited to a number of hours worked in combination with regular duty in a Department work week. (Ref: Fitness for Duty - Limitation on Hours Worked § 1032)
- (g) Work hours for all secondary employment must be scheduled in a manner that does not conflict with or interfere with the officer's performance of regular duty.
- (h) Officers engaged in secondary employment are subject to call-out in case of Department need or emergency, and may be required to leave secondary employment in such situations.
- (i) Employment that constitutes a threat to the status or dignity of the employee as a member of the law enforcement profession is prohibited. Examples of employment presenting a threat to the status or dignity of the profession are:
 - 1. Establishments which primarily deal in providing goods, entertainment, or material of a sexual nature.
 - 2. Any employment where the sale, manufacture, consumption, or transport of alcoholic beverages is the principle activity. Employment by the State Alcoholic Beverage Control Department as a security officer is exempted.
 - 3. Any gambling or gaming establishment.
 - 4. Any pawn shop or second-hand store regulated by pawn statutes and/or ordinances.

1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside secondary employment, unless approved to do so by the Chief. This shall include the prohibition of access to official records or databases of the Department or other agencies through the use of the employee's position with this Department.

Ref: Vehicle Use - Vehicle Use Off-Duty § 706.

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1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside secondary employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest. Prior to providing written approval for an outside secondary employment position, the Department may request that an officer provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the outside secondary employment. If, after approving a request for an outside secondary employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her secondary employment may be revoked pursuant this policy.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his/her outside secondary employment during the period, the employee shall promptly submit written notification of such termination to the Chief through the chain of command. Any subsequent request for renewal or continued outside secondary employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing through their chain of command to the Chief any material changes in outside secondary employment including any change in the number of hours, type of duties or demands of any approved secondary employment. Employees who are uncertain whether a change in secondary employment is material are advised to report the change.

1040.6 SECONDARY EMPLOYMENT WHILE ON DISABILITY OR RESTRICTED/MODIFIED DUTY

- (a) The Chief, or designee, may suspend any secondary employment of an employee until the employee returns to regular duty status. Department members engaged in outside secondary employment who are placed on disability leave or restricted/modified duty shall inform their immediate supervisor in writing within five (5) calendar days regarding whether they desire or intend to continue to engage in such secondary employment while on such leave or restricted/modified duty status. The immediate supervisor shall review the duties of the secondary employment along with any related medical provider's orders, and make a recommendation to the Chief whether such secondary employment should continue.
- (b) In the event the Chief determines that the secondary employment should be discontinued, or if the employee fails to promptly notify his/her supervisor of his/her desire or intentions regarding the permitted secondary employment, a notice of revocation of the secondary will be forwarded to the involved employee, and a copy attached to the original.
- (c) Criteria for revoking the secondary employment include, but are not limited to, the following:
 1. The secondary employment is, or may be, medically detrimental to the total recovery of the disabled employee.
 2. The secondary employment performed requires the same or similar physical ability as would be required of an on-duty employee.
 3. The employee's failure to make timely notice of their intentions to their supervisor.

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- (d) When the disabled employee returns to regular duty with the Department, a request (in writing) may be made to the Chief to restore the previously permitted secondary employment.