

ORDINANCE NO. 4, 2014

AN ORDINANCE ESTABLISHING TRAFFIC CONTROL
STANDARDS AND REQUIREMENTS FOR CONSTRUCTION
AND ROAD REPAIRS IN THE CITY OF LINWOOD.

BE IT ORDAINED, by the Common Council of the City of
Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Purpose.

The purpose of this ordinance is to establish controls and regulations directed toward the safe and expeditious movement of traffic through construction and maintenance zones throughout the City of Linwood and to provide for the safety and compensation of the members of the Linwood Police Department performing these operations. In addition, provisions of this ordinance shall apply to all assignments which originate from a request for assistance or aid by any chief of police, chief law enforcement officer or designee of a bona fide state, county, or municipal police department in the State of New Jersey; regardless of the geographic location of the assignment being inside, contiguous or extraterritorial to the City of Linwood, provided the entity making the request for assistance or aid agrees to make the payments required by Section 10 of this ordinance.

SECTION 2: Adoption of standards.

- A. The City of Linwood, through the Mayor and City Council, hereby finds and declares that problems of traffic control occur when traffic must be moved through or around street construction, maintenance operations and utility work, above and below ground, which requires blocking streets and obstructing the normal flow of traffic, and that such obstructions are or can become dangerous when not properly controlled. In order to better promote the public health, safety, peace and welfare, it is necessary to enact such guiding principals whereas the aforementioned potential problems may be prevented and avoided.
- B. The City of Linwood, through the Mayor and City Council, does hereby adopt the current Manual on Uniform Traffic Control Devices, as published by the Federal Highway Administration (FHWA) hereafter known as "MUTCD," except as hereby supplemented and amended, as it controls and regulates whenever construction, maintenance operations or utility work obstructs the normal flow of traffic. Any person, contractor, or utility who fails to comply with the provisions of the MUTCD while performing such work is in violation of this ordinance.

SECTION 3: Preconstruction meetings.

It shall be the responsibility of the person, contractor, or utility wishing to conduct work on, under or above the roadway, to contact the Chief of Police, or his designee of the City of Linwood Police Department in order to arrange a preconstruction meeting to submit plans for the safe movement of traffic during such period of construction work. The Chief of Police or his designee has the authority to dictate the number of certified police officers required to ensure the safe movement of traffic in the construction zone. Any person, contractor or utility who fails to comply with this ordinance prior to the start of such work or whose plans are not approved by the Chief of Police is in violation of this ordinance.

SECTION 4: Hazardous conditions.

The person, contractor, or utility shall provide the City of Linwood Police Department with at least two emergency contact telephone numbers to be called in case of any emergency at the construction or maintenance site prior to the start of any work. If for any reason the emergency contact person cannot be reached, or if the emergency contact person does not respond to the call from the City of Linwood Police Department to correct a hazardous condition, the City may respond and correct such hazardous condition. The reasonable fees for such emergency service by the City shall be charged to the person, contractor, or utility for such conditions.

SECTION 5: Hours of road work.

There shall be no construction, maintenance operations or utility work on any roadway in the City before the hour of 7:00 a.m. or after 5:00 p.m. This time limit may be adjusted to permit work prior to 7:00 a.m. or after 5:00 p.m. by the Chief of Police or his designee of the City of Linwood Police Department., if it is determined by the Chief of Police or his designee, reasonable conditions apply and after thoroughly reviewing such request.

SECTION 6: Road closing and detours.

Road closings and/or traffic detours shall not be permitted unless previously approved by the Chief of Police, or his designee of the City of Linwood Police Department.

SECTION 7: Police traffic directors/Off duty law enforcement officers.

Police traffic directors, i.e., those police officers certified by a New Jersey Police Training Commission certified police academy, or an accredited college, secondary school, traffic institute or university as knowledgeable on the MUTCD, shall be posted at all construction or maintenance sites when determined by the Chief of Police, or his designee, that same is necessary to provide for the safe and expeditious movement of traffic.

SECTION 8: Stop work.

The Chief of Police shall have the authority to stop work, including effecting the removal of equipment and vehicles, stored material within the street right-of-way, back filling of open excavations and/or other related work, in order to abate any nuisance and/or safety hazard, or for any violation of this ordinance. The City may respond and correct any such hazardous and/or nuisance conditions. The reasonable fees for such emergency service by the City shall be charged to the person, contractor, or utility responsible for such conditions.

SECTION 9: Site preparation.

No materials, vehicles, or equipment are to be placed in the roadway or sidewalk until all construction signs, warning lights, devices, and pavement markings are installed.

SECTION 10: Payment for services rendered by off duty law enforcement officers.

A. All requests to the City for the services of off-duty law enforcement officers in the City of Linwood shall be forwarded to the Chief of Police. Any law enforcement officer, when so employed by the City, shall be treated as an employee of the City; provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of law enforcement officers so employed, nor shall hours worked for outside employment be considered in any way compensable as overtime.

B. Payment for all certified police officers working all construction highway/street details for directing the appropriate movement of traffic flow may be coordinated by the Chief of Police or his designee. The payment shall be the appropriate rate as designated by this ordinance. An administrative fee shall be added to the subtotal for all expenses that are required. The aforementioned administrative fees shall be waived for non-profit organizations, local government, local government authorities, or other special districts of government, and any other just cause as determined by the Chief of Police and affirmed through resolution of the Linwood City Council.

1. Rate: The rate of compensation for contracting the services of off-duty law enforcement officers shall be at the rate of \$60.00 per hour.
2. Administrative Fee: The City of Linwood shall assess an administrative fee of \$10.00 per hour for every officer assigned to the detail. This fee will be added to the rate charged and described in paragraph Section 10, Paragraph B1 above and will be retained by the City to cover associated manpower costs.

3. Vehicle Fee: \$50.00 a day per vehicle to defray the cost of maintenance, upkeep, and fuel.
4. Minimum Block of Time: A minimum of four hours will be paid for each officer working each detail regardless of the actual amount of time worked.
5. If a contractor finds it necessary to cancel a detail for any reason, then he must do so at least two hours prior the commencement time of the detail. If the contractor fails to provide notification of cancellation at least two or more hours prior to the commencement time, then all officers assigned to the detail will receive four hours of paid time, for which the contractor shall reimburse the City of Linwood through the appropriate escrow account. At the time of booking the detail, a contractor shall be informed of the proper notification procedure to follow in the event of a cancellation.

- C. Any person or entity requesting the services of an off-duty law enforcement officer in the Linwood Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police and shall be established in an escrow account with the Chief Financial Officer of the City by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in Section 10 for the total estimated hours of service.
- D. Prior to posting any request for services of off-duty law enforcement officers, the Chief of Police or his designee, shall verify that the balance in the escrow account of the person or entity requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Chief Financial Officer. No officer shall provide any such services for more hours than are specified in the request for services.
- E. In the event the funds in such an escrow account should become depleted, services of off-duty law enforcement officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.

F. The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption of services.

1. The prepayment requirement shall not apply in cases of utility emergency, i.e. gas main leak, telephone pole damaged in a motor vehicle collision, etc. In those cases utility will be billed for all services rendered.

SECTION 11: Insurance for off-duty law enforcement officers

The person, contractor, or utility company shall provide the City of Linwood a certificate of insurance in a form acceptable to the City, naming the City of Linwood as an additional insured on a general liability insurance policy having policy limits not less than \$1,000,000 per occurrence.

SECTION 12: Indemnification and hold harmless

Any person, contractor, or utility company shall complete and sign an application for a police traffic director, which said application shall contain an agreement to indemnify and hold harmless the City of Linwood for any claims or actions brought as a result of the use of City of Linwood police officers by said party, including all attorney fees.

SECTION 13: Violations and penalties

- A. Any person, contractor, or utility who commits a violation of this ordinance shall, upon conviction thereof, for the first offense, pay a fine of not less than \$500 nor more than \$1000 and/or may be imprisoned in the county jail for a term not exceeding 90 days, or both; for a second offense, upon conviction thereof, pay a fine of not less than \$1000, nor more than \$2500 and/or may be imprisoned in the county jail for a period of 90 days.
- B. A separate offense shall be deemed committed on each day or on which each violation occurs or continues to occur.

SECTION 14: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 15: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 16: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

FIRST READING: February 26, 2014
PUBLICATION: March 3, 2014
PASSAGE: March 12, 2014

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on February 26, 2014 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on March 12, 2014.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR