



**CITY OF SAN RAFAEL
POLICIES AND PROCEDURES**

Subject:	Outside Employment
Resolution No.	N/A
Issue Date:	June, 2007
Revision Date:	N/A
Prepared By	Leslie Loomis, Human Resources Director
Approved By:	Ken Nordhoff, City Manager

OUTSIDE EMPLOYMENT POLICY

PURPOSE:

In order to avoid actual or perceived conflicts of interest for employees engaging in outside employment, all employees shall obtain written approval from the department head prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the department head in accordance with the provisions of this policy.

RESPONSIBILITY:

All City Departments, Divisions, and City Officials. Any substantial violation of the provisions contained herein respecting outside employment or use of City property or resources shall constitute sufficient grounds for disciplinary action, up to and including termination.

REFERENCES:

None

DEFINITIONS:

- A. Outside Employment: Any employee who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with the City for services, product(s) or benefits rendered. For purposes of this section, the definition of "Outside Employment" includes those employees who are self employed and not affiliated with the City for services, product(s) or benefits rendered.
- B. Outside Overtime: Any employee who performs duties or services on behalf of an outside organization, company or individual for the City of San Rafael. Such outside overtime shall be requested and scheduled directly through the employee's department so that the City may be reimbursed for the cost of wages and benefits (see section on Procedure, item H for more details).
- C. Employee: For the purposes of interpretation of this policy, "employee" shall mean any person holding full time or part time employment in a position in the classified service.

Outside Employment Policy

POLICY:

Employees shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his/her duties as a City officer or employee, or would tend to impair their independence of judgment or action in the performance of their official duties, functions or responsibilities.

PROCEDURE:

- A. Those regular full time and part time City employees who find it necessary or desirable to engage in employment, including self-employment, in addition to their City duties shall present, in writing, to their department head, a request for authorization to engage in outside employment (see Attachment A). The form shall provide the following information about the job the employee desires to engage in:
 - 1. Name and telephone number of prospective/present employer (if prior to the implementation of this policy)/self employment.
 - 2. Address of work site.
 - 3. Position to be held and anticipated start date.
 - 4. Anticipated end date (if applicable).
 - 5. Detailed description of duties to be performed.
 - 6. Days/hours of work to be performed.
 - 7. Average number of hours of work per month.

- B. In making a determination on outside employment, the department head shall consider, among other pertinent factors, whether the activity (Government Code Section 1126):
 - 1. Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment.
 - 2. Involves receipt or acceptance by an employee of any money or other consideration from anyone other than the City for the performance of an act which the employee would be required or expected to render in the regular course of their City employment or as a part of their duties as a City employee.
 - 3. Involves the performance of an act in other than their capacity as a City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which they are employed.
 - 4. Involves time demands that would render performance of the employee's duties for the City less efficient.
 - 5. Involves employment which reasonably may be considered a potential conflict under the joint employment provisions of the Fair Labor Standards Act, Section 522.

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Employment in any capacity deemed to be in conflict with the peace officer's primary employment is prohibited, which are conflicts of interest that include, but are not limited to, the following examples of outside employment:

1. Security guard;
2. Private investigator, within Marin County or adjacent counties;
3. Bartender;
4. Bouncer;
5. Sales clerk position in a liquor store or gun dealership;
6. Process server;
7. Repossession agent;
8. Debt collection;
9. Legal practice of criminal defense;
10. Card dealer, handicapper, change maker, caller, machine repair person, keno runner, K.L. pit boss, table waitress or employment in any gaming establishment where the employment is directly related to the purpose of the employer;
11. Bodyguard;
12. Employment as a keeper;
13. Funeral escort where traffic control or the wearing of a uniform which resembles a police officer is required.

- C. Department heads receiving requests for outside employment shall review the request with the applicant, giving primary consideration to the interest of the department, and shall make a determination of approval or disapproval based upon the criteria contained in this policy. Any peace officer seeking approval of outside employment, whose request has been denied, shall be provided a written reason for the denial [Penal Code 70(e)(3)].
- D. The employee engaged in authorized outside employment shall advise their department head if the nature, character, and/or the extent of the outside employment has changed or if the outside employment is terminated. Approved outside employment will be reviewed at the time of the employee's annual evaluation. Any promotion or reassignment will automatically require a review. The employee shall not use outside employment to justify any failure of his/her employment performance or failure to respond promptly to the needs of the department when summoned.
- E. Revocation/Suspension of Outside Employment Permits:

Any outside employment approval may be withdrawn under the following circumstances:

1. Should an employee's performance at the City decline to a point where it is evaluated by a supervisor as "needing improvement" to reach an overall level of competency, the department head may, at his/her discretion, revoke any previously approved outside employment. That revocation will stand until the employee's performance has been reestablished at a "satisfactory" level and his/her supervisor recommends reinstatement of the outside employment approval.

Outside Employment Policy

2. Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline.
 3. If, at any time during the term of an approved outside employment permit, an employee's conduct or outside employment conflicts with the provisions of this policy, the approval may be suspended or revoked.
 4. When an employee is unable to perform at a "full duty" capacity due to an injury or other condition, any previously approved outside employment permit may be rescinded until the employee has returned to a full duty status (see Section K below for more information).
 5. In making a determination on requests for outside employment, the department head shall not unreasonably withhold authorization.
- F. Employees are prohibited from using any City equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or data bases of the City or other agencies through the use of the employee's position with the City.
- G. No employee shall allow any unauthorized person to rent, borrow or use any City equipment or resources in the course of or for the benefit of any outside employment.
- H. Outside Security Employment (pertains to law enforcement personnel):

Consistent with the provisions of Penal Code Section 70, and because it would further create a potential conflict of interest, no peace officer may engage in any outside employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity, or individual seeking outside security services from members of the San Rafael Police Department must submit a written application to the Chief of Police in advance of the desired service.

1. The applicant will be required to enter into an indemnification agreement prior to approval.
2. The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services unless modified by the Chief of Police.
3. Should such a request be approved, participating employees shall be subject to the following conditions:
 - a) The officer(s) shall wear the departmental uniform/identification;
 - b) The officer(s) shall be subject to the rules and regulations of the San Rafael Police Department;
 - c) 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;
 - d) Compensation for such approved outside security services shall be pursuant to normal overtime procedures;
 - e) Outside security services shall not be subject to the collective bargaining process.

Outside Employment Policy

I. Outside Overtime Arrest and Reporting Procedure (peace officers only):

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment 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 outside overtime assignment.

J. Outside Employment While on Disability

Employees who are placed on disability leave or modified/light duty by the City of San Rafael shall remind their immediate supervisor of their outside employment. The immediate supervisor shall review the duties of the outside employment and recommend to the department head whether or not such outside employment should continue. Any written doctor's orders should be considered.

In the event, the department head determines that the outside employment should be discontinued, a notice of revocation will be forwarded to the affected employee.

Criteria for revoking the outside employment in this circumstance include, but are not limited to, the following:

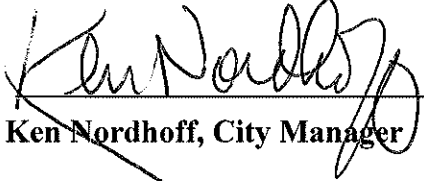
1. The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the professional medical advisors.
2. The outside employment performed requires the same or similar physical ability as would be required of the employee while on duty.

When the disabled employee returns to full duty, a request (in writing) may be made to the department head to restore the permission.

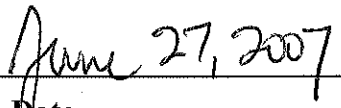
ATTACHMENTS:

- Request to Engage in Outside Employment

APPROVED BY:



Ken Nordhoff, City Manager



Date



REQUEST TO ENGAGE IN OUTSIDE EMPLOYMENT

Name: _____

Classification: _____

Supervisor: _____

Department: _____

EMPLOYMENT INFORMATION

Name of Prospective Employer: _____ Telephone #: _____

Address of Worksite (if multiple locations, please provide address of main office):

Position: _____

Anticipated Start Date: _____ Anticipated End Date: _____

Detailed description of duties to be performed: _____

Days/hours work to be performed: _____ Ave. hours/month: _____

Employee's Signature _____

Date _____

DEPARTMENT HEAD REVIEW/APPROVAL

Anticipated affect of additional employment based upon criteria contained in City of San Rafael Policies and Procedures, Policy No. 140.07: _____

Comments (if request is denied): _____

Approved

Not approved

Revoked (Date: _____)

Department Head's Signature _____

Date _____

PLEASE FORWARD A COMPLETED COPY TO HUMAN RESOURCES FOR THE EMPLOYEE'S PERSONNEL FILE