

**AN ORDINANCE AMENDING CHAPTER 4 TO INCLUDE SECTION 39 OF THE
REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE
(Use of Force, Reporting and Accreditation)**

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY that Chapter 4 of the Revised General Ordinances of the Township of West Orange be and are hereby supplemented to include Subsection 39 entitled Use of Force, Reporting and Accreditation as follows:

I. PURPOSE

The purpose of this Ordinance is to ban the use of certain use of force techniques within the Township of West Orange ("Township") and to require certain directives regarding use of force within the Township's Police Department. Over the past several decades, numerous important and impactful policies which reduce the potential harm caused by law enforcement have become a significant discussion throughout the nation. This Ordinance shall require the Township's Police Department to maintain written directives consistent with the New Jersey Attorney General Guidelines which address the use of force and related techniques by its officers to prevent positional asphyxiation, a form of asphyxia that prevents suspects from breathing adequately. Additionally, this Ordinance shall require comprehensive reporting and use of force reports. Lastly, this Ordinance shall require the Township's Police Department to maintain CALEA accreditation.

II. DEFINITIONS

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning stated herein unless their use in the text of this section clearly demonstrates different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number shall include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "CALEA" shall mean the Commission on Accreditation for Law Enforcement Agencies, Inc., a credentialing authority for law enforcement.
- B. "Chokeholds" shall mean a deliberate tight grip around a person's neck and/or back for a sustained period of time with the purpose to restrict their breathing and/or blood supply. This definition shall include strangleholds and/or carotid artery neck restraints.
- C. "Directive" shall mean written policies and procedures consistent with the Attorney General Guidelines and Essex County Prosecutor.
- D. "De-escalation" shall mean the use of verbal skills, communication, command presence and body positioning to influence a situation to create an outcome that is safe for

officers, subjects and the public in general. This definition shall include verbal de-escalation techniques and physical de-escalation techniques.

- E. “Positional Asphyxiation” shall mean a form of asphyxia that prevents suspects from breathing adequately, including by kneeling or otherwise placing weight on a subject’s neck as set forth by the Attorney General Guidelines.
- F. “Use of Force Continuum” shall mean guidelines as to how much force may be used against a resisting subject in a given situation.

III. USE OF FORCE AND DE-ESCALATION TECHNIQUES

The Township’s Police Department shall maintain one or more Directives outlining the following: (i) a Use of Force Continuum defining constructive authority, physical contact, physical force, mechanical force and deadly force; (ii) Chokeholds, as defined above, shall not be permitted, except in the very limited situations when deadly force is necessary to address an imminent threat to life as set forth by the Attorney General Guidelines, dated June 5, 2020; (iii) De-escalation techniques; (iv) an officer’s duty to intervene in order to minimize the use of force whenever practicable; (v) an officer’s requirement to utilize the least amount of force reasonably necessary to prevent the dangers associated with Positional Asphyxiation; (vi) an officer’s requirement to identify themselves prior to shooting whenever reasonable, and (vii) a ban on discharging a firearm at or from a moving vehicle in any instance where deadly force is not otherwise justified. All Directives shall be consistent with New Jersey Attorney General guidelines and any guidelines promulgated by the Essex County Prosecutor.

IV. REQUIREMENT OF REPORTING AND ACCREDITATION

The Township’s Police Department shall maintain a Directive outlining the mandatory practice of use of force reports and comprehensive reporting consistent with New Jersey Attorney General guidelines.

The Township’s Police Department shall maintain national accreditation and periodic certifications by CALEA and the Township shall provide funding for full compliance. Additionally, the Township’s Police Department shall maintain training which meets or exceeds New Jersey Attorney General guidelines.

V. VIOLATIONS AND PENALTIES

The terms of this Chapter shall be implemented by the Appropriate Authority as defined in West Orange Municipal Ordinance 2-14.4 and consistent with N.J.S.A. 40A:14-118 and all other applicable New Jersey State Laws.

VI. SEVERABILITY

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this

Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

VII. REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency.

VIII. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Michelle Casalino, Council President

Introduced: July 14, 2020

Robert D. Parisi, Mayor

Adopted: August 11, 2020

Legislative History

The purpose of this Ordinance is to require the Township's Police Department to maintain written directives consistent with the New Jersey Attorney General Guidelines which address the use of force and related techniques by its officers to prevent positional asphyxia and/or sustained pressure on an individual. Additionally, this Ordinance shall require comprehensive reporting and use of force reports. Lastly, this Ordinance shall require the Township's Police Department to maintain CALEA accreditation.