

**AN ORDINANCE AMENDING CHAPTER 4 TO INCLUDE SECTION 38 OF THE
REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE
(Prohibition of Less Lethal Devices and Requirement of
Body Worn Cameras and Dash Cams)**

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 38 entitled Prohibition of Less Lethal Devices and Requirement of Body Worn Cameras and Dash Cams as follows:

I. PURPOSE

The purpose of this Ordinance is to ban the use of tear gas, rubber bullets, concussion grenades and flexible batons (commonly referred to as “bean bag rounds”). Over the past several decades, numerous devices, including the aforementioned items, have become available which are specifically designed to cause discomfort and/or pain to the individual(s) upon whom they are used, while being less lethal than traditional firearms. While all of these devices are generally regarded as less dangerous to their targets than firearms, all entail significant risks if used improperly and/or under certain conditions. While fatalities caused by less lethal weapon usage are relatively infrequent, causes of death in the instances in which it has happened are varied: misplaced or ricocheting shots, pre-existing medical conditions, inadequate user training, repetitive applications, and intentional misuse have all been implicated in different cases where death has occurred. Thus, because significant variations exist in individuals against whom these devices may be deployed in terms of preexisting health conditions and physiological conditions, and because these variations may not be identifiable by merely looking at a particular individual, the risks occasioned by the use of certain less than lethal weapon technologies outweigh their benefits. This Ordinance specifically excludes the discharge of oleoresin capsicum commonly referred to as “OC spray” or “pepper spray.” Each patrol officer within the Township of West Orange (“Township”) is permitted to carry pepper spray and is ethically trained in its use and sustained misuse. Any sustained misuse of pepper spray is an excessive use of force.

Further, this Ordinance shall require the Township’s Police Department to utilize body worn camera technology and dashboard cameras consistent with the New Jersey Attorney General guidelines. Body Worn Cameras (“BWC”) and dashboard cameras (“Dash Cam”) have great value in providing protection to police officers, the Township and the public at large. BWC and/or Dash Cams record information related to personal contacts, arrests and other patrol related activities. Additionally, BWC and Dash Cams provide valuable instructional material to be utilized for training in the Township.

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. "Body Worn Camera" shall mean a video and audio recording device that is carried by, or worn on the body of, a law enforcement officer and that is capable of audio and video recording capabilities.
- B. "Dash Cam" shall mean a video and/or audio recording device that is mounted on a law enforcement vehicle and that is capable of audio and/or video recording capabilities.
- C. "Chemical Device" shall mean any type of device designed as Less Lethal, to be launched or thrown as a projectile, in order to cause injury or trauma to the intended target through the action of chemicals as an eye, throat, respiratory, and/or skin irritant, as a means of crowd control. For the purpose of this Chapter, the term shall include any item commonly referred to as or having similar effects to "tear gas." This definition shall specifically exclude oleoresin capsicum commonly referred to as "OC spray" or "pepper spray."
- D. "Explosive Device" shall mean any type of device designed as Less Lethal, to be launched or thrown as a projectile, in order to disorient the intended target through noise, light, or concussive shock for the purpose of crowd control. For the purpose of this Chapter, the term shall include, but not be limited to, "concussion grenades," "stun grenades," "flashbang grenades," and "sting grenades."
- E. "Kinetic Device" shall mean any type of device designed as Less Lethal, to be launched from any device as a projectile, in order to cause injury or trauma to the intended target as a means of crowd control or dispersal. For the purpose of this Chapter, the term shall include, but not be limited to, items commonly referred to as rubber bullets, rubber buckshot, soft polymer rounds, wax bullets, plastic bullets, beanbag rounds, sponge grenades, and kinetic ring airfoil projectiles.
- F. "Less Lethal" shall mean designed to reduce the risk of causing fatal injury to the individual(s) upon whom they are used, when compared to the use of firearms or other deadly force.

III. PROHIBITION ON LESS LETHAL DEVICES

The Township's Police Department shall maintain a written directive prohibiting any officer within the Township's Police Department from utilizing a Chemical Device, Explosive Device, or Kinetic Device, as defined above, against any other individual.

IV. REQUIREMENT OF BODY WORN CAMERAS AND DASH CAMS

The Township shall provide the Township's Police Department with fully operable BWC and Dash Cams at all times. The Township's Police Department shall maintain a written directive outlining the use of BWC and Dash Cams consistent with New Jersey Attorney General guidelines and any guidelines promulgated by the Essex County Prosecutor.

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 New Jersey State Law.

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

Robert D. Parisi, Mayor

Michelle Casalino, Council President

Introduced: June 23, 2020

Adopted: July 14, 2020

Approved as to form on the basis of the facts provided:

Legislative History

The purpose of this Ordinance is to memorialize the Township of West Orange's already existing policies and procedures regarding Less Lethal Devices, Body Worn Cameras and Dash Cams. Currently, the Township does not utilize any and all Less Lethal Devices due to the risks associated therewith. Additionally, the Township's Police Department currently has a policy regarding Body Worn Cameras and Dash Cams. This Ordinance is being adopted to codify these already existing policies and memorialize them as applicable laws within the Township.