

## CHAPTER 35: POLICE DEPARTMENT

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### **APPOINTED OFFICIALS**

#### **§ 35.01 MUNICIPAL POLICE CHIEF.**

(A) The Police Chief shall direct the police work of the city and shall be responsible for the maintenance of law and order. Unless the Mayor and City Council provide otherwise, he or she shall act as Health Inspector and Building Inspector.

(B) If the city has an agreement with the County Sheriff for law enforcement purposes, the County Sheriff shall have all the powers and duties of the Police Chief and city police officers as specified in the agreement.

(1999 Code, § 1-210)

#### **§ 35.02 MUNICIPAL POLICE OFFICERS.**

(A) (1) The Mayor, by and with the consent of the Council, shall appoint those number of regular police officers as may be necessary. All police officers appointed by the Mayor and Council may be removed, demoted or suspended at any time by the Mayor as provided in division (A)(2) below. A police officer, including the Chief of Police, may appeal to the City Council the removal, demotion or

suspension with or without pay. After a hearing, the City Council may uphold, reverse or modify the action.

(2) The City Council shall by ordinance adopt rules and regulations governing the removal, demotion or suspension with or without pay of any police officer, including the Chief of Police. The ordinance shall include a procedure for the removal, demotion or suspension with or without pay of any police officer, including the Chief of Police, upon the written accusation of the Police Chief, the Mayor or any citizen or taxpayer. The City Council shall establish by ordinance procedures for acting upon the written accusation, in accordance with Neb. RS 17-107. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty or disobedience of orders.

(3) This section does not apply to a police officer during his or her probationary period.  
(Neb. RS 17-107)

(B) The City Council may establish a law enforcement reserve force. Members of the force shall be appointed at the discretion of the Council. The Council may limit the size of the reserve force.  
(Neb. RS 81-1438)

(1999 Code, § 1-211)

*Statutory reference:*

*Other provisions on law enforcement reserve force, see Neb. RS 81-1439 through 81-1446*

## **POLICE DEPARTMENT**

### **§ 35.15 POLICE DEPARTMENT; DUTIES.**

(A) If the Mayor and City Council have provided for the appointment of a Police Chief, the Police Department shall consist of the Chief of Police and further number of regular police officers as may be duly ordered by resolution of the Council.

(B) The Chief of Police shall, subject to the direction of the Mayor, have control and management of all matters relating to the Police Department and its officers and members and shall have the custody and control of all property and books belonging to the Department. The Chief shall devote his or her whole time to the city affairs and interests of the city and to the preservation of peace, order, safety and cleanliness thereof.

(C) The Department shall execute and enforce all laws and also the orders of the Mayor. It shall be the duty of the Department to protect the rights of persons and property. The Department shall take notice of all nuisances, impediments, obstructions and defects in the streets, avenues, alleys, business places and residences of the city. The Department shall execute, or cause to be executed, the processes issued and shall cause all persons arrested to be brought before the proper court for trial as speedily as

possible. The Chief of Police and all regular and special police officers shall become thoroughly conversant with the laws of the city and shall see that the same are strictly enforced and shall make sworn complaints against any person or persons for violation of the same. It shall be the duty of every city police officer making a lawful arrest to search all persons in the presence of some other person, whenever possible, and to carefully keep and produce to the proper judicial official upon trial everything found upon the person of the prisoners. All personal effects so taken from prisoners shall be restored to them upon their release. The Police Chief and other police officers shall file those reports as may be required by the city ordinances and the laws of the state. No law enforcement official shall have any interest in any establishment having a liquor license.

(D) Suitable badges shall be furnished to the city police by the city. Any police officer who loses or destroys the same shall be required to pay the replacement costs. If a police officer leaves the city police force, he or she shall immediately deliver his or her badge to the Police Chief.

(E) City police officers shall have full power and authority to call on any person whenever necessary to assist them in performing public duties, and failure, neglect or refusal to render assistance shall be deemed an offense.

(1999 Code, § 3-601)

### **§ 35.16 POLICE OFFICERS; DISCIPLINE OR REMOVAL FROM DUTY; NOTICE AND HEARING; DETERMINATION.**

(A) (1) The City Council shall by ordinance adopt rules and regulations governing the removal or discipline of any police officer, including the Chief of Police. The ordinance shall include a procedure for making application for an appeal, specifications on the period of time within which the application shall be made, and provisions on the manner in which the appeals hearing shall be conducted.

(2) Both the police officer and the individual imposing the disciplinary action shall have the right at the hearing to be heard and to present evidence to the Council for its consideration.

(3) Not later than 30 days following the adjournment of the meeting at which the hearing was held, the Council shall vote to uphold, reverse or modify the removal or disciplinary action. The failure of the Council to act within 30 days or the failure of a majority of the elected Council members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the Council shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the Police Department in the performance of its duties under the statutes of the state.

(4) Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this division (A), in cases of gross misconduct, neglect of duty or disobedience of orders.

(Neb. RS 17-107)

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(B) (1) Except as provided otherwise in an ordinance adopted by the Council, the procedures specified in this division (B) shall constitute the rules and regulations required by Neb. RS 17-107.

(2) No police officer, including the Chief of Police, shall be disciplined, suspended, demoted, removed or discharged except upon written notice stating the reasons for the disciplinary action, suspension, demotion, removal or discharge. The notice shall also contain a statement informing the police officer of his or her right to a hearing before the City Council.

(3) Any police officer so disciplined, suspended, demoted, removed or discharged may, within ten days after being notified of the disciplinary action, suspension, demotion, removal or discharge, file with the City Clerk a written demand for a hearing before the City Council. The Council shall set the matter for hearing not less than ten nor more than 20 days after the filing of the written demand for a hearing. The Council shall give the police officer written notice of the hearing not less than seven days prior to the hearing.

(4) At the hearing, the police officer shall have the right to:

- (a) Respond in person to the charges and to present witnesses and documentary evidence;
- (b) Confront and cross-examine available adverse witnesses; and
- (c) To be represented by counsel.

(1999 Code, § 3-602) (Ref. RS Neb.)

**§ 35.17 ARREST AND ENFORCEMENT JURISDICTION.**

(A) The police officers of the city shall have the power to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as the County Sheriff and to keep the offenders in the city prison or other place to prevent their escape until trial can be had before the proper officer.

(Neb. RS 17-118)

(B) Every city law enforcement officer has the power and authority to enforce the laws of this state and the city or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

(C) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***LAW ENFORCEMENT OFFICER IN NEED OF ASSISTANCE.***

- (a) A law enforcement officer whose life is in danger; or
- (b) A law enforcement officer who needs assistance in making an arrest and the suspect:

1. Will not be apprehended unless immediately arrested;
2. May cause injury to himself or herself or others or damage to property unless immediately arrested; or
3. May destroy or conceal evidence of the commission of a crime.

**PRIMARY JURISDICTION.** The geographic area within territorial limits of the city.

(D) Any city law enforcement officer who is within this state, but beyond his or her primary jurisdiction, has the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction in the following cases:

(1) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow that person into any other jurisdiction in this state and there arrest and detain that person and return that person to the officer's primary jurisdiction;

(2) Any city law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow that person anywhere in an area within 25 miles of the boundaries of the officer's primary jurisdiction and there arrest and detain that person and return that person to the officer's primary jurisdiction;

(3) Any city law enforcement officer has enforcement and arrest and detention authority when responding to a call in which a local, state or federal law enforcement officer is in need of assistance; and

(4) If the city, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enters into a contract with any other city or county for law enforcement services or joint law enforcement services, law enforcement personnel may have this enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, the city shall provide liability insurance coverage for its own law enforcement personnel as provided in Neb. RS 13-1802.

(E) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02, a city law enforcement officer has the power and authority to do any of the following or any combination thereof:

(1) Transport that person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

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(2) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(3) With respect to that person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of Neb. RS 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01 or 60-6,211.02.  
(Neb. RS 29-215)

(F) If city law enforcement personnel are rendering aid in their law enforcement capacity outside the limits of the city in the event of disaster, emergency or civil defense emergency or in connection with any program of practice or training for a disaster, emergency or civil defense emergency when that program is conducted or participated in by the Nebraska Emergency Management Agency or with any other related training program, the law enforcement personnel have the power and authority to enforce the laws of this state or any legal ordinances or resolutions of the local government where they are rendering aid or otherwise perform the functions of their office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within their primary jurisdiction. The city shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this division (F).

(Neb. RS 81-829.65)  
(1999 Code, § 3-603)

**§ 35.99 PENALTY.**

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this code, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the Court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.  
(1999 Code, §§ 1-1001, 3-1101) (Ord. 00-20, passed 6-6-2000)