

## CHAPTER 36: FIRE DEPARTMENT

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#### **APPOINTED OFFICIALS**

#### **§ 36.01 MUNICIPAL FIRE CHIEF.**

The Fire Chief shall be elected by the members of the Fire Department. He or she shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the maintenance of fire extinguishing equipment, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes.  
(1999 Code, § 1-212)

**MUNICIPAL FIRE DEPARTMENT****§ 36.15 OPERATION AND FUNDING.**

(A) The city may operate a Fire Department through the Fire Chief and firefighters.

(B) The city shall have power to procure fire engines, hooks, ladders, buckets and other apparatus, to organize fire engine, hook and ladder and bucket companies, to prescribe rules of duty and the government thereof with those penalties as the City Council may deem proper, not exceeding \$100, and to make all necessary appropriations therefor.  
(Neb. RS 17-147)

(C) If the city has only a voluntary Fire Department or companies, the City Council may levy a tax annually of not more than \$0.07 on each \$100 upon the taxable value of all the taxable property within the city for the maintenance and benefit of the Fire Department or companies. The amount of the tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of the tax, the City Treasurer shall disburse the same upon the order of the Fire Chief with the approval of the City Council.  
(Neb. RS 17-718)

(1999 Code, § 3-501)

*Statutory reference:*

*Fire station acquisition, construction and maintenance, see Neb. RS 17-953 et seq.*

**§ 36.16 DUTIES OF FIRE CHIEF.**

The Fire Chief shall manage the Fire Department, and it shall be his or her duty to inform the City Council when any of the fire engines, hose, ladders or other apparatus needs repair. Upon the written consent and directive of the City Council, the Fire Chief shall cause the repair, improvement or maintenance of the equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the City Council at the regular meeting in January of each year to give an annual report to the City Council of the general condition and the proposed additions or improvements recommended by him or her.  
(1999 Code, § 3-502)

**§ 36.17 MEMBERSHIP.**

(A) The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council.

(B) The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons, for each engine and hose company in the Fire Department, and no hook and ladder company shall have upon its rolls at any one time more than 25 members. The foreman and Secretary of every company shall, on the first day of April and October in each year, file in the office of the Clerk of the District Court in and for the county a certified copy of the rolls of their respective companies so as to obtain for the members thereof the privilege of the exemption from militia duty in time of peace mentioned in Neb. RS 35-101. No organization shall be deemed to be a bona fide fire or hook and ladder company until it has procured for active service apparatus for the extinguishment or prevention of fires, in case of a hose company, to the value of \$700, and of a hook and ladder company to the value of \$500.  
(Neb. RS 35-102)

(C) Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.  
(Neb. RS 35-103)

(D) Volunteer firefighters of the Fire Department shall be deemed employees of the city while in the performance of their duties as members of the Department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the Fire Chief or some person authorized to act for the Chief for membership therein to the Mayor and City Council and upon confirmation shall be deemed employees of the city. Members of the Fire Department after confirmation to membership may be removed by a majority vote of the City Council and thereafter shall not be considered employees of the city. Firefighters of the Fire Department shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the city, but only if directed to do so by the Fire Chief or some person authorized to act for the Chief.  
(Neb. RS 48-115)

(E) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire and rescue personnel, except that when any person serves more than one city or rural or suburban fire protection district, the policy shall be purchased only by the first city or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of the policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department.  
(Neb. RS 35-108)

(F) For purposes of the prohibition on receipt of any witness fee, attendance fee or mileage fee by an employee of the city called as a witness in connection with his or her officially assigned duties, volunteer firefighters and rescue squad members testifying in that capacity alone shall not be deemed employees of the city.  
(Neb. RS 33-139.01)

(G) The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

(H) All members of the Fire Department shall be subject to those rules and regulations, and shall perform those duties, as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the city code or the laws of the state.

(I) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The Secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.  
(1999 Code, § 3-503)

### *FIRES*

#### **§ 36.30 FIRES.**

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the city, and to secure the observance of all ordinances, laws and other rules and regulations with respect to fires and fire prevention.  
(1999 Code, § 3-504)

#### **§ 36.31 DISTANT FIRES.**

Upon the permission of the Mayor or Fire Chief, or pursuant to any agreement with a fire district for mutual aid protection, the fire equipment of the city as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish reported fires.  
(1999 Code, § 3-505)

#### **§ 36.32 FIGHTING DISTANT FIRES.**

The firefighters of the city shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the city when directed to do so by the City Council or the Fire Chief or some person authorized to act for the Chief, and in so doing, may take the fire equipment of the city as may be designated by the City Council.  
(1999 Code, § 3-506)

#### **§ 36.33 PRESERVATION OF PROPERTY.**

Any official of the Municipal Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the

preservation of the property from fire, to prevent the spreading of fire or to protect adjoining property. The officials may direct the municipal firefighters to remove any building, structure or fence for the purpose of checking the progress of any fire, and the official in charge of the firefighting effort shall have the power to blow up, or cause to be blown up, with powder or otherwise, any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.  
(1999 Code, § 3-507)

#### § 36.34 DRILLS.

All volunteer fire companies of the city shall hold a fire drill at least nine times per year at those times as the companies shall by their own rules fix. The Fire Department shall have the right-of-way upon any street, alley or highway when going to or returning from fires or drills under the direction or by order of the Mayor or Chief of the Fire Department. When fires shall occur, the Chief, Chief of Police or any officer specially deputized, shall have the power to close any street or highway or public place adjacent to the fire.  
(1999 Code, § 3-508)

#### § 36.35 INSPECTIONS.

(A) The Fire Chief where a Fire Department is established or the Mayor where no Fire Department exists, at all reasonable hours, may enter into all buildings and upon all premises within his or her jurisdiction for the purposes of examination, in harmony with Neb. RS 81-501.01 to 81-531, the Nebraska Natural Gas Pipeline Safety Act of 1969, the Petroleum Products and Hazardous Substances Storage and Handling Act, and any other statutory duties imposed upon the State Fire Marshal.  
(Neb. RS 81-512)

(B) It shall be the duty of the Fire Chief, when directed to do so by the City Council, to inspect or cause to be inspected by Fire Department officers, members or some other official as often as may be necessary, but not less than two times a year, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles and explosives; electric wiring and heating; the means and adequacy of exits, in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals and all other buildings in which numbers of persons congregate from time to time for any purpose whether publicly or privately owned; the design, construction, location, installation and operation of equipment for storing, handling and utilizing liquefied petroleum gases, specifying the odorization of the gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films or any other hazardous material that may now or hereafter exist.  
(1999 Code, § 3-509)

**§ 36.36 POWER OF ARREST.**

The Fire Chief or the Assistant Fire Chief shall have the power, during the time of a fire and for a period of 36 hours after its extinguishment, to arrest any suspected arsonist or other person hindering or resisting the firefighting effort, or any person who conducts himself or herself in a noisy or disorderly manner. The officials shall be severally vested with the usual powers and authority of city police officers to command all persons to assist them in the performance of their duties.  
(1999 Code, § 3-510)

**§ 36.37 FIRE INVESTIGATION.**

The Fire Chief shall investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in the city by which property has been destroyed or damaged. All fires of unknown origin shall be reported, and the officer shall especially make an investigation and report as to whether the fire was the result of carelessness, accident or design. The investigation shall begin immediately after the occurrence of the fire, and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he or she deems it expedient or necessary. The officer making the investigation of fires occurring in the city shall forthwith notify the State Fire Marshal and shall within one week of the occurrence of the fire furnish him or her written statement of all the facts relating to the cause and origin of the fire and any further information as he or she may call for.  
(Neb. RS 81-506)  
(1999 Code, § 3-511)

**§ 36.99 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)