

## CHAPTER 30

# POLICE DEPARTMENT

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**30.01 DEPARTMENT ESTABLISHED.** The Police Department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

**30.02 ORGANIZATION.** The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

**30.03 PEACE OFFICER QUALIFICATIONS.** In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the IowaLawEnforcementAcademy.

*(Code of Iowa, Sec. 80B.11)*

**30.04 REQUIRED TRAINING.** All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

*(Code of Iowa, Sec. 80B.11[2])  
(501 IAC 3 and 8)*

**30.05 COMPENSATION.** Members of the department are designated by rank and receive such compensation as shall be determined by resolution of the Council.

**30.06 POLICE CHIEF APPOINTED.** The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.

*(Code of Iowa, Sec. 372.4)*

**30.07 POWERS AND DUTIES OF POLICE CHIEF.** The Police Chief has the following powers and duties subject to the approval of the Council.

*(Code of Iowa, Sec. 372.13[4])*

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

*(Code of Iowa, Sec. 321.266)*

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest, and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

**30.08 DEPARTMENTAL RULES.** The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the Council, as may be necessary for the operation of the department.

**30.09 SUMMONING AID.** Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.  
*(Code of Iowa, Sec. 804.17)*

**30.10 TAKING WEAPONS.** Any person who makes an arrest may take from the person arrested all items that are capable of causing bodily harm which the arrested person may have within such person's control, to be disposed of according to law.  
*(Code of Iowa, Sec. 804.18)*

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## CHAPTER 35

# FIRE DEPARTMENT

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**35.01 ESTABLISHMENT AND PURPOSE.** A paid volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

*(Code of Iowa, Sec. 364.16)*

**35.02 ORGANIZATION.** The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council.

*(Code of Iowa, Sec. 372.13[4])*

**35.03 APPROVED BY COUNCIL.** No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.

**35.04 REGULATORY.** It is generally noted that the Fire Chief and the City of New Hampton Fire Department recognize all aspects of the *Code of Iowa* and NFPA. Therefore, all *Code of Iowa* and NFPA, as it pertains to fire protection, fire safety, and fire code enforcement shall be recognized as defining rules and regulations that may be enforceable by the City and the Fire Chief as recognized as the Authority Having Jurisdiction (AHJ).

**35.05 MEMBERSHIP QUALIFICATIONS.** In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:

1. Works or resides in the New Hampton Fire District, and is a citizen of the United States, or was a member prior to moving or working outside the New Hampton Fire District.
2. Age. Is at least 18 years of age.
  - A. A junior fire fighter program is allowed for individuals under the age of 18 with a signed waiver by a parent. Shall not respond to any calls or operate any motorized vehicle equipment.
3. Driver's License. Has a current valid Iowa driver's license if operating a vehicle.
4. Alcohol and Drugs. Is not addicted to drugs or habitually intoxicated. Shall not respond to a call under the influence of drugs or alcohol.

5. Character. Is of good moral character as determined by a thorough interview(s) and possible further background checks or reference interview(s).
6. Board of Officers. Is elected by a majority of the active members and approved by the City Council.

**35.06 TRAINING.** All members of the department shall meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief and set forth in the Department Standard Operating Guidelines and the Iowa Fire Service Training Bureau.

*(Code of Iowa, Sec. 100B.2[4])*

**35.07 COMPENSATION.** Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the Council. Compensation shall be budgeted for annually as part of the Fire Department's City budget.

*(Code of Iowa, Sec. 372.13[4])*

**35.08 ELECTION OF OFFICERS.** The department shall elect a Fire Chief and such other officers as authorized in Section 35.02, but the election of the Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

**35.09 OATH.** The Fire Chief, before entering upon the duties of their office, shall qualify for office by taking the oath prescribed in Section 5.01 of this Code.

**35.10 DUTIES OF FIRE CHIEF.** The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including (but not limited to) the following:

*(Code of Iowa, Sec. 372.13[4])*

1. Enforce Laws. Enforce ordinances and laws regulating the following:
  - A. Fire prevention.
  - B. Maintenance and use of fire escapes.
  - C. The investigation of the cause, origin, and circumstances of fires.
  - D. The means and adequacy of exit in case of fire from halls, theaters, churches, hospitals, asylums, lodging houses, schools, factories, and all other buildings in which the public congregates for any purpose.
  - E. The installation and maintenance of private fire alarm system and fire extinguishing equipment.
  - F. City water fire hydrant sizing and locations, and access areas adjacent to fire hydrants and buildings built within City limits.
  - G. Support the current and future Knox Box program for the New Hampton Fire District.
2. Investigation. Investigate the cause, origin, and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person, including the nature of the incident and other facts, statistics, and circumstances concerning the emergency response.

*(Code of Iowa, Sec. 100.2 and 100.3)*

A. Whenever the Fire Chief finds that property damage of \$50.00 or more was caused by such fire, the Fire Chief shall report his findings to the State Fire Marshal within 10 days of the end of the month.

B. If the Fire Chief believes that a fire was started by design, the fire has caused more than \$200,000.00 or excess of property damage, or if the death occurs as the result of a fire, they shall notify the State Fire Marshal immediately.

3. Right of Entry. Have the right, during reasonable hours and upon consent of the occupant, to enter any building or premises within their jurisdiction for the purpose of making such investigation or inspection which under law or ordinance they may consider necessary to be made and is reasonably necessary to protect the public health, safety, and welfare.

*(Code of Iowa, Sec. 100.12)*

4. Right of Control. A fire scene shall be controlled by the Fire Chief or Incident Command until the scene is deemed safe for public or occupants to return. This is established per *Code of Iowa*, Chapter 102.

A. 102.1 Definition.

(1) As used in this chapter, “fire department” means the fire department of a city, township, or benefited fire district. (89 Acts, Ch. 132, §1)

B. 102.2 Authority at Fires.

(1) A Fire Chief or other authorized officer of a fire department, in charge of a fire scene which involves the protection of life or property, may direct an operation, as necessary, to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action as deemed necessary in the reasonable performance of the department’s duties. In exercising this power, a Fire Chief may prohibit an individual, vehicle, or vessel from approaching a fire scene and may remove from the scene any object, vehicle, vessel, or individual that may impede or interfere with the operations of the Fire Department. (89 Acts, Ch. 132, §2)

C. 102.3 Authority to Barricade.

(1) The Fire Chief or other authorized officer of the Fire Department in charge of a fire scene may place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the firefighting efforts of the Fire Department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency. (89 Acts, Ch. 132, §3 – Referred to in §102.5)

D. 102.4 Traffic Control.

(1) Notwithstanding a contrary provision of this chapter, if a peace officer is on the scene, the peace officer is in charge of traffic control and a peace officer shall not be prohibited from performing the duties of a peace officer at the fire scene. (89 Acts, Ch. 132, §4)

- E. 102.5 Penalty.
- (1) A person who disobeys an order of a Fire Chief, other officer of a fire department, or peace officer assisting the Fire Department which is issued pursuant to Section 102.2 and 102.3, is guilty of a simple misdemeanor. (89 Acts, Ch. 132, §5)
- F. It is the Fire Chief and or the senior officer on scenes duty to determine the cause and origin of a fire. This cause and origin should be documented in detail in the fire report.
- G. When fires are required to be investigated per Section 35.10(2)(B), fire scenes must have at least one member remain on the premises until the investigation is determined completed by the Incident Commander or Officer in Charge or the Fire Marshall, if applicable. This is done to maintain possession of the scene and it is in control of the Fire Department until the investigation is complete.
5. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.
6. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the Fire Department. The members of the Fire Department shall, at all times, be subject to the direction of the Fire Chief.
7. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the Fire Department. Subject to Council oversight prior to disposition of assets.
8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the State Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.
- (Code of Iowa, Sec. 100.2 and 100.3)*
9. Recommendation. Make such recommendations to owners, occupants, caretakers, or managers of buildings necessary to eliminate fire hazards.
10. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing, and reporting data pertaining to fires.
11. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.
12. Reports. Compile and submit to the Mayor and Council such reports as may be requested by the Mayor or Council.

**35.11 DEPARTMENTAL RULES.** The Fire Chief shall establish such rules, not in conflict with the City Code and subject to the approval of the Council, as may be necessary for the operation of the department including rules governing the following:

1. Rules of Conduct. The conduct and activity of members of the department during regular and off-duty hours.
2. Communication. The procedures, use, and care of the radio and other communication systems.
3. Training. The nature, time, and attendance requirements for in-service training of members of the department.
4. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the Council.
5. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.
6. Penalties. The penalties which may be imposed for violation of established departmental rules by members.
7. Notice. The Fire Chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation and the penalty to be imposed.
8. Appeal. A member of the department charged with a violation of rules may request a hearing before the Fire Department Board of Officers, by requesting this meeting through the Fire Chief. If the violation should be further disputed, then a hearing before City Council may be requested by filing notice of appeal with the Clerk within 10 days of receipt of notice of violation. The Council, at its next meeting, shall review the facts and may modify or revoke the action of the Fire Chief and Fire Department Board of Officers.

**35.12 OBEDIENCE TO FIRE CHIEF.** No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

**35.13 CONSTITUTION.** The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the Council.

**35.14 ACCIDENTAL INJURY INSURANCE.** The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for firefighters injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All firefighters shall be covered by the contract.

*(Code of Iowa, Sec. 85.2, 85.61, and Sec. 410.18)*

**35.15 LIABILITY INSURANCE.** The Council shall contract to insure against liability of the City for injuries, death, or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.

*(Code of Iowa, Sec. 670.2 and 517A.1)*

**35.16 CALLS OUTSIDE CITY.** The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such an emergency exists and that such an action will not endanger persons and property within the City limits.

*(Code of Iowa, Sec. 364.4[2 and 3])*

**35.17 MUTUAL AID.** Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

*(Code of Iowa, Sec. 364.4[2 and 3])*

**35.18 AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of State or local fire safety regulations.

*(Code of Iowa, Sec. 100.41)*

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## CHAPTER 36

# HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

**36.01 PURPOSE.** In order to reduce the danger to the public health, safety, and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal, and cleanup of hazardous substance spills within the City limits.

**36.02 DEFINITIONS.** For purposes of this chapter the following terms are defined:

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.

*(Code of Iowa, Sec. 455B.381[1])*

2. “Hazardous condition” means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State, or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.

*(Code of Iowa, Sec. 455B.381[4])*

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

*(Code of Iowa, Sec. 455B.381[5])*

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

*(Code of Iowa, Sec. 455B.381[7])*

**36.03 CLEANUP REQUIRED.** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or

be emitted into the air or discharged into any waters, including groundwaters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety, and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within 30 days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or federal funds available for said cleanup.

**36.04 LIABILITY FOR CLEANUP COSTS.** The responsible person shall be strictly liable to the City for all of the following:

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

**36.05 NOTIFICATIONS.**

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Chickasaw County Emergency Communications Center who will notify the New Hampton Fire Department and the Chickasaw County Emergency Management Director of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The New Hampton Fire Department or the Chickasaw County Emergency Management Director shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Chickasaw County Emergency Communications Center who will notify the New Hampton Fire Department and the Chickasaw County Emergency Management Director which shall then notify the Department of Natural Resources.

**36.06 POLICE AUTHORITY.** If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of any PeaceOfficer issued under this section.

**36.07 LIABILITY.** The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02(4).