

## LEGISLATIVE BILL 346

Approved by the Governor May 3, 1995

Introduced by Jones, 43; Schmitt, 41

AN ACT relating to cities of the second class and villages; to amend section 17-208, Reissue Revised Statutes of Nebraska, and section 17-107, Revised Statutes Supplement, 1994; to authorize hearings for disciplinary actions and removals of police officers; to provide for rules and regulations; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 17-107, Revised Statutes Supplement, 1994, is amended to read:

17-107. (1) A mayor of a city of the second class shall be elected in the manner provided in the Election Act. The mayor shall be a resident and registered voter of the city. If the president of the council assumes the office of mayor for the unexpired term, there shall be a vacancy on the council which vacancy shall be filled as provided in section 32-568. The mayor, with the consent of the council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The mayor, by and with the consent of the council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the mayor and council shall be removable at any time by the mayor. A police officer, including the chief of police, may appeal such removal or other disciplinary action to the city council. After a hearing, the city council may uphold, reverse, or modify the removal or disciplinary action.

(2) 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 such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. 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 city council for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the city council shall vote to uphold, reverse, or modify the removal or disciplinary action. The failure of the city council to act within thirty 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 city 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 of Nebraska. 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.

Sec. 2. Section 17-208, Reissue Revised Statutes of Nebraska, is amended to read:

17-208. (1) The village board of trustees may appoint a village clerk, treasurer, attorney, overseer of the streets, and marshal. The village marshal or any other police officer, may request a review by the village board of his or her removal or any other disciplinary action taken against him or her. After a hearing, the village board may uphold, reverse, or modify the removal or disciplinary action.

(2) The village board of trustees shall by ordinance adopt rules and regulations governing the removal or discipline of any police officer, including the village marshal. The ordinance shall include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. 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 village board for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the village board shall vote to uphold, reverse, or modify the removal or disciplinary action. The failure of the

village board to act within thirty days or the failure of a majority of the elected board 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 village board 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 of Nebraska. 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) The village board of trustees shall also appoint a board of health consisting of three members: The chairman chairperson of the village board, who shall be chairman chairperson, the marshal, who shall be secretary and quarantine officer, and one other member. The third member shall be a physician, when a physician is residing permanently in the village, or such other person as the village board may select. A majority of such the board of health shall constitute a quorum, and shall enact rules and regulations, which rules and regulations shall have the force and effect of law, to safeguard the health of the people of such village, and prevent nuisances and unsanitary conditions. The and the board of health shall enforce the same and provide fines and punishments for the violation thereof. Said violations. The appointees shall hold office for one year, unless sooner removed by the president chairperson of the board, with the advice and consent of the trustees.

Sec. 3. Original section 17-208, Reissue Revised Statutes of Nebraska, and section 17-107, Revised Statutes Supplement, 1994, are repealed.