

Chapter 46 LAW ENFORCEMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - POLICE

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Secs. 46-1—46-18. Reserved.

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ARTICLE II. POLICE ^[1]

DIVISION 1. - GENERALLY

DIVISION 2. - ORGANIZATION

DIVISION 3. - POWERS AND DUTIES

DIVISION 4. - LIMITATIONS ON OFFICERS

FOOTNOTE(S):

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State Law reference— Police force and departments, W. Va. Code, § 8-14-1 et seq.; powers and duties of law enforcement, W. Va. Code, § 8-14-3.

DIVISION 1. GENERALLY

Sec. 46-19. Establishment; purpose; subject to authority of the mayor.

Secs. 46-20—46-41. Reserved.

Sec. 46-19. Establishment; purpose; subject to authority of the mayor.

The town council, in order to protect persons and property within the town, to preserve law and order therein, and to enforce therein the criminal laws of the state and of this Code, does hereby establish the Town of Bath Police Department, hereafter known as the municipal police department. It is also established that the municipal police department is subject to the control and authority of the mayor. The town council shall also provide all necessary equipment to maintain such a police department.

(Code 1981, § 10-101)

Secs. 46-20—46-41. Reserved.

DIVISION 2. ORGANIZATION

Sec. 46-42. Qualifications.

Sec. 46-43. Physical exams.

Sec. 46-44. Appointment of police officers.

Sec. 46-45. Oath.

Sec. 46-46. Chief of police.

Sec. 46-47. Chain of command; obedience to orders.

Sec. 46-48. Special police.

Sec. 46-49. Suspension; demotion; discharge; appeal.

Secs. 46-50—46-71. Reserved.

Sec. 46-42. Qualifications.

All members of the municipal police department shall be residents of the state, not less than 18 nor more than 65 years of age, of sound mind, of good moral character, and shall be required to pass any examinations the town council may deem necessary. No person shall be barred from employment with the municipal police department because of his race, color, creed, national origin, sex, religion or political conviction.

(Code 1981, § 10-201)

Sec. 46-43. Physical exams.

All applicants for positions in the municipal police department shall submit to a physical examination by a physician licensed in the state. Written certification of the applicant's good health must be submitted to the town council before his employment can commence.

(Code 1981, § 10-202)

Sec. 46-44. Appointment of police officers.

Members of the municipal police department shall be appointed by the mayor, subject to prior approval of the town council.

(Code 1981, § 10-203)

Sec. 46-45. Oath.

(a) All members of the municipal police department, before entering upon the discharge of their duties, shall take and subscribe to an oath which shall be in the form and effect as follows:

State of West Virginia

Town of Bath to wit: I, _____ do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia and the Municipal Code of the Town of Bath, and I will honestly and faithfully perform the duties

The Code of the Town of Bath, West Virginia

imposed upon me under the provisions of law as a member of the municipal police department, to the best of my skill and judgment.

- (b) All such oaths shall be filed and preserved in the office of the municipal police department.

(Code 1981, § 10-204)

Sec. 46-46. Chief of police.

- (a) The office of the chief of police is hereby established. The chief of police shall serve as the executive and administrative head of the municipal police department. He shall be responsible to the mayor and the town council for the general administration of his department and shall make monthly written reports to the council concerning the conduct of his office.
- (b) The chief of police shall prepare the annual budget estimate for the police department and submit it to the town council through the mayor. He shall see to it that all fees and other money collected by members of the police department are promptly turned over to the municipal clerk, or designee, or otherwise disposed of according to law. He shall be responsible for the training, discipline and morale of the member of the police department and for their effective and efficient performance of duty.
- (c) The chief of police may also advise the mayor and the town council as to the appointment of additional members to the municipal police department.
- (d) The town council may require attendance at the state police academy for additional training.

(Code 1981, § 10-205)

Sec. 46-47. Chain of command; obedience to orders.

The chain of command shall be the mayor, chief of police, and other members of the police department according to rank and seniority within rank; and all members of the police department shall faithfully obey all lawful orders of their superiors in the chain of command.

(Code 1981, § 10-206)

Sec. 46-48. Special police.

- (a) The mayor, at his discretion and subject to the approval of the town council, may appoint special police officers whenever the funds are available to do so. Such special police may include, but are not limited to, school zones, parking lots or parking building officers.
- (b) In performing their duties, special police shall be vested with the powers and duties described in division 3 of this article. They shall also be subject to the qualifications listed under section 46-42.

(Code 1981, § 10-207)

State Law reference— Appointment of special police, W. Va. Code, § 8-10-1.

Sec. 46-49. Suspension; demotion; discharge; appeal.

- (a) The chief of police may suspend, demote, or discharge from the police department any member of the police force for any of the following causes: refusing to obey the orders of his superior officer, neglect of duty, drunkenness, inefficiency, or any other cause the chief of police may determine to be necessary for the good of the police department.

The Code of the Town of Bath, West Virginia

- (b) The chief of police shall, with the approval of the town council, discharge any member of the municipal police department who violates any of the provisions of chapter 2, article VI, pertaining to personnel.
- (c) If the chief of police orders a member of the police department suspended, demoted or discharged, a written statement of the charges and a written order of suspension, demotion, or discharge shall be delivered personally to the member by his commanding officer. The written statement of charges must explicitly provide the details giving rise to the cause upon which the order of suspension, demotion, or discharge was promulgated. The member may appeal the chief of police's order to the town council, which may sustain or reverse said order.

(Code 1981, § 10-208)

Secs. 46-50—46-71. Reserved.

DIVISION 3. POWERS AND DUTIES

Sec. 46-72. General powers, authority and duties.

Sec. 46-73. Members of police department to wear uniforms and be armed.

Sec. 46-74. Duty of police officers to respond to fire alarms and assist the fire department.

Sec. 46-75. When a police officer can make an arrest.

Sec. 46-76. Officer may require assistance in making an arrest; penalty.

Sec. 46-77. Disposition of arrested persons.

Sec. 46-78. Interference with officer; refusing to give information; penalty.

Sec. 46-79. Police department records.

Secs. 46-80—46-101. Reserved.

Sec. 46-72. General powers, authority and duties.

- (a) The chief of police and any member of the municipal police department shall have all the powers, authority, rights and privileges within the corporate limits of the town with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest or other process, which can legally be exercised or discharged by the sheriff of the county. In order to arrest for the violation of municipal ordinances and as to all matters arising within the corporate limits and coming within the scope of his official duties, the powers of the chief of police and any member of the municipal police department shall extend anywhere within the county in which the municipality is located, and any such chief of police or member of the police department shall have the same authority of pursuit and arrest beyond his normal jurisdiction as has a sheriff.
- (b) It shall be the duty of the members of the municipal police department to enforce the criminal laws of the state within the town and all municipal ordinances and to cause the arrest of or arrest any offender and take him before the town court in order to be dealt with according to the law.
- (c) Members of the municipal police department shall patrol the town and its parking areas and shall assist the town court. They shall also serve any legal process issued by the town court promptly. Failure of a member of the municipal police department to discharge any duty imposed by this section shall be deemed official misconduct for which he can be removed from office.

(Code 1981, § 10-301)

Sec. 46-73. Members of police department to wear uniforms and be armed.

The members of the municipal police department shall have the power and authority to carry a service pistol and enforcement tool while on duty unless otherwise expressly directed by the chief of police for a special assignment. All members of the police department shall also have the authority to wear such uniform and badge as the town council may prescribe.

(Code 1981, § 10-302)

Sec. 46-74. Duty of police officers to respond to fire alarms and assist the fire department.

It shall be the duty of the municipal police department to designate, as practicable, certain officers to respond to fire alarms and assist the fire department in the protection of life and property of the citizens, and property of the fire department, and in controlling traffic and maintaining order.

(Code 1981, § 10-303)

Sec. 46-75. When a police officer can make an arrest.

Unless otherwise authorized or directed by this Code or applicable law, an arrest of a person by a police officer shall be made in the following cases:

- (1) Whenever he possesses a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the police officer has reasonable cause to believe the person has committed it.

(Code 1981, § 10-304)

Sec. 46-76. Officer may require assistance in making an arrest; penalty.

Whenever it is reasonably necessary to effectuate an arrest, a member of the police department may request the aid of any person. It shall be unlawful for a person to willfully refuse such aid, and upon conviction, such person shall be subject to a fine as provided in section 1-7.

(Code 1981, § 10-305)

Sec. 46-77. Disposition of arrested persons.

Unless otherwise authorized by law, when any person is arrested for an offense, he shall be brought before a court of competent jurisdiction for immediate trial or allowed to post bond. When the person is intoxicated, however, the police officer is hereby authorized to arrest him and hold him in custody until a complaint may be made before a county magistrate and a warrant issued.

(Code 1981, § 10-306)

Sec. 46-78. Interference with officer; refusing to give information; penalty.

Any person who shall at any time, intercept, molest, or interfere with a member of the municipal police department while on duty, or shall refuse upon request to give any such police officer any information possessed by him relating to any offense committed or about to be committed, shall be guilty of a misdemeanor; provided that nothing in this section shall be construed to require a person to give information tending to incriminate himself or the spouse of such person.

(Code 1981, § 10-307)

Sec. 46-79. Police department records.

It shall be the duty of the municipal police department to keep a comprehensive and detailed daily record, in permanent form, showing:

- (1) All known or reported offenses and/or crimes committed within the corporate limits of the town.
- (2) All arrests made by police officers.
- (3) All police investigations made and all other miscellaneous activities of the municipal police department.

(Code 1981, § 10-308)

Secs. 46-80—46-101. Reserved.

DIVISION 4. LIMITATIONS ON OFFICERS

Sec. 46-102. Retired members not to exercise police authority.

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A member who has been or shall be retired shall not, while in retirement, exercise any of the powers conferred upon active members.

(Code 1981, § 10-402)