



## Legislation Details (With Text)

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<b>Type:</b>	Ordinance	<b>Status:</b>			Adopted
<b>File created:</b>	4/16/2020	<b>In control:</b>			Municipal Council and City Clerk
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<b>Title:</b>	ORDINANCE AMENDING TITLE III, MUNICIPAL COUNCIL, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW CHAPTER 12, ENTITLED CONSTABLES, TO ESTABLISH LIMITATIONS OF AUTHORITY, POLICIES AND PROCEDURES TO BE FOLLOWED.				
<b>Sponsors:</b>	Carlos M. Gonzalez, Luis A. Quintana				
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Date	Ver.	Action By	Action	Result
7/22/2020	1	Municipal Council	Close on Public Hearing and Adopt	Pass
7/8/2020	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

**ORDINANCE AMENDING TITLE III, MUNICIPAL COUNCIL, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW CHAPTER 12, ENTITLED CONSTABLES, TO ESTABLISH LIMITATIONS OF AUTHORITY, POLICIES AND PROCEDURES TO BE FOLLOWED.**

**WHEREAS**, the State Legislature pursuant to N.J.S.A. 40A:9-120, has authorized municipalities to appoint by resolution not less than two (2) and not more than fifty (50) Constables; and

**WHEREAS**, the Municipal Council deems it advisable to establish an ordinance governing the appointment process for Constables and expressly outlining the powers and authorities of the appointed Constables and to avoid a misunderstanding by the appointed Constables or the public as to the scope of their powers and duties.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Note:** Additions are shown as **underlined and bold**. Deletions are shown as strikethrough.

**Section 1.** Title III, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, is hereby further amended and supplemented, to add a new Chapter 12 to read as follows:

### **Constables**

**1. The Governing Body shall have the authority to appoint, by resolution, no more**

than fifty (50) Constables in the following manner, recognizing that there are five (5) wards, each represented by one (1) Council Person and four (4) At-Large Council Persons in the City of Newark:

- a. Each Ward (East, West, South, North and Central) Council Person shall have a total of five (5) appointments during his or her term of office;
  - b. Each At-Large Council Person shall have a total of six (6) appointments during his or her term of office;
  - c. Council President shall have one (1) additional appointment.
2. The Municipal Council shall pass a resolution declaring whether Constables will be appointed for a one (1) or three (3) year term, which appointment shall remain in effect until such time as it is amended or a resolution is adopted changing the terms of Constables.
3. The Constable shall complete a notarized, executed application, in a form acceptable to the City Clerk and the Department of Public Safety, in conformity with State law.
4. The Constable shall pay a minimum processing fee of \$250 each year of his/her appointment to the Office of the City Clerk and all costs associated with the training required shall be paid by the applicant.
5. As a condition of appointment, the Constable shall take an oath of office and shall post a surety bond in the amount of \$5,000.00, which bond shall be approved as to form and legality by the Corporation Counsel, and by resolution approved by the Municipal Council as to form, amount, and sufficiency.

A person is eligible for appointment as a Constable, if he/she is a resident and qualified voter of the City of Newark for at least three (3) years prior to their appointment, and pass a background and records check in accordance with current custom, practice and procedures of local law enforcement agencies.

A Constable shall fulfill all of the necessary requirements within thirty (30) days of appointment (present him/herself at the Office of the City Clerk and post surety bond and take the oath of office, in accordance with this ordinance and any applicable State law or regulation, as amended). Failure to fulfill all of the necessary requirements within thirty (30) days of his or her appointment shall be cause to rescind the appointing resolution.

6. The City Clerk shall issue a photo identification card to the Constable, after he/she has taken the oath of office and posted the required surety bond, which shall be filed in the Office of the City Clerk.
7. Power and Authority. Constables shall only have such power and authority as outlined in this ordinance and in specific statutes, including, but not limited to,

N.J.S.A. 2A:33-9 (assisting with distraint proceedings (repossession) and their appointment is expressly limited to these powers and authorities, notwithstanding any other prior or existing law or precedent. In particular, Constables shall be authorized to serve judicial process, including subpoenas and warrants, *capias ad testificandum* or other compulsory process issued by any court of the State; assist with distraint proceeding (repossession), including appraisal of property, as authorized by N.J.S.A. 2A:33-9; and serving a lock-out for a landlord.

8. Constables shall complete, within six (6) months of appointment, a training course as required by the Director of the Department of Public Safety. Any Constable who was appointed prior to the effective date of this ordinance, is required to complete the required training within one (1) year of the ordinance's effective date, unless an exception is provided.
9. Prohibited Activities. Constables are expressly prohibited from acting in any manner contrary to State law or this Ordinance. Constables are expressly forbidden from holding themselves out as Constables to members of the public, or wearing any paraphernalia or insignia identifying themselves as a Newark Constable, when and if such individuals are acting as private security officers. Constables are also expressly prohibited, when acting in their official capacity as a Constable, from representing to others that they are, or are otherwise acting as if they are sworn officers of the City of Newark Department of Public Safety. The carrying or display of a firearm while performing the duties of a Constable is prohibited.
10. Violations. If a Constable is found to have violated the scope of duties, the rules and regulations established pursuant to this ordinance or their statutory duties, then the Constable shall be removed by a notice of termination issued by the Chief of Police or the sponsoring Council Member, pending adoption of a resolution terminating the appointment. The Municipal Council shall review and take action on the Police Chief's or sponsoring Council Member's recommendation at the first available Council Meeting following the notice of termination. If a Constable is removed from office resulting from a finding of a violation of this ordinance, then he or she shall be ineligible for future appointment in the City of Newark. Notwithstanding the foregoing, if a Constable fails to file the report required by N.J.S.A. 40A:9-126.1 for any reason except physical incapacity, as outlined in Section 18 of this ordinance, then no rescinding resolution shall be necessary to terminate the appointment, as provided by the statute.
11. Apparel and Insignia. Constables are expressly prohibited, when acting in their official capacity as a Constable, from wearing any insignia, clothing, hat or other paraphernalia identifying them as Constables, employees or representatives of the City of Newark or the Department of Public Safety, except for wearing or exhibiting of the official identification card issued by the Office of the City Clerk. This ordinance does not intend, authorize and expressly prohibits the expenditure of public monies to purchase apparel or insignia for any Constable (excluding the official photo identification card), including the purchase of a firearm.

12. Identification Card. Once a constable application is approved by the Municipal Council and the necessary requirement under Sections 3, 4, and 5 above are met, the City Clerk shall issue a photo identification card to each Constable. The identification card shall have an expiration date which indicates the termination of the constable's term of office. A Constable shall not exhibit any identification card or other documentation or badge not in conformity with this ordinance while engaged in his or her official business or at any other time. In no event shall the identification card represent that the Constable is a sworn police officer and shall not be utilized or exhibited if the Constable is acting as a private security officer, acting independently or in the employ of a private security company. The identification card shall be returned to the City Clerk at the expiration of the Constable's term.
13. This ordinance is not intended to substitute for any licensing or registration requirements for private security officers or private detectives.
14. Notwithstanding anything to the contrary herein, this ordinance does not confer on a Constable, the authority to act in any capacity involving a criminal proceeding or investigation. Neither this ordinance nor the appointment by the Municipal Council confers, nor do either intend to confer, a right on behalf of the Constable to carry a firearm.
15. Any complaint against a Constable, lodged with the City Clerk or the City of Newark, Department of Public Safety, by any person, including representatives of the County of Essex, shall be investigated by the City of Newark, Department of Public Safety or the Essex County Prosecutor's Office, and may result in a recommendation of termination.
16. The appointment of the Constable does not and is not intended to establish an employment arrangement between the Constable and the City of Newark.
17. Each person appointed as a Constable, before entering upon the duties of his/her office shall take and subscribe an oath of office, which shall be filed with the Office of the City Clerk.
18. Reporting Requirements. As required by N.J.S.A. 40A:9-126.1, each Constable shall on or before the first Wednesday following the first Monday of every month, file with the Office of the City Clerk a report of his/her official activities, other than in connection with court or judicial proceedings, for the month immediately past. The City Clerk shall forward a copy of this report to the Chief of Police. The report shall list the names and addresses of all persons contacted by the Constable in his/her official capacity, together with the date, time, and purpose of the contact. In addition, the report shall contain an accurate statement of all fees collected by the

**Constable and from whom and for what service each fee was collected. A template of the report shall be prepared by the City Clerk and provided to the Constable for completion. Pursuant to N.J.S.A. 40A:9-126.1, failure to comply with the reporting requirements of this ordinance, for a period of two (2) consecutive months, except only for physical incapacity, shall result in his or her office being deemed vacant and he shall be barred from exercising the rights and privileges thereof.**

**SECTION 2. SEVERABILITY.** If any paragraph or provision of this ordinance be adjudicated invalid or unenforceable, such determination shall not, to the extent severable, affect any other paragraph or provision of this ordinance, which shall otherwise remain in full force and effect.

**SECTION 3. REPEALER.** All ordinances or provisions thereof inconsistent or conflicting with the provisions of this ordinance shall be repealed to the extent of such conflict or inconsistency.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

Ordinance amending Title III, Municipal Council, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, to add a new Chapter 12, entitled Constables, to establish limitations of authority, policies, and procedure to be followed by all Constables.