

## CHAPTER 24. COUNTY CONSTABLES

### 24-1-1. Appointment of constables.

### 24-1-2. Liability of constables.

### 24-1-3. Constable Nominating Commission.

### 24-1-4. Term of office.

### 24-1-5. Certification.

### 24-1-6. User agreements.

### 24-1-7. Removal of constables.

### 24-1-8. Approval of Deputy Constables.

### 24-1-9. Procedure for Oversight of County Constables and Deputy Constables by County.

#### 24-1-1. Appointment of constables.

(a) The Board of County Commissioners may appoint as many qualified persons to act as County constables as convenience requires in the judgment of the Board of County Commissioners, subject to the provisions of Section 17-25a-1, Utah Code Annotated, 1953, as amended. Each County constable shall be appointed on a County-wide basis and may serve civil and criminal process pursuant to Utah Code Annotated, 1953, as amended.

(b) To qualify for appointment as a County constable, a person shall be certified as a special function peace officer in the State of Utah.

(c) The Board of County Commissioners shall conduct full background checks on persons seeking appointment as County constables before considering such appointment. (Ord. 2005-9, 3-22-05)

#### 24-1-2. Liability of constables.

(a) Each County constable shall be responsible for supervising his own deputies, office personnel and administrative matters, and for insuring compliance with all applicable laws and ordinances.

(b) Each County constable is an independent contractor and is responsible for his own actions and for the actions of his deputies, agents and employees, and any liability resulting therefrom. When executing civil process, constables are acting agents of the litigant or litigant's attorney who employs their services. Constables, as officers of the Court, are also acting in their official capacity as special function peace officers empowered by law to enforce the lawful orders of any court of competent jurisdiction.

#### 24-1-3. Constable Nominating Commission.

(a) When the Board of County Commissioners determines that one or more constables should be appointed, the Board of County Commissioners shall establish a Constable Nominating Commission. The Nominating Commission shall consist of the following individuals or their designees:

- (1) A County Commissioner
- (2) The County Sheriff
- (3) A judge of the justice, circuit, or district court
- (4) The County Attorney

## Utah County Code

(5) An impartial resident appointed by the Board of County Commissioners

(b) Upon being appointed, designated or informed of the request of the Board of County Commissioners that the Nominating Commission is to be convened, the members so designated will meet within ten (10) days' time and develop the criteria for advertising the opening of the constable position and the selection and ranking of applicants for the position. Applicants who meet the eligibility criteria established by Section 17-25a-2, Utah Code Annotated, 1953, as amended, for the position of County constable shall be interviewed by the Nominating Commission. After interviewing the applicants and evaluating their qualifications, the Nominating Commission shall rank the applicants in order of preference and submit up to three names for each vacancy together with other recommendations to the Board of County Commissioners.

(c) The Board of County Commissioners, upon receipt of the Nominating Commission's list of successful applicants ranked in order of preference, or stating that all applicants are equally qualified, together with its recommendations and within fifteen calendar days thereafter, shall:

(1) approve the Nominating Commission's recommendations and appoint the recommended applicant(s); or

(2) reject the recommended applicant(s) and select one or more of the remaining applicants on the list; or

(3) reject all the named applicants and refer the matter back to the Nominating Commission for a new list and recommendation.

### **24-1-4. Term of office.**

A constable's term of office is six years. A constable may serve more than one term if reappointed by the Board of County Commissioners.

### **24-1-5. Certification.**

Deputy constables must be certified by the Division of Peace Officer Standards and Training as qualified to undertake the duties of a special function peace officer and shall be approved by the Nominating Commission. After a newly appointed County constable has been appointed by the Board of County Commissioners, the constable's name shall be reported to the Division of Peace Officer Standards and Training by the Commission Clerk.

### **24-1-6. User agreements.**

(a) Constables may enter into user agreements with the Sheriff for access to Sheriff's Department criminal history information the Sheriff deems appropriate. Upon entering into a user agreement, the constable shall be responsible for ensuring the confidentiality requirements of the agreement are complied with.

(b) Constables may enter into user agreements with agencies of the State of Utah for access to State and national criminal history information systems.

### **24-1-7. Removal of constables.**

(a) County constables shall be subject to removal for cause after a determination for removal has been made by an administrative tribunal convened by the Board of County Commissioners to adjudicate the matter.

## Utah County Code

(b) Removal proceedings may be initiated by the County Attorney or the Board of County Commissioners, and shall be structured as to afford the constable due process.

(c) Detailed procedures for initiating and conducting removal proceedings shall be as set forth in the Utah County Personnel Rules and Regulations manual.

(d) Loss of certification by the Division of Peace Officer Standards and Training, the conviction of any felony, or conviction of an offense involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale or possession for sale of a controlled substance (as defined by the Division of Peace Officer Standards and Training administrative rule) shall constitute an automatic disqualification from office.

(e) A County constable may be removed from Office if it is established that the constable has willfully failed to comply with the written administrative policies and procedures approved by the Board of County Commissioners or the Utah Public Officers' and Employees' Ethics Act, Section 67-16-1, et seq., Utah Code Annotated, 1953, as amended.

### **24-1-8. Approval of Deputy Constables.**

(a) Pursuant to Section 17-25a-3(3), Utah Code Annotated, 1953 as amended, an appointed County constable may, upon approval of the Board of County Commissioners, employ and deputize persons who are certified as special function peace officers to function as deputy constables.

(b) The Board of County Commissioners shall consider the approval of deputy constable candidates after the submission of the following to the Commission by the appointed County constable:

- (1) A copy of the candidate's employment application;
- (2) P.O.S.T. certification for the candidate;
- (3) A letter from the appointed County constable declaring that the deputy constable candidate is a person of good moral character;
- (4) Letters of reference from two registered voters in the County, declaring that the deputy constable candidate is a person of good moral character;
- (5) A certification by the appointed County constable that the deputy constable candidate has had no criminal convictions during the previous seven (7) years;
- (6) An AIDS waiver executed by the deputy constable candidate.

(c) The County Sheriff shall, within ten (10) days of the submission of the documents enumerated in subsection (b), complete the following:

- (1) Verify that the deputy constable candidate is P.O.S.T. certified and is in good standing with P.O.S.T.
- (2) Perform a credit check on the deputy constable candidate;
- (3) Perform a drug screen on the deputy constable candidate;
- (4) File a written report of his findings with the Board of County Commissioners.

(d) The appointed County constable shall certify annually in writing to the County Attorney's office that each deputy constable has completed a minimum of forty (40) hours of inservice training, including a minimum of eight (8) hours of firearm training with a P.O.S.T. certified firearms instructor.

(e) Within one (1) year after appointment as a deputy constable, each deputy constable shall undergo psychological testing and evaluation to determine the deputy constable's fitness to carry a firearm and to serve as a deputy constable. A deputy constable shall be required to undergo

## Utah County Code

psychological testing and evaluation at any time upon the written request of the Utah County Attorney's Office or the Board of County Commissioners.

(f) All costs of training, testing, and evaluation of deputy constable candidates and deputy constables shall be borne by the appointed County Constable employing said deputy constables.

(g) The Board of County Commissioners may revoke its approval of a deputy constable, at any time.

(h) The Board of County Commissioners may revoke its approval of a deputy constable, at any time, for cause. (Ord. No. 1998-09, 03-31-98; Ord. 2005-9, 3-22-05).

### **24-1-9. Procedure for Oversight of County Constables and Deputy Constables by County.**

(a) If an individual has a complaint against an appointed County constable or deputy constable concerning a constable's performance, the complainant may file a written statement concerning the complaint with the Civil Division Chief of the Utah County Attorney's Office. Upon receipt of such a complaint regarding a constable the Civil Division Chief shall review the complaint and may thereafter schedule a meeting with the affected constable, the Utah County Sheriff or his designee, and, if deemed appropriate, the complainant, to discuss the complaint and to formulate the manner in which to resolve the complaint.

(b) An appointed County constable, or an approved deputy constable, shall appear before the Board of County Commissioners at any time upon request of the Board of County Commissioners to respond to questions or concerns regarding the conduct or performance of an appointed County constable or an approved deputy constable. (Ord. 2005-9; 3-22-05)